Addendum 03

DOCUMENT 00 91 00

DATE: October 22, 2026

PROJECT: Fairbanks Local Schools – Gym HVAC Replacement
11158 State Route 38
Milford Center, OH 43045

PROJECT #: 24045.03

OWNER: Fairbanks Local School District
Contact: Janel Chapman
9681 State Route 38
Milford Center, OH 43045

ARCHITECT: Garmann Miller
38 South Lincoln Drive
P.O. Box 71
Minster, Ohio 45865

TO: Prospective Bidders

This addendum form is a part of the Contract Documents and modifies the Construction Documents dated September 30, 2026, with amendments and additions noted below.

Acknowledge receipt of this Addendum on the Bid Form. Failure to do so may disqualify the Bidder.

This addendum consists of 1 page, and 1 project manual attachment for reference.

CHANGES TO THE PROJECT MANUAL

1. Division 00 – Procurement and Contract Documents, add attachment 1 – Tracked Changes in Industry Standards Forms – Reference Only

END OF ADDENDUM

GARMANN MILLER

Addendum

to Bidding Documents

Project Owner:	Fairbanks Local School District Board of Education
Project Name:	HS/MS Gym HVAC Replacement Project
Addendum No.:	3
Addendum Date:	October 21, 2026

This addendum supplements and amends the Bid Package and shall become part of the contract documents. The contractor shall acknowledge receipt of this addendum on the Bid Form and incorporate the information herein contained in the preparation of his/her bid.

1. A recent change in the law requires modifications to industry standard forms, such as certain documents provided by the Ohio Facilities Construction Commission ("OFCC"), to be indicated. **Attachment 1** to this Addendum No. 3 indicates the modifications made to those OFCC documents that are Contract Documents. **Attachment 1** is provided for reference only and is not a Contract Document.

Except as expressly modified by this Addendum, all other provisions of the Bid Package, Project Manual, and Contract Documents remain unchanged.

Bid Form (General Contracting Project)

Sealed bids will be received by the ~~«insert Contracting Authority name» at «insert address, city, state zip»~~Fairbanks Local School District Board of Education at 9681 State Route 38, Milford Center, Ohio 43045 for:

HS/MS Gym HVAC Replacement Project

~~**Project «AGY-FYNNNN»**~~
~~**«Project Name»**~~

at

~~«Project street address of location»~~

11158 State Route 38, Milford Center, Ohio 43045

~~«Project city or township, Project county»~~ for the

~~«Owner's name»~~

Fairbanks Local School District Board of Education

The time for Substantial Completion of all Work is ~~«NNN»~~Two Hundred Forty Three (243) consecutive days from the Notice to Proceed.

Having read and examined the proposed Contract Documents prepared by the Architect/Engineer for the above-referenced Project and the following Addenda:

Addendum Number	Date Received
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

The undersigned Bidder proposes to perform all Work for the applicable Contract in accordance with the proposed Contract Documents, for the following sum(s):

Bid Package 101 – GENERAL CONTRACT

~~ALLOWANCES (Include Allowance amounts in the Base Bid below. The Contractor's Fee and costs for unloading and handling on the Site, labor, installation costs, and other expenses contemplated for the Allowances are included in the Base Bid and not in the Allowance.)~~

~~Item~~	~~Description~~	~~Amount~~
~~Allowance A «1»~~	~~«enter description of allowance»~~	~~$«NN,NNN.NN»~~
~~Allowance A «2»~~	~~«enter description of allowance»~~	~~$«NN,NNN.NN»~~
~~Allowance A «3»~~	~~«enter description of allowance»~~	~~$«NN,NNN.NN»~~
~~Allowance A «4»~~	~~«enter description of allowance»~~	~~$«NN,NNN.NN»~~
~~Allowance A «5»~~	~~«enter description of allowance»~~	~~$«NN,NNN.NN»~~

~~UNIT PRICES (Include the subtotal of Unit Price extensions in the Base Bid below. Unit prices shall be used solely for the purpose of determining the adjustment to the Contract Sum for differences between the estimated quantities on the Bid Form~~

and the actual quantities provided. The Contractor's Fee on account of Unit Price Work is included in the Base Bid and not in the Unit Price.)

Item	Description	Estimated Quantity	Unit Price	/	Unit of Measure	Extension
Unit Price U «1»	«enter description of unit price»	«insert»	$ _____	/	«insert»	$ _____
Unit Price U «2»	«enter description of unit price»	«insert»	$ _____	/	«insert»	$ _____
Unit Price U «3»	«enter description of unit price»	«insert»	$ _____	/	«insert»	$ _____
Unit Price U «4»	«enter description of unit price»	«insert»	$ _____	/	«insert»	$ _____
Unit Price U «5»	«enter description of unit price»	«insert»	$ _____	/	«insert»	$ _____

SUBTOTAL OF UNIT PRICE EXTENSIONS: $ _____

BASE BID (Including Allowances and Subtotal of Unit Price Extensions above, if any, but not including Unit Prices and Alternates):

ALL LABOR AND MATERIALS, for the sum of $ _____

Sum in words: _____

_____ and _____ /100 dollars.

«alternate 1, alternate title» (Circle appropriate choice below and insert amount)

If Alternate is accepted, ADD TO / DEDUCT FROM Base Bid: $ _____

Sum in words: _____ and _____ /100 dollars.

«alternate 2, alternate title» (Circle appropriate choice below and insert amount)

If Alternate is accepted, ADD TO / DEDUCT FROM Base Bid: $ _____

Sum in words: _____ and _____ /100 dollars.

«alternate 3, alternate title» (Circle appropriate choice below and insert amount)

If Alternate is accepted, ADD TO / DEDUCT FROM Base Bid: $ _____

Sum in words: _____ and _____ /100 dollars.

-- remainder of page left blank intentionally --

BIDDER AFFIRMATION AND DISCLOSURE

Bidder acknowledges that by signing the Bid Form on the Bidder Signature and Information page, that it has read and understands the applicable Executive Orders regarding the prohibitions of performance of offshore services, locating Statestate of Ohio data offshore in any way, or purchasing from Russian institutions or companies. If awarded a Contract, the Bidder will become the Contractor and affirms that both the Contractor and its Subcontractors shall perform no services requested under this Contract outside of the United States.

The Bidder shall provide the locations where services under this Contract will be performed in the spaces provided below or by attachment. Failure to provide this information as part of its Bid may cause the Bidder to be deemed non-responsive and no further consideration will be given to its Bid. If the Bidder will not be using Subcontractors, indicate "Not Applicable" in the appropriate spaces.

1. Principal business location of Contractor:

(Contractor Address)	(City, State, Zip)

Name / Principal location of business of Subcontractor(s), if known at time of Bid Opening:

(Subcontractor Name)	(Address, City, State, Zip)
(Subcontractor Name)	(Address, City, State, Zip)
(Subcontractor Name)	(Address, City, State, Zip)
(Subcontractor Name)	(Address, City, State, Zip)

2. Location where services will be performed by Contractor (Project Sites):

(Address)	(City, State, Zip)
(Address)	(City, State, Zip)

Name(s) / Location(s) where services will be performed by Subcontractors (Project Sites):

(Subcontractor Name)	(Address, City, State, Zip)
(Subcontractor Name)	(Address, City, State, Zip)
(Subcontractor Name)	(Address, City, State, Zip)
(Subcontractor Name)	(Address, City, State, Zip)

3. Location where Statestate of Ohio data will be located by Contractor, if any:

(Address) (City, State, Zip)

Locations where Statestate of Ohio data will be located by Subcontractor(s), if known at time of Bid Opening:

(Subcontractor Name)	(Address, City, State, Zip)
(Subcontractor Name)	(Address, City, State, Zip)
(Subcontractor Name)	(Address, City, State, Zip)
(Subcontractor Name)	(Address, City, State, Zip)
(Subcontractor Name)	(Address, City, State, Zip)

Bidder also affirms, understands and agrees that Bidder and its subcontractors are under a duty to disclose to the StateOwner any change or shift in location of services performed by Bidder or its subcontractors before, during and after execution of any Contract with the StateOwner. Bidder agrees it shall so notify the StateOwner immediately of any such change or shift in location of its services. The StateOwner has the right to immediately terminate the contract, unless a duly signed waiver from the StateOwner has been attained by the Bidder to perform the services outside the United States.

On behalf of the Bidder, I acknowledge that I am duly authorized to execute this Bid Form including this Bidder Affirmation and Disclosure form and have read and understand that this form is a part of any Contract that Bidder may enter into with the State and is incorporated therein.

COMMITMENT TO PARTICIPATE IN THE EDGE BUSINESS ASSISTANCE PROGRAM

Bidder: Mark only one option.
Use "✓" or "**X**" to mark option included in Bid
If marking Option B, also show percentage of proposed participation.

___ **Option A**

Bidder commits to *meet or exceed* the advertised EDGE Participation Goal of **the Contract award amount,** calculated as a portion of the Base Bid plus all accepted Alternates, by using certified EDGE Business Enterprise(s).

Bidder agrees that if selected for consideration of the Contract, it shall provide (if not provided with the Bidder's Bid) to the Contracting Authority, at the location required and within 3 business days after receiving notice from the Contracting Authority, its fully completed ***Bidder's Qualification Form***, including an ***EDGE Affadavit*** form for each certified EDGE Business Enterprise proposed for use by the Bidder if awarded the Contract for this Project.

___ **Option B (also indicate percentage – see text)**

Bidder *does not meet* the advertised EDGE Participation Goal percentage, but, if awarded the Contract for this Project, *commits to provide* _____ **percent of the Contract award amount**, calculated as a portion of the Base Bid plus all accepted Alternates, by using certified EDGE Business Enterprise(s).

Bidder acknowledges it understands the requirement for it to provide and agrees to provide to the Contracting Authority, if selected for consideration of the Contract, within 3 business days after notice from the Contracting Authority, a detailed ***Demonstration of Good Faith*** form describing its efforts undertaken prior to submitting its Bid to meet the advertised EDGE Participation Goal percentage for the Contract for this Project.

Bidder commits to provide to the Contracting Authority at the location required, and within 3 days after receiving notice from the Contracting Authority, its fully completed ***Bidder's Qualification Form***, including an ***EDGE Affadavit*** form for each certified EDGE Business Enterprise proposed for use by the Bidder if awarded the Contract for this Project.

____ **Option C**

Bidder declares that the Bidder is a certified EDGE Business Enterprise and that if awarded this Contract, the EDGE Participation percentage will be 100 percent of the Contract award amount.

BIDDER'S CERTIFICATIONS

The Bidder hereby acknowledges that the following representations in this Bid are material and not mere recitals:

1. The Bidder has read and understands the proposed Contract Documents and agrees to comply with all requirements of the proposed Contract Documents, regardless of whether the Bidder has actual knowledge of the requirements and regardless of any statement or omission made by the Bidder, which might indicate a contrary intention.

2. The Bidder represents that the Bid is based upon the Basis of Design and Acceptable Components specified by the proposed Contract Documents.

3. The Bidder has visited the Site, become familiar with local conditions, and has correlated personal observations about the requirements of the proposed Contract Documents. The Bidder has no outstanding questions regarding the interpretation or clarification of the proposed Contract Documents.

4. The Bidder understands that the execution of the Project will require sequential, coordinated, and interrelated operations, which may involve interference, disruption, hindrance, or delay in the progress of the Bidder's Work. The Bidder agrees that the Contract Sum, as amended from time to time, shall cover all amounts due from the StateOwner resulting from interference, disruption, hindrance, or delay that is not caused by the StateOwner or its agents and employees. The Bidder agrees that any such interference, disruption, hindrance, or delay is within the contemplation of the Bidder and the StateOwner and that the Contractor's sole remedy from the State for any such interference, disruption, hindrance, or delay shall be an extension of time in accordance with the proposed Contract Documents.

5. During the performance of the Contract, the Bidder agrees to comply with Ohio Administrative Code ("OAC") Chapters 123:2-3 through 123:2-9 and agrees to incorporate the monthly reporting provisions of OAC Section 123:2-9-01 into all subcontracts on the Project, regardless of tier. The Bidder understands the State's Equal Opportunity Coordinator or the Contracting AuthorityOwner may conduct pre-award and post-award compliance reviews to determine if the Bidder maintains nondiscriminatory employment practices, maintains an affirmative action program, and is exerting good faith efforts to accomplish the goals of the affirmative action program. For a full statement of the rules regarding Equal Employment Opportunity in the Construction Industry, see OAC Chapters 123:2-1 through 123:2-9.

6. The Bidder and each Person signing on behalf of the Bidder certifies, and in the case of a Bid by a joint venture each member thereof certifies as to such member's entity, under penalty of perjury, that to the best of the undersigned's knowledge and belief: **(a)** the Base Bid, any Unit Prices, and any Alternate bid in the Bid have been arrived at independently without collusion, consultation, communication or agreement, for the purpose of restricting competition as to any matter relating to such Base Bid, Unit Prices or Alternate bid with any other Bidder; **(b)** unless otherwise required by law, the Base Bid, any Unit Prices and any Alternate bid in the Bid have not been knowingly disclosed by the Bidder and shall not knowingly be disclosed by the Bidder prior to the bid opening, directly or indirectly, to any other Bidder who would have any interest in the Base Bid, Unit Prices or Alternate bid; **(c)** no attempt has been made or shall be made by the Bidder to induce any other Person to submit or not to submit a Bid for the purpose of restricting competition.

7. The Bidder understands that the Contract is subject to all the provisions, duties, obligations, remedies and penalties of Ohio Revised Code Chapter 4115 and that the Bidder shall pay any wage increase in the locality during the term of the Contract.

7. **8.** The Bidder shall execute the Agreement with the Contracting Authority, if a Contract is awarded on the basis of this Bid, and if the Bidder does not execute the Agreement for any reason, other than as authorized by law, the

Bidder and the Bidder's Surety are liable to the StateOwner as provided in **Article 5** of the Instructions to Bidders.

8. 9. The Bidder certifies that the upon the award of a Contract, as the Contractor it shall make a good faith effort to ensure that all of the Contractor's employees, while working on the Site, shall not purchase, transfer, use, or possess illegal drugs or alcohol or abuse prescription drugs in any way.

9. 10. The Bidder acknowledges that it read all of the **Instructions to Bidders**, and in particular, **Section 2.10** - Submittals With Bid Form, and by submitting its Bid certifies that it has read the Instructions to Bidders and it understands and agrees to the terms and conditions stated in them.

10. 11. The Bidder agrees to furnish any information requested by the Contracting AuthorityOwner or Architect/Engineer to evaluate the responsibility of the Bidder.

11. 12. The Bidder agrees to furnish the submittals required by **Section 6.1** of the **Instructions to Bidders** for execution of the Agreement within 10 days of the date of the Notice of Intent to Award.

12. 13. When the Bidder is a corporation, partnership or sole proprietorship, an officer, partner or principal of the Bidder, as applicable, shall print or type the legal name of the Bidder on the line provided, and **sign the Bid Form**.

13. 14. When the Bidder is a joint venture, an officer, partner or principal, as applicable, of each member of the joint venture shall print or type the legal name of the applicable member on the line provided, and **sign the Bid Form**.

14. 15. Bidder acknowledges that by signing the Bid Form on the following Bidder Signature and Information page that it is signing the actual Bid and when submitted as a part of its bid package, shall serve as the Bidder's authorization for the further consideration and activity in the bidding and contract process.

15. 16. All signatures must be original.

-- remainder of page left blank intentionally --

BIDDER SIGNATURE AND INFORMATION

Bidder's Authorized Signature: _____

Please print or type the following:

Name of Bidder's Authorized Signatory _____

Title: _____

Company Name: _____

Mailing Address: _____

_____

Telephone Number: _____

Facsimile Number: _____

Email Address: _____

State of Incorporation: _____

Federal Tax ID Number: _____

Date enrolled in an OBWC-approved DFSP (month/date/year): _____/ _____/ _____

Contact person for Contract processing: _____

President's or Chief Executive Officer's Name / Title: _____

JOINT VENTURE ADDITIONAL BIDDER SIGNATURE & INFORMATION

Joint Venture Bidder's Authorized Signature: _____

Please print or type the following:

Name of Joint Venture Bidder's Authorized Signatory _____

Title: _____

Company Name: _____

Mailing Address: _____

_____

Telephone Number: _____

Facsimile Number: _____

Email Address: _____

State of Incorporation: _____

Federal Tax ID Number: _____

Date enrolled in an OBWC-approved DFSP (month/date/year): _____/ _____/ _____

Contact person for Contract processing: _____

President's or Chief Executive Officer's Name / Title: _____

END OF DOCUMENT

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~~Document 00 43 13 -~~ Bid Security Form

~~State of Ohio Standard Requirements for Public Facility Construction~~

(Form of combined Bid Guaranty and Bond prescribed by Ohio Revised Code Section 153.571)

KNOW ALL PERSONS BY THESE PRESENTS, that we, the undersigned _____

_____, as Principal,

and _____as Sureties,

are hereby held and firmly bound unto _____

_____as Obligee(s), in the penal sum of the dollar amount of the Bid submitted by the Principal

to the Obligee on _____(date) to undertake the Project known as:

Project Number: _____

Project Name: _____

Contract Description: _____
(e.g., General Contractor/Trades, Plumbing, HVAC, Electrical)

The penal sum, referred to herein, shall be the dollar amount of the Principal's Bid to the Obligee, incorporating any additive alternate Bids made by the Principal on the date referred to above to the Obligee, which are accepted by the Obligee. In no case shall the penal sum exceed the amount of dollars ($_____). (If the preceding line is left blank, the penal sum will be the full amount of the Principal's Bid, including add alternates. Alternatively, if completed, the amount stated shall not be less than the full amount of the Bid, including Alternates, in dollars and cents. A percentage is not acceptable.) For the payment of the penal sum well and truly to be made, we hereby jointly and severally bind ourselves, our heirs, executors, administrators, successors and assigns.

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH, that whereas the above-named Principal has submitted a Bid for the above referenced Project;

NOW, THEREFORE, if the Obligee accepts the Bid of the Principal, and the Principal fails to enter into a proper contract in accordance with the Bid, Plans, Specifications, details, and bills of material; and in the event the Principal pays to the Obligee the difference, not to exceed ten percent of the penal sum hereof between the amount specified in the Bid and such larger amount for which the Obligee may in good faith contract with the Bidder determined by the Obligee to be the next lowest responsive and responsible to perform the Work covered by the Bid; or in the event the Obligee does not award the Contract to such next lowest responsive and responsible Bidder and resubmits the Project for bidding, the Principal pays to the Obligee the difference not to exceed ten percent of the penal sum hereof between the amount specified in the Bid, or the costs, in connection with the resubmission, of printing new Contract Documents, required advertising and printing and mailing notices to prospective Bidders, whichever is less, then this obligation shall be null and void, otherwise to remain in full force and effect. If the Obligee accepts the Bid of the Principal, and the Principal, within 10 days after the awarding of the Contract, enters into a proper contract and executes the Agreement Form in accordance with the Contract Documents, including without limitation the Bid, Plans, Specifications, details, and bills of material, which said Contract is made a part of this Bond the same as though set forth herein; and

NOW ALSO, IF THE SAID Principal shall well and faithfully perform each and every condition of such Contract; and indemnify the Obligee against all damage suffered by failure to perform such Contract according to the provisions thereof and in accordance with the Contract Documents, including without limitation Plans, Specifications, details, and bills of material therefore; and shall pay all lawful claims of Subcontractors, Material Suppliers and laborers for labor performed and materials furnished in the carrying forward, performing or completing of said Contract; we, agreeing and assenting that this undertaking shall be for the benefit of any Subcontractor, Material Suppliers or laborer having a just claim, as well as for the Obligee herein; then this obligation shall be void; otherwise the same shall remain in full force and effect; it being expressly understood and agreed that the liability of the Surety for any and all claims hereunder shall in no event exceed the penal amount of this obligation as herein stated.

THE SAID Surety hereby stipulates and agrees that no modifications, omissions or additions, in or to the terms of said Contract, the Work thereunder or the Contract Documents, including without limitation the Plans and Specifications, therefore, shall in any way affect the obligations of said Surety on its bond, and it does hereby waive notice of any such modifications, omissions or additions in or to the terms of the Contract, the Work, or the Contract Documents, including without limitation the Plans and Specifications.

SIGNED AND SEALED this _____ day of _____, _____.

PRINCIPAL:

_____
Signature

By: _____
Name

_____
Title

SURETY:

_____
Signature

By: _____
Attorney-in-Fact

SURETY INFORMATION:

_____
Name

_____
Address 1

_____
Address 2

_____
City State Zip

_____
Telephone

_____
Email

SURETY AGENT'S INFORMATION:

_____
Name

_____
Address 1

_____
Address 2

_____
City State Zip

_____
Telephone

_____
Email

END OF DOCUMENT

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~~Project Number~~Owner: _____

Project Name: _____

1. Company Name: _____

   Physical Address: _____
   Street, Building, Unit

   _____
   City, State, Zip

   Mailing Address (if different): _____
   P.O. Box

   _____
   City, State, Zip

   Telephone Number (w/ Area Code): (_____) _____

   Fax Number (w/ Area Code): (_____) _____

   Email address: _____

2. Overall Experience. Indicate Bidder's overall experience performing the trades bid, including the years in business performing the trade under present and former business names.

3. Financial. The apparent low Bidder shall submit, upon request of the Contracting Authority, either:

   a) An annual financial statement prepared within the 12 months prior to the bid opening by an independent licensed accounting firm; and the name, address, contact person and phone number of the bank normally used by the Bidder for its primary banking; or,

   b) A financial report generated within 30 days prior to the bid opening from Standard and Poor, Dun and Bradstreet or a similar company acceptable to the ~~Contracting Authority~~Owner documenting the financial condition of the Bidder; and the name, ~~address~~add ress, contact person and phone number of the bank normally used by the Bidder for its primary
   ~~b)~~ banking;

   This information is not a public record under Ohio Revised Code Section 149.43; and shall remain confidential, except under proper order of a court.

4. Facilities & Equipment. Indicate Bidder's relevant facilities and major equipment (leased or owned).

5. Ongoing & Relevant Projects. List all ongoing projects and projects completed in the last 5 years, which are similar in cost and type to the Project. Include scope of Work, Contract value, ~~a description of EDGE participation~~ and performance, and project name/contact ~~person~~pers on/address/phone number for each owner and the architect or engineer for each project.

6. Regulatory / Contractual. Indicate all occurrences of the following in the last 5 years (indicate if none). For verification, attach documentation, and/or provide sufficient and appropriate detail information such as: project name, owner, contact person and phone number, amount of contract, etc.

    a) State or federal Prevailing Wage violations or judgments

    b) ~~EDGE program violations~~Not Used.

    c) Contract abandonment, contract termination, as either a prime- or sub-contractor, or Surety takeover

    d) Debarment by state, federal, or local jurisdictions

    e) EPA/OSHA violations

f) Liquidated damages and Statutory Delay Forfeiture assessed

g) Drug-Free Safety Program and Drug Free Workplace Program violations (currently titled *Substance Use Prevention and Recovery Program)*

7. Management. Identify individuals assigned to this Project.

Principal _____ Years with firm _____ Total Exp._____

Project Manager _____ Years with firm _____ Total Exp._____

Field Superintendent _____ Years with firm _____ Total Exp._____

~~**8. EDGE Participation.** Identify EDGE-certified Business Enterprises proposed as Subcontractors and Material Suppliers for this Project. Attach a fully completed Document 00 45 39 – "EDGE Affidavit" for each EDGE-certified Business Enterprise.~~

8. Not Used.

_____

_____

9. Certification. I hereby certify that the information in this entire Bidder's Qualifications form, including all attachments and referenced information, is factual and complete.

Company Name _____

Authorized Official (please print or type) _____

Signature of Authorized Official _____ Date _____

END OF DOCUMENT

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Agreement Form (K-12 School Project)

This Agreement is made as of the date set forth below between the State of OhioOwner, acting by and through the President and Treasurer of the School District Board, and the Contractor in connection with the Project.

Project Number: «insert project number» **Project Name:** «insert project name»**HS/MS Gym HVAC Replacement Project**
Site Address: «insert street address»11158 State Route 38
«insert city, state zip code»
Milford Center, Ohio 43045
Union County
«insert county» County

School District Board ("Owner"): «insert name»**Fairbanks Local School District Board of Education**
Owner's Representative: «insert name»Janel Chapman, Superintendent Address:9681 State Route 38
Milford Center, OH 43045
Address: «insert street address»
«insert city, state zip code»

Contracting Authority: The School District Board above in conjunction with the Ohio Facilities Construction Commission
Project Manager: «insert name»
Address: 30 West Spring Street, 4th Floor
Columbus, Ohio 43215

Contractor: **«insert name»**
Contractor's Principal Contact: «insert name»
Address: «insert street address»
«insert city, state zip code»

Architect/Engineer ("A/E"): «insert name»**Garmann/Miller & Associates, Inc.**
A/E's Principal Contact: «insert name»Ted Musielewicz, AIA, NCARB Address:
1156 Dublin Road, Suite 102
Columbus, OH 43215
Address: «insert street address»
«insert city, state zip code»

ARTICLE 1 - SCOPE OF WORK; EDGE COMMITMENT

1.1 The Contractor shall perform and provide all of the Work described in the Contract. The Work is allocated to the below- identified Phasesa single Phase.

Phase	Scope of Work
«insert Phase name»	«insert Phase description»
«insert Phase name»	«insert Phase description»
«insert Phase name»	«insert Phase description»
«insert Phase name»	«insert Phase description»

1.2 The project delivery method for this Project shall be «insert project delivery method»general contracting.

1.3 The Contractor shall contract with EDGE certified Business(es) for not less than «insert Contractor's EDGE commitment» percent of the Contract Sum.

ARTICLE 2 - COMPENSATION

2.1 The Owner shall pay the Contractor the Contract Sum for the Contractor's proper, timely, and complete performance of the Contract. The Contract Sum is **$«insert amount»**, subject to Modifications as provided in the Contract Documents. The Contract Sum is comprised of the following:

2.1.1 Base Bid.....$«Insert Base Bid Amount»

2.1.2 [Not Used.]

~~**2.1.2** Alternate «Insert Alternates Awarded» $«Insert Alternate Amount»~~

~~**2.1.3** Alternate «Insert Alternates Awarded» .....$«Insert Alternate Amount»~~

~~**2.1.4** Alternate «Insert Alternates Awarded» .....$«Insert Alternate Amount»~~

~~**2.1.5** Alternate «Insert Alternates Awarded» .....$«Insert Alternate Amount»~~

ARTICLE 3 – CONTRACT TIMES

3.1 The Contract Times are the periods established in the following table for the achievement of the associated Milestones:

Construction Stage Milestone(s) to which Liquidated Damages apply	**Contract Time**	**Projected Date** (as of the date of this Agreement)
«insert description of interim milestone – add more rows if necessary – delete if none»Substantial Completion of all Work	«insert number of calendar days»Two Hundred Forty Three (243) days	«insert date»August 1, 2027
SubstantialFinal Completion of all Work/Punch List Milestone	«insert number of calendar days»Two Hundred Seveny Three (273) days	«insert date»August 31, 2027

3.1.1 The projected dates listed under "Projected Date (as of the date of this Agreement)" are **(1)** based upon an anticipated, but not guaranteed, Date of Commencement of «insert date»December 1, 2026; and **(2)** provided only for convenient reference during consideration of the Agreement. The durations listed under "Contract Time" define the Contract Times and take precedence over the projected dates.

ARTICLE 4 - KEY PERSONNEL

4.1 The Contractor's key personnel for the Project are:

4.1.1 «insert name», Project Manager;

4.1.2 «insert name», Lead Scheduling Engineer;

4.1.3 «insert name», General Superintendent.

4.2 The Contractor's key personnel are authorized to act on the Contractor's behalf with respect to the Project and all matters concerning the Project.

ARTICLE 5 - GENERAL PROVISIONS

5.1 Effectiveness.

5.1.1 It is expressly understood by the Contractor that none of the rights, duties, and obligations described in the Contract Documents shall be valid and enforceable unless the Treasurer of the School District first certifies that there is a balance in the School District's treasury or are in the process of collection to an appropriate fund, free from any previous encumbrance.

5.1.2 Subject to **Section ~~5.1.1~~5.1.1,** the Contract shall become binding and effective upon execution by the School District Board~~,~~ and Contractor~~, subject to approval of the Commission~~.

5.1.2.1 If the Contractor is a joint venture, **(1)** each individual joint venturer shall **(a)** sign the Agreement in its own name and **(b)** be a party to the Contract, and **(2)** the Contract and the Performance and Payment Bond shall be binding on and apply to all joint venturers jointly and severally.

5.1.2.2 If the Contractor is a limited liability company, which the ~~Contracting Authority~~Owner reasonably believes to be a special purpose or similar entity, the ~~Contracting Authority~~Owner may in its discretion require the limited liability company and each member of the limited liability company to **(1)** sign the Agreement in its own name and **(2)** be a party to the Contract. In that case, the Contract and the Performance and Payment Bond shall be binding on and apply to the limited liability company and to all of its members jointly and severally.

5.1.3 This Agreement may be executed in several counterparts, each of which shall constitute a complete original Agreement, which may be introduced in evidence or used for any other purpose without production of any other counterparts.

5.2 Representations.

5.2.1 The Contractor represents and warrants that it is not subject to an unresolved finding for recovery under ORC Section 9.24. If this representation and warranty is found to be false, the Contract is void, and the Contractor shall immediately repay to the Owner any funds paid under this Contract.

5.2.2 The Contractor hereby certifies that neither the Contractor nor any of the Contractor's partners, officers, directors, shareholders nor the spouses of any such person have made contributions in excess of the limitations specified in ORC Section 3517.13.

5.2.3 The Contractor, by signature on this Agreement, certifies that it is currently in compliance with, and will continue to adhere to, the requirements of Ohio ethics laws and conflict of interest laws and will take no action inconsistent with those laws.

5.2.4 The Contractor affirms to have read and understands Executive Order 2019-12D and shall abide by those requirements in the performance of this Contract. Notwithstanding any other terms of this Contract, the ~~State~~Owner reserves the right to recover any funds paid for services the Contractor performs outside of the United States for which it did not receive a waiver. The ~~State~~Owner does not waive any other rights and remedies provided the ~~State~~Owner in this Contract.

5.2.5 The Contractor affirms to have read and understands Executive Order 2022-02D regarding the prohibition of purchases from or investment in a Russian institution or company and shall abide by those requirements in the performance of this Contract. Notwithstanding any other terms of this Contract, the ~~State~~Owner reserves the right to recover any funds paid to the Contractor for purchases or investments in a Russian institution or company in violation of this paragraph. The provisions of this paragraph will expire when the applicable Executive Order is no longer effective.

5.2.6 During the performance of this Contract, if the Contractor changes the location(s) disclosed on the **Affirmation and Disclosure Form** (a page in its **Bid Form**), the Contractor must complete and submit a revised **Affirmation and Disclosure Form**.

5.2.7 Pursuant to ORC Section 9.76(B), the Contractor warrants that it is not boycotting any jurisdiction with whom the State of Ohio can enjoy open trade, including Israel, and will not do so during the term of this Contract.

5.2.8 All non-residential contractors, subcontractors, and labor brokers shall comply with the E-Verify Workforce Integrity Act's requirements as set forth in sections 4151.02 and 4151.03 of the Revised Code.

ARTICLE 6 - Enumeration of Documents

6.1 The Contract Documents constitute the substance of the Contract, and include this Agreement, Drawings, Specifications, Addenda if any, Project Manual (except as otherwise provided in the Contracting Definitions), **Contracting Definitions**, **General Conditions**, Supplementary Conditions if any, **Bid Form**, **Bid Guaranty and Contract Bond** or **Performance and Payment Bond**, and Modifications if any.

SIGNATURES

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date set forth below:

«INSERT CONTRACTOR'S NAME»	FAIRBANKS LOCAL SCHOOL DISTRICT BOARD OF EDUCATION
«INSERT CONTRACTOR'S NAME»	STATE OF OHIO, BY AND THROUGH THE SCHOOL DISTRICT BOARD
_____	_____
Signature	*Signature*
_____	_____
Printed Name	*Printed Name*
	School District Board President
_____	
Title	
	_____
	Signature
	_____
	Printed Name
	School District Board Treasurer
	_____
	Date
«INSERT CONTRACTOR'S NAME»	STATE OF OHIO, BY AND THROUGH THE SCHOOL DISTRICT BOARD
by «insert Joint Venturer/Member's name»	
_____	_____
Signature	*Signature*
_____	_____
Printed Name	*Printed Name*

	School District Board President
Title	
by «insert Joint Venturer/Member's name»	*Date*
Signature	*Signature*
Printed Name	*Printed Name*
	School District Board Treasurer
Title	

Signature	*Signature*
Printed Name	*Printed Name*
	School District Board President
Title	
	Signature
	Printed Name
	School District Board Treasurer
	Date

If the Contractor is a corporation, partnership, sole proprietorship, or limited liability company, use the table above. If the Contractor is a joint venture or special purpose entity, use the table below. Then delete the unused table and this note.

«INSERT CONTRACTOR'S NAME»	**FAIRBANKS LOCAL SCHOOL DISTRICT BOARD OF EDUCATION**
by «insert Joint Venturer/Member's name»	
Signature	*Signature*
Printed Name	*Printed Name*
	School District Board President
Title	
by «insert Joint Venturer/Member's name»	*Date*
Signature	*Signature*

Printed Name

Title

Printed Name

School District Board Treasurer

TREASURER'S CERTIFICATION

IT IS HEREBY CERTIFIED that the moneys required to meet the obligations of the **Fairbanks Local School District Board of Education** ~~**of the «insert name» School District**~~ under the foregoing Agreement have been lawfully appropriated for such purposes and are in the treasury of the ~~**«insert name»**~~**Fairbanks Local School District** or are in the process of collection to an appropriate fund, free from any previous encumbrance.

Signature

Printed Name

School District Board Treasurer

~~*Signature*~~

~~*Printed Name*~~

~~School District Board Treasurer~~

~~**APPROVAL OF THE OHIO FACILITIES CONSTRUCTION COMMISSION**~~

~~**Joy C. Bledsoe**~~

~~Executive Director~~

END OF DOCUMENT

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~~Document 00 52 14 - State of Ohio Subcontract Form~~
State of Ohio Standard Requirements for Public Facility Construction

This Agreement is made as of the date set forth below between the Constructor and the Subcontractor in connection with the Project.

Project Number:	
Project Name:	**HS/MS Gym HVAC Replacement Project**
Site Address:	~~ENTER STREET ADDRESS~~11158 State Route 38 ~~ENTER CITY, COUNTY~~ Milford Center, Ohio 43045
Constructor:	**ENTER NAME**
Constructor's Principal Contact:	ENTER FULL NAME
Address:	ENTER STREET ADDRESS ENTER CITY, STATE ZIP CODE
Subcontractor:	**ENTER NAME**
Subcontractor's Principal Contact:	ENTER NAME
Address:	ENTER STREET ADDRESS ENTER CITY, STATE ZIP CODE
Public Authority:	~~ENTER NAME~~**Fairbanks Local School District Board of Education**
Public Authority Contact:	~~ENTER NAME~~Janel Chapman, Superintendent Address: 11158 State Route 38 Milford Center, Ohio 43045
~~Address:~~	~~ENTER STREET ADDRESS~~ ~~ENTER CITY, STATE ZIP CODE~~

ARTICLE 1 - NATURE OF SUBCONTRACT

1.1 The Subcontractor shall perform the entire Subcontract Work as specified in Exhibit **ENTER EXHIBIT DESIGNATION** and described in the Contract Documents for the Project.

1.1.1 The project delivery method for the Project is ~~**Choose an item.**~~Single Prime General Contractor.

1.1.2 The above-identified "Constructor" is the ~~**Choose an item.**~~Contractor.

ARTICLE 2 - COMPENSATION

2.1 The Constructor agrees to pay for the performance of this Subcontract, subject to additions and deductions as provided in the Contract Documents, the Subcontract Sum of **Enter Subcontract Sum**, comprised of the following:

Enter Subcontract Sum Component $0.00

Enter Subcontract Sum Component $0.00

Enter Subcontract Sum Component $0.00

Enter Subcontract Sum Component $0.00

ARTICLE 3 - TIME OF PERFORMANCE

3.1 Time is of the essence. The Subcontractor shall diligently prosecute and complete all Subcontract Work in accordance with the construction progress schedule agreed between the parties.

ARTICLE 4 - CONTRACT DOCUMENTS

4.1 To the extent that the contract between the Public Authority and the Constructor applies to the Subcontract Work:

4.1.1 The Constructor and the Subcontractor agree to be mutually bound by the terms of the Contract Documents;

4.1.2 The Constructor assumes toward the Subcontractor the rights, remedies, obligations, and responsibilities that the Public Authority has and assumes toward the Constructor;

4.1.3 The Subcontractor assumes toward the Constructor the rights, remedies, obligations, and responsibilities that the Constructor assumes toward the Public Authority; and

4.1.4 The Subcontractor agrees to perform its portion of the Work in accordance with the Contract Documents.

4.2 The Subcontract and any modifications, amendments, or alterations thereto shall be governed, construed, and enforced by and under the laws of the State of Ohio.

4.3 If any term or provision of the Subcontract or the application thereof to any Person or circumstance is finally determined to be invalid or unenforceable by a court of competent jurisdiction, the remainder of the Subcontract or the application of such term or provision to other Persons or circumstances shall not be affected thereby, and each term and provision of the Subcontract shall be valid and enforced to the fullest extent permitted by Applicable Law.

4.4 The Subcontract shall be binding on the Constructor and Subcontractor and their successors and assigns, in respect to all respective covenants and obligations contained in the Contract Documents, but the Subcontractor may not assign the Subcontract without the prior written consent of the Constructor and the Public Authority.

ARTICLE 5 - EFFECTIVENESS

5.1 The Subcontract shall become binding and effective upon execution by the Constructor.

5.2 This Subcontract has been executed in several counterparts, each of which shall constitute a complete original Subcontract, which may be introduced in evidence or used for any other purpose without production of any other counterparts.

5.3 Any signatory may deliver a copy of its counterpart signature page to this Subcontract via fax or e-mail. Each signatory shall be entitled to rely upon a signature of any other signatory delivered in such a manner as if such signature were an original.

ARTICLE 6 - REPRESENTATIONS

6.1 Contingent Assignment. The Constructor's contingent assignment of this Subcontract to the Public Authority, as provided in the Contract, is effective only after **(1)** termination of the Contract in whole or in part by the Public Authority and **(2)** the Public Authority's acceptance of the assignment in whole or in part by written notice to the Subcontractor. The Subcontractor consents to the assignment and to be bound to the Public Authority at the same price and terms as in the Subcontract. Unless the Public Authority takes assignment of the Subcontract, the Subcontractor will not have any contractual rights against the Public Authority.

6.2 Intended Third-Party Beneficiary. The Public Authority is an intended third-party beneficiary of the Subcontract, entitled to enforce any rights thereunder for its benefit.

6.3 Insurance. The Subcontractor shall maintain insurance in accordance with the Contract Documents. Exhibit **ENTER EXHIBIT DESIGNATION** sets forth the minimum limits of liability for the insurance required in the Contract Documents.

6.4 Right to Audit. The Public Authority and any of its agents shall have access to and may audit and copy

at the Public Authority's cost all of the Subcontractor's books, records, contracts, correspondence,

instructions, drawings, receipts, vouchers, purchase orders, and memoranda relating to the Subcontract Work for a period of not less than three years following completion of the Work consistent with Ohio Revised Code ("ORC") Section 149.43 with regard to the Public Authority's obligation to maintain confidentiality of trade secrets.

6.5 Indemnity. To the fullest extent permitted by Applicable Law, the Subcontractor shall indemnify, defend, and hold harmless the Public Authority, the CM, and their respective consultants and employees from and against all claims, costs, damages, losses, fines, penalties, and expenses (including but not limited to all reasonable fees and charges of attorneys and other professionals, and all court, arbitration, or other dispute-resolution costs) arising out of or in connection with the Project, provided that any such claim, cost, damage, loss, fine, penalty, or expense is attributable to third-party bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property, including loss of use, but only to the extent caused by the acts, errors, or omissions of the Subcontractor or a person or entity for whom the Subcontractor may be liable.

6.5.1 In claims against a Person indemnified under **Section** ~~6.5~~6.5 by any direct or indirect employee (or the survivor or personal representative of that employee) of the Subcontractor or a person or entity for whom the Subcontractor may be liable, the indemnification obligation under **Section** ~~6.5~~6.5 will not be limited by a limitation on the amount or type of

damages, compensation, or benefits payable under workers' compensation acts, disability benefit acts, or other employee benefit acts. The Subcontractor **(1)** specifically and expressly waives any immunity afforded to it by virtue of any applicable state constitutional or statutory protections, including but not limited to Section 35, Article II of the Ohio Constitution and Ohio Revised Code Section 4123.73, but only to the extent required to honor the indemnity obligations set forth under this **Section** ~~6.5;~~6.5; and **(2)** shall ensure that the foregoing waiver is explicitly included in all agreements with the Subcontractor's subcontractors at every tier.

6.6 Prompt Pay. The Constructor shall at a minimum make payments to the Subcontractor in accordance with Applicable Law, including ORC Sections 153.12 and 4113.61.

6.6.1 Progress payments to the Subcontractor for satisfactory performance of Subcontract Work shall be made no later than ten days after receipt by the Constructor of payment from the Public Authority for the Subcontract Work.

6.6.2 The Constructor may reduce the amount to be paid to the Subcontractor pursuant to **Section** ~~6.6.1~~6.6.1 at a rate equal to the percentage retained from the Constructor and may withhold amounts necessary to **(1)** resolve disputed liens or claims involving the Subcontract Work or **(2)** account for the failure of the Subcontractor to perform its obligations under this Subcontract.

6.7 Retainage. Subcontractor retainage shall be at a rate equal to the percentage retained from the Constructor's payment by the Public Authority for the Subcontract Work, unless a lesser percentage is otherwise specified.

6.7.1 Labor Payments.

6.7.1.1 Partial payments to the Subcontractor for labor performed shall be made at the rate of 96 percent of the amount invoiced through the Subcontractor's request for payment.

6.7.2 Material Payments.

6.7.2.1 The Constructor shall pay the Subcontractor at the rate of 100 percent of the scheduled value for materials incorporated into the Project.

6.7.2.2 The Constructor shall pay the Subcontractor at the rate of 92 percent of the invoice cost, not to exceed the scheduled value, for materials delivered to the Site, or other off-site storage location approved by the A/E, provided the Subcontractor provides the following information with its request for payment:

.1 a list of the fabricated materials consigned to the Project, giving the place of storage, together with copies of invoices, in order to verify quantity and cost; and

.2 a certification of materials stored off-site, prepared by the Subcontractor and signed by the A/E to evidence that the materials are in conformity with the Specifications and have been tagged with the Project name and number for delivery to the Project. The Subcontractor shall reimburse the A/E, through the Constructor, for all costs incurred to visit a storage site, other than the areas adjacent to the Project.

6.7.2.3 The Constructor shall pay the balance of the scheduled value when the materials are incorporated into and become a part of the Project.

6.8 Warranty. The Subcontractor warrant to the Public Authority and Constructor that all materials and equipment furnished under the Subcontract shall be new and of good quality unless otherwise required or permitted by the Contract Documents, that the Subcontract Work shall be free from defects not inherent in the quality required or permitted, and that the Work shall conform to the requirements of the Contract Documents.

6.9 Non-Waiver of Lien Rights or Payment Bond Rights. This Subcontract shall not prohibit a Subcontractor from exercising its rights under ORC Chapter 1311 or under any Constructor-provided payment bond.

6.10 Non-Discrimination. The Subcontractor agrees to fully comply with Applicable Law regarding equal opportunity, including ORC Section 153.59 and, to the extent applicable, all Executive Orders issued by the Governor of the state of Ohio.

6.11 Dispute Resolution. The supplemental conditions to this Subcontract shall provide for a dispute resolution process comparable to the Contract's dispute resolution process in terms of timing, notice, substantiation, and informal dispute resolution efforts. The dispute resolution process provided in the supplemental conditions shall result in prompt access to the ultimate dispute resolution mechanism selected by the parties.

6.12 In the event that any supplemental conditions or other Subcontract terms conflict with the **State of Ohio Subcontract Form**, the **State of Ohio Subcontract Form** takes precedence and this Subcontract shall be read and enforced to include the provisions of the **State of Ohio Subcontract Form**.

6.13 The following exhibits are attached to and are a part of this Subcontract:

6.13.1 Exhibit A: Enter Name of Exhibit

6.13.2 Exhibit B:Enter Name of Exhibit

6.13.3 Exhibit C:Enter Name of Exhibit

6.13.4 Exhibit D:Enter Name of Exhibit

SIGNATURES

IN WITNESS WHEREOF, the parties have executed this Subcontract Form.

ENTER SUBCONTRACTOR'S NAME	ENTER CONSTRUCTOR'S NAME
~~ENTER SUBCONTRACTOR'S NAME~~	~~ENTER CONSTRUCTOR'S NAME~~
~~*Signature*~~ ~~Click or tap here to enter text.~~	~~*Signature*~~ ~~Click or tap here to enter text.~~
~~*Printed Name*~~ ~~Click or tap here to enter text.~~	~~*Printed Name*~~ ~~Click or tap here to enter text.~~
~~*Title*~~	~~*Title*~~ ~~Click or tap to enter a date.~~ ~~*Date*~~
Signature Click or tap here to enter text.	*Signature* Click or tap here to enter text.

Printed Name	*Printed Name*
Click or tap here to enter text.	Click or tap here to enter text.
Title	*Title*
	Click or tap to enter a date.
	Date

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~~Document 00 61 13 -~~ Performance and Payment Bond Form

~~State of Ohio Standard Requirements for Public Facility Construction~~

(Form of Bond prescribed by Ohio Revised Code Section 153.57 - Not to be used as Bid Guaranty)

KNOW ALL PERSONS BY THESE PRESENTS, that we, the undersigned _____ _____, as Principal, and _____as Sureties, are hereby held and firmly bound unto _____ _____as Obligee(s), in the penal sum of _____dollars, for the payment of which well and truly to be made, we jointly and severally bind ourselves, our heirs, executors, administrators, successors, and assigns.

SIGNED AND SEALED this _____day of _____, _____.

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH, that whereas the above-named Principal did on the _____day of _____, _____, enter into a Contract with the Obligee, which said Contract is made a part of this Bond the same as though set forth herein and which is more fully described as:

Project Number: _____

Project Name: _____

Contract Description: _____
(e.g., General Trades, Plumbing, HVAC, Electrical)

NOW, THEREFORE, if the above-named Principal shall well and faithfully do and perform the things agreed by the Obligee to be done and performed according to the terms of said Contract; and shall pay all lawful claims of Subcontractors, Material Suppliers, and laborers, for labor performed and materials furnished in the carrying forward, performing, or completing of said Contract; we agreeing and assenting that this undertaking shall be for the benefit of any Subcontractor, Material Supplier or laborer having a just claim as well as for the Obligee herein; then this obligation shall be void; otherwise the same shall remain in full force and effect; it being expressly understood and agreed that the liability of the Sureties for any and all claims hereunder shall in no event exceed the penal amount of this obligation as herein stated.

THE SAID Surety hereby stipulates and agrees that no modifications, omissions, or additions, in or to the terms of the said Contract or in or to the Plans and Specifications therefor shall in any wise affect the obligations of said Surety on its bond, and it does hereby waive notice of any such modifications, omissions or additions in or to the terms of the Contract, the Work or the Contract Documents, including without limitation the Plans and Specifications.

PRINCIPAL:

_____
Principal Signature

By: _____

Title: _____

SURETY:

_____
Surety Signature

By: _____
Attorney-in-Fact

SURETY INFORMATION:

_____
Street

_____
City State Zip

_____
Telephone Number

SURETY AGENT'S INFORMATION:

_____
Agency Name

_____
Street

_____
City State Zip

_____
Telephone Number

_____
Email Address

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~~Document 00 61 13.19 -~~ Acknowledgement of Surety (General Contracting)

~~State of Ohio Standard Requirements for Public Facility Construction~~

~~Project Number:~~	~~-~~ _____
~~Project Name:~~	~~-~~ _____
~~Owner:~~	~~-~~ _____
~~Contracting Authority:~~	~~-~~ _____
~~Contractor:~~	~~-~~ _____
~~Surety Name:~~	~~-~~ _____
~~Performance & Payment Bond No.:~~	~~-~~ _____
~~Original Penal Sum:~~	~~-~~ _____

Project Name:	_____
Project Location	_____
Owner:	_____
Owners Agent:	_____
Contractor:	_____
Surety Name:	_____
Performance & Payment Bond No.:	_____
Original Penal Sum:	_____

As required under the Contract between the ~~State of Ohio, acting by and through the Contracting Authority,~~Owner and the Contractor in connection with the Project,

the Surety hereby acknowledges that the Penal Sum of the above-mentioned Bond

has been increased to $_____ *(must be not less than 100% of the Contract Sum).*

SURETY:

_____
Surety Signature

By: _____
~~Attorney-in-Fact~~

_____
~~Date~~
Attorney-in-Fact

SURETY INFORMATION:

_____
Street

_____
~~City~~ ~~State~~ ~~Zip~~

_____
~~Telephone Number~~
City State Zip

Date

Telephone Number

SURETY AGENT'S INFORMATION:

Agency Name

Street

City State Zip

Telephone Number

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Table moves to	0
~~Table moves from~~	0
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Acceptable Component A component listed in the Specifications after the Basis of Design Component~~.~~

Addenda or Addendum Written or graphic instrument issued prior to the bid opening which modifies or interprets the proposed Contract Documents by additions, deletions, clarifications, or corrections~~.~~

~~**Additional Insured** The State, Contracting Authority, Owner and each of their respective employees and elected or appointed officials.~~

ADR See "Alternative Dispute Resolution."

A/E See "Architect/Engineer."

Agreement The form furnished by the ~~Contracting Authority~~Owner (including all of its exhibits) that, when completed and signed by the Contractor and ~~Contracting Authority~~Owner evidences entry into the Contract.

Allowance A sum stipulated in the Contract Documents for a defined scope of the Work that may not be completely defined at the time of bidding.

Alternate A potential change in the scope of the Work, which may include but is not limited to alternate materials or methods of construction, and an amount stated on the Bid form to be added to or deducted from the Base Bid if the corresponding Alternate is incorporated into the Contract.

Alternative Dispute Resolution A voluntary and non-binding process for the administrative review, consideration, and attempted settlement of a dispute, without resort to judicial process, including but not limited to partnering, negotiation, mediation, impartial fact-finding, dispute review board, and mini-trials, but shall not include arbitration.

Applicable Law All federal, state, and local codes, statutes, ordinances, and regulations that apply to the performance of the Work or the A/~~E's~~E's Services on the Project.

Architect/Engineer The Person responsible for providing professional design services and construction contract administration for the Project as provided in the Contract Documents. The A/E shall be a **(1)** registered architect holding a license and certificate of authorization issued by the Ohio Architects Board pursuant to ORC Chapter 4703, **(2)** landscape architect holding a license and certificate of authorization issued by the Ohio Landscape Architects Board pursuant to ORC Chapter 4703, or **(3)** professional engineer or professional surveyor holding a license and certificate of authorization issued by the Ohio Engineers and Surveyors Board pursuant to ORC Chapter 4733.

As-Built Documents Documents, including but not limited to Drawings, Addenda, Specifications, Modifications, and other elements of the Contract Documents which the Contractor annotates and otherwise modifies to indicate changes made during the construction process, the location of concealed and buried items, and other information useful to the Owner throughout the life of the completed Project.

Base Bid The amount stated in a Bid as the sum for which the Bidder offers to perform the Work in a particular trade or other category, which is described in the Contract Documents, excluding Alternates.

Basis of Design A document that records the concepts, calculations, decisions, and product selections used to meet the ~~Owner's~~Owner's Project Requirements and to satisfy applicable regulatory requirements, standards, and guidelines. The document includes both narrative descriptions and lists of individual items that support the design process.

Basis of Design Component A component listed first in the Specifications.

Bid A written proposal to perform a Contract, submitted on a completed Bid Form, accompanied by other required documents. ~~The term Bid includes a proposal that has been digitally signed, encrypted, and submitted through the State's electronic bidding application pursuant to OAC Section 153:1-8-01.~~

Bidder A Person that submitted a Bid.

Bidding Documents The advertisement or invitation to bid; instructions to bidders; Bid Guaranty; Bid Form with any supplements; and the proposed Contract Documents (including all Addenda).

Bid Form A form furnished by the ~~Contracting Authority~~Owner with the proposed Contract Documents that are to be completed, signed, and submitted containing the Bidder's Bid.

Bid Guaranty A bid bond or other instrument of security authorized by ORC Section 153.54 submitted with the Bid to provide assurance that the Bidder will execute the Agreement.

BIM See "Building Information Model."

Bond A performance and payment bond in the format specified by ORC Section 153.57 submitted by the Contractor to provide assurance that the Contractor will perform the Work of the Contract, including making required payments to Subcontractors and Materials Suppliers.

Building Information Model A digital representation of physical and functional characteristics of ~~a~~ a facility; a shared knowledge resource for information about a facility forming a reliable basis for decisions during its life-cycle, which is defined as existing from earliest conception to demolition; electronic files used to design and coordinate the Project; and may be used to describe a single model or multiple models used in the aggregate.

Certificate of Contract Completion A form used to document the ~~Contractor's~~Contractor's achievement of Contract Completion. This form may also be used to document partial Contract Completion.

Certificate of Substantial Completion A form used to document **(1)** that the Contractor has achieved ~~Substantial~~ Substantial Completion of the Work or a designated portion of the Work for which the ~~Contracting Authority and the~~ Owner ~~have~~has agreed to take Partial Occupancy, and **(2)** the date on which the associated Substantial Completion of the Work was achieved.

Change Directive A written order prepared by the A/E and executed by the ~~Contracting Authority and~~ Owner that directs a change in the Work or the performance of disputed Work as described in the General Conditions.

Change Order A document recommended by the A/E and executed by the ~~Contracting Authority,~~ Owner~~,~~ and Contractor that modifies the Contract.

Change Request A written request from the Contractor accompanied by a Proposal seeking an adjustment or interpretation of Contract terms, payment of money, extension of time, or other relief with respect to the terms of the Contract.

Claim A demand or assertion, initiated by written notice, certified by one of the parties to the Contract seeking, as a matter of right, adjustment or interpretation of Contract terms, payment of money, extension of time, or other relief with respect to the terms of the Contract.

CM See "Construction Manager." *(not applicable to General Contracting or Multiple Prime project delivery system)*

Combined Bid A Bid that combines bid items for separate Contracts stated on the Bid Form. *(not applicable to General Contracting project delivery system)*

Commission See "Ohio Facilities Construction Commission."

Commissioning Agent The Person identified by the ~~Contracting Authority~~Owner who leads, plans, schedules, and coordinates the commissioning team to implement the Commissioning Process for the Project.

Commissioning Plan A document that outlines the organization, schedule, allocation of resources, and documentation requirements of the Commissioning Process.

Commissioning Process A quality-focused process for enhancing the delivery of a project. The process focuses on verifying and documenting that the facility and all of its systems are planned, designed, installed, tested, operated, and maintained to meet the ~~Owner's~~Owner's Project Requirements.

Commissioning Report A document that records the activities and results of the Commissioning Process. The Commissioning Report is developed from the final Commissioning Plan with its attached appendices.

Conformed Documents Contract Documents with all Addenda items and accepted Alternates incorporated by the A/E, published, and issued to a successful Bidder for its use during performance of the Contract. The Conformed Documents are furnished solely for the ~~Contractor's~~Contractor's convenience. In the event of any conflict between the Contract Documents modified by Addenda and the Conformed Documents, the Contract Documents take precedence.

Construction Budget The budget for Construction Cost.

Construction Cost The total cost for the ~~Contractor's~~Contractor's performance of the Work including all elements of the Project designed or specified by the A/E (at current market rates of labor and materials). Construction Cost does not include the following: A/E fees, CM fees (if applicable), the cost of the land, right-of-way acquisition costs, financing costs, or ~~Owner's~~Owner's contingencies.

Construction Manager A Person responsible, under the Multiple-Prime/CM Adviser version of the ~~Commission's~~Commission's General Conditions, for providing administration, management, and related services as required for scheduling the Project, coordinating the Contractors, and providing other services as provided in the Contract Documents. Under the Multiple-Prime/CM Adviser project delivery system, the CM is not be responsible for performance of Work on the Project. *(not applicable to General Contracting project delivery system)*

Construction Progress Schedule The critical path schedule for performance of the Contract; showing ~~the~~ the time for completing the Work within the Contract Times; the planned sequence for performing the various components of the Work; the interrelationship between the activities of the Contractors,

Subcontractors, A/E, CM (if any), Contracting Authority, and Owner; and the Contractors' resource and cost loading information; as periodically updated during the performance of the Work.

Contract The state of legal obligation entered into by the StateOwner and the Contractor, whereby they have agreed to an exchange of certain acts, materials, equipment, and services for certain monetary consideration, under all terms and conditions specified in the Contract Documents, which shall remain in full force and effect until such time as all obligations under the Contract have been lawfully and completely discharged, or the Contract is terminated under other conditions specified in the Contract Documents.

Contract Completion The stage in the progress of the Work when the Work is completed in accordance with the terms of the Contract Documents including but not limited to **(1)** all governmental authorities have given final, written approval of the Work, **(2)** a final unconditional certificate of occupancy or certificate of completion (as appropriate) has been granted and issued to the Owner by the appropriate governmental authorities, **(3)** the Contractor's Work is 100 percent complete, **(4)** all Punch List items have been completed or corrected, and **(5)** the Contractor has complied with conditions precedent to final payment and release of retained funds.

Contract Completion may apply to a single Phase of a multi-Phase Project without applying to one or more other Phases of the same Project or to the Project as a whole.

Contract Documents Collectively, the documents that constitute the substance of the Contract including Drawings, Specifications, Construction Document Models, Addenda if any, Project Manual, General Conditions, Supplementary Conditions if any, Bid Form, Wage Rate Requirements; and the executed Agreement, Bid Guaranty and Contract Bond, and Modifications if any. Notwithstanding the foregoing sentence, the Contract Documents do not include the advertisement or invitation to bid, instructions to bidders, sample forms, other procurement-related documents or information furnished by the Contracting Authority or Owner in anticipation of receiving Bids, the Contractor'sContractor's Bid, or portions of Addenda relating to bidding requirements except to the extent specifically incorporated into the Contract Documents.

Contract Sum The amount stipulated as such in the Agreement. The Contract Sum is the Contractor'sContractor's entire compensation for the Contractor'sContractor's proper, timely, and complete performance of the Work and is subject to adjustment as provided in the Contract.

Contract Times The periods stipulated in the Agreement for the achievement of associated Milestones, in consecutive days, beginning on the Date of Commencement established by the Notice to Proceed, including adjustments as provided in the Contract.

Contracting Authority The party identified as such in the Agreement, which may be the Ohio Facilities Construction Commission; an agency of the state of Ohio; an Institution of Higher Education or division thereof; a School District Board; or the legislative body of a political subdivision.

Contractor The party identified as such in the Agreement. If the Contractor is a joint venture or special purpose entity, each joint venturer and each member (as applicable) is individually, jointly, and severally obligated under the Contract.

Contractor's Documents All Project-related documents, including those in electronic form, prepared by the Contractor and its Subcontractors.

Contractor's Fee The portion of the Contract Sum attributable to the aggregate of the ~~Contractor's~~Contractor's Overhead and profit related to the ~~Contractor's~~Contractor's proper, timely, and complete performance of the Work.

Contractor Payment Request The form furnished by the Commission that is to be used by the Contractor in requesting payments and which, when submitted by the Contractor, shall serve as an affidavit that payments requested are in proportion to the Work completed as shown on the Schedule of Values.

Contractor's Punch List A document prepared by the Contractor that consists of a list of items of Work to be completed or corrected by the Contactor as a condition precedent to Contract Completion.

Coordination Drawings Drawings and Electronic Files prepared by the Contractor and Subcontractors to demonstrate how multiple-system and interdisciplinary work will be coordinated. Clash reports generated by BIM authoring software may be included in the Coordination Drawing submittals if applicable.

Correction Period A period of one year commencing on the date of Substantial Completion of the Work or a designated portion of the Work which the Contracting Authority and Owner have agreed to take Partial Occupancy.

CxA See "Commissioning Agent."

Date of Commencement The date established in a Notice to Proceed issued by the Contracting Authority to the Contractor to mark the start of the Work and the beginning of the running of the Contract Times.

day A calendar day of 24 hours measured from midnight to midnight, unless otherwise expressly specified to mean a business day.

Defective Work Work that does not conform to the Contract Documents; or does not meet the requirements of any applicable statute, rule or regulation, inspection, reference standard, test, or approval; or has been damaged prior to the A/E's recommendation of final payment, unless responsibility for the protection thereof has been expressly assumed by the Owner; or that is not free from defects in workmanship, materials, or equipment during the period of any warranty or guarantee.

Delegated Design A form of collaboration between the A/E and the Contractor whereby **(1)** the A/E defines the performance and design criteria for specifically identified systems, materials, equipment, or details included in the Work; and **(2)** the Contractor provides the detailed design of those identified systems, materials, equipment, or details;

	which responsibility may require the Contractor to engage a licensed design professional to perform the related services. The items and scope of Delegated Design included in the Work are subject to the Contracting Authority's Owner's approval and may include, but is not limited to, structural steel elements and connections, precast concrete systems, curtain wall systems, metal panel facades, waterproofing systems, roofing systems, mechanical systems, and fire protection systems.
Differing Site Condition	Either **(1)** a subsurface or otherwise concealed physical condition encountered at the Site that differs materially from the conditions indicated in the Contract Documents or **(2)** an unknown physical condition of an unusual nature encountered at the Site that differs materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents.
Drawings	Graphic portions of the Contract Documents showing the design, type of construction, location, dimension, and character of the Work to be provided by the Contractor, which generally includes plans, elevations, sections, details, schedules, diagrams, notes, and text.
Electronic File	Information maintained in a computer system or format that is intended to facilitate a Person's Person's use and manipulation of the information including but not limited to Word, Excel, PDF, Primavera, CAD, and BIM files all in their native format.
Enclosure, Permanent	The condition in which the permanent exterior walls and roofs are in place, insulated and weathertight, and permanent windows and entrances are in place.
Enclosure, Temporary	The condition in which the permanent exterior walls and roofs are in place, insulated and weathertight, and windows and entrances are provided with suitable temporary enclosures.
Estimated Construction Cost	The sum of the estimated Construction Cost amount(s) (including Base Base Bid and Alternates) published in the bidding documents, as modified by Addenda, for a Phase of the Project.
Extra Materials	Materials required by the Contract Documents that are not incorporated into the Project but are given to the Owner to be used for future maintenance or repairs.
Fee	See "Contractor's Fee."
Field Meeting	A meeting between the Contracting Authority, Owner, and Contractor to review and endeavor to resolve a Change Directive, Change Request, or other matter.
Final Inspection	The final review of the Work of the Contractor by the A/E to determine whether issuance of the Certificate of Contract Completion is appropriate.
furnish	Supply and deliver to the Site, or other specified location, ready for installation.
General Conditions	The State's StandardOwner's General Conditions in effect as of the date of the Agreement.
General Conditions Costs costs to	General Conditions Costs include only the Contractor'sContractor's provide the general conditions Work including without limitation the costs of all of the following Site-related items: scheduling and

coordinating the Work. telephone, telephone charges, facsimile, telegrams, postage, photos, photocopying, hand tools, simple scaffolds (one level high), tool breakage, tool repairs, tool replacement, tool blades, tool bits, and pre-approvedpre-approved travel, lodging,

and parking costs. General Conditions Costs also include **(1)** Bond premiums; **(2)** premiums for subcontractor default insurance to the extent incurred on account of Subcontractors enrolled for the Project; and **(3)** premiums for builder's builder's risk insurance if the Contractor is required to provide the builder's builder's risk insurance described in the General Conditions (premiums for "difference in conditions" insurance coverage are included in Overhead and are not included in General Conditions Costs).

Hazardous Materials Any material, substance, pollutant, or contaminant that is defined, regulated, referenced, or classified in the Comprehensive Environmental Response, Compensation and Liability Act, Federal Water Pollution Control Act, Resource Conservation and Recovery Act, Clean Air Act, Hazardous Materials Transportation Uniform Safety Act, Toxic Substances Control Act, or any other Applicable Law relating to any hazardous, toxic, or dangerous waste, substance, or material. Any substance or material that, after release into the environment or upon exposure, ingestion, inhalation, or assimilation, either directly from the environment or directly by ingestion through food chains, will, or may reasonably be anticipated to, cause death, disease, behavior abnormalities, cancer or genetic abnormalities and specifically includes but is not limited to asbestos, polychlorinated biphenyls ("PCBs"), radioactive materials, including radon and naturally occurring radio nuclides, natural gas, natural gas liquids, liquefied natural gas, synthetic gas, oil, petroleum and petroleum-basedpetroleum- based derivatives and urea formaldehyde.

Indemnified Parties The State, Contracting Authority, Owner, A/E, other Separate Consultants, and their respective officials, officers, consultants, agents, representatives, and employees, in both individual and official capacities.

install Put into use or place in final position, complete and ready for intended service or use.

Institutional Designee The party identified in the Agreement empowered with a level of authority similar to the Executive Director of the Commission, which may be the university architect or engineer, director of capital facilities, or an institution vice president.

Institution of Higher Education Any state institution of higher education as defined in ORC Section 3345.011, including any state university or college, community college, state community college, technical college, university branch, community college district, technical college district, university branch district, and the applicable board of trustees or, in the case of a university branch district, any other managing authority.

Lead Contractor The Contractor identified by the Architect/Engineer, under the Multiple-PrimeMultiple-Prime version of the Commission'sCommission's General Conditions, when a CM is not involved in the Project, responsible for scheduling the Project, coordinating the Contractors, and providing other services identified in the Contract Documents. *(not applicable to General Contracting or CM Advisor project delivery system)*

Legal Holiday Legal Holidays are as follows: **(1)** New Year'sYear's Day — First Day in January; **(2)** Martin Luther King Jr. Day — Third Monday in January; **(3)** Washington-Lincoln (President'sPresident's) Day — Third Monday in February; **(4)** Memorial Day — Last Monday in May; **(5)** Juneteenth National Independence Day (Juneteenth) — Nineteenth day of June; **(6)** Independence Day — Fourth day of July; **(7)** Labor Day — First Monday in September; **(8)** Columbus Day — Second Monday in October; **(9)** Veterans' Day — Eleventh Day of November; **(10)** Thanksgiving Day —Fourth Thursday of November; and **(11)** Christmas Day — Twenty-fifth day of December. If a Legal Holiday falls on a Saturday, it is observed on the preceding Friday. If a Legal Holiday falls on a Sunday, it is observed on the following Monday.

Liquidated Damages A sum established in the Contract Documents, pursuant to the statutory delay forfeiture authorized under ORC Section 153.19, to be paid to the Owner due to the Contractor'sContractor's failure to complete the Work within the Contract Time for achievement of Substantial Completion, or any applicable portion of the Work on or prior to any Milestone date stated on the Agreement.

Material Supplier A Person under a contract with the Contractor to furnish materials or supplies in furtherance of the Work, including all such Persons in any tier. Material Supplier does not include any Separate Contractor unless expressly assigned in writing to the Contractor by the Owner and accepted by the Contractor.

mediation A voluntary process in which a neutral third party meets with the parties who have a disagreement or dispute and attempts to facilitate a mutually satisfactory resolution.

Milestone A principal event specified in the Contract relating to a completion date or time.

Modification A **(1)** written amendment to the Contract signed by both parties, **(2)** Change Order, **(3)** Change Directive, or **(4)** an order for a minor change in the Work.

negotiation A form of Alternative Dispute Resolution in which all parties involved are represented by those invested with the authority to agree to a determination of an adjustment in the Contract Sum, Contract Times, or both.

Neutral Facilitator A nonpartisan third-party without decision-making authority who is engaged to assist the Project'sProject's key stakeholders in developing cooperative relationships, achieving project objectives, avoiding or minimizing disputes, and nurturing a more-collaborative ethic characterized by trust, cooperation, and teamwork.

Notice of Commencement A notice prepared by the Contracting AuthorityOwner identifying the Project, the Contractors, the Surety for each Contractor, and the name of the Contracting Authority'sOwner's representative upon whom a claim affidavit may be served.

Notice of Intent to Award A written notice provided by the Contracting AuthorityOwner to the apparent successful Bidder stating that upon satisfactory compliance with all conditions precedent for execution of a Contract within the time specified, the

Contracting AuthorityOwner intends to execute a Contract with the Bidder.

Notice to Proceed A written notice provided by the Contracting AuthorityOwner to the Contractor to establish the Date of Commencement and to authorize the Contactor to proceed with the Work.

OAC Ohio Administrative Code.

Ohio Facilities Construction Commission The authorized contracting agent for public improvement projects in accordance with ORC Chapters 123 and 153, acting by and through its Executive Director.

ORC Ohio Revised Code.

Overhead The term "Overhead" includes all of the following costs: **(1)** home-officehome- office payroll, which includes: payroll costs and all other compensation (including without limitation membership in trade, business, or professional organizations; professional licenses; training; and bonuses or similar plans/arrangements related to performance on, or profit from, the Project) of the Contractor'sContractor's officers, executives, principals (of partnerships and sole proprietorships), general managers, engineers, architects, estimators, attorneys, auditors, accountants, purchasing and contracting agents, expediters, timekeepers, clerks, and other personnel employed by the Contractor in the Contractor'sContractor's principal or a branch office (not including the Contractor'sContractor's Site office) for general administration of the Work; **(2)** home-office expenses, which include (except where specifically allowed as a General Conditions Cost): all expenses of the Contractor'sContractor's principal and branch offices including without limitation home-office telephone, telephone charges, computers, fax, postage, photos, copies, legal services, and accounting services; **(3)** all of the Contractor'sContractor's capital expenses, including without limitation interest on the Contractor'sContractor's capital employed for the Work and charges against the Contractor for delinquent payments; **(4)** all costs due to the negligence or breach of contract of the Contractor, a Subcontractor, or anyone for whom they may be liable, including without limitation the correction of Defective Work, disposal of materials or equipment wrongly supplied, and making good any damage to property; **(5)** all costs related to insurance provided by the Contractor, whether required under the Contract or not, except **(a)** premiums for subcontractor default insurance in the Construction Stage if those insurance premiums are included as a General Conditions Cost and **(b)** premiums for builder'sbuilder's risk insurance if the Contractor is required to provide the builder'sbuilder's risk insurance described in the General Conditions (premiums for "difference in conditions" insurance coverage are included in Overhead); **(6)** all travel, lodging, and parking costs, except where specifically allowed as a pre-approved General Conditions Cost; **(7)** all applicable taxes of every kind (including but not limited to commercial activity tax ("CAT")) except where otherwise specifically allowed; **(8)** all other overhead or general administrative expenses of any kind and any cost not specifically allowed as a separately recoverable cost of the Work in the Construction Stage.

Owner The state of Ohio agency, Institution of Higher Education or division thereof, School District Board, or other instrumentality for whom

~~the Project is being constructed.~~

Owner The Fairbanks Local School District Board of Education.

Owner's Project Requirements A written document that details the functional requirements of the~~Project~~ Project and the expectations of how it will be used and operated. These requirements include project goals, measurable performance criteria, cost considerations, benchmarks, success criteria, and supporting information.

Partial Occupancy The condition that occurs when the Owner occupies or uses a portion of the Project prior to Contract Completion, partial occupancy is approved by authorities with jurisdiction over the Project and the insurer(s) providing the builders risk insurance, and items of Work cannot be completed until a subsequent date.

partnering A voluntary dispute prevention process involving team building activities to help define common goals, improve communication, and foster a problem-solving attitude among a group of contracting parties that must work together throughout Contract performance to be less adversarial and more cooperative.

Payment Request See "Contractor Payment Request."

Person An individual, corporation, business trust, estate, partnership, association, or other public or private entity.

Phase A separation in the Work of the Project by sequence or time intervals, as defined in the Agreement (e.g., in a multiple-site or multiple-building Project, each site or building may be identified as a separate "Phase"). Each Phase may include different Subcontractors.

Product Data ~~Manufacturer's~~Manufacturer's standard illustrations, schedules, diagrams, performance charts, instructions, and brochures that illustrate physical appearance, size, and other characteristics of materials and equipment.

Progress Status Report A monthly progress report prepared by the Contractor and containing the following information for each Phase of the Work: **(1)** the updated Construction Progress Schedule; **(2)** progress photos; **(3)** an executive summary; **(4)** a discussion of pending items and existing or anticipated problems and status of RFIs; **(5)** a safety and accident report; **(6)** information on each Subcontractor and each ~~Subcontractor's~~Subcontractor's work as well as the entire Work, showing percentages of completion and the number and amounts of Change Orders and Change Directives and relating such information to the Construction Progress Schedule and the Contract Sum; **(7)** a list of all identified Claims, any threatened claims and issues that, in the reasonable judgment of Contractor, may potentially become Claims and any potential Change Orders that have been submitted to the Owner by the Contractor; **(8)** information on compliance with the EDGE participation goals established for the Project; ~~and~~ **(9)** status of compliance with required LEED components, if applicable; and **(10)** such other relevant information as may be reasonably required by the Owner from time to time.

Project The public improvement, of which the Work performed under the Contract Documents may be the whole or a part.

Project Manager A permanent employee of the ~~Contracting Authority~~Owner assigned to the Project and authorized to perform specific responsibilities.

Project Manual That part of Contract Documents which consists of bound volume(s)

of primarily written material which generally contain Division 00 - "Procurement and Contracting Requirements," and Divisions 01 through 49 - "Specifications," and other documents pertaining to the Project.

Proposal The offer of a Contractor to perform the Work set forth in a Change Request or Proposal Request.

Proposal Request A document issued after execution of the Contract requesting a Proposal from the Contractor(s), which may initiate a Change Order to modify the Contract.

provide Furnish and install, complete and ready for intended use.

Punch List A document listing items of Work requiring correction or completion by Contractor as a condition precedent to Contract Completion.

~~**provide** Furnish and install, complete and ready for intended use.~~

Punch List Milestone The date 30 days after the achievement of Substantial Completion of all or a portion of the Work.

Record Documents Electronic files and printed documents of all nature prepared by the A/E, which incorporate the information shown on the ~~Contractor's~~Contractor's As-Built Documents. They consist of the "Record Drawings" and "Record Project Manual," Certificate of Substantial Completion, Certificate of Contract Completion (as complete), manufacturers~~'~~' warranties, certificate(s) of occupancy or completion (as appropriate), approved shop drawings and other action submittals, responses to Requests for Information, Addenda, Modifications, balancing reports, and the final version of the approved Construction Progress Schedule.

Record Drawings The Drawings, which have been revised by the A/E to show the changes made during the construction process, conformed to represent the Work as executed by the Contractor.

Record Model The Building Information Model, which has been revised by the A/E to show the changes made during the construction process, conformed to represent the Work as executed by the Contractor.

Record Project Manual The Project Manual of the Contract Documents, which has been revised by the A/E to show the changes made during the construction process, based on the As-Built Project Manual furnished by the Contractor.

Request for Information A written request to the A/E seeking an interpretation or clarification of the Contract Documents.

RFI See "Request for Information."

Samples Physical examples, color selection items, field samples, and ~~mock-ups~~mock- ups furnished by the Contractor to illustrate functional and aesthetic characteristics of products, materials, equipment, or workmanship and establish criteria by which the Work shall be judged.

Schedule Consultant If the Project does not involve a CM, the Person qualified to create and keep current the Construction Progress Schedule and schedule of submittals for the Project provided by the Lead Contractor. *(not applicable to General Contracting or CM Advisor project delivery system)*

Schedule Manager The Person responsible to create and keep current the Construction

Progress Schedule and schedule of submittals for the Project ~~under the Multiple Prime version of the Standard Requirements. If the~~ Estimated Construction Cost for the Project is less than $500,000, the Lead Contractor shall be the Schedule Manager. If the Estimated Construction Cost for the Project is $500,000 or more, the Schedule Consultant shall be the Schedule Manager. If the Contracting Authority contracted with a Schedule Consultant either directly or through the A/E, the Schedule Consultant is the Schedule Manager. *(not applicable to General Contracting or CM Advisor project delivery system)*

Schedule of Values A full, accurate, and detailed statement furnished by the Contractor reflecting a defined breakdown of the Contract Sum.

School District A local, exempted village, or city school district as defined in ORC Chapter 3311, or a joint vocational school established pursuant to ORC Section 3311.18, performing essential governmental functions of state government pursuant to ORC Sections 3318.01 to 3318.20.

School District Board The board of education of a School District.

Separate Consultant A Person engaged by the Owner or Contracting Authority to provide Project-related professional services other than the services under this Contract. The term includes the Separate ~~Consultant's~~Consultant's authorized representatives, successors, assigns, and subconsultants regardless of tier.

Separate Contract The contract between the Owner ~~or Contracting Authority~~ and a Separate Consultant or Separate Contractor.

Separate Contractor A Person under contract with the Owner ~~or Contracting Authority~~ to provide Project-related work other than the Work under this Contract. The term includes the Separate ~~Contractor's~~Contractor's authorized representatives, successors, assigns, and subcontractors regardless of tier.

Shop Drawings Drawings, diagrams, illustrations, and schedules specifically prepared for the Project provided by the Contractor or a Subcontractor to illustrate some portion of the Work. Shop Drawings are not Contract Documents.

Site The location designated for the Project.

Specifications Those portions of the Contract Documents consisting of detailed written administrative, procedural, and technical requirements, included in Divisions 01 through 49, for the construction of the Work, whether physically on the Drawings or bound in separate volumes, including identification of acceptable materials, methods, equipment, quality, and workmanship.

Stage A distinct period in the life cycle of a facility from concept through construction, to use and deconstruction or demolition. Typical Stages include Program Verification, Schematic Design, Design Development, Construction Documents, Bidding and Award stages; and the Construction Stage, which includes Construction and Closeout activities.

Standard Requirements The brief name of the "State of Ohio Standard Requirements for Public Facility Construction," including but not limited to General Conditions, and other Division 00 Documents and Division 01 Sections; in effect as of date of the Agreement, which have been modified by Owner for a K12 project.

~~**State** The government of Ohio, including any organized body, office, or agency established by the laws of this state for the exercise of any function of state government, or any state institution of higher education as defined in ORC Section 3345.011.~~

Subcontract	Any contract or agreement between the Contractor and a ~~Subcontractor for performance of a portion of the Work.~~
Subcontract Form	The **State of Ohio Subcontract Form** prescribed by OAC Section 153:1-3-02 and required for use with the General Contracting method of project delivery.
Subcontractor	A Person who undertakes to perform any part of the Work on the Project under a contract with a Contractor or with any Person other than the ~~State~~Owner, including all such Persons in any tier. The term ~~"~~"Subcontractor~~"~~" includes Material Suppliers, but does not include any Separate Contractor unless expressly assigned in writing to the Contractor by the Owner and accepted by the Contractor.
Substantial Completion	The stage in the progress of the Work when the Work (or designated portion of the Work for which the ~~Contracting Authority and~~ Owner ~~have~~has agreed to take Partial Occupancy) is sufficiently complete in accordance with the Contract that the Owner can utilize the Work for its intended use, as determined by the A/E. The issuance of a certificate of occupancy, partial certificate of occupancy, certificate of completion, or partial certificate of completion (as applicable) to the Owner by the appropriate governmental authorities is a condition precedent to the achievement of Substantial Completion.
Substantially Complete	See "Substantial Completion."
Substitution	An article, device, material, equipment, form of construction, or other item, proposed by a prospective Bidder prior to the bid opening and approved by the A/E by Addendum, for incorporation or use in the Work as being functionally and qualitatively equivalent to essential attributes of a Basis of Design or Acceptable Component specified in the proposed Contract Documents.
Supplementary Conditions	Amendments to the General Conditions, issued as a separate ~~document,~~ document, which describe conditions of the Contract unique to a particular Owner or Project, which may include provisions regarding the assignment of responsibility for refuse removal, safety and security precautions and programs, temporary Project facilities and utilities, weather and fire protection, scaffolding and equipment, materials and services to be used commonly by the Contractor and Subcontractors and requiring the Contractor to provide assistance in the utilization of any applicable equipment system, preparation of operation and maintenance manuals, and training of Owner personnel for operation and maintenance of the Project. The General Conditions shall not be superseded or amended by Drawings and Specifications, unless so provided in Supplementary Conditions prepared by the ~~Contracting Authority and approved by the Commission~~Owner.
Supplementary Instructions	Amendments to the Instructions to Bidders, issued as a separate document, which describe instructions unique to a particular Owner or Project. The Instructions to Bidders shall not be superseded or amended by Drawings and Specifications, unless so provided in Supplementary Instructions prepared by the ~~Contracting Authority and approved by the Commission~~Owner.
Surety	A Person providing a Bid Guaranty or a Bond to a Bidder or a Contractor, as applicable.
Systems Manual	A system focused composite document that includes the operation manual, maintenance manual, and additional information of use to the Owner after they begin using the facility.
Unit Price	The cost of providing a unit of Work including labor, materials,

services, and associated expenses. Unit Prices include the ~~Contractor's~~Contractor's ~~Fee on account of the associated Unit~~ Price Work.

Work The labor, materials, equipment, and services, individually or collectively which are required by the Contract Documents, to be performed or provided by the Contractor for the Project. The furnishing of all material, labor, detailing, layout, supplies, plants, tools, scaffolding, transportation, temporary construction, superintendence, demolition, and all other services, facilities and items reasonably necessary for the full and proper performance and completion of the requirements of the Project as set forth in the Contract Documents, and items reasonably inferable therefrom and consistent therewith for the proper execution and completion of the construction and other services required by the Contract Documents, whether provided or to be provided by the Contractor or a Subcontractor, or any other entity for whom the Contractor is responsible, and whether or not performed or located on or off of the Site.

Work Day Any day **(1)** that is not a Sunday or Legal Holiday (except as further provided in this paragraph); and **(2)** on which the Contractor performs Work or intends to perform Work as evidenced by the contemporaneous Construction Progress Schedule. Sundays and Legal Holidays are not Work Days unless **(1)** identified as such in the contemporaneous Construction Progress Schedule or **(2)** the Contractor provides 48-hours-' advance notice to the Owner scheduling those days as Work Days.

END OF DOCUMENT

Summary report: Litera Compare for Word 11.16.0.74 Document comparison done on 10/20/2026 12:42:09 PM	
Style name: Default Style	
Intelligent Table Comparison: Active	
Original filename: OFCC - Contracting Definitions.pdf	
Modified filename: 8. Fairbanks LSD - 00 71 00- Contracting Definitions.pdf	
Changes:	
Add	123
~~Delete~~	128
~~Move From~~	0
Move To	0
Table Insert	0
~~Table Delete~~	0
Table moves to	0
~~Table moves from~~	0
Embedded Graphics (Visio, ChemDraw, Images etc.)	0
Embedded Excel	0
Format changes	0
Total Changes:	251

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ARTICLE 1 - ~~CONTRACTOR'S~~CONTRACTOR'S RESPONSIBILITIES

1.1 Nondiscrimination

1.1.1 The Contractor shall comply with Applicable Law regarding equal employment opportunity, including ORC Section 153.59 and all Executive Orders issued by the Governor of the state of Ohio.

1.1.1.1 As required under ORC Section 153.59, the Contractor agrees to both of the following:

.1 ~~"~~"in the hiring of employees for the performance of work under the contract or any subcontract, no contractor, subcontractor, or any person acting on a ~~contractor's or subcontractor's~~contractor's or subcontractor's behalf, by reason of race, creed, sex, disability or military status as defined in section 4112.01 of the Revised Code, or color, shall discriminate against any citizen of the state in the employment of labor or workers who is qualified and available to perform the work to which the employment relates;~~"~~" and

.2 ~~"~~"no contractor, subcontractor, or any person on a ~~contractor's or subcontractor's~~contractor's or subcontractor's behalf, in any manner, shall discriminate against or intimidate any employee hired for the performance of work under the contract on account of race, creed, sex, disability or military status as defined in section 4112.01 of the Revised Code, or color.~~"~~"

1.1.1.2 The Contractor shall cooperate fully with the ~~State's~~state of Ohio's Equal Opportunity Coordinator (~~"~~"EOC~~"~~"), with any other official or agency of the state or federal government that seeks to eliminate unlawful employment discrimination, and with all other state and federal efforts to assure equal employment practices under the Contract.

1.1.1.3 In the event the Contractor fails to comply with these nondiscrimination clauses, the ~~Contracting Authority~~Owner shall deduct from the amount payable to the Contractor a forfeiture of the statutory penalty pursuant to ORC 153.60 for each person who is discriminated against or intimidated in violation of this **Section ~~1.1.1.~~1.1.1.**

1.1.1.4 The Contract may be terminated or suspended in whole or in part by the ~~Contracting Authority~~Owner and all money to become due hereunder may be forfeited in the event of a subsequent violation of this **Section ~~1.1.1.~~1.1.1.**

1.1.2 Hiring Under State Public Improvement Contracts.

1.1.2.1 Any provision of a hiring hall contract or agreement which obligates the Contractor to hire, if available, only employees referred to the Contractor by a labor organization shall be void as against public policy and unenforceable

with respect to employment under any public improvement contract unless at the date of execution of the hiring hall contract or agreement, or within 30 days thereafter, the labor organization has procedures in effect for referring qualified employees for hire without regard to race, color, religion, national origin, military status as defined in ORC Section 4112.01, or ancestry and unless the labor organization includes in its apprentice and

~~journeyman's~~journeyman's membership, or otherwise has available for job referral without discrimination, qualified employees, both whites and non-whites (including African-Americans).

1.2 ~~Prevailing Wages~~Not Used.

~~**1.2.1** The Contractor shall comply with the prevailing wage requirements described under ORC Chapter 4115 that include, without limitation, the requirements described under this **Section 1.2**.~~

~~**1.2.2** If the Project is subject to payment of prevailing wage rates, the Contractor shall:~~

~~**1.2.2.1** pay to laborers and mechanics performing Work on the Project the prevailing wage rates of the Project locality, as determined by the Ohio Department of Commerce, Wage and Hour Bureau;~~

~~**1.2.2.2** post in a prominent place readily accessible by all workers on the Site, a legible listing of the current classifications of laborers, workers, and mechanics employed under this Contract;~~

~~**1.2.2.3** ensure that the rates posted are current and remain posted in legible condition during the period of the Contract; and~~

~~**1.2.2.4** not be entitled to an increase in the Contract Sum on account of an increase in prevailing wage rates, except as otherwise provided by Applicable Law.~~

~~**1.2.3** The Contractor may access the Ohio Department of Commerce, Wage & Hour Bureau at its website, http://198.234.41.198/w3/webwh.nsf/pages/PrevailingWageBid, to obtain the current wage rates.~~

1.3 Royalties and Patents

1.3.1 The Contractor shall pay all royalties and license fees and assume all costs incident to the use, in the performance of the Work or the incorporation in the Work, of any invention, design, process, product, or device that is the subject of patent rights or copyrights held by others.

1.3.2 If the Contractor has reason to believe that use of the specified item is subject to patent or copyright protection, the Contractor shall immediately notify the ~~Contracting Authority~~Owner.

1.4 Assignment of Antitrust Claims

1.4.1 By signing the Agreement, the Contractor assigns, conveys and transfers to the ~~Contracting Authority~~Owner any right, title, and interest to any claims or causes of action it may have or acquire under state or federal antitrust laws relating to any goods, products, or services purchased, procured, or rendered to the ~~State~~Owner pursuant to the Contract.

1.5 Use of Domestic Steel

1.5.1 The Contractor is required by law to supply domestically produced steel products used for load bearing structural purposes on all projects funded in whole or in part with State funds.

1.5.2 The Contractor and Subcontractors shall comply with ORC Section 153.011 regarding the use of domestically produced steel products for load bearing structural purposes on all projects funded in whole or in part with State funds. Copies of ORC Section 153.011 may be obtained from the Ohio Facilities Construction Commission or downloaded at ~~http://codes.ohio.gov/orc/153.011v1.~~http ://codes.ohio.gov/orc/153.011v1.

1.6 Drug Free Safety Program Participation

1.6.1 Throughout the performance of the Work, the Contractor shall be enrolled in and remain in good standing in the Ohio Bureau of Workers~~'~~' Compensation (~~"~~"OBWC~~"~~") Drug-Free Safety Program (~~"DFSP"~~"DF SP") or a comparable program approved by the OBWC that meets the requirements specified in ORC Section 153.03 (~~"~~"OBWC-approved ~~DFSP"~~DF SP").

1.6.2 As required under ORC Section 153.03(E):

1.6.2.1 ~~"~~"Each contractor shall require all subcontractors with whom the contractor is in contract for the public improvement to be enrolled in and be in good standing in the Bureau of Workers~~' Compensation's~~' Compensation's Drug-Free Workplace Program or a comparable program approved by the Bureau that meets the requirements specified in section 153.03 of the Revised Code prior to a subcontractor providing labor at the project site of the public improvement.~~"~~"

1.6.2.2 ~~"~~"Each subcontractor shall require all lower-tier subcontractors with whom the subcontractor is in contract for the public improvement to be enrolled in and be in good standing in the Bureau of Workers~~' Compensation's~~' Compensation's Drug- Free Workplace Program or a comparable program approved by the Bureau that meets the

requirements specified in

section 153.03 of the Revised Code prior to a lower-tier subcontractor providing labor at the project site of the public improvement.”"

1.6.2.3 “"Failure of a contractor to require a subcontractor to be enrolled in and be in good standing in the Bureau of Workers’ Compensation’s' Compensation's Drug-Free Workplace Program or a comparable program approved by the Bureau that meets the requirements specified in section 153.03 of the Revised Code prior to the time that the subcontractor provides labor at the project site will result in the contractor being found in breach of the contract and that breach shall be used in the responsibility analysis of that contractor or the subcontractor who was not enrolled in a program for future contracts with the State for five years after the date of the breach.”"

1.6.2.4 “"Failure of a subcontractor to require a lower-tier subcontractor to be enrolled in and be in good standing in the Bureau of Workers’ Compensation’s' Compensation's Drug-Free Workplace Program or a comparable program approved by the Bureau that meets the requirements specified in section 153.03 of the Revised Code prior to the time that the lower- tier subcontractor provides labor at the project site will result in the subcontractor being found in breach of the contract and that breach shall be used in the responsibility analysis of that subcontractor or the lower-tier subcontractor who was not enrolled in a program for future contracts with the State for five years after the date of the breach.”"

1.6.3 Prior to authorizing a Subcontractor to commence Work on the Site, the Contractor shall obtain the Contracting Authority’sOwner’s approval, and shall also submit to the A/E written confirmation of the Subcontractor’scontinuation of the Subcontractor's enrollment on the **Subcontractor and Material Supplier Declaration form.**

1.6.4 In addition to OBWC-approved DFSPDF SP Basic requirements, the Contractor, each Subcontractor, and each Separate Contractor that provides labor on the Site shall participate in a pool that performs random drug testing of at least five percent of its employees who perform labor on the Site. The random drug testing percentage shall also include the on-site supervisors of the Contractor, Subcontractors, and Separate Contractors. Basic random drug testing shall otherwise comply with the same testing guidelines and criteria as required for OBWC-approved advanced testing. The Contractor and Subcontractor shall provide evidence of required testing to the Contracting AuthorityOwner upon request.

1.7 Use of Project Management SoftwareNot Used

1.7.1 If the Contracting Authority decides, in its sole discretion, to use project management software for the Project, the Contractor shall use that software for all compatible services required under this Contract.

1.7.2 All costs for the Contractor’s use of the project management software for the Project shall be included in the Contract Sum. If the Contractor is unfamiliar with the proper use of the software, the Contractor shall provide its employees for training without additional compensation.

1.8 EDGE Participation and ReportingNot Used

1.8.1 The Contractor shall participate in the “Encouraging Diversity, Growth and Equity” (“EDGE”) Program by subcontracting with, and using one or more, businesses certified as an EDGE Business Enterprise (“EDGE certified Business”) by the Ohio Department of Development.

1.8.1.1 If the Contractor is an EDGE certified Business, the Contractor may include its own compensation under this Contract in the reporting.

1.8.1.2 The amount of EDGE participation cannot exceed 100 percent of the Contract Sum.

1.8.1.3 The Contractor shall include in the reporting only those expenditures to EDGE certified Businesses that perform a commercially useful function as described in the OAC.

1.8.2 The Contractor shall provide an EDGE Participation Report with each Contractor Payment Request.

1.8.2.1 The Contractor shall provide status reports, produced by the Contractor and each applicable EDGE certified Business for the Contract, indicating:

.1 the name of each EDGE certified Business;

.2 the federal tax identification number of each EDGE certified Business;

.3 the date of the EDGE certified Business contract, Subcontract, or purchase order;

.4 the projected and actual start and end dates of the EDGE certified Business contract, Subcontract, or purchase order;

.5 the original amount of the EDGE certified Business contract, Subcontract, or purchase order with the Contractor;

.6 the current amount of the EDGE-certified Business contract, Subcontract, or purchase order;

.7 the amount invoiced to date;

.8 the amount paid to date;

.9 the status of the EDGE-certified Business contract, Subcontract, or purchase order (active, complete, or void); and

.10 a statement describing any substantive product or performance deficiencies.

1.8.2.2 The Contractor shall provide reports for each EDGE-certified Business; however, the reports may be consolidated and submitted as one document.

1.8.3 The Contractor shall provide an EDGE Participation Final Report simultaneously with its final Contractor Payment Request.

1.8.3.1 The Contractor and each EDGE-certified Business shall provide in the report certification that the submitted document is a true and accurate accounting of the original contract amount paid to and, received by each EDGE-certified Business.

1.8.4 The Contractor shall provide the EDGE Participation Reports in detail and form acceptable to the Contracting Authority.

1.8.4.1 Failure to timely submit EDGE Participation Reports may result in withholding payment in accordance with Section 9.8.

1.8.5 The Contractor shall cooperate fully with requests for additional EDGE information and documentation from the Ohio Department of Development or Contracting Authority.

1.9 Owner Work Rules

1.9.1 The Contractor shall consult with the Owner to obtain full knowledge of the ~~Owner's~~Owner's rules, regulations, or requirements affecting the Project.

1.10 Emergency

1.10.1 In the event of an emergency affecting the safety of the Project, other property, or individuals, the Contractor, without special instruction or authorization, shall act to prevent the threatened damage, injury, or loss.

1.10.2 If the Contractor believes that it is entitled to an adjustment of the Contract Sum or Contract Times, or both, on account of its actions in response to an emergency, the Contractor shall initiate a Change Request **(1)** as required under **Section** ~~7.6.~~7.6; and **(2)** within the time period required under **Section** ~~7.6.~~7.6, which begins to run on the day that the emergency began.

1.11 ~~Contractor's~~Contractor's Standard of Care

1.11.1 The Contractor shall perform the Work in a workmanlike manner, consistent with the standards of skill and care exercised by entities licensed to perform (where required under Applicable Law) and regularly performing comparable work in the same or similar locality under the same or similar circumstances.

1.12 Limit of ~~Contractor's~~Contractor's Responsibility

1.12.1 The Contractor is not responsible for the A/~~E's~~E's negligence or the A/~~E's~~E's failure to properly perform the A/~~E's~~E's contract.

1.13 Sustainability Requirements

1.13.1 This Project shall be designed and constructed in accordance with the requirements, rules, policies, and procedures adopted by the Ohio Facilities Construction Commission establishing Sustainability Requirements for Capital Improvements Projects, including but not limited to the applicable provisions of OAC 3318-3.

1.13.2 If the Project is designed and constructed under the Leadership in Energy and Environmental Design (~~"~~"LEED~~"~~") Rating System developed by the U.S. Green Building Council or another rigorous rating system used to facilitate achievement of sustainability goals for the Project, the Contractor shall provide submittals certifying achievement of sustainable design rating system criteria for verification by the Green Building Certification Institute or other third party in accordance with the Contract Documents.

1.14 Expedited Local Partnership Program

1.14.1 The Owner is participating in the OFCC's Expedited Local Partnership Program.

1.14.2 The Project must be designed and constructed in conformance with the Ohio School Design Manual provisions in effect at the time the Project is designed or as made applicable to the Project by a Change Order or Amendment in order for Owner to receive the maximum credit for qualifying expenditures.

1.14.3 The Contractor is responsible for Project budget accounting and coordinating budgets with the OFCC through its Regional Program Coordinator assigned to the Project for required quarterly reviews and Project closeout.

1.14.4 The Contractor will work with the Owner and its A/E and Treasurer to reconcile costs and budget for purposes of preparing complete and accurate reports to submit to the OFCC at the required times.

ARTICLE 2 – ~~STATE'S~~OWNER'S RIGHTS AND RESPONSIBILITIES

~~2.1~~ 2.1 Contracting Authority – Not Applicable2.2 Owner

~~**2.1.1** The Contracting Authority shall designate a Project Manager for the Project. The Project Manager is authorized to act on behalf of the Contracting Authority to perform specific responsibilities under the Contract.~~

~~**2.1.2** The Contracting Authority shall furnish information and services required of it in a timely manner.~~

~~**2.1.3** The Contracting Authority shall have access to the Work at all times, whenever the Project is in preparation or progress.~~

~~**2.1.4** The Ohio Facilities Construction Commission requires use of its forms where indicated in the Contract Documents. The party responsible for initiating forms shall utilize the latest edition obtained from the Commission's website: https://ofcc.ohio.gov. The Commission may make modifications to its forms at any time.~~

~~**2.1.4.1** The Contractor shall not modify any form provided by the Commission or Contracting Authority.~~

~~**2.1.4.2** If the Project is administered using project management software, the Contractor shall utilize the web-based forms and reports within the applicable business process. The project management software is sponsored by the Commission, and the web-based forms and reports are acceptable to the Commission in lieu of its paper forms.~~

~~**2.1.5** The Contracting Authority is not responsible for construction means, methods, manners, techniques, sequences, procedures, or for safety precautions and programs in connection with the Work, or for the Contractor's failure to carry out the Work in conformity with the Contract Documents.~~

~~2.2 Owner~~

2.2.1 The Owner shall designate a representative authorized to act on behalf of the Owner during the Project. There will be no "Project Manager" designated by the Owner for the Project. Any and all references to "Project Manager" shall be deemed to mean the representative designated by Owner pursuant to this Section 2.2.1.

2.2.2 The Owner shall furnish information and services required of it in a timely manner.

2.2.3 The Owner shall have access to the Work at all times whenever the Project is in preparation or progress.

2.2.4 Upon issuance of the Notice to Proceed, the Owner shall provide the Site to the Contractor in a condition to permit the Contractor to perform the Work.

2.2.5 The Owner may request a change in the Work if the A/E recommends and the ~~Contracting Authority~~Owner approves the change.

2.2.6 The Owner shall communicate with the Contractor through the ~~Contracting Authority~~A/E.

2.2.7 The Owner is not responsible for construction means, methods, manners, techniques, sequences, procedures, or for safety precautions and programs in connection with the Work, or for the ~~Contractor's~~Contractor's failure to carry out the Work in conformity with the Contract Documents.

2.3 Approval of Owner~~, Contracting Authority, and State~~

2.3.1 The ~~Owner, Contracting Authority, or State's~~Owner's review and approval of the Work and any information the Contractor submits to them is for the sole purpose of determining whether the Work and information are generally consistent with the ~~Contract's~~Contract's intent, and will not relieve the Contractor of its sole responsibility for the performance, preparation, completeness, and accuracy of the Work and information.

2.4 Neutral Facilitation

2.4.1 The ~~Contracting Authority or~~ Owner may engage a Neutral Facilitator for the purposes of **(1)** building cooperative relationships among the Project participants to achieve discrete objectives; **(2)** encouraging educated, productive, and expedited attempts to avoid, minimize, and resolve disputes; and **(3)** maximizing the effectiveness of

each ~~participant's~~participant's resources.

2.4.1.1 For example, a Neutral Facilitator may facilitate the organizational meeting, partnering session(s), and efforts to resolve disputes throughout the Project.

2.4.2 The ~~Contracting Authority,~~ Owner~~,~~ and Contractor are entitled to interact with the Neutral Facilitator with the full ~~2.4.2~~ expectation that **(1)** they may act, speak, and disclose information with complete candor and **(2)** all communication, whether oral or written, made in the course of facilitated sessions is confidential.

2.4.3 At any hearing or proceeding regarding any dispute arising out of or related to the Project **(1)** the Neutral Facilitator will not be competent to testify and shall not be called as a witness and (2) the Neutral ~~Facilitator's~~Facilitator's testimony and work product will not be admissible.

2.4.4 The Neutral Facilitator will not **(1)** perform any services with respect to or bear any responsibility for any legal services, design-professional services, construction, or construction management associated with the Project or (2) have any liability whatsoever for any claims related to any legal services, design-professional services, construction, or construction management associated with the Project, including without limitation, claims for legal or design-professional errors or omissions, delays, cost overruns, faulty construction, or increased costs.

2.4.5 The Neutral ~~Facilitator's~~Facilitator's participation in the Project will not relieve the ~~Contracting Authority,~~ Owner~~,~~ and Contractor of any of their respective rights or obligations under the Contract.

2.5 Contractor Performance Evaluation

2.5.1 The ~~Contracting Authority~~Owner may evaluate the ~~Contractor's~~Contractor's performance during the progress of the Work, at completion of a Phase of the Project, completion of the Project, or any of the foregoing. The ~~Contracting Authority~~Owner shall retain the evaluation(s).

2.5.1.1 The Contractor may request a copy of the completed evaluation(s). If the Contractor wishes to comment or take exception to any rating or remark, the Contractor shall send a response in writing to the ~~Contracting Authority~~Owner within 30 days after receiving the evaluation(s).

2.5.1.2 The ~~Contracting Authority~~Owner may use the evaluation(s) in determining the responsibility of the Contractor for award of future contracts.

2.5.1.3 The ~~Contracting Authority~~Owner may request information from the Contractor for use in evaluating the A/~~E's~~E's performance. If information is requested, the Contractor shall comply in a timely and responsive manner.

2.5.1.4 If a breach of the Contract is committed by the Contractor or is attributable to a Subcontractor, that breach will be used in the responsibility analysis of the Contractor and Subcontractor (where applicable) for future contracts with the State or subcontracts on State projects for five years after the date of the breach.

2.6 Testing and Inspection Services

2.6.1 Unless otherwise specified in the Contract Documents, the Owner shall apply for, secure, and pay for the costs of structural testing and special inspections under Chapter 17 of the Ohio Building Code and for testing, including geotechnical analysis, environmental testing and analysis, concrete, masonry, structural steel, reinforcing steel, welding, bolts, steel connections, HVAC systems and controls, plumbing and piping, air and water balancing and testing, or other testing; or approval required by Applicable Law.

ARTICLE 3 - A/~~E's~~E'S RESPONSIBILITIES

3.1 The A/~~E's~~E's Contract Administration Duties

3.1.1 The A/E shall administer the Contract as provided in the Contract Documents and Architect/Engineer Agreement, including, but not limited to, performance of the functions described as follows:

3.1.1.1 The A/E shall attend and conduct progress meetings. The A/E shall prepare an agenda and produce a written report of each progress meeting, and distribute the report to the ~~Contracting Authority,~~ Owner~~,~~ and Contractor within three business days after the meeting. The A/E shall not delegate the duty to prepare the agenda and written reports of any progress meeting.

3.1.1.2 The A/E may authorize minor changes or alterations in the Work that are consistent with the intent of the Contract Documents and do not involve adjustment of the Contract Sum or Contract Times, or both. The A/E has no authority to authorize the Contractor to perform additional or extra Work for which the Contractor may seek adjustment of the Contract Sum or Contract Times, or both.

3.1.1.3 The A/E shall review and recommend, certify, or approve applicable forms required under the Contract

Documents.

3.1.1.4 The A/E shall render decisions in connection with the ~~Contractor's~~Contractor's responsibilities under the Contract Documents, and submit recommendations to the ~~Contracting Authority~~Owner for enforcement of the Contract as necessary.

3.1.2 The A/E is the initial interpreter of all requirements of the Contract Documents. All decisions of the A/E are subject to final determination by the ~~Contracting Authority~~Owner.

3.2 Site Visits and Observation

3.2.1 The A/E shall notify, advise, and consult with the ~~Contracting Authority and~~ Owner and protect ~~the State~~ against Defective Work throughout completion of the Project, which includes the Correction Period.

3.2.1.1 The A/E shall designate a field representative, subject to the ~~Contracting Authority's~~Owner's approval, to attend to the Project, to observe and check the progress and quality of the Work, and to take action as necessary or appropriate to achieve conformity with the Contract Documents.

3.2.1.2 The A/E shall have its consultants attend to the Project at intervals required by its agreement or the ~~Contracting Authority~~Owner.

3.2.2 The A/E is authorized to disapprove or reject Defective Work. The A/E shall immediately notify the ~~Contracting Authority~~Owner any time the A/E disapproves or rejects an item of Work.

3.2.3 The A/E is not responsible for construction means, methods, manners, techniques, sequences, procedures, or for safety precautions and programs in connection with the Work, or for the ~~Contractor's~~Contractor's failure to carry out the Work in conformity with the Contract Documents.

3.3 Testing and Inspection Services - deleted

~~**3.3.1** Unless otherwise specified in the Contract Documents, the A/E, directly or through a consultant, shall manage, apply for, secure, and pay for the costs of structural testing and special inspections under Chapter 17 of the Ohio Building Code; testing including geotechnical analysis, environmental testing and analysis, concrete, masonry, structural steel, reinforcing steel, welding, bolts, steel connections, HVAC systems and controls, plumbing and piping, air and water balancing and testing, or other testing; or approval required by Applicable Law. The Contractor shall coordinate with the A/E and cooperate in the A/E's effort to complete the testing and inspection services required in this **Section 3.3**~~

3.4 Approval of A/E

3.4.1 The A/~~E's~~E's review and approval of the Work and any information the Contractor submits to the A/E is for the sole purpose of determining whether the Work and information are generally consistent with the ~~Contract's~~Contract's intent, and will not relieve the Contractor of its sole responsibility for the performance, preparation, completeness, and accuracy of the Work and information.

3.5 Limitation of A/~~E's~~E's Authority

3.5.1 Under no circumstances is the A/E authorized to:

3.5.1.1 bind the Owner ~~or Contracting Authority~~ to any authorizations under, modifications of, or amendments to any contract other than as expressly described under **Section ~~3.1.1.2;~~3.1.1.2;**

3.5.1.2 accept any defective or non-conforming services, Work, or vendor-furnished items;

3.5.1.3 make any settlements on behalf of the Owner ~~or Contracting Authority~~; or

3.5.1.4 assume any responsibilities of the Contractor or Subcontractors.

ARTICLE 4 - SUBCONTRACTORS

4.1 Evaluation and Approval

4.1.1 Within ten days after the Notice to Proceed, or other period as mutually agreed by the Contractor and ~~Contracting Authority~~Owner, the Contractor shall submit to the A/E a **Subcontractor and Material Supplier Declaration** form through which the Contractor identifies its Subcontractors.

4.1.2 The ~~Contractor's~~Contractor's failure to timely submit the information regarding a proposed Subcontractor may result in withholding payment in accordance with **Section ~~9.8~~ 9.8.**

4.1.3 After receiving the **Subcontractor and Material Supplier Declaration** form, the A/E shall verify that it is complete and deliver it to the ~~Contracting Authority and~~ Owner. If the A/E finds the form incomplete, the A/E shall

return it to the Contractor and identify the incomplete information. If the A/E returns such incomplete forms to the Contractor, the Contractor shall resubmit the forms with revisions complying with the corrective action identified by the A/E.

4.1.4 If the ~~Contracting Authority~~Owner rejects any proposed Subcontractor, the Contractor shall propose a replacement Subcontractor with no adjustment of the Contract Sum. The proposed replacement Subcontractor will be evaluated as described above.

4.1.5 No less than ten days before Work is to be performed by the Subcontractor, or within a shorter period as mutually agreed by the Contractor and ~~Contracting Authority~~Owner, the Contractor shall submit to the ~~Contracting Authority~~Owner and A/E a complete copy of the executed Subcontract between the Contractor and Subcontractor. After receiving the Subcontract,

the A/E shall verify that it is complete and deliver it to the ~~Contracting Authority~~Owner. If the A/E finds the Subcontract incomplete, the A/E shall return it to the Contractor and identify the incomplete information.

4.2 Form of Subcontract

4.2.1 All Subcontracts shall be on the ~~**State of Ohio**~~provided **Subcontract Form** prescribed by OAC Section 153:1-03-02.

4.3 Replacement of Subcontractors

4.3.1 The Contractor shall not replace any Subcontractor after execution of the Subcontract without the prior written approval of the ~~Contracting Authority~~Owner.

4.4 ~~Contractor's~~Contractor's Responsibility

4.4.1 The Contractor is fully responsible for all acts and omissions of its Subcontractors and is responsible for scheduling and coordinating the Work of its Subcontractors.

4.4.1.1 The Contractor is fully responsible for any delay, interference, disruption, or hindrance attributable to its Subcontractors.

4.4.1.2 The Contractor shall require each of its Subcontractors to have a competent supervisor at the Site whenever the Subcontractor is performing Work.

4.4.1.3 The Contractor shall bind its Subcontractors to the terms of the Contract Documents, so far as applicable to the Work of the Subcontractor.

4.4.1.4 The Contractor shall not agree to any provision, which seeks to bind the ~~State~~Owner to terms inconsistent with or at variance from the Contract Documents.

4.4.2 The Contractor will not be relieved of its full responsibility for Subcontractors and their performance of the Work by **(1)** the participation of the Owner~~, Contracting Authority,~~ and A/E in the processes described under this ~~**Article 4**~~**Article 4** or other related provisions of the Contract Documents or **(2)** the ~~Contracting Authority's~~Owner's rejection of a Subcontractor or failure to reject a Subcontractor under **Section ~~4.1~~4.1.**

4.5 Contingent Assignment of Subcontracts

4.5.1 The Contractor hereby assigns its agreement with each Subcontractor to the ~~Contracting Authority~~Owner provided that the assignment is effective only after termination of the Contract in whole or in part by the ~~Contracting Authority~~Owner and only for those agreements that the ~~Contracting Authority~~Owner accepts by notifying the Contractor and applicable Subcontractors in writing. The ~~Contracting Authority~~Owner may re-assign accepted agreements.

~~**4.5.1.1** If the Contracting Authority terminates the Contract in part, the Contracting Authority may **(1)** take assignment of any entire Subcontract affected by the termination or **(2)** take partial assignment of only the portion of any Subcontract associated with the terminated part of the Contract.~~

4.5.1.1 Not Used.

4.6 Prompt Payment

4.6.1 The Contractor shall make payments to Subcontractors in accordance with Applicable Law, including ORC Sections 153.12 and 4113.61.

4.6.2 The Contractor may reduce the amount paid to a Subcontractor pursuant to **Section ~~4.6.1~~4.6.1** at a rate equal to the percentage retained from the Contractor and may withhold amounts necessary to **(1)** resolve disputed liens or claims involving the Work of the Subcontractor or **(2)** account for the failure of the Subcontractor to perform its obligations under its agreement with the Contractor.

ARTICLE 5 - PRECONSTRUCTION ACTIVITIES

5.1 Neutral Facilitation

5.1.1 The ~~Contracting Authority or~~ Owner may engage a Neutral Facilitator for the purposes of **(1)** building cooperative relationships among the Project participants to achieve discrete objectives; **(2)** encouraging educated, productive, and expedited attempts to avoid, minimize, and resolve disputes; and **(3)** maximizing the effectiveness of each ~~participant's~~participant's resources.

5.1.1.1 For example, a Neutral Facilitator may facilitate a preconstruction organizational meeting, a partnering session, or efforts to resolve disputes throughout the Project, all of which the Contractor shall participate in at the ~~Contracting Authority's~~Owner's request. The ~~Contractor's~~Contractor's compensation for participating in those meetings, sessions,

efforts, and related activities is included in the Contract Sum, and the Contractor will not be entitled to an increase of the Contract Sum for participating as requested.

5.1.2 The ~~Contracting Authority,~~ Owner, and Contractor are entitled to interact with the Neutral Facilitator with the full ~~5.1.2~~ expectation that **(1)** they may act, speak, and disclose information with complete candor and **(2)** all communication, whether oral or written, made in the course of facilitated sessions is confidential.

5.1.3 At any hearing or proceeding regarding any dispute arising out of or related to the Project **(1)** the Neutral Facilitator will not be competent to testify and shall not be called as a witness and **(2)** the Neutral ~~Facilitator's~~Facilitator's testimony and work product will not be admissible.

5.1.4 The Neutral Facilitator will not **(1)** perform any services with respect to or bear any responsibility for any legal services, design-professional services, construction, or construction management associated with the Project or **(2)** have any liability whatsoever for any claims related to any legal services, design-professional services, construction, or construction management associated with the Project, including without limitation, claims for legal or design-professional errors or omissions, delays, cost overruns, faulty construction, or increased costs.

5.1.5 The Neutral ~~Facilitator's~~Facilitator's participation in the Project will not relieve the ~~Contracting Authority,~~ Owner, and Contractor of any of their respective rights or obligations under the Contract.

5.2 Building and Trade Permits and Licenses

5.2.1 Plan Approval.

5.2.1.1 The A/E shall secure the required structural, plumbing, HVAC, and electrical plan approvals.

5.2.1.2 The Contractor shall schedule and attend all intermediate and final inspections required for any permit applicable to the Work. The Contractor shall schedule the State Fire Marshal or local fire authority for the life safety inspection for occupancy permits. The Contractor shall give the A/E~~, Contracting Authority,~~ and Owner reasonable notice of the dates and times arranged for inspections.

.1 The Contractor shall pay for any reinspections required as a result of the ~~Contractor's~~Contractor's failure to receive approval of its Work, unless the reinspection is required because the design does not comply with Applicable Law.

5.2.2 Trade Permits and Licenses.

5.2.2.1 The Contractor shall obtain, maintain, and pay for any permit, inspection, or license applicable to the ~~Contractor's~~Contractor's particular trade.

5.2.3 Local Permits.

5.2.3.1 The Contractor shall secure and pay the fees for any permits, inspections, licenses, capacity charges, or tap fees required by local authorities having jurisdiction over the Project. The Contractor shall give the A/E~~, Contracting Authority,~~ and Owner reasonable notice of the date arranged for inspections.

5.2.4 National Pollutant Discharge Elimination System (~~"~~"NPDES~~"~~") Storm Water General Permit.

5.2.4.1 The A/E shall secure the NPDES general permit by submitting a Notice of Intent (~~"~~"NOI~~"~~") application form to the Ohio Environmental Protection Agency at least 45 days prior to the start of construction. The Contractor shall be a ~~"~~"co-permitee~~"~~" if required under Applicable Law.

5.2.4.2 The A/E shall prepare and certify a storm water pollution prevention plan to provide sedimentation and erosion controls at the Project.

5.2.4.3 The A/E shall prepare and process the required Notice of Termination (~~"~~"NOT~~"~~") prior to

Contract Completion.

ARTICLE 6 - CONSTRUCTION AND CLOSEOUT

6.1 Commencement of Work on the Site

6.1.1 The Construction Stage will start and the Contract Times will begin to run on the Date of Commencement established in a Notice to Proceed, which the ~~Contracting Authority~~Owner will issue to the Contractor. The date on which the ~~Contracting Authority~~Owner issues the Notice to Proceed **(1)** is not relevant to the running of the Contract Times, and **(2)** may differ from Date of Commencement. Unless the ~~Contracting Authority~~Owner agrees otherwise in writing, the Contractor shall begin to perform the Work within seven days after the Date of Commencement and thereafter diligently prosecute the Work. The Construction Stage terminates upon Contract Completion.

6.2 ~~Contractor's~~Contractor's General Responsibilities

6.2.1 The Contractor shall **(1)** maintain a competent, full-time staff at the Site at all times that Work is in preparation or progress on the Project, **(2)** shall supervise the Work; **(3)** establish and implement on-Site organization and authority so that the Work is accomplished in conformance with the Project Schedule; and **(4)** complete portions of the Work in the sequence and time in the Construction Progress Schedule.

6.2.2 The Contractor shall perform the Work so as not to interfere with, disturb, hinder, or delay the services of Separate Consultants or the work of Separate Contractors. The Contractor shall cooperate and coordinate fully with all Separate Consultants and Separate Contractors and shall freely share all of the ~~Contractor's~~Contractor's Project-related information with them to facilitate the timely and proper performance of the Work and of the services and work of the Separate Consultants and Separate Contractors.

6.2.3 The Contractor shall afford every Separate Consultant and Separate Contractor proper and safe access to the Site and a reasonable opportunity for the introduction and storage of materials and equipment and the execution of their services and work.

6.2.4 If the Contractor damages the property or work of any Separate Consultant or Separate Contractor, or by failure to perform the Work with due diligence, delays, interferes with, hinders, or disrupts the services of any Separate Consultant or the work of any Separate Contractor who suffers additional expense and damage as a result, the Contractor is responsible for that damage, injury, or expense.

6.2.5 The intent of **Sections** ~~6.2.2~~6.2.2 through ~~6.2.4~~6.2.4 is to benefit the Separate Consultants and Separate Contractors, and to demonstrate that the Separate Consultants and Separate Contractors are intended third-party beneficiaries of the ~~Contractor's~~Contractor's obligations under the Contract.

6.2.6 If the proper execution or results of any part of the Work depends upon work performed or services provided by the Owner, a Separate Consultant, or a Separate Contractor, the Contractor shall inspect that other work and appropriate instruments of service, and promptly report to the ~~Contracting Authority~~Owner in writing any defects or deficiencies in that other work or services that render it unavailable or unsuitable for the proper execution and results of the Work. The ~~Contractor's~~Contractor's failure to report before starting the affected part of its Work will constitute an acceptance of the other work and services as fit and proper for integration with the ~~Contractor's~~Contractor's Work except for defects and deficiencies in the other work or services that were not reasonably discoverable at the time of the ~~Contractor's~~Contractor's inspection.

6.2.7 The Contractor shall not delay the Work on account of any claim, dispute, or action between the Contractor and a Separate Consultant or Separate Contractor.

6.2.8 The Contractor shall develop and keep current the Construction Progress Schedule in accordance with **Section** ~~6.5.~~6.5. and prepare and keep current a schedule of submittals that is coordinated with the Construction Progress Schedule, for the A/E and ~~Contracting Authority's~~Owner's acceptance.

6.2.9 The Contractor shall monitor the progress of the Work for conformance with the Construction Progress Schedule and shall initiate revisions as required by **Section** ~~6.5.6.~~6.5.6.

6.2.10 The Contractor shall establish the ~~Project's~~Project's regular working hours, subject to approval by the A/E and the Owner.

6.2.11 The Contractor shall coordinate the Work with the activities and responsibilities of the A/E~~,~~ and Owner~~, and Contracting Authority~~ to complete the Project in accordance with the Contract Documents.

6.2.12 In the event of default of the Contractor, the Contractor shall cooperate with the A/E, Owner,

~~Contracting Authority, and Contractor's~~and Contractor's Surety to achieve the Substantial Completion date and Contract Completion.

6.2.13 The Contractor shall remove all snow and ice as may be required for reasonably safe access to the Project including, but not limited to, building entries, driveways, parking lots, and sidewalks.

6.2.14 The Contractor shall keep a daily log containing a record of weather, number of workers on Site, identification of equipment, Work accomplished, problems encountered, and other similar relevant data.

6.3 Construction Procedures

6.3.1 The Contractor is solely responsible for and has control over all construction means, methods, manners, techniques, sequences, and procedures, for safety precautions and programs in connection with the Work, and for coordinating all portions of the Work.

6.3.1.1 If the Contract Documents give instructions that affect construction means, methods, manners, techniques, sequences, or procedures, the Contractor shall evaluate the jobsite safety of them and, except as stated below, shall be fully and solely responsible for the jobsite safety of the means, methods, manners, techniques, sequences, or procedures.

6.3.1.2 If the Contractor determines that the means, methods, manners, techniques, sequences, or procedures specified in the Contract Documents may not be safe, the Contractor shall give timely written notice to the A/E~~,~~ and Owner~~, and Contracting Authority~~. The Contractor shall not proceed with that portion of the Work without further written instructions from the A/E. Any modification of the Contract shall be in accordance with ~~**Article 7.**~~**Article 7.**

6.3.2 The Contractor shall lay out and coordinate all lines, levels, elevations, and measurements for all of the Work, coordinate and verify existing conditions, and notify the A/E of discrepancies and conflicts before proceeding with installation or excavation.

6.3.3 The Contractor shall perform all cutting, fitting, or patching required for the Work and shall not endanger the Project by cutting, excavating, or otherwise altering the Project, or any part of it.

6.3.3.1 If the Contractor requires sleeves for the Work, the Contractor shall furnish and install the sleeves. The Contractor is responsible for the exact location and size of all holes and openings required to be formed or built for the Work.

6.3.3.2 The ~~Contractor's~~Contractor's patching shall match and blend with the existing or adjacent surface(s).

6.3.4 The Contractor shall comply with ORC Sections 3781.25 through 3781.32. In addition, before starting excavation or trenching, the Contractor shall determine the location of any underground utilities and notify any public authority or utility having jurisdiction over the Project and secure any required approval.

6.3.5 The Contractor shall install all Work in accordance with the Contract Documents and any installation recommendations of the manufacturer, including required temperature and humidity limits for installation of the various materials.

6.3.6 The Contractor shall comply with all requirements and conditions of the NPDES general permit, including, but not limited to, implementing and maintaining the sedimentation and erosion control measures specified in the storm water pollution prevention plan prepared by the A/E pursuant to **Section ~~5.2.4~~ 5.2.4,** which are related to the Work, maintaining records of its construction activities, removing materials no longer required, and taking proper action if there is a reportable quantity spill.

6.3.7 The Contractor shall communicate with the ~~Contracting Authority and~~ Owner through the A/E.

6.4 Construction Supervision

6.4.1 Unless waived by the ~~Contracting Authority~~Owner in writing, the Contractor shall provide continuous supervision at the Site by a competent superintendent when any Work is being performed, and the ~~Contractor's~~Contractor's superintendent shall not be involved with any work other than the Project.

6.4.2 The ~~Contractor's project manager and~~Contractor's superintendent shall each have the responsibility and authority to act on behalf of the Contractor. All communications to the ~~Contractor's~~Contractor's project manager or superintendent shall be binding as if given directly to the Contractor.

6.4.3 Within ten days after the Date of Commencement, the Contractor shall submit to the ~~Contracting Authority~~Owner an outline of the qualifications and experience of the ~~Contractor's proposed project manager and~~Contractor's proposed superintendent, including references. Upon receiving a request from the ~~Contracting Authority~~Owner, the Contractor shall submit to the ~~Contracting Authority~~Owner an outline of the qualifications and experience of any ~~Subcontractor's~~

~~proposed project manager and~~Subcontractor's proposed superintendent.

6.4.3.1 The ~~Contracting Authority~~Owner may reject the ~~Contractor's or Subcontractor's~~Contractor's or Subcontractor's proposed project manager or proposed superintendent. If the ~~Contracting Authority~~Owner does not notify the Contractor of the rejection within 30 days after receiving the required information, it shall indicate that the ~~Contracting Authority~~Owner has no objection, but does not affect the ~~Contracting Authority's~~Owner's rights under **Section ~~6.12.2~~6.12.2** or any other provision relative to that ~~project manager or~~ superintendent.

6.4.3.2 If the ~~Contracting Authority~~Owner rejects the ~~Contractor's or Subcontractor's proposed project manager or~~Contractor's or Subcontractor's proposed superintendent, the Contractor shall replace, or cause the Subcontractor to replace the ~~project manager or~~ superintendent (as appropriate) with someone acceptable to the ~~Contracting Authority~~Owner at no additional cost.

6.4.4 The Contractor and its Subcontractors shall not replace their respective ~~project managers or~~ superintendents without prior written approval of the ~~Contracting Authority~~Owner.

6.4.4.1 If the Contractor or a Subcontractor proposes to change its project manager or superintendent, the Contractor shall submit written justification to the ~~Contracting Authority~~Owner, along with the name and qualifications of the proposed
~~6.4.4.1~~ replacement.

6.4.4.2 The procedure provided in **Section ~~6.4.3~~6.4.3** shall be conducted to evaluate the ~~Contractor's or Subcontractor's~~Contractor's or Subcontractor's (as applicable) proposed replacement project manager or superintendent.

6.5 Construction Progress Schedule

6.5.1 General Requirements

6.5.1.1 The Contractor shall prepare and maintain the Construction Progress Schedule using the critical path method of scheduling and commercially available computer software acceptable to the ~~Contracting Authority~~Owner.

.1 In the Construction Progress Schedule, the Contractor shall **(1)** organize all Work activities into a logical work breakdown structure; **(2)** set forth a reasonable, efficient, economical, and practical plan to complete the Work within the Contract Times, and **(3)** convey the prosecution and progress of the Work in a manner that accounts for **(a)** normal adverse weather, as defined under **Section ~~7.10~~.7.10,** through reasonably anticipated productivity variations for weather-sensitive activities, **(b)** Legal Holidays, and (c) similar reasonably anticipated events.

6.5.1.2 The Contractor shall use the most-current, accepted Construction Progress Schedule **(1)** to plan, organize, execute, and manage the Work using early start dates and early finish dates; **(2)** to record and report actual performance and progress of the Work; **(3)** to show how it plans to coordinate and complete all remaining Work within applicable Milestones; and **(4)** as the basis for requests for extensions of the Contract Times.

6.5.1.3 The Project participants will use the Construction Progress Schedule as a tool for scheduling and reporting sequenced progress of the Work.

6.5.1.4 The ~~Contracting Authority's, Owner's,~~Owner's or A/E's review, acceptance, or approval of any Construction Progress Schedule will not **(1)** relieve the Contractor of any of the Contractor's responsibilities under the Contract including the responsibility to perform the Work in accordance with the Construction Progress Schedule and within the Contract Times, or **(2)** imply, warrant, or acknowledge the reasonableness or accuracy of the logic, durations, cost, resource loading, or any other attributes of the Construction Progress Schedule.

6.5.1.5 The ~~Contracting Authority~~Owner may withhold payment from the Contractor on account of the Contractor's failure to prepare, maintain, or update the Construction Progress Schedule as required under the Contract.

6.5.2 Submission Requirements

6.5.2.1 The Contractor shall provide each submission of the Construction Progress Schedule **(1)** as a Gantt chart in PDF; **(2)** as a Gantt chart in hardcopy if the ~~Contracting Authority~~Owner requests; and **(3)** an Electronic File.

.1 The hardcopy format for the Construction Progress Schedule shall be 11x17 inch.

.2 The Electronic File of the Construction Progress Schedule shall be in .xer, .xml, or .mpp format.

6.5.2.2 At the ~~Contracting Authority's~~Owner's request, the Contractor shall prepare and submit to the ~~Contracting Authority~~Owner reports produced through the scheduling software, if applicable (collectively ~~"~~"Schedule Reports~~"~~").

.1 Unless the ~~Contracting Authority~~Owner requests otherwise, the Contractor shall submit each Schedule Report in Electronic File format, PDF format, and 8.5x11 hardcopy format.

6.5.3 Schedule Information Requirements

6.5.3.1 General Requirements. The Contractor shall include at least the following information in the Construction Progress Schedule:

.1 a clear graphics legend;

.2 the ~~Contracting Authority's Project number and~~Owner's Project name;

.3 a graphic presentation of the sequence of all of the Work;

.4 identification of each stage of the Work and any Milestone dates;

.5 identification of activities and durations for **(1)** entering into each Subcontract with an anticipated value in excess of 10% of the Construction Budget or as otherwise requested by the ~~Contracting Authority~~Owner; **(2)** preparation, review, and approval of Shop Drawings and other action submittals; **(3)** fabrication and review of mock-up Work;
~~.5~~ **(4)** product review and procurement, fabrication, shop inspection, and delivery, including, but not limited to, lead time and coordination drawing delivery; **(5)** Date of Commencement identified as ~~"~~"Start Milestone~~"~~"; **(6)** date(s) of Substantial Completion identified as ~~"~~"Finish Milestone~~"~~"; (7)

Punch List development; **(8)** Punch List correction; **(9)** Project close-out requirements; **(10)** occupancy requirements; and (11) Contract Completion;

.6 for each activity:

1. Activity ID, Activity Description, and Calendar ID;
2. identification of the single organization responsible for performing the activity;
3. early start, early finish, late start, late finish, duration, and total float;
4. in other than the baseline Construction Progress Schedule: original duration, remaining duration, and percentage of completion;
5. identification of predecessor and successor activities, constraints, and percentage of completion; and
6. a maximum duration that is appropriate for the activity but not in excess of 15 days except (1) non-construction activities such as procurement of materials, delivery of equipment, concrete curing, etc.; and **(2)** other activities for which the ~~Contracting Authority~~Owner may approve a longer duration;

.7 identification of disruptions and shutdowns due to other operations;

.8 identification of all planned work hours for each Work Day;

.9 identification of the longest path of the Work (in red) and all critical paths of the Work;

.10 identification of the crew size and total resource hours for each activity in the schedule;

.11 other items required by the ~~Contracting Authority,~~ Owner~~,~~ or A/E; and

.12 the ~~Contractor's~~Contractor's signature approval and date lines, which the Contractor shall complete indicating approval of each submitted schedule.

6.5.3.2 Activity Identifications ("ID")

.1 Activity ID's shall follow the naming convention agreed upon between the ~~Contracting Authority~~Owner and the Contractor before the Contractor begins to prepare the baseline Construction Progress Schedule.

.2 Each Activity ID for a specific Activity Description shall remain unchanged and connected to its original Activity Description throughout the Project.

6.5.3.3 Activity Descriptions

.1 Each activity shall have a clear and concise Activity Description..

6.5.3.4 Activity Relationships

.1 All activities except Date of Commencement shall have at least one predecessor, and all activities except Contract Completion shall have at least one successor.

.2 To link activities, the Contractor may use (1) finish-to-start relationships with no leads or lags; **(2)** start-to-start relationships with lags no greater than the predecessor duration; or **(3)** finish-to-finish relationships when both activities are already aligned with a start-to-start relationship.

6.5.3.5 Project Level Activity Codes

.1 For each activity, the Contractor shall assign responsibility to an identified, single performing organization.

6.5.3.6 Project Level Calendars

.1 The Contractor shall create and maintain calendars at the project level.

6.5.3.7 No Global Data

.1 The Contractor may not use global data of any kind (e.g., codes, calendars, etc.).

6.5.3.8 Float and Critical Activities

.1 "Float" is the amount of time between the early start date and the late start date (or the early finish date and the late finish date) for each activity. Float is for the benefit of both the ~~Contracting Authority~~Owner and the Contractor; i.e., float is not for the Contractor's exclusive benefit. Either the ~~Contracting Authority~~Owner or the Contractor may use float on a ~~first-come-first-served~~first- come-first-served basis without cost impact. The Contractor may not suppress or consume float by artificially extending activity durations, creating dummy activities, or applying preferential sequencing.

1. The Contractor shall exhaust existing float before claiming additional time for a Modification~~,~~ or show that it is not possible to use float to cover the time requirements of the Modification.
2. The Contractor may not suppress or sequester float through, for example, artificial/illogical sequencing, excessive durations, date constraints, float constraints, improper use of lag, or calendar manipulation.

.2 "Critical Activities" are activities (1) occurring on the longest path through the Construction Progress Schedule; or **(2)** with float of less than one day; or **(3)** both. The Contractor shall monitor and diligently pursue any activities with ten or fewer days of total float.

6.5.4 Baseline Construction Progress Schedule

6.5.4.1 Unless the ~~Contracting Authority~~Owner and Contractor agree otherwise, within 45 days after the execution of the Agreement, the Contractor shall submit to the ~~Contracting Authority~~Owner and A/E a fully developed, baseline Construction Progress Schedule in compliance with this **Section ~~6.5~~6.5** that demonstrates the longest path and all critical paths for all of the Work.

.1 The ~~Contracting Authority's~~Owner's approval of the baseline Construction Progress Schedule is a condition precedent to the Contractor's entitlement to payment under the Contract.

6.5.4.2 The Contractor shall develop the baseline Construction Progress Schedule based upon (1) the Contract Times defined in the Agreement, and **(2)** the schedule information included in the Bidding Documents.

6.5.4.3 In the event of a significant change or combination of changes, as determined by the ~~Contracting Authority~~Owner in its discretion, the ~~Contracting Authority~~Owner may identify a ~~Contracting Authority-approved~~Owner-approved, updated or revised Construction Progress Schedule as the new baseline Construction Progress Schedule for future updates and reports.

6.5.5 Monthly Construction Progress Schedule Updates

6.5.5.1 The Contractor shall include a monthly Construction Progress Schedule update as a component of each of the Contractor's Progress Status Reports.

6.5.5.2 The Contractor shall generate monthly Construction Progress Schedule updates based upon and relative to the ~~Contracting Authority-approved~~Owner-approved baseline Construction Progress Schedule and using retained logic (as opposed to logic override) to reflect and include:

.1 the actual progression and sequence of the Work;

.2 actual and projected start and completion dates;

.3 actual Modifications; and

.4 the longest path of the Work and all critical paths of the Work.

6.5.5.3 The Contractor shall use the first date of the next month at 12:01 a.m. as the data date for calculating the monthly Construction Progress Schedule update (e.g., progress through March will have a data date of April 1 @ 12:01 am).

6.5.5.4 The Contractor shall accurately input actual start and actual completion dates and correct all logic errors. If the Contractor changes/corrects any actual dates in any following month, the Contractor shall clearly identify the change/correction and provide a written explanation for it.

6.5.5.5 If the ~~Contracting Authority~~Owner requests, the Contractor shall include with each monthly Construction Progress Schedule update any of the associated Schedule Reports produced by the scheduling software.

6.5.5.6 The ~~Contractor's~~Contractor's submission of a monthly Construction Progress Schedule update shall serve as an affirmation that the Contractor intends to and is capable of performing the Work consistent with the associated monthly Construction Progress Schedule update.

6.5.5.7 The ~~Contracting Authority~~Owner and the A/E will review and may approve or reject and return the

monthly Construction Progress Schedule update to the Contractor with recommendations for revisions.

6.5.6 Revised Construction Progress Schedules

6.5.6.1 Unless and until the ~~Contracting Authority~~Owner agrees in writing, the Contractor shall not change any of the accepted activities, activity durations, schedule logic, interdependencies, Milestones, planned sequence of operations, or resource loading set forth in the Construction Progress Schedule.

6.5.6.2 Once the ~~Contracting Authority~~Owner accepts a Modification involving Construction Progress Schedule changes (including ~~no-cost~~no- cost time extensions such as on account of excessive weather days and other excusable delays), but not before then, the Contractor shall promptly incorporate the associated activity, duration, and logic changes, additions, combinations, eliminations, or other modifications into the then-current Construction Progress Schedule and submit for the ~~Contracting Authority's~~Owner's approval (1) that revised Construction Progress Schedule; and **(2)** if the ~~Contracting Authority~~Owner requests, any of the associated Schedule Reports produced by the scheduling software.

6.5.6.3 If the Contractor incurs an inexcusable delay, the Contractor shall promptly incorporate any associated activity, duration, and logic changes, additions, combinations, eliminations, or other modifications into the then-current Construction Progress Schedule and submit for the ~~Contracting Authority's~~Owner's approval (1) that revised

Construction Progress Schedule; and **(2)** if the ~~Contracting Authority~~Owner requests, any of the associated Schedule Reports produced by the scheduling software. The ~~Contracting Authority's~~Owner's approval will not constitute an extension of the Contract Times due to the inexcusable delay.

6.5.6.4 The ~~Contractor's~~Contractor's submission of a revised Construction Progress Schedule shall serve as an affirmation that the Contractor intends to and is capable of performing the Work consistent with the associated revised Construction Progress Schedule update.

6.5.6.5 If the ~~Contracting Authority~~Owner and the Contractor cannot reach agreement on Construction Progress Schedule modifications resulting from a Modification or inexcusable delay, and the ~~Contracting Authority~~Owner requests, the Contractor shall prepare and submit a time-impact analysis when and as described under **Section ~~7.9.3.~~7.9.3.**

6.5.7 Short-Interval Schedules and Weekly Schedule Reports

6.5.7.1 A ~~"~~"Short-Interval Schedule~~"~~" is a three- to four-week (past week, current week, and the next one to two weeks) schedule window that (1) breaks down existing schedule activities into smaller and more-manageable components with relatively short durations; and **(2)** is consistent with the then-current Construction Progress Schedule.

6.5.7.2 On a weekly basis, and no less than 24 hours before the next regularly scheduled Progress Meeting, the Contractor shall prepare and submit a Short-Interval Schedule to the A/E. The Contractor shall present and be prepared to discuss the Short-Interval Schedule during that Progress Meeting, and the A/E shall attach the Short-Interval Schedule to the minutes of that Progress Meeting.

6.5.8 Recovery Plan and Revised Construction Progress Schedule

6.5.8.1 If it is apparent to the ~~Contracting Authority~~Owner or A/E that the Contractor may be unable to meet critical path activities, Milestone completion dates, or the Substantial Completion date(s); the A/E shall direct the Contractor to submit within three days a recovery plan to avoid or minimize delay to the Project.

6.5.8.2 A recovery plan shall include, but is not limited to, adjustments to the following:

.1 workforce;

.2 hours per shift;

.3 shifts per workday;

.4 workdays per week;

.5 material and equipment procurement; and

.6 activity logic.

6.5.8.3 The ~~Contractor's~~Contractor's submission of a recovery plan shall serve as an affirmation that the Contractor (1) prepared the recovery plan in consultation with its Subcontractors, and **(2)** intends to and is capable of performing the Work consistent with that recovery plan.

6.5.8.4 If the Owner ~~and Contracting Authority approve~~approves the recovery plan, within seven days after the plan approval, the Contractor shall incorporate that plan into a revised Construction Progress Schedule which the Contractor shall prepare and submit for review and approval in accordance with **Section ~~6.5.6.~~6.5.6.** If the Owner ~~and Contracting Authority do~~does not approve the recovery plan, the Contractor shall submit an alternate recovery plan

within three days.

6.5.9 Small-Project Exceptions

6.5.9.1 This **Section ~~6.5~~6.5** applies to a Small Project, which is a Project for which the initial Contract Sum is less than $500,000, except as explicitly provided in this **Section ~~6.5.9.~~6.5.9.**

6.5.9.2 In lieu of **Section ~~6.5.2.~~6.5.2.** the Contractor shall provide each submission of the Construction Progress Schedule
(1) as a Gantt chart in PDF; **(2)** as a Gantt chart in hardcopy if the ~~Contracting Authority~~Owner requests; and **(3)** an Electronic File in its native format.

6.5.9.3 In lieu of **Section ~~6.5.3.~~6.5.3.** the Contractor shall include at least the following information in the Construction Progress Schedule:

.1 a clear graphics legend;

.2 the ~~Contracting Authority's Project number and~~Owner's Project name;

.3 identification of each stage of the Work and any Milestone dates;

.4 identification of activities and durations for (1) date(s) of Substantial Completion; **(2)** Project close-out requirements; and **(3)** and Contract Completion;

.5 for each activity, a maximum duration that is appropriate for the activity but not in excess of 15 days;

.6 other items required by the ~~Contracting Authority,~~ Owner~~,~~ or A/E; and

.7 the ~~Contractor's~~Contractor's signature approval and date lines, which the Contractor shall complete indicating approval of each submitted schedule.

6.5.9.4 In lieu of **Section ~~6.5.4.1,~~6.5.4.1,** unless the ~~Contracting Authority~~Owner and Contractor agree otherwise, within 15 days after the execution of the Agreement, the Contractor shall submit to the ~~Contracting Authority~~Owner and A/E a fully developed, baseline Construction Progress Schedule in compliance with this **Section ~~6.4.~~6.4.**

6.5.9.5 In lieu of **Section ~~6.5.5.2,~~6.5.5.2,** the Contractor shall generate monthly Construction Progress Schedule updates based upon and relative to the ~~Contracting Authority approved~~Owner-approved baseline Construction Progress Schedule to reflect and include **(1)** the actual progression and sequence of the Work; **(2)** actual and projected start and completion dates; and **(3)** actual Modifications.

6.5.9.6 The Contractor may, but is not obligated to comply with **Sections ~~6.5.3.4, 6.5.3.5, 6.5.3.6, 6.5.3.7, 6.5.5.3,~~6.5.3.4, 6.5.3.5, 6.5.3.6, 6.5.3.7, 6.5.5.3, ~~6.5.5.4, and 6.5.5.5.~~**
6.5.5.4, and **6.5.5.5.**

6.6 Progress Meetings

6.6.1 The A/E shall schedule a weekly progress meeting for the Contractor and other Persons involved in the Project. The purpose of the progress meeting is to review progress on the Project during the previous week, discuss anticipated progress during the following weeks, review critical operations, and discuss critical problems.

6.6.2 The Contractor shall be represented at every progress meeting by a Person authorized with signature authority to make decisions regarding possible modification of the Contract Documents or Construction Progress Schedule.

6.6.2.1 The A/E shall notify the Contractor and other Persons involved in the Project of the time and place of the progress meeting that shall thereafter be the same day and hour of the week for the duration of the Project, unless the A/E notifies the Contractor and other Persons involved in the Project of a different day and hour at least two days in advance.

6.6.2.2 The Contractor shall have any of its Subcontractors attend the progress meeting as determined advisable by the Contractor, or as requested by the A/E.

6.6.3 The A/E shall prepare a written report of each progress meeting and distribute the report to the ~~Contracting Authority,~~ Owner~~,~~ and Contractor. The A/E shall not delegate the duty to prepare a written report of any progress meeting.

6.6.3.1 If any Person in attendance objects to anything in a report of a progress meeting, the Person shall notify the A/E, ~~Contracting Authority~~Owner, and any other affected Person in writing explaining the objection within five days.

6.6.3.2 The report of each progress meeting shall reflect any objection made to the report of the previous progress meeting and any response.

6.7 Project Coordination

6.7.1 The Contractor shall prepare drawings (~~"~~"Coordination Drawings~~"~~") after the Contractor and appropriate Subcontractors (~~"~~"Coordination Participants~~"~~") **(1)** determine the sequence of the Project, **(2)** identify the areas requiring special attention (~~"~~"Coordination Areas~~"~~), and **(3)** determine the need for a coordination drawing for any Coordination Area. The Contractor shall prepare the Coordination Drawings with Computer-Aided Design (~~"~~"CAD~~"~~") or BIM software acceptable to the ~~Contracting Authority~~Owner. The Coordination Drawings shall show the sheet metal work with plan and elevation dimensions, which specifically locate all HVAC ductwork, HVAC equipment, and HVAC piping for each Coordination Area based upon the information, discussion, and resulting consensus of the Coordination Participants.

6.7.1.1 After the Contractor completes the Coordination Drawings, the Contractor shall forward a copy of the Coordination Drawings to the A/E~~, Contracting Authority,~~ and Owner.

6.7.1.2 The A/E shall review the Coordination Drawings to determine whether the Coordination Participants achieved the goals listed in **Section ~~6.7.1.~~6.7.1.** The A/E shall report any concerns, in writing, to the Coordination Participants within 14 days after receiving the drawings.

6.8 Review of Contract Documents and Field Conditions

6.8.1 Before starting each portion of the Work, the Contractor shall carefully study and compare the various Contract Documents relative to that portion of the Work, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the Site affecting it.

6.8.2 If the Contractor finds any perceived ambiguity, conflict, error, omission, or discrepancy on or between any of the Contract Documents, or between any of the Contract Documents and any Applicable Law, the Contractor, before proceeding with the Work, shall promptly submit a RFI to the A/E for an interpretation or clarification.

6.8.2.1 Before submitting any RFI to the A/E, the Contractor shall carefully review the Contract Documents to ensure that the Contract Documents do not answer the RFI.

6.8.2.2 The A/E shall promptly respond to each RFI.

6.8.2.3 Any interpretation or clarification of the Contract Documents made by any Person other than the A/E, or in any manner other than writing, shall not be binding and the Contractor shall not rely upon it.

6.8.3 If the Contractor believes that it is entitled to an adjustment of the Contract Sum or Contract Times, or both, on account of clarifications or instructions issued by the A/E in response to a RFI, the Contractor shall initiate a Change Request **(1)** as required under **Section ~~7.6.~~7.6.** and **(2)** within the time period under **Section ~~7.6.~~7.6.** which begins to run on the day that the Contractor receives the A/~~E's~~E's RFI response.

6.9 Differing Site Conditions

6.9.1 If the Contractor reasonably believes that it has encountered a Differing Site Condition, the Contractor shall immediately stop Work on that suspected Differing Site Condition and verbally report the condition to the ~~Contracting Authority~~Owner and A/E, and within one business day deliver written notice of the condition to the ~~Contracting Authority~~Owner and A/E.

6.9.1.1 The ~~Contractor's~~Contractor's failure to give notice of the Differing Site Condition as required under this **Section ~~6.9~~6.9** will constitute an irrevocable waiver of any associated Claim.

6.9.1.2 The written notice of a Differing Site Condition under this **Section ~~6.9~~6.9** shall be required before submission of a Change Request under **Section ~~7.6~~7.6** or notice of Claim under **~~Article 8.~~Article 8.**

6.9.2 Promptly after receiving notice from the Contractor under **Section ~~6.9.1.~~6.9.1.** the A/E shall investigate to determine whether the Contractor has encountered a Differing Site Condition. The A/E shall give written notice of its determination to the ~~Contracting Authority~~Owner and Contractor within ten days after completing the investigation.

6.9.2.1 If the A/E determines that the Contractor has encountered a Differing Site Condition and the ~~Contracting Authority~~Owner and Contractor agree with the A/~~E's~~E's determination, the A/E shall process an associated Change Order or Change Directive as appropriate.

6.9.2.2 If the A/E determines that the Contractor has encountered a Differing Site Condition, but the ~~Contracting Authority~~Owner disagrees with the A/~~E's~~E's determination, the A/E shall process an associated Change Directive through which the ~~Contracting Authority~~Owner may convey its disagreement with the A/~~E's~~E's determination.

6.9.2.3 If the A/E determines that the Contractor has not encountered a Differing Site Condition and the Contractor does not agree with that determination, the Contractor shall initiate a Change Request **(1)** as required under **Section ~~7.6.~~7.6.** and **(2)** within the time period required under **Section ~~7.6~~7.6** which begins to run on the day that the A/E issues

its determination.

6.10 Protection of the Project

6.10.1 The Contractor shall protect the Work from weather and maintain the Work and all materials, apparatus, and fixtures free from injury or damage until Substantial Completion of the Work.

6.10.1.1 The Contractor shall at all times cover or protect the Work.

6.10.1.2 The Contractor, at its expense, shall remove, and replace with new, any Work damaged as a result of the ~~Contractor's~~Contractor's failure to provide coverage or protection.

6.10.1.3 The Contractor, at its expense, shall repair or replace any adjacent property, including, but not limited to, roads, walks, shrubbery, plants, trees, or turf, damaged during performance of the Contract.

6.10.1.4 After the date of Substantial Completion of the Work, the Owner is responsible for protecting and maintaining all materials, apparatus, and fixtures for the occupied portion of the Project free from injury or damage.

6.10.2 The Contractor shall protect the Project and existing or adjacent property from damage at all times and shall erect and maintain necessary barriers, furnish and keep lighted necessary danger signals at night, and take reasonable precautions to prevent injury or damage to individuals or property.

6.10.3 The Contractor shall not load, or permit any part of the Project to be loaded, in any manner that endangers the Project, or any portion thereof. The Contractor shall not subject any part of the Project or existing or adjacent property to stress or pressure that endangers the Project or property.

6.10.4 The Contractor shall provide all temporary bracing, shoring, and other structural support required for safety and proper execution of the Work.

6.10.5 Vibration, Noise, and Dust Control.

6.10.5.1 The Contractor shall provide controls/barriers for vibrations, noise, and dust control in occupied buildings as required by the construction operations.

6.10.5.2 The Contractor will not be permitted to exhaust or release unfiltered air, dust, construction debris, or other undesirable products into the exterior atmosphere or into occupied areas of the building outside the Site. The Project Manager may limit or stop the Work if the Contractor does not maintain proper air-quality standards.

6.10.5.3 In certain occupied buildings, tasks might be of such a nature that noise and vibration cannot be tolerated. In such spaces, Work shall be scheduled for other than normal working hours. The Contractor is cautioned that weekend or overtime work, if required, shall be performed at no additional cost. The Contractor shall obtain the ~~Contracting Authority's~~Owner's written permission before working other than standard hours. Weekend and overtime Work shall be reflected in the Construction Progress Schedule.

6.10.5.4 The Contractor is responsible for vibration control and control of transmission of noise arising from the Work. Principal considerations that shall be given to noise and vibration control are:

.1 Noise control in compliance with Occupational Safety and Health Administration (""OSHA"") requirements for the health and safety of building occupants; control shall be for all areas of the facility, including equipment rooms, boiler rooms, and fan rooms.

.2 Vibration control to limit sound produced by construction equipment, and for protection of the equipment existing in a building and the building structure.

.3 Vibration control to provide for maximum usefulness of the facility by keeping levels of vibration within ranges conducive to study and work or other uses for which the facility is designed.

6.11 Materials and Equipment

6.11.1 The Contractor shall bring to or store at the Site only the materials and equipment required in the Work. If possible, materials and equipment should be installed in their final positions when brought to the Site.

6.11.1.1 The Contractor shall properly store and protect all materials and equipment it provides to the Project.

6.11.1.2 The Contractor shall timely remove from the Site any materials or equipment no longer required for the Work.

6.11.2 The Contractor shall not allow materials or equipment to damage the Project or adjacent property, or to endanger any individual at or near the Site.

6.11.3 If the Contractor provides an Acceptable Component, the Contractor shall be solely responsible for the costs of coordination and modification required.

6.11.4 If the Contractor provides approved Substitutions that require changes to the Contract Documents, the Contractor

shall be solely responsible for the additional costs incurred as a result, including, but not limited to, changes to the design by the A/E.

6.11.5 The A/E shall consider Requests for Substitutions after the Bid opening only when the Contractor can conclusively demonstrate to the A/E the following conditions:

6.11.5.1 the specified Basis of Design Components, Acceptable Components, or previously-approved Substitutions, through no fault of the Contractor or a Subcontractor, are not available; or

6.11.5.2 the specified Basis of Design Components, Acceptable Components, or previously-approved Substitutions will not perform as designed or intended.

6.11.6 The ~~Contractor's~~Contractor's incorporation of unapproved Substitutions in the Work is Defective Work.

6.12 Labor

6.12.1 The Contractor shall maintain a sufficient workforce and enforce good discipline and order among its employees and the employees of its Subcontractors. The Contractor shall not permit employment of individuals not skilled in tasks assigned to them.

6.12.2 The Contractor shall dismiss from the Project any individual employed by the Contractor, or a Subcontractor, who the ~~Contracting Authority~~Owner finds, in its sole discretion, to be incompetent, guilty of misconduct, or detrimental to the Project.

6.12.3 The Contractor shall employ all legal efforts to minimize the likelihood or effect of any strike, Work stoppage, or other labor disturbance. Informational pickets shall not justify any Work stoppage.

6.13 Safety Precautions

6.13.1 The Contractor shall take reasonable precautions to ensure the safety of individuals on the Project.

6.13.1.1 The Contractor is responsible for designing and implementing its own safety program, including compliance with OSHA regulations. The ~~Contractor's~~Contractor's safety plans, such as fall protection, hazards, communications, competent person, etc., shall meet or exceed the ~~Owner's~~Owner's safety plan (if any).

6.13.2 The Contractor shall pay any fine or cost incurred because of the ~~Contractor's~~Contractor's violation, or alleged violation, of Applicable Law.

6.13.3 Before starting any Work, the Contractor shall submit to the ~~Contracting Authority~~Owner a copy of the ~~Contractor's~~Contractor's site-specific safety plan and safety manuals.

6.13.4 The Contractor shall not introduce Hazardous Materials to the Project (other than as specified in the Contract Documents or customary construction materials or equipment) or burn any fires on the Site.

6.13.4.1 If the Contractor brings Hazardous Materials to the Project, the Contractor shall take reasonable precautions to prevent the Hazardous Materials from causing bodily injury or death, property damage, or environmental damage.

6.13.4.2 The Contractor shall notify the Project Manager 24 hours before the start of non-routine or non-recurring hot-work. Use of sources of fire, flame or sparks and flammable materials shall be kept to an absolute minimum. At the beginning of the Project, the Contractor shall inform the Project Manager of its intent to use blowtorches, welding apparatus or similar exposed flame and sparking devices. The Contractor shall give similar notice in regard to the use of flammable liquids, adhesives, and cleaners.

6.13.4.3 The Contractor shall furnish an appropriate number of fire extinguishers (minimum of one), which shall be within the immediate areas where work is being done at all times. The extinguisher(s) shall be adequate and suitable for the class of fire likely to be caused by the ~~Contractor's~~Contractor's operations.

6.13.5 Work Stoppage Due to Hazardous Materials.

6.13.5.1 If the Contractor encounters material the Contractor reasonably believes to be or contain, a Hazardous Material that has not been rendered harmless, the Contractor shall immediately stop Work in the affected area and verbally report the condition to the ~~Contracting Authority~~Owner and A/E, and within one business day deliver written notice of the condition to the ~~Contracting Authority~~Owner and A/E.

6.13.5.2 The ~~Contracting Authority~~Owner will promptly determine the necessity of the Owner retaining a qualified environmental consultant to evaluate the suspected Hazardous Material and to issue a related written report. Where appropriate, the Owner will engage a licensed abatement contractor to remove the material or render it harmless as directed.

6.13.5.3 The Contractor shall resume Work in the affected area upon written notice from the A/E that **(1)** the suspect material was evaluated and found not to be or contain a Hazardous Material, or **(2)** the suspect material has been removed or rendered harmless.

6.13.5.4 If the Contractor knowingly or negligently proceeds with the Work in an area where a Hazardous Material exists and has not been rendered harmless, the Contractor shall be solely responsible for all related claims, damages, losses, and expenses, including, but not limited to, attorneys~~'~~' fees, arising out of or resulting from performing the Work in the affected area.

6.13.5.5 The term "rendered harmless" means that the level of exposure is less than any applicable exposure standards set forth in Applicable Law.

6.13.6 Safety Data Sheets.

6.13.6.1 The Contractor shall identify any material it uses at the Site with a Safety Data Sheet (~~"~~"SDS~~"~~") meeting the requirements of ~~OSHA's~~OSHA's Hazard Communication Standard.

6.13.6.2 The Contractor shall maintain a notebook containing all of its applicable SDSs. That notebook shall be kept at the Site for the duration of the Project.

6.14 Construction Facilities, Utilities, and Equipment

6.14.1 Facilities.

6.14.1.1 The Contractor shall provide and maintain clean and suitable temporary facilities, equipment, services, and enclosed storage for its use at the Site.

6.14.1.2 The Contractor shall provide and maintain in a clean condition:

.1 suitable facilities, equipment, and services for use by the A/E and ~~Contracting Authority~~Owner;

.2 adequate space, equipment, furnishings, and services to conduct progress meetings including Wi-Fi internet access and the ability to conduct internet-based video conferences, and a large-format electronic display of suitable scale for the meeting room;

.3 adequate space to store approved documents and permits; and

.4 adequate sanitary facilities for use by all Persons at the Site.

6.14.2 Environmental Controls.

6.14.2.1 The Contractor shall protect its Work and materials from weather and damage from heat, cold, and humidity.

6.14.2.2 Until the permanent HVAC system is complete and available for use:

.1 the Contractor shall make arrangements and pay for installation and maintenance of temporary heating and ventilating systems; and

.2 the Contractor shall pay the costs incurred in operating the temporary heating and ventilating systems.

6.14.2.3 When the permanent HVAC system is complete and available for use:

.1 The Contractor shall start up and maintain operation of the permanent HVAC system, including filters, and promptly remove temporary heating and ventilating systems.

.2 If the Project consists entirely of new construction, the Contractor shall pay the costs of energy consumed in operating the permanent HVAC system until Substantial Completion.

.3 If the Project is a renovation of an existing building or structure, addition(s) to an existing building or structure, or any combination of new construction and renovation work that does not allow separate metering of utilities, the Owner shall pay the costs of energy consumed in operating the permanent HVAC system.

6.14.2.4 From the date of Substantial Completion, the Owner shall pay the cost of operating the permanent HVAC system for the occupied portion of the Project.

6.14.2.5 If the permanent HVAC system is used during construction, the Contractor shall furnish an extended warranty and service contract in effect until the expiration of the Correction Period.

6.14.3 Water and Drainage.

6.14.3.1 The Contractor shall provide water necessary for the Work until the permanent plumbing system is available for use.

6.14.3.2 The Contractor shall provide temporary drainage and dewatering necessary for the Work and shall employ pumps, trenches, drains, sumps, and other necessary elements required to provide satisfactory working conditions for the protection, execution, and completion of the Project.

6.14.3.3 The Contractor shall make arrangements and pay for installation and maintenance of temporary plumbing systems until the permanent plumbing system is available for use.

6.14.3.4 When the permanent plumbing system is complete and available for use:

.1 The Contractor shall start up and maintain operation of the permanent plumbing systems, and make arrangements and pay for removal of temporary plumbing systems.

.2 If the Project consists entirely of new construction, the Contractor shall pay the costs of water consumed and sewerage charges until Substantial Completion.

.3 If the Project is a renovation of an existing building or structure, addition(s) to an existing building or structure, or any combination of new construction and renovation work that does not allow separate metering of utilities, the Owner shall pay the costs of water consumed and sewerage charges.

6.14.3.5 From the date of Substantial Completion, the Owner shall pay the costs of water consumed and sewerage charges for the occupied portion of the Project.

6.14.3.6 If the permanent plumbing system is used during construction, the Contractor shall furnish an extended warranty and service contract in effect until the expiration of the Correction Period.

6.14.4 Electric Service.

6.14.4.1 The Contractor shall provide temporary light and power; and pay the charges for temporary electric service installation and ~~removal~~re0moval if required.

6.14.4.2 If the Project consists entirely of new construction, the Contractor shall pay the cost of energy consumed

until Substantial Completion.

6.14.4.3 If the Project is a renovation of an existing building or structure, addition(s) to an existing building or structure, or any combination of new construction and renovation work that does not allow separate metering of utilities, the Owner shall pay the cost of energy consumed.

6.14.4.4 From the date of Substantial Completion, the Owner shall pay the cost of energy consumed for the occupied portions of the Project.

6.14.4.5 If the permanent electrical system is used during construction, the Contractor shall furnish an extended warranty and service contract in effect until the expiration of the Correction Period.

6.14.5 Hoisting Facilities.

6.14.5.1 The Contractor shall erect and maintain any hoisting equipment required for its Work.

6.14.5.2 If the electric service requirements of hoisting facilities differ from that available at the Site, the Contractor shall provide and pay for all necessary connections.

6.14.5.3 If a permanent elevator is identified in the Contract Documents to be used for hoisting materials or personnel during construction, the Contractor shall furnish an extended warranty and service contract in effect until the expiration of the Correction Period.

6.15 Progress Cleaning

6.15.1 The Contractor shall remove all waste materials, rubbish, and mud attributable to the Work to an appropriate disposal location at or near the Site.

6.15.2 The Contractor shall perform weekly broom cleaning of hard flooring surfaces in the area of the Work.

6.15.3 The Contractor shall remove, once each working day or as appropriate for the Project, all waste materials and rubbish from the disposal location at or near the Site.

6.15.4 The Contractor shall remove, as appropriate for the Project or as the A/E or Owner directs, any waste materials or rubbish from areas adjacent to the Project.

6.15.4.1 The Contractor shall dispose of waste materials, rubbish, and construction debris in a lawful manner in approved recycling facilities or landfills.

6.15.5 If the Contractor fails to clean up during the progress of the Work, the ~~Contracting Authority~~Owner may clean up on behalf of the Contractor and at the ~~Contractor's~~Contractor's expense. If the Contractor fails to maintain the areas adjacent to the Project clean and free of waste materials and rubbish, the ~~Contracting Authority~~Owner may also direct the local jurisdiction responsible for the area to have the area cleaned to its satisfaction at the ~~Contractor's~~Contractor's expense.

6.15.5.1 The ~~Contracting Authority~~Owner may deduct the cleaning costs from payments then or thereafter due the Contractor. If payments then or thereafter due the Contractor are not sufficient to cover those amounts, the Contractor shall immediately pay the amount of the insufficiency to the Owner.

6.15.6 The Contractor shall remove excavated material and spoil to a suitable off-site location approved by the ~~Contracting Authority~~Owner.

6.15.6.1 If the Owner designates a location on its property for disposal or storage of clean topsoil and/or subsoil in the Contract Documents, the Contractor shall remove such materials to the designated location.

6.16 Use of Premises

6.16.1 The Contractor shall use corridors, stairs, and elevators as designated by the ~~Contracting Authority~~Owner. The ~~6.16.1~~ Contractor shall exercise extreme care to not exceed the carrying capacity of elevators or damage the cab interior in any way.

6.16.2 Loitering or wandering through the interior of buildings or exterior grounds outside the limits of the Work will not be permitted.

6.16.3 The Contractor shall confine its apparatus, materials, and the operations of its workers to the limits indicated by Applicable Law and the directions of the A/E or Project Manager.

6.16.4 No signs or advertising of any kind will be permitted on or about the Site, except those appearing on trucks and trailers.

6.16.5 Site Logistics Plan.

6.16.5.1 No later than seven days after the Date of Commencement, the Contractor shall prepare a Site Logistics

Plan and submit it to the ~~Contracting Authority and~~ Owner for their review and approval. Through the Site Logistics Plan, the Contractor shall indicate how the Contractor intends to use the Site, and illustrate things such as areas to be used for lay down of material and equipment; office and storage trailer locations; vehicular access gates with ingress and egress routes; locations of wheel wash and concrete truck wash out activities; and offloading and hoisting locations.

6.16.6 Smoking and Tobacco Products.

6.16.6.1 All State buildings are smoke free. Smoking will not be permitted in any indoor area. The ban on tobacco products will be observed in all indoor and outdoor areas and parking areas on all State-owned and -leased property. The Contractor shall enforce these restrictions on any individual employed by the Contractor or a Subcontractor.

6.17 Interruption of Existing Services

6.17.1 Whenever it becomes necessary to interrupt existing services in use by the Owner or its tenants, including but not limited to sewer, water, gas, and steam lines, electric, telephone, and cable service, the Contractor shall continue the associated Work on a non-stop 24-hour per day basis until that Work is completed and the service restored, or at an alternate time required by the ~~Contracting Authority~~Owner.

6.17.2 Before beginning that Work, the Contractor shall apply in writing to, and receive approval in writing from, the Owner, through the A/E, to establish a time when interruption of the service will cause a minimum of interference with the activities of the Owner and its tenants.

6.18 Explosives and Blasting

6.18.1 The Contractor shall not conduct blasting on, or bring explosives to, the Site without the prior written approval of the ~~Contracting Authority,~~ Owner~~,~~ and other authorities with jurisdiction.

6.18.2 The Contractor shall perform all blasting, storing, and handling of explosives as required under Applicable Law.

6.18.2.1 The Contractor shall carry appropriate liability insurance coverage, as required by the Contract Documents, for its blasting and explosives storage and handling operations. Immediately upon request, the Contractor shall deliver evidence of that insurance to the ~~Contracting Authority~~Owner.

6.19 Building Commissioning

6.19.1 If the Project scope includes building commissioning, the Contractor shall participate in the Commissioning Process, as prescribed in the Contract Documents.

6.19.2 The Contractor shall permit the A/E, or a third-party Commissioning Agent (~~"~~"CxA~~"~~") if applicable, access to commission performance based equipment, fixtures, and systems (e.g., HVAC, fire protection, smoke evacuation, fume hoods, emergency power, etc.), prior to Substantial Completion.

6.19.3 The A/E, or CxA if applicable, shall promptly notify the Contractor in writing of any deficiency identified during the Commissioning Process.

6.19.4 To facilitate the Commissioning Process, the Contractor shall submit one hard copy and one electronic copy of Operation and Maintenance Manuals for dynamic and engineered systems to the A/E, and CxA if applicable, for approval. That submission shall occur within 30 days following approval of all related Contractor submittals required by the Contract Documents.

6.20 Action Submittals

6.20.1 Submittal Description. Shop Drawings, Product Data, Samples, and other submittals for the A/~~E's~~E's review and action shall be provided by the Contractor for any item required by the Contract Documents but not fully described in the Contract Documents, unless waived by the A/E, and include, but are not limited to:

6.20.1.1 construction of the various parts, method of joinery, type of materials, grade, quality and thickness of materials, alloy of materials, profiles of all sections, reinforcement, method of hanging doors or installing windows, anchorage, and type and grade of finish;

6.20.1.2 capacities, types of materials and performance charts that are pertinent to the materials, and performance charts that are pertinent to the equipment item; and

6.20.1.3 wiring diagrams, control diagrams, schematic diagrams, working and erection dimensions, arrangement, and specifications.

6.20.2 Form of Submittals. The Contractor shall provide a transmittal letter, review and stamp its approval, and transmit the submittals to the A/E in accordance with the submittal schedule established by the A/E and Contractor.

6.20.2.1 The Contractor shall submit a minimum of one reproducible and three copies of Shop Drawings, and a minimum of four copies of any other submittal, except when using the project management software under **Section ~~2.1.4.2.~~2.1.4.2.**

6.20.2.2 The data shown on the Shop Drawings shall be complete with respect to quantities, dimensions, specified performance and design criteria, materials, and similar data to communicate to the A/E the materials and equipment that the Contractor proposes to provide.

6.20.2.3 Each Sample shall be identified clearly as to materials, supplier, pertinent data as catalog numbers, the intended use, and other uses as the A/E may require enabling the A/E to review the submittal.

6.20.3 Delegated Design.

6.20.3.1 If the Contract Documents require the Contractor to provide professional design services or certifications by a design professional related to systems, materials, or equipment, the Contractor shall confirm with the A/E the appropriate performance and design criteria that such services shall satisfy. The Contractor shall submit Shop Drawings and other submittals related to the Work designed or certified by the design professional retained by the Contractor to the A/E for review.

6.20.4 Variation from Contract Documents. If the submittals show variations from the requirements of the Contract Documents, the Contractor shall specifically and clearly identify the variations in its letter of transmittal.

6.20.4.1 Variations that may affect the construction quality, cost or timeline shall be submitted by the A/E to the ~~Contracting Authority~~Owner for review, and if approved, shall be incorporated into the Work by Change Order or an order for a minor change in the Work (as appropriate).

6.20.4.2 The Contractor shall not be relieved of responsibility for deviations from the Contract Documents by the A/~~E's~~E's approval of submittals.

6.20.4.3 Submittals are not Contract Documents. In the event of conflicts between submittals and the Contract Documents, the Contract Documents take precedence and govern the Work.

6.20.5 ~~Contractor's~~Contractor's Submittal Review. The Contractor shall review and stamp ~~"~~"approved~~"~~" all submittals before forwarding them to the A/E. If it is apparent to the A/E that the Contractor has not reviewed the submittals, or has conducted an incomplete review, the A/E may reject the submittals.

6.20.5.1 The Contractor shall field verify conditions as necessary and make corrections of dimensions, locations of various items, encroachments of work of Separate Contractors, or variations from the requirements of the Contract Documents.

6.20.5.2 If required by the Contract Documents or Applicable Law, the Contractor shall have Shop Drawings or other submittals prepared by Persons possessing expertise and experience in an appropriate trade or profession or by a registered architect, professional engineer, or other professional as required under Applicable Law.

6.20.5.3 By approving and submitting submittals, the Contractor represents that the Contractor has determined and verified materials, field measurements, and field construction criteria related to the associated Work, or shall do so, and has checked and coordinated the information contained within the submittals with the requirements of the Work and of the Contract Documents.

6.20.6 A/~~E's~~E's Submittal Review. The A/E shall review submittals for conformity with design intent within 14 days after receiving them or in accordance with the approved submittal schedule, or other period as mutually agreed by the A/E and Contractor. The A/~~E's~~E's review of submittals is to determine if the items covered by the submittals will, after installation and incorporation into the Work, conform to the Contract Documents and be compatible with the design concept of the Project as a functioning whole.

6.20.6.1 The Contractor shall make corrections required by the A/E and resubmit the required number of corrected copies of submittals until approved, which resubmission shall be acted upon by the A/E within 14 days after receiving them, or other period mutually agreed by the A/E and Contractor.

6.20.6.2 When resubmitting corrected submittals, the Contractor shall direct the A/~~E's~~E's attention to revisions made by noting revisions on the resubmittal.

6.20.6.3 The Contractor shall pay all reasonable costs of the A/E~~,~~ and Owner~~, and Contracting Authority~~ for attendant delay, interference, hindrance, or disruption of the Project due to excessive resubmittals without fault of the A/E~~,~~ or Owner~~, or Contracting Authority~~. Resubmittals in excess of two without fault of the A/E~~,~~ or Owner~~, or Contracting Authority~~ may be determined excessive by the ~~Contracting Authority~~Owner.

6.20.6.4 The A/E may hold Samples and other submittals used to coordinate finishes, colors, patterns, textures, or other characteristics until submittals for adjacent materials are available. Within seven days after receiving the submittal, the A/E shall issue a written notice to the Contractor stating that the submittal is being held.

6.20.6.5 If coordinating submittals are not received within the period required for action on previously received submittals that are held in accordance with **Section ~~6.20.6.4~~6.20.6.4,** review of the previously received submittals may be delayed.

6.20.6.6 The A/~~E's~~E's review shall not extend to means, methods, manners, techniques, sequences, or procedures of construction, or to safety precautions or incident programs.

6.20.6.7 The review and approval of a separate item shall not indicate approval of the assembly in which the item functions.

6.20.7 Risk of Nonpayment. The Contractor shall not commence any portion of the Work requiring Shop Drawings, Product Data, Samples, or other submittals until the submittal has been approved by the A/E. If the Contractor starts Work before the A/~~E's~~E's final approval of the submittal, the Contractor does so at its own risk that payment may not be approved ~~by the Contracting Authority~~ or made by the Owner for the related Work.

6.21 Warranty

6.21.1 The Contractor warrants to the ~~Contracting Authority and~~ Owner that all materials and equipment furnished under the Contract shall be new and of good quality unless otherwise required or permitted by the Contract Documents, that the Work shall be free from defects not inherent in the quality required or permitted, and that the Work shall conform to the requirements of the Contract Documents. Work not conforming to those requirements, including Substitutions not properly approved and authorized is Defective Work. If required by the A/E, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

6.21.2 If the Contractor or a Subcontractor recommends a particular product, material, system, or item of equipment for incorporation into the Project and the Owner accepts that recommendation, the above warranty includes a warranty from the Contractor to the Owner that the recommended product, material, system, or item of equipment is fit and appropriate for the associated purpose.

6.22 Additional Tests and Inspections

6.22.1 If before or after Substantial Completion the A/E or the ~~Contracting Authority~~Owner determines that any portion of the

~~6.22.1~~ Work requires special inspection, testing, or approval not otherwise required under the Contract Documents, the A/E shall order such inspection, testing, or approval.

6.22.1.1 If the special inspection, testing, or approval reveals Defective Work, the Contractor shall pay all associated costs and will not be entitled to any related adjustment of the Contract Times. Those costs may include, but are not limited to:

.1 the cost of the special inspection, testing, or approval;

.2 the cost of conducting the special inspection, testing, or approval on similar Work regardless of whether the similar Work is also revealed as Defective Work;

.3 the cost of additional special inspections, testing, or approvals to evaluate remedial Work;

.4 the cost of correcting the Defective Work; and

.5 all related Owner-incurred fees and charges of contractors, engineers, architects, attorneys, and other professionals.

6.22.1.2 The ~~Contracting Authority~~Owner may deduct the costs described under **Section ~~6.22.1.1~~6.22.1.1** from payments then or thereafter due the Contractor. If payments then or thereafter due the Contractor are not sufficient to cover those amounts, the Contractor shall immediately pay the amount of the insufficiency to the Owner.

6.22.1.3 If the special inspection, testing, or approval reveals that the Work complies with the Contract Documents, and the Contractor believes that it is entitled to an adjustment of the Contract Sum or Contract Times, or both, on account of the special inspection, testing, or approval, the Contractor shall initiate a Change Request **(1)** as required under **Section ~~7.6~~7.6,** and **(2)** within the time period required under **Section ~~7.6~~7.6** which begins to run on the day of the special inspection, testing, or approval.

6.22.2 If the Contractor is aware of a need for inspection, testing, or approval, or of a need to have any inspection, testing, or approval completed by a particular time to avoid delay, then the Contractor shall timely communicate such information to the A/E and ~~Contracting Authority~~Owner.

6.22.3 Except as described under **Section ~~6.22.1~~6.22.1,** the Owner shall pay for any inspection, testing, or approval that did not become a requirement until after it awarded the Contract.

6.22.4 The Contractor shall coordinate with and give the A/E~~, Contracting Authority,~~ and Owner reasonable notice of the anticipated dates of all inspections, testing, or approvals.

6.22.5 Within five days after completion of an inspection, testing, or approval, the A/E shall provide an original report/certificate of the inspection, testing, or approval to the Contractor and ~~Contracting Authority~~Owner with a recommendation for or against acceptance of the results therein.

6.23 Uncovering the Work

6.23.1 If the Contractor covers Work contrary to the requirements of the Contract Documents or contrary to the written request of the ~~Contracting Authority~~Owner or A/E, the Contractor shall, if the ~~Contracting Authority~~Owner or A/E requests in writing, uncover that Work for observation, correct it if not in conformity with the Contract Documents, and recover it at the ~~Contractor's~~Contractor's expense without adjustment of the Contract Times.

6.23.2 If the Contractor covers Work in accordance with the Contract Documents and not contrary to a request from the A/E or ~~Contracting Authority~~Owner for an opportunity to observe the Work prior to covering, the Contractor shall, if the A/E requests in writing, uncover that Work.

6.23.2.1 If the uncovered Work is Defective Work, the Contractor shall pay the costs of uncovering, correcting, and recovering the Work and shall not be entitled to an adjustment of the Contract Times.

6.23.2.2 If the uncovered Work is not Defective Work and the Contractor believes that it is entitled to an adjustment of the Contract Sum or Contract Times, or both, on account of the uncovering and recovering of the Work, the Contractor shall initiate a Change Request **(1)** as required under **Section ~~7.6~~7.6.** and **(2)** within the time period required under **Section ~~7.6~~7.6** which begins to run on the day that the ~~Contracting Authority~~Owner or A/E observes the uncovered Work.

6.24 Correction of the Work

6.24.1 Before Substantial Completion.

6.24.1.1 If the Contractor provides Defective Work or fails or neglects to perform the Work in accordance with the Construction Progress Schedule, the ~~Contracting Authority~~Owner or A/E may issue a written notice to the Contractor and ~~Contractor's~~Contractor's Surety directing the Contractor to correct the Defective Work or recover schedule deficiencies. Unless otherwise specified in that written notice, the Contractor shall promptly commence and diligently pursue correction of the Defective Work and recovery of schedule deficiencies within three days after the ~~Contracting Authority~~Owner issues the written notice (~~"~~"72-Hour Notice~~"~~").

6.24.1.2 If the Contractor fails to promptly commence and diligently pursue correction of the Defective Work and recovery of schedule deficiencies required under **Section ~~6.24.1.1~~6.24.1.1.** the Owner may correct the Defective Work or take action to recover schedule deficiencies without giving further notice to the Contractor or ~~Contractor's~~Contractor's Surety.

6.24.2 After Substantial Completion.

6.24.2.1 In addition to the ~~Contractor's~~Contractor's other obligations under the Contract Documents, if any of the Work is found to be Defective Work after Substantial Completion, the Contractor shall correct it promptly after receipt of written notice from the A/E~~, Contracting Authority,~~ or Owner to do so, unless the ~~Contracting Authority and~~ Owner ~~have~~has previously acknowledged and accepted the Defective Work in writing as described under **Section ~~6.25.1~~6.25.1.** The A/E~~, Contracting Authority,~~ or Owner may send a copy of the written notice to the ~~Contractor's~~Contractor's Surety, but are not obligated to do so.

6.24.2.2 During the Correction Period. If the ~~Contracting Authority or~~ Owner issues a notice under **Section ~~6.24.2.1~~6.24.2.1** during the Correction Period, the Owner may correct the Defective Work itself without giving further notice to the Contractor or ~~Contractor's~~Contractor's Surety if the Contractor fails to **(1)** notify the Owner in writing of the ~~Contractor's~~Contractor's intent to correct the Defective Work within seven days after the ~~Contracting Authority or~~ Owner issues the notice and

(2) thereafter promptly commence and diligently pursue correction of Defective Work.

6.24.2.3 The Correction Period:

.1 commences on the date of Substantial Completion of the Work or a designated portion of the Work which the ~~Contracting Authority and~~ Owner ~~have~~has agreed to take Partial Occupancy;

.2 relates only to the ~~Contractor's~~Contractor's specific obligation and opportunity to correct the Work during the Correction Period;

.3 does not establish a period of limitation with respect to any of the ~~Contractor's~~Contractor's other obligations under the Contract Documents;

.4 has no relationship to the time within which the ~~State or~~ Owner may seek to enforce the Contract;

.5 does not establish a period of limitation within respect to the commencement of litigation to establish the ~~Contractor's~~Contractor's liability under the Contract or otherwise; and

.6 shall not be extended by corrective Work performed by the Contractor under this **Section** ~~6.24.2.~~**6.24.2.**

6.24.2.4 After the Correction Period. If the Owner issues a notice under **Section** ~~6.24.2.1~~**6.24.2.1** after expiration of the Correction Period, the Owner may correct the Defective Work without giving further notice to the Contractor or ~~Contractor's~~Contractor's Surety if the Contractor fails to **(1)** notify the Owner in writing of the ~~Contractor's~~Contractor's intent to correct the Defective Work within 14 days after the Owner issues the notice and **(2)** thereafter promptly commence and diligently pursue correction of Defective Work.

6.24.3 Emergency Correction of Defective Work.

6.24.3.1 Notwithstanding any other provision of the Contract to the contrary, if in the ~~Contracting Authority's or Owner's~~Owner's opinion the Defective Work presents a threat of imminent harm or danger to people, property, or the environment, the ~~Contracting Authority or~~ Owner may order the Contractor to immediately correct Defective Work or the Owner may correct the Defective Work itself without any prior notice to the Contractor or ~~Contractor's~~Contractor's Surety.

6.24.4 Responsibility for Costs of Correction.

6.24.4.1 The Contractor shall pay all of the costs and damages associated with the correction of Defective Work and the recovery of schedule deficiencies under this **Section** ~~6.24.~~**6.24.** Those costs and damages may include, but are not limited to, the related fees and charges of contractors, engineers, architects, attorneys, and other professionals; and the cost of correcting or replacing adjacent work. The ~~Contracting Authority~~Owner may deduct those costs and damages from payments then or thereafter due the Contractor. If payments then or thereafter due the Contractor are not sufficient to cover those amounts, the Contractor shall immediately pay the amount of the insufficiency to the Owner.

6.25 Acceptance of Defective Work

6.25.1 Before final Contract Completion, the Owner may accept any Defective Work instead of requiring its removal or correction, in which case the Contract Sum shall be equitably reduced as described under ~~**Article 7.**~~**Article 7.**

6.25.1.1 The Owner may only accept Defective Work through a deduct Change Order that makes explicit reference to this **Section** ~~6.25.~~**6.25.**

6.25.1.2 After final Contract Completion, the Owner may only accept Defective Work by giving written notice to the Contractor that the Owner is accepting the associated Defective Work.

6.25.2 None of the following will constitute **(1)** acceptance of Defective Work, **(2)** a release of the ~~Contractor's~~Contractor's obligation to perform the Work in accordance with the Contract, or **(3)** a waiver of any rights set forth in the Contract or otherwise provided by Applicable Law:

6.25.2.1 observations or inspections by the Owner~~, Contracting Authority,~~ or A/E;

6.25.2.2 the making of any payment;

6.25.2.3 Substantial Completion or the issuance of a Certificate of Substantial Completion;

6.25.2.4 Partial Occupancy and the ~~Owner's~~Owner's use or occupancy of the Work or any part of it;

6.25.2.5 Contract Completion or the issuance of a partial or final Certificate of Contract Completion;

6.25.2.6 any review or approval of a submittal;

6.25.2.7 any inspection, test, or approval by other Persons; or

6.25.2.8 any correction of Defective Work by the Owner.

6.26 Project Document Maintenance and Submittal

6.26.1 During Construction.

6.26.1.1 The Contractor shall maintain in good order at a secure location on the Site:

.1 a complete copy of all Contract Documents; Shop Drawings, Product Data, Samples and similar required submittals; manufacturer operating and maintenance instructions; certificates; warranties; RFIs and responses thereto; and other Project-related documents, all marked currently and accurately to record field changes and selections made during construction and to show actual installation where installation varies from Work as originally shown, including the exact location and depth of underground utility lines; and

.2 a set of Drawings and Specifications, approved in accordance with **Section** ~~5.2.1.1.~~**5.2.1.1.** and the records required by **Section** ~~6.2.14~~**6.2.14.**

6.26.1.2 Before submitting each Contractor Payment Request, the Contractor shall record all changes on the Contract Documents, neatly in a contrasting color, noting new information not shown on the original Contract Documents. Failure to record all changes may cause payment to be withheld or delayed by the ~~Contracting~~

~~Authority~~Owner.

6.26.1.3 The Contractor shall keep a record of changes made to the Specifications, noting particularly any approved variation from manufacturers~~'~~' installation instructions and recommendations.

6.26.1.4 If the Contractor uses Shop Drawings to indicate as-built conditions, the Contractor shall cross-reference the Shop Drawing sheet numbers to the corresponding sheet numbers on the Contract Documents. The Contractor shall note related numbers where applicable.

6.26.1.5 The Contractor shall at all times permit access to the documents described in this **Section ~~6.26.1~~6.26.1** to authorized representatives of the State, local authorities with jurisdiction over the Project, ~~Contracting Authority,~~ Owner, and A/E.

6.26.2 Before Contract Completion.

6.26.2.1 As a condition precedent to execution of the Certificate of Contract Completion and final payment, the Contractor shall submit to the A/E:

.1 all LEED-related documents not previously submitted (if applicable); and

.2 the As-Built Documents including one electronic version and one hard-copy version organized into suitable sets of manageable size bound with durable cover sheets and appropriate identification marked on the front and the spine of each binder.

6.26.2.2 The ~~Contractor's~~Contractor's As-Built Documents submission shall include, but is not limited to:

.1 Certificate of Occupancy;

.2 inspection certificates for pressure piping, elevator, boiler, electrical, plumbing or piping purification, etc.;

.3 Letter of Approval from the local fire authority or State Fire Marshal for the fire suppression system;

.4 Operation and Maintenance Manuals;

.1 The Contractor shall organize the hard copy of the Operation and Maintenance Manuals into suitable sets of manageable size, and include indexed data bound in individual binders, with pocket folders for folded sheet information.

.5 neatly and accurately marked sets of As-Built Documents, and other Contract Documents reflecting the actual construction of the Project;

.6 detailed Drawings reflecting the exact location of any concealed utilities, mechanical or electrical systems, and components;

.7 assignment to the Owner of all warranties and guarantees, including the most-recent address and telephone number of any Subcontractors or manufacturers.

6.26.2.3 By submitting the As-Built Documents to the A/E, the Contractor certifies that its As-Built Documents are complete, correct, and accurate.

6.26.3 Record Documents.

6.26.3.1 The A/E shall revise the original Contract Documents and related Electronic Files with the information contained on the As-Built Documents. The A/E shall label the revised original Contract Documents and related Electronic Files as ~~"~~"Record Documents~~"~~" and reflect the date of the A/~~E's~~E's incorporation of the As-Built Documents.

6.26.3.2 The Owner may thereafter use the Record Documents for any purpose relating to the Project including, but not limited to, additions to or completion of the Project.

6.27 Final Cleaning

6.27.1 Before requesting the Substantial Completion inspection of the Work, the Contractor shall clean the Site, remove waste materials and rubbish attributable to the Project, and restore the property to its original condition so that upon Substantial Completion, the premises are ready for occupancy by the Owner.

6.27.2 If the Contractor performs any Work after final cleaning, the Contractor shall clean the affected area as provided above so that upon Substantial Completion, the premises are ready for occupancy by the Owner.

6.27.3 Final cleaning shall be done to the reasonable satisfaction of the A/E and ~~Contracting Authority~~Owner.

6.28 Substantial Completion

6.28.1 ~~Contractor's~~Contractor's Punch List.

6.28.1.1 When the Contractor considers the Work, or a designated portion thereof, Substantially Complete the Contractor shall inspect the Work and prepare a list of Defective Work and incomplete or unacceptable Work (~~"Contractor's~~"Contractor's Punch List~~"~~"). The Contractor shall list all items of Work not in compliance with

the Contract Documents, including items the Contractor is requesting to be deferred.

.1 The Contractor shall proceed to correct all items listed on the ~~Contractor's~~Contractor's Punch List and certify that the incomplete items listed on the ~~Contractor's~~Contractor's Punch List are to its knowledge an accurate and complete list by signing the ~~Contractor's~~Contractor's Punch List.

.2 The ~~Contractor's~~Contractor's failure to include an item on the ~~Contractor's~~Contractor's Punch List shall not alter the ~~Contractor's~~Contractor's responsibility to complete the Work in accordance with the Contract Documents.

.3 The Contractor shall submit the signed ~~Contractor's~~Contractor's Punch List to the A/E, together with a request for the Substantial Completion inspection of the Work.

6.28.2 Substantial Completion Inspection.

6.28.2.1 Within three business days after receipt of the request for the Substantial Completion inspection of the Work, the A/E shall notify the Contractor of acceptance or rejection of the request, stating reasons for any rejection.

.1 Within seven days after its acceptance of the ~~Contractor's~~Contractor's request, the A/E shall conduct the Substantial Completion inspection to determine whether the Work, or designated portion, is in conformity with the Contract Documents and Substantially Complete. The A/E shall notify the Contractor~~, Contracting Authority,~~ and Owner of the scheduled time of the inspection.

.2 If the A/E determines that the Work is Substantially Complete, within three business days after the Substantial Completion inspection, the A/E shall prepare a Certificate of Substantial Completion that shall establish the date of Substantial Completion and include a list of Defective, incomplete, or unacceptable Work (~~"~~"A/~~E's~~E's Punch List~~"~~"). The A/~~E's~~E's Punch List shall include **(1)** the items on the ~~Contractor's~~Contractor's Punch List that are not yet completed or corrected as of the date of the Substantial Completion inspection, and **(2)** comments from the Owner.

~~**(2)** comments from the Contracting Authority and Owner.~~

.3 The A/E shall submit the Certificate of Substantial Completion to the ~~Contracting Authority,~~ Owner~~,~~ and Contractor for their written acceptance. Upon their acceptance and consent of the ~~Contractor's~~Contractor's Surety, and subject to the ~~Owner's~~Owner's right to withhold payment, the Owner shall release retainage as described under **Section ~~9.6.1~~ 9.6.1.**

.4 The A/~~E's~~E's failure to include an item on the A/~~E's~~E's Punch List shall not alter the ~~Contractor's~~Contractor's responsibility to complete the Work in accordance with the Contract Documents.

.5 If the A/E accepts the request for the Substantial Completion inspection and subsequently determines that the Work is not Substantially Complete, the A/E may request compensation for expenses related to excessive Punch List activities. The ~~Contracting Authority~~Owner may deduct that additional compensation to the A/E from payments then or thereafter due the Contractor. If payments then or thereafter due the Contractor are not sufficient to cover those amounts, the Contractor shall immediately pay the amount of the insufficiency to the Owner.

6.28.3 Completion of Punch List Items.

6.28.3.1 Before expiration of the Punch List Milestone and before the date of Final Contract Completion, the Contractor shall complete all items on the A/~~E's~~E's Punch List. After completing all items on the A/~~E's~~E's Punch List, the Contractor shall provide a written request for Final Inspection of the Work to the A/E.

.1 If Work on the A/~~E's~~E's Punch List cannot be timely completed, the Contractor shall justify in writing to the reasonable satisfaction of the ~~Contracting Authority~~Owner and A/E, the reasons the items cannot be completed, and the Contractor may propose, for the ~~Contracting Authority~~Owner and A/~~E's~~E's approval, an adjustment of the

Punch List Milestone for the associated Punch List items to establish a time when the Contractor shall complete those items.

.2 Within three business days after receipt of the ~~Contractor's~~Contractor's request for the Final Inspection, the A/E shall complete a Final Inspection of the Work for compliance with the Contract Documents.

.3 If multiple inspections of items on the A/~~E's~~E's Punch List are required due to the ~~Contractor's~~Contractor's failure to properly and timely complete them, the Contractor shall pay any additional costs incurred by the A/E~~,~~ and Owner~~, and Contracting Authority~~ resulting from any attendant delay and re-inspections. The ~~Contracting Authority~~Owner may deduct those additional costs from payments then or thereafter due the Contractor. If payments then or thereafter due the Contractor are not sufficient to cover those amounts, the Contractor shall immediately pay the amount of the insufficiency to the Owner.

6.29 Partial Occupancy

6.29.1 The Owner may occupy or use a portion of the Project prior to Substantial Completion of all Work if:

6.29.1.1 the building authority with jurisdiction over the Project issues a partial certificate of occupancy for the portion of the Project the Owner intends to occupy (if applicable);

6.29.1.2 the Owner with the ~~Contractor's~~Contractor's and A/~~E's~~E's assistance has provided written notice of the Partial Occupancy to the insurers providing ~~builder's~~builder's risk property insurance for the Project; and

6.29.1.3 the ~~Contracting Authority~~Owner has received notice of the Partial Occupancy from the A/E and has consented to it.

6.29.2 Before the Owner commences Partial Occupancy, the Owner, ~~Contracting Authority,~~ A/E, and Contractor shall proceed as described under **Section ~~6.28~~6.28** for the area designated for Partial Occupancy. The Owner may commence Partial Occupancy before the Contractor has achieved Substantial Completion of the area designated for Partial Occupancy.

6.29.3 The Contractor shall be relieved of the obligation to maintain the area accepted for Partial Occupancy, but shall remain obligated to complete and correct the Work and to carry the insurance required by the Contract Documents during performance of any such Work.

6.30 Demonstration and Training, Operating Appurtenances

6.30.1 The Contractor, as a condition precedent to execution of the Certificate of Contract Completion and final payment, shall perform demonstration and training of the ~~Owner's~~Owner's maintenance personnel as specified in the Contract Documents.

6.30.2 The Contractor, as a condition precedent to execution of the Certificate of Contract Completion and final payment, shall organize and submit operating appurtenances and loose items related to operation and maintenance of the completed Project to the Owner, including, but not limited to:

6.30.2.1 keys to door and window hardware, panels, and other devices not directly provided to the Owner from the manufacturer;

6.30.2.2 operating handles, levers, cranks, specialized wrenches or drivers, remote controls, and similar items; and

6.30.2.3 extra materials (e.g., attic stock).

6.31 Contract Completion

6.31.1 Partial Contract Completion.

6.31.1.1 When items of Work cannot be completed until a subsequent date, the A/E shall prepare a partial Certificate of Contract Completion that shall include a detailed list of the deferred Work and the date(s) by which the Contractor will complete that Work.

6.31.1.2 The A/E shall submit the partial Certificate of Contract Completion to the ~~Contracting Authority,~~ Owner~~,~~ and Contractor for their written acceptance. After they accept the partial Certificate of Contract Completion and the Contractor has submitted the ~~Contractor's Surety's~~Contractor's Surety's consent to payment, the ~~Contracting Authority~~Owner may release payment to the Contractor in the ~~Contracting Authority's~~Owner's sole discretion.

6.31.2 Final Contract Completion.

6.31.2.1 When all items on the A/~~E's~~E's Punch List have been completed to the satisfaction of the A/E, all requirements of the Contract Documents have been completed, and the provisions of **Sections ~~6.26~~6.26** through **~~6.30~~6.30** have been fulfilled, the A/E shall prepare and recommend execution of a final Certificate of Contract Completion.

The date that the ~~Contracting Authority~~Owner executes the final Certificate of Contract Completion is the date of Contract Completion.

6.31.2.2 Within 30 days after the ~~Contracting Authority~~Owner executes the final Certificate of Contract Completion, the ~~Contracting Authority~~

~~6.31.2.2~~ Owner will make final payment to the Contractor of all remaining funds then due and payable including any funds retained following Substantial Completion as described under **Section ~~9.7.~~9.7.**

ARTICLE 7 - MODIFICATIONS

7.1 General

7.1.1 Changes in the Work.

7.1.1.1 The ~~Contracting Authority~~Owner may order changes in the Work without invalidating the Contract. Subject to the limitations stated in this ~~**Article 7**~~**Article 7** and elsewhere in the Contract Documents, a change in the Work may be accomplished by a Change Order, Change Directive, or order for a minor change in the Work.

.1 The Contractor shall proportionately increase the amount of the Bond whenever the Contract Sum is increased.

.2 If notice of any change affecting the Contract is required by the provision of any Bond, notice is the ~~Contractor's~~Contractor's responsibility, and the amount of each applicable Bond shall be adjusted accordingly.

7.1.1.2 The Contractor shall not proceed with any change in the Work without the ~~Contracting Authority's~~Owner's prior written authorization except as provided under **Sections** ~~**1.10**~~**1.10** and ~~7.4~~7.4.

7.1.1.3 Except as provided in **Section** ~~**1.10, the Contractor's**~~**1.10,** the Contractor's failure to obtain prior written authorization for a change in the Work will prejudice the Owner and ~~Contracting Authority and~~ constitute a waiver by the Contractor of any adjustment to the Contract Sum or Contract Times, or both, for the related Work.

7.1.1.4 The Contractor shall perform all changes in the Work under the applicable provisions of the Contract Documents, and the Contractor shall proceed promptly with the change unless otherwise provided in the Change Order, Change Directive, or order for a minor change in the Work

7.1.2 Paperwork Consolidation.

7.1.2.1 Related Modifications, with the same or similar justification (e.g., Owner Request or field resolution), may be consolidated into the same Change Order.

7.1.2.2 Add and deduct Modifications, with the same or similar justification, may be included on the same Change Order.

7.1.2.3 Modifications resulting from errors or omissions shall not be combined with other modifications for which the A/E will receive a fee.

7.1.3 Modification Numbering.

7.1.3.1 The A/E shall assign a number to each Modification, which shall uniquely identify it.

7.1.3.2 The A/E shall not duplicate or reuse any number throughout the Project or reuse assigned numbers for Proposal Requests that are initiated but cancelled in process.

7.1.3.3 The number for each Change Order shall be coordinated with any associated Proposal Request, Change Request, or Change Directive.

7.1.4 Modification Log.

7.1.4.1 The A/E shall create and maintain a Modification Log for the Project, which shall contain the following minimum information:

.1 number of the Modification;

.2 a brief description of the Modification;

.3 cost of the Modification;

.4 schedule impact of the Modification; and

.5 dates sent to, and received from, the parties.

7.1.5 Reconciliation of Unit Price Items.

7.1.5.1 The ~~Contracting Authority~~Owner may increase, decrease, or delete entirely the scheduled quantities of Unit Price Work.

7.1.5.2 If the actual quantity of a Unit Price item exceeds or appears that it will exceed the scheduled quantity, the Contractor shall immediately notify the A/E in writing. The A/E, after consulting with the ~~Contracting Authority~~Owner, will issue a Change Order or Change Directive to authorize an adjustment of the scheduled quantity or to otherwise address the excess.

7.1.5.3 If the actual quantity of a Unit Price item differs from the scheduled quantity by 20 percent or more, so that application of the Unit Price to the quantities of Work performed or reasonably expected to be performed would create an undue hardship on either the Owner or Contractor:

.1 the Contractor shall initiate a Change Request seeking an adjustment of the Unit Price **(1)** as required under **Section** ~~**7.6,**~~**7.6,** and **(2)** within the time period required under **Section** ~~**7.6**~~**7.6** which begins to run on the day that the Contractor knew or should have known that the actual quantity of a Unit Price item would differ from the scheduled quantity by 20 percent or more; or

.2 the A/E, after consulting with the ~~Contracting Authority~~Owner, will issue a Change Directive to adjust the Unit Price.

7.1.5.4 If a Unit Price is adjusted as described under **Section ~~7.1.5.3,~~7.1.5.3,** the new Unit Price will only apply to the units of Work performed that are **(1)** less than the 20 percent threshold if the Unit Price is changed on account of an over- estimation of the scheduled quantity of a Unit Price item involved in the Work or **(2)** in excess of the 20 percent threshold if the Unit Price is changed on account of an under-estimation of the scheduled quantity of a Unit Price item involved in the Work.

7.1.5.5 Before final payment, the A/E shall issue a Change Order to reconcile any difference between the scheduled and actual quantities of Unit Price Work performed and materials furnished.

7.1.5.6 Notwithstanding **Section ~~7.1.5.3~~,7.1.5.3,** if the actual quantity of any item of Unit Price Work is zero, there shall be no adjustment of the Unit Price.

7.1.6 Notice of Credits and Schedule Reductions.

7.1.6.1 Notwithstanding any other provision of the Contract to the contrary, the Contractor shall promptly notify the ~~Contracting Authority,~~ Owner~~,~~ and A/E in writing whenever any change in the Project (including without limitation through an order for a minor change in the Work) may entitle the Owner to a credit from the Contractor or a reduction of the time for completion of the Project.

7.2 Change Orders

7.2.1 A Change Order is a written instrument prepared by the A/E and executed by the ~~Contracting Authority,~~ Owner~~,~~ and Contractor, stating their agreement upon all of the following:

7.2.1.1 a change in the Work;

7.2.1.2 the amount of the adjustment of the Contract Sum, if any; and

7.2.1.3 the extent of the adjustment of the Contract Times, if any.

7.2.2 Except with the ~~Contracting Authority's~~Owner's written consent as explicitly provided under **Sections ~~7.3.9, 7.3.10, 7.6.2, and 7.6.3,~~7.3.9, 7.3.10, 7.6.2,** and **7.6.3,** the Contractor is not entitled to reserve any rights or take other similar action with respect to a Change Order if the effect or intent of the reservation or action would be to accommodate a further adjustment of the Contract Sum or Contract Times, or both, after the Contractor signs the Change Order. By signing a Change Order, the Contractor irrevocably certifies that the elements of a Change Order described in **Section ~~7.2.1~~7.2.1** are completely and fully satisfied, and waives all rights, if any, to seek further adjustment of the Contract Sum or Contract Times, or both, at a later date with respect to the associated change in the Work including without limitation on account of **(1)** the ~~"~~"cumulative impact~~"~~" of the associated change in the Work in combination with one or more other changes in the Work; **(2)** all costs, including interest on those costs; and **(3)** any delays, inefficiencies, disruptions, suspensions, extended overhead, and acceleration.

7.2.3 The A/E shall prepare each Change Order form, attach the supporting documentation, and issue the Change Order to the Contractor for signature.

7.2.4 If the Contractor is in agreement with the Change Order under **Section ~~7.2.1,~~7.2.1,** the Contractor shall sign and return the Change Order to the A/E within three days after receiving it.

7.2.5 When the A/E receives the Change Order signed by the Contractor, the A/E will recommend approval by signing the form and transmitting the Change Order and the revised Change Order Log to the Owner.

7.2.6 When the Owner receives the Change Order, the Owner may sign the form accepting the Change Order, attach certification of funding, and transmit the Change Order to the ~~Contracting Authority~~Owner; or, if the Owner does not accept the Change Order, the Owner will reject and return it to the A/E.

7.2.7 When the ~~Contracting Authority~~Owner receives the Change Order, the ~~Contracting Authority~~Owner may sign the form approving the Change Order, and transmit the fully executed Change Order to all signers; or, if the ~~Contracting Authority~~Owner does not accept the Change Order, the ~~Contracting Authority~~Owner will reject and return it to the A/E.

7.2.8 When the Change Order is signed by the Contractor, A/E, and Owner~~, and Contracting Authority~~, the fully executed Change Order modifies the Contract Documents and authorizes and directs the Contractor to proceed, and the Contractor shall promptly proceed with the associated change in the Work.

7.3 Change Directives

7.3.1 A Change Directive is a written order prepared by the A/E and executed by the ~~Contracting Authority and~~ Owner directing a change in the Work or the performance of disputed Work as described under **Section**

~~7.3.4.1.~~7.3.4.1.

7.3.1.1 The parties will endeavor to resolve each Change Directive through the Field Meeting described under **Section** ~~7.7.~~7.7.

7.3.2 Through a Change Directive, the ~~Contracting Authority~~Owner may:

7.3.2.1 propose a basis for adjustment, if any, in the Contract Sum or Contract Times, or both; or

7.3.2.2 limit the scope of the change in the Work on a time and materials basis, not to exceed a fixed adjustment of the Contract Sum.

7.3.3 If a change in the Work must start immediately to avoid an imminent impact to the schedule of the Project, the A/E may prepare a Change Directive for the ~~Contracting Authority's and the Owner's~~Owner's signatures pursuant to **Section** ~~7.3.1.~~7.3.1. authorizing the Contractor to proceed.

7.3.4 A Change Directive shall be used to direct a change in the Work in the absence of total agreement on the terms of a Change Order.

7.3.4.1 For the purposes of clarity, the Contract refers to a Change Directive as if it is only to be used in the absence of total agreement on the terms of a Change Order concerning the associated change of the Work. A Change Directive may also be used in the absence of agreement as to whether the subject of the Change Directive actually constitutes a change in the Work; such as but not limited to the situations described under **Sections** ~~6.9.2~~6.9.2 and ~~7.4.3.~~7.4.3.

7.3.5 Upon receipt of a Change Directive, the Contractor shall promptly proceed with the change in the Work involved.

7.3.6 If the Change Directive contains a proposed basis for adjustment of the Contract Sum or Contract Times, or both, within ten days after receiving it, the Contractor may sign the Change Directive to accept the proposed basis for adjustment, and return it to the A/E. Thereafter, the A/E shall prepare and the A/E, ~~Contracting Authority,~~ Owner, and Contractor shall promptly execute an associated Change Order as described under **Section** ~~7.2.~~7.2.

7.3.7 Within ten days after receiving the Change Directive, or other period as mutually agreed by the Contractor and ~~Contracting Authority~~Owner, the Contractor shall submit to the A/E and ~~Contracting Authority~~Owner a Proposal meeting the requirements of **Section** ~~7.5~~7.5 for adjustment of the Contract Sum or Contract Times, or both, on account of the change, unless the Change Directive is performed on a time and materials basis under **Section** ~~7.3.2.2.~~7.3.2.2. If the Change Directive is performed on a time and materials basis, the Contractor shall submit its Proposal within ten days after completing the changed Work, which is the subject of the Change Directive.

7.3.8 If the Contractor does not respond to a Change Directive as and when required under **Section** ~~7.3.6~~7.3.6 or **Section** ~~7.3.7~~7.3.7
(1) the ~~Contracting Authority~~Owner shall determine the adjustments, if any, of the Contract Sum and Contract Times and issue its determination to the Owner, A/E, and Contractor, and **(2)** the A/E shall prepare a Change Order consistent with that determination and issue it to the Contractor as described under **Section** ~~7.2.3.~~7.2.3. If the Contractor does not agree with the ~~Contracting Authority's~~Owner's determination, the Contractor shall initiate a Claim as and when required under ~~**Article 8.**~~**Article 8.**

7.3.9 Pending final determination of the total adjustment of the Contract Times on account of a Change Directive, to the extent that the ~~Contracting Authority,~~ Owner~~,~~ and Contractor agree on a portion of the adjustment of the Contract Times, that the period of time not in dispute may be included in the Construction Progress Schedule accompanied by a Change Order indicating the parties~~'~~' agreement with only that portion of the time adjustment.

7.3.10 Pending final determination of the total adjustment of the Contract Sum on account of a Change Directive, to the extent that the ~~Contracting Authority,~~ Owner, and Contractor agree on a portion of the adjustment of the Contract Sum, the amount not in dispute for that change in the Work may be included in a Contractor Payment Request accompanied by a Change Order indicating the parties~~'~~' agreement with only that portion of the cost adjustment.

7.3.11 If the ~~Contracting Authority,~~ Owner~~,~~ and Contractor agree on the adjustments of the Contract Sum and Contract ~~7.3.11~~ Times associated with a Change Directive, the A/E shall prepare an appropriate Change Order. The A/E, ~~Contracting Authority,~~ Owner, and Contractor shall sign the Change Order as described under **Section** ~~7.2.~~7.2.

7.3.12 If the ~~Contracting Authority,~~ Owner~~,~~ and Contractor do not agree on the adjustments of the Contract Sum and Contract Times associated with a Change Directive, **(1)** the ~~Contracting Authority~~Owner shall determine the adjustments, if any, of the Contract Sum and Contract Times and issue its determination to the Owner, A/E, and Contractor, and **(2)** the A/E shall prepare a Change Order consistent with that determination and issue it to the Contractor as described under **Section** ~~7.2.3.~~7.2.3. If the Contractor does not agree with the ~~Contracting Authority's~~Owner's determination, the Contractor shall initiate a Claim as and when required under ~~**Article 8.**~~**Article 8.**

7.3.13 The ~~Contracting Authority~~Owner may at any time reject the ~~Contractor's~~Contractor's Proposal submitted under **Section** ~~7.3.7.~~7.3.7. If the Contractor does not agree with the ~~Contracting Authority's~~Owner's rejection, the

Contractor shall initiate a Claim as and when required under ~~Article 8.~~**Article 8.**

7.3.14 If a Change Directive or portion of a Change Directive remains pending or otherwise unresolved 60 days after the date on which the Change Directive was issued, the associated ~~Contractor's~~Contractor's Proposal or portion of the ~~Contractor's~~Contractor's Proposal still pending will be deemed rejected by the ~~Contracting Authority~~Owner. If the Contractor does not agree with the deemed rejection, the Contractor shall initiate a Claim as and when required under ~~Article 8.~~**Article 8.**

7.3.15 The ~~Contractor's~~Contractor's failure to comply with the requirements of this **Section** ~~7.3~~**7.3** will constitute an irrevocable waiver of the ~~Contractor's~~Contractor's Proposal and any related Claim.

7.4 Minor Changes in the Work

7.4.1 The A/E may order minor changes in the Work not involving adjustment of the Contract Sum or extension of the Contract Times and not inconsistent with the intent of the Contract Documents. Those changes shall be effected by written order issued to the Contractor.

7.4.2 The Contractor shall promptly carry out each order for a minor change in the Work if the Contractor agrees that the order does not involve adjustment of the Contract Sum or Contract Times, or both.

7.4.3 If the Contractor reasonably believes that it would be entitled to an adjustment of the Contract Sum or Contract Times, or both, on account of an order for a minor change in the Work, the Contractor, within five business days after receiving the order, shall give the ~~Contracting Authority~~Owner and A/E written notice of the ~~Contractor's~~Contractor's position, and not proceed with the subject Work without first receiving a Change Directive or Change Order related to it.

7.4.4 The Contractor waives its right to an adjustment of the Contract Sum or Contract Times on account of an order for a minor change in the Work by:

7.4.4.1 starting the Work that is the subject of the order for a minor change in the Work; or

7.4.4.2 failing to give the notice described under **Section** ~~7.4.3~~**7.4.3** within five business days after receiving the order for a minor change in the Work.

7.5 Proposal Requests and Contractor Proposals

7.5.1 Proposal Requests. The A/E shall prepare and issue a Proposal Request to the Contractor to obtain the ~~Contractor's~~Contractor's Proposal for the adjustment of the Contract Sum or Contract Times, or both, associated with a contemplated change in the Work.

7.5.1.1 The Contractor shall respond with a Proposal to the A/E and ~~Contracting Authority~~Owner within ten days after receiving the Proposal Request. The allowable time for the ~~Contractor's~~Contractor's response may be extended by written agreement of the Contractor and A/E.

7.5.1.2 If the Contractor does not submit a Proposal within the time required in **Section** ~~7.5.1.1~~**7.5.1.1,** the Contractor waives its right to an adjustment of the Contract Sum or Contract Times, or both, associated with the contemplated change in the Work.

7.5.1.3 A Proposal Request does not authorize the Contractor to proceed with a change in the Work.

7.5.2 Contractor Proposals in General.

7.5.2.1 In any Proposal for an adjustment of the Contract Sum, the Contractor shall specifically identify the items set forth in **Section** ~~7.8.~~**7.8.** By submitting a Proposal for an adjustment of the Contract Sum, the Contractor represents to the ~~Contracting Authority and~~ Owner that the proposed adjustment is the entire adjustment of the Contract Sum to which the Contractor is entitled on account of the associated change or proposed change in the Work.

7.5.2.2 In any Proposal for an adjustment of the Contract Times, the Contractor shall specifically identify the items set forth in **Section** ~~7.9.~~**7.9.** By submitting a Proposal for an adjustment of the Contract Times, the Contractor represents to the ~~Contracting Authority and~~ Owner that the proposed adjustment is the entire adjustment of the Contract Times to which the Contractor is entitled on account of the associated change or proposed change in the Work.

7.5.2.3 The Contractor shall hold every Proposal valid and open for acceptance for at least 45 days. The acceptance period may be adjusted by mutual consent of the Contractor and ~~Contracting Authority~~Owner.

7.5.2.4 A Proposal may be accepted by the ~~Contracting Authority and~~ Owner only through a Change Order.

7.5.2.5 The ~~Contractor's~~Contractor's cost of preparing and providing Proposals is included in the Contract Sum and shall not be included in any cost or credit determination under the Contract.

7.5.3 Contractor Proposals Related to Change Requests. In addition to complying with **Section** ~~7.5.2.~~**7.5.2.** if the Proposal relates to a Change Request, the Contractor shall include in the Proposal the following information to permit timely and appropriate evaluation of the Change Request, determination of responsibility, and opportunity for mitigation:

7.5.3.1 if applicable, the ~~Contractor's~~Contractor's planned actions to mitigate costs and delays by avoiding interference, disruption, hindrance, delay, or impact;

7.5.3.2 recommended action to mitigate costs and delays by avoiding interference, disruption, hindrance, delay, or impact; and

7.5.3.3 additional information **(1)** the ~~Contracting Authority~~Owner requests or **(2)** the Contractor believes is relevant to resolution of the Change Request.

7.6 Change Requests

7.6.1 The Contractor shall initiate a change in the Work by submitting to the ~~Contracting Authority~~Owner and A/E a Change Request accompanied by a Proposal meeting the requirements of **Section** ~~7.5~~**7.5** within ten days after the occurrence of the event giving rise to the Change Request.

7.6.1.1 The parties will endeavor to resolve each Change Request through the Field Meeting described under **Section** ~~7.7.~~**7.7.**

7.6.2 Pending final determination of the total adjustment of the Contract Times on account of a Change Request, to the extent that the ~~Contracting Authority,~~ Owner, and Contractor agree on a portion of the adjustment of the Contract Times, that period of time not in dispute may be included in the Construction Progress Schedule accompanied by a Change Order indicating the parties~~'~~' agreement with only that portion of the time adjustment.

7.6.3 Pending final determination of the total adjustment of the Contract Sum on account of a Change Request, to the extent that the ~~Contracting Authority,~~ Owner~~,~~ and Contractor agree on a portion of the adjustment of the Contract Sum, the amount not in dispute for that change in the Work may be included in a Contractor Payment Request accompanied by a Change Order indicating the parties~~'~~' agreement with only that portion of the cost adjustments.

7.6.4 If the ~~Contracting Authority,~~ Owner~~,~~ and Contractor agree on the adjustments of the Contract Sum and Contract Times associated with a Change Request, the A/E shall prepare an appropriate Change Order. The A/E, ~~Contracting Authority,~~ Owner, and Contractor shall sign the Change Order as described under **Section** ~~7.2.~~**7.2.**

7.6.5 If the ~~Contracting Authority,~~ Owner~~,~~ and Contractor do not agree on the adjustments of the Contract Sum and Contract Times associated with a Change Request, **(1)** the ~~Contracting Authority~~Owner may determine the adjustments, if any, of the Contract Sum and Contract Times and issue its determination to the Owner, A/E, and Contractor, and **(2)** the A/E shall prepare a Change Order consistent with that determination and issue it to the Contractor as described under **Section**

7.2.3. ~~**7.2.3.**~~ If the Contractor does not agree with the ~~Contracting Authority's~~Owner's determination, the Contractor shall initiate a Claim as and when required under ~~**Article 8.**~~**Article 8.**

7.6.6 The ~~Contracting Authority~~Owner may at any time reject the ~~Contractor's~~Contractor's Change Request and Proposal submitted under **Section** ~~**7.6.1.**~~**7.6.1.** If the Contractor does not agree with the ~~Contracting Authority's~~Owner's rejection, the Contractor shall initiate a Claim as and when required under ~~**Article 8.**~~**Article 8.**

7.6.7 If a Change Request or portion of a Change Request remains pending or otherwise unresolved 60 days after the date on which the Change Request was submitted, the Change Request or portion of the Change Request still pending will be deemed rejected by the ~~Contracting Authority~~Owner. If the Contractor does not agree with the deemed rejection, the Contractor shall initiate a Claim as and when required under ~~**Article 8.**~~**Article 8.**

7.6.8 The ~~Contractor's~~Contractor's failure to comply with the requirements of this **Section** ~~7.6~~**7.6** will constitute an irrevocable waiver of the Change Request and any related Claim.

7.7 Field Meeting

7.7.1 The ~~Contracting Authority,~~ Owner~~,~~ and Contractor shall meet to review and endeavor to resolve **(1)** a Change Directive within 14 days after the ~~Contracting Authority and~~ Owner issue it under **Section** ~~7.3.1~~**7.3.1** and **(2)** a Change Request within seven days after the Contractor initiates it under **Section** ~~7.6.1.~~**7.6.1.**

7.7.2 Notwithstanding **Section** ~~7.7.1:~~**7.7.1:**

7.7.2.1 a Field Meeting is not a condition precedent to the exercise of any right or the performance of any obligation under the Contract;

7.7.2.2 whether and when a Field Meeting is convened does not alter any right or any obligation under the Contract; and

7.7.2.3 the ~~Contracting Authority,~~ Owner~~,~~ and Contractor may convene a Field Meeting at any time to address and attempt to resolve any pending Change Directive, Change Request, or other matter.

7.8 Change Order Cost or Credit Determination

7.8.1 General.

7.8.1.1 The maximum cost or credit resulting from a change in the Work shall be determined as described below.

.1 Proposals shall include the information required by **Section ~~7.8.1.4.~~7.8.1.4.**

.2 A Unit Price Proposal shall only be valid when incorporated into the Contract by Change Order except for Unit Price Work included in the Contract.

.3 The maximum cost or credit includes all compensation for impact costs. Additional costs for impacts shall not be allowed.

7.8.1.2 The Contractor shall not assign any portion of the Work to another Person whereby the Contractor would benefit directly or indirectly from the double application of charges for overhead or profit.

Example: Assume that **(1)** the Contractor is or is capable of self-performing general trades Work and **(2)** the change in the Work includes both electrical trade Work and general trades Work. The Contractor may not assign the general trades Work to the ~~Contractor's~~Contractor's electrical Subcontractor and then perform that general trades Work as a sub-subcontractor to the ~~Contractor's~~Contractor's electrical Subcontractor.

7.8.1.3 The ~~Contracting Authority~~Owner may require notarized invoices for material costs and may audit the records of the Contractor and Subcontractors.

7.8.1.4 For each change in the Work, the Contractor shall furnish a detailed Proposal itemized on the **Proposal Worksheet Summary Form (Contractor)** published by the Ohio Facilities Construction Commission through which the Contractor shall document the related changes in the Contract Sum as described under **Section ~~7.8.2.~~7.8.2.** Any Subcontractor pricing shall be itemized on the appropriate **Proposal Worksheet Summary Form.**

.1 The ~~Contractor's~~Contractor's cost of preparing and providing Proposals is included in the Contract Sum and shall not be included in any cost or credit determination under the Contract.

7.8.1.5 Section ~~7.8.2~~7.8.2 establishes the exclusive and maximum amount that the Owner shall pay for any change in the Work, including, but not limited to, all amounts for interference with, delay, hindrance, disruption of, or impact on the Work (~~"~~"Pricing Criteria~~"~~"). These Pricing Criteria also govern the value of deduct Change Orders and the ~~Contractor's~~Contractor's entitlement to additional compensation or damages through the Change Directive, Change Request, Claims, and dispute resolution processes on account of changes in the Work. In order to expedite the review and approval process, Proposals shall be prepared in the categories and order listed in **Section ~~7.8.2.~~7.8.2.**

7.8.2 Pricing Criteria.

7.8.2.1 Contractor Personnel Costs. Any cost or credit arising from a change in the quantity of the ~~Contractor's~~Contractor's on- Site management (including supervision and administrative personnel) not subject to prevailing wage under ORC Chapter 4115 shall be calculated on an hourly basis according to the rates acceptable to the ~~Contracting Authority~~Owner.

.1 In no event will the Contractor be entitled to an increase in the Contract Sum on account of Contractor Personnel Costs unless the Contractor actually incurs additional Contractor Personnel Costs solely on account of the associated change in the Work.

.2 Under no conditions will the increase under this **Section ~~7.8.2.1~~7.8.2.1** exceed those additional Contractor Personnel Costs the Contractor actually incurs.

7.8.2.2 Labor. Any cost or credit arising from a change in the quantity of field labor directly involved in the Work shall be based upon the actual rate of pay to the worker. If the Project is subject to payment of prevailing wage rates, field labor shall be paid according to the relevant classification of labor as established in the applicable prevailing wage determination for the Project locality, as determined by the Ohio Department of Commerce, Wage and Hour Bureau.

.1 In no event will the Contractor be entitled to an increase in the Contract Sum on account of labor costs unless the Contractor actually incurs additional labor costs solely on account of the associated change in the Work.

.2 Under no conditions will the increase under this Section ~~7.8.2.2~~7.8.2.2 exceed those additional labor costs the Contractor actually incurs.

.3 The cost for supervision above the level of working forepersons (such as general forepersons, superintendent, project manager, etc.) is included in the adjustment under Section ~~7.8.2.1~~7.8.2.1

for the Contractor and under Section ~~7.8.2.10~~7.8.2.10 for Subcontractors.

7.8.2.3 Fringes. Fringe benefit credit for labor provided under Section ~~7.8.2.2~~7.8.2.2 is only allowable for prevailing wage fringe benefits pursuant to ORC Chapter 4115, including, but not limited to, Health and Welfare, vacation, apprenticeship training, and certain types of pension plans. The parties shall defer to the Ohio Department of ~~Commerce's~~Commerce's policy on which benefits are granted fringe benefit credit. Each fringe benefit for which credit is requested shall be calculated on an hourly basis and listed as a separate line item. The Contractor shall submit documentation supporting the calculation of the amounts for each fringe benefit for each worker classification, including labor provided by Subcontractors.

7.8.2.4 Allowable Payroll Expenses. Allowable payroll expenses for labor provided under Section ~~7.8.2.2~~7.8.2.2 including payroll taxes as well as other benefits that are required by Applicable Law, such as federal and state unemployment and workers'~~,~~ compensation shall each be a separate line item and shall not be credited for compliance with ORC Chapter 4115.

7.8.2.5 Equipment Rentals. Any cost or credit arising from a change in the quantity of non-owned heavy or specialized equipment shall be based on the documented rental cost, but shall not exceed 100 percent of that documented cost. No rental charges shall be allowed for hand tools, minor equipment, simple scaffolds, etc. Downtime due to repairs, maintenance, and weather delays shall not be allowed. The Contractor shall submit copies of actual paid invoices to substantiate rental costs.

7.8.2.6 Owned Equipment. Any cost or credit arising from a change in the quantity of heavy or specialized equipment owned by the Contractor or Subcontractor performing the Work shall be based on the cost listed by the current edition of the Associated Equipment Distributors'~~,~~ *AED Blue Book* heavy equipment rental rates, but shall not exceed 100 percent of that documented cost. No recovery shall be allowed for hand tools, minor equipment, simple scaffolds, etc. The longest period of time that the equipment is to be required for the Work shall be the basis for the pricing. Downtime due to repairs, maintenance, and weather delays shall not be allowed.

7.8.2.7 Trucking. Any cost or credit arising from a change in the quantity of trucking shall be based on a reasonable delivery charge or per-mile trucking charge for delivery of required materials or equipment. Charges for use of a pick-up truck shall not be allowed.

7.8.2.8 Materials. Any cost or credit arising from a change in the quantity of materials incorporated into the changed Work shall be based on the actual cost (including all discounts, rebates, or related credits) of those materials. Documentation shall show costs, quantities, or Unit Prices of all items, as appropriate.

.1 The cost or credit for reusable materials (e.g., concrete form lumber, shoring, or temporary enclosures) shall be limited to 33 percent of the material cost for each use.

7.8.2.9 ~~Contractor's~~Contractor's General Conditions Costs. Any cost or credit arising from a change in the quantity of the ~~Contractor's~~Contractor's General Conditions Costs shall be limited to the extent to which the change is attributable to an associated change in the Contract Time for achievement of Substantial Completion resulting from the change in the Work.

.1 In no event shall the Contract Sum adjustment per day of Contract Time adjustment exceed an amount equal to (1) the sum of the General Conditions Costs line items in the ~~Contractor's~~Contractor's Schedule of Values approved by the ~~Contracting Authority~~Owner, (2) divided by the total number of days of the original Contract Time for achievement of Substantial Completion.

.2 The Contractor shall (1) exclude the Bond premium from the Schedule of Values for the purposes of the calculation under Section ~~7.8.2.9.1,~~7.8.2.9.1, and (2) include the actual adjustment of the Bond premium attributable to an associated change in the Contract Sum.

.3 If the Contractor purchases the ~~builder's~~builder's risk insurance for the Project, the Contractor shall **(1)** exclude the ~~builder's~~builder's risk insurance premium from the Schedule of Values for the purposes of the calculation under **Section ~~7.8.2.9.1,~~7.8.2.9.1,** and **(2)** include the actual adjustment of the ~~builder's~~builder's risk insurance premium attributable to an associated change in the Contract Sum.

7.8.2.10 Subcontractor Overhead and Profit. Any cost or credit arising from a change in Subcontractor-performed Work shall include the ~~Subcontractor's~~Subcontractor's aggregate overhead and profit allowance equal to 15 percent of the sum of the ~~Subcontractor's~~Subcontractor's costs described under **Sections ~~7.8.2.2~~7.8.2.2** through ~~7.8.2.8~~7.8.2.8 that are associated with that changed Work.

.1 The allowance applies to each Subcontractor tier. The Contractor is not entitled to recover overhead and profit under **Section ~~7.8.2.10~~7.8.2.10** on account of changes in Contractor self-performed Work or Work the Contractor performs as a Subcontractor at any tier.

Example: Assume that **(1)** the Contractor is self-performing general trades Work and **(2)** the change in the Work includes both $25,000 of electrical trade Work and $10,000 of general trades Work. Under this **Section ~~7.8.2.10,~~7.8.2.10, (1)** the ~~Contractor's~~Contractor's Subcontractor would be entitled to overhead and profit

mark-up but

(2) the Contractor would not be entitled to any mark-up. Under **Section** ~~7.8.2.11~~ **7.8.2.11,** the Contractor would be entitled to ~~Contractor's~~Contractor's Fee mark-up on its self-performed Work and on the electrical Work. The amount of the Change Order would be calculated as follows: Subcontractor Change Order = $25,000 + ($25,000 x 15%) = $28,750; Contractor Change Order = $10,000 + $28,750 + (($10,000 + $28,750) x 10%) = $42,625.

.2 The allowance covers Subcontractor general conditions costs, home office overhead, and profit including, but not limited to: payroll costs, the costs required to schedule and coordinate the Work, telephone, telephone charges, facsimile, telegrams, postage, photos, photocopying, hand tools, simple scaffolds (one level high), tool breakage, tool repairs, tool replacement, tool blades, tool bits, home office estimating and expediting, home office clerical and accounting support, home office labor (management, supervision, engineering), all costs related to Subcontractor-provided insurance, all other home office expense, legal services, travel, and parking expenses.

.3 An exception is allowed for shop or engineering labor on items in **Section** ~~7.8.2.10.2~~ **7.8.2.10.2,** which shall not be subject to Prevailing Wage rates for steel fabricators, sheet metal fabricators, and sprinkler system fabricators performing work off Site. Recovery for these matters shall be allowed on an hourly basis under items in **Sections** ~~7.8.2.2, 7.8.2.3, and 7.8.2.4~~**7.8.2.2, 7.8.2.3,** and **7.8.2.4** of these Pricing Criteria.

.4 An exception is allowed for field supervision labor on items in **Section** ~~7.8.2.10.2~~ **7.8.2.10.2,** for those portions of the Change Order Work that will be performed, or was performed, at times when the superintendent is not required to be on Site under **Section** ~~6.4~~ **6.4,** including but not limited to overtime hours due to acceleration and extensions of the Contract Times. Recovery for this matter will be allowed on an hourly basis under items in **Sections** ~~7.8.2.2, 7.8.2.3, and 7.8.2.4~~**7.8.2.2, 7.8.2.3,** and **7.8.2.4** of these Pricing Criteria.

7.8.2.11 ~~Contractor's~~Contractor's Fee. Any cost or credit arising from a change in the Work shall include an allowance for the ~~Contractor's~~Contractor's Fee equal to **(1)** ten percent times **(2)** the sum of the costs described under **Sections** ~~7.8.2.1~~**7.8.2.1** through ~~7.8.2.10~~**7.8.2.10** that are associated with that changed Work.

7.8.2.12 Miscellaneous. Any cost or credit arising from a change in Work may include the following costs with no allowance for ~~Contractor's~~Contractor's Fee under **Section** ~~7.8.2.11~~**7.8.2.11** or Subcontractor overhead and profit under **Section** ~~7.8.2.10~~ **7.8.2.10.**

.1 The premium portion only for approved overtime (labor and fringes). The straight time portion is included in items in **Sections** ~~7.8.2.2, 7.8.2.3, and 7.8.2.4~~ **7.8.2.2, 7.8.2.3,** and **7.8.2.4.**

.2 State sales tax shall be allowed on items as defined by **Section** ~~12.7~~ **12.7.**

7.8.3 Costs that shall not be reimbursed for changes in the Work include the following:

7.8.3.1 Voluntary employee deductions including, but not limited to, deductions for charitable donations or U.S. savings bonds.

7.8.3.2 Employee profit sharing.

7.9 Time Extension

7.9.1 Every adjustment of the Contract Times associated with any change in the Work shall be determined as provided in this **Section** ~~7.9~~**7.9,** which establishes the ~~Contractor's~~Contractor's maximum entitlement for any change in the Work, including without limitation all adjustments for interference, delay, hindrance, disruption of, or impact on the Work. This **Section** ~~7.9~~**7.9** also governs time adjustments for deduct Change Orders and the ~~Contractor's~~Contractor's entitlement to additional time through the Change Directive, Change Request, Claims, and dispute resolution processes on account of changes in the Work.

7.9.2 The Contractor shall substantiate all changes in the Contract Times with:

7.9.2.1 a written description of the nature of the interference, disruption, hindrance, or delay;

7.9.2.2 identification of Persons and events responsible for the interference, disruption, hindrance, or delay;

7.9.2.3 date or anticipated date of commencement of the interference, disruption, hindrance, or delay;

7.9.2.4 identification of activities by schedule activity number and name on the Construction Progress Schedule, which may be affected by the interference, disruption, hindrance, or delay, or new activities created by the interference, disruption, hindrance, or delay and the relationship with existing activities;

7.9.2.5 anticipated duration of the interference, disruption, hindrance, or delay and of any remobilization period;

7.9.2.6 specific number of days of extension requested and specific number of days for remobilization requested;

7.9.2.7 recommended action to avoid or minimize any future interference, disruption, hindrance, or delay; and

7.9.2.8 If the ~~Contracting Authority~~Owner requests, a Proposal as described under **Section ~~7.8~~7.8** for an increase in the Contract Sum which would fully compensate the Contractor for all costs of acceleration of the Work needed to completely overcome the associated delay, if any.

7.9.3 If the ~~Contracting Authority~~Owner requests, in addition to the requirements under **Section ~~7.9.2.~~7.9.2.** the Contractor shall also substantiate changes in the Contract Times with a prospective time-impact analysis (in native format), which illustrates the influence of each change on all affected Milestones and all affected activities. The Contractor shall submit the ~~time-impact~~time-impact analysis within 30 days after the ~~Contracting Authority~~Owner requests, unless the ~~Contracting Authority~~Owner and Contractor agree otherwise.

7.9.3.1 The Contractor shall prepare the time-impact analysis consistent with a currently published, recognized standard for construction schedule analysis.

7.9.3.2 The Contractor shall prepare the time-impact analysis on the basis of **(1)** the last Construction Progress Schedule the ~~Contracting Authority~~Owner approved before the first day of the delay which is the subject of the analysis or

(2) an interim update of the Construction Progress Schedule if the ~~Contracting Authority~~Owner determines that the period between the last approved Construction Progress Schedule and first day of the delay which is the subject of the analysis is too long.

7.9.3.3 The time-impact analysis shall include a fragmentary network analysis (fragnet), which **(1)** illustrates the sequence of new activities, activity revisions, or both, that the Contractor proposes to add to the Construction Progress Schedule upon which the time-impact analysis is based and **(2)** mathematically and graphically demonstrates the influence and proper measurement of the delay and how the Contractor proposes to incorporate that delay into the Construction Progress Schedule.

7.9.3.4 The time-impact analysis shall include a written narrative of the analysis.

7.9.4 Critical Path. Time extensions shall depend upon the extent to which the Work on the critical path of the Construction Progress Schedule is affected, if applicable.

7.9.4.1 A Change Order granting a time extension may provide that the Contract Times shall be extended for only those specific elements so interfered with, disrupted, hindered, or delayed and related remobilization and that remaining Milestone dates shall not be altered and may further provide for adjustment of Liquidated Damages.

7.10 Weather Delays

7.10.1 The parties expect adverse weather to delay the Work to some extent, and have included in the Contract Times a certain number of Work Days lost on account of adverse weather as follows:

Month	Expected Number of Work Days Lost Due to Weather
January	8
February	8
March	7
April	6
May	5
June	5
July	4
August	4
September	5
October	6
November	6
December	6

7.10.2 The Contractor will not be entitled to an extension of the Contract Times on account of adverse weather unless the actual number of Work Days lost due to adverse weather in a particular calendar month exceed the expected number of Work Days lost in that calendar month due to adverse weather. The Contractor shall reconcile lost Work Days with the A/E on a weekly basis.

7.10.3 A Work Day will be "lost" if adverse weather reduces the ~~Contractor's~~Contractor's efficiency on the Work on the critical path that Work Day to less than 50%. The Contractor shall substantiate its claim that its efficiency on the Work on the critical path that Work Day was less than 50%.

7.10.4 If the Contractor reasonably believes that it is entitled to an extension of the Contract Times on account of Work Days lost due to adverse weather in a particular month, the Contractor shall initiate a Change Request **(1)** as required under **Section** ~~7.6.~~7.6. and **(2)** within the time period required under **Section** ~~7.6~~7.6 which begins to run on the last calendar day of that month.

7.11 Examination and Audit of ~~Contractor's~~Contractor's Records

7.11.1 The ~~Contracting Authority and~~ Owner may examine all books, records, documents and other data of the Contractor and its Subcontractors related to the bidding, pricing, or performance of the Work for the purpose of evaluating any Contractor Payment Request, Proposal, Modification, or Claim.

7.11.2 The above referenced materials shall be made available at the office of the Contractor or Subcontractor, as applicable, at all reasonable times for inspection, audit, and reproduction until the expiration of ten years after the date of Substantial Completion of all Work.

7.11.2.1 The Contractor shall maintain and require its Subcontractors to maintain complete and accurate business records at its principal place of business. If the principal place of business is greater than 50 miles from the Site, the Contractor shall timely make records available, and shall require its Subcontractors to timely make records available, at the office of the ~~Contracting Authority or~~ Owner upon request for the records.

7.11.3 To the extent that the Contractor or Subcontractor, as applicable, informs the ~~Contracting Authority or~~ Owner in writing that any documents provided to the ~~Contracting Authority or~~ Owner are trade secrets, the ~~Contracting Authority or~~ Owner shall treat those documents, to the extent permitted by Applicable Law, as trade secrets of the Contractor or Subcontractor, as applicable.

7.11.3.1 If a dispute arises with any other Person about whether that Person should be given access to the documents, the Contractor or Subcontractor as applicable, shall indemnify the ~~Contracting Authority and~~ Owner against all costs, expenses, and damages, including but not limited to attorneys' fees, incurred or paid by reason of that dispute.

7.11.4 The right of inspection, audit, and reproduction extends to all documents necessary to permit adequate evaluation of the cost of pricing data submitted along with the computations and projections used therein.

7.11.5 If the Contract has been terminated in whole or in part, the records relating to the Work terminated shall be made available to the ~~Contracting Authority or~~ Owner for a period of ten years from the date of any applicable final settlement or payment, as applicable.

7.11.6 Records that relate to disputes, litigation, or settlement of Claims arising out of the performance of the Work shall be made available until the dispute, litigation or Claims have been finally decided or settled.

ARTICLE 8 - DISPUTE RESOLUTION

8.1 Initiation of a Claim

8.1.1 Every Claim shall accrue upon the date of occurrence of the event giving rise to the Claim.

8.1.2 The Contractor shall initiate every Claim by giving written notice of the Claim to the A/E and ~~Contracting Authority~~Owner within ten days after occurrence of the event giving rise to the Claim, including:

8.1.2.1 with regard to a Change Directive, the ten-day time limit on initiating a Claim begins to run on the earlier of the date that **(1)** the ~~Contracting Authority~~Owner issues its determination under **Sections** ~~7.3.8~~7.3.8 or ~~7.3.12~~7.3.12**; (2)** the A/E issues

a Change Order to the Contractor under **Sections** ~~7.3.8~~7.3.8 or ~~7.3.12;~~7.3.12**; (3)** the ~~Contracting Authority~~Owner rejects the ~~Contractor's~~Contractor's Proposal in whole or in part under **Section** ~~7.3.13;~~7.3.13**;** or **(4)** the ~~Contracting Authority~~Owner is deemed to have rejected the ~~Contractor's~~Contractor's Proposal in whole or in part under **Section** ~~7.3.14;~~7.3.14**;** and

8.1.2.2 with regard to a Change Request, the ten-day time limit on initiating a Claim begins to run on the earlier of the date that **(1)** the ~~Contracting Authority~~Owner issues its determination under **Section** ~~7.6.5~~7.6.5**; (2)** the A/E issues a Change Order to the Contractor under **Section** ~~7.6.5;~~7.6.5**; (3)** the ~~Contracting Authority~~Owner rejects the ~~Contractor's~~Contractor's Proposal in whole or in part under **Section** ~~8.1.2.2 7.6.6~~7.6.6**;** or **(4)** the ~~Contracting Authority~~Owner is deemed to have rejected the Change Request in whole or

in part under **Section ~~7.6.7.~~7.6.7.**

8.1.3 The ~~Contractor's~~Contractor's written notice of a Claim shall provide the following information to permit timely and appropriate evaluation of the Claim, determination of responsibility, and opportunity for mitigation:

8.1.3.1 nature and anticipated amount of the impact, including all costs for any interference, disruption, hindrance, or delay, which shall be calculated in accordance with **Section ~~7.8~~7.8** and be a fair and reasonably accurate assessment of the damages suffered or anticipated by the Contractor;

8.1.3.2 identification of the circumstances responsible for causing the impact, including, but not limited to, the date or anticipated date, of the commencement of any interference, disruption, hindrance, or delay;

8.1.3.3 identification of activities on the Construction Progress Schedule that will be affected by the impact or new activities that may be created and the relationship with existing activities;

8.1.3.4 anticipated impacts and anticipated duration of any interference, disruption, hindrance, delay, or impact, and any remobilization period;

8.1.3.5 the ~~Contractor's~~Contractor's completed and planned actions to mitigate damages by avoiding interference, disruption, hindrance, delay, or impact; and

8.1.3.6 recommended action to avoid or minimize any interference, disruption, hindrance, delay, or impact.

8.1.4 The ~~Contractor's~~Contractor's failure to initiate a Claim as and when required under this **Section ~~8.1~~8.1** will constitute the ~~Contractor's~~Contractor's irrevocable waiver of the Claim.

8.2 Substantiation of Claims – General Requirements

8.2.1 Within 30 days after the initiation of a Claim, the Contractor shall submit three copies of all information and statements required to substantiate a Claim as provided in this **~~Article 8~~Article 8** and all other information that the Contractor believes substantiates the Claim. The Contractor shall file the three copies by delivering one copy to the A/E~~,~~ and one copy to the Owner~~, and one copy to the Contracting Authority~~.

8.2.2 The Contractor shall substantiate all of its Claims by providing the following minimum information:

8.2.2.1 a narrative of the circumstances, which gave rise to the Claim, including without limitation the start date of the event or events and the actual or anticipated finish date;

8.2.2.2 detailed identification of the Work (e.g., activity codes from the Construction Progress Schedule) affected by the event giving rise to the Claim;

8.2.2.3 copies of the ~~Contractor's~~Contractor's daily log **(Section ~~6.2.14~~6.2.14)** for each day of impact;

8.2.2.4 copies of relevant correspondence and other information regarding or supporting Contractor entitlement;

8.2.2.5 copies of the ~~Contractor's~~Contractor's most-recent income statement and complete and detailed job-cost report, including segregated general and administrative expenses for the most-recent reporting period, and for the period of the Contract, if available, and similar information for any Subcontractor claim included; and

8.2.2.6 the notarized certification described under **Section ~~8.5.1.1~~8.5.1.1.**

8.2.3 The ~~Contractor's~~Contractor's failure to comply with the requirements of this **Section ~~8.2~~8.2** will constitute an irrevocable waiver of any related Claim.

8.3 Substantiation of Claims – Increase of the Contract Sum

8.3.1 The Contractor shall substantiate each Claim for an increase of the Contract Sum with:

8.3.1.1 written documentation as described under **Section ~~7.8~~7.8** of the actual additional costs to the Contractor due to the event giving rise to the Claim; and

8.3.1.2 the general substantiation documentation described under **Section ~~8.2.~~8.2.**

8.3.2 The ~~Contractor's~~Contractor's failure to comply with the requirements of this **Section ~~8.3~~8.3** will constitute an irrevocable waiver of any related Claim.

8.4 Substantiation of Claims – Extension of the Contract Times

8.4.1 The Contractor shall substantiate each Claim for an extension of the Contract Times with:

8.4.1.1 written documentation as described under **Section ~~7.9~~7.9** of the actual delay to the critical path of the Construction Progress Schedule due to the event giving rise to the Claim;

8.4.1.2 a Proposal as described under **Section ~~7.8~~7.8** for an increase in the Contract Sum that would fully compensate the Contractor for all costs of acceleration of the Work needed to completely overcome the associated

delay together with a statement consistent with **Section** ~~8.3.1.1~~**8.3.1.1**; and

8.4.1.3 the general substantiating documentation described under **Section** ~~8.2~~ **8.2.**

8.4.2 The ~~Contractor's~~Contractor's failure to comply with the requirements of this **Section** ~~8.4~~**8.4** will constitute an irrevocable waiver of any related Claim.

8.5 Certification of the Claim

8.5.1 The Contractor shall certify each Claim within 30 days after initiating the Claim under **Section** ~~8.1~~**8.1** by providing the notarized certification specified in **Section** ~~8.5.1.1~~**8.5.1.1.** signed and dated by the Contractor:

8.5.1.1 ~~"~~"The undersigned Contractor certifies that the Claim is made in good faith; that the supporting data is accurate and complete to the best of the ~~Contractor's~~Contractor's knowledge and belief; that the amount of money, time, or both requested is a fair, reasonable, and necessary adjustment; that the amount of money, time, or both requested is the entire amount of money, time, or both to which the Contractor is entitled on account of the Claim; and that the undersigned is duly authorized to certify the Claim on behalf of the Contractor.~~"~~"

8.5.2 The date that the ~~Contractor's~~Contractor's certified and fully substantiated Claim is received by the ~~Contracting Authority~~Owner, or the date that the Contractor is required to certify and fully substantiate a Claim pursuant to **Sections** ~~8.2.1~~**8.2.1** and ~~8.5.1~~**8.5.1.** shall trigger the 120- day period for exhaustion of administrative remedies pursuant to ORC Section 153.16(B).

8.5.3 The ~~Contractor's~~Contractor's failure to comply with the requirements of this **Section** ~~8.5~~**8.5** will constitute an irrevocable waiver of any related Claim.

8.6 Delay and Delay Damage Limitations; Derivative Claims

8.6.1 Subject to other provisions of the Contract, the Contractor will be entitled only to an extension of the Contract Times on account of delay in the commencement or progress of Work on the critical path of the Construction Progress Schedule caused by acts of Nature or the public enemy, acts of the government not arising from the ~~Contractor's~~Contractor's failure to comply with Applicable Law, fires, floods, epidemics, weather, and labor disputes beyond the ~~Contractor's~~Contractor's control.

8.6.2 Notwithstanding any other provision of the Contract Documents to the contrary, the Contractor shall not be entitled to an increase in the Contract Sum, or an extension of the Contract Times, or both:

8.6.2.1 on account of the impact of any normal adverse weather on any of the Work or on account of the impact of any abnormal adverse weather as indicated under **Section** ~~7.10~~**7.10** on Work not on the critical path;

8.6.2.2 to the extent that a delay occurs concurrently with a delay attributable to the Contractor; or

8.6.2.3 on account of the delay of any Work not on the critical path.

8.6.3 Notwithstanding any other provision of the Contract Documents to the contrary, the Contractor shall not be entitled to an increase in the Contract Sum or any type of damages on account of a delay in the commencement or progress of Work on the critical path unless **(1)** the delay is caused by the Owner and **(2)** the delay was not authorized or permitted under the Contract.

8.6.4 Notwithstanding any other provision of the Contract Documents to the contrary, the Contractor shall not be entitled to an increase in the Contract Sum or any type of damages arising from a delay in the commencement or progress of any of the Work caused by the occurrence or non-occurrence of an event beyond the ~~Owner's~~Owner's control such as acts of Nature or the public enemy, acts of the government, fires, floods, epidemics, labor disputes, unusual delivery delays, weather, or damages caused by the Contractor.

8.6.5 Derivative Claims. Notwithstanding any other provision of the Contract to the contrary, if the Owner prosecutes a claim, suit, or appeal against a Separate Consultant or Separate Contractor to recover damages the Contractor suffers on account of the acts or neglects of a Separate Consultant or Separate Contractor or a person or entity for whom either is legally responsible, the ~~Owner's~~Owner's liability to the Contractor shall not exceed the amount the Owner actually recovers from the Separate Consultant or Separate Contractor on account of those damages less the costs the Owner incurs recovering them. The Owner is not obligated to prosecute any such claim, suit, or appeal.

8.7 Liquidated Damages

8.7.1 If the Contractor fails to achieve a Milestone within the associated Contract Time, it would be difficult, if not impossible, to determine the ~~Owner's~~Owner's resulting damages. Therefore, if the Contractor fails to achieve a Milestone within the associated Contract Time, the Contractor shall (at the ~~Owner's~~Owner's option) pay to or credit the Owner the Liquidated Damages per day sum determined according to the following schedule for each day that the

Contractor fails to achieve a Milestone within the associated Contract Time. If the Project involves more than one Phase as explicitly identified in the Agreement, the Contract Sum in the below schedule refers to the total Contract Sum for each of the Phases individually as opposed to the aggregate Contract Sum for all Phases.

Contract Sum	Liquidated Damages per day for Milestones other than the Punch List Milestone	Liquidated Damages per day for the Punch List Milestone
Less than $1,000,000	$500	$125
From $1,000,000.01 to $2,000,000	$1,000	$250
From $2,000,000.01 to $5,000,000	$2,000	$500
From $5,000,000.01 to $10,000,000	$5,000	$1,250
From $10,000,000.01 to $20,000,000	$7,500	$1,875
From $20,000,000.01 to $50,000,000	$10,000	$2,500
More than $50,000,000	$15,000	$3,750

8.7.2 The Liquidated Damages described in this **Section ~~8.7~~8.7** are only intended to compensate the Owner for the damages it incurs as a direct result of the ~~Contractor's~~Contractor's failure to achieve the Milestones within their associated Contract Times.

8.7.3 The Liquidated Damages described in this **Section ~~8.7~~8.7** are not intended to compensate the Owner for any damages the Owner incurs on account of **(1)** any claims attributable to the Contractor that are brought by others including Separate Consultants and Separate Contractors as a result of the ~~Contractor's~~Contractor's failure to achieve the Milestones within their associated Contract Times or **(2)** any failure of the Contractor to timely, properly, and completely perform the Contract other than the failure to achieve the Milestones within their associated Contract Times.

8.7.4 The parties acknowledge that the above-listed Liquidated Damages per day sums are not penalties but are a reasonable estimate of the damages the Owner itself would incur as a direct result of the ~~Contractor's~~Contractor's failure to achieve the Milestones within their associated Contract Times. The parties each irrevocably waive the right (if any) to challenge the validity and enforceability of those Liquidated Damages per day sums. Notwithstanding any other provision of the Contract Documents to the contrary, if a court determines that the Liquidated Damages per day sums or their application are void and unenforceable, the Owner shall be entitled to recover the actual damages that it incurs on account of the ~~Contractor's~~Contractor's failure to achieve one or more of the Milestones within the Contract Times.

8.7.5 In addition to other rights that the Owner may have relative to the Liquidated Damages, the ~~Contracting Authority~~Owner may deduct Liquidated Damages from the Contract Sum as the damages accrue. If payments then or thereafter due the Contractor are not sufficient to cover such amounts, the Contractor shall immediately pay the amount of the insufficiency to the Owner.

8.8 Mutual Waiver of Consequential Damages

8.8.1 Except as provided under **Section ~~8.8.2,~~8.8.2,** the Owner and Contractor each waive against the other all Claims for consequential damages that may arise out of or relate to this Contract.

8.8.1.1 The ~~Owner's~~Owner's waiver includes Claims for loss of use, income, profit, revenue, financing, cost of capital, business and reputation, management and employee productivity, and consequential damages arising from termination of the Contract or related to insolvency.

8.8.1.2 The ~~Contractor's~~Contractor's waiver includes Claims for unabsorbed home-office overhead; any other ~~form~~four of overhead in excess of that specifically provided for under **Section ~~7.8;~~7.8;** delay damages except as otherwise specifically provided for in **Section ~~8.6;~~8.6;** increased cost of funds for the Project; lost opportunity to work on other projects; losses of financing, business, and reputation; loss of profit except anticipated profit arising directly from properly performed Work; loss of bonding capacity; and consequential damages arising from termination of the Contract or related to insolvency.

8.8.2 Notwithstanding **Section ~~8.8.1.~~8.8.1,** this **Section ~~8.8:~~8.8:**

8.8.2.1 does not apply to any damages that would be covered by insurance provided in connection with the Project if the Contract did not include **Section ~~8.8.1~~8.8.1;**

8.8.2.2 does not apply to the ~~Contractor's~~Contractor's indemnity obligations for third-party claims against the Indemnified Parties even if those claims are for damages that **Section ~~8.8.1~~8.8.1** would otherwise preclude;

8.8.2.3 does not preclude the ~~Owner's~~Owner's recovery of Liquidated Damages under **Section ~~8.7;~~8.7;** and

8.8.2.4 does not apply to Claims for damages arising from the ~~Owner's~~Owner's or the

~~Contractor's~~Contractor's gross negligence or willful misconduct.

8.8.3 This **Section ~~8.8~~8.8** shall survive termination of the Contract.

8.9 Review of the Claim

8.9.1 The A/E shall review the Claim and prepare a written analysis of its content, which shall include:

8.9.1.1 a narrative of the A/~~E's~~E's examination of the facts giving rise to the Claim;

8.9.1.2 identification of relevant Contract Documents and language;

8.9.1.3 an analysis of whether the Contractor complied with the requirements of the Contract Documents pertaining to Claim initiation and substantiation including, without limitation, the issues of entitlement to, and calculation of, adjustments of the Contract Sum, Contract Times, or both;

8.9.1.4 an analysis of claimed additional labor, materials, and equipment for the scope of the Work items described;

8.9.1.5 an analysis of any time extension for any interference, disruption, hindrance, impact, or delay claimed (to include the calculation of any concurrent delays affecting entitlement);

8.9.1.6 a concluding opinion regarding Contractor entitlement to, and the appropriateness and reasonableness of all, or any part of, the Claim; and

8.9.1.7 an appendix containing copies of contemporaneous documentation supporting the concluding opinion.

8.9.2 The A/E shall submit the written analysis to the Project Manager no more than 30 days after receiving the ~~Contractor's~~Contractor's substantiated and certified Claim.

8.10 Claim Decision

8.10.1 The Project Manager shall examine the ~~Contractor's~~Contractor's Claim and A/~~E's~~E's analysis.

8.10.2 The Project Manager shall approve or deny all, or any part, of the ~~Contractor's~~Contractor's Claim and forward a written decision to the Contractor, A/E~~,~~ and Owner~~, and Contracting Authority~~ within 14 days after receiving the A/~~E's~~E's analysis. The Project Manager may employ independent resources to assist in its review, or refer evaluation of the Claim to a consultant.

8.10.3 If the Contractor and Owner agree with the Project ~~Manager's~~Manager's decision, the decision shall be incorporated into a Change Order.

8.10.4 Any Claim remaining unresolved after completion of the process described under this **Section ~~8.10~~8.10** shall be subject to Claim decision review as described under **Section ~~8.11.~~8.11.**

8.11 Claim Decision Review

8.11.1 The Contractor may request review of the ~~Project Manager's~~Owner's decision by written notice delivered by certified mail within 14 days after the Project ~~Manager's~~Manager's decision.

8.11.1.1 Not Used.

8.11.1.2 Not Used.

~~**8.11.1.1** If the Project is administered by the Commission, jointly administered by the Commission and a public school district, or locally administered by authority granted to an agency of the state of Ohio by the Commission, the written notice shall be delivered to the Executive Director of the Commission.~~

~~**8.11.1.2** If the Project is locally administered by an Institution of Higher Education under ORC Section 3345.50 or ORC Section 3345.51, the written notice shall be delivered to the Institutional Designee who will review the Project Manager's decision instead of the Commission.~~

8.11.2 The ~~Commission or Institutional Designee, as applicable,~~Owner shall schedule and conduct a meeting within 30 days after receiving the ~~Contractor's~~Contractor's request for review. The ~~Commission or Institutional Designee~~Owner may employ independent resources to assist in the meeting and review.

8.11.3 The ~~Commission or Institutional Designee, as applicable,~~Owner shall determine the final disposition of the ~~Contractor's~~Contractor's request for review and provide a written decision to the Contractor ~~and Owner~~ within 14 days after the meeting.

8.11.4 The decision of the ~~Commission or Institutional Designee~~Owner is the final administrative decision of the ~~Contracting Authority~~Owner as described under ORC Section 153.12(B).

8.11.5 If the Contractor and Owner agree with the ~~Commission's or the Institutional Designee's~~Owner's decision, the decision shall be incorporated into a Change Order.

8.11.6 Any Claim remaining unresolved after completion of the process described under this **Section ~~8.11~~8.11** shall be subject to litigation, which may be preceded by Alternative Dispute Resolution (~~"~~"ADR~~"~~") as described under **Section ~~8.13~~ 8.13.**

8.12 Delegation

8.12.1 No provision of this **~~Article 8~~Article 8** shall prevent the ~~Executive Director~~Owner from delegating the duties or authorities of the ~~Commission~~Owner to any other person selected at the ~~Executive Director's~~Owner's sole discretion.

8.13 Alternative Dispute Resolution

8.13.1 At any point in the Claims and dispute-resolution processes, the ~~Project's~~Project's key stakeholders may agree to enter into non-binding ADR including progressive negotiation, dispute review board, mediation, or another non-binding ADR procedure accepted by all of the ~~Project's~~Project's key stakeholders.

8.14 Audit of the Claim

8.14.1 All Claims shall be subject to audit at any time following filing of the Claim, whether or not the Claim is part of a lawsuit.

8.14.2 The audit may be performed by employees of the ~~Contracting Authority~~Owner or by a consultant engaged by the ~~Contracting Authority~~Owner.

8.14.3 The audit may begin upon ten-days~~'~~' notice to the Contractor or affected Subcontractor.

8.14.4 The Contractor shall cooperate with the request.

8.14.5 Failure of the Contractor or Subcontractor to produce sufficient records to allow the ~~Contracting Authority~~Owner to audit and verify a Claim will constitute an irrevocable waiver of the Claim or portion of the Claim that could not be completely audited.

8.14.6 The Contractor shall make available to the ~~Contracting Authority~~Owner all Contractor and Subcontractor documents related to the Claim including, without limitation, the following documents:

8.14.6.1 daily time sheets and ~~superintendent's~~superintendent's daily reports;

8.14.6.2 union agreements, if any, and employer agreements;

8.14.6.3 insurance, welfare, fringes, and benefits records;

8.14.6.4 payroll register;

8.14.6.5 earnings records;

8.14.6.6 payroll tax returns;

8.14.6.7 material invoices, purchase orders, Subcontracts, and all material and supply acquisition contracts;

8.14.6.8 material cost distribution worksheets;

8.14.6.9 equipment records (list of Contractor equipment, rates, etc.);

8.14.6.10 vendor rental agreements and Subcontractor invoices;

8.14.6.11 Subcontractor payment certificates;

8.14.6.12 canceled checks (payroll and vendors);

8.14.6.13 complete and detailed job-cost report;

8.14.6.14 job payroll ledger;

8.14.6.15 general ledger, general journal (if used), and all subsidiary ledgers and journals together with all supporting documentation pertinent to entries made in those ledgers and journals;

8.14.6.16 cash disbursements journal;

8.14.6.17 financial statements for all years reflecting operations on the Project;

8.14.6.18 income tax returns for all years reflecting operations on the Project;

8.14.6.19 depreciation records on all equipment utilized whether the records are maintained by the Contractor, its accountant, or others;

8.14.6.20 if a source other than depreciation records is used to develop costs for the ~~Contractor's~~Contractor's internal purposes in establishing the actual cost of owning and operating equipment, all other source documents;

8.14.6.21 all documents that reflect the ~~Contractor's~~Contractor's actual profit and overhead during the years the Project was being performed;

8.14.6.22 all documents related to the preparation of the ~~Contractor's~~Contractor's Bid(s), including the final calculations on which the Bid was based, unless the documents are placed in escrow under provisions of the Instructions to Bidders;

8.14.6.23 all documents that relate to the Claim together with all documents that support the amount of damages as to the Claim;

8.14.6.24 worksheets used to prepare the Claim establishing the cost components for items of the Claim including, but not limited to, labor, fringes, benefits and insurance, materials, equipment, Subcontractors, and all documents that establish the periods of time, individuals involved, the hours and rate of pay for the individuals; and

8.14.6.25 all other documents required by the ~~Contracting Authority~~Owner to reasonably review the Claim.

8.15 False Certification of the Claim

8.15.1 If the Contractor falsely certifies all or any part of a Claim, the portion of the Claim falsely certified shall be denied, and may be sufficient cause for the State to debar the Contractor from future State contracting opportunities as permitted by Applicable Law.

8.16 Performance and Payment

8.16.1 The Contractor shall proceed with the Work during any dispute resolution process, unless otherwise agreed by the Contractor and ~~Contracting Authority~~Owner in writing.

8.16.2 The ~~Contracting Authority~~Owner shall continue to make payment of any undisputed amounts in accordance with the Contract Documents pending final resolution of a Claim, unless otherwise agreed by the Contractor and ~~Contracting Authority~~Owner in writing.

ARTICLE 9 - COMPENSATION AND PAYMENT

9.1 Allowances

9.1.1 The Contract Sum includes the Allowances (if any) identified in the Contract.

9.1.2 Unless otherwise explicitly stated in the Agreement, Allowance amounts cover all compensation to which the Contractor would be entitled for completing the associated Work, including without limitation the cost to the Contractor (less any applicable trade discounts) of materials and equipment required by the Allowances delivered, unloaded, handled, and installed at the Site; all associated labor costs of every kind; all applicable taxes; and the ~~Contractor's~~Contractor's Fee.

9.1.3 Before final payment, an appropriate Change Order will be issued to reconcile the Contract Sum so that it reflects actual amounts due to the Contractor on account of Work covered by Allowances.

9.2 Unit Prices

9.2.1 Unless otherwise explicitly stated in the Agreement:

9.2.1.1 The Contract Sum includes the Unit Price Work (if any) identified in the Agreement.

9.2.1.2 Where the Contract provides that all or part of the Work is to be Unit Price Work, initially the Contract Sum will include for all Unit Price Work **(1)** an amount equal to the sum of the established Unit Prices for each separately identified item of Unit Price Work times the estimated quantity of each item as indicated in the Contract plus **(2)** the ~~Contractor's~~Contractor's Fee, which is included in the Unit Prices.

9.2.1.3 The estimated quantities of items of Unit Price Work are not guaranteed and are solely for the purpose of comparison of Bids and determining an initial Contract Sum. The ~~Contracting Authority~~Owner will determine the actual quantities and classifications of Unit Price Work performed by Contractor.

9.2.2 Before final payment, an appropriate Change Order will be issued as described under **Section ~~7.1.5~~7.1.5** to reconcile the Contract Sum so that it reflects actual amounts due to the Contractor on account of Unit Price Work actually performed including an associated adjustment on account of the ~~Contractor's~~Contractor's Fee.

9.3 Schedule of Values

9.3.1 Within ten days after receipt of the Notice to Proceed, or other period as mutually agreed by the Contractor and ~~Contracting Authority~~Owner, the Contractor shall submit to the A/E a Schedule of Values on a form published by the Commission, with separate amounts shown for labor and materials for each branch of Work, following the numbers

and titles of the Construction Specifications ~~Institute's~~Institute's *MasterFormat* for individual work results, or ~~*UniFormat*~~*Uniformat* for assemblies in place.

9.3.1.1 The Contractor shall clearly indicate on the Schedule of Values, the amount(s) allocated, including separate items for ~~Contractor's Fee, for each EDGE certified Business used in the performance of the Work~~Contractor's Fee.. The amount(s) shall indicate labor and materials, as appropriate, and separate items for ~~Contractor's~~Contractor's Fee.

9.3.2 The grand total shown on the Schedule of Values shall equal the total Contract Sum. The ~~Contracting Authority~~Owner may use the approved Schedule of Values to determine the cost or credit to the Owner resulting from any change in the Work.

9.3.2.1 The first items shall be a breakdown of General Conditions Costs.

9.3.2.2 The amounts for labor and materials shall accurately reflect the cost for each item and include ~~Contractor's~~Contractor's Fee. Separate line items shall not be shown for ~~Contractor's~~Contractor's Fee, except as provided under **Section ~~9.3.1.1~~ 9.3.1.1.**

9.3.2.3 If the material allocation exceeds 55 percent of the Contract Sum, the Contractor shall provide, upon request, sufficient information to support the higher percentage.

9.3.2.4 Subcontract Work shall show amounts for labor and materials. Fringe benefits shall be shown as a part of labor costs.

9.3.2.5 When more than one major structure is included in the Work, the Contractor shall subdivide the Schedule of Values accordingly, with cost details for each structure shown separately.

9.3.2.6 The line items shall be coordinated with line items in the Project Schedule, which may require division of items of Work by area of the Project by floor, phase, or other appropriate area.

9.3.2.7 Mechanical and electrical Work shall be included in separate line items for all major pieces of equipment, and group smaller equipment items by type.

9.3.2.8 Line items shall be included for each Allowance, Coordination Drawings, Punch List Work, Project Record Document Submittals, delivery of attic stock, and specified demonstrations and training.

9.3.3 The A/E may return the Schedule of Values to the Contractor for re-submittal if it does not meet the requirements or contains insufficient items or details of the Work, or approve the Schedule of Values if the A/E determines that it conforms to this **Section ~~9.3~~ 9.3.**

9.3.4 No payment shall be made until the A/E has approved the ~~Contractor's~~Contractor's Schedule of Values.

9.4 Contractor Payment Request

9.4.1 After the Date of Commencement, the Contractor may request payment of the Contract Sum. The Owner will pay the Contract Sum to the Contractor on a percent-complete progress basis.

9.4.2 The Contractor may submit a Contractor Payment Request to the A/E each month or upon another interval approved by the ~~Contracting Authority~~Owner. When the rate of Work and amount involved is sufficient that it is considered appropriate by the ~~Contracting Authority~~Owner, the Contractor may submit Contractor Payment Requests twice a month. The Contractor shall base each Contractor Payment Request on the Schedule of Values current as of the date that the Contractor submits the Contractor Payment Request.

9.4.2.1 The Contractor shall support each Contractor Payment Request with documentation substantiating the ~~Contractor's~~Contractor's right to payment. The Contractor shall supply additional documentation as the A/E may request in connection with each payment to the Contractor.

9.4.2.2 The ~~Contracting Authority~~Owner may require proof of the renewal of required insurance as a condition precedent to payment.

9.4.2.3 The Contractor shall, if applicable, attach certified payroll reports for the relevant period to one copy of each Contractor Payment Request, see **Document 00 73 43 - Prevailing Wage Requirements.**

9.4.2.4 The Contractor may list on the Contractor Payment Request any Change Orders approved and performed prior to submission of the Contractor Payment Request.

9.4.2.5 The Contractor shall submit its Contractor Payment Request using the Contractor Payment Request form or forms current at the time of each application and as provided by the ~~Contracting Authority~~Owner in the manner prescribed by the ~~Contracting Authority~~Owner.

9.4.2.6 The Contractor shall submit one draft copy of its Contractor Payment Request (~~"~~"Pencil Copy~~"~~") to the A/E not less than one week prior to submitting multiple copies of its Contractor Payment Request. The A/E shall review the Pencil Copy and provide comments to the Contractor within three days after receiving it. The Contractor shall

incorporate the A/~~E's~~E's comments into its Contractor Payment Request prior to submitting multiple copies for payment.

9.4.2.7 The Contractor shall clearly indicate on the Contractor Payment Request, the amount(s) requested for each EDGE-certified Business used in the performance of the Contract. The amount(s) shall indicate labor and materials, as appropriate.

9.4.2.8 The Contractor shall submit an electronic copy of the Contractor Payment Request to the A/E with its paper copies of the Contractor Payment Request for collection and reporting of information used for contract compliance evaluation and statistical purposes. The Contractor may issue the copy in any electronic media acceptable to the ~~Contracting Authority~~Owner.

9.4.3 Payments for Unit Price Work shall be made to the Contractor only for the authorized actual quantities of Work performed or materials furnished in accordance with the Contract Documents.

9.4.4 Subject to **Section ~~9.8.~~9.8.** the Owner shall pay an approved Contractor Payment Request within 30 days after the date the A/E recommends acceptance of the Contractor Payment Request.

9.5 Retainage on Labor Payments

9.5.1 Partial payments to the Contractor for labor shall be made at the rate of 96 percent of the amount invoiced through the Contractor Payment Request.

9.5.2 If the Project involves more than one Phase as explicitly identified in the Agreement, this **Section ~~9.5~~9.5** will apply on a per-Phase basis.

9.6 Release of Retainage on Labor Payments

9.6.1 When the Contractor has achieved Substantial Completion of all Work, and there is no other reason to retain funds, the retained funds shall be paid to the Contractor within 30 days after the ~~Contractor's~~Contractor's request, except to the extent necessary, in the ~~Contracting Authority's~~Owner's sole discretion, to assure the ~~Contractor's~~Contractor's faithful completion of the Work including but not limited to compliance with **Section ~~6.26.2.~~6.26.2.**

9.6.2 Upon consent of the ~~Contractor's~~Contractor's Surety, the ~~Contracting Authority~~Owner may reduce the amount of funds retained for the faithful performance of Work by up to 50 percent of the amount of funds required to be retained, provided the ~~Contractor's~~Contractor's Surety remains responsible for all damages that may be caused due to default by the Contractor, including, but not limited to, the following:

9.6.2.1 completion of the Work;

9.6.2.2 all interference, disruption, hindrance, and delay claims;

9.6.2.3 all Liquidated Damages; and

9.6.2.4 all additional expenses incurred by the ~~State~~Owner.

9.6.3 Funds retained until Contract Completion will be paid to the Contractor as described under **Section ~~6.31.2.~~6.31.2.**

9.6.4 If the funds retained under **Section ~~9.5~~9.5** accrued interest while withheld from the Contractor, the payments of those retained funds to the Contractor will include that accrued interest.

9.6.5 If the Project involves more than one Phase as explicitly identified in the Agreement, this **Section ~~9.6~~9.6** will apply on a per-Phase basis.

9.7 Retainage on Material Payments

9.7.1 The Owner shall pay the Contractor at the rate of 100 percent of the scheduled value for materials incorporated into the Project.

9.7.2 The Owner shall pay the Contractor at the rate of 92 percent of the invoice cost, not to exceed the scheduled value , for materials delivered to the Site, or other off-site storage location approved by the A/E, provided the Contractor provides the following information with the Contractor Payment Request:

9.7.2.1 a list of the fabricated materials consigned to the Project, giving the place of storage, together with copies of invoices verifying quantity and cost, written evidence of insurance covering the off-site stored materials; and

9.7.2.2 a certification of materials stored off-site, prepared by the Contractor and signed by the A/E to evidence that the materials are in conformity with the Specifications and have been tagged with the Project name and number for delivery to the Project. The Contractor shall directly reimburse the A/E for all costs incurred to visit a storage site, other than the areas adjacent to the Project.

9.7.3 The Owner shall pay the balance of the scheduled value when the materials are incorporated into and become a part

of the Project.

9.7.4 If the funds retained under **Section 9.5.1** accrued interest while withheld from the Contractor, the payments of those retained funds to the GC will include that accrued interest.

9.7.5 ~~**9.7.4**~~ When payment is allowed for materials delivered to the Site or other approved off-site storage location but not yet incorporated into the Project, the materials are the property of the Owner.

9.7.5.1 ~~**9.7.4.1**~~ The Owner may, at its sole discretion, retain any material not ultimately incorporated into the Project or return it to the Contractor for credit of an amount proportionate to the value of the extra materials.

9.8 Payments Withheld

9.8.1 The A/E may recommend to the ~~Contracting Authority~~Owner that payments be withheld from, or Liquidated Damages be assessed against, a Contractor Payment Request.

9.8.2 The ~~Contracting Authority~~Owner may reject any Contractor Payment Request or part thereof, or withdraw any previous Contractor Payment Request, in whole or in part, to the extent necessary in the ~~Contracting Authority's~~Owner's sole opinion to protect the Owner from loss because of:

9.8.2.1 Defective Work not remedied;

9.8.2.2 damage caused by the Contractor;

9.8.2.3 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;

9.8.2.4 reasonable evidence that the Work will not be completed within the Contract Times, and that the unpaid balance would not be adequate to cover damages under the Contract Documents for the anticipated delay;

9.8.2.5 failure to comply with Applicable Law including, but not limited to, the requirements of ORC Chapter 4115;

9.8.2.6 failure to timely submit EDGE Participation Reports in accordance with **Section ~~1.8.2;~~1.8.2;**

9.8.2.7 failure to timely identify the ~~Contractor's~~Contractor's proposed Subcontractors in accordance with **Section ~~4.1.1;~~4.1.1;**

9.8.2.8 failure to timely fulfill the ~~Contractor's~~Contractor's obligations related to the Construction Progress Schedule;

9.8.2.9 failure to carry out the Work in accordance with the Contract Documents; or

9.8.2.10 that which is permitted under other provisions of the Contract Documents.

9.8.3 The ~~Contracting Authority~~Owner shall notify the ~~Owner,~~ Contractor~~,~~ and A/E in writing of the ~~Contracting Authority's~~Owner's exercise of its rights under **Section ~~9.8.2.~~**

~~**9.8.3**~~ **9.8.2.** If the Contractor remedies the basis for withholding payment under **Section ~~9.8.2 to the Contracting Authority's~~9.8.2** to the Owner's satisfaction, the Owner shall pay the amounts withheld.

9.8.4 If the Contractor takes exception to the withholding of payments under **Section ~~9.8.2~~,9.8.2,** the Contractor shall initiate a Claim as and when required under ~~**Article 8.**~~**Article 8.**

9.9 Final Contractor Payment Request

9.9.1 The Contractor, as a condition precedent to Contract Completion and final payment, shall complete all requirements of the Contract Documents.

9.9.1.1 The Contractor and each of its Subcontractors, regardless of tier, shall execute a Payment Release Affidavit to certify that the Contractor and each of its Subcontractors, regardless of tier, have complied with all requirements of ORC Chapter 4115, and to certify that all of its Subcontractors have been paid in full for all Work performed or materials furnished for the Project.

9.9.2 The Owner shall pay the final Contractor Payment Request within 30 days after the date the A/E recommends acceptance of the final Contractor Payment Request.

9.9.3 Acceptance of final payment by the Contractor or a Subcontractor constitutes the ~~payee's~~payee's waiver of all claims against the ~~State~~Owner except those previously made in writing under ~~**Article 8**~~**Article 8** and identified by that payee as unsettled at the time of the final Contractor Payment Request.

ARTICLE 10 - BONDS, INSURANCE, AND INDEMNIFICATION

10.1 Payment and Performance Bonds

10.1.1 Before signing the Agreement, the Contractor shall provide the Bond required under Applicable Law and below:

10.1.1.1 If the Contractor provided **Document 00 43 13 - Bid Security Form** as its Bid Guaranty, then that form

shall be the Bond.

10.1.1.2 If the Contractor provided another form of Bid Guaranty, then **Document 00 61 13 - Performance and Payment Bond Form** shall be the Bond.

10.1.1.3 Each Surety under the Bond shall be licensed to do business in Ohio and satisfactory to the ~~Contracting Authority~~Owner.

10.1.1.4 If there is more than one Surety under the Bond, each of them shall be jointly and severally liable as surety under the Bond.

10.1.1.5 Not Used.

.1 Not Used.

.2 Not Used.

~~**10.1.1.5** Unless the Contracting Authority and the Owner are the same entity, the Bond shall name as co-obligees **(1)** the State by and through the Contracting Authority and **(2)** the Owner.~~

~~**.1** If any document is used to name the required co-obligees of the Bond (e.g., a form commonly known as a "dual obligee rider"), that document will not alter the terms of the Contract in any way or the terms of the Bond in any way beyond merely naming the co-obligees notwithstanding any term of that document to the contrary.~~

~~**.2** The Surety will not be obligated to more than the Penal Sum of any Bond solely on account of the existence of more than one obligee under that Bond.~~

10.1.1.6 The penal sum of the Bond, when initially submitted, shall be equal to one-hundred percent of the Contract Sum.

10.1.2 The Contractor shall submit with the executed Bond **(1)** a certified copy of the authority to act (power of attorney) of the agent signing the Bond on behalf of the Surety and **(2)** a current and signed Certificate of Compliance under ORC Section 9.311 issued by the Ohio Department of Insurance showing the Surety is licensed to do business in Ohio.

10.1.3 If the Contract Sum increases at any time such that it exceeds the penal sum of the Bond, the Contractor shall cause the penal sum of the Bond to be increased such that the penal sum equals one-hundred percent of the increased Contract Sum.

10.1.4 Any time the Contractor increases the penal sum of the Bond under **Section ~~10.1.3~~ 10.1.3.** the Contractor shall deliver to the ~~Contracting Authority~~Owner an Acknowledgment of Surety from the affected Surety or Sureties to evidence the ~~Surety's~~Surety's or Sureties~~'~~' receipt of notice of the increased penal sum.

10.1.4.1 The ~~Contracting Authority's~~Owner's receipt of the required Acknowledgement(s) of Surety is a condition precedent to the ~~Owner's~~Owner's obligation to pay the Contractor for any portion of the Work associated with the increase of the penal sum.

10.1.4.2 The ~~Contractor's~~Contractor's failure to submit a required Acknowledgment of Surety or a ~~Surety's~~Surety's failure or refusal to provide an Acknowledgment of Surety will not relieve the Surety of its obligation for the increased penal sum.

10.1.4.3 If any Surety fails or refuses to provide a required Acknowledgement of Surety, the ~~Contracting Authority~~Owner may require the Contractor to deliver to the ~~Contracting Authority~~Owner a new Bond showing the increased penal sum and written consent of the affected Surety or Sureties confirming the increased penal sum. In that event, the ~~Contracting Authority's~~Owner's receipt of replacement Bonds will be a condition precedent to the ~~Owner's~~Owner's obligation to pay the Contractor for any portion of the Work associated with the increase of the penal sum.

10.1.4.4 Each Acknowledgment of Surety shall be **(1)** on a form provided by the ~~Contracting Authority~~Owner and **(2)** subject to the acceptance of the ~~Contracting Authority~~Owner.

10.1.5 If at any time prior to final payment, any surety providing a Bond for the Project **(1)** is adjudged bankrupt or has made a general assignment for the benefit of its creditors; **(2)** has liquidated all assets or has made a general assignment for the benefit of its creditors; **(3)** is placed in receivership; **(4)** otherwise petitions a state or federal court for protection from its creditors; or **(5)** allows its license to do business in Ohio to lapse or to be revoked, then the Contractor shall, within 21 days after any such action listed above, provide the ~~Contracting Authority~~Owner with a new Bond in the form and

amount described in this **Section ~~10.1. The Contracting Authority's~~10.1.** The Owner's receipt of a replacement Bond is a condition precedent to the ~~Owner's~~Owner's obligation to pay the Contractor.

10.1.6 If notice of any change affecting the Contract is required by any Surety or by the provision of any Bond, the Contractor shall provide that notice.

10.2 ~~Contractor's~~Contractor's General Insurance Requirements

10.2.1 Throughout the performance of the Work or longer as may be described below, the Contractor shall obtain, pay for, and keep in force, the minimum insurance coverage described in this ~~Article 10.~~**Article 10.**

10.2.1.1 Each requirement of this ~~Article 10~~**Article 10** applies to Subcontractors just as it applies to the Contractor.

10.2.1.2 If a ~~Subcontractor's~~Subcontractor's usual insurance coverage does not meet the minimum coverage requirements, before entering into an agreement with that Subcontractor, the Contractor shall submit to the ~~Contracting Authority~~Owner **(1)** a certificate of insurance evidencing the insurance the Subcontractor will carry without additional compensation and

(2) if the ~~Contracting Authority~~Owner requests, a written proposal from the Subcontractor to provide coverage that meets the minimum coverage requirements. The ~~Contracting Authority~~Owner will decide whether to accept the non-conforming insurance coverage or the proposal to provide conforming coverage.

.1 ~~1~~ Notwithstanding any other provision of the Contract to the contrary, the Contractor will not be entitled to any increase of the Contract Sum, Contract Times, or both on account of the ~~Contracting Authority's~~Owner's refusal to accept a Subcontractor's nonconforming insurance coverage.

10.2.1.3 On a case-by-case basis, the ~~Contracting Authority~~Owner and Contractor may agree to adjust the below requirements for any particular Subcontractor.

10.2.2 Before starting the Work on the Site, upon renewal of any policy, and upon a change of any insurance carrier, the Contractor shall deliver to the ~~Contracting Authority~~Owner certificates evidencing that the required insurance is in force.

10.2.2.1 Certificates of insurance for other than government-controlled workers~~'~~' compensation insurance shall identify **(1)** all below-required additional insureds and **(2)** the Project name.

10.2.3 With the exception of government-controlled workers~~'~~' compensation coverage:

10.2.3.1 the Contractor shall place the insurance with companies that **(1)** are satisfactory to the ~~Contracting Authority~~Owner, **(2)** hold an A.M. Best Rating of A-, X, or higher, and **(3)** are authorized to conduct business in Ohio;

10.2.3.2 the policies shall be endorsed to require the ~~Contractor's~~Contractor's insurance carrier to **(1)** provide 30-days~~'~~' written notice to the ~~Contracting Authority~~Owner (as certificate holder) of the cancellation or non-renewal of the insurance and

(2) provide at least ten-days~~'~~' written notice to the ~~Contracting Authority~~Owner (as certificate holder) of the cancellation of the insurance for non-payment of premium; and

10.2.3.3 within 30 days after the ~~Contracting Authority's~~Owner's request, the Contractor shall submit insurance-company certified copies of the policies, the policy endorsements, loss-run reports, or all three.

10.2.4 The Contractor shall pay all deductibles, or self-insured retentions, or both contained in the ~~Contractor's~~Contractor's policies of insurance required or provided in connection with the Project. The ~~Contracting Authority~~Owner reserves the right to approve or reject all levels of self-insured retention, captive insurance programs, or other alternative risk financing the Contractor may use to comply with any insurance requirement.

10.2.5 The Contractor shall pay a proportionate share of the deductibles, or self-insured retentions, or both contained in any insurance policy the ~~Contracting Authority~~Owner purchases for the Project. The ~~Contractor's~~Contractor's proportionate share will derive from the percentage of the associated claim or loss attributable to the alleged or actual negligence of the Contractor or a Subcontractor.

10.2.6 The ~~Contracting Authority and~~ Owner do not represent that required coverage or limits are adequate to protect the Contractor.

10.2.7 Failure of the ~~Contracting Authority~~Owner to demand a certificate or other evidence of full compliance with the insurance requirements or failure of the ~~Contracting Authority~~Owner to identify a deficiency from evidence that is provided shall not be construed as a waiver of the ~~Contractor's~~Contractor's obligation to maintain the required insurance.

10.2.8 The ~~Contracting Authority~~Owner may terminate the Contract for cause on account of the ~~Contractor's~~Contractor's failure to maintain required insurance.

10.3 ~~Contractor's~~Contractor's Minimum Coverage Requirements

10.3.1 Workers Compensation. The Contractor shall maintain workers~~'~~' compensation coverage meeting the requirements of Applicable Law including, without limitation, the Jones Act and the Longshore & Harbor Workers Compensation Act if Work involves hazards arising from work on or near navigable waterways, including vessels and docks.

10.3.2 Employers' Liability Coverage. The Contractor shall maintain employers' liability coverage with **(1)** an each- accident limit of not less than $1,000,000, **(2)** a disease each-employee limit of not less than $1,000,000, and **(3)** a disease policy limit of not less than $1,000,000.

10.3.3 Commercial General Liability. The Contractor shall maintain commercial general liability ("CGL") coverage that provides **(1)** an each-occurrence limit of not less than $1,000,000, **(2)** a general-aggregate limit of not less than $2,000,000, and **(3)** a products and completed-operations aggregate limit of not less than $2,000,000.

10.3.3.1 The CGL insurance shall be written on ISO occurrence form CG 00 01 04 13 or a substitute form, providing at least equivalent coverage for liability arising from premises, operations, independent contractors, products/completed-operations, personal and advertising injury, and liability assumed under an insured contract.

10.3.3.2 The Contractor shall include the ~~State, Contracting Authority,~~ Owner~~,~~ and A/E as additional insureds under ~~10.3.3.2~~ the CGL policy using ISO endorsement CG 20 10 07 04 and ISO endorsement CG 20 37 07 04 or a substitute form(s) providing equivalent coverage.

10.3.3.3 The CGL policy shall be endorsed using ISO endorsement CG 25 03 or a substitute form providing equivalent coverage to provide that the general aggregate limit applies separately to each of the ~~insured's~~insured's projects.

10.3.3.4 The CGL policy shall not exclude coverage for property damage to the Work arising out of the products/completed-operations hazard where a Subcontractor performed the damaged Work or the Work out of which the damage arises.

10.3.3.5 The CGL insurance shall not exclude coverage for property damage to electronic data.

10.3.3.6 The CGL insurance shall apply as primary and non-contributory insurance with respect to any other insurance or self-insurance programs that cover the additional insured(s).

10.3.3.7 The CGL policy shall not exclude coverage to the additional insured(s) for bodily injury or property damage arising out of the products/completed-operations hazard.

10.3.3.8 The Contractor shall maintain the CGL insurance in effect for no less than five years after the earlier of termination of the Contract or Substantial Completion of all Work.

10.3.4 Business Automobile Liability. The Contractor shall maintain business automobile ("BA") coverage written on ISO form CA 00 01 04 13 or a substitute form, providing at least equivalent coverage with a limit of not less than $1,000,000 each accident.

10.3.4.1 The coverage shall extend to any auto (owned, not owned, leased, rented, hired, or borrowed).

10.3.4.2 The Contractor shall include the ~~State, Contracting Authority,~~ Owner~~,~~ and A/E as additional insureds under the BA policy.

10.3.4.3 The BA policy shall include an MCS-90 endorsement if transporting hazardous wastes/materials.

10.3.5 Umbrella/Excess Liability. The Contractor may employ an umbrella/excess liability policy to achieve the above-required minimum coverage.

10.3.5.1 The Contractor shall maintain umbrella/excess liability coverage with a limit of not less than $2,000,000 (in addition to the above-required limits) if the Work (or the Work to be performed by the Subcontractor) includes any of the following:

.1 brick/block masonry;
.2 exterior caulking/sealant;
.3 cast-in-place or precast concrete;
.4 curtain wall;
.5 dampproofing/waterproofing;
.6 electrical;
.7 elevator;
.8 exterior glass and/or glazing;
.9 exterior marble, granite, and/or other stonework;
.10 miscellaneous metals;
.11 plaster/stucco;
.12 plumbing;
.13 HVAC;
.14 roofing and/or sheet metal;
.15 scaffolding;

.16 spray-on fireproofing;

.17 sprinkler and/or fire protection; or

.18 structural steel and/or metal deck.

10.3.5.2 The Contractor shall maintain umbrella/excess liability coverage with a limit of not less than $5,000,000 (in addition to the above-required limits) if the Work (or the Work to performed by the Subcontractor) includes any of the following:

.1 caissons and/or piles;

.2 demolition;

.3 excavation and/or utility work;

.4 sheeting, shoring, and/or underpinning;

.5 window washing equipment; or

.6 wrecking.

10.3.6 ~~Contractor's~~Contractor's Pollution Liability. If the Work includes environmentally sensitive, hazardous types of activities (such as demolition, exterior insulation finish systems, Asbestos abatement, storage-tank removal, or similar activities), or involves Hazardous Materials, the Contractor shall maintain a ~~contractor's~~contractor's pollution liability (~~"~~"CPL~~"~~") policy with

(1) a per-claim limit of not less than $1,000,000 and **(2)** an annual-aggregate limit of not less than $1,000,000, covering the acts, errors and/or omissions of the Contractor for damages (including from mold) sustained by the Owner by reason of the ~~Contractor's~~Contractor's performance of the Work.

10.3.6.1 The CPL policy shall have an effective date, which is on or before the date that the Contractor first started to perform any Project-related services.

10.3.6.2 Upon submission of the associated certificate of insurance and at each policy renewal, the Contractor shall advise the ~~Contracting Authority~~Owner in writing of any actual or alleged claims that may erode the CPL ~~policy's~~policy's limits.

10.3.6.3 The Contractor shall maintain the CPL insurance in effect for no less than five years after the earlier of termination of the Contract or Substantial Completion of all Work.

10.3.7 Professional Liability—Contractor. The Contractor shall maintain ~~contractor's~~contractor's professional liability (~~"~~"PL~~"~~") insurance (including without limitation for sprinkler and/or fire protection and other design-build work included in the Work, and services related to coordination and scheduling of construction activities, and means and methods) without design-build exclusions with limits not less than as identified in the following table:

Contract Sum	Each Claim	Annual Aggregate
Up to $50,000,000	$1,000,000	$2,000,000
More than $50,000,000	$2,000,000	$4,000,000

10.3.7.1 The PL policy shall have an effective date on or before the date that the Contractor first started to provide any Project-related services.

10.3.7.2 Upon submission of the associated certificate of insurance and at each policy renewal, the Contractor shall advise the ~~Contracting Authority~~Owner in writing of any actual or alleged claims that may erode the PL ~~policy's~~policy's limits.

10.3.7.3 The Contractor shall maintain the PL insurance in effect for no less than five years after the earlier of termination of the Contract or Substantial Completion of all Work.

10.3.7.4 If the Contractor is authorized under Applicable Law to directly provide professional design services, the Contractor may satisfy the requirements of this **Section** ~~10.3.7~~**10.3.7** by providing a professional liability insurance policy.

10.3.7.5 If the Contractor is a joint venture:

.1 the Contractor may meet the requirements of this **Section** ~~10.3.7~~**10.3.7** by providing a PL policy under which each joint venturer is the insured; or

.2 each joint venturer shall individually meet the requirements of this **Section** ~~10.3.7~~**10.3.7** by providing a PL policy

(1) under which the individual joint venturer is the insured and **(2)** that covers that joint ~~venturer's~~venturer's interests

in the joint venture by endorsement or otherwise. The certificate of insurance shall reflect that the PL policy covers the joint ~~venturer's~~venturer's interest in the joint venture.

Example: Assume that the Contractor **(1)** is the ~~"~~"XY joint venture~~"~~" of company ~~"~~"X~~"~~" and company ~~"~~"Y~~"~~"**;** and **(2)** is required under **Section ~~10.3.7~~10.3.7** to maintain PL insurance limits of $1M/$2M. In order to comply with **Section ~~10.3.7.5.2, "~~10.3.7.5.2,** "X~~"~~" must maintain PL insurance limits of $1M/$2M and ~~"~~"Y~~"~~" must maintain PL insurance limits of $1M/$2M.

10.3.7.6 If the Contractor is a limited-liability company, which members consist of two or more separate firms:

.1 the Contractor may meet the requirements of this **Section ~~10.3.7~~10.3.7** by providing a PL policy under which the limited-liability company is the insured; or

.2 each member of the limited-liability company shall individually meet the requirements of this **Section ~~10.3.7~~10.3.7** by providing a PL policy **(1)** under which the individual member is the insured and **(2)** that covers that ~~member's~~member's interests in the limited-liability company by endorsement or otherwise. The certificate of insurance shall reflect that the PL policy covers the ~~member's~~member's interest in the limited-liability company.

Example: Assume that the Contractor **(1)** is the ~~"~~"XY limited-liability company,~~"~~" the members of which are ~~"~~"X~~"~~" and ~~"~~"Y~~"~~"; and **(2)** is required under **Section ~~10.3.7~~10.3.7** to maintain PL insurance limits of $1M/$2M. In order to comply with **Section ~~10.3.7.6.2, "~~10.3.7.6.2,** "X~~"~~" must maintain PL insurance limits of $1M/$2M and ~~"~~"Y~~"~~" must maintain PL insurance limits of $1M/$2M.

10.3.8 Professional Liability—Subcontractors. If the Work to be performed by a Subcontractor includes any professional design services (including without limitation sprinkler and/or fire protection and other design-build work) the Subcontractor shall maintain ~~contractor's~~contractor's PL insurance without design-build exclusions with limits not less than as identified in the following table:

Subcontract Sum	Each Claim	Annual Aggregate
Up to $50,000,000	$1,000,000	$2,000,000
More than $50,000,000	$2,000,000	$4,000,000

10.3.8.1 The PL policy shall have an effective date on or before the date that the Subcontractor first started to provide any Project-related services.

10.3.8.2 Upon submission of the associated certificate of insurance and at each policy renewal, the Contractor shall advise the ~~Contracting Authority~~Owner in writing of any actual or alleged claims that may erode the ~~Subcontractor's~~Subcontractor's PL ~~policy's~~policy's limits.

10.3.8.3 The Subcontractor shall maintain the PL insurance in effect for no less than five years after the earlier of termination of the Contract or Substantial Completion of all Work.

10.3.8.4 If the Subcontractor is authorized under Applicable Law to directly provide professional design services, the Subcontractor may satisfy the requirements of this **Section ~~10.3.7.5~~10.3.7.5** by providing a professional liability insurance policy.

10.3.9 Aviation Liability. If the Contractor or a Subcontractor uses manned or unmanned aircraft, including helicopters, in performance of the Work, the Contractor shall maintain aircraft or aviation liability coverage in an amount of no less than $10,000,000. The ~~Contracting Authority and~~ Owner will not be liable for any damage to any aircraft owned, leased, rented, or borrowed by the Contractor or a Subcontractor.

10.3.10 Watercraft Liability. If the Contractor or a Subcontractor uses watercraft in performance of the Work, the Contractor shall maintain watercraft liability coverage including protection and indemnity insurance in an amount of no less than $5,000,000. The ~~Contracting Authority and~~ Owner will not be liable for any damage to any watercraft owned, leased, rented, or borrowed by the Contractor or Subcontractor.

10.3.11 Equipment Coverage. The ~~Contracting Authority and~~ Owner will not insure or be liable for damage to any Contractor or Subcontractor owned, leased, rented, or borrowed tools, equipment, or vehicles. The Contractor and Subcontractors are solely responsible for maintaining all insurance necessary to cover their tools, equipment, and vehicles.

10.3.12 Ocean Marine Insurance. If the shipment of equipment or materials for the Work will not be covered by the ~~builder's~~builder's risk insurance described under **Section ~~10.4.~~10.4,** the Contractor shall maintain ocean marine insurance to the Site including cost, insurance, and freight with limits of not less than an amount equal to the full replacement cost of equipment/materials shipped to final destination point.

10.3.12.1 The insurance shall include the following minimum requirements:

.1 all-risk basis including war risk and all forms of terrorism;

.2 coverage for general average and salvage charges;

.3 **"on** deck" coverage;

.4 warehouse-to-warehouse coverage;

.5 coverage to include losses from strikes, riots, and civil commotions ("SR&CC coverage");

.6 coverage to include losses from free of capture and seizure warranty ("FC&S Warranty coverage");

.7 **"Inchmaree"** clause;

.8 sue and labor;

.9 "both-to-blame" coverage;

.10 free of particular average;

.11 inland coverage including on-land shipment, port storage, and barge transit upon inland waterways; and

.12 damage by saltwater and rainwater perils and cargo sweat.

10.3.13 Additional Property Insurance. For any demolition, blasting, excavating, tunneling, shoring, or similar operations, the Contractor shall provide and maintain Property Damage Liability insurance with a limit of liability equal to the limit as specified in the applicable sections of ~~**Article 10**~~ **Article 10.**

10.4 ~~Builder's~~Builder's Risk Insurance

10.4.1 The Contractor shall maintain a ~~builder's~~builder's risk insurance policy written on a special causes of loss form and an open-perils basis providing coverage for direct physical loss of or damage to covered property arising from insured perils that shall not exclude: theft; fire; vandalism; malicious mischief; earthquake; earth movement; tornado; lightning; explosion; breakage of glass; flood; windstorm; collapse; water damage; hot and cold testing; debris removal and/or demolition occasioned by enforcement of Applicable Law; sudden and accidental equipment breakdown; and resulting damage from error, omission, or deficiency in construction methods, design, specifications, workmanship, or materials.

10.4.1.1 The policy shall cover the Project in the course of construction including false-work, temporary buildings and structures, and materials used in the construction process, stored on or off-site, or while in transit.

10.4.1.2 The coverage shall be written on a replacement-cost basis in an amount equal to not less than the initial Contract Sum, plus the value of: **(1)** all subsequent GMP Amendments and Modifications; **(2)** materials supplied and installed by others; and **(3)** any furnishings, fixtures, materials, or equipment located at the Site. All sub-limits of coverage are subject to the prior written approval of the ~~Contracting Authority and~~ Owner.

10.4.1.3 The policy shall not include any deductible of more than $25,000 per occurrence. Any deductible over that amount is subject to the prior written approval of the ~~Contracting Authority and~~ Owner.

10.4.1.4 The named insureds under the policy shall include the ~~State, Contracting Authority,~~ Owner, Contractor, Subcontractors at all tiers, and Separate Contractors.

10.4.1.5 Coverage shall include the reasonable extra costs of acceleration and expediting temporary and permanent repairs to, or permanent replacement of, damaged property. Those covered costs shall include overtime wages and the extra cost of ~~"~~"express~~"~~" or other means for rapidly transporting materials and supplies necessary to the repair or replacement.

10.4.1.6 Coverage shall include a ~~"~~"soft cost endorsement~~"~~" including, but not limited to, the reasonable extra costs of the A/E and reasonable Contractor extension or acceleration costs.

10.4.1.7 Coverage shall waive all rights between the Owner, ~~Contracting Authority,~~ Contractor, and Subcontractors at any tier, for damages caused by fire or any other perils to the extent of actual recovery of any insurance proceeds under the policy.

10.4.1.8 Coverage shall include provisions for mechanical or electrical breakdown, or boiler system testing if a boiler system is part of the Work.

10.4.1.9 Coverage shall include temporary structures and scaffolding, along with collapse coverage.

10.4.1.10 Coverage shall be primary to all other applicable insurance.

10.4.1.11 The policy shall specifically permit and allow for Partial Occupancy as defined under the Contract Documents and for partial occupancy or a similar term as used under the policy.

10.4.1.12 The Contractor shall maintain the policy in effect until Substantial Completion of all Work. The Contractor shall provide written notice to the ~~Contracting Authority~~Owner no less than 30 days before the expiration or termination of the policy.

10.4.1.13 The ~~Contractor's~~Contractor's tools and equipment shall not be covered under the ~~builder's~~builder's

risk policy. It is the ~~Contractor's~~Contractor's sole responsibility to maintain such coverage, the cost of which shall be included in its Overhead (a component of ~~Contractor's~~Contractor's Fee) and not included as a separate item in the ~~Contractor's~~Contractor's Schedule of Values.

10.4.2 If the Contractor is involved solely in the installation of material and equipment and not in new building construction, the Contractor shall purchase and maintain a ~~builder's risk, builder's~~builder's risk, builder's risk-renovations, or installation floater insurance policy. The policy shall comply with the provisions of **Section ~~10.4.1.~~10.4.1.**

10.4.3 No less than ten days before the Contractor starts to perform any Work on the Site, the Contractor shall provide to the ~~Contracting Authority~~Owner an insurance-company certified copy of the complete insurance policy required under

Section ~~10.4.1~~10.4.1 or **~~10.4.2~~10.4.2** as applicable. The ~~Contracting Authority's~~Owner's receipt of that copy of the policy is a condition precedent to the ~~Contractor's~~Contractor's entitlement to payment of any portion of the Contract Sum.

10.5 Waivers of Subrogation

10.5.1 To the fullest extent permitted by Applicable Law, the Contractor waives all rights against the Owner, Contracting Authority, and their agents and employees for damages to the extent covered by any insurance, except rights to the proceeds of that insurance. All policies shall accomplish the waiver of subrogation by endorsement or otherwise.

10.5.2 The Owner~~, Contracting Authority,~~ and Contractor waive all rights against each other for damages caused by fire ~~10.5.2~~ or other perils to the extent of actual recovery of any insurance proceeds under any property insurance, inland marine insurance, or ~~builder's~~builder's risk insurance applicable to the Work.

10.6 Indemnification for Injury or Damage

10.6.1 To the fullest extent permitted by Applicable Law, the Contractor shall indemnify, defend, and hold harmless the Indemnified Parties from and against all claims, costs, damages, losses, fines, penalties, and expenses (including but not limited to all fees and charges of attorneys and other professionals, and all court, arbitration, or other dispute-resolution costs) arising out of or in connection with the Project, provided that any such claim, cost, damage, loss, fine, penalty, or expense is attributable to:

10.6.1.1 bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property but only to the extent caused by the negligent acts, errors, or omissions of the Contractor or a person or entity for whom the Contractor may be liable;

10.6.1.2 infringement of patent rights or copyrights by the Contractor or a person or entity for whom the Contractor may be liable; or

10.6.1.3 a violation of Applicable Law but only to the extent attributable to the Contractor or a person or entity for whom the Contractor may be liable.

10.6.2 The ~~Contractor's~~Contractor's indemnification obligation under **Section ~~10.6~~10.6** exists regardless of whether or not and the extent to which the claim, damage, loss, fine, penalty, or expense is caused in part by a party indemnified under **Section ~~10.6~~10.6.** But nothing in **Section ~~10.6~~10.6** obligates the Contractor to indemnify any individual or entity from and against the consequences of that individual or ~~entity's~~entity's own negligence.

10.6.3 The ~~Contractor's~~Contractor's obligations under **Section ~~10.6~~10.6** shall not extend to the liability of the A/E, A/~~E's~~E's consultants, agents, representatives, or employees for negligent preparation or approval of Drawings, Specifications, Change Orders, opinions, and any other responsibility of the A/E, except to the extent covered by the ~~Contractor's~~Contractor's insurance.

10.6.4 In claims against an Indemnified Party by any direct or indirect employee (or the survivor or personal representative of that employee) of the Contractor or a person or entity for whom the Contractor may be liable, the indemnification obligation under **Section ~~10.6~~10.6** will not be limited by a limitation on the amount or type of damages, compensation, or benefits payable under workers~~'~~' compensation acts, disability benefit acts, or other employee benefit acts.

10.6.5 The ~~Contractor's~~Contractor's indemnification obligation under **Section ~~10.6~~10.6** will not be limited by any insurance policy provided or required in connection with the Project.

10.6.6 The ~~Contractor's~~Contractor's obligations under **Section ~~10.6~~10.6** shall not negate, abridge, or reduce other rights or obligations of indemnity, which would otherwise exist as to an Indemnified Party.

10.6.7 The ~~Contractor's~~Contractor's indemnification obligation under **Section ~~10.6~~10.6** will survive termination of the Contract and Contract Completion.

10.6.8 The ~~Contracting Authority~~Owner may deduct from the Contract Sum the claims, damages, losses, fines, penalties, and expenses for which the Contractor is liable under **Section ~~10.6.~~10.6.** If those claims, damages, losses, fines, penalties, and expenses exceed the unpaid balance of the Contract Sum, the Contractor shall immediately pay the difference to the Owner.

ARTICLE 11 - SUSPENSION AND TERMINATION

11.1 Suspension of the Work

11.1.1 The ~~Contracting Authority~~Owner, without cause and without prejudice to any other right or remedy it may have, may order the Contractor in writing to suspend, delay, or interrupt performance of the Work in whole or in part for such period as the ~~Contracting Authority~~Owner may determine.

11.1.1.1 If the ~~Contracting Authority~~Owner suspends the Work under this **Section ~~11.1.1~~11.1.1** and the Contractor complies with **~~Article 7~~ and ~~Article 8,~~Article 7** and **Article 8,** the Contract Sum and Contract Times shall be adjusted for increases in the cost and time caused by the suspension, delay, or interruption.

11.1.1.2 Notwithstanding the foregoing, no adjustment shall be made to the Contract Sum or Contract Times to the extent that:

.1 performance was or could have been suspended, delayed, or interrupted by a cause for which the Contractor is responsible; or

.2 an equitable adjustment is made or denied under another provision of the Contract.

11.1.1.3 If the ~~Contracting Authority~~Owner suspends the Work under this **Section ~~11.1.1~~11.1.1** and the Contractor submits a proper Contractor Payment Request, subject to all other provisions of the Contract Documents, the Contractor shall be entitled to payment of compensation due under the Contract Documents for Work performed before the suspension based upon the Schedule of Values.

11.1.2 The ~~Contracting Authority~~Owner, without prejudice to any other right or remedy it may have, may order the Contractor in writing to suspend, delay, or interrupt the performance of the Work in whole or in part for such period as the ~~Contracting Authority~~Owner may determine for any of the following reasons: **(1)** Defective Work; **(2)** the Contractor is causing undue risk of damage to any part of the Project or adjacent area; **(3)** the Contractor fails to furnish or perform the Work in such a way that the complete Work will conform to the requirements of the Contract Documents; or **(4)** any other cause the ~~Contracting Authority~~Owner reasonably believes justifies suspension.

11.1.2.1 The ~~Contracting Authority's~~Owner's exercise of its right to suspend the Work under this **Section ~~11.1.2~~11.1.2** shall not entitle the Contractor to any adjustment of the Contract Sum, Contract Times, or both.

11.1.2.2 If the ~~Contracting Authority~~Owner is adjudged to have improperly or unjustifiably suspended the Work under this **Section 11.1.2.**
~~Section 11.1.2,~~ the suspension shall be deemed to have been a suspension under **Section ~~11.1.1~~11.1.1.**

11.1.3 Upon receipt of notice of suspension under this **Section ~~11.1,~~11.1.** the Contractor shall cease Work on the suspended activities and take all necessary or appropriate steps to limit disbursements and minimize respective costs. The Contractor shall furnish a report to the ~~Contracting Authority~~Owner, within five days after receiving the notice of suspension, describing the status of the Work, including, but not limited to, results accomplished, resulting conclusions, and other information as the ~~Contracting Authority~~Owner may require.

11.1.4 The ~~Contracting Authority's~~Owner's right to stop the Work shall not give rise to any duty to exercise the right for the benefit of the Contractor or any other party, and the ~~Contracting Authority's~~Owner's exercise or failure to exercise the right shall not prejudice any of the ~~Contracting Authority's~~Owner's other rights.

11.2 Termination for Convenience

11.2.1 The ~~Contracting Authority~~Owner may at any time terminate the Contract in whole or in part for the ~~Owner's~~Owner's convenience and without cause, upon written notice to the Contractor.

11.2.2 Upon receipt of the notice of termination for convenience, the Contractor shall immediately proceed with performance of the following duties in accordance with instructions from the ~~Contracting Authority~~Owner:

11.2.2.1 cease operation as specified in the notice;

11.2.2.2 proceed as described under **Section ~~11.3.4~~11.3.4; ;**

11.2.2.3 proceed with Work not terminated; and

11.2.2.4 take actions that may be necessary, or that the ~~Contracting Authority~~Owner may direct, for the protection and preservation of the terminated Work.

11.2.3 After terminating the Contract for convenience, the Owner shall pay the Contractor in accordance with the Schedule of Values for Work completed, including ~~Contractor's~~Contractor's Fee, any retained funds, and the value of materials ordered and delivered, less any salvage credit the Contractor may receive for them.

11.2.3.1 All materials, equipment, facilities, and supplies at the Site or stored off-site, for which the Contractor has received payment, shall become the property of the Owner.

11.2.3.2 In no event shall the Contractor be entitled to **(1)** ~~Contractor's~~Contractor's Fee on or any other compensation for Work not performed or **(2)** compensation in excess of the total Contract Sum.

11.2.4 If the ~~Contracting Authority~~Owner terminates the Work under this **Section ~~11.2.~~11.2.** the termination shall not affect the rights or remedies of the ~~State~~Owner against the Contractor then existing or which may thereafter accrue.

11.2.5 Notwithstanding **Section ~~11.2.3, if the Contracting Authority~~11.2.3, if the Owner** terminates the Work under this **Section ~~11.2.~~11.2.** but there exists an event of the ~~Contractor's~~Contractor's default, the Contractor shall be entitled to receive only such amounts as it would be entitled to receive following the occurrence of an event of default as provided in **Section ~~11.3.~~11.3.**

11.3 Termination for Cause

11.3.1 The ~~Contracting Authority~~Owner may terminate the Contract in whole or in part if the Contractor commits a material breach of the Contract including but not limited to:

11.3.1.1 failure to prosecute the Work with the necessary force or in a timely manner;

11.3.1.2 refusal to remedy Defective Work;

11.3.1.3 failure to supply enough properly skilled workers or proper materials;

11.3.1.4 failure to properly make payment to Subcontractors or Consultants;

11.3.1.5 performance of any services outside of the United States;

11.3.1.6 permitting its Subcontractors or Consultants to perform any services outside of the United States; or

11.3.1.7 disregarding laws, ordinances, rules, regulations, or orders of a public authority with jurisdiction over the Project.

11.3.2 If the ~~Contracting Authority~~Owner intends to exercise its termination rights under this **Section ~~11.3.~~11.3.** the ~~Contracting Authority~~Owner shall issue not less than five days~~'~~ written notice to the Contractor and the ~~Contractor's~~Contractor's Surety in accordance with ORC Section 153.17 (~~"~~"Five-Day Notice~~"~~").

11.3.2.1 Notwithstanding any provision of the Contract to the contrary **(1)** the issuance of a 72-Hour Notice under **Section ~~6.24.1~~6.24.1** is not a condition precedent to the ~~Contracting Authority's~~Owner's exercise of its rights under **Section ~~11.3~~11.3** and **(2)** the ~~Contracting Authority's~~Owner's decision to not issue a 72-Hour Notice under **Section ~~6.24.1~~6.24.1** will not prejudice the ~~Contracting Authority's~~Owner's rights under **Section ~~11.3.~~11.3.**

11.3.3 If the Contractor fails to satisfy the requirements set forth in the Five-Day Notice within 15 days after receipt of the Five-Day Notice, the ~~Contracting Authority~~Owner may declare the Contractor in default, terminate the Contract, and

~~11.3.3~~ employ upon the Work the additional force or supply materials or either as appropriate, and remove Defective Work.

11.3.4 After termination, the Contractor shall to the extent related to the performance of the discontinued portion of the Work, unless the notice of termination directs otherwise:

11.3.4.1 immediately discontinue the Work on that date, place no further orders or Subcontracts for materials, equipment, services, facilities, or otherwise, except as may be necessary for completion of such portion of the Work as is not discontinued;

11.3.4.2 subject to the ~~Contracting Authority's~~Owner's exercise of its rights under **Section ~~4.5.~~4.5.** promptly make every effort to procure cancellation upon terms satisfactory to the ~~Contracting Authority~~Owner of all Subcontracts;

11.3.4.3 promptly work with the ~~Contracting Authority~~Owner in good-faith to develop and implement plans to **(1)** secure the Site and off-Site stored materials; **(2)** inventory and verify **(a)** the location and quantity of materials stored on and off-Site and **(b)** the status of the progress of the Work; and **(3)** identify all Project-related permits;

11.3.4.4 no less than five days after the effective date of the termination, deliver to the ~~Contracting Authority all Contractor-maintained~~Owner all Contractor- maintained, Project-related permits;

11.3.4.5 no less than seven days after the effective date of the termination, deliver to the ~~Contracting~~

~~Authority~~Owner the following information and documents concerning each Subcontractor: **(1)** name and address; **(2)** name, address, telephone number, and email address of the ~~Subcontractor's~~Subcontractor's primary point of contact for the Project; **(3)** scope of the Subcontract Work (including equipment supplied); **(4)** a complete and unredacted copy of the Subcontract(s); **(5)**

complete and unredacted copies of all Subcontract modifications (e.g., change orders, amendments, etc.) and related documents; **(6)** complete and unredacted copies of all pending claims, requests for additional compensation, requests for additional time, unexecuted change orders, and related documents; **(7)** complete and unredacted copies of all pay applications (paid and pending); **(8)** a complete and unredacted copy of the ~~Contractor's~~Contractor's accounts-payable report for the Subcontractor; **(9)** complete and unredacted copies of any non-conforming Work reports/notices and related documents; and **(10)** complete and unredacted copies of any surety bond(s) or other performance security provided by the Subcontractor.

11.3.4.6 no less than 21 days after the effective date of the termination, pay all undisputed amounts due to each Subcontractor for Work performed before the effective date of termination and deliver to the ~~Contracting Authority~~Owner lien waivers to evidence those payments; and

11.3.4.7 do only such Work as may be necessary to protect the Work already in progress and to protect materials and equipment on the Project Site or in transit thereto.

11.3.5 If the Contract is terminated, the ~~Contractor's~~Contractor's Surety may perform the Contract. If the ~~Contractor's~~Contractor's Surety does not commence performance of the Contract within ten days after the date of Contract termination, the ~~Contracting Authority~~Owner may complete the Work by any means the ~~Contracting Authority~~Owner determines appropriate. The ~~Contracting Authority~~Owner may take possession of and use all materials, facilities, and equipment at the Site or stored off-site, for which the Owner has paid.

11.3.6 If the Contract is terminated, the Contractor shall not be entitled to further payment. If the unpaid balance of the Contract Sum is exceeded by the costs of finishing the Work, including without limitation the fees and charges of engineers, architects, attorneys, and other professionals and court costs, and other damages incurred by the Owner and not expressly waived, the Contractor or Surety shall immediately pay the amount of the insufficiency to the Owner. This obligation for payment shall survive termination of the Contract.

11.3.7 If the ~~Contractor's~~Contractor's Surety performs the Work, the provisions of the Contract Documents govern the ~~Surety's~~Surety's performance, with the Surety in place of the Contractor in all provisions including, but not limited to, provisions for payment for the Work, and provisions of the right of the ~~Contracting Authority~~Owner to complete the Work.

11.3.8 If the ~~Contracting Authority~~Owner terminates the Contract under this **Section ~~11.3,~~11.3,** the termination shall not affect any rights or remedies of the ~~State~~Owner against the Contractor then existing or which may thereafter accrue. The ~~Contracting Authority's~~Owner's retention or payment of funds due the Contractor shall not release the Contractor or the ~~Contractor's~~Contractor's Surety from liability for performance of the Work in accordance with the requirements of the Contract Documents.

11.3.9 If the ~~Contracting Authority~~Owner is adjudged to have improperly or unjustifiably terminated the Contract under this **Section 11.3,**
~~Section 11.3,~~ the termination will be deemed to have been a termination under **Section ~~11.2.~~11.2.**

11.4 Contractor Insolvency

11.4.1 The ~~Contracting Authority~~Owner may immediately terminate the Contract for cause if:

11.4.1.1 the Contractor commences a voluntary case under Title 11 of the United States Code or the corresponding provisions of any successor laws; or

11.4.1.2 any legal entity commences an involuntary case against the Contractor under Title 11 of the United States Code or the corresponding provisions of any successor laws and **(1)** the case is not dismissed within 60 days after its commencement; or **(2)** the court before which the case is pending issues an order for relief or similar order approving the case; or

11.4.1.3 a court of competent jurisdiction appoints, or the Contractor makes an assignment of all or substantially all of its assets to, a receiver, trustee, liquidator, or other similar custodian for the Contractor or all or substantially all of the ~~Contractor's~~Contractor's assets; or

11.4.1.4 any attachment, execution, or other judicial seizure is levied against all or substantially all of the ~~Contractor's~~Contractor's assets; or

11.4.1.5 the Contractor takes any action toward the dissolution or winding up of its business; or

11.4.1.6 the Contractor fails generally to pay its debts as they become due (unless those debts are subject to a good-

faith dispute as to liability or amount) or it acknowledges in writing that it is unable to do so.

11.4.2 If the Contractor files a voluntary petition in bankruptcy or has an involuntary petition in bankruptcy filed against it, the Contractor, the Contractor as the debtor-in-possession, or the trustee of the ~~Contractor's~~Contractor's bankruptcy estate shall file a motion to assume or reject the Contract under Bankruptcy Code § 365, 11 U.S.C. § 365, within 20 days after the

filing of the voluntary petition or involuntary petition and shall diligently prosecute that motion to conclusion so as to obtain an order granting or denying that motion within 45 days after the filing of the voluntary or involuntary petition.

11.4.3 If the ~~Contracting Authority~~Owner intends to exercise its termination rights under this **Section ~~11.4,~~11.4,** the ~~Contracting Authority~~Owner shall notify the Contractor in writing of the ~~Contracting Authority's~~Owner's termination of the Contract and the cause(s) for that termination.

11.4.4 The Contractor agrees to the granting of relief from the automatic stay of the Bankruptcy Code, 11 U. S.C. § 362(a), to permit the ~~Contracting Authority~~Owner to terminate the Contract for cause in such instance and issue and serve all notices necessary to terminate the Contract or arising out of the termination of the Contract and to take any and all other action necessary to terminate the Contract.

ARTICLE 12 - GENERAL PROVISIONS

12.1 ~~Contractor's~~Contractor's Documents and Contract Documents

12.1.1 Ownership.

12.1.1.1 The Owner alone owns the ~~Contractor's~~Contractor's Documents and the Contract Documents and every right, title, and interest therein.

.1 The Contractor shall execute and deliver and cause its employees and agents and all Subcontractors and Consultants to execute and deliver to the Owner any transfers, assignments, documents, or other instruments (if any) necessary to vest in the Owner complete right, title, interest in and ownership of the ~~Contractor's~~Contractor's Documents and the Contract Documents.

12.1.1.2 The Contractor may retain copies, including reproducible copies, of the ~~Contractor's~~Contractor's Documents and the Contract Documents for information, reference, and performance of the Work.

12.1.1.3 The submission or distribution of the ~~Contractor's~~Contractor's Documents or the Contract Documents to meet official regulatory requirements or for similar purposes in connection with the Project is not a waiver of the ~~Owner's~~Owner's reserved rights in the ~~Contractor's~~Contractor's Documents and the Contract Documents. Any unauthorized use of the ~~Contractor's~~Contractor's Documents or the Contract Documents shall be at the sole risk of the entity making the unauthorized use.

12.1.1.4 The Contractor shall provide Electronic Files of the ~~Contractor's~~Contractor's Documents to Separate Consultants and Separate Contractors for their use in connection with the Project. The Contractor shall provide the Electronic Files
(1) at no additional cost to the Separate Consultants, Separate Contractors, and Owner and **(2)** without requiring the Separate Consultants, Separate Contractors, or Owner to agree to any terms or conditions concerning the provision, receipt, or use of the Electronic Files that differ in any material respect from the Contract.

12.1.2 Intent.

12.1.2.1 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor.

12.1.2.2 The Contract Documents are complementary, and what is required by one is binding as if required by all.

12.1.2.3 The Contractor shall provide all labor and materials necessary for the entire completion of the Work described in the Contract Documents and reasonably inferable to produce the intended results.

12.1.2.4 The Drawings govern dimensions, details, and locations of the Work. The Specifications govern quality of materials and workmanship.

12.1.2.5 The organization of the Specifications in divisions, sections, and articles, and the arrangement of Drawings shall not restrict the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade.

12.1.2.6 In the event of inconsistency or conflict within the Contract Documents, the Contractor shall provide the better quality or greater quantity of Work, and comply with the stricter requirement.

12.1.2.7 Unless otherwise defined in the Contract Documents, words that have well-known technical or construction industry meanings are used in accordance with those recognized meanings.

12.1.2.8 The Sections of Division 01 - ~~"~~"General Requirements~~"~~" govern the performance of the Work of all Sections of the Specifications.

12.1.3 Use of Electronic Files.

12.1.3.1 The Owner, ~~Contracting Authority,~~ A/E, and Contractor reasonably expect that they will provide Electronic Files to each other to facilitate the design and construction of the Project consistent with current practices and customs in the construction industry.

12.1.3.2 The Owner, ~~Contracting Authority,~~ A/E, and Contractor acknowledge that the use of Electronic Files involves risks not generally associated with the use of paper documents. Those risks include, for example and without limitation, alteration (inadvertent or intentional) and deterioration, both of which may not be readily apparent through casual observation.

12.1.3.3 The Owner, ~~Contracting Authority,~~ A/E, and Contractor do not warrant to each other that any Electronic File they provide **(1)** was not altered through transmission; **(2)** is compatible with the ~~recipient's~~recipient's computer system or software; **(3)** will not be altered through degradation of the ~~recipient's~~recipient's storage media; or **(4)** is suitable for conversion/translation to and subsequent use in a system or format other than the Electronic ~~File's~~File's original system or format.

12.1.3.4 Before relying on any Electronic File it receives, the recipient is responsible for verifying that the Electronic File was not altered through transmission, degradation of the ~~recipient's~~recipient's own storage media, or other causes.

12.1.3.5 If the recipient of an Electronic File converts/translates the Electronic File from its original system or format to an alternate system or format, the recipient assumes the risk that the conversion/translation created errors in the converted/translated file.

12.1.3.6 The Owner, ~~Contracting Authority,~~ A/E, and Contractor shall each maintain and operate its own computer systems and storage media in a commercially reasonable way and take reasonable steps to prevent errors in and deterioration of the Electronic Files it creates, provides, and receives.

12.1.3.7 In the event of a discrepancy between information contained in a paper version of a document and the Electronic File of that document, the paper version will govern.

12.1.3.8 This **Section ~~12.1.3~~12.1.3** does not relieve the Contractor of its responsibility for the preparation, completeness, or accuracy of the ~~Contractor's~~Contractor's Documents.

12.2 Public Relations

12.2.1 Publicity prior to completion of the Project. Prior to completion of the Project, public relations or publicity about the Project shall be solely within the control, and with the consent of, the Owner.

12.2.2 Publicity after completion of the Project. After completion of the Project, the Contractor may exercise reasonable public relations and marketing efforts related to the Project, provided the Contractor properly identifies the Owner and ~~Contracting Authority, and~~ their participation in the Project.

12.2.3 Professional Photography. If the Contractor commissions photography of the completed Project, the Contractor shall include in its photography agreements a release for unrestricted and unlimited use of photographs by the Owner and ~~Contracting Authority, and~~ shall provide the Owner ~~and Contracting Authority~~ with a reasonable quantity of photographs for use in the ~~Owner's and the Contracting Authority's~~Owner's marketing and awareness activities, including, but not limited to, profiles of the Project on their respective websites.

12.2.4 Craft Awards and Other Recognition. If the Contractor submits the Project for craft awards or other similar venues for recognition of the Project, the Contractor shall properly identify the Owner and ~~Contracting Authority, and~~ their participation in the Project. In addition, if the Project receives any craft award or other recognition, the Contractor shall provide duplicate copies of the award plaque or other memento of the award to the Owner~~ and Contracting Authority~~.

12.3 Application and Governing Law

12.3.1 The Contract and the rights of the parties thereunder shall be governed by the laws of the state of Ohio and only Ohio courts shall have jurisdiction over any action or proceeding concerning the Contract and/or performance thereunder. The Contractor irrevocably consents to such jurisdiction.

12.3.2 The parties to the Contract shall comply with Applicable Law.

12.3.3 Other rights and responsibilities of the Contractor, A/E, ~~Contracting Authority,~~ and Owner are set forth throughout the Contract Documents and included under different titles, articles, and paragraphs for convenience.

12.4 Conditions of the Contract

12.4.1 These General Conditions govern, take precedence over, and shall not be superseded or amended by Drawings and Specifications, unless so provided in Supplementary Conditions prepared by the ~~Contracting Authority~~Owner and approved by the Ohio Facilities Construction Commission.

12.5 Notice of Commencement.

12.5.1 The ~~Contracting Authority~~Owner shall prepare a Notice of Commencement and make it available as required under ORC Section 1311.252.

12.5.2 Upon request, the ~~Contracting Authority~~Owner or the Contractor shall furnish the Notice of Commencement to Subcontractors or any other member of the public.

12.6 Written Notice

12.6.1 Notice under the Contract Documents shall be validly given if:

12.6.1.1 delivered personally to a member of the organization for whom the notice is intended;

12.6.1.2 delivered by trackable delivery service, or sent by registered or certified mail, to the last known business address of the organization; or

12.6.1.3 delivered by facsimile, email, or project management software.

12.6.2 When the Owner, ~~Contracting Authority,~~ A/E, or Contractor gives notice to one of the other three, it shall also simultaneously send a copy of that notice to the others.

12.6.3 A copy of all notices, certificates, requests, or other communications to the ~~Contracting Authority~~Owner shall be sent to the ~~Project Manager~~Owner or the Owner's designee.

12.6.4 In the event of an emergency involving the Project, including, but not limited to, a fatality, serious injury, fire, collapse, flood, utility, or power loss to occupied facilities, explosion, or environmental damage, the Contractor shall immediately notify the A/E~~, Contracting Authority,~~ and Owner by the most expedient means available.

12.6.5 The ~~Contracting Authority,~~ Owner, A/E, or Contractor may, by written notice given hereunder, designate addresses, telephone numbers, email addresses, or facsimile numbers to which notices, certificates, requests, or communications shall be sent.

12.7 Taxes

12.7.1 Only those materials that ultimately become a part of the completed structure or improvement that constitutes the Project shall be exempt from state sales tax and state use tax.

12.7.2 The purchase, lease, or rental of material, equipment, parts, or expendable items as concrete form lumber, tools, oils, greases, and fuels, which are used in connection with the Work, are subject to the application of state sales tax and state use tax.

12.8 Computing Time

12.8.1 When the Contract Documents refer to a period of time by a number of days, the period shall be computed to exclude the first and include the last day of the period. If the last day of the period falls on a Saturday, Sunday, or a Legal Holiday, that day shall be omitted from the computation and the period shall end on the next succeeding day that is not a Saturday, Sunday, or Legal Holiday.

12.8.2 Except as excluded under **Section ~~12.8.1.~~12.8.1,** the Contract Times and all other periods referred to in the Contract Documents includes Saturdays, Sundays, and all days defined as Legal Holidays in the Contracting Definitions.

12.8.3 The standard workdays for State projects are Monday through Friday, excluding Legal Holidays.

12.9 Time of the Essence

12.9.1 Time limits stated in the Contract Documents are of the essence of the Contract and all obligations under the Contract. By signing the Agreement, the Contractor acknowledges that the Contract Times are reasonable, taking into consideration the usual weather and other conditions prevailing in the locality of the Project. By signing the Construction Schedule, the Contractor acknowledges that the specified Milestone dates are reasonable, taking into consideration the usual weather and other conditions prevailing in the locality of the Project.

12.9.1.1 The Contractor acknowledges that the Owner has entered into, or may enter into, agreements for use of all or part of the premises where the Work is to be completed based upon the Contractor achieving Substantial

Completion within the associated Contract Time.

12.9.1.2 The Contractor shall perform the Work in a reasonable, efficient, and economical sequence, and in the order and time as provided in the Construction Progress Schedule.

12.9.1.3 The Contractor acknowledges that it may be subject to interference, disruption, hindrance, or delay in the progress of the Work from any cause.

12.10 Successors and Assigns

12.10.1 The ~~Contracting Authority~~Owner and Contractor each bind themselves, their successors, assigns, and legal representatives, to the other party to this Contract and to the successors, assigns, and legal representatives of the other party with respect to all terms of this Contract.

~~**12.10.2** The Contracting Authority and Contractor each acknowledge that the Owner is an intended third-party beneficiary of this Contract.~~

12.10.2 Not Used.

12.10.3 The Contractor shall not assign or transfer any right, title, or interest in this Contract without the ~~Contracting Authority's~~Owner's prior written consent.

12.11 Extent of Contract

12.11.1 Entire Contract. Contract Documents represent the entire and integrated agreement between the ~~Contracting Authority~~Owner and Contractor and supersede all prior negotiations, representations, or agreements, either written or oral.

12.11.2 Multiple Counterparts. This Contract may be executed in any number of counterparts, each of which shall be regarded as an original and all of which shall constitute but one and the same instrument.

12.11.3 Captions. The captions and headings in this Contract are for convenience only and in no way define, limit, or describe the scope or intent of any provisions or sections hereof.

12.11.4 Precedence. In the event of a conflict or inconsistency between these General Conditions and any other Contract Documents (except Supplementary General Conditions), these General Conditions take precedence. In the event of a conflict or inconsistency between these General Conditions and Supplementary Conditions, the Supplementary Conditions take precedence.

12.12 Severability

12.12.1 If any term or provision of this Contract or the application thereof to any Person or circumstance, is finally determined to be invalid or unenforceable by a court of competent jurisdiction, the remainder of this Contract or the application of such term or provision to other Persons or circumstances, shall not be affected thereby, and each term and provision of this Contract shall be valid and enforced to the fullest extent permitted by Applicable Law.

12.13 Electronic and Facsimile Signatures

12.13.1 Any party hereto may deliver a copy of its counterpart signature page to this Contract via electronic signature software, fax, e-mail, or project management software. Each party hereto shall be entitled to rely upon an electronic, scanned, or facsimile signature of any other party delivered in such a manner as if such signature were an original.

12.14 No Third-Party Interest

12.14.1 Except as expressly provided under **Sections** ~~6.2.2~~6.2.2 through ~~6.2.5~~6.2.5 and **Section** ~~12.10.2,~~12.10.2, **(1)** no person or entity, other than the ~~Contracting Authority,~~ Owner~~,~~ and Contractor, will have any right or interest under the Contract, and

(2) the Contract does not create a contractual relationship of any kind between any people or entities other than the ~~Contracting Authority,~~ Owner~~,~~ and Contractor.

12.15 Ohio Retirement System

12.15.1 All individuals employed by the Contractor that provide personal services to the ~~Contracting Authority or~~ Owner are not public employees for the purposes of ORC Chapter 145, as amended.

12.15.2 If the Contractor is a PERS retirant, as defined by ORC Section 145.38, the Contractor shall notify the ~~Contracting Authority~~Owner of such status in writing prior to commencement of Work. The ~~Contracting Authority,~~ Owner~~, or State~~ is not responsible for changes to the ~~Contractor's~~Contractor's retirement benefits resulting from entering into this Contract.

12.16 No Waiver

12.16.1 The failure of the ~~Contracting Authority~~Owner or Contractor to insist in any one or more instances upon the strict performance of any one or more of the provisions of the Contract or to exercise any rights under the Contract or provided by law will not be construed as a waiver or relinquishment of that provision or right or of the right to subsequently demand strict performance or exercise the right and the rights will continue unchanged and remain in full force and effect.

12.17 Rights and Remedies

12.17.1 The duties, obligations, rights, and remedies under the Contract are in addition to and not a limitation of the duties, obligations, rights, and remedies otherwise imposed by or available under Applicable Law.

12.18 Survival of Obligations

12.18.1 All representations, indemnity obligations, warranties, guarantees, and necessarily continuing obligations under the Contract, will survive final payment, completion and acceptance of the Work, and termination or completion of the Contract.

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Supplementary Conditions (K-12 School General Contracting)

Certifications

These Supplementary Conditions amend and supplement the General Conditions and other provisions of the Contract Documents as indicated below. All provisions not amended remain in full force and effect. The terms in these Supplementary Conditions defined in the Contracting Definitions or the General Conditions shall have the meanings assigned to them in those documents.

These Supplementary Conditions are authorized, by the ~~Ohio Facilities Construction Commission, for use on projects constructed for the «insert name» School District funded by the Ohio Facilities Construction Commission.~~Fairbanks Local School District Board of Education, for use on the HS/MS Gym HVAC Replacement Project.

~~**Contracting Authority**~~

~~«insert name» School District~~	~~in conjunction with~~	~~Ohio Facilities Construction Commission~~
~~«insert street address»~~		~~30 West Spring Street, 4th Floor~~
~~«insert city, state zip code»~~		~~Columbus, Ohio 43215~~
~~«insert phone number»~~		~~614.466.6290~~
~~«insert website»~~		~~http://ofcc.ohio.gov~~

Owner

~~«insert name»~~Fairbanks Local School District Board of Education 9681 State Route 38
Milford Center, OH 43045
937-349-9000
www.fairbanks.k12.oh.us
~~«insert street address»~~
~~«insert city, state zip code»~~
~~«insert phone number»~~
~~«insert website»~~

MODIFICATIONS TO GENERAL CONDITIONS

~~*Replace Section 1.2 and subordinate Sections with the following:*~~

~~1.2 Payroll Reports~~

~~**1.2.1** Notwithstanding that the Project may not be subject to State or Federal Prevailing Wage Rates, the Contractor shall submit payroll reports with each Contractor Payment Request, which reports shall be certified by the Contractor that the payroll is correct and complete. The Contractor is responsible for submitting all payroll reports of its Subcontractors.~~

~~**1.2.1.1** Each payroll report shall indicate the period covered and include a list containing the name, address, and a unique four-digit identification number for each employee of the Contractor and its Subcontractors paid for the Work.~~

~~**1.2.1.2** Each payroll report shall list the number of hours each employee worked each day on the Project during the reporting period, the total hours each week on the Project, the employee's hourly rate of pay, job classification, hourly rate of fringe benefits, and all deductions from wages and net pay.~~

~~**1.2.1.3** Each payroll report shall list each fringe benefit and state if it is paid as cash to the employee or to a named plan.~~

~~*Replace Section 2.1.1 with the following:*~~

~~**2.1.1** The Executive Director of the Ohio Facilities Construction Commission shall designate a Project Manager for the Project to consult with the A/E and Owner. The Project Manager is authorized to act on behalf of the Commission to perform specific responsibilities under the Contract.~~

~~*Replace Section 2.2.1 with the following:*~~

~~**2.2.1** The School District Board ("Owner") shall competitively bid, execute, and administer the Contract in compliance with Applicable Law. The Owner shall designate a representative authorized to act on behalf of the Owner during the Project. In addition, the Owner may employ an Owner's Agent to perform certain duties of the Owner under the~~

Contract.

Replace Section 6.14.2.2.2 with the following:

.2 The Owner shall pay the costs incurred in operating the temporary heating and ventilating systems.

Replace Section 6.13.3.2 with the following:

.2 The Owner shall pay the costs of energy consumed in operating the permanent HVAC system.

Delete Section 6.14.2.3.3 in its entirety.

Delete Section 6.14.2.4 in its entirety.

Replace Section 6.14.3.1 with the following:

6.14.3.1 The Owner shall provide water necessary for the Work until the permanent plumbing system is available for use.

Replace Section 6.14.3.4.2 with the following:

.2 The Owner shall pay the costs of water consumed and sewerage charges.

Delete Section 6.14.3.4.3 in its entirety.

Delete Section 6.14.3.5 in its entirety.

Replace Section 6.14.4.2 with the following:

6.14.4.2 The Owner shall pay the costs of energy consumed.

Delete Section 6.14.4.3 in its entirety. Delete Section 6.14.4.4 in its entirety. Replace Section 7.8.2.2 with the following:

7.8.2.2 Labor: All field labor shall be priced at the current base rate being paid by the Contractor for such labor on the Project, or if such labor has not been previously employed on the Project, the base rate currently being paid by the Contractor on projects in the same locality, excluding fringe benefits.

Replace Section 7.8.2.3 with the following

7.8.2.3 Fringes: All established fringe benefits on the labor in **Section 7.8.2.2** including Health and Welfare, vacation, apprenticeship training, and certain types of pension plans. Each of the fringes shall be a separate line item. The Contractor shall submit documentation supporting the calculation of the amounts for each fringe benefit for each worker classification.

Replace Section 7.8.2.4 with the following

7.8.2.4 Allowable Payroll Expenses: Allowable payroll expenses for labor provided under **Section 7.8.2.2** including payroll taxes as well as other benefits that are required by Applicable Law, such as federal and state Unemployment and Workers' Compensation shall each be a separate line item.

Replace Section 9.421.3 with the following:

9.4.2.3 The Contractor shall attach certified payroll reports for the relevant period to one copy of each Contractor Payment Request.

Replace Section 10.4.1 with the following:

10.4.1 The Owner shall provide and maintain, during the progress of the Work and until Contract Completion, a Builder's Risk insurance policy to cover all Work in the course of construction including false work, temporary buildings and structures, and materials used in the construction process, stored on or off site, or while in transit. This insurance shall be on a special cause of loss form that provides coverage on an open perils basis insuring against the direct physical loss of, or damage to, covered property including, but not limited to, theft, vandalism, malicious mischief, earthquake, tornado, lightning, explosion, breakage of glass, flood, collapse, water damage, and hot and cold testing. This insurance shall be written on a replacement cost basis and shall also include debris removal, and/or demolition occasioned by enforcement of Applicable Law.

10.4.1.1 The amount of coverage shall be not less than the total completed value of the Project, including the value of permanent fixtures and decorations, with a deductible of not more than $10,000 per occurrence. Notwithstanding **Section 10.2.5**, the Contractor shall pay all deductibles contained in the Owner's builder's risk insurance policy.

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CONTRACTOR'S PERSONAL PROPERTY TAX AFFIDAVIT
(O.R.C. § 5719.042)

State of Ohio
County of _____, ss:

_____, being first duly sworn, deposes and says that he is the
(Name)

_____ of _____, with offices located at
(Title) (Contractor)

_____, and as its duly
(Address of Contractor)

authorized representative, states that effective this _____ day of _____, 20__,

_____
(Name of Contractor)

( ) is charged with delinquent personal property taxes on the general list of personal property as set forth below:

County	Amount (include total amount penalties and interest thereon)
_____ County	$_____
_____ County	$_____
_____ County	$_____

( ) is not charged with delinquent personal property taxes on the general list of personal property in any Ohio county.

_____
(Affiant)

Sworn to and subscribed this _____ day of _____, 20__. The notarial act certified hereby is a jurat. An oath or affirmation was administered to the signer with regard to the notarial act certified to hereby.

_____
(Notary Public)

My commission expires

_____, 20__