

**SECTION 00 0101
PROJECT TITLE PAGE**

**PROJECT MANUAL
FOR
SPECTRUM HEALTH MASTER SPEC
OWNER'S PROJECT NUMBER:
SPECTRUM
FACILITY PLANNING AND DESIGN
648 MONROE ST NW SUITE 410
GRAND RAPIDS , MI 49501
DATE: (29 JANUARY 2016)
SPECTRUM**

END OF SECTION 00 0101

**SECTION 00 0102
PROJECT INFORMATION**

PART 1 GENERAL

1.01 PROJECT IDENTIFICATION

- A. Project Name: _____, located at _____.
- B. Owner's Project Number: .
Facility Planning and Design.
648 Monroe St NW Suite 410.
Grand Rapids, MI49501.
- C. The Owner, hereinafter referred to as Owner: Spectrum
- D. Owner's Project Leader: Project Leader Name.
- E. Owner's Construction Project Manager: Construction Project Manager Name.

1.02 NOTICE TO PROSPECTIVE BIDDERS

- A. These documents constitute an Invitation to Bid to Construction Manager for the construction of the project described below.

1.03 PROJECT DESCRIPTION

- A. Summary Project Description: _____.
- B. Contract Scope: Design, construction, demolition, and renovation.
- C. Contract Terms: Cost plus a fee, with a guaranteed maximum price (GMP).

1.04 PROCUREMENT TIMETABLE

- A. RFP Documents Available: _____.
- B. Pre-Bid Site Tour: _____ at _____.
- C. Last Request for Substitution Due: 7 days prior to due date of bids.
- D. Last Request for Information Due: 7 days prior to due date of bids.
- E. Anticipated Bid Due Date: _____, before _____ local time.
- F. Bid Opening: _____, _____ local time.
- G. Desired Substantial Completion Date: Not later than _____ calendar days from Notice to Proceed.
- H. The Owner reserves the right to change the schedule or terminate the entire procurement process at any time.

1.05 PROCUREMENT DOCUMENTS

- A. Availability of Documents: Complete sets of procurement documents may be obtained:
 - 1. From Owner at the Project Manager's address listed above.

PART 2 PRODUCTS (NOT USED)

PART 3 EXECUTION (NOT USED)

END OF SECTION 00 0102

**SECTION 00 0110
TABLE OF CONTENTS**

PROCUREMENT AND CONTRACTING REQUIREMENTS

1.01 DIVISION 00 -- PROCUREMENT AND CONTRACTING REQUIREMENTS

- A. 00 0101 - Project Title Page
- B. 00 0102 - Project Information
- C. 00 0110 - Table of Contents
- D. 00 2113 - Instructions to Bidders
- E. 00 3100 - Available Project Information
- F. 00 4000 - Procurement Forms and Supplements
- G. 00 4100 - Bid Form
- H. 00 4322 - Unit Prices Form
- I. 00 4325 - Substitution Request Form - During Procurement
- J. 00 4336 - Proposed Subcontractors Form
- K. 00 4373 - Proposed Schedule of Values Form
- L. 00 5000 - Contracting Forms and Supplements
- M. 00 5200 - Agreement Form
- N. 00 7200 - General Conditions
- O. 00 7300 - Supplementary Conditions
- P. 00 7316 - Insurance Requirements

SPECIFICATIONS

2.01 DIVISION 01 -- GENERAL REQUIREMENTS

- A. 01 1000 - Summary
- B. 01 2000 - Price and Payment Procedures
- C. 01 2100 - Allowances
- D. 01 2200 - Unit Prices
- E. 01 2300 - Alternates
- F. 01 2500 - Substitution Procedures
- G. 01 3000 - Administrative Requirements
- H. 01 3523 - Owner Safety Requirements
- I. 01 3533 - Infection Control and Risk Assessment Procedures
- J. 01 3553 - Security Procedures
- K. 01 4000 - Quality Requirements
- L. 01 4100 - Regulatory Requirements
- M. 01 4516 - Contractor Quality Control
- N. 01 5000 - Temporary Facilities and Controls
- O. 01 5500 - Vehicular Access and Parking
- P. 01 5719 - Temporary Environmental Controls
- Q. 01 6000 - Product Requirements
- R. 01 6116 - Volatile Organic Compound (VOC) Content Restrictions
- S. 01 7000 - Execution and Closeout Requirements

- T. 01 7419 - Construction Waste Management and Disposal
- U. 01 7800 - Closeout Submittals
- V. 01 7900 - Demonstration and Training
- W. 01 9113 - General Commissioning Requirements

2.02 DIVISION 02 -- EXISTING CONDITIONS

- A. 02 4100 - Demolition

2.03 DIVISION 03 -- CONCRETE

- A. 03 0100 - Maintenance of Concrete

2.04 DIVISION 04 -- MASONRY

2.05 DIVISION 05 -- METALS

2.06 DIVISION 06 -- WOOD, PLASTICS, AND COMPOSITES

- A. 06 4100 - Architectural Wood Casework
- B. 06 8316 - Fiberglass Reinforced Paneling

2.07 DIVISION 07 -- THERMAL AND MOISTURE PROTECTION

- A. 07 5323 - EPDM Thermoset Single-Ply Roofing - Carlisle
- B. 07 8400 - Firestopping

2.08 DIVISION 08 -- OPENINGS

- A. 08 1113 - Hollow Metal Doors and Frames
- B. 08 1116 - Aluminum Doors and Frames
- C. 08 1416 - Flush Wood Doors
- D. 08 4229 - Automatic Entrances
- E. 08 4243 - Intensive Care Unit / Critical Care Unit Entrances
- F. 08 4313 - Aluminum-Framed Storefronts
- G. 08 4413 - Glazed Aluminum Curtain Walls
- H. 08 7100 - Door Hardware

2.09 DIVISION 09 -- FINISHES

- A. 09 2116 - Gypsum Board Assemblies
- B. 09 3000 - Tiling
- C. 09 5100 - Acoustical Ceilings
- D. 09 6500 - Resilient Flooring
- E. 09 6813 - Tile Carpeting
- F. 09 7200 - Wall Coverings
- G. 09 9000 - Painting and Coating

2.10 DIVISION 10 -- SPECIALTIES

- A. 10 2113.19 - Plastic Toilet Compartments
- B. 10 2601 - Wall and Corner Guards
- C. 10 2800 - Toilet, Bath, and Laundry Accessories
- D. 10 4400 - Fire Protection Specialties
- E. 10 5100 - Lockers

2.11 DIVISION 11 -- EQUIPMENT

2.12 DIVISION 12 -- FURNISHINGS

- A. 12 3600 - Countertops

2.13 DIVISION 13 -- SPECIAL CONSTRUCTION

2.14 DIVISION 14 -- CONVEYING EQUIPMENT

- A. 14 2010 - Passenger Elevators
- B. 14 2705 - Custom Elevator Cabs and Hoistway Doors
- C. 14 2817 - Passenger Elevator Control Systems
- D. 14 2819 - Elevator Equipment

2.15 DIVISION 21 -- FIRE SUPPRESSION

- A. 21 0500 - Common Work Results for Fire Suppression
- B. 21 0513 - Common Motor Requirements for Fire Suppression Equipment
- C. 21 0523 - General-Duty Valves for Water-Based Fire-Suppression Piping
- D. 21 0533 - Heat Tracing for Fire Suppression Piping
- E. 21 0548 - Vibration and Seismic Controls for Fire Suppression Piping and Equipment
- F. 21 0553 - Identification for Fire Suppression Piping and Equipment
- G. 21 0719 - Fire Suppression Piping Insulation
- H. 21 1100 - Facility Fire-Suppression Water-Service Piping
- I. 21 1200 - Fire-Suppression Standpipes
- J. 21 1300 - Fire-Suppression Sprinkler Systems
- K. 21 1339 - Foam-Water Systems
- L. 21 2200 - Clean-Agent Fire-Extinguishing System
- M. 21 2400 - Dry-Chemical Fire-Extinguishing System
- N. 21 3000 - Fire Pumps

2.16 DIVISION 22 -- PLUMBING

- A. 22 0513 - Common Motor Requirements for Plumbing Equipment
- B. 22 0516 - Expansion Fittings and Loops for Plumbing Piping
- C. 22 0517 - Sleeves and Sleeve Seals for Plumbing Piping
- D. 22 0519 - Meters and Gauges for Plumbing Piping
- E. 22 0523 - General-Duty Valves for Plumbing Piping
- F. 22 0529 - Hangers and Supports for Plumbing Piping and Equipment
- G. 22 0533 - Heat Tracing for Plumbing Piping
- H. 22 0548 - Vibration and Seismic Controls for Plumbing Piping and Equipment
- I. 22 0553 - Identification for Plumbing Piping and Equipment
- J. 22 0716 - Plumbing Equipment Insulation
- K. 22 0719 - Plumbing Piping Insulation
- L. 22 0719.11 - Under-Lavatory Pipe and Supply Covers
- M. 22 1005 - Plumbing Piping
- N. 22 1500 - General-Service Compressed-Air Systems
- O. 22 3000 - Plumbing Equipment
- P. 22 4000 - Plumbing Fixtures

- Q. 22 4300 - Healthcare Plumbing Fixtures
- R. 22 6000 - Medical Air, Gas, and Vacuum Systems

2.17 DIVISION 23 -- HEATING, VENTILATING, AND AIR-CONDITIONING (HVAC)

- A. 23 0513 - Common Motor Requirements for HVAC Equipment
- B. 23 0516 - Expansion Fittings and Loops for HVAC Piping
- C. 23 0517 - Sleeves and Sleeve Seals for HVAC Piping
- D. 23 0519 - Meters and Gauges for HVAC Piping
- E. 23 0523 - General-Duty Valves for HVAC Piping
- F. 23 0529 - Hangers and Supports for HVAC Piping and Equipment
- G. 23 0533 - Heat Tracing for HVAC Piping
- H. 23 0548 - Vibration and Seismic Controls for HVAC
- I. 23 0553 - Identification for HVAC Piping and Equipment
- J. 23 0593 - Testing, Adjusting, and Balancing for HVAC
- K. 23 0713 - Duct Insulation
- L. 23 0716 - HVAC Equipment Insulation
- M. 23 0719 - HVAC Piping Insulation
- N. 23 0800 - Commissioning of HVAC
- O. 23 0993 - Sequence of Operations for HVAC Controls
- P. 23 1123 - Facility Natural-Gas Piping
- Q. 23 2113 - Hydronic Piping
- R. 23 2114 - Hydronic Specialties
- S. 23 2123 - Hydronic Pumps
- T. 23 2213 - Steam and Condensate Heating Piping
- U. 23 2214 - Steam and Condensate Heating Specialties
- V. 23 2300 - Refrigerant Piping
- W. 23 2500 - HVAC Water Treatment
- X. 23 3100 - HVAC Ducts and Casings
- Y. 23 3300 - Air Duct Accessories
- Z. 23 3413 - Axial HVAC Fans
- AA. 23 3416 - Centrifugal HVAC Fans
- BB. 23 3423 - HVAC Power Ventilators
- CC. 23 3600 - Air Terminal Units
- DD. 23 3700 - Air Outlets and Inlets
- EE. 23 4000 - HVAC Air Cleaning Devices
- FF. 23 5100 - Breechings, Chimneys, and Stacks
- GG. 23 5216 - Condensing Boilers
- HH. 23 5533 - Fuel-Fired Unit Heaters
- II. 23 5700 - Heat Exchangers for HVAC
- JJ. 23 6416 - Centrifugal Water Chillers
- KK. 23 6426 - Rotary-Screw Water Chillers
- LL. 23 6500 - Cooling Towers

MM. 23 7313 - Modular Indoor Central-Station Air-Handling Units
NN. 23 7433 - Dedicated Outdoor Air Units
OO. 23 8101 - Terminal Heat Transfer Units
PP. 23 8124 - Computer Room Air Conditioners - Floor Mounted
QQ. 23 8125 - Computer Room Air Conditioners - Ceiling Mounted
RR. 23 8126.13 - Small-Capacity Split-System Air Conditioners
SS. 23 8130 - Basis of Design VRV Equipment - Daikin
TT. 23 8146 - Water-Source Unitary Heat Pumps
UU. 23 8200 - Convection Heating and Cooling Units
VV. 23 8415 - Steam Humidifiers

2.18 DIVISION 25 -- INTEGRATED AUTOMATION

2.19 DIVISION 26 -- ELECTRICAL

A. 26 0505 - Selective Demolition for Electrical
B. 26 0513 - Medium-Voltage Cables
C. 26 0519 - Low-Voltage Electrical Power Conductors and Cables
D. 26 0526 - Grounding and Bonding for Electrical Systems
E. 26 0529 - Hangers and Supports for Electrical Systems
F. 26 0533.13 - Conduit for Electrical Systems
G. 26 0533.16 - Boxes for Electrical Systems
H. 26 0533.23 - Surface Raceways for Electrical Systems
I. 26 0536 - Cable Trays for Electrical Systems
J. 26 0539 - Underfloor Raceways for Electrical Systems
K. 26 0553 - Identification for Electrical Systems
L. 26 0573 - Power System Studies
M. 26 0583 - Wiring Connections
N. 26 0923 - Lighting Control Devices
O. 26 1116 - Secondary Unit Substations
P. 26 1200 - Medium-Voltage Transformers
Q. 26 1300 - Medium-Voltage Switchgear
R. 26 1321 - Air Interrupter Switches
S. 26 2200 - Low-Voltage Transformers
T. 26 2300 - Low-Voltage Switchgear
U. 26 2413 - Switchboards
V. 26 2416 - Panelboards
W. 26 2713 - Electricity Metering
X. 26 2726 - Wiring Devices
Y. 26 2813 - Fuses
Z. 26 2816.13 - Enclosed Circuit Breakers
AA. 26 2816.16 - Enclosed Switches
BB. 26 2913 - Enclosed Controllers
CC. 26 2923 - Variable-Frequency Motor Controllers

- DD. 26 3213 - Engine Generators
- EE. 26 3353 - Static Uninterruptible Power Supply
- FF. 26 3533.16 - Low-Voltage Power Factor Correction Equipment
- GG. 26 3600 - Transfer Switches
- HH. 26 4113 - Lightning Protection for Structures
- II. 26 4300 - Surge Protective Devices
- JJ. 26 5100 - Interior Lighting
- KK. 26 5600 - Exterior Lighting

2.20 DIVISION 27 -- COMMUNICATIONS

- A. 27 5121 - Biophilic Audio-Visual Environmental Systems - Plantronics

2.21 DIVISION 28 -- ELECTRONIC SAFETY AND SECURITY

- A. 28 1000 - Access Control
- B. 28 2000 - Video Surveillance
- C. 28 4600 - Fire Detection and Alarm

2.22 DIVISION 31 -- EARTHWORK

2.23 DIVISION 32 -- EXTERIOR IMPROVEMENTS

- A. 32 1216 - Asphalt Paving
- B. 32 1723.13 - Painted Pavement Markings
- C. 32 1726 - Tactile Warning Surfacing
- D. 32 8423 - Underground Sprinklers

2.24 DIVISION 33 -- UTILITIES

- A. 33 0110.58 - Disinfection of Water Utility Piping Systems
- B. 33 1416 - Site Water Utility Distribution Piping
- C. 33 3113 - Site Sanitary Sewerage Gravity Piping
- D. 33 3123 - Sanitary Sewerage Force Main Piping
- E. 33 3213 - Packaged Wastewater Pumping Stations
- F. 33 4100 - Subdrainage
- G. 33 4211 - Stormwater Gravity Piping

2.25 DIVISION 46 -- WATER AND WASTEWATER EQUIPMENT

END OF SECTION 00 0110

**SECTION 00 0110
TABLE OF CONTENTS**

PROCUREMENT AND CONTRACTING REQUIREMENTS

1.01 DIVISION 00 -- PROCUREMENT AND CONTRACTING REQUIREMENTS

- A. 00 0101 - Project Title Page
- B. 00 0102 - Project Information
- C. 00 0110 - Table of Contents
- D. 00 2113 - Instructions to Bidders
- E. 00 2413 - Requested Scope of Design Services
- F. 00 2416 - Requested Scope of Additional Design Services
- G. 00 2417 - Requested Scope of Pre-Construction Services
- H. 00 3100 - Available Project Information
- I. 00 4000 - Procurement Forms and Supplements
- J. 00 4100 - Bid Form
- K. 00 4322 - Unit Prices Form
- L. 00 4325 - Substitution Request Form
- M. 00 4336 - Proposed Subcontractors Form
- N. 00 4373 - Proposed Schedule of Values Form
- O. 00 5000 - Contracting Forms and Supplements
- P. 00 5200 - Agreement Form
- Q. 00 7200 - General Conditions
- R. 00 7300 - Supplementary Conditions
- S. 00 7316 - Insurance Requirements for Construction
- T. 00 7317 Insurance Requirements for Design

SPECIFICATIONS

2.01 DIVISION 01 -- GENERAL REQUIREMENTS

- A. 01 1000 - Summary
- B. 01 2000 - Price and Payment Procedures
- C. 01 2100 - Allowances
- D. 01 2200 - Unit Prices
- E. 01 2300 - Alternates
- F. 01 3000 - Administrative Requirements
- G. 01 3523 - Owner Safety Requirements
- H. 01 3533 - Infection Control and Risk Assessment Procedures
- I. 01 3553 - Security Procedures
- J. 01 4000 - Quality Requirements
- K. 01 4100 - Regulatory Requirements
- L. 01 4516 - Contractor Quality Control
- M. 01 5000 - Temporary Facilities and Controls
- N. 01 5500 - Vehicular Access and Parking
- O. 01 5719 - Indoor Air Quality Controls

- P. 01 6000 - Product Requirements
- Q. 01 6116 - Volatile Organic Compound (VOC) Content Restrictions
- R. 01 7000 - Execution and Closeout Requirements
- S. 01 7800 - Closeout Submittals
- T. 01 7900 - Demonstration and Training
- U. 01 9113 - General Commissioning Requirements

END OF SECTION 00 0110

**SECTION 00 0110
TABLE OF CONTENTS**

PROCUREMENT AND CONTRACTING REQUIREMENTS

1.01 DIVISION 00 -- PROCUREMENT AND CONTRACTING REQUIREMENTS

- A. 00 0101 - Project Title Page
- B. 00 0102 - Project Information
- C. 00 0110 - Table of Contents
- D. 00 2113 - Instructions to Bidders
- E. 00 2413 - Requested Scope of Services - Pre-Construction Services
- F. 00 3100 - Available Project Information
- G. 00 4000 - Procurement Forms and Supplements
- H. 00 4100 - Bid Form
- I. 00 4322 - Unit Prices Form
- J. 00 4325 - Substitution Request Form
- K. 00 4336 - Proposed Subcontractors Form
- L. 00 4373 - Proposed Schedule of Values Form
- M. 00 5000 - Contracting Forms and Supplements
- N. 00 5200 - Agreement Form
- O. 00 7200 - General Conditions
- P. 00 7300 - Supplementary Conditions
- Q. 00 7316 - Insurance Requirements

SPECIFICATIONS

2.01 DIVISION 01 -- GENERAL REQUIREMENTS

- A. 01 1000 - Summary
- B. 01 2000 - Price and Payment Procedures
- C. 01 2100 - Allowances
- D. 01 2200 - Unit Prices
- E. 01 2300 - Alternates
- F. 01 3000 - Administrative Requirements
- G. 01 3523 - Owner Safety Requirements
- H. 01 3533 - Infection Control and Risk Assessment Procedures
- I. 01 3553 - Security Procedures
- J. 01 4000 - Quality Requirements
- K. 01 4100 - Regulatory Requirements
- L. 01 4516 - Contractor Quality Control
- M. 01 5000 - Temporary Facilities and Controls
- N. 01 5500 - Vehicular Access and Parking
- O. 01 5719 - Indoor Air Quality Controls
- P. 01 6000 - Product Requirements
- Q. 01 6116 - Volatile Organic Compound (VOC) Content Restrictions
- R. 01 7000 - Execution and Closeout Requirements

- S. 01 7800 - Closeout Submittals
- T. 01 7900 - Demonstration and Training
- U. 01 9113 - General Commissioning Requirements

END OF SECTION 00 0110

**SECTION 00 0110
TABLE OF CONTENTS**

PROCUREMENT AND CONTRACTING REQUIREMENTS

1.01 DIVISION 00 -- PROCUREMENT AND CONTRACTING REQUIREMENTS

- A. 00 0101 - Project Title Page
- B. 00 0102 - Project Information
- C. 00 0110 - Table of Contents
- D. 00 2113 - Instructions to Bidders
- E. 00 3100 - Available Project Information
- F. 00 4000 - Procurement Forms and Supplements
- G. 00 4100 - Bid Form
- H. 00 4325 - Substitution Request Form
- I. 00 4373 - Proposed Schedule of Values Form
- J. 00 5000 - Contracting Forms and Supplements
- K. 00 5200 - Agreement Form
- L. 00 7200 - General Conditions
- M. 00 7300 - Supplementary Conditions
- N. 00 7316 - Insurance Requirements

SPECIFICATIONS

2.01 DIVISION 01 -- GENERAL REQUIREMENTS

- A. 01 1000 - Summary
- B. 01 2000 - Price and Payment Procedures
- C. 01 3000 - Administrative Requirements
- D. 01 3523 - Owner Safety Requirements
- E. 01 3533 - Infection Control and Risk Assessment Procedures
- F. 01 3553 - Security Procedures
- G. 01 4000 - Quality Requirements
- H. 01 4100 - Regulatory Requirements
- I. 01 4516 - Contractor Quality Control
- J. 01 5000 - Temporary Facilities and Controls
- K. 01 5500 - Vehicular Access and Parking
- L. 01 5719 - Indoor Air Quality Controls
- M. 01 6000 - Product Requirements
- N. 01 6116 - Volatile Organic Compound (VOC) Content Restrictions
- O. 01 7000 - Execution and Closeout Requirements
- P. 01 7800 - Closeout Submittals
- Q. 01 9113 - General Commissioning Requirements

END OF SECTION 00 0110

**SECTION 00 2113
INSTRUCTIONS TO BIDDERS**

SUMMARY

1.01 DOCUMENT INCLUDES

- A. Invitation
 - 1. Bid Submission
 - 2. Work Identified in Contract Documents
 - 3. Contract Time
- B. Bid Documents and Contract Documents
 - 1. Definitions
 - 2. Contract Documents Identification
 - 3. Examination
 - 4. Inquiries/Addenda
- C. Site Assessment
 - 1. Site Examination
 - 2. Prebid Conference
- D. Qualifications
 - 1. Subcontractors/Suppliers/Others
- E. Bid Submission
 - 1. Submission Procedure
 - 2. Bid Ineligibility
- F. Bid Enclosures/Requirements
 - 1. Insurance
 - 2. Bid Form Requirements
 - 3. Fees for Changes in the Work
 - 4. Bid Form Signature
 - 5. Additional Bid Information
- G. Offer Acceptance/Rejection
 - 1. Duration of Offer
 - 2. Acceptance of Offer

1.02 RELATED DOCUMENTS

- A. Document 01 1000 - Summary.
- B. Document 00 4100 - Bid Form.
- C. Document 00 4336 - Proposed Subcontractors Form.
- D. Document 00 4322 - Unit Prices Form.
- E. Document 00 4325 - Substitution Request Form - During Procurement
- F. Document 00 4373 - Proposed Schedule of Values Form.
- G. Document 00 7300 - Supplementary Conditions:
 - 1. Contract Time identification.
 - 2. Tax exempt procedures.
 - 3. Bond types and values.

INVITATION

2.01 BID SUBMISSION

- A. Bids signed, executed, and dated will be received at the office of the Owner via email submission (fpdcrfp@corewellhealth.org) per date and time specified in Section 00 0102.

- B. **Bids must be submitted to the above email address only.** Any bids sent to an email other than this email will be deemed unacceptable and not opened.
- C. Offers submitted after the above time shall be returned to the bidder unopened.
- D. Submit required Supplements To Bid Forms within 48 hours after closing time for receiving bids.
- E. Offers will be privately opened at the office of the Owner.
- F. Amendments to the submitted offer will be permitted if received in writing prior to bid closing and if endorsed by the same party or parties who signed the offer.

2.02 INTENT

- A. The intent of this Bid request is to obtain an offer to perform work to complete a construction project as described in Section 00 0102 located as described in Section 00 0102 for a Cost Plus GMP contract, in accordance with the Contract Documents.

2.03 WORK IDENTIFIED IN THE CONTRACT DOCUMENTS

- A. Work of this proposed Contract may comprise of building construction, site development, remodeling, renovation, demolition, and other work as required to complete project, including general construction, structural, mechanical, electrical, and plumbing Work.

2.04 CONTRACT TIME

- A. Owner requires that under the work of this contract be completed as quickly as possible and consideration will be given to time of completion when reviewing the submitted bids.

BID DOCUMENTS AND CONTRACT DOCUMENTS

3.01 DEFINITIONS

- A. Bid Documents: Contract Documents supplemented with Invitation To Bid, Instructions to Bidders, Information Available to Bidders, Bid Form Supplements To Bid Forms and Appendices identified.

3.02 CONTRACT DOCUMENTS IDENTIFICATION

- A. The Contract Documents are identified as described in Section 00 0102 Project Information.

3.03 AVAILABILITY

- A. Bid Documents may be obtained at the office of Owner .
- B. Bid Documents are made available only for the purpose of obtaining offers for this project. Their use does not grant a license for other purposes.

3.04 INQUIRIES/ADDENDA

- A. Direct questions to Project Leader or Construction Project Manager, via email: as described in Section 00 0102 Project Information.
- B. Addenda may be issued during the bidding period. All Addenda become part of Contract Documents. Include resultant costs in the Bid Amount.
- C. Verbal or email answers are not binding on any party.
- D. Clarifications requested by bidders must be in writing prior to date set for receipt of bids. See Section 00 0102 Project Information for last date for inquiries. The reply will be in the form of an Addendum, a copy of which will be forwarded to known recipients .

3.05 PRODUCT/ASSEMBLY/SYSTEM SUBSTITUTIONS

- A. Where the Bid Documents stipulate a particular product, substitutions will be considered prior to receipt of bids.
- B. See Section 00 0102 Project Information for last date for Substitutions.
- C. Submit substitution requests by completing the form in Section 00 4325 - Substitution Request Form - During Procurement; see this section for additional information and instructions. Use only this form; other forms of submission are unacceptable.

- D. When a request to substitute a product is made, Owner may approve the substitution and will issue an Addendum to known bidders.
- E. The submission shall provide sufficient information to determine acceptability of such products.
- F. Provide complete information on required revisions to other work to accommodate each proposed substitution.
- G. Provide products as specified unless substitutions are submitted in this manner and accepted.

SITE ASSESSMENT

4.01 SITE EXAMINATION

- A. Examine the project site before submitting a bid.
- B. The bidder is required to contact Owner's Project Leader or Construction Project Manager at the following address and phone number in order to arrange a date and time to visit the project site: Contact Information per Section 00 0102.

4.02 PREBID CONFERENCE

- A. A prebid conference will be scheduled for this project, see Section 00 0102 Project Information for date, time and location.
- B. Attendance is mandatory for all Invited Pre-Qualified Firms.
- C. Information relevant to the Bid Documents will be recorded in an Addendum, issued to Bid Document recipients.

QUALIFICATIONS

5.01 SUBCONTRACTORS/SUPPLIERS/OTHERS

- A. Owner reserves the right to reject a proposed subcontractor and/or supplier for reasonable cause.

BID SUBMISSION

6.01 SUBMISSION PROCEDURE

- A. Bidders shall be solely responsible for the delivery of their bids in the manner and time prescribed.
- B. Submit one copy of the executed offer on the Bid Forms provided, signed via email, clearly identified in the email title: bidder's name, project name and address and Owner's name.
- C. Incomplete bid submission, may be cause to reject the Bid Form email and declare the bid invalid or informal.

6.02 BID INELIGIBILITY

- A. Bid Forms, Appendices, and enclosures that are improperly prepared may, at the discretion of Owner, be declared unacceptable.
- B. Bids are by invitation only from prequalified construction firms. Bids from unsolicited bidders will be returned.

BID ENCLOSURES/REQUIREMENTS

7.01 INSURANCE

- A. Provide an executed "Undertaking of Insurance" on a standard form provided by the insurance company stating their intention to provide insurance to the bidder in accordance with the insurance requirements of the Contract Documents.

7.02 BID FORM REQUIREMENTS

- A. Complete all requested information in the Bid Form and Appendices.

7.03 SALES AND USE TAXES

- A. The Owner is a tax exempt organization as defined by the State of Michigan, see attached State form of Sales and Use Tax exemption (State of Michigan Form 3372).

- B. This tax exemption is not universal and does not apply to all work.
- C. Work that maybe subject to tax (verify with Spectrum Project Manager):
 - 1. Constuction work for non-acute care facilities, any facility not housing patients for a minimum stay of 24 hours.
- D. Work that is tax exempt:(verify with Spectrum Project Manager):
 - 1. Items purchase by Owner and installed by Contractor.
 - 2. Construction work for acute care facilities, facilliteis providing care for patients for a minimum of 24 hours.

7.04 FEES FOR CHANGES IN THE WORK

- A. Include in the Bid Form, the fees proposed for subcontract work for changes (both additions and deductions) in the Work. Construction Manager shall apply fees as noted, to the subcontractor's gross (net plus fee) costs on additional work.

7.05 BID FORM SIGNATURE

- A. The Bid Form shall be signed by the bidder, as follows:
 - 1. Sole Proprietorship: Signature of sole proprietor in the presence of a witness who will also sign. Insert the words "Sole Proprietor" under the signature.
 - 2. Partnership: Signature of all partners in the presence of a witness who will also sign. Insert the word "Partner" under each signature.
 - 3. Corporation: Signature of a duly authorized signing officer(s) in their normal signatures. Insert the officer's capacity in which the signing officer acts, under each signature. Affix the corporate seal. If the bid is signed by officials other than the president and secretary of the company, or the president/secretary/treasurer of the company, a copy of the by-law resolution of their board of directors authorizing them to do so, must also be submitted with the Bid Form in the bid envelope.
 - 4. Joint Venture: Each party of the joint venture shall execute the Bid Form under their respective seals in a manner appropriate to such party as described above, similar to the requirements of a Partnership.

7.06 ADDITIONAL BID INFORMATION

- A. Bidders proposing the lowest bid, best value, schedule, or project team, will be requested to complete the Supplements To Bid Forms within 48 hours of notification.
- B. Submit the following Supplements concurrent with bid submission:
 - 1. Project staffing model and key individuals identified.
 - a. Corewell Health recommends the following Staffing:
 - 1) Project Superintendent to assigned full time for this project
 - 2) Project Manager to be assigned to no more than one other project (50% assigned to project)
 - 3) Project Engineer as required to complete project documentation, submittals, project Record Drawing management, and other office functions as required.
 - b. Provide resumes and specific project experience relevant to project for all proposed staff.
 - 2. Document 00 4322 - Unit Prices Form: Include a listing of unit prices specifically requested by Contract Documents.
 - 3. Document 00 4325 - Substitution Request Form - During Procurement.
 - 4. Document 00 4373 identifies the Bid Amount segmented into portions as requested.
- C. Submit the following Supplements 72 hours after bid submission:
 - 1. Document 00 4336 - Proposed Subcontractors Form: Include the names of all Subcontractors and the portions of the Work they will perform.

7.07 SELECTION AND AWARD OF ALTERNATES

- A. Indicate variation of bid price for Alternates listed on the Bid Form. Unless otherwise indicated, indicate Alternatives as a difference in bid price by adding to or deducting from the base bid price.
- B. Bids will be evaluated on the base bid price. After determination of a successful bidder, consideration will be given to Alternates and bid price adjustments.

OFFER ACCEPTANCE/REJECTION

8.01 DURATION OF OFFER

- A. Bids shall remain open to acceptance and shall be irrevocable for a period of sixty (60) days after the bid closing date.

8.02 ACCEPTANCE OF OFFER

- A. Owner reserves the right to accept or reject any or all offers.
- B. After acceptance, Owner will issue to the successful bidder a written Work Authorization Contract (WAC).

END OF SECTION 00 2113

**SECTION 00 2113
INSTRUCTIONS TO BIDDERS**

SUMMARY

1.01 DOCUMENT INCLUDES

- A. Invitation
 - 1. Bid Submission
 - 2. Work Identified in the Contract Documents
 - 3. Contract Time
- B. Bid Documents and Contract Documents
 - 1. Definitions
 - 2. Contract Documents Identification
 - 3. Examination
 - 4. Inquiries/Addenda
- C. Site Assessment
 - 1. Site Examination
 - 2. Prebid Conference
- D. Qualifications
 - 1. Subcontractors/Suppliers/Others
- E. Bid Submission
 - 1. Submission Procedure
 - 2. Bid Ineligibility
- F. Bid Enclosures/Requirements
 - 1. Insurance
 - 2. Bid Form Requirements
 - 3. Fees for Changes in the Work
 - 4. Bid Form Signature
 - 5. Additional Bid Information
- G. Offer Acceptance/Rejection
 - 1. Duration of Offer
 - 2. Acceptance of Offer

1.02 RELATED DOCUMENTS

- A. Document 01 1000 - Summary.
- B. Document 00 4100 - Bid Form.
- C. Document 00 4336 - Proposed Subcontractors Form.
- D. Document 00 4322 - Unit Prices Form.
- E. Document 00 4325 - Substitution Request Form - During Procurement
- F. Document 00 4373 - Proposed Schedule of Values Form.
- G. Document 00 7300 - Supplementary Conditions:
 - 1. Contract Time identification.
 - 2. Tax exempt procedures.
 - 3. Bond types and values.

INVITATION

2.01 BID SUBMISSION

- A. Bids signed, executed, and dated will be received at the office of the Owner via email submission (fpdcrrp@spectrumhealth.org) per date and time specified in Section 00 0102.

- B. **Bids must be submitted to the above email address only.** Any bids sent to an email other than this email will be deemed unacceptable and not opened.
- C. Offers submitted after the above time shall be returned to the bidder unopened.
- D. Submit required Supplements To Bid Forms within 48 hours after closing time for receiving bids.
- E. Offers will be privately opened at the office of the Owner.
- F. Amendments to the submitted offer will be permitted if received in writing prior to bid closing and if endorsed by the same party or parties who signed the offer.

2.02 INTENT

- A. The intent of the Bid Request is to obtain an offer to perform Construction Management Services.
- B. These services would be broken into two phases: Pre-Construction Services; and Procurement & Construction Services.
 - 1. Pre-Construction Services to be completed for a Fixed Fee.
 - 2. Procurement and Construction Services to be a Cost Plus GMP contract.
 - 3. Selected firm will be completing both phases.
- C. CM Selection to be based on a number of criteria:
 - 1. Fixed Fee Pre-Construction fee and CM fee percentage.
 - 2. General Condition Costs.
 - 3. Proposed Construction Schedules.
 - 4. Proposed CM Team.
 - 5. Previous project experience and performance with Spectrum.
- D. The Construction / Renovation Project is as described in Section 00 0102 and located as described in Section 00 0102.

2.03 WORK IDENTIFIED IN THE CONTRACT DOCUMENTS

- A. Work of this proposed Contract may comprise of: building construction, site development, remodeling, renovation, demolition, and other work as required to complete project, including general construction, structural, mechanical, electrical, and plumbing Work.

2.04 CONTRACT TIME

- A. Owner requires that under the work of this contract be completed as quickly as possible and consideration will be given to time of completion when reviewing the submitted bids.

BID DOCUMENTS AND CONTRACT DOCUMENTS

3.01 DEFINITIONS

- A. Bid Documents: Contract Documents supplemented with Invitation To Bid, Instructions to Bidders, Information Available to Bidders, Bid Form Supplements To Bid Forms and Appendices identified.

3.02 CONTRACT DOCUMENTS IDENTIFICATION

- A. The Contract Documents are identified as described in Section 00 0102 Project Information.

3.03 AVAILABILITY

- A. Bid Documents may be obtained at the office of Owner .
- B. Bid Documents are made available only for the purpose of obtaining offers for this project. Their use does not grant a license for other purposes.

3.04 INQUIRIES/ADDENDA

- A. Direct questions to Project Leader or Construction Project Manager, via email: as described in Section 00 0102 Project Information.

- B. Addenda may be issued during the bidding period. All Addenda become part of the Contract Documents. Include resultant costs in the Bid Amount.
- C. Verbal or email answers are not binding on any party.
- D. Clarifications requested by bidders must be in writing prior to date set for receipt of bids. See Section 00 0102 Project Information for last date for inquiries. The reply will be in the form of an Addendum, a copy of which will be forwarded to known recipients .

3.05 PRODUCT/ASSEMBLY/SYSTEM SUBSTITUTIONS

- A. Where the Bid Documents stipulate a particular product, substitutions will be considered prior to receipt of bids.
- B. See Section 00 0102 Project Information for last date for Substitutions.
- C. Submit substitution requests by completing the form in Section 00 4325 - Substitution Request Form - During Procurement; see this section for additional information and instructions. Use only this form; other forms of submission are unacceptable.
- D. When a request to substitute a product is made, Owner may approve the substitution and will issue an Addendum to known bidders.
- E. The submission shall provide sufficient information to determine acceptability of such products.
- F. Provide complete information on required revisions to other work to accommodate each proposed substitution.
- G. Provide products as specified unless substitutions are submitted in this manner and accepted.

SITE ASSESSMENT

4.01 SITE EXAMINATION

- A. Examine the project site before submitting a bid.
- B. The bidder is required to contact Owner's Project Leader or Construction Project Manager at the following address and phone number in order to arrange a date and time to visit the project site: Contact Information per Section 00 0102.

4.02 PREBID CONFERENCE

- A. A prebid conference will be scheduled for this project, see Section 00 0102 Project Information for date, time and location.
- B. Attendance is mandatory for all Invited Pre-Qualified Firms.
- C. Information relevant to the Bid Documents will be recorded in an Addendum, issued to Bid Document recipients.

QUALIFICATIONS

5.01 SUBCONTRACTORS/SUPPLIERS/OTHERS

- A. Owner reserves the right to reject a proposed subcontractor and/or supplier for reasonable cause.

BID SUBMISSION

6.01 SUBMISSION PROCEDURE

- A. Bidders shall be solely responsible for the delivery of their bids in the manner and time prescribed.
- B. Submit one copy of the executed offer on the Bid Forms provided, signed via email, clearly identified in the email title: bidder's name, project name and address and Owner's name.
- C. Incomplete bid submission, may be cause to reject the Bid Form email and declare the bid invalid or informal.

6.02 BID INELIGIBILITY

- A. Bid Forms, Appendices, and enclosures that are improperly prepared may, at the discretion of Owner, be declared unacceptable.
- B. Bids are by invitation only from prequalified construction firms. Bids from unsolicited bidders will be returned.

BID ENCLOSURES/REQUIREMENTS

7.01 INSURANCE

- A. Provide an executed "Undertaking of Insurance" on a standard form provided by the insurance company stating their intention to provide insurance to the bidder in accordance with the insurance requirements of the Contract Documents.

7.02 BID FORM REQUIREMENTS

- A. Complete all requested information in the Bid Form and Appendices.

7.03 SALES AND USE TAXES

- A. The Owner is a tax exempt organization as defined by the State of Michigan, see attached State form of Sales and Use Tax exemption (State of Michigan Form 3372).
- B. This tax exemption is not universal and does not apply to all work.
- C. Work that maybe subject to tax (verify with Spectrum Project Manager):
 - 1. Constuction work for non-acute care facilities, any facility not housing patients for a minimum stay of 24 hours.
- D. Work that is tax exempt:(verify with Spectrum Project Manager):
 - 1. Items purchase by Owner and installed by Contractor.
 - 2. Construction work for acute care facilities, facilliteis providing care for patients for a minimum of 24 hours.

7.04 FEES FOR CHANGES IN THE WORK

- A. Include in the Bid Form, the fees proposed for subcontract work for changes (both additions and deductions) in the Work. Construction Manager shall apply fees as noted, to the subcontractor's gross (net plus fee) costs on additional work.

7.05 BID FORM SIGNATURE

- A. The Bid Form shall be signed by the bidder, as follows:
 - 1. Sole Proprietorship: Signature of sole proprietor in the presence of a witness who will also sign. Insert the words "Sole Proprietor" under the signature.
 - 2. Partnership: Signature of all partners in the presence of a witness who will also sign. Insert the word "Partner" under each signature.
 - 3. Corporation: Signature of a duly authorized signing officer(s) in their normal signatures. Insert the officer's capacity in which the signing officer acts, under each signature. Affix the corporate seal. If the bid is signed by officials other than the president and secretary of the company, or the president/secretary/treasurer of the company, a copy of the by-law resolution of their board of directors authorizing them to do so, must also be submitted with the Bid Form in the bid envelope.
 - 4. Joint Venture: Each party of the joint venture shall execute the Bid Form under their respective seals in a manner appropriate to such party as described above, similar to the requirements of a Partnership.

7.06 ADDITIONAL BID INFORMATION

- A. Bidders proposing the lowest bid, best value, schedule, or project team, will be requested to complete the Supplements To Bid Forms within 48 hours of notification.
- B. Submit the following Supplements concurrent with bid submission:
 - 1. Project staffing model and key individuals identified.
 - a. Spectrum recommends the following Staffing:

- 1) Project Superintendent to assigned full time for this project
- 2) Project Manager to be assigned to no more than one other project (50% assigned to project)
- 3) Project Engineer as required to complete project documentation, submittals, project Record Drawing management, and other office functions as required.
- b. Provide resumes and specific project experience relevant to project for all proposed staff.
2. Document 00 4322 - Unit Prices Form: Include a listing of unit prices specifically requested by the Contract Documents.
3. Document 00 4325 - Substitution Request Form - During Procurement.
4. Document 00 4373 identifies the Bid Amount segmented into portions as requested.
- C. Submit the following Supplements 72 hours after bid submission:
 1. Document 00 4336 - Proposed Subcontractors Form: Include the names of all Subcontractors and the portions of the Work they will perform.

7.07 SELECTION AND AWARD OF ALTERNATES

- A. Indicate variation of bid price for Alternates listed on the Bid Form. Unless otherwise indicated, indicate Alternates as a difference in bid price by adding to or deducting from the base bid price.
- B. Bids will be evaluated on the base bid price. After determination of a successful bidder, consideration will be given to Alternates and bid price adjustments.

OFFER ACCEPTANCE/REJECTION

8.01 DURATION OF OFFER

- A. Bids shall remain open to acceptance and shall be irrevocable for a period of sixty (60) days after the bid closing date.

8.02 ACCEPTANCE OF OFFER

- A. Owner reserves the right to accept or reject any or all offers.
- B. After acceptance, Owner will issue to the successful bidder a written Work Authorization Contract (WAC).

END OF SECTION 00 2113

SECTION 00 2113
INSTRUCTIONS TO BIDDERS DESIGN BUILD

SUMMARY

1.01 DOCUMENT INCLUDES

- A. Invitation
 - 1. Bid Submission
 - 2. Work Identified in the Contract Documents
 - 3. Contract Time
- B. Bid Documents and Contract Documents
 - 1. Definitions
 - 2. Contract Documents Identification
 - 3. Examination
 - 4. Inquiries/Addenda
- C. Site Assessment
 - 1. Site Examination
 - 2. Prebid Conference
- D. Qualifications
 - 1. Subcontractors/Suppliers/Others
- E. Bid Submission
 - 1. Submission Procedure
 - 2. Bid Ineligibility
- F. Bid Enclosures/Requirements
 - 1. Insurance
 - 2. Bid Form Requirements
 - 3. Fees for Changes in the Work
 - 4. Bid Form Signature
 - 5. Additional Bid Information
- G. Offer Acceptance/Rejection
 - 1. Duration of Offer
 - 2. Acceptance of Offer

1.02 RELATED DOCUMENTS

- A. Document 01 1000 - Summary.
- B. Document 00 4100 - Bid Form.
- C. Document 00 4336 - Proposed Subcontractors Form.
- D. Document 00 4322 - Unit Prices Form.
- E. Document 00 4325 - Substitution Request Form - During Procurement
- F. Document 00 4373 - Proposed Schedule of Values Form.
- G. Document 00 7300 - Supplementary Conditions:
 - 1. Contract Time identification.
 - 2. Tax exempt procedures.
 - 3. Bond types and values.

INVITATION

2.01 BID SUBMISSION

- A. Bids signed, executed, and dated will be received at the office of the Owner via email submission (fpdcrfp@spectrumhealth.org) per date and time specified in Section 00 0102.

- B. **Bids must be submitted to the above email address only.** Any bids sent to an email other than this email will be deemed unacceptable and not opened.
- C. Offers submitted after the above time shall be returned to the bidder unopened.
- D. Submit required Supplements To Bid Forms within 48 hours after closing time for receiving bids.
- E. Offers will be privately opened at the office of the Owner.
- F. Amendments to the submitted offer will be permitted if received in writing prior to bid closing and if endorsed by the same party or parties who signed the offer.

2.02 INTENT

- A. The intent of this Bid request is to obtain an offer to perform work to complete a construction project as described in Section 00 0102 located as described in Section 00 0102 for a Design Build Cost Plus GMP contract, in accordance with the Contract Documents.

2.03 WORK IDENTIFIED IN THE CONTRACT DOCUMENTS

- A. Work of this proposed Contract may comprise of project design and documentation, building construction, site development, remodeling, renovation, demolition, and other work as required to complete project, including general construction, structural, mechanical, electrical, and plumbing Work.

2.04 CONTRACT TIME

- A. Owner requires that under the work of this contract be completed as quickly as possible and consideration will be given to time of completion when reviewing the submitted bids.

BID DOCUMENTS AND CONTRACT DOCUMENTS

3.01 DEFINITIONS

- A. Bid Documents: Contract Documents supplemented with Invitation To Bid, Instructions to Bidders, Information Available to Bidders, Bid Form Supplements To Bid Forms and Appendices identified.

3.02 CONTRACT DOCUMENTS IDENTIFICATION

- A. The Contract Documents are identified as described in Section 00 0102 Project Information.

3.03 AVAILABILITY

- A. Bid Documents may be obtained at the office of Owner .
- B. Bid Documents are made available only for the purpose of obtaining offers for this project. Their use does not grant a license for other purposes.

3.04 INQUIRIES/ADDENDA

- A. Direct questions to Project Leader or Construction Project Manager, via email: as described in Section 00 0102 Project Information.
- B. Addenda may be issued during the bidding period. All Addenda become part of the Contract Documents. Include resultant costs in the Bid Amount.
- C. Verbal or email answers are not binding on any party.
- D. Clarifications requested by bidders must be in writing prior to date set for receipt of bids. See Section 00 0102 Project Information for last date for inquiries. The reply will be in the form of an Addendum, a copy of which will be forwarded to known recipients .

3.05 PRODUCT/ASSEMBLY/SYSTEM SUBSTITUTIONS

- A. Where the Bid Documents stipulate a particular product, substitutions will be considered prior to receipt of bids.
- B. See Section 00 0102 Project Information for last date for Substitutions.

- C. Submit substitution requests by completing the form in Section 00 4325 - Substitution Request Form - During Procurement; see this section for additional information and instructions. Use only this form; other forms of submission are unacceptable.
- D. When a request to substitute a product is made, Owner may approve the substitution and will issue an Addendum to known bidders.
- E. The submission shall provide sufficient information to determine acceptability of such products.
- F. Provide complete information on required revisions to other work to accommodate each proposed substitution.
- G. Provide products as specified unless substitutions are submitted in this manner and accepted.

SITE ASSESSMENT

4.01 SITE EXAMINATION

- A. Examine the project site before submitting a bid.
- B. The bidder is required to contact Owner's Project Leader or Construction Project Manager at the following address and phone number in order to arrange a date and time to visit the project site: Contact Information per Section 00 0102.

4.02 PREBID CONFERENCE

- A. A bidders conference will be scheduled for this project, see Section 00 0102 Project Information for date, time and location.
- B. All Construction Manager and general contract bidders are invited. Attendance is mandatory.
- C. Information relevant to the Bid Documents will be recorded in an Addendum, issued to Bid Document recipients.

QUALIFICATIONS

5.01 SUBCONTRACTORS/SUPPLIERS/OTHERS

- A. Owner reserves the right to reject a proposed subcontractor for reasonable cause.
- B. Subcontractors are responsible to follow all requirements of the
- C. Design Professional to be selected from Owner's preselected approved list of firms.
 - 1. List of firms can be provided upon request.

BID SUBMISSION

6.01 SUBMISSION PROCEDURE

- A. Bidders shall be solely responsible for the delivery of their bids in the manner and time prescribed.
- B. Submit one copy of the executed offer on the Bid Forms provided, signed via email, clearly identified in the email title: bidder's name, project name and address and Owner's name.
- C. Incomplete bid submission, may be cause to reject the Bid Form email and declare the bid invalid or informal.

6.02 BID INELIGIBILITY

- A. Bid Forms, Appendices, and enclosures that are improperly prepared may, at the discretion of Owner, be declared unacceptable.
- B. Bids are by invitation only from prequalified construction firms. Bids from unsolicited bidders will be returned.

BID ENCLOSURES/REQUIREMENTS

7.01 INSURANCE

- A. Provide an executed "Undertaking of Insurance" on a standard form provided by the insurance company stating their intention to provide insurance to the bidder in accordance with the insurance requirements of the Contract Documents.

- B. See Sections 007316 & 007317 for Construction and Design Insurance Requirements.

7.02 BID FORM REQUIREMENTS

- A. Complete all requested information in the Bid Form and Appendices.

7.03 SALES AND USE TAXES

- A. The Owner is a tax exempt organization as defined by the State of Michigan, see attached State form of Sales and Use Tax exemption (State of Michigan Form 3372).
- B. This tax exemption is not universal and does not apply to all work.
- C. Work that maybe subject to tax (verify with Spectrum Project Manager):
 - 1. Construction work for non-acute care facilities, any facility not housing patients for a minimum stay of 24 hours.
- D. Work that is tax exempt:(verify with Spectrum Project Manager):
 - 1. Items purchase by Owner and installed by Contractor.
 - 2. Construction work for acute care facilities, facilities providing care for patients for a minimum of 24 hours.

7.04 FEES FOR CHANGES IN THE WORK

- A. Include in the Bid Form, the fees proposed for subcontract work for changes (both additions and deductions) in the Work. Construction Manager shall apply fees as noted, to the subcontractor's gross (net plus fee) costs on additional work.

7.05 BID FORM SIGNATURE

- A. The Bid Form shall be signed by the bidder, as follows:
 - 1. Sole Proprietorship: Signature of sole proprietor in the presence of a witness who will also sign. Insert the words "Sole Proprietor" under the signature.
 - 2. Partnership: Signature of all partners in the presence of a witness who will also sign. Insert the word "Partner" under each signature.
 - 3. Corporation: Signature of a duly authorized signing officer(s) in their normal signatures. Insert the officer's capacity in which the signing officer acts, under each signature. Affix the corporate seal. If the bid is signed by officials other than the president and secretary of the company, or the president/secretary/treasurer of the company, a copy of the by-law resolution of their board of directors authorizing them to do so, must also be submitted with the Bid Form in the bid envelope.
 - 4. Joint Venture: Each party of the joint venture shall execute the Bid Form under their respective seals in a manner appropriate to such party as described above, similar to the requirements of a Partnership.

7.06 ADDITIONAL BID INFORMATION

- A. Bidders proposing the lowest bid, best value, schedule, or project team, will be requested to complete the Supplements To Bid Forms within 48 hours of notification.
- B. Submit the following Supplements concurrent with bid submission:
 - 1. Project staffing model and key individuals identified.
 - a. Spectrum recommends the following Staffing:
 - 1) Project Superintendent to assigned full time for this project
 - 2) Project Manager to be assigned to no more than one other project (50% assigned to project)
 - 3) Project Engineer as required to complete project documentation, submittals, project Record Drawing management, and other office functions as required.
 - b. Provide resumes and specific project experience relevant to project for all proposed staff.
 - 2. Document 00 4322 - Unit Prices Form: Include a listing of unit prices specifically requested by the Contract Documents.
 - 3. Document 00 4325 - Substitution Request Form - During Procurement.
 - 4. Document 00 4373 identifies the Bid Amount segmented into portions as requested.

- C. Submit the following Supplements 72 hours after bid submission:
 - 1. Document 00 4336 - Proposed Subcontractors Form: Include the names of all Subcontractors and the portions of the Work they will perform.

7.07 SELECTION AND AWARD OF ALTERNATES

- A. Indicate variation of bid price for Alternates listed on the Bid Form. Unless otherwise indicated, indicate Alternatives as a difference in bid price by adding to or deducting from the base bid price.
- B. Bids will be evaluated on the base bid price. After determination of a successful bidder, consideration will be given to Alternates and bid price adjustments.

OFFER ACCEPTANCE/REJECTION

8.01 DURATION OF OFFER

- A. Bids shall remain open to acceptance and shall be irrevocable for a period of sixty (60) days after the bid closing date.

8.02 ACCEPTANCE OF OFFER

- A. Owner reserves the right to accept or reject any or all offers.
- B. After acceptance, Owner will issue to the successful bidder a written Work Authorization Contract (WAC).

END OF SECTION 00 2113

SECTION 00 2113
INSTRUCTIONS TO BIDDERS GC STIP SUM

SUMMARY

1.01 DOCUMENT INCLUDES

- A. Invitation
 - 1. Bid Submission
 - 2. Work Identified in the Contract Documents
 - 3. Contract Time
- B. Bid Documents and Contract Documents
 - 1. Definitions
 - 2. Contract Documents Identification
 - 3. Examination
 - 4. Inquiries/Addenda
- C. Site Assessment
 - 1. Site Examination
 - 2. Prebid Conference
- D. Qualifications
 - 1. Subcontractors/Suppliers/Others
- E. Bid Submission
 - 1. Submission Procedure
 - 2. Bid Ineligibility
- F. Bid Enclosures/Requirements
 - 1. Insurance
 - 2. Bid Form Requirements
 - 3. Fees for Changes in the Work
 - 4. Bid Form Signature
 - 5. Additional Bid Information
- G. Offer Acceptance/Rejection
 - 1. Duration of Offer
 - 2. Acceptance of Offer

1.02 RELATED DOCUMENTS

- A. Document 01 1000 - Summary.
- B. Document 00 4100 - Bid Form.
- C. Document 00 4336 - Proposed Subcontractors Form.
- D. Document 00 4322 - Unit Prices Form.
- E. Document 00 4325 - Substitution Request Form - During Procurement
- F. Document 00 4373 - Proposed Schedule of Values Form.
- G. Document 00 7300 - Supplementary Conditions:
 - 1. Contract Time identification.
 - 2. Tax exempt procedures.
 - 3. Bond types and values.

INVITATION

2.01 BID SUBMISSION

- A. Bids signed, executed, and dated will be received at the office of the Owner via email submission (fpdcrrp@spectrumhealth.org) per date and time specified in Section 00 0102.

- B. **Bids must be submitted to the above email address only.** Any bids sent to an email other than this email will be deemed unacceptable and not opened.
- C. Offers submitted after the above time shall be returned to the bidder unopened.
- D. Submit required Supplements To Bid Forms within 48 hours after closing time for receiving bids.
- E. Offers will be privately opened at the office of the Owner.
- F. Amendments to the submitted offer will be permitted if received in writing prior to bid closing and if endorsed by the same party or parties who signed the offer.

2.02 INTENT

- A. The intent of this Bid request is to obtain an offer to perform work to complete a construction project as described in Section 00 0102 located as described in Section 00 0102 for a Stipulated Sum contract, in accordance with the Contract Documents.

2.03 WORK IDENTIFIED IN THE CONTRACT DOCUMENTS

- A. Work of this proposed Contract may comprise of building construction, site development, remodeling, renovation, demolition, and other work as required to complete project, including general construction, structural, mechanical, electrical, and plumbing Work.

2.04 CONTRACT TIME

- A. Owner requires that under the work of this contract be completed as quickly as possible and consideration will be given to time of completion when reviewing the submitted bids.

BID DOCUMENTS AND CONTRACT DOCUMENTS

3.01 DEFINITIONS

- A. Bid Documents: Contract Documents supplemented with Invitation To Bid, Instructions to Bidders, Information Available to Bidders, Bid Form Supplements To Bid Forms and Appendices identified.

3.02 CONTRACT DOCUMENTS IDENTIFICATION

- A. The Contract Documents are identified as described in Section 00 0102 Project Information.

3.03 AVAILABILITY

- A. Bid Documents may be obtained at the office of Owner .
- B. Bid Documents are made available only for the purpose of obtaining offers for this project. Their use does not grant a license for other purposes.

3.04 INQUIRIES/ADDENDA

- A. Direct questions to Project Leader or Construction Project Manager, via email: as described in Section 00 0102 Project Information.
- B. Addenda may be issued during the bidding period. All Addenda become part of the Contract Documents. Include resultant costs in the Bid Amount.
- C. Verbal or email answers are not binding on any party.
- D. Clarifications requested by bidders must be in writing prior to date set for receipt of bids. See Section 00 0102 Project Information for last date for inquiries. The reply will be in the form of an Addendum, a copy of which will be forwarded to known recipients .

3.05 PRODUCT/ASSEMBLY/SYSTEM SUBSTITUTIONS

- A. Where the Bid Documents stipulate a particular product, substitutions will be considered prior to receipt of bids.
- B. See Section 00 0102 Project Information for last date for Substitutions.
- C. Submit substitution requests by completing the form in Section 00 4325 - Substitution Request Form - During Procurement; see this section for additional information and instructions. Use only this form; other forms of submission are unacceptable.

- D. When a request to substitute a product is made, Owner may approve the substitution and will issue an Addendum to known bidders.
- E. The submission shall provide sufficient information to determine acceptability of such products.
- F. Provide complete information on required revisions to other work to accommodate each proposed substitution.
- G. Provide products as specified unless substitutions are submitted in this manner and accepted.

SITE ASSESSMENT

4.01 SITE EXAMINATION

- A. Examine the project site before submitting a bid.
- B. The bidder is required to contact Owner's Project Leader or Construction Project Manager at the following address and phone number in order to arrange a date and time to visit the project site: Contact Information per Section 00 0102.

4.02 PREBID CONFERENCE

- A. A prebid conference will be scheduled for this project, see Section 00 0102 Project Information for date, time and location.
- B. Attendance is mandatory for all Invited Pre-Qualified Firms.
- C. Information relevant to the Bid Documents will be recorded in an Addendum, issued to Bid Document recipients.

QUALIFICATIONS

5.01 SUBCONTRACTORS/SUPPLIERS/OTHERS

- A. Owner reserves the right to reject a proposed subcontractor and/or supplier for reasonable cause.

BID SUBMISSION

6.01 SUBMISSION PROCEDURE

- A. Bidders shall be solely responsible for the delivery of their bids in the manner and time prescribed.
- B. Submit one copy of the executed offer on the Bid Forms provided, signed via email, clearly identified in the email title: bidder's name, project name and address and Owner's name.
- C. Incomplete bid submission, may be cause to reject the Bid Form email and declare the bid invalid or informal.

6.02 BID INELIGIBILITY

- A. Bid Forms, Appendices, and enclosures that are improperly prepared may, at the discretion of Owner, be declared unacceptable.
- B. Bids are by invitation only from prequalified construction firms. Bids from unsolicited bidders will be returned.

BID ENCLOSURES/REQUIREMENTS

7.01 INSURANCE

- A. Provide an executed "Undertaking of Insurance" on a standard form provided by the insurance company stating their intention to provide insurance to the bidder in accordance with the insurance requirements of the Contract Documents.

7.02 BID FORM REQUIREMENTS

- A. Complete all requested information in the Bid Form and Appendices.

7.03 SALES AND USE TAXES

- A. The Owner is a tax exempt organization as defined by the State of Michigan, see attached State form of Sales and Use Tax exemption (State of Michigan Form 3372).

- B. This tax exemption is not universal and does not apply to all work.
- C. Work that maybe subject to tax (verify with Spectrum Project Manager):
 - 1. Constuction work for non-acute care facilities, any facility not housing patients for a minimum stay of 24 hours.
- D. Work that is tax exempt:(verify with Spectrum Project Manager):
 - 1. Items purchase by Owner and installed by Contractor.
 - 2. Construction work for acute care facilities, faciltieis providing care for patients for a minimum of 24 hours.

7.04 FEES FOR CHANGES IN THE WORK

- A. Include in the Bid Form, the fees proposed for subcontract work for changes (both additions and deductions) in the Work. Construction Manager shall apply fees as noted, to the subcontractor's gross (net plus fee) costs on additional work.

7.05 BID FORM SIGNATURE

- A. The Bid Form shall be signed by the bidder, as follows:
 - 1. Sole Proprietorship: Signature of sole proprietor in the presence of a witness who will also sign. Insert the words "Sole Proprietor" under the signature.
 - 2. Partnership: Signature of all partners in the presence of a witness who will also sign. Insert the word "Partner" under each signature.
 - 3. Corporation: Signature of a duly authorized signing officer(s) in their normal signatures. Insert the officer's capacity in which the signing officer acts, under each signature. Affix the corporate seal. If the bid is signed by officials other than the president and secretary of the company, or the president/secretary/treasurer of the company, a copy of the by-law resolution of their board of directors authorizing them to do so, must also be submitted with the Bid Form in the bid envelope.
 - 4. Joint Venture: Each party of the joint venture shall execute the Bid Form under their respective seals in a manner appropriate to such party as described above, similar to the requirements of a Partnership.

7.06 ADDITIONAL BID INFORMATION

- A. Bidders proposing the lowest bid, best value, schedule, or project team, will be requested to complete the Supplements To Bid Forms within 48 hours of notification.
- B. Submit the following Supplements concurrent with bid submission:
 - 1. Project staffing model and key individuals identified.
 - a. Spectrum recommends the following Staffing:
 - 1) Project Superintendent to assigned full time for this project
 - 2) Project Manager to be assigned to no more than one other project (50% assigned to project)
 - 3) Project Engineer as required to complete project documentation, submittals, project Record Drawing management, and other office functions as required.
 - b. Provide resumes and specific project experience relevant to project for all proposed staff.
 - 2. Document 00 4322 - Unit Prices Form: Include a listing of unit prices specifically requested by the Contract Documents.
 - 3. Document 00 4325 - Substitution Request Form - During Procurement.
 - 4. Document 00 4373 identifies the Bid Amount segmented into portions as requested.
- C. Submit the following Supplements 72 hours after bid submission:
 - 1. Document 00 4336 - Proposed Subcontractors Form: Include the names of all Subcontractors and the portions of the Work they will perform.

7.07 SELECTION AND AWARD OF ALTERNATES

- A. Indicate variation of bid price for Alternates listed on the Bid Form. Unless otherwise indicated, indicate Alternatives as a difference in bid price by adding to or deducting from the base bid price.
- B. Bids will be evaluated on the base bid price. After determination of a successful bidder, consideration will be given to Alternates and bid price adjustments.

OFFER ACCEPTANCE/REJECTION

8.01 DURATION OF OFFER

- A. Bids shall remain open to acceptance and shall be irrevocable for a period of sixty (60) days after the bid closing date.

8.02 ACCEPTANCE OF OFFER

- A. Owner reserves the right to accept or reject any or all offers.
- B. After acceptance, Owner will issue to the successful bidder a written Work Authorization Contract (WAC).

END OF SECTION 00 2113

SECTION 00 2417
REQUESTED SCOPE OF SERVICES PRE-CONSTRUCTION

PART 1 GENERAL

1.01 SCHEDULE OF PRE-CONSTRUCTION SERVICES REQUIRED

- A. Participate and lead the project team in ongoing value-engineering and constructability reviews, to ensure smooth organization of the project and optimum efficiency. Identify major design elements and advise on options for their potential constructability, budget, and scheduling impact. Present and maintain for review, a method of determining and documenting actual cost savings as a result of value engineering.
- B. Maintaining the project on the originally established budgets is of paramount concern to Spectrum. Regularly review the construction documents as they are developed by the Design Team and provide a Schematic Design, Design Development and detailed estimate of the project cost at 90% Construction Document level. Provide recommendations for value engineering, potential bid alternates and/or other revisions as required to keep the project on budget at estimate level and at final bids if required.
- C. Assist Spectrum and Design Team in presentations of the proposed design and related costs as needed.
- D. Develop and present phasing plans and schedules (i.e. shift work, weekends, holiday periods, etc.).
- E. Provide a detailed construction schedule including milestones and critical path method management for Spectrum review. Update the schedule at least bi-weekly and track progress of any Pre-Construction period. Identify any Long Lead items. Include planning for anticipated phasing and any use of shift work.
- F. Attend all meetings of the Architect and Owner's team and confer with all AHJ involved in or connected with the project.
- G. Make recommendations concerning construction feasibility, availability of labor and materials, and the time required for installations and construction of the project.
- H. Develop a Site and Mobilization Logistics plan.
- I. Establish site utilization, site security, and safety plans.
- J. Attend and provide minutes of scheduled progress meetings with the Design and Spectrum project Team to ensure the project is progressing smoothly and according to the established plan. Advise the Hospital as to any possible delays and cost variance.
- K. Maintain and manage a detailed work plan identifying project tasks, responsible party, and required due date, holding parties accountable to accomplish assigned tasks.
- L. Provide bi-weekly forecasts to determine if any critical item will cause a problem to the extent that the project will experience a delay or significant cost impact.
- M. Implement a process that ensures quality and cost control for construction documents and on-site construction, defines roles and responsibilities, suggests methods for preventing and resolving disputes and delays, efficiently processes change orders, and ensures that all personnel perform in accordance with all OSHA/MIOSHA and Section 01 3523 Owner's Safety Requirements.

PART 2 PRODUCTS -NOT USED-

PART 3 EXECUTION -NOT USED-

END OF SECTION 00 2417

**SECTION 00 3100
AVAILABLE PROJECT INFORMATION**

PART 1 GENERAL

1.01 EXISTING CONDITIONS

- A. Certain information relating to existing surface and subsurface conditions and existing structures are available to bidders but will not be part of the Construction Documents, all information may not be applicable to all projects. Information available may include the following:
 - 1. Site and Utility Surveys
 - 2. Geotechnical Reports
 - 3. Hazardous Material Surveys
 - 4. As Built and Record Drawings of areas being renovated, altered, or modified.

1.02 PRELIMINARY DATA

- A. Certain preliminary investigations and studies made by the Owner are available to the bidders but will not be part of Contract Documents, as follows:
- B. Pre-Project Development information: Project Program, Room Data Sheets, or other data regarding use or forecasted needs.
- C. Preliminary Design Documents, may include floor plans, finish schedules, written scope descriptions, sections, or elevations
- D. Owner's Design Guidelines and Facility Standards.
- E. Preliminary Project Schedule

1.03 OWNER SPECIFICATIONS

- A. Spectrum has developed a website with construction specifications, standard forms for communication, interior material selections, sign guidelines, and other relevant information.
- B. Site is located at: www.spectrumhealth.org/facility-vendors

PART 2 PRODUCTS (NOT USED)

PART 3 EXECUTION (NOT USED)

END OF SECTION 00 3100

**SECTION 00 4000
PROCUREMENT FORMS AND SUPPLEMENTS**

PART 1 GENERAL

1.01 FORMS

- A. Use the following forms for the specified purposes unless otherwise indicated elsewhere in the procurement requirements.
- B. Bid Form: Section 00 4100 - Bid Form.
- C. Procurement Form Supplements:
 - 1. Unit Prices Form: Section 00 4322 - Unit Prices Form.
 - 2. Substitution Request Form (for substitutions requested with bid): CSI/CSC Form 1.5C - Substitution Request (During the Bidding/Negotiating Stage).
 - 3. Proposed Subcontractors Form: Section 00 4336 - Proposed Subcontractors Form.
 - 4. Proposed Schedule Of Values Form: Section 00 4373 - Proposed Schedule of Values Form.

1.02 REFERENCE STANDARDS

- A. CSI/CSC Form 1.5C - Substitution Request (During the Bidding/Negotiating Stage); Current Edition.

PART 2 PRODUCTS - NOT USED

PART 3 EXECUTION - NOT USED

END OF SECTION 00 4000

**SECTION 00 4100
BID FORM**

1.01 BID FORM ATTACHED FOLLOWING THIS PAGE.

**1.02 WORD DOCUMENT OF BID FORM AVAILABLE FROM OWNER. DOWNLOAD FROM:
WWW.SPECTRUMHEALTH.ORG/FACILITY-VENDORS/FORMS**

END OF SECTION 00 4100

**SECTION 00 4322
UNIT PRICES FORM**

PARTICULARS

1.01 UNIT PRICING FORM TO BE ATTACHED FOLLOWING THIS PAGE.

**1.02 FOR DESIGN BUILD CONTRACTS, INCLUDE ARCHITECT / ENGINEER STAFF HOURLY
BREAKDOWNS FOR ADDITIONAL SERVICES.**

END OF SECTION 00 4322

**SECTION 00 4325
SUBSTITUTION REQUEST FORM - DURING PROCUREMENT**

- 1.01 DURING THE BIDDING PHASE, A REQUEST FOR SUBSTITUTION MAYBE SUBMITTED TO VARY FROM SPECIFIED PRODUCTS.**
- 1.02 COMPLETE AND SUBMIT ATTACHED SUBSTITUTION REQUEST FORM.**
- 1.03 REQUESTS MUST BE RECEIVED 10 DAYS PRIOR TO BID (SEE SECTION 00 2113 3.05)**
- 1.04 OWNER RESERVES RIGHT TO REJECT ANY SUBSTITUTIONS**

END OF SECTION 00 4325

**SECTION 00 4336
PROPOSED SUBCONTRACTORS FORM**

PARTICULARS

- 1.01 THE SUBCONTRACTORS FORM IS ATTACHED FOLLOWING THIS PAGE.**
- 1.02 TO BE SUBMITTED BY SHORT LISTED OR SELECTED CONTRACTORS AND TO BE PRESENTED AFTER THE BID AT A POST-BID INTERVIEW.**

END OF SECTION 00 4336

**SECTION 00 4336
REQUIRED SUBCONTRACTORS LIST**

PARTICULARS

1.01 THE LIST OF PRE-APPROVED SUBCONTRACTORS FOR THIS PROJECT IS ATTACHED FOLLOWING THIS PAGE.

1.02 THE FOLLOW TRADES ARE REQUIRED TO BE FROM THE PRE-APPROVED LIST:

- A. FLOORING**
- B. ROUGH CARPENTRY**
- C. HVAC**
- D. ELECTRICAL**
- E. FIRE PROTECTION**
- F. PLUMBING**

1.03 NO SUBSTITUTIONS ARE ALLOWED TO THIS LIST FOR THIS PROJECT.

END OF SECTION 00 4336

**SECTION 00 4373
PROPOSED SCHEDULE OF VALUES FORM**

PARTICULARS

1.01 DETAILED SCHEDULE OF VALUES IS ATTACHED FOLLOWING THIS PAGE.

1.02 TO BE AN INTEGRAL PART OF THE BID FORM.

1.03 EXCEL SPREADSHEET FOR USE AVAILABLE FROM OWNER.

- A. Breakdown Tab to be filled out and automatically populates Summary SOV.
- B. Heading lines should not be changed, but new lines inserted under each division for additional break outs.

END OF SECTION 00 4373

**SECTION 00 5000
CONTRACTING FORMS AND SUPPLEMENTS**

PART 1 GENERAL

1.01 AGREEMENT AND CONDITIONS OF THE CONTRACT

1.02 FORMS

- A. Use the following forms for the specified purposes unless otherwise indicated elsewhere in Contract Documents.

PART 2 PRODUCTS - NOT USED

PART 3 EXECUTION - NOT USED

END OF SECTION 00 5000

**SECTION 00 5200
AGREEMENT FORM**

PART 1 GENERAL

1.01 FORM OF AGREEMENT

1.02 THE AGREEMENT TO BE EXECUTED IS ATTACHED FOLLOWING THIS PAGE.

- A. Agreement will be either a Statement of Work (SOW) or a Work Authorization Contract (WAC)

1.03 RELATED REQUIREMENTS

- A. Section 00 7300 - Supplementary Conditions.

PART 2 PRODUCTS (NOT USED)

PART 3 EXECUTION (NOT USED)

END OF SECTION 00 5200

**SECTION 00 7200
GENERAL CONDITIONS**

PART 1 GENERAL

FORM OF GENERAL CONDITIONS

- A. THE GENERAL CONDITIONS APPLICABLE TO THIS CONTRACT ARE THE MASTER TERMS AND CONDITIONS OF CONTRACT FOR CONSTRUCTION OR DESIGN/BUILD EXECUTED BY THE INVITED CONTRACTORS TO BID THIS PROJECT. GENERAL CONTRACTORS AND/OR CONSTRUCTION MANAGERS SUBCONTRACTORS ARE REQUIRED IN ACCORDANCE WITH SECTION 7, PARAGRAPHS 7.1 AND 7.2 TO COMPLY WITH THE TERMS OF AGREEMENT AS WRITTEN.

RELATED REQUIREMENTS

- A. SECTION 00 7300 - SUPPLEMENTARY CONDITIONS

SUPPLEMENTARY CONDITIONS

- A. REFER TO DOCUMENT 00 7300 - SUPPLEMENTARY CONDITIONS FOR AMENDMENTS TO THESE GENERAL CONDITIONS.

SUMMARY OF CONTENTS

- A. ARTICLE 1. DEFINITIONS AND USE OF TERMS
- B. ARTICLE 2. THE CONTRACT
- C. ARTICLE 3. THE OWNER
- D. ARTICLE 4. ADMINISTRATION OF THE CONTRACT
- E. ARTICLE 5. CONTRACTOR
- F. ARTICLE 6. SUBCONTRACTORS AND SUPPLIERS
- G. ARTICLE 7. WORK BY OWNER AND BY OTHERS
- H. ARTICLE 8. PROTECTION OF PERSONS AND PROPERTY
- I. ARTICLE 9. SUBMITTALS
- J. ARTICLE 10. QUALITY CONTROL PLAN, COMMISSIONING REPORT & WARRANTIES
- K. ARTICLE 11. TIME
- L. ARTICLE 12. CHANGES
- M. ARTICLE 13. PAYMENTS
- N. ARTICLE 14. SUBSTANTIAL AND FINAL COMPLETION
- O. ARTICLE 15. RIGHTS AND REMEDIES
- P. ARTICLE 16. CONTRACT DISPUTE
- Q. ARTICLE 17. INSURANCE AND BONDS
- R. ARTICLE 18. NONDISCRIMINATION IN EMPLOYMENT
- S. ARTICLE 19. STATUTORY REQUIREMENTS
- T. ARTICLE 20. MISCELLANEOUS PROVISIONS

ARTICLE 1

1.01 DEFINITION OF TERMS

- A. **Acute Care.** Acute care is a level of health care in which a patient is treated for a brief but severe episode of illness, for conditions that are the result of disease or trauma, and during recovery from surgery
- B. **Addendum.** An addendum is a written or graphic instrument issued prior to the opening of Bids or Proposals, which clarifies, corrects or changes the Solicitation.

- C. **Administrative Project Coordinator.** The term Administrative Project Coordinator refers to the person designated as such by the Owner having responsibility to provide support to the project team. APC's track budgets, organize contracts, provide financial reporting, monitor invoices, assist in project closeout, and many other important administrative tasks.
- D. **Intentionally Not Used.**
- E. **Allowance.** An allowance is an estimated monetary amount established in the Contract Documents and included in the Contract Sum for a portion of the Work to be performed by the Contractor.
- F. **Applicable Laws.** All applicable codes, statutes, ordinances, laws (including the American with Disabilities Act (ADA), rules and regulations, and lawful orders of all public authorities having jurisdiction (AHJ) over the Owner, any member of the Construction Team, the Project, the Work Site, the Work or the prosecution of the Work.
- G. **Application for Payment.** An Application for Payment is a request from the Contractor for a progress of final payment on the prescribed form and includes all information required to be submitted with the form to substantiate the Contractor's right to payment. Unless otherwise provided, Applications for Payment must be submitted in the format specified by the Owner.
- H. **Arbitration.** A method of settling claims or disputes between parties to a contract, used as an alternative to litigation, under which an arbitrator or a panel of arbitrators, selected for specific knowledge in the field in question, hears the evidence and renders a decision
- I. **Architect, Architect/Engineer, A/E.** The Architect, Architect/Engineer, A/E is a person or an entity identified as such in the Work Authorization of Contract (WAC).
- J. **Basis of Design.** A document that records the major thought processes and assumptions behind design decisions made to meet the owner's project requirements (OPR).
- K. **Bid.** The bid is an offer to furnish construction in conformity with the specifications, terms and conditions of contract, and other requirements included in the Initiation for Bids.
1. The Base Bid is the sum stated in the Bid for which the Contractor has offered to perform the Work described in the Bid Documents as the base.
 2. A Bid Alternate or Alternate is an amount stated in the Contractor's Bid to be added to or deducted from the amount of the Base Bid if the corresponding Change in the Work, as described in the Bid Documents, is accepted by the Owner in the WAC.
- L. **Bid Documents.** The advertisement for bids, the instruction to bidders, the bid form, other sample bidding and contract forms, and the contract documents, includes any addenda issued prior to receipt of bids.
- M. **Bid, Performance and Payment Bonds.** The term Bid, Performance and Payment Bonds refers to instruments of security issued in accordance with the requirements set forth in the Bid Documents or the Contract Documents by a surety authorized to do business in the State of Michigan and approved by the Owner.
- N. **Bid Form.** A form furnished to a bidder to be completed, signed, and submitted as the bidder's bid.
- O. **Bid Opening.** The opening and tabulation of bids that have been submitted before the prescribed bid opening time and in conformity with the prescribed procedure.
- P. **Bid Security.** The deposit of cash, certified check, cashier's check, bank draft, stocks/bonds, money order, or bid bond submitted with a bid.
- Q. **Building Commissioning (Cx).** Building Commissioning (Cx) is the process of verifying, in new construction, all (or some, depending on scope) of the subsystems for mechanical (HVAC), plumbing, electrical, fire/life safety, building envelopes, interior systems, co-generation, utility plants, sustainable systems, lighting, wastewater, controls, and building security to achieve the owner's project requirements (OPR) as intended by the building owner and as designed by the building Architects and Engineers.

- R. **Bulletin.** A delineation, narrative or both issued by the Architect describing a proposed change for pricing by a Contractor's Supplier or Sub-Contractor or their Sub-Sub-Contractor and for consideration as a Change Order by the Owner.
- S. **Certificate of Insurance.** A Certificate of Insurance is a form acceptable to the Owner, described and certifying the instance coverage obtained by the insured Contractor or Sub-Contractor from an insurer acceptable to the Owner.
- T. **Certificate of Occupancy.** A certificate of occupancy is a document issued by a local government agency or building department certifying a building's compliance with applicable building codes and other laws, and indicating it to be in a condition suitable for occupancy.
- U. **Certificate of Payment.** A Certificate for Payment is the original or a copy of the Contractor's Application for Payment, which has been reviewed and recommended by the Architect/Engineer and Owner.
- V. **Certificate of Final Completion.** The Certificate of Final Completion is a form the Owner issues to confirm the date of Final Completion.
- W. **Certificate of Substantial Completion.** The Certificate of Substantial Completion is a form the Architect issues to confirm Substantial Completion in accordance with Section 14.02.
- X. **Change Directive.** A Change Directive is a written directive by the Owner to the Contractor directing a change in the Work which is within the general scope of the contract and which may increase or decrease the Contract Time and/or the Contract Sum issued with or without the consent of the Contractor.
- Y. **Change Order.** A Change Order is a request for a change in the Work.
- Z. **Claim of Lien.** A notice to the world that a construction lien is claimed, that the claimant has not been paid, and that the property Owner's title is not clean. A claim of lien is also a necessary step in perfecting the lien for later foreclosure.
- AA. **Codes.** Regulations, ordinances, or statutory requirements of federal, state and local governments related to building construction and occupancy that are intended to protect public health, safety, and welfare.
- BB. **Code of Excellence.** A statement of commitment to ethics and integrity that provides a reference for the way we conduct business at Spectrum. The Code's values and policies can help every employee, every day, make the best decisions possible and provide exceptional experiences to patients, families and members.
- CC. **Competitive Bidding.** A method of selecting constructors for construction projects by price competition between qualified bidders subjected to various rules and procedures.
- DD. **Conditions of the Contract.** The portions of the contract documents that define the roles and responsibilities of the contracting parties and other participants.
- EE. **Constructibility Analysis.** A review of the practical ability to construct a project, covering economics, availability of materials, site restrictions, and local conditions that may affect construction.
- FF. **Construction Change Directive (CCD).** A CCD is a written order signed by the Owner directing a change in the Work and which may (but need not) state a proposed basis for adjustment in the Contract Sum and/or Contract Time.
- GG. **Construction Management.** Management services provided to an owner during the construction phase of a project by an individual or entity possessing requisite training and experience.

- HH. **Construction Manager At Risk (CMAR).** The Construction Manager at Risk (CMAR) is a delivery method which entails a commitment by the Construction Manager (CM) to deliver the project within a Guaranteed Maximum Price (GMP) which is based on the construction documents and specifications at the time of the GMP plus any reasonably inferred items or tasks. The CMAR provides professional services and acts as a consultant to the owner in the design development and construction phases. Often times, the CMAR also provides some of the actual construction of the project depending on the availability of bidders and the expertise the company has. In addition to acting in the owner's interest, the CMAR must manage and control construction costs to not exceed the GMP because contractually any costs exceeding the GMP that are not change orders are the financial liability of the CMAR. See also Guaranteed Maximum Price (GMP)
- II. **Construction Team.** Includes the Constructor, Trade Contractors, Subcontractors and Suppliers and (i) all other persons in privity of contract with any of them in connection with the Work (except the Owner), (ii) anyone else providing labor, materials, supplies, equipment or services as part of or in connection with the Work (except those, if any, hired directly by the Owner), and (iii) all of their officers, employees, agents, and independent contractors.
- JJ. **Constructor.** The individual or entity responsible for performing and completing the construction of a project as required by the contract documents.
- KK. **Contract.** The Contract (WAC) is the written agreement between the Owner and the Contractor, as executed by the parties, covering the Work to be performed and fixing the Contract Time and the Contract Sum. The Contract is comprised of the Contract Documents.
- LL. **Contract Administrator.** The Contract Administrator is the Owner's representative authorized to oversee administration of the Contract as provided in Section 4.01.
- MM. **Contract Amendment.** A Modification to a Contract signed by the Contractor and Owner which provides for a change in the Contract provisions, including additional work outside the scope of the original Contract.
- NN. **Contract Documents.** The Contract Documents consist of the Contract between Owner and Contractor (WAC), Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to the execution of the Contract, other documents listed in the Contract, Modifications issued after execution of the Contract, Performance and Payment Bonds if applicable, Notice to Proceed, mandatory insurance requirements, and Project Schedule.
- OO. **Contract Sum.** The Contract Sum is the total amount stated in the Contract which is payable by the Owner to the Contractor for proper performance of the Work under the Contract Documents. The Contract Sum is subject to adjustment only as provided herein.
- PP. **Contract Time.** The Contract Time is the total period of time stated in the Contract between the Date of Commencement and Substantial Completion of the Work. The Contract Time is subject to adjustment only by Change Order as provided herein.
- QQ. **Contractor.** The Contractor is the person or entity identified as such in the Bid or Proposal and referred to in the Contract executed by the Owner. The Contractor is also the person or entity identified as the principal on the Bid, Performance and Payment Bonds.
- RR. **Coordination Drawings.** Drawings prepared by the Architect showing comprehensive coordination of all Work including but not limited to structural, architectural, vertical transportation, mechanical, plumbing, fire protection and electrical system.
- SS. **Critical Path.** Means the longest continuous chain of activities through the project schedule that establishes the minimum time to achieve Final Completion of the Work.
- TT. **Date of Commencement.** The Date of Commencement of the Work is the date established in the Notice to Proceed upon which the Contract Time begins to run; or if no date is established, then it is the date of the Notice to Proceed.

UU. **Date of Substantial Completion.** The Date of Substantial Completion is the date certified by the Architect/Engineer and accepted by the Owner in accordance with Section 14.02 upon which the Work is found to be substantially complete.

VV. **Day.** Unless otherwise specifically modified, the term “day” means a calendar day.

WW. **Defective or Nonconforming Work.** “Defective or Nonconforming” is Work that is unsatisfactory, faulty or deficient, in that:

1. Does not conform to the Contract Documents;
2. Does not meet the requirements of any inspection, test or approval referred to in the Contract documents or required by law;
3. Is used or not of recent manufacture;
4. Contains defects;
5. Represents an Or-Equal of Substitution not properly approved by the Owner; or
6. Has been damaged prior to Substantial Completion.

XX. **Delay.** The term “delay” refers to any circumstance which has the effect of preventing the Contractor from performing the Work, or a portion thereof, which at the time of the delay was on the Critical Path of the most recent Critical Path Method Schedule of Record.

1. An excusable delay, as defined in Subsection 11.05.A may entitle the Contractor to an adjustment in the Contract Time, but does not entitle the Contractor to any additional compensation.
2. A compensable delay, as defined in Subsection 11.05.B may entitle the Contractor to additional compensation and an adjustment in the Contract Time.
3. An unexcused delay, as defined in Subsection 11.05.C does not entitle the Contractor to an adjustment in the Contract Time or additional compensation, and may subject the Contractor to claims for damages from the Owner including Liquidated Damages.

YY. **Department.** The Department means the Owner Health Facility Planning, Design and Construction.

ZZ. **Design-Bid-Build.** The predominant form of contracting in the U.S, in which the owner separately engages a design professional to provide design services and constructor to build the project. Also see Traditional Project Delivery.

AAA. **Design-Build.** A form of contracting where one entity, either a constructor or design professional, is responsible for both project design and construction.

BBB. **Design Discipline.** A category of related professional services, such as structural engineering, architecture, mechanical engineering, civil engineering, electrical engineering, and others, requiring licensure or regulation in the state in which services are being performed.

CCC. **Design Professional.** A designation reserved, usually by law, for a person or organization professionally qualified and licensed to perform architectural or engineering services. These services may include, but are not limited to, the development of project requirements; the creation and development of project design documents; the preparation of drawings, specifications, and bidding requirements; and the delivery of design services during the construction and start-up phases of a project.

DDD. **Design Team.** The group of individuals or entities representing the design disciplines to be performed.

EEE. **Director.** The Director means the Senior Director, Real Estate and Project Development.

FFF. **Drawings.** The Drawings are the graphic and pictorial portions of the Contract Documents identified in the executed Contract, generally including plans, elevations, sections, details, schedules, and diagrams, and any revisions, supplements or clarifications thereto issued after execution of the Contract.

GGG. **Environmental Assessment (EA).** A report on the anticipated impact of a proposed project on surrounding conditions. An EA typically includes environmental, engineering, aesthetic, and economic impacts.

- HHH. **Environmental Impact Statement (EIS).** A detailed document meeting the requirements of the national Environmental Policy Act that discusses the benefits and impacts of project alternatives with respect to specified environmental issues. Some projects may require draft (DEIS) and final (FEIS) versions of this document.
- III. **Facilities Portfolio Manager.** The term Facilities Portfolio Manager refers to the person designated as such by the Owner having responsibility for the overall function of the facilities team for a particular delivery service portfolio. The Facilities Portfolio Manager owns and directs the facilities program management plan of the particular delivery service to achieve the client's business objectives pertaining to physical facilities and the facilities team within the portfolio.
- JJJ. **Facilities Project Manager.** The term Facilities Project Manager refers to the person designated as having responsibility to manage all aspects of a construction project on the behalf of the Owner. The Facilities Project Manager prepares all bid requests, evaluates bid proposals, makes recommendation for award, authors the contract, develops a construction master plan, performs on-site inspections, approves pay request, facilities communication and ensures compliance with codes and regulation are being met.
- KKK. **Fast-Track Construction.** The practice of starting construction and/or site work as soon as drawings and specifications are available for some portions of a project, even though design may not be complete for others.
- LLL. **Field Order.** A Field Order is a written instruction issued by the Owner to the Contractor directing a change in the Work when unforeseen and unanticipated conditions arise which require immediate action to mitigate costs or avoid delays. It may provide for additional compensation to be paid to the Contractor (outside of the Contract Sum under a separate encumbrance), but does not change the Contract Time or Contract Sum. A Field Order may also be issued directing the Contractor's performance of disputed work.
- MMM. **Final Completion.** Final Completion is the state in the progress of the Work, as confirmed by the Owner's acceptance of the Architect/Engineer's Certificate of Substantial Completion in accordance with Article 14, when all of the Work, including all Punch List work, is complete in accordance with the Contract Documents.
- NNN. **Guaranteed Maximum Price (GMP).** A guaranteed maximum price (also known as GMP, not-to-exceed price, NTE, or NTX) contract is a cost-type contract (also known as an open-book contract) where the contractor is compensated for actual costs incurred plus a fixed fee subject to a ceiling price. The contractor is responsible for cost overruns, unless the GMP has been increased via formal change order (only as a result of additional scope from the client, not price overruns, errors, or omissions). Savings resulting from cost underruns are returned to the owner. This is different from a fixed-price contract (also known as stipulated price contract or lump-sum contract) where cost savings are typically retained by the contractor and essentially become additional profits.
- OOO. **Geotechnical Studies.** Geotechnical Studies refers to those reports of explorations and tests of subsurface conditions at or contiguous to the Site, which have been prepared for the use of the Architect/Engineer and/or Owner in designing the project. Their accuracy or completeness is limited to the very narrow parameters of locations, timing and depth of the borings, pits and other analyses. As such, they are not intended to, and do not, provide a comprehensive representation of subsurface conditions. The Geotechnical Studies have been made part of the Contract Documents for the limited purpose of design of the Work. The Geotechnical Studies shall not be relied upon by the Contractor for any means or methods of construction. Contractors and Offerors may make their own investigation of existing subsurface conditions. For Contract Modification purposes, the Geotechnical Studies establish a baseline for expected subsurface conditions. The Contractor must show a material difference between the Geotechnical Studies and actual subsurface conditions to justify a Contract Modification.
- PPP. **Goals.** Broad project aims, usually expressed by the owner. Also see Objectives.

- QQQ. **Hazardous Materials.** Any Asbestos Containing Materials (ACM), Polychlorinated Biphenyls (PCB), and/or petroleum products the manufacturer uses in the treatment, storage, transportation, or disposal of construction materials such as paint thinners, solvents, gasoline, oil, etc. that are regulated by federal, State, or local laws governing the protection of public health, natural resources, and/or the environment.
- RRR. **Indemnification.** A collateral contract or assurance in which one party agrees to secure or “hold harmless” another against unanticipated losses or prevent the other party from being damaged by the legal consequences of any act of forbearance by one of the parties of a third party.
- SSS. **Instruction to Bidders or Offerors.** The Instruction to Bidders or Offerors are issued in conjunction with the Invitation to Bids or Request for Proposal, and set forth some of the requirements applicable to the preparation, submission, opening and consideration of Bids or Proposals and accompanying submittals, and the award and execution of the Contract.
- TTT. **Intent to Award.** A letter signifying an intention to enter into a formal agreement, usually setting forth the general terms of such agreement. The Intent to Award letter outlines the required documentation to be submitted that will be used within the final contract document.
- UUU. **Invitation for Bids.** Invitation for Bids or IFB is a Solicitation to prospective Offerors, the response to which is analyzed in accordance with selection criteria set forth in the Solicitation for the purpose of ranking the Bids received.
- VVV. **Laws and Regulations.** The term “laws and regulations” includes the applicable laws, rules, regulations, ordinances, codes and orders of any and all governmental bodies agencies, authorities and courts having jurisdiction over the Contract or the Project.
- WWW. **Lien Waivers.** Mechanism by which Owners and Contractors can secure releases of lien rights from their subcontractors and suppliers for progress payments made on the project.
- XXX. **Life-Cycle Cost.** The total cost of developing, designing, constructing, owning, operating, and maintaining a constructed project for its design life, including energy, maintenance, and staffing. Life-cycle costs also include decommissioning, salvage (if appropriate), and other non-capital costs.
- YYY. **Liquidated Damages.** The term “liquidated damages” refers to the amount payable by the Contractor to the Owner for each day of unexcused delay in achieving Substantial Completion of the Work. The amount of liquidated damages is initially set forth in the Bid Documents and is stated in the executed Contract.
- ZZZ. **Loss Prevention.** The use of safety programs and insurance to mitigate financial losses resulting from loss of life and personal injuries and property damage on a construction project.
- AAAA. **Milestone Dates.** Are those dates included in the Project Schedule that is critical to ensuring the timely and orderly completion of the Work in accordance with the requirements of the Contract Documents.
- BBBB. **Modification.** A modification is (i) a Contract Amendment, (ii) a Change Order, or (iii) a Field Order.
- CCCC. **Non-Acute (Sub-acute) Care.** Specialized multidisciplinary care in which the primary need for care is optimization of the patient's functioning and quality of life.
- DDDD. **Notice of Commencement.** Is a legal document that provides project participants with information regarding the property identification and property Owner.
- EEEE. **Notice of Furnishing.** Is a legal document that puts the Owner on notice of companies providing goods and services to the project that may not be known to the Owner (and to a lender).
- FFFF. **Notice to Proceed.** A Notice to Proceed is a written notice given by the Owner to the Contractor fixing the date on which the Contract Time or a designated portion thereof will commence to run and by which the Contractor must start to perform the Work or a designated portion thereof as stated in the Notice to Proceed.

GGGG. **Objectives.** Specific descriptions of the project location, function, size, performance characteristics, schedule needs, financial matters, and other items as established by the owner, often with the assistance of the design professional. Also see Goals.

HHHH. **Offer.** The term Offer refers to either a Bid or Proposal as the case may be.

IIII. **Offeror.** The term Offeror refers to the person or entity making an Offer.

JJJJ. **Or-Equal Item.** The term Or-Equal Item refers to an item of material or equipment proposed by the Contractor that is allowed by the Contract Documents and, in the Owner's sole discretion, is functionally equal to an item specified or described in the Contract Documents. "Functionally equal" means that the item is sufficiently similar to that specified or described that, in the opinion of the Owner, the item meets or exceeds the physical characteristics, performance ratings, durability, serviceability, appearance and other relevant characteristics of the item specified or described in the Contract Documents, and that no change in design or related Work will be required. See Section 12.06.

KKKK. **Owner.** The Owner is Spectrum. Unless noted otherwise, including specifically the exceptions outlined in Section 4.1, the authority of the Owner is granted to the Contract Administrator or such a person as is expressly designated in writing by the Director as having such authority. For the purposes of ordering extra work by a Field Order, the owner is defined as the Contract Administrator. Only the Director has the authority to execute a Change order or Contract Amendment.

LLLL. **Owner Project Requirements.** The Owner Project Requirements or OPR is a document that details the functional requirements of a project and the expectation of how it will be used and operated. These include project goals, measurable performance criteria, cost considerations, benchmarks, success criteria, and supporting information.

MMMM. **Pre-Bid Conference.** A meeting arranged by the owner for prospective constructions prior to the submission of construction bids to introduce the project, outline its goals and objectives, describe the design professional's intent (the design professional is usually present), and address bidders' questions.

NNNN. **Preconstruction Meeting.** A meeting arranged by the owner after the construction contract has been awarded, but before construction begins, to provide the owner, design professional, constructor, and subcontractors with the opportunity to establish procedures and working relationships for construction operations.

OOOO. **Pre-construction Services.** Pre-construction Services are used in planning a construction project before the actual construction begins. These services are often referred to as preconstruction or precon. It is a modern practice, considered to be part of construction project management, which is the overall planning, coordination, and control of a project from inception to completion aimed at meeting a client's requirements in order to produce a functionally and financially viable project.

PPPP. **Product Data.** Product Data generally consist of preprinted illustrations, standard schedules, performance charts, instructions, brochures, diagrams and other information prepared by a supplier and provided by the Contractor to illustrate materials or equipment to be incorporated in the Work.

QQQQ. **Project Schedule.** The Project Schedule is a schedule prepared by the Contractor, in accordance with the requirements of the Contract Documents and which is approved by the Owner, indicating the starting and completion dates for each portion of the Work, including any interim contractually required completion dates. The Contractor must prepare a computer generated project schedule in accordance with the Contract Documents.

RRRR. **Program Manager.** A person or entity that manages all phases of project development (conceptual, design, and construction) and reports to the owner.

SSSS. **Project.** The Project is the total capital project administered by the Department, of which the Work performed under the Contract may be the whole or a part in conjunction with construction or other operations by the Owner or Separate Contractors.

- TTTT. **Project Associate Specialist.** The term Project Associate Specialist refers to the person designated to work closely with the Planning, Design and Construction Project Executive or Project Manager. They aid in creating and implementing project work plans, revising plans and details based on client needs and project requirements. The PAS sometimes delegates specific task for other team members, helps identify the needed resources, and manage daily operations during the absence of the Planning, Design and Construction Project Executive or Project Manager. Other tasks include running and preparing project budget reports, implementing department methodologies and project best practices, prepares project reviews, documenting project details and overseeing quality assurance procedures including warranty and end user operational feedback.
- UUUU. **Project Cost.** The total capital cost associated with design and construction, including design fees, construction labor and materials, equipment and furnishings, security and technology, and financing costs for borrowed funds. Project costs do not include operating and maintenance expenses. Also see Life-Cycle Cost.
- VVVV. **Project Management.** The planning, organizing, staffing, directing, controlling, and coordination of design and construction activities for a constructed project.
- WWWW. **Project Manager.** The term Project Manager refers to the person designated as such by the Contractor having authority to act on behalf of the Contractor with respect to all aspects of the Project and to whom the Superintendent reports.
- XXXX. **Project Manual.** The Project Manual is the volume assembled for the Project which generally includes the Specifications, the Bid or Proposal Documents, the Contract, any Geotechnical Studies, and other Project related documents.
- YYYY. **Proposal.** The Proposal is the Contractor's complete and properly signed response to a Request for Proposal.
- ZZZZ. **Proposal Documents.** The Proposal Documents means the Request for Proposal (RFP) and all addenda's.
- AAAAA. **Punch List.** The Punch List is the list initially prepared by the Contractor for review, supplementation and approval by the Owner and the Architect/Engineer at the time of Substantial Completion of all or a portion of the Work, identifying items that are required to be completed or corrected by the Contractor as part of Final Completion (as set forth in Article 14) of the Work.
- BBBBB. **Quality.** The delivery of products and services in a manner that meets or exceeds the reasonable requirements and expectations of the owner, design professional, and constructor, including conformance with contract requirements, prevailing industry standards, and applicable laws and licensing requirements.
- CCCCC. **Quality Assurance.** Planned and systematic actions focused on providing the members of the project team with confidence that components are designed and constructed in accordance with applicable standards and as specified by contract.
- DDDDD. **Quality Control.** The review of services provided and completed work, together with management and documentation practices, that are geared to ensure that project services and work meet contractual requirements.
- EEEE. **Record Documents.** The term Record Documents refers to record copies, maintained at the Site by the Contractor for the Owner, of the Drawings, Specifications, Addenda, Change Orders, Field Orders and other Modifications, the most recently approved Progress Schedule and Superintendent daily records, all in good order and marked currently to record copies of approved Shop Drawings, Product Data, Samples and similar required Submittals.

- FFFFF. **Referenced Standards.** The term Referenced Standards includes standards, standard details, specifications, manuals, regulations or codes of any technical society, organization or association, or of any governmental or quasi-governmental authority referred to in the Contract Documents to describe the nature or quality of any of the Work whether such reference be specific or by implication, and means the latest standard, standard details, specification, manual, regulation or code in effect at the time of Bid or Proposal opening, except as may be otherwise specifically stated in the Contract documents.
- GGGGG. **Request for Proposal.** Request for Proposal or RFP is a solicitation to prospective Offerors, the response to which is analyzed in accordance with selection criteria set forth in the solicitation for the purpose of ranking the Proposals received.
- HHHHH. **Retainage.** A sum withheld from progress payments to the design professional or constructor according to terms of owner-designer or owner-constructor agreements.
- IIIII. **Risk Transfer.** Contractual clauses that transfer the risk of project team members to other parties by means of bonds or insurance. Sometimes risk transfer refers to the allocation of risk among members of the project team.
- JJJJJ. **Samples.** Samples are physical examples of products, materials, equipment, assemblies, or workmanship to be incorporated in the Work, and which are intended to establish standards for the complete work.
- KKKKK. **Schedule of Submittals.** The Schedule of Submittals is a listing and time schedule of Submittals prepared by the Contractor for review and approval by the Owner and Architect/Engineer as provided in Subsection 11.02.E.
- LLLLL. **Schedule of Values.** The Schedule of Values is a breakdown of the Contract Sum by Construction Specification Institute (CSI) division prepared by Contractor for review and approval by the Owner and the Architect/Engineer as provided in Section 13.01.
- MMMMM. **Separate Contractor.** The term Separate Contractor refers to a person or entity with which the Owner has contracted to construct other portions of the Project or perform other operations at the Site.
- NNNNN. **Shop Drawings.** Shop Drawings generally consist of those drawings, diagrams, schedules and other data specifically prepared for the Work by the Contractor or a Subcontractor, Sub-subcontractor, manufacturer, Supplier or distributor detailing the fabrication or assembly of some portion of the Work, copies of which are submitted by the Contractor to the A/E for approval to indicate the details of execution of that portion of the Work. The cost of preparing Shop Drawings, including Coordination Drawings is the responsibility of the Contractor, which is include in the Contract Sum and for which the Contractor will not be paid any additional compensation. The submission and/or approval of Shop Drawings cannot change the Contract Documents.
- OOOOO. **Site.** The term Site refers to that portion of the property on which the Work is to be performed or which has been otherwise set aside for use by the Contractor.
- PPPPP. **Site Survey.** This term includes, but is not limited to site plans, topographic surveys and property surveys and refers to those drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site which have been utilized by the Architect/Engineer or Owner in preparing the Contract Documents or which have been provided by the Owner for the Contractor's information in evaluating Site conditions.
- QQQQQ. **Solicitation.** The term Solicitation means an Invitation for Bid or a Request for Proposal and all addenda.
- RRRRR. **Special Conditions.** A section of the Conditions of the Contract, separate from General Conditions and Supplementary Conditions that describes relevant unique project conditions.
- SSSSS. **Specifications.** The specifications are that portion of the Contract Documents, generally included in and identified as such in the Project Manual, setting forth the written requirements for materials, equipment, construction, systems, standards and workmanship for the Work, and performance of related services.

TTTTT. **Start-Up.** Preparing the project or facility for occupancy or use, including the testing of systems operation.

UUUUU. **Subcontractor.** A Subcontractor is a person or entity who has a direct contract with the Contractor to perform a portion of the Work, and includes any Supplier who performs Work such as installation of materials and equipment. The term "Subcontractor" does not include a Separate Contractor or any subcontractor of a Separate Contractor.

VVVVV. **Sub-Consultant.** A person or entity providing design-related services to the design professional, design-builder, or owner.

WWWWW. **Subrogation.** The assumption by a third party of another's legal right to collect a debt or damages.

XXXXX. **Submittals.** The term Submittals refers to all items relating to the performance of the Work which are required to be submitted by the Contractor to the Owner and/or the Architect/Engineer for review, acceptance or approval. Submittals include, but are not limited to, items such as the Schedule of Values, Progress Schedule, Schedule of Submittals, lists of Subcontractors and Suppliers, insurance certificates, Shop Drawings, Product Data, Samples, request for substitutions or use of Or-Equal Items, Record Documents, Warranties and operating manuals, and similar items. As used herein, the term "Submittal" does not include change proposal submitted by the Contractor, the Contractor's Applications for Payment and supporting data, Disputes or Claims.

YYYYY. **Substantial Completion.** Substantial Completion is the stage in the progress of the Work, as confirmed by the Owner's acceptance of the Architect/Engineer's Certificate of Substantial Completion in accordance with Article 14, when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents (i) so the Owner can occupy or utilize the entire Work or designated portion thereof for its intended use and (ii) that the completion or correction of any Punch List items can be accomplished within a period of 30 days.

ZZZZZ. **Substitution.** The terms Substitution and Substitute Item refer to an item of material or equipment proposed and certified by the Contractor as substantially equivalent to an item specified or described in the Contract Documents by using the name of a proprietary item, a particular manufacturer or a particular Supplier, and the substitution of the item is not expressly prohibited, and the proposed replacement, in the Owner's sole discretion, is functionally, technically and aesthetically equal to the item specified or described.

AAAAA. **Superintendent.** The term Superintendent refers to the person designated as the Contractor's representative at the Site with overall responsibility for direction and execution of the Work, and unless otherwise designated by the Contractor, for the protection of persons and property at the Site and compliance with all applicable Laws and Regulations.

BBBBB. **Supplemental Conditions.** The Supplemental Conditions are that part of the Contract Documents, designated as such, which amend or supplement these General Conditions.

CCCCC. **Supplier.** The term Supplier refers to any manufacturer, fabricator, supplier, materials or equipment to be incorporated in the Work by the Contractor or any Subcontractor or Sub-subcontractor.

DDDDD. **Sustainable Development.** Meeting human needs for natural resources, industrial products, energy, food, transportation, shelter, and effective waste management while conserving and protecting environmental quality and natural resource base essential for future development.

EEEEEE. **Surety.** The term Surety refers to any corporation, person or entity, authorized to do business in the State of Michigan, which has issued a Bid Bond, Performance Bond, a Labor and Material Payment Bond, or similar security on the Contractor's behalf, in accordance with the requirements of the Contract Documents.

FFFFF. **Sworn Statement.** Is an ongoing summary of cost of the project and the payments made provided by the Contractor to the Owner on a monthly basis.

- GGGGGG. **Taxes.** The term Taxes includes all applicable federal, State, and local taxes and duties, including sales, consumer, use and similar taxes for the Work or portions thereof provided by the Contractor and all social security, unemployment, and similar employment taxes, withholding and contributions for employees, which are legally enacted before the opening of Bids or Proposals and effective at any time during the performance of the Work. All Taxes applicable to the performance of the Work, as specified, are payable by the Contractor and include in the Contract Sum. The Contractor will not be paid any additional compensation for payment of Taxes except for Taxes which are legally enacted after the opening of Bids or Proposals.
- HHHHHH. **Trade Contractor.** Is a person who is hired by the Constructor, not the Owner, (i) to perform a portion of the Work at the Work Site or (ii) to furnish materials fabricated to a special design according to the Contract Documents? Where it would be reasonable in the context of its usage, the term "Trade Contractor" shall include subcontractors of all tiers, and all Suppliers, working beneath a Trade Contractor.
- IIIIII. **Traditional Project Delivery.** A contractual arrangement or project delivery system, known as design-bid-build, or DBB, that involves three principal participants: the owner, design professional, and constructor. Also see Design-Bid-Build.
- JJJJJJ. **Turnkey.** An extension of design-build contracting in which the design-builder carries out most major project responsibilities, including land acquisition, financing, purchase and installation of equipment, and other tasks; the design-builder then operates the completed facility for a specific period and then "turns over the keys" to the owner.
- KKKKKK. **Unit Prices.** The term Unit Prices refers to the rates stated in the Proposal or Bid Documents at which change work (additive or deductive work) is to be performed by the Contractor or deducted from the Contract Sum. Unit Prices include all direct labor and materials costs, payroll burden, relocation of stockpiled materials as necessary, indirect job costs such as insurance, bonds, coordination, engineering, permits, cleanup, tools, profit, and overhead (which includes office overhead and site-specific overhead and site-specific overhead and general conditions) and all other costs necessary to complete the Work.
- LLLLLL. **Value Engineering.** A limited independent engineering exercise with the goal of identifying or verifying engineering, alternatives that maximize the relationship of the value of the functions, performance, and quality of specific project elements to cost.
- MMMMMM. **Warranties and Guarantees.** The terms Warranties and Guarantees generally refer to written instructions, certificates, acknowledgments or similar documents required by the Contract Documents (other than the Contractor's general warranty) evidencing specific obligations and undertakings by the Contractor, Subcontractors, Sub-subcontractors and Suppliers, to correct, repair or replace a portion of the Work covered by such Warranty or Guarantee.
- NNNNNN. **Work Authorization of Contract (WAC).** A Work Authorization of Contract is a document that defines project specific activities, deliverables and timelines for which the contractor is obligated to fulfill in its entirety. The WAC typically also includes detailed requirements that include performance expectations as set forth in terms and conditions. It is often an important accompaniment to an invitation to bid document.
- OOOOOO. **Work.** The Work means the construction and services required by the Contract Documents, whether completed or partially completed, including all labor, materials, equipment and services provided or to be provided by the Contractor for incorporation into the completed construction required by the Contract documents. The Work may constitute the whole or a part of the Project.

1.02 USE OF TERMS

- A. **Singular and Plural.** The Owner, Architect/Engineer, Contractor, Subcontractor, Sub-subcontractor, Supplier, Separate Contractor, Surety, insurer and others are referred to throughout the Contract Documents as if singular in number. In the event that more than one person or entity occupies the position referred to and unless otherwise indicated, the term is interpreted to include all such persons or entities.
 - 1. **Technical Terms and Trade Usage.** Terms in the Contract Documents which have well-known technical or construction industry meanings and are not otherwise defined are used in accordance with such recognized meanings unless the context clearly indicates otherwise.
 - 2. **Titles and Headings.** The titles and headings of the various sections and subsections of these General Conditions and other Contract Documents are intended only as a matter of reference and convenience and in no way define, limit, or prescribe the scope or intent of the Contract Documents.

ARTICLE 2

2.01 THE CONTRACT

- A. **Changes.** The Contract may be changed only by a Modification.
- B. **Documents Excluded from the Contract.** The Contract Documents do not include documents issued or provided to the Contractor for the information of the Contractor or for reference purposes and which are not specifically incorporated in the Contract Documents.

2.02 ORGANIZATION AND INTENT

- A. **Contract Documents Complementary.** The Contract Documents are complementary, and what is required by one is as binding as if required by all. Anything mentioned in the Specifications and not shown on the Drawings, or shown on the Drawings and not mentioned in the Specifications, are of like effect as if shown or mentioned in both
- B. **Intent to Require Completed Project.** The intent of the Contract Documents is to require that the Contractor provide all materials and labor, including tools, equipment and supervision, necessary for the proper execution and completion of the Work.
- C. **Work Required if Reasonably Inferable.** Performance by the Contractor is required to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the intended results. Where no explicit quality or standards for materials or workmanship are established for the Work, the Work is to be of good quality and consistent with the quality of surrounding Work which conforms to the requirements of the Contract Documents and to the standards for construction of the Project generally.
- D. **Organization of Drawings and Specifications.** Organization of the Drawings around professional disciplines such as civil, architectural, structural, plumbing, mechanical and electrical, and of the Specifications into divisions, sections and articles, does not control the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade or excuse the Contractor of its obligation to properly allocate and provide for the performance of all Work under the Contract.

2.03 REFERENCED STANDARDS

- A. **Standards Incorporated.** All Referenced Standards are incorporated into the Contract as fully as if printed and bound with the Specifications, but only to the limited extent that such standards are applicable to the Work.
- B. **Availability of Referenced Standards.** The Contractor is responsible for obtaining and having available at the Site a copy of each Referenced Standard insofar as it is applicable to the Work.

- C. **Precedence of Contract Documents Over Referenced Standards.** No provision of a Referenced Standard is effective to change (i) the procedures established in the Contract Documents or by any applicable laws or regulations, or (ii) the duties and responsibilities of the Owner, Architect/Engineer or Contractor from those set forth in the Contract Documents; nor is any provision of a Referenced Standard effective to assign to the Owner or the Architect/Engineer any duty or authority to supervise or direct the furnishing or performance of the Work or any duty or authority to undertake responsibility inconsistent with the provisions of Article 4 or any other provision of the Contract Documents.

2.04 OWNERSHIP AND USE OF DOCUMENTS

- A. **Copies Furnished.** Unless otherwise provided in the Contract Documents, the Owner will furnish one (1) set of Drawings and the Project Manual free of charge to the Contractor. The Owner will make such additional copies of Drawings and Project Manuals as are reasonably necessary for execution of the Work available to the Contractor at a reasonable cost.
- B. **Ownership of Documents.** The Drawings, Project Manuals and other documents furnished to the Contractor are the Owner's property.
- C. **Copyright and Other Reserved Rights.** The Contractor may not own or claim a copyright in the Drawings, Project Manuals and other documents furnished.
- D. **Use and Reproduction of Documents.** The Drawings, Project Manuals and other documents, including copies furnished to the Contractor, are for use solely with respect to this Project. They are not to be used by the Contractor on other projects or for additions to this Project outside the scope of the Work without the specific written consent of the Owner, the Architect/Engineer and any of their consultants whose authorship or copyright is indicated thereon and Contractor must include a similar provision in all contracts with its Subcontractors and Suppliers. The Contractor is granted a limited license to use and reproduce applicable portions of the Drawings, Project Manuals and other documents furnished to them appropriate to and for use in the execution of their Work under the Contract Documents, including submittals or distributions to meet regulatory requirements. Submittal or distribution to meet regulatory requirements or for other authorized purposes in connection with this Project is not to be construed as publication in derogation of the Owner's, the Architect/Engineer's, or any of their consultants' copyright or other reserved rights. All copies made under this license must bear the same copyright notice, if any, as is shown on the cover page or on each of the Drawings, Project Manuals and other documents that are reproduced.
- E. **Record Documents.** The Contractor must maintain at the Site for the Owner one set of Record Documents. These must be available to the Owner and the Architect/Engineer for their reference during the progress of the Work. The record drawings and any other Record Documents indicating changes or selections made during construction must be delivered to the Architect/Engineer for submittal to the Owner upon completion of the Work and before final payment becomes due.
- F. **Return of Documents.** All copies of Drawings, Project Manuals and other documents furnished to the Contractor, must be suitably accounted for to the Owner, on request, upon completion of the Work. At the Owner's request, all copies not reasonably required for the Contractor's, Subcontractors' or Sub-subcontractors' records must be returned to the Owner.

ARTICLE 3

3.01 THE OWNER

- A. **OWNER'S REPRESENTATIVES**
1. **Designated Representatives.** The Department carries out the Owner's responsibilities. Unless noted otherwise, including specifically the exceptions outlined in Section 4.01, the authority of the Owner is granted to the Facilities Project Manager or such person as is expressly designated in writing by the Director as having such authority. For the purposes of ordering extra work by a Field Order, the Owner is defined as the Facilities Project Manager or such person as is designated in writing by the Director. Only the Director has the authority to execute a Change Order or Contract Amendment.

2. **Representative of Legal Owner.** In the event that the Owner is acting for the benefit of another private, nonprofit or governmental entity which is or will become the legal owner of the Project, such legal owner (i) will be identified in the Contract Documents, (ii) will be considered a beneficiary of this Contract, and (iii) will be entitled to enforce all rights and remedies of the Owner hereunder. Unless otherwise provided, however, the Owner has assumed all responsibility for the performance of the Owner's obligations under this Contract, and nothing herein is to be construed to create any obligation of such legal owner to the Contractor or to provide the Contractor any rights or remedies against such legal owner.

3.02 PROJECT INFORMATION

- A. **Site Surveys.** The Owner may furnish surveys identifying the boundaries of the Site, the location of existing structures and restrictions of record such as easements and rights of way. The Owner may also furnish information with respect to topographical features and utilities of which the Owner is aware. It is the Contractor's responsibility to determine and verify all information provided by Owner including, but not limited to, grades and elevations. Notwithstanding the foregoing, the Contractor is entitled to rely on information provided by the Owner in arriving at its Contract Sum, and to the extent existing conditions are inconsistent with those shown on information provided by the Owner, the provisions of Section 12.04 shall govern.
 1. It is the Contractor's responsibility to verify the existence and locations of utilities with the appropriate agencies and utility companies.
- B. **Site and Physical Data.** Any Geotechnical Studies or other subsurface information including boring logs, soils and other reports, provided by the Owner to the Contractor.
- C. **Reliance by Contractor.** The Contractor may not rely upon surface or Site and physical data with respect to the completeness of any reports and drawings for the Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences and procedures of construction to be employed by the Contractor or any of the Contractor's safety precautions and programs.
- D. For Contract Modification purposes, the Geotechnical Studies establish a baseline for expected subsurface conditions. The Contractor must show a material difference between the Geotechnical Studies and actual subsurface conditions to justify a Contract Modification.

3.03 OWNER RESPONSIBILITIES

- A. **Access to Site.** The Owner will furnish the Project Site as indicated in the Contract Documents, and such other lands which are designated in the Contract Documents, if any, for the use of the Contractor. The Contractor is responsible for obtaining any additional rights of way, approvals or easements for access to the Site and/or performance of the Contract resulting from the Contractor's use, means and methods. The Owner may identify in the Contract Documents encumbrances or restrictions not of general application but specifically related to use of the Site which are not of public record. If so identified in the Contract Documents, the Contractor must comply with them in performing the Work. Permanent easements for the completed facility or for changes in existing facilities will be obtained and paid for by the Owner, unless otherwise provided in the Contract Documents.
- B. **Permits and Fees.** Unless otherwise indicated in the Contract Documents, the Contractor will be responsible for securing and paying for (i) the building permit (provided that if the Contractor in any way modifies the building permits to phase the Work, then any additional cost resulting will be the responsibility of the Contractor), (ii) fees and surcharges for front footage, (iii) fees and surcharges for water, sewer and gas work and (iv) fees and permits for construction in the County and/or State road rights-of-way. The Contractor will be responsible for obtaining and paying the costs of all other permits, fees, licenses, bonds and governmental approvals, except as otherwise indicated in the Contract Documents.

- C. **Notice of Commencement.** Prior to the commencement of an “actual physical improvement,” the Owner will complete a “Notice of Commencement,” record it with the county Register of Deeds, and post a copy in the Owner’s project site board at the worksite. The Notice of Commencement must include:
1. The legal description of the property to be improved,
 2. The name, address and capacity of the Owner of the real property contracting for the improvement,
 3. The name and address of the fee owner of the real property if the person contracting for the improvement is a land contract vendee or a lessee,
 4. The name and address of the Owner’s designee to receive notices under the Act,
 5. The name and address of the contractor,
 6. The procedure by which a potential lien claimant may preserve its lien,
 7. The name and address of the person preparing the notice,
 8. An affidavit by the Owner, or an agent of the Owner verifying the Notice.

ARTICLE 4

ADMINISTRATION OF THE CONTRACT

4.01 CONTRACT ADMINISTRATION

- A. **Administration by Owner.** The Contract is administered by the Facilities Project Manager, the identity of whom is set forth in the Work Authorization of Contract (WAC). The Facilities Project Manager is authorized to administer the Contract commencing on the date that the Contract is signed by the Senior Vice President of Facilities and Real Estate and terminating on the date the Contract is completed or terminated. The Facilities Project Manager’s authority is limited as follows:
1. Provide direction to the Contractor to ensure satisfactory and complete performance, including issuance of Field Orders;
 2. Monitor and inspect Contractor performance to ensure acceptable timeliness and quality;
 3. Maintain necessary documentation and records regarding Contractor performance and other pertinent matters;
 4. Determine acceptance or rejection of Contractor’s performance;
 5. Provide Owner determinations in response to Contractor’s requests for an increase in the Contract Time and/or an increase in the Contract Sum in accordance with Articles 11 and 12;
 6. Approve or reject invoices for payment;
 7. Furnish necessary reports to the Director;
 8. Furnish notice of Contractor performance failures to the Facilities Portfolio Manager and to the Director, as appropriate; and
 9. Recommend Contract Modifications or terminations for default or convenience to the Director.
- B. **Facilities Project Manager Limitations of Authority.** The authority of the Facilities Project Manager is limited to the functions set forth above. In particular, the Facilities Project Manager is NOT authorized to make determinations (as opposed to recommendations) that:
1. Alter or modify Contracts;
 2. Terminate or cancel Contracts;
 3. Approve, as opposed to recommend, Change Orders or Contract Amendments; or
 4. Waive the Owner’s Contract rights.

Unless the Senior Vice President Facilities and Real Estate changes this delegation of authority, in writing, no other person is authorized to perform the functions of the Facilities Project Manager for this particular Construction Contract between Owner and Contractor.

- C. **Owner’s Representatives.** The Facilities Project Manager may further delegate authority and responsibility for performance of the Owner’s administration of the Contract to designated individuals. For the purposes of ordering extra work by Field Order, the Owner is defined as the Contract Administrator.

4.02 CONSTRUCTION ADMINISTRATION

- A. **Performance of Construction Administration.** Unless otherwise provided in the Contract Documents, ongoing administration of construction as provided in the Contract Documents will be performed by the Facilities Project Manager with the assistance of the Facilities Portfolio Manager, Associate Project Specialist, Administrative Project Coordinator or others as designated by the Facilities Project Manager, under the overall direction of the Facilities Project Manager.
- B. **Status of Architect/Engineer.** The Architect/Engineer is not an agent of the Owner, but will assist the Owner in the administration of the Contract and the Work, as described in the Contract Documents, and will be the point of contact for purposes of communication (i) during construction, (ii) until final payment is due, and (iii) with the Owner's concurrence, from time to time during the warranty period described in Section 10.2.
- C. **Owner's Project Manager Limitations of Authority.** The Owner's Facilities Project Manager, Facilities Portfolio Manager, Associate Project Specialist, Administrative Project Coordinator and others as designated by the Facilities Project Manager and the Architect/Engineer will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents, unless otherwise modified by written instrument in accordance with other provisions of the Contract.
- D. **Communications.** Except as otherwise provided in the Contract Documents, the Contractor must communicate through the Owner. Communications by and with (i) the Architect/Engineer's consultants must be through the Owner, (ii) Subcontractors, Suppliers and Contractor's consultants must be through the Contractor, and (iii) Separate Contractors and Owner's consultants must be through the Owner.
- E. **Change in Architect/Engineer's Duties.** The Owner may make changes in the duties, responsibilities and limitations of authority of the Architect/Engineer as set forth in the Contract Documents, and will provide written notice of any significant changes to the Contractor. However, no such change will provide the basis for any Claim for a change in the Contract Time or an increase in the Contract Sum.
- F. **Change of Architect/Engineer.** In case of termination of employment of the Architect/Engineer by the Owner, the Owner will appoint a replacement Architect/Engineer whose status under and responsibilities as set forth in the Contract Documents, unless otherwise indicated in a notice of appointment to the Contractor, will be that of the former Architect/Engineer.
- G. **Timeliness of Construction Administration Services.** The Owner and the Architect/Engineer will endeavor to provide approvals, information or services under their control with reasonable promptness to avoid unreasonable delay in the orderly progress of the Work, but the Owner will not be responsible for any delay where the Contractor has not provided reasonable prior notice in writing to the Owner of the time within which such approval, information or services will be required in order to avoid such delay.

4.03 ADMINISTRATION OF CONSTRUCTION

- A. **Interpretation and Clarification of Drawings and Specifications.** The Architect/Engineer, with the approval of the Owner, may issue interpretations and clarifications of the Drawings and Specifications, in graphic or written form as appropriate, on written request of either the Owner or Contractor (Requests for Information (RFIs)), or when otherwise deemed advisable by the Architect/Engineer (Architect's Supplemental Instructions (ASIs)). The Architect/Engineer's response to requests from the Owner or Contractor for interpretations or clarifications (RFIs) will be made within fifteen (15) days of receipt of the written request. Any response is presumed to be a clarification of the Contract Documents reasonably inferable from them and will not form the basis for any Claim by either party for a change in the Contract Time or the Contract Sum. **If the Contractor contends that the response constitutes a change in the Work, the Contractor must obtain written direction from the Contract Administrator before proceeding with the Work as set forth in Subsection 4.03.L titled Changes in the Work, and it must file a Claim for an increase in the Contract Time and/or an increase in the Contract Sum in accordance with Article 11 and/or Article 12 or the Contractor will be conclusively deemed to have waived any Claim for an increase in the Contract Time or an increase in the Contract Sum based on the interpretation or instruction contained in any RFI or ASI, or otherwise.**
- B. **Standard of Interpretation.** Interpretations and clarifications by the Architect/Engineer will be consistent with the intent of, and reasonably inferable from, the Contract Documents. When making such interpretations and clarifications, the Architect/Engineer will endeavor to secure faithful performance by both Owner and Contractor, will not show partiality to either and will not be liable to the Contractor for results of interpretations or clarifications issued in good faith.
- C. **Interpretations and Decisions by Owner.** The Owner will provide written interpretations and decisions concerning Contract terms and conditions within a reasonable time after written request is made by the Contractor or as otherwise required during the course of the Project. Any interpretation or decision is presumed to be a clarification of the Contract terms and conditions reasonably inferable from them and may not form the basis for any Claim by the Contractor for a change in the Contract Time or the Contract Sum. If the Contractor contends that the interpretation or decision constitutes a change in the Work, the Contractor must file a Claim for an increase in the Contract Time and/or an increase in the Contract Sum in accordance with Article 11 and/or Article 12 or the Contractor will be conclusively deemed to have waived any Claim for an increase in the Contract Time or an increase in the Contract Sum based on the interpretation or decision.
- D. **Acceptability of Superintendent and Key Personnel.** The Contractor will be advised in writing if the Superintendent or other supervisory personnel prove unsatisfactory to the Owner as provided in Subsection 5.04.B.
- E. **Approval of Subcontractors and Suppliers.** The Contractor will be advised in writing if the Owner has reasonable objection to, and rejects, any proposed Subcontractor or Supplier subject to review by the Owner, as provided in Subsection 6.01.B.
- F. **Approval of Submittals.** The Architect/Engineer and the Owner, as appropriate, will review the Contractor's Submittals and take appropriate action thereon, as required for each type of Submittal. Review and approval of Shop Drawings, Product Data Samples and similar Submittals will be as provided in Section 9.02.
- G. **Site Visits.** The Architect/Engineer and Owner will make Site visits as provided in Subsection 10.03.B.
- H. **Rejection of Work.** The Owner, in consultation with the Architect/Engineer, may reject Work as provided in Subsection 10.06.A.
- I. **Additional Inspection, Testing or Specific Approvals.** The Architect/Engineer has authority to recommend, and the Owner has the authority to require, additional inspection, testing or specific approval of the Work as provided in Subsection 10.05.C.

- J. **Authority to Stop or Suspend Work.** The Owner has the authority to stop or suspend the Work as provided in Subsections 11.04.A and 11.04.B. The Architect/Engineer does not have authority to stop or suspend the Work on behalf of the Owner unless specific written authority from the Owner to do so is provided in any notice to stop or suspend the Work.
- K. **Review of Applications for Payment.** Based on the Architect/Engineer's observations and evaluations of the Contractor's Applications for Payment and the Work, the Architect/Engineer will certify the amounts due the Contractor and will issue Certificates for Payment in such amounts to the Owner as provided in Section 13.03. The Owner will review and approve such Applications and Certificates and make payment on Owner-approved amounts within the time specified in the Section 13.04.
- L. **Changes in the Work.** The Architect/Engineer may assist the Owner in preparing Change Orders as provided in Section 12.02, Field Orders as provided in Section 12.03 and Contract Amendments. The Architect/Engineer may, with the Owner's concurrence, authorize minor changes in the Work not involving an increase in the Contract Time or an increase in the Contract Sum. **Notwithstanding the foregoing or any other provision of the Contract, no additions to or changes in the Work or other extra Work may be performed and no Claim for additional compensation, credit, or increase of time is valid without written authorization by the Contract Administrator and/or Director. Accordingly, no course of conduct or dealings between the parties, no implied acceptance of changes in the Work, and no Claim that the Owner has been unjustly enriched by any change to the Work, can be the basis for any Claim for an increase in the Contract Time or in the Contract Sum.**
- M. **Substantial and Final Completion.** As provided in Article 14, the Architect/Engineer and Owner will conduct inspections to determine the date or dates of Substantial Completion and the date of Final Completion. The Architect/Engineer and Owner will issue Certificates of Substantial and Final Completion and a final Certificate for Payment upon the Architect/Engineer's recommendation and Owner's determination that the Contractor has fully completed the Contract. The Owner may accept partial Substantial Completions as to portions of the Work which have reached Substantial Completion and are available for use by the Owner.
- N. **Recommendations on Payments, Changes, Claims and Disputes.** If the Owner requests, the architect/Engineer will make recommendations to the Owner concerning payments, changes, Claims and Disputes, and similar matters.

4.04 LIMITATIONS OF OWNER'S AND ARCHITECT/ENGINEER'S RESPONSIBILITIES

- A. **Charge or Control.** Neither the Owner nor the Architect/Engineer have control over or charge of or are responsible for construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, since these are solely the Contractor's responsibility as provided in Subsection 5.03.B and Article 8. Neither the Owner nor the Architect/Engineer will be responsible for the Contractor's failure to carry out the Work in accordance with the Contract Documents.
- B. **Actions not to Relieve Contractor.** No action or failure to act on the part of the Owner or the Architect/Engineer, including but not limited to (i) the acceptance or approval of any Subcontractor, selection, Substitution or Or-Equal Item, Submittal or schedule, (ii) observation or inspection of any of the Work, (iii) the performance of any test or inspection, (iv) assistance in performance of Contractor's Work, or (v) the acceptance or failure to accept any portion of the Work, relieves the Contractor of responsibility for performing the Work in accordance with the Contract Documents.
- C. **Responsibility for Others.** Neither the Owner nor the Architect/Engineer will have control over or charge of and will not be responsible for acts or omissions of the Contractor, Subcontractors, Sub-subcontractors, Suppliers or their agents or employees, or of any other persons performing portions of the Work.

- D. **Inspection, Testing or Approval and Rejection of Work.** The performance of any tests, inspections or approvals required by the Contract Documents does not relieve the Contractor of any of its obligations under the Contract Documents. The Owner's and the Architect/Engineer's authority to require and the Architect/Engineer's authority to recommend additional testing, inspection or approval of Work, and the Owner's and the Architect/Engineer's authority to reject defective or nonconforming Work, does not give rise to any duty or responsibility on the part of either to exercise such authority for the benefit of the Contractor or any other person or entity.
- E. **Stopping or Suspension of Work.** The authority of the Owner to stop the Work under Subsections 11.04.A or to suspend the Work under Subsection 11.04.B does not give rise to any duty or responsibility on the part of the Owner to exercise such authority for the benefit of the Contractor or any other person or entity.
- F. **Payments.** The issuance of a Certificate for Payment by the Architect/Engineer under Subsection 13.03.A or the making of any progress payment or final payment by the Owner under Subsections 13.04.B or 14.04.C does not constitute acceptance of Work not complying with the requirements of the Contract Documents. The making of final payment does not constitute a waiver of claims by the Owner as provided in Subsection 14.04.E.
- G. **Occupancy or Use.** Partial or entire occupancy or use of a portion or portions of the Work by the Owner under Section 14.01 does not constitute acceptance of Work not complying with the requirements of the Contract Documents.
- H. **Certificate of Substantial or Final Completion.** Neither the issuance by the Architect/Engineer of a Certificate of Substantial or Final Completion under Subsections 14.02.F or 14.04.A, nor acceptance thereof by the Owner, constitutes acceptance of Work not complying with the requirements of the Contract Documents.

ARTICLE 5

CONTRACTOR

5.01 REVIEW OF CONTRACT DOCUMENTS AND FIELD CONDITIONS

- A. **Review of Site Conditions.** By executing the Contract, the Contractor represents that the Contractor has reviewed and understands the Contract Documents, has visited the Site and is familiar with local conditions under which the Work is to be performed, has correlated personal observations with the requirements of the Contract Documents, and has notified the Owner of and obtained clarification of any discrepancies which have become apparent during the bidding or proposal period.
- B. **Review of Contract Documents.** The Contractor must carefully study and compare the Contract Documents among themselves and further compare the Contract Documents with any other information furnished by the Owner pursuant to Section 3.02 before commencing Work at the Site and at frequent intervals during its progress.
- C. **Field Measurements and Site Conditions.** The Contractor must take field measurements and verify Site conditions, and must carefully compare such field measurements and Site conditions and other information known to the Contractor with the Contract Documents, before ordering any material or doing any Work at the Site.
- D. **Inspection of Work.** The Contractor must make frequent inspections during the progress of the Work to confirm that Work previously performed by the Contractor is in compliance with the Contract Documents and applicable laws and regulations and Referenced Standards and that portion of Work previously performed by the Contractor or by others are in proper condition to receive subsequent Work.

- E. **Compliance of Contract Documents with Laws and Regulations and Referenced Standards.** If the Contractor believes that any portions of the Contract Documents do not comply with applicable laws, statutes, ordinances, building codes, and rules and regulations, or any orders by code enforcement officials or the Owner or its designees acting in the capacity of building code inspectors or Referenced Standards, the Contractor must promptly notify the Owner and the Architect/Engineer of the non-compliance as provided in Subsection 5.01.F and request direction before proceeding with the affected Work.
- F. **Notice of Discrepancies.** The Contractor must promptly notify the Owner and the Architect/Engineer in writing of any apparent errors, inconsistencies, omissions, ambiguities, construction impracticalities or code violations discovered as a result of the Contractor's review of the Contract Documents including any differences between actual and indicated dimensions, locations and descriptions, and must give the Owner and the Architect/Engineer timely notice in writing of same and of any corrections, clarifications, additional Drawings or Specifications, or other information required to define the Work in greater detail or to permit the proper progress of the Work. The Contractor must provide similar notice with respect to any variance between its review of the Site and physical data and Site conditions observed.
- G. **Risk of Performance.** If the Contractor performs any Work involving an apparent error, inconsistency, ambiguity, construction impracticality, omission or code violation in the Contract Documents of which the Contractor is aware, without prompt written notice to the Owner and the Architect/Engineer and request for correction, clarification or additional information, as appropriate, the Contractor does so at its own risk and expense and all Claims relating thereafter are specifically waived. Notwithstanding the foregoing, the Owner acknowledges that the Contractor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities.

5.02 LEGAL REQUIREMENTS

- A. **Compliance with Laws, Regulations and Orders.** The Contractor must obtain all licenses and comply with and give all notices required by laws, ordinances, rules, regulations and lawful orders of public regulatory authorities bearing on performance of the Work, including the orders of the Owner or its designees acting in the capacity of building code inspectors. The Owner acknowledges that the Contractor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities. The Contractor shall promptly report to the Architect any errors, inconsistencies or omissions it discovers. It is recognized that the Contractor's review of Contract Documents is made in the Contractor's capacity as a contractor and not as a licensed design professional.
- B. **Taxes.** The Owner is a tax exempt organization as defined by the State of Michigan per the State of Michigan Form 3372 Sales and Use Tax exemption. This tax exemption is not universal and does not apply to all Owner entities or affiliates. Tax status is to be verified by the assigned Facilities Project Manager or within the Bid Documents of the Project Manual. **All Taxes applicable to the performance of the Work, as specified, are payable by the Contractor and include in the Contract Sum. The Contractor will not be paid any additional compensation for payment of Taxes except for Taxes which are legally enacted after the opening of Bids or Proposals.**
- C. For work that maybe subject to tax includes: Non-acute care facilities, any facility not housing patients for a minimum of 24 hours.
- D. For work that is tax exempt includes: Items purchased by the Owner and installed by the Contractor or acute care facilities, facilities providing care of patients for a minimum of 24 hours.

- E. **Permits and Fees.** Except as provided in Section 3.03.B or in the Contract Documents, the Owner must obtain and pay for all permits and governmental fees, licenses and inspections necessary for proper execution and completion of the Work, including connections, tap fees and inspections in connection with the installation of utilities and any bonds required by any utilities for the performance of any utility Work on utility lines or within a utility easement, specialized trade permits such as for plumbing, mechanical and electrical work, and any fees and charges associated therewith which have been enacted or established at the time Bids or Proposals are received or negotiations concluded or which are enacted thereafter.
- F. Intentionally Deleted

5.03 CONTRACTORS RESPONSIBILITY FOR PERFORMANCE

- A. **Assignment, Scheduling and Coordination.** The Contractor is solely responsible for and has control over assigning, scheduling and coordinating all portions of the Work under the Contract performed by the Contractor's own forces and by its Subcontractors, Sub-subcontractors and Suppliers in accordance with the Project Schedule, unless the Contract Documents give other specific instructions concerning these matters.
- B. **Construction Means and Methods.** The Contractor must provide continuous on-Site supervision and direction of the Work using the Contractor's best efforts. The Contractor has control over construction means, methods, techniques, sequences and procedures, unless the Contract Documents give other specific instructions concerning these matters, and is solely responsible therefore.
- C. **Discipline at the Site.** The Contractor must enforce strict discipline and good order among the Contractor's employees and other persons for whose Work the Contractor is responsible, including Contractors, Subcontractors, Sub-subcontractors, and Suppliers.
- D. **Responsibility for Subordinates.** The Contractor is responsible for the acts and omissions of all persons performing portions of the Work at the Site, including but not limited to the Contractor's employees, Subcontractors, Sub-subcontractors, Suppliers, and the agents and employees of any of them.
- E. **Obligations Not Relieved.** The Contractor is not relieved of its obligations to perform the Work in accordance with the Contract Documents, or to comply with applicable laws and regulations and Referenced Standards, by the activities or duties of the Owner or the Architect/Engineer in the administration of the Contract or of construction, or by tests, inspections or approvals required or performed by persons other than the Contractor.

5.04 SUPERINTENDENCE

- A. **Superintendent.** The Contractor must employ a competent Superintendent and necessary assistants who represent the Contractor who must be in attendance at the Site at all times during the performance of the Work or any other operations by the Contractor at the Site until issuance of the Certificate of Substantial Completion, during the performance of any punch list work, and for such additional time thereafter as the Owner or Architect/Engineer may determine to be necessary for Final Completion.
- B. **Acceptability of Key Personnel.** The Contractor's key project-specific personnel (including at a minimum the Superintendent, Project Manager and Project Engineer, as required by the Contract Documents) are subject to approval by the Owner and a list of them and their resumes in the form required by the Owner must be provided to the Owner in accord with Subsection 9.1.2.4. If the Owner determines, during the Contractor's performance of the Work, that any such personnel are unsatisfactory, then the Contractor must promptly provide an acceptable substitute. The Contractor may not voluntarily change the Superintendent or key personnel without prior notice to and the consent of the Owner, not to be unreasonably withheld. The Owner may condition its consent on the Contractor's fully familiarizing the replacement personnel with all Contract Documents and the status of the Work at the Contractor's expense.

- C. **Communications with Superintendent and Project Manager and Owner's Representatives and/or the Architect /Engineer.** The Superintendent and Project Manager must be fluent in written and spoken English, and communications given to the Superintendent or Project Manager are as binding as if given to the Contractor. If the Contractor contends that any communication between its Superintendent and Project Manager and any Owner's Representative or the Architect/Engineer constitutes a change in the Work entitling the Contractor to an increase in the Contract Time or Contract Sum, the Contractor must before proceeding with the work obtain the written authorization of the Facilities Project Manager directing the performance of the work and must file notice with the Owner and Architect/Engineer in accordance with Section 12.5, and file a Claim for an increase in the Contract Time and/or a Claim for an increase in the Contract Sum in accordance with Articles 11 and 12, or any Claim relating to such Work shall be deemed waived.

5.05 LABOR, MATERIALS AND EQUIPMENT

- A. **Labor, Materials and Equipment Provided by Contractor.** Unless otherwise provided in the Contract Documents, the Contractor must provide and pay for all labor, materials, equipment, and utilities required for the performance of the Contract.
- B. **Royalties and License Fees.** The Contractor must pay all royalties and license fees and comply with any licensing requirements required in connection with the use of a particular design, process or product of a particular manufacturer or manufacturers. The Contractor must defend suits or claims for infringement of copyrights, patent rights or trade secrets and must hold the Owner and Architect/Engineer harmless from liability and indemnify the Owner and Architect/Engineer against any loss or damage on account thereof.
- C. **Compliance with Contract Documents, Approved Submittals, and Interpretations.** The Contractor must perform the Work in accordance with: (i) the Contract Documents; (ii) Submittals approved pursuant to Section 9.2 to the extent they are not in conflict with the Contract Documents; and (iii) interpretations and instructions issued by the Architect/Engineer pursuant to Subsection 4.03.A.
- D. **Compliance with Manufacturers' Instructions.** Unless otherwise specifically provided in the Contract Documents, the Contractor must store, handle, install, and test all materials and equipment in accordance with the manufacturers' or Suppliers' most recent instructions and recommendations. In the event such instructions or recommendations are in conflict with any provisions of the Contract Documents, the Contractor must give prompt notice of the conflict to the Owner as provided in Subsection 5.01.F.
- E. **Labor.** The Contractor must provide, and must also ensure that its Subcontractors and Sub-subcontractors provide, a sufficient number of properly skilled workers and crews to perform the Work in a safe and expeditious manner in accordance with the approved Project Schedule, including appropriate proportions of laborers, apprentices, journeymen, masters and foremen, and must not permit employment of persons who are unfit to perform or are not skilled in tasks assigned to them.
- F. **Allowances.** The Contract Sum and Contract Time include all Allowances required by the Contract Documents. The Contractor must perform all Work covered by an Allowance unless directed otherwise by the Owner. The Contractor must provide proposed or actual costs to the Owner for performing any Allowance work. If acceptable to the Owner, the Owner will then direct the Contractor to perform the Work through written notification. The Owner may require that work covered by an Allowance be purchased on the basis of the lowest responsive bid of at least three competitive bids approved by the Owner, unless the Contract Documents specify a Unit Price for the work, in which case the Allowance work must be provided at the Unit Price. Work covered by Allowances must be supplied for such amounts and by such persons or entities proposed by the Contractor and approved by the Owner or as the Owner may otherwise direct, unless the Contract Documents specify a Unit Price for the work, in which case the work must be provided at the Unit Price.
- G. **Adjustments for Allowances.** Unless otherwise provided in the Contract Documents:

1. Allowances designated in the Contract Documents provide for the estimated direct cost of all labor, materials and equipment, including unloading, storage, and handling at the Site, labor, installation costs, transportation to the Site and all required taxes, less applicable trade discounts but do not include the Contractor's overhead or profit, which are included in the Contract Sum and are not compensable under the Allowances;
2. Whenever actual costs (excluding those amounts indicated above as included in the Contract Sum and not compensable) are more than a monetary Allowance, the Contractor shall be entitled to an appropriate Contract Modification to reflect the difference between the costs set forth in Subsection 5.05.G.1;
3. If actual costs are less or equal to the amount of a monetary Allowance, the Contractor shall include only such actual costs in the Contractor's Application for Payment; the Contract Sum must be reduced by an appropriate Contract Modification to reflect the deletion of an Allowance or lower actual costs of an Allowance; and
4. All time required for the performance of work covered by an Allowance is conclusively presumed to be included in the Contract Time, unless the cost of the work exceeds the Allowance amount and the Contractor demonstrates a Delay to the critical path of the Project Schedule of Record and requests an increase of time in accordance with Article 11.

5.06 CONSTRUCTION OPERATIONS

- A. **Use of Site.** The Contractor must confine operations at the Site to areas permitted by law, ordinances, permits, and the Contract Documents and must not unreasonably encumber the Site with materials and equipment. The Owner may establish reasonable additional limitations on the Contractor's use of the Site to accommodate the needs of the Owner, Separate Contractors, users of occupied facilities the public, or other forces authorized by the Owner to perform work. Provided, however, if such limitations are made known to the Contractor after the date bids are received, the Contractor may be entitled to an equitable adjustment in the Contract Time and/or Contract Sum if the Contractor can demonstrate that such limitations adversely impact the prosecution of the Work.
- B. **Benchmarks and Layout of Work.** Contractor must establish the exterior lines and elevations of all buildings and structures to be erected on the Site, and lines and grades of Site Work such as roads, utilities and Site grading, based on reference points, the location of existing structures or improvements, or benchmarks identified in the Contract Documents or Site Surveys provided by the Owner. The Contractor must protect and preserve such established reference points, and if they are disturbed, the cost of their relocation and replacement must be borne by the Contractor. The Contractor must provide a professional certification by a State of Michigan registered professional engineer or land surveyor as to the actual location of building lines prior to the construction of the foundations. Once foundation work is complete, and prior to commencing construction of the superstructure for the Project, Contractor must submit to Owner a certified building location survey as completed by a State of Michigan registered land surveyor. The Contractor must establish the building grades, lines and levels, and column, wall and partition lines required by its Subcontractors in laying out their Work. At the completion of the Work, the Contractor must provide another professional certification by a registered professional engineer or land surveyor as to the location of the completed improvements in relation to property lines, building lines, easements, and other boundaries.

- C. **Working Hours.** Except as otherwise provided in the Contract Documents, all Work must be performed between the hours of 7:00 a.m. and 4:00 p.m. Monday through Friday. The Owner has the right to impose further restrictions on working hours reasonably related to the use of occupied facilities provided, however, the Contractor shall be entitled to an equitable adjustment in the Contract Time and/or Contract Sum if such restrictions are imposed after the date bids are received if the Contractor can demonstrate that such limitations adversely impact the prosecution of the Work. No delays resulting from compliance with applicable laws or regulations may form the basis for any Claim by the Contractor for delay damages or additional compensation or for any increase in the Contract Time; any delays arising from restrictions related to the use of occupied facilities are non-compensable and any requests for an increase in the Contract Time relating to them must be filed in accord with Article 11 or the same will be conclusively deemed to have been waived. The Contractor must not permit work outside of such hours or on a Saturday, Sunday without the written consent of the Owner. Such consent, if given, may be conditioned upon payment by the Contractor of the Owner's and Architect/Engineer's additional costs and fees incurred in monitoring such off-hours Work. The Contractor must notify the Owner as soon as possible if Work must be performed outside such times in the interest of the safety and protection of persons or property at the Site or adjacent thereto, or in the event of an emergency. In no event shall the Contractor permit Work to be performed at the Site without the presence of the Contractor's Superintendent and/or persons responsible for the protection of persons and property at the Site and compliance with all applicable Laws and Regulations, if different from the Superintendent.
- D. **Noise Ordinance.** The Contractor must comply with the Owner's Noise Policy and all ordinances established by local authorities having jurisdiction and any successor or substitute provisions covering the regulation of noise levels. It is the duty of the Contractor to familiarize itself with those provisions and perform the Work in compliance with those provisions.
- E. **Temporary Facilities.** Except as otherwise provided in the Contract Documents, the Contractor must provide and pay for all labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other temporary facilities and services necessary for proper execution and completion of the Work, including measures for sediment control, storm water management and waste disposal. The Contractor must not use any preexisting facilities of the Owner without the specific written consent of the Owner, except as indicated in the Contract Documents. The Contractor is solely responsible for temporary facilities and services provided or utilized by the Contractor and must remove those not required to remain at the completion of the Work or any portion thereof; must promptly correct any damage caused by the erection, use or removal of temporary facilities; and must restore the Site and any adjacent areas to their original condition or that required by the Contract Documents upon completion of the Work.
- F. **Cutting, Patching and Finishing.** The Contractor is responsible for all cutting, patching and finishing required completing the Work or to make its parts fit together properly. The responsibility of the Contractor, Owner and Separate Contractors with respect to cutting, patching and finishing work by others is as provided in Subsection 7.02.D.
- G. **Cleaning Up.** The Contractor must keep the Site and adjacent areas free from accumulation of waste materials or rubbish caused by operations under the Contract, and must keep tools, construction equipment, machinery and surplus materials suitably stored when not in use. If the Contractor fails to do so in a manner reasonably satisfactory to the Owner within forty-eight (48) hours after notice or as otherwise required by the Contract Documents, the Owner may clean the Site and back charge the Contractor for all costs associated with the cleaning.
- H. **Utilities**
1. **Existing Utilities.**
 - a. The existence and locations of underground or other utilities and other construction indicated on the plans are not guaranteed by Owner.

- b. Contractor must investigate and verify the existence and location of underground or other utilities before commencing the Work. Work performed near existing structures and utilities must be done safely by hand. Contractor is responsible for any damage to, and for maintenance and protection of, existing utilities and structures.
 - c. At Contractor's expense the Contractor must coordinate with utilities companies for the adjustment, moving or relocation as necessary of existing structures, utility poles, lines, services, or other appurtenances located in, or affected by, the Work which was discoverable by a thorough site visit, and/or a careful review of the Contract Documents. No increase in the Contract Time or an increase in the Contract Sum will be granted for any Delay associated with such coordination whether caused by the Contractor, a public utility, any other third party or the Owner acting in its ownership capacity. The Contractor will be allowed an increase in the Contract Sum and/or an increase in the Contract Time associated with the adjustment, removal, or relocation of any operational but unknown and unmarked utilities which were not discoverable by a thorough site visit, and/or a careful review of the Contract Documents. Any Claim for adjustment of the Contract Time or the Contract Sum must be filed within the time and in accordance with the provisions of Articles 11 and 12 or any Claim to such will be deemed to have been conclusively waived.
- 2. **Temporary Utilities**
 - a. Contractor shall, at their own cost and expense, arrange for and coordinate the installation and inspection of temporary utility services including but not limited to, water, power, lighting, data, and other technology connections, heating, and cooling, etc. Contractor to maintain the respective temporary services until permanent utilities are installed and shall continue to pay for permanent utilities until contractor has requested the certificate of substantial completion which at that point the permanent utilities will become the responsibility of the owner in accordance with Subsection 5.06.3.
- 3. **Permanent Utilities.**
 - a. Contractor must arrange for and coordinate the installation and inspection of permanent utilities with all appropriate utility companies. The installation cost and the time associated with such work is included in the Contract Time and the Contract Sum unless otherwise specified in the Contract Documents. **No increase in the Contract Time or an increase in the Contract Sum will be granted for any Delay associated with obtaining such permanent utilities whether caused by the Contractor, a public utility, any other third party or the Owner acting in its ownership capacity.** The Contractor is responsible for the costs for its use of permanent utilities until Substantial Completion.
 - b. Fifteen (15) to thirty (30) days prior to the anticipated date of Substantial Completion, the Contractor will assemble a meeting with the Facilities Project Manager and the Facilities Portfolio Manager which will also include the current assigned Real Estate Operations Contract Specialist to coordinate the transfer of the Permanent Utilities (water/gas/electric) from each utility company into a Spectrum Account. Contractor is to provide at the utility transfer meeting a copy of an invoice from each Permanent Utility Company that is being transferred into the Owners account. All invoices for temporary/permanent utility costs up to the date of Substantial Completion are to be paid for by the Contractor until such time when the transfer of utilities to the Owner is made.
- I. **Air Pollution Control**
 - 1. The Contractor must comply with all municipal Air Quality Ordinances of the city or county for which the work is being performed and any successor or substitute provisions covering the regulation of air quality.
 - 2. Hauling of Materials: All fine-grained loose materials hauled to or from a project must be covered to prevent spillage and blowing.

3. Disposal of Materials: Disposal of materials by burning at any location within the project site is prohibited. Any off-site burn area receiving materials from the project site must have a Fire Permit from the city or county Department of Environmental Protection and conform to all laws and regulation associated with said Fire Permit.

ARTICLE 6

SUBCONTRACTORS AND SUPPLIERS

6.01 SELECTION AND RIGHT OF REJECTION

- A. Identification of Subcontractors and Suppliers. Unless otherwise provided in the Contract Documents or the Instructions to Bidders, the Contractor, within seven (7) days after issuance of the Notice to Proceed and before commencing Work at the Site, must furnish in writing to the Owner the names of Subcontractors and Suppliers which the Contractor intends to utilize during the first thirty (30) days, and those then known to the Contractor who are proposed for each principal portion of the Work. This list must be consistent with the Contractor's Project Schedule required by Subsection 11.02.A and Schedule of Submittals required by Subsection 11.02.E. Such principal Subcontractors include, but are not limited to, (i) those performing ten percent (10%) or more of the amount of the Work as indicated by the Contractor's Schedule of Values; (ii) any Subcontractor whose Work falls on the critical path of the Contractor's Progress Schedule, and (iii) those responsible for excavation, structural steel, concrete, masonry, plumbing, mechanical, electrical, roofing and finish work. The Contractor must submit any proposed changes or additional names as the Work progresses, not less than thirty (30) days prior to the date on which the Contractor intends to contract with the proposed Subcontractor or Supplier, and sufficiently in advance of such date to permit a reasonable time for review.
 1. The Contractor must not enter into any subcontract, contract, agreement, purchase order or other agreement for the furnishing of any portion of the materials, services, equipment or Work with any party or entity if such party or entity is an Affiliated Entity with which the Contractor has a direct or indirect ownership, control or interest unless such agreement has been approved by the Owner, such approval not to be unreasonably withheld, after full disclosure in writing by the Contractor to the Owner of such affiliation or relationship and all details relating to the proposed arrangements.
 2. The Contractor shall submit the name of all principal Subcontractors to the Owner within seven (7) days after Letter of Intent and shall have all principal Subcontractors under contract within thirty (30) days of Notice to Proceed.
- B. **Qualification of Subcontractors.** The Owner may make such investigations as he deems necessary to determine the ability of any Subcontractor to perform its work, and the Contractor and Subcontractor shall furnish to the Owner all such information and data for this purpose as the Owner may request. The Owner may visit any Subcontractor's place of business and review any other factors relevant to a determination of the Subcontractor's ability to perform its work. The Owner reserves the right to reject any Subcontractor who has previously failed to perform properly or to complete in a timely manner, or whose proposed Subcontractors, Suppliers, or Surety have similarly failed to perform properly or timely, contracts of a similar nature, or if investigations show the Subcontractor unable to perform the requirements of the Subcontract.
 1. Upon Owner request, Subcontractors shall furnish the following proof of qualifications to perform its proposed work. Subcontractor shall furnish a description of comparable work performed by him within the previous five years indicating the location, contract scope, contract sum, type of construction, name, address and phone number of owner and architect, date work completed, and construction period in days. Upon Owner request, Subcontractors may be required to furnish additional information as proof of qualifications. Failure to submit any requested information within ten (10) days of Owner request shall be sufficient cause to reject the Subcontractor.
 2. Upon Owner request, Subcontractors shall furnish a current condensed net worth statement and financial references for verification of financial responsibility.
 3. All Subcontractors must be licensed, as required by law, to perform its proposed work. Upon Owner request, Subcontractors shall furnish evidence of required licenses.

- C. **Acceptance of Subcontractors and Suppliers.** The Owner will, within a reasonable time, advise the Contractor in writing if the Owner rejects any proposed Subcontractor or Supplier, stating the reasons therefore, or stating that additional information is required in order to make a determination as to the acceptability of any proposed Subcontractor or Supplier.
- D. **Use of Acceptable Subcontractors and Suppliers.** The Contractor must not contract with a proposed Subcontractor or Supplier who has been rejected by the Owner. If the Contractor wishes to change a previously-selected Subcontractor or Supplier, the Contractor must submit the name of the replacement for review and acceptance as provided in Subsection 6.01.A.
- E. **Owner's Right to Require Removal.** The Owner has the right to require the Contractor to remove a Subcontractor or Supplier, for any occurrence which, if done by the Contractor, would be a breach of the Contract.
- F. **Replacement Subcontractors and Suppliers.** If the Owner requires removal of a Subcontractor or Supplier, the Contractor must propose another to whom the Owner has no reasonable objection. The Contractor is not entitled to any adjustment in the Contract Time or the Contract Sum occasioned by such change if the removal is for any occurrence which, if done by the Contractor, would be a breach of the Contract, or if the Contractor has failed to act promptly and responsively in submitting names as required.

6.02 SUBCONTRACTUAL RELATIONS

- A. **Subcontracts Required.** The Contractor must require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by the terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities which the Contractor, by the Contract Documents, assumes toward the Owner and the Architect/Engineer. Each subcontract must allow to the Subcontractor, unless otherwise agreed to by the Owner, rights, remedies and redress against the Contractor equivalent to those that the Contractor, by the Contract Documents, has against the Owner. The Contractor must require each Subcontractor to enter into similar agreements with Sub-subcontractors.
- B. **Subcontract Provisions.** The Contractor must submit a copy of each subcontract to the Owner upon request. Each subcontract must specifically include provisions that:
 - 1. Preserve and protect the rights of the Owner under the Contract with respect to the Work to be performed under the subcontract so that the sub-contracting thereof will not prejudice such rights;
 - 2. Require the Subcontractor to comply with all applicable licensing, bonding and insurance requirements;
 - 3. Require submission to the Contractor of submittals in sufficient time and in such detail as will enable the Contractor to review, approve and submit such submittals in accordance with Article 9;
 - 4. Require that the Work under the subcontract be performed in accordance with the requirements of the Contract Documents and applicable laws and regulations.
 - 5. Require the Subcontractor to comply with all applicable employment laws, regulations and requirements of the Contract, including requirements concerning equal employment opportunity and affirmative action and Minority Female and Disabled (MFD) requirements applicable to Subcontractors;
 - 6. Require submission to the Contractor of applications for payment in sufficient time and in such detail as will enable the Contractor to apply for payment in accordance with Article 13, and provide for payment to Subcontractors as provided in Section 6.03;
 - 7. Require that all requests and/or Claims for additional costs, increase of time, damages for delays or otherwise with respect to subcontracted portions of the Work for which the Owner, the Architect/Engineer, any Separate Contractor, or any of their consultants, subcontractors, agents or employees might be liable, be submitted through the Contractor in sufficient time and in such detail as will enable the Contractor to comply with the requirements of Articles 11, 12 and 16 for such requests or Claims;
 - 8. Expressly provide for the contingent assignment referred to in Section 6.04;

9. Obligate the Subcontractor specifically to consent to the provisions of this Section; and
10. Allow the Subcontractor and applicable Sub-subcontractor to be terminable at no cost to the Owner or the Contractor if the Contract is terminated.

6.03 PAYMENTS TO SUBCONTRACTORS AND SUPPLIERS

- A. A subcontractor or supplier that contracts to provide an improvement to real property shall provide a Notice of Furnishing to the Owner's designee and the contractor as named in the Notice of Commencement at the address shown in the Notice of Commencement, either personally or by certified mail, within 20 days after furnishing the first labor or material.
- B. **Substantial Completion Payment and Final Payment to Subcontractors and Suppliers.** The Contractor must make payment (excluding retainage, amounts withheld for completion of Punch List and correction of any defective Work) to Subcontractors and Suppliers within a reasonable time after Substantial Completion of the Work. Remaining retainage payments and any amounts previously withheld for completion of Punch List and correction of any defective Work must be made to Subcontractors and Suppliers within seven (7) days after receipt of final payment by the Contractor.
- C. **Information Regarding Payments.** The Owner may at its discretion furnish directly to a Subcontractor or Supplier on its request, if practicable, information regarding the Contract, including percentages of completion claimed or amounts applied for by the Contractor and action taken thereon by the Owner on account of portions of the Work done by such Subcontractor or Supplier.
- D. **Responsibility for Payment to Subcontractors.** The Owner shall have no obligation to pay or to see to the payment of any moneys to any Subcontractor or Supplier or provide any information to either. Notwithstanding any provision to the contrary in this Article 6 or in any other provision of the Contract Documents, any obligations imposed upon the Contractor with respect to Subcontractors and Suppliers is solely for the benefit of the Owner and shall not be construed as giving any Subcontractor or Supplier any rights against the Owner or creating any privity of contract between the Owner on one hand and any Subcontractor or Supplier on the other hand.

6.04 CONTINGENT ASSIGNMENT OF SUBCONTRACTS AND PURCHASE ORDERS

- A. **Assignment.** Each subcontract and Contractor's purchase order for a portion of the Work, including contracts for the purchase or rental of temporary facilities and equipment, must be assignable by the Contractor to the Owner under the conditions of this Section at no cost or change in price or time of performance on account of the assignment.
- B. **Election by Owner.** The assignment of subcontracts and Contractor's purchase orders is effective only after termination of the Contract by the Owner pursuant to Sections 15.02 or 15.03, and only for those subcontracts or purchase orders which the Owner accepts by notifying the Contractor and Subcontractor or Supplier in writing.
- C. **Rights of Surety.** The assignment of subcontracts and Contractor's purchase orders is subject to the prior rights of the Surety, if any, on the Project.
- D. **Liability for Prior Obligations.** In the event the Owner accepts an assignment, the Owner is not liable for any obligations of the Contractor to the Subcontractor or Supplier arising prior to the effective date of the assignment, other than payment for Work performed in accordance with the Contract Documents and for which the Owner has not made payment to the Contractor. In no event does such assignment act as a release of the Contractor or its Surety from any of their obligations to the Owner, the Subcontractor, Supplier, or any other person or entity affected thereby. The Contractor must insert a provision to this effect and to the effect of Subsection 6.04.A in all contracts with its Subcontractors and Suppliers and require all Subcontractors to insert a similar provision in all contracts with any Sub-subcontractor.

ARTICLE 7

WORK BY OWNER AND BY OTHERS

7.01 OTHER WORK AT THE SITE

- A. **Owner's Rights Reserved.** The Owner reserves the right to perform work at the Site with its own forces, to permit work to be performed at the Site by other forces, and to award separate contracts in connection with other portions of the Project.
- B. **Identification of Work by Others.** Work to be performed by the Owner or by Separate Contractors is identified as such in the Contract Documents. If a question arises concerning the allocation of responsibilities among the Contractor and the Owner or any Separate Contractor, the Contractor must promptly request an interpretation or decision as provided in Subsection 4.03.C.
- C. **Coordination of Other Work.** The Contractor must cooperate in coordinating its Work with the work, if any, of the Owner, Separate Contractors, and any other forces permitted by the Owner to perform work at the Site without an increase in the Contract Time or the Contract Sum. The Contractor must, in addition, coordinate its Work with other work at the Site as required in the Contract Documents without an increase in the Contract Time or the Contract Sum. Such coordination will be performed as designated in the Contract Documents by the Owner the Architect/Engineer, a separate consultant retained by the Owner such as a construction manager, or may be assigned to the Contractor or a Separate Contractor, and any such assignment shall be without an increase in the Contract Time or in the Contract Sum. In the event such coordination is not performed by the Owner's own personnel, the Owner will advise the Contractor in writing of the person or entity who will be responsible for such coordination, and will describe the duties, authority and limitations of authority of such person or entity.
- D. **Construction Schedules.** In the event the Owner is performing work at the Site with its own forces or by Separate Contractors or permitting other forces to perform work at the Site, the Owner will be responsible for providing the Contractor with appropriate and necessary activities, durations, and/or fragments indicating the work and that such information shall be input into the Contractor's Project Schedule. The Contractor must participate with the Owner and any Separate Contractors and other forces permitted by the Owner to perform work at the Site in jointly reviewing the overall Project Schedule when directed to do so. The Contractor must make any revisions to the Contractor's Project Schedule that are necessary to accommodate work by the Owner and Separate Contractors and any other forces permitted by the Owner to perform work at the Site and to avoid delays and interruptions in the overall Project Schedule. **The Contractor may be entitled to a change in the Contract Time or Contract Sum as a result of any Delays, impacts or inefficiencies resulting from interferences or lack of Site availability caused by Owner or Separate Contractors or other forces permitted by the Owner to perform work at the Site provided Contractor submits a Claim in accordance with Articles 11, 12 and 16.**
- E. **Communications through Owner.** Communications among the Contractor and Separate Contractors must be conducted through the Owner, except as provided in Subsections 7.02.D and 7.02.E.

7.02 CONTRACTOR'S RESPONSIBILITY

- A. **Contractor to Afford Access to Others.** The Contractor must afford the Owner and Separate Contractors and other forces permitted by the Owner to perform work at the Site reasonable opportunity for introduction and storage of their materials and equipment and performance of their work and related activities.
- B. **Connection with Other Work.** The Contractor must connect its Work with that of the Owner and Separate Contractors and other forces permitted by the Owner to perform work at the Site as required by the Contract Documents, the overall Project Schedule, and the directions of the Owner and its authorized representatives.

- C. **Inspection and Notice of Unsuitability.** If part of the Contractor's Work or other operations depends for proper execution or results, upon, or may adversely be affected by, construction or operations by the Owner or a Separate Contractor or other forces permitted by the Owner to perform work at the Site, the Contractor must, as soon as practicable but in all events in sufficient time to prevent delay, disruption, hindrance or interference with the performance of the Contractor's work and prior to proceeding with that portion of the Work, report in writing to the Owner any apparent discrepancies or defects in, or other conditions pertaining to, such other construction or operations that would prevent the Contractor from achieving proper execution and results of the Work. Failure of the Contractor to report such conditions prior to proceeding with the Work constitutes an acknowledgment (i) that the construction by the Owner or Separate Contractors or other forces permitted by the Owner to perform work at the Site is fit and proper to receive the Contractor's Work, except as to defects not then reasonably discoverable, and (ii) that their operations will not adversely affect the performance of the Work.
- D. **Cutting, Patching and Finishing of Work by Others.** The Contractor must not damage or endanger fully or partially completed construction by the Owner or Separate Contractors or other forces permitted by the Owner to perform work at the Site by cutting, patching, finishing or otherwise altering such construction, or by excavation. The Contractor must not cut or otherwise alter such work by others except with written consent of the Owner; such consent will not be unreasonably withheld. The Contractor must not unreasonably withhold from the Owner or a Separate Contractor or other forces permitted by the Owner to perform work at the Site the Contractor's consent to cutting, patching, finishing or otherwise altering the Contractor's Work.
- E. **Remedy of Damage to Work by Others.** The Contractor must promptly remedy damage caused by the Contractor to completed or partially completed construction or to property of the Owner or Separate Contractors or other forces permitted by the Owner to perform work at the Site as provided in Subsection 8.02.G.

7.03 MUTUAL RESPONSIBILITY OF THE OWNER AND SEPARATE CONTRACTORS

- A. **Responsibility for Cleaning Up.** If a disagreement arises among the Contractor, Separate Contractors or other forces permitted by the Owner to perform work at the Site and the Owner as to their respective responsibilities for maintaining the Site, the Work and surrounding area free from waste materials and rubbish as described in Subsection 5.06.G, the Owner may clean up or direct the Contractor or a Separate Contractor or other forces permitted by the Owner to perform work at the Site to do so, and allocate the cost thereof among them.
- B. **Disagreements Involving Separate Contractors.** If a disagreement arises among the Contractor and any Separate Contractors or other forces permitted by the Owner to perform work at the Site over delays, impacts, inefficiencies, additional costs or damage to their work or property at the Site, the Contractor must, upon due notice to the Owner make a good faith effort to settle with such Separate Contractor. If a settlement is not reached, the Contractor must submit a Claim for an increase in the Contract Time and/or a Claim for an increase in the Contract Sum in accordance with Articles 11 and 12. If a Separate Contractor or other forces permitted by the Owner to perform work at the Site brings a claim against the Owner on account of any delay, impacts, inefficiencies, additional cost or damage alleged to have been caused by the Contractor, the Owner will notify the Contractor who must participate in such proceedings at the Contractor's expense. If any judgment or award against the Owner arises therefrom, the Contractor must indemnify the Owner from liability for any loss or damage and must reimburse the Owner for all fees and costs including attorney's, consultant's and expert's fees which the Owner has incurred in the defense and satisfaction of such claim, to the extent that the delay, impacts, inefficiencies, additional cost or damage is attributable to the acts, failures to act, or negligence of the Contractor or anyone for whom the Contractor is responsible.

ARTICLE 8

PROTECTION OF PERSONS AND PROPERTY

8.01 RESPONSIBILITY FOR SAFETY

- A. **Responsibility for Site Safety.** The Contractor is responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of the Contract in accordance with Section 01 3523 Owner Safety Requirements.
- B. **Appointment of Project Safety Representative.** The Contractor must designate a responsible, properly trained and qualified member of the Contractor's organization who must maintain a full-time presence at the Site and whose duty is the prevention of accidents and the maintenance of safety programs, precautions and procedures. This person is the Contractor's Superintendent unless otherwise permitted or required by the Contract Documents, in which case the safety officer must be designated by the Contractor in writing to the Owner.
- C. **Compliance with Legal Requirements.** The Contractor must comply with all applicable laws, ordinances, rules, regulations and lawful orders of public authorities bearing on safety of persons or property or their protection from damage, injury or loss.

8.02 SAFETY OF PERSONS AND PROPERTY

- A. **Protections Required.** The Contractor must take reasonable precautions for the safety of, and must provide reasonable protection to prevent damage, injury or loss to:
 - 1. All persons at and adjacent to the Site and other persons who may be affected by the Work or other operations of the Contractor;
 - 2. The Work and materials and equipment to be incorporated therein or otherwise utilized in the performance of the Contract, whether in storage on or off the Site, under care, custody or control of the Contractor or the Contractor's Subcontractors or Sub-subcontractors; and
 - 3. Other property at the Site or adjacent thereto and not designated for removal, relocation or replacement in the course of construction.
- B. **Notices and Safeguards.** The Contractor must implement and maintain, as required by the Contract Documents, applicable laws and regulations and orders of public authorities having jurisdiction (including without limitation OSHA and MiOSH), manufacturers' instructions or recommendations, existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including issuing appropriate notices, distributing material safety data sheets and other hazard communication information, providing protective clothing and equipment, posting danger signs and other warnings against hazards, promulgating safety regulations and notifying owners and users of adjacent sites and utilities.
- C. **Loading.** The Contractor must not load nor permit any part of any structure at the Site to be loaded or subjected to stresses or pressures so as to endanger its safety or that of adjacent structures or property.
- D. **Hazardous Activities.** The use of Explosives or other hazardous materials or equipment are not to be used unless specifically agreed to in the Contract Documents. When explosives or other hazardous materials or equipment are stored or used or unusual methods are employed or hazardous conditions are present in the performance of the Work per the Contract Documents, the Contractor must exercise utmost care and conduct such activities under supervision of properly qualified personnel.
- E. **Qualified Personnel.** The Contractor must ensure that all work is performed by qualified personnel, trained in accordance with all applicable laws and regulations, to safely perform the work.

- F. **Emergencies.** In an emergency affecting safety of persons or property, the Contractor must take all necessary action, without the necessity for any special instruction or authorization from the Owner, to prevent threatened damage, injury or loss. The Contractor must promptly but in all events within twenty-four (24) hours of the occurrence report such action in writing to the Owner. If the Contractor incurs additional costs on account of or is delayed by such action, the Contractor may file a Claim requesting a change in the Contract Time or Contract Sum to account for such action in accord with Articles 11 and 12. Any such Claim must be filed within ten (10) days of the occurrence or it will be conclusively deemed to have been waived. Any adjustment in the Contract Time or Contract Sum shall be limited to the extent that the emergency work is not attributable to the fault or neglect of the Contractor or otherwise the responsibility of the Contractor under the Contract Documents.
- G. **Notice of Physical Injury or Damage.** If the Contractor suffers physical injury or damage to person or property because of an act or omission of the Owner, or of any of the Owner's employees or agents, or of others for whose acts it is contended that the Owner is liable, written notice of such injury or damage, whether or not insured, must be given to the Owner within a reasonable time not exceeding forty eight (48) hours after the onset or occurrence of such damage or injury or such shorter time as may be required by the Occupational Safety & Health Administration (OSHA). The notice must provide sufficient detail to enable the Owner to investigate the matter. If notice is not received by the Owner within the time specified, any Claim arising from the occurrence will be deemed to be conclusively waived, except to the extent of any applicable insurance (excluding self-insurance) coverage covering such occurrence. The provisions of this subsection may not be used by the Contractor in lieu of the requirements of Article 12 when the Contractor is seeking an adjustment in the Contract Sum and are in addition to the requirements of Article 11 when the Contractor is seeking an adjustment in the Contract Time.
- H. **Remedy of Property Damage.** The Contractor must promptly remedy damage and loss to property referred to in Subsections 8.02.A.2 and 8.02.A.3 caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, a Supplier, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable, unless otherwise instructed in writing by the Owner. The Contractor shall not be responsible for the security of materials, equipment and tools of Separate Contractors and other forces permitted by the Owner to perform work at the Site.
- I. **Responsibility for Site Security.** The Contractor is responsible for taking all reasonable and necessary precautions to secure and protect the Site, the Work, materials and equipment to be incorporated therein, and any tools or equipment of the Contractor necessary or beneficial to the performance of the Work from damage due to vandalism, theft, arson, or other criminal mischief. The Contractor must repair and/or replace that portion of the Work and any materials or equipment to be incorporated therein and any tools or equipment of the Contractor necessary or beneficial to performance of the Work which are damaged or stolen due to vandalism, theft, arson, or any other criminal mischief at its expense whether or not covered by insurance. No increase of the Contract Time or increase in the Contract Sum will be granted to the Contractor as a consequence of any delay, impacts or inefficiencies resulting from any act of vandalism, theft, arson or other criminal mischief whether or not caused or contributed to by the Contractor's negligence. The Contractor is responsible for securing the Site against unlawful and unauthorized entry.

8.03 HAZARDOUS MATERIALS

- A. **Disclosure, Identification and Handling.** The Contractor must maintain at the Site, available to the Owner, appropriate information pertaining to all Hazardous Materials brought to the Site. Such materials must be properly labeled or identified, and the Contractor must properly store, handle and use them in accordance with the manufactures instructions. Manufacturers and distributors are required by the federal Hazard Communication Standard (29 CFR §1910.1200), and the Michigan "Right To Know" law to label each Hazardous Material or chemical container, and to provide Material Safety Data sheets to the purchaser. The Contractor must comply with these laws and must provide the Owner with copies of all relevant documents, including Material Safety Data sheets prior to performance of services or contemporaneous with delivery of goods. The Contractor must provide and designate appropriate and secure areas for their storage and must notify the Owner of their presence and location at the Site. The Contractor must not store Hazardous Materials at the Site in excess of those reasonably needed for the Contractor's current operations, and must properly remove or dispose of all Hazardous Materials, including combustible waste, as soon as possible after completion of the operations in which they are utilized.
- B. **Discovery of Hazardous Materials at the Site.** In the event the Contractor encounters on the Site material reasonably believed to be a Hazardous Material (other than those for which the Contractor may have specific responsibility for remediation under the Contract), Contractor shall take reasonable precautions to prevent foreseeable damage or injury, and the Contractor must immediately stop Work in the area affected and immediately report, within twenty four (24) hours the condition to the owner in writing.
- C. **Investigation and Remediation.** Upon receipt of notice of suspected Hazardous Materials, the Owner will cause an investigation to be made to verify the presence and extent of such materials, to determine whether such materials are in fact hazardous, and the steps necessary for their removal, containment or remediation.
- D. **Resumption of Work.** If the Owner's investigation confirms the presence of Hazardous Materials which present a risk of injury or damage which will not be adequately protected against by the Contractor's reasonable precautions, then the Work in the affected area must not thereafter be resumed except at the written direction of the Owner. The Work in the affected area will be resumed promptly (i) in the absence of a finding of Hazardous Material by the Owner, (ii) upon the removal, containment or remediation of the Hazardous Materials, or (iii) upon the establishment of appropriate safety precautions.
- E. **Adjustments for Hazardous Materials.** The Contractor may request a change in the Contract Time or Contract Sum if the Contractor incurs additional costs on account of or is delayed by the need to remove, contain or remediate Hazardous Materials which has not been rendered harmless at the Site unless the Contractor is responsible for same under the Contract. Any such requested change in the Contract Time or Contract Sum must be made in within ten (10) days of the Owner's approved resumption of Work referenced in Subsection 8.03.D and must fully comply with Articles 11 and 12 or any Claim will be deemed conclusively waived by the Contractor.

ARTICLE 9

SUBMITTALS

9.01 SUBMITTALS REQUIRED

- A. **Pre-contract Submittals.** The Owner reserves the right to require certain Submittals before executing the Contract. Submittals required before execution of the Contract include, but are not limited to, the following:
1. Policies and certificates of insurance acceptable to the Owner as provided in Subsections 17.02.H and 17.03.I; and

2. Statement certifying the project staffing model and key individuals that were identified in your bid submission. Statement to include the names of the project superintendent, project manager and project engineer if applicable. Include other staff team members who will be assigned to perform administrative functions.
 3. Other submittals required by the Bid or RFP Documents.
- B. **Initial Submittals.** Unless otherwise provided in the Bid or RFP Documents or the Contract Documents, Submittals required within the first thirty (30) days (or such shorter period as specified in the following sections) after issuance of a Notice to Proceed include, but are not limited to, the following:
1. A Project Schedule for approval by the Owner as provided in Subsection 11.02.A which must be provided within fifteen (15) days of the Notice to Proceed;
 2. A Schedule of Submittals including Shop Drawings, Product Data Samples and other Submittals for approval by the Architect/Engineer as provided in Subsection 11.02.E;
 3. A list of Subcontractors and Suppliers as provided in Subsection 6.1.1 which must be provided within ten (10) days of the Notice to Proceed;
 4. A list of Contractor's key personnel as provided in Subsection 5.04.B;
 5. A Schedule of Values as provided in Subsection 13.01.A which must be provided within ten (10) days of the Notice to Proceed;
 6. A construction quality control (CAC) plan as provided in the Specifications Section 01 4516 , if applicable; and
 7. Other Submittals required by the Contract Documents.
- C. **Submittals During Construction.** Unless otherwise provided in the Contract Documents, Submittals required during the course of construction include, but are not limited to, the following:
1. A certified building location survey, if applicable, as provided in Subsection 5.06.B.;
 2. Progress reports (regular and intermittent) as provided in the Specifications, properly identified and authenticated;
 3. Certificates of inspection, approval and test reports as provided in Subsection 10.05.G;
 4. Monthly Project Schedule as provided in Subsection 11.02.E.
 5. Applications for Payment with supporting documentation as provided in Section 13.02; and
 6. Shop Drawings, Product Data Samples and other Submittals required by the Contract Documents.
- D. **Closing Submittals.** Unless otherwise provided in the Contract Documents, Submittals required upon Substantial and Final Completion of the Work includes those described in Subsections 14.02.B and 14.03.C.
- E. **Purpose of Submittals.** Submittals required by the Contract Documents are not Contract Documents. The purpose of their submission is to demonstrate, for those operations or portions of the Work for which Submittals are required, the way the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents, or otherwise to demonstrate the Contractor's compliance with the requirements of the Contract Documents. Review of Submittals is subject to the limitations of Subsection 9.02.G.
- F. **Performance of Work.** The Contractor must not perform any portion of the Work requiring submission, review or approval of Submittals until the respective Submittal has been submitted and any required approval has been given. Such Work must be in accordance with approved Submittals and the Contract Documents. In the event of a conflict between an approved Submittal and the Contract Documents, the requirements of the Contract Documents shall control over the approved Submittal. The Contractor must correct at its cost, and without any adjustment in Contract Time, any Work the correction of which is required due to the Contractor's failure to obtain approval of a Submittal required to have been obtained prior to proceeding with the Work, including, but not limited to, correction of any conflicts in the Work resulting from such failure.

9.02 SUBMISSION, REVIEW AND APPROVAL OF SUBMITTALS

A. **Contractor's Submission.** The Contractor must prepare and submit to the Architect/Engineer Submittals required by the Contract Documents with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Owner or of Separate Contractors or other forces permitted to perform work at the Site. The Contractor must submit them in accordance with the Schedule of Submittals provided under Subsection 11.02.E. The Contractor must provide the Owner and the Architect/Engineer with copies of all Submittals made to regulatory agencies.

B. **Verification of Information in Submittals.** By submitting Shop Drawings, Product Data, Samples and similar Submittals, the Contractor represents that the Contractor has determined and verified materials, field measurements and field construction criteria related thereto and has checked and coordinated the information contained within such Submittals with the requirements of the Work and of the Contract Documents. All Submittals must bear the following certification, signed and dated by the Contractor, and by any Subcontractor, Sub-subcontractor or Supplier who has prepared the Submittal for the Contractor:

I certify that the requirements of the Contract Documents have been met and all dimensions, conditions and quantities are verified as shown on the attached Submittal."

The foregoing certification will be deemed to have been inserted into any Submittal from which it has been omitted.

C. **Identification of Submittals.** All Submittals, including Shop Drawings and Samples, must include submittal tracking numbers coinciding with the Specification section and Submittal log and must be dated and marked to show the names of the Project, Architect/Engineer, Contractor, originating Subcontractor, Sub-subcontractor, manufacturer or Supplier, and separate detailer if pertinent. Shop Drawings must completely identify Specification section and locations at which materials or equipment are to be installed. Reproductions of Contract Drawings are acceptable as Shop Drawings only when specifically authorized in writing by the Architect/Engineer. Submittals must be submitted under cover of a Submittal form approved by the Owner which must include at a minimum the information required in this subsection, the identity of each recipient of the Submittal, and such other information as the Owner may require.

D. **Deviations from Contract Requirements.** At the time of submission, the Contractor must specifically note in the transmittal form any deviations in the Submittal from the requirements of the Contract Documents. No such deviation will be considered as having been approved solely by reason of approval of a Submittal in which the deviation was noted; instead, if the Contractor is seeking approval of the deviation from the Contract Documents, the Contractor must comply with the provisions of Section 12.06 governing approval of Or-Equal items or Substitutions, as applicable.

E. **Return Without Action.** Incomplete Submittals will be returned to the Contractor without action and must be promptly completed and resubmitted by the Contractor. Submittals made by the Contractor which are not required by the Contract Documents may be returned without action.

F. **Review and Action by Architect/Engineer.** The Architect/Engineer or the Owner, or both as appropriate for the type of Submittal, will review and approve or take other appropriate action upon the Contractor's Submittals. Such action will be taken with such reasonable promptness as to cause no unreasonable delay in the Work, provided that Contractor has acted promptly in submitting, correcting and resubmitting such Submittals and sufficient time has been allowed to permit adequate review. A minimum of thirty (30) Days for review must be allowed, unless otherwise agreed to in writing by the Architect/Engineer.

- G. **Scope of Review.** Review of Submittals will be only for the limited purpose of checking for conformance with the design concept expressed in and the specific requirements of the Contract Documents. Review of such Submittals is not conducted for the purpose of determining their accuracy and completeness, reviewing the means and methods of fabrication or assembly, confirming details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor in accordance with the Contract Documents.
- H. **Correction and Resubmission.** The Contractor must submit additional information or make any corrections required and must resubmit the required number of corrected copies of Submittals for further review and approval or other appropriate action required by the Contract Documents until such approval or other action is taken. No delay will be recognized, and no increase of Contract Time will be given, for any delay in approval of Submittals which results from returning Submittals to the Contractor for incompleteness, correction and resubmission. If more than two (2) resubmittals are required the Contractor must pay any amounts the Owner owes the Architect for review of further resubmittals.
- I. **Identification of Revisions.** The Contractor must direct specific attention, in writing or on resubmitted Submittals, to any revisions made in a resubmitted Submittal other than those requested by the Owner or the Architect/Engineer on previous Submittals. No such revision will be considered as having been approved solely by reason of approval of a Submittal in which the revision was noted.
- J. **Responsibility for Deviations, Revisions, Errors and Omissions in Submittals.** Approval of any Submittal will not extend to, and the Contractor will not be relieved of responsibility for, (i) deviations or revisions not specifically identified and approved in accordance with Subsections 9.02.D or 9.02.I, or (ii) any errors or omissions in Submittals, except to the extent such errors or omissions occur in the Contract Documents and are the responsibility of the Architect/Engineer and/or Owner. Review and approval of the Contractor's Submittals by the Owner and/or the Architect/Engineer will not relieve the Contractor of its obligations under the Contract, nor will it constitute approval of safety precautions or of any construction means, methods, techniques, sequences or procedures of fabrication or assembly. The approval of a specific item does not indicate approval of an assembly of which the item is a component.
- K. **Professional Certifications.** The Contractor must provide professional certifications on submittals and shop drawings as required by the Contract Documents. The Owner and the Architect/Engineer are entitled to rely on the accuracy and completeness of professional certifications of performance criteria of materials, systems or equipment required by the Contract Documents.
- L. **Submittals for Finishes.** The Architect/Engineer may postpone review of Submittals requiring color or finish selections until such time as all such Submittals have been submitted. Any delays and/or extra costs resulting from incomplete Submittals are the responsibility of the Contractor.

ARTICLE 10

QUALITY CONTROL PLAN, COMMISSIONING REPORT AND WARRANTIES

10.01 QUALITY CONTROL PLAN AND COMMISSIONING REPORT

- A. **Quality Control Plan.** Unless noted otherwise in the Contract Documents, the Contractor must prepare and submit a quality control plan in accordance with the requirements of the Contract Documents for review and approval by the Owner within thirty (30) days of Notice to Proceed. The Contractor must comply with the requirements of the approved quality control plan.
- B. **Commissioning Plan.** Unless noted otherwise in the Contract Documents, the Owner will provide a commissioning plan to the Contractor; the Contractor must comply with the requirements of the Owner's commissioning plan. If noted in the Contract Documents, the Contractor must prepare and submit a commissioning plan in accordance with the requirements of the Contract Documents for review and approval by the Owner. The Contractor must comply with the requirements of the approved commissioning plan.

10.02 GENERAL WARRANTY AND SPECIAL WARRANTIES

- A. **General Warranty.** The Contractor warrants to the Owner that all materials and equipment furnished under the Contract will be of first quality and new unless otherwise required or permitted by the Contract Documents, that the Work will be free from defects, and that the Work will conform to the requirements of the Contract Documents.
- B. **Duration of General Warranty.** The Contractor warrants and guarantees for one (1) year from Substantial Completion, or for a longer period that is otherwise expressly stated in the Contract Documents, the Work. This includes a Warranty and Guarantee against any and all defects for a minimum period of one (1) year from Substantial Completion or any longer period stated in the Contract Documents. The Contractor must correct any and all defects in material and/or workmanship which may appear during the Warranty and Guarantee period, by repairing (or replacing with new items or new materials, if necessary) any such defect at no cost to the Owner, within a reasonable period of time, and to the Owner's satisfaction.
- C. **Relation to Specific Correction Provisions and Other Remedies.** The Contractor's general warranty and any additional or special warranties are not limited by the Contractor's obligations to specifically correct defective or nonconforming Work as provided in Section 10.6, nor are they limited by any other remedies provided in the Contract Documents. The Contractor shall also be liable for any damage to property or persons (including death) including consequential and direct damages relating to any breach of the Contractor's general warranty or any additional or special warranties required by the Contract Documents.
- D. **Additional or Special Warranties.** The Contractor must furnish all special warranties required by the Contract Documents no later than Substantial Completion. The Owner may require additional special warranties in connection with the approval of "Or-Equals" or Substitutions, Allowance items, Work which is defective or nonconforming, or the acceptance of nonconforming Work pursuant to Subsection 10.06.C.

10.03 OBSERVATION AND INSPECTION OF WORK

- A. **Access to Work.** The Contractor must provide the Owner and the Architect/Engineer safe access to the Work at all times that it is in preparation or progress wherever located.
- B. **Site Visits.** The Owner, its Construction Representatives, its consultants and the Architect/Engineer may visit the Site at intervals appropriate to the stage of construction to conduct progress meetings, to make observations and inspections and to become generally familiar with the progress and quality of the completed Work, and to determine in general if the Work is being performed in a manner indicating that the Work, when completed, will be in accordance with the Contract Documents.
- C. **Responsibility of Contractor.** Neither the observations of Owner or the Architect/Engineer nor the performance of any inspections, tests or approvals relieves the Contractor from its obligations to perform the Work in accordance with the Contract Documents.

10.04 UNCOVERING WORK

- A. **Uncovering of Prematurely Covered Work.** If a portion of the Work is covered contrary to the request of the Owner or its designee or the Architect/Engineer, or to specific requirements of the Contract Documents, or prior to any required inspection or testing, the Owner or its designee or the Architect/Engineer may require that the covered Work be uncovered by the Contractor for observation, inspection, testing or approval as appropriate. Any Work that is damaged or removed by such uncovering must be replaced at the Contractor's expense and without change in the Contract Time.

- B. **Uncovering of Other Covered Work.** If a portion of the Work has been covered which is not required by the Contract Documents or any other requirement to remain uncovered, or which the Owner or its designee or the Architect/Engineer has not specifically requested to observe, test, inspect or approve prior to its being covered, the Owner or its designee or the Architect/Engineer, with the Owner's concurrence, may require that such Work be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, a Change Order will be issued to account for the cost of uncovering and replacement (**if a Change Order is not issued, the Contractor must file a Claim for adjustment of the Contract Sum within the time and containing the information required in Article 12 or the same will be deemed to be conclusively waived**), and if it affects activities on the critical path, the Contractor may file a Claim requesting an adjustment in the Contract Time (**if a Change Order is not issued, the Contractor must file a Claim requesting an adjustment of the Contract Time within the time and containing the information required in Article 11 or the same will be deemed to be conclusively waived**). If such Work is not in accordance with the Contract Documents or any other requirement, the Contractor must bear the costs and time impacts of uncovering, testing, inspection, specific approval, correction and replacement, including the additional costs of the Owner's and the Architect/Engineer's services and all delays relating thereto.

10.05 TESTS, INSPECTIONS AND APPROVALS BY OTHERS

- A. **Required Tests, Inspections and Approvals.** The Contractor must arrange for tests, inspections and approvals of portions of the Work required by the Contract Documents, laws, ordinances, rules, regulations or orders of public authorities having jurisdiction, or the Owner or its designee acting as a public authority, to be made at an appropriate time. Unless otherwise provided in the Contract Documents, such tests, inspections and approvals, other than those provided by public authorities, must be provided by an independent testing laboratory or entity acceptable to the Owner, and the Contractor must bear all related costs of tests, inspections and approvals. The Contractor must give the Owner, through the Architect/Engineer, timely notice of when and where tests and inspections are to be made so the Owner and the Architect/Engineer may observe such procedures.
- B. **Tests and Inspections by Owner.** If indicated in the Contract Documents, the Owner will hire, and pay the costs for, inspection and testing agencies for specific portions of the Work. The Contractor must coordinate with any Owner-hired inspection and testing agencies and arrange for (schedule) tests, inspections and approvals of portions of the Work required by the Contract Documents without delaying the Work.
1. **Notice of Problems with Owner-hired Inspection Agencies.** The Contractor shall promptly notify the Owner of any problems or concerns with Owner-hired inspection and testing agencies.
 2. **Mis-scheduling of Owner-hired Inspection Agencies.** The Contractor is responsible for coordinating and accurately scheduling Owner-hired inspection and testing agencies so that the work is ready for inspection when scheduled with the agencies. The Contractor's failure to accurately schedule inspections and/or tests with the Owner-hired agencies causes the Owner unnecessary costs. If the Contractor repeatedly fails to accurately schedule the inspections/testing agencies' time, the Owner will back charge the Contractor for the cost of the unnecessary Site visits by the Owner-hired agencies.
- C. **Scheduling of Tests, Inspections and Approvals.** The Contractor must schedule all tests, inspections or specific approvals required by law or the Contract Documents so as to avoid any delay in the Work.
- D. **Additional Tests, Inspections and Specific Approvals.** The Owner may, in its discretion, require the Contractor to perform additional testing, or obtain inspection or specific approval of any portion of the Work, whether or not such Work is fabricated, installed or completed. However, neither a recommendation made by the Architect/Engineer nor a decision by the Owner either to require or not to require such testing, inspection or specific approval gives rise to a duty or responsibility of the Owner or the Architect/Engineer to the Contractor, Subcontractors, Sub-subcontractors, material and equipment Suppliers, their agents or employees, or other persons performing portions of the Work.

- E. **Other Tests, Inspections and Specific Approvals Required by Owner.** In addition to the tests required by this Section 10.05, the Owner may at any time arrange for other tests, inspections and specific approvals to be performed by others selected by the Owner, at the Owner's expense. The Contractor must cooperate with the Owner and provide access to the Work for such tests, inspections and approvals.
- F. **Notice to Contractor.** If the Owner, in its discretion, determines that portions of the Work require additional testing, inspection or approval not included under Subsection 10.05.A, the Owner or the Architect/Engineer will instruct the Contractor to make arrangements for such additional testing, inspection or approval, and the Contractor must give timely notice to the Owner and the Architect/Engineer of when and where tests and inspections are to be made so the Owner and the Architect/Engineer may observe such procedures. Unless otherwise provided, additional testing, inspection and approval must be conducted by an organization selected by the Contractor that is acceptable to the Owner. The Owner shall bear such costs except as provided in Subsections 10.05.I and 10.06.B.
- G. **Observation of Tests, Inspections or Approvals.** If the Owner or the Architect/Engineer is to observe tests, inspections or approvals, they will do so, so as not to delay any critical path activities and, where practicable, at the normal place of testing, provided reasonable notice of them has been given by the Contractor to the Owner and Architect/Engineer.
- H. **Certificates of Testing, Inspection and Approval.** Required certificates of testing, inspection or approval must, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the Architect/Engineer for the Owner.
- I. **Costs of Re-Testing, Inspection and Approval.** If testing, inspection or approval under Subsections 10.05.A, 10.05.C or 10.05.D reveals failure of any portion of the Work to comply with the Contract Documents or applicable legal requirements, the Contractor must bear all costs and time impacts made necessary by such failure, including costs of the Owner's and Architect/Engineer's additional services and expenses and the costs of repeated testing, inspection or approval, and Contractor's cost to correct.

10.06 REJECTION AND CORRECTION OF WORK

- A. **Rejection of Nonconforming Work.** The Owner and the Architect/Engineer may reject Work at any time that does not conform to the Contract Documents. Unless the Contractor is specifically instructed otherwise, any Work that fails a required test, inspection or approval will be considered as having been rejected, whether or not specific notice of rejection is given by the Owner or the Architect/Engineer.
- B. **Contractor to Correct or Replace Rejected Work.** The Contractor must promptly correct or, at the Owner's option, replace Work which is rejected by the Owner or the Architect/Engineer as defective or which otherwise fails to conform to the requirements of the Contract Documents, whether before or after Substantial Completion. The Owner may require additional testing or inspection of such Work as provided in Subsection 10.05.D. The Contractor must bear the costs and any time impact related to correcting or replacing such rejected Work, including costs of the Owner's and the Architect/Engineer's additional services and expenses and the costs of additional or repeated testing, inspection or approval and all delays relating thereto.
- C. **Acceptance of Defective or Nonconforming Work.** If the Owner determines that it is in its best interests to accept Work which is not in accordance with the requirements of the Contract Documents instead of requiring its correction or replacement, the Owner may accept such Work with an appropriate corresponding adjustment reducing the Contract Sum and, if appropriate, the Contract Time. Any such acceptance of defective or nonconforming Work will not extend to defects or deficiencies not expressly revealed to the Owner in writing at the time of acceptance. Any such acceptance to be effective must be in writing and signed by the Director.
- D. **Removal of Defective or Nonconforming Work.** The Contractor must promptly remove from the Site and dispose of any materials, supplies or equipment that does not comply with the requirements of the Contract Documents and/or which has been rejected by the Owner.

- E. **Contractor to Bear Cost to Correct or Replace Other Work.** The Contractor must bear the cost and any time impact related to correcting or replacing any construction of the Owner or Separate Contractors or other forces permitted to perform work at the Site which is destroyed or damaged by the Contractor's correction, removal or replacement of Work that does not comply with the requirements of the Contract Documents.
- F. **Failure to Correct or Replace.** If the Contractor fails to correct or replace Work that is rejected, defective or nonconforming within a reasonable time as required by the Owner, the Owner may correct or replace it. The Owner may remove and dispose of the remaining materials or equipment. All costs of correction, removal, replacement, disposal, or storage, including costs of the Owner's and the Architect/Engineer's additional services, must be borne by the Contractor and may be back charged by the Owner against the Contract Sum.
- G. **Artistic Decisions.** The Owner's decisions in matters relating to artistic effect are final.

10.07 SPECIFIC CORRECTION OF WORK

- A. **Specific Correction Period.** Unless otherwise provided in the Contract Documents for a particular item or class of Work, and in addition to any other warranty provided in this Contract, the Contractor must correct or replace any Work found to be defective, non-complying or nonconforming, or any Work (whether by the Contractor or by others) affected thereby, discovered during the specific correction periods as follows:
 - 1. Within one year after the Date of Substantial Completion of the Work or designated portion thereof;
 - 2. Where the Owner takes partial occupancy or use, one year after the date for commencement of warranties established under Subsection 14.01.E;
 - 3. The period of time, if any, established by terms of an applicable special warranty required by the Contract Documents; or
 - 4. In the case of hidden or latent defects discovered within the period established by the applicable statute of limitations, a period of one year from the date that the Owner discovers, or should reasonably have discovered, the defect, noncompliance or nonconformance.
- B. **Specific Correction Required.** If, within the applicable specific correction period provided in Subsection 10.07.A, any of the Work does not comply with the requirements of the Contract Documents, the Contractor must correct or, at the Owner's sole option, replace it promptly after receipt of written notice from the Owner to do so, unless the Owner elects to accept such Work in accordance with Subsection 10.06.C.
- C. **Notice and Demand for Specific Correction Obligation.** The Owner will give notice to the Contractor within a reasonable time after discovery of Work which it believes to be subject to specific correction. The Owner will afford the Contractor an opportunity to jointly inspect the Work within a reasonable time after such notice, and will, at the Contractor's request, arrange for the Architect/Engineer's presence at such inspection. If no agreement is reached between the Owner and Contractor as to the responsibility and steps to be taken for correction, the Owner may issue a demand for correction to the Contractor, who must comply promptly with the demand. Failure to comply with such demand constitutes a material breach of the Contract.
Any Claim for an increase in the Contract Time and/or a Claim for an increase in the Contract Sum with respect to such demand for correction must be filed by the Contractor in accordance with Articles 11 and/or 12 or the same will be deemed to have been conclusively waived.
- D. **Extension of Specific Correction Obligation.** If the Work remains uncorrected, or if the Work has exhibited a pattern of repeated failure requiring repeated correction, the applicable specific correction period will recommence in its entirety upon the completion of the latest specific correction period.
- E. **Inspection Prior to Warranty Expiration.** Thirty (30) days prior to the expiration of the correction period provided for in Subsection 10.07.A, the Contractor must conduct a joint inspection of the Work with the Owner and the A/E to determine whether any additional items remain to be corrected.

- F. **Effect on Other Remedies.** Nothing contained in this Section 10.07 is to be construed to establish a period of limitation with respect to other obligations which the Contractor might have under the Contract Documents. This Section relates only to the specific obligation of the Contractor to correct or replace the Work, and has no relationship to the time within which the Contractor's obligations under the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct or replace the Work. In addition, the Contractor shall also be liable for any damage to property or persons (including death) including consequential and direct damages relating to any defective Work or Work which fails to conform to the requirements of the Contract Documents.

ARTICLE 11

TIME

11.01 COMMENCEMENT

- A. **Date of Commencement and Notice to Proceed.** The Owner will issue a Notice to Proceed and make the Site available to the Contractor within a reasonable time after execution of the Contract. The date on which the Contract Time commences, as established in the Notice to Proceed, will not be postponed by failure to proceed with the Work by the Contractor or persons or entities for whom the Contractor is responsible. For phased work noted in the Contract Documents, multiple Notices to Proceed may be issued by the Owner.
- B. **Preconstruction Conference.** Promptly after the Notice to Proceed has been issued but before the Work at the Site begins, the Owner will conduct a preconstruction conference with the Contractor and any Separate Contractors to review Project requirements including, but not limited to,
1. Execution of Owner-Construction Manager Agreement.
 2. Submission of insurance certificates.
 3. Distribution of Contract Documents.
 4. Submission of list of subcontractors, list of products, schedule of values, and progress schedule.
 5. Designation of personnel representing the parties to Contract Planning, Design and Construction Project Executive and Project Manager and A/E.
 6. Procedures and processing of field decisions, submittals, substitutions, applications for payments, proposal request, Change Orders, and Contract closeout procedures.
 7. Scheduling.
- C. **Commencement of Work at the Site.** The Contractor must not commence operations on the Site prior to issuance of the Notice to Proceed.

11.02 CONSTRUCTION SCHEDULES

- A. **Contractor's Initial Project Schedule.** Within fifteen (15) days after issuance of the Intent to Award letter, the Contractor must prepare and submit for the Owner's and Architect/Engineer's approval a proposed Initial Critical Path Method Project Schedule (ICPM) for performance of the Work, which schedule may be a cost and man-loaded Project Schedule, if so specified in the Contract Documents. The Contractor will not receive any payments until such time the ICPM has been submitted and approved by the Owner. The schedule must (i) conform to all specified time limits, including Substantial, Final and any interim Completion dates, established by the Contract Documents, (ii) include all Work for each element of the Project as required by the Contract Documents, (iii) include the schedule for all Submittals, (iv) include all testing, inspections and commissioning required by the Contract Documents, and (v) provide for expeditious and practicable execution and completion of the Work within the Contract Time.

- B. **Requirements of the Project Schedule.** The ICPM must further comply with the scheduling specifications set forth in the Contract Documents, and to the extent not inconsistent therewith, must also fully comply with the following requirements. The Contractor must plan, schedule, and construct the Work using a Critical Path Method Project Schedule (CPM). The CPM must be used for coordinating and monitoring all the work specified in the Contract Documents including all activities of Subcontractors, Sub-subcontractors, vendors, Suppliers, utilities, the Owner, Separate Contractors, authorities having jurisdiction, and all other parties associated with the construction of the Contract. All work including but not limited to submittals, major procurement, delivery, and construction activities must be included. All activities specified in the Contract Documents must be included in the CPM. The CPM must be based upon the entirety of the Contract Documents. **The software utilized for the CPM must generate files that are compatible with Microsoft Project.**
1. **Float.** The CPM utilizes float. Float is defined as the amount of time between when an activity “can start to finish” and when an activity “must start or finish”. Float is a shared commodity for the use of the Owner and the Contractor and is not for the exclusive use or benefit of either party. The parties have the full use of the float until it is depleted.
 2. **Scheduling Representative.** The Contractor must designate a scheduling representative, prior to submission of the Initial Critical Path Method Project Schedule (ICPM). The scheduling representative is the person primarily responsible for development and maintenance of the Contractor’s CPM schedule. The scheduling representative will represent the Contractor in all matters regarding the schedule and must attend all schedule related meetings.
 3. **CPM Updates.** The Contractor must update the CPM Schedule of Record and submit to the Owner and A/E for review on a monthly basis and at more frequent intervals as required by the issuance of Change Orders and Field Orders or other conditions of the Work and Project and as provided in Article 9 (G) of the Contract. The monthly updates of the CPM Schedule of Record are required to be submitted concurrent with the Contractor’s monthly Application for Payment; however, the CPM update is required whether the Contractor submits an Application for Payment for a month or not.
 4. **Approval and/or Acceptance of Monthly CPM Schedule Update.** The Owner, with input from the A/E shall approve, accept or reject the Contractor’s monthly CPM Schedule update.
 5. **Approval:** The Owner will approve a CPM Schedule update if (1) the update accurately reflects the project status as of the data date, (2) any systematic revisions are acceptable, (3) the schedule meets all other contractual requirements, and (4) the schedule’s projected Substantial Completion date is at or precedes the contractual Substantial Completion date. An approved CPM Schedule Update becomes the CPM Schedule of Record and no further action is required by the Contractor.
 6. **Acceptance:** The Owner will accept but not approve a CPM Schedule update if (1) the update accurately reflects the project status as of the data date, (2) any systematic revisions are acceptable, and (3) the schedule meets all other contractual requirements but the schedule’s projected Substantial Completion date is later than the contractual Substantial Completion date.
 7. An accepted CPM Schedule Update becomes the CPM Schedule of Record but the Contractor must take corrective action to return the project to schedule so that Substantial Completion can be achieved within the Contract Time. Before the next CPM Schedule Update, the Contractor shall submit a written description to the Owner and the A/E of its plan to overcome the delay.
 8. Upon approval or acceptance by the Owner and Architect/Engineer, the update will become the CPM schedule of record for the period between its data date and the data date of the next approved update.

9. **Rejection:** The Owner may reject a CPM Schedule update if (1) the update does not accurately reflect the project status as of the data date, (2) utilized systematic revisions are not acceptable, (3) the schedule does not meet any contractual requirement, or (4) the schedule's projected Substantial Completion date is later than the contractual Substantial Completion date for two (2) or more consecutive months and the Contractor is not making adequate efforts to remedy the Delay.
 10. A rejected CPM Schedule Update must be reworked to incorporate the comments of the Owner and/or the A/E and be resubmitted to the Owner and the A/E. Resubmittal by the Contractor must be made within seven calendar days after receipt of the Owner and/or Architect/Engineer's review comments. The Owner reserves the right to reject any proposed revision which adversely impacts the Owner, utilities, or other concerned parties. **No new schedule update shall be submitted until a rejected Update is resubmitted and accepted or approved by the Owner.**
 11. **Failure to timely submit a CPM Schedule update may result in the Architect/Engineer or Owner withholding payment until submission and approval/acceptance. Failure to timely resubmit a CPM Schedule update which can be approved or accepted by the Owner may result in the Architect/Engineer or Owner withholding payment until an acceptable Update or Revision is submitted.**
 12. **Updates must not include any systematic revisions to the previous CPM Schedule of Record, unless prior approval by the Owner and Architect/Engineer is received for the insertion of revisions.**
 13. **The Contractor will attend bi-weekly progress meetings at the project site. At these meetings, the Contractor will provide a report on the actual status of the Work as compared to the latest CPM Schedule of Record.**
- C. **Coordination with Other Schedules.** The Contractor must revise its Progress Schedule as necessary to conform to the overall Project Progress Schedule incorporating schedules of the Owner and any Separate Contractors as provided in Subsection 7.01.D.
- D. **Review and Approval of Schedules.** The Contractor's Project Schedule must include, at no additional cost, details requested by the Owner or the Architect/Engineer and be in the format specified in the Contract Documents and as provided in this Article 11. The Owner and the Architect/Engineer will review and approve or take other appropriate action on the Contractor's Project Schedule, but only for the limited purpose of checking for general conformance with the requirements of the Contract Documents, this Article 11, and the schedules of the Owner, Separate Contractors and other forces permitted by the Owner to perform work at the Site. Any changes to the schedule required by the Owner or the Architect/Engineer must be made by the Contractor and the schedule resubmitted to the Owner for approval. Review and approval or acceptance of the schedule does not relieve the Contractor of its obligations to complete the Work within the Contract Time or any interim completion dates required by the Contract Documents, nor does it constitute approval of any construction means, methods, techniques, sequences or procedures. The approval or acceptance of any schedule or any schedule adjustment made as part of the approval/acceptance of any schedule does not constitute, nor does it provide the basis for, any Claim for an increase of the Contract Time or any Claim for an increase in the Contract Sum.

- E. **Schedule of Submittals.** The Contractor must prepare and keep current, for the Owner's and the Architect/Engineer's approval, a Schedule of Submittals which is part of the Progress Schedule. The Schedule of Submittals must allow at least thirty (30) days for review and approval of each Submittal by the Architect/Engineer, and sufficient additional time, if required, for (i) review and approval by regulatory bodies and (ii) their correction and resubmission by the Contractor and any Subcontractors or Suppliers. The Schedule of Submittals must identify all schedules, Shop Drawings, Product Data, Samples, Warranties, operating manuals and other Submittals provided for review or required for approval by the Owner or the Architect/Engineer, which indicates the dates or times which the Contractor proposes to submit each such Submittal (allowing sufficient time for review, correction and resubmission if required, and approval) and the dates or times on or within which such Submittals must be approved in order to avoid a delay in the progress of the Work.

11.03 PROJECT PROGRESS

- A. **Contract Time Reasonable.** By executing the Contract, the Contractor confirms that the Contract Time is a reasonable period for performing the Work.
- B. **Time is of Essence.** The Contractor acknowledges that completion of the Contract by the dates specified for Substantial and Final Completion is critical to the Owner, time being of the essence.
- C. **Contractor to Proceed Expeditiously.** The Contractor must proceed expeditiously with adequate forces and maintain progress in accordance with the latest approved Project Schedule.
- D. **Conformance to Schedules.** The Contractor must conform to the most recently approved Project Schedule. The Contractor must complete the indicated Work or achieve the required percentage of completion, as applicable, within any interim completion dates established in the most recently approved Project Schedule.
- E. **Progress Record.** The Contractor must maintain at the Site, available to the Owner and the Architect/Engineer for their reference during the progress of the Work, a copy of the latest approved Project Schedule, a copy of the latest CPM Schedule of Record (if different from the latest approved Project Schedule) and any approved revisions thereto. **The Contractor must keep current records of and mark on a copy of the CPM Schedule of Record the actual commencement date, progress, and completion date of each scheduled activity indicated on the Project Schedule.**
- F. **Substantial Completion Within Contract Time.** The Contractor must achieve Substantial Completion within the Contract Time.
- G. **No Damages for Prevention of Early Completion.** The Contractor represents that its bid includes all costs, overhead and profit which may be incurred throughout the Contract Time and the period between Substantial and Final Completion. **Accordingly, the Contractor may not make any Claim for delay damages based in whole or in part on the premise that the Contractor would have completed the Work prior to the expiration of the Contract Time but for any claimed delay.**
- H. **Acceleration to Comply with Schedule.** If the Contractor's progress is not maintained in accordance with the latest approved Project Schedule, or the Owner determines that the Contractor is not diligently proceeding with the Work or has evidence reasonably indicating that the Contractor will not be able to conform to the most recently approved Project Schedule, the Contractor must, promptly and at no additional cost to the Owner, take all measures necessary to accelerate its progress to overcome the delay and ensure that there will be no further delay in the progress of the Work and notify the Owner thereof. Any extension of working hours requires approval of the Owner, which will not be unreasonably withheld but may be subject to reasonable conditions including payment for additional or overtime services of the Owner, the Architect/Engineer and any other applicable consultants, testing or regulatory agency costs.

- I. **Acceleration of Schedule.** The Owner reserves the right to issue a written directive to accelerate the Work which may be subject to an appropriate adjustment, if any, in the Contract Sum. If the Owner directs an acceleration of the Project Schedule and no adjustment is made in the Contract Sum, or if the Contractor disagrees with any adjustment made, the Contractor must file a request for increase to Contract Time as provided in Article 12 or any Claim for such will be deemed to be conclusively waived.

11.04 SUSPENSION OR STOPPAGE OF WORK

- A. **Owner's Right to Stop the Work.** If the Contractor fails to correct Work, or any portion thereof, which is not in accordance with the requirements of the Contract Documents or fails on more than one occasion to carry out Work in accordance with the Contract Documents, the Owner may, order the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated. The Owner or its designee, acting in the capacity of a building inspection official, has the power to stop Work as may be necessary to enforce compliance with applicable codes and regulations. Work stoppage in accordance with this Subsection does not entitle the Contractor to an increase in Contract Time or damages for delay. If the Contractor disagrees with the Owner's right to stop the Work, the Contractor must file a Claim for increase in the Contract Time and/or increase in the Contract Sum in accordance with Articles 11 and/or 12 as applicable or any Claim for such will be deemed to be conclusively waived.
- B. **Owner's Right to Suspend Work for Convenience.** The Owner may, without cause and for its convenience, order the Contractor in writing to suspend, delay or interrupt the Work in whole or in part for such period of time as the Owner may determine, subject to an appropriate adjustment in the Contract Time and/or Contract Sum. **The Contractor is not entitled to profit on any adjustment to the Contract Sum due to any such stoppage, suspension, interruption or delay.** If no adjustment is made in the Contract Sum as a consequence of the suspension order, or if the Contractor disagrees with any adjustment made, the Contractor must file a Claim for increase in the Contract Time and/or increase in the Contract Sum in accordance with Articles 11 and/or 12 as applicable or any Claim for such will be deemed to be conclusively waived.
- C. **Disagreements Involving Non-payment.** In the event of any disagreement between the Contractor and the Owner involving the Contractor's Claim to entitlement of any payment, the Contractor must diligently proceed with the Work pending resolution of the disagreement subject to the provisions of Section 6, Paragraph 6.2 of the Terms and Conditions of Contract.

11.05 DELAYS

- A. **Excusable Delay.** An excusable Delay is a Delay in the progress of the Work which at the time of the Delay was a critical path activity as shown on the most recent CPM Schedule of Record and which prevents the Contractor from achieving Substantial Completion before the expiration of the Contract Time, caused by conditions which could not reasonably be anticipated by, are beyond the control of, and are without the fault or negligence of the Owner, as set forth in 11.05.2, the Contractor or anyone for whose acts the Contractor is responsible. Excusable Delay does not include any delay caused in whole or in part by any Subcontractor, Sub-subcontractor or Supplier which is considered unexcused Delay. There shall be no compensation whatsoever for excusable delay. Excusable Delay may, but does not necessarily, include:
1. Weather delay as further defined in Subsection 11.06.C;
 2. Act or omission of government and regulatory agencies and officials (other than the Owner in its capacity as Owner);
 3. Act or omission by third parties including utilities;
 4. Catastrophic event such as fire, flood and unavoidable casualties; and
 5. Strike or labor dispute.

- B. **Compensable Delay.** Compensable Delay is limited to delay in the progress of the Work which at the time of the delay was critical path activity as shown on the most recent CPM Schedule of Record and which prevents the Contractor from achieving Substantial Completion before the expiration of the Contract Time, caused solely and exclusively by acts or omissions of the Owner (excepting actions taken by the Owner to protect the public health or safety or to conform to law).
- C. **Unexcused Delay.** Unexcused Delay is delay in Work which at the time of the delay was critical path activity as shown on the most recent CPM Schedule of Record and which prevents the Contractor from achieving Substantial Completion before the expiration of the Contract Time, and which is not excusable delay or compensable delay. No increase in the Contract Time or increase in the Contract Sum will be provided for an unexcused Delay.

11.06 TIME AND RELATED COST ADJUSTMENTS

- A. **Notice of Delay.** The Contractor must provide written notice of any actual or prospective Delay promptly, and in no event later than five (5) days after the occurrence of the event or omission giving rise to such Delay. The notice must be provided both to the Owner and the Architect/Engineers Construction Administrator within the specified time.
- B. The written notice must contain the following information:
 - 1. A detailed statement of the reasons and causes for the Delay;
 - 2. Inclusive dates of the Delay (start date only if end date is not known);
 - 3. Specific portions of the Work affected by the actual or prospective Delay; provide specific Activity Names and Numbers from the most recent CPM schedule of record
 - 4. Status of Work (affected Activities) affected before commencement of the Delay;
 - 5. Effect of the Delay on available "float" for referenced Activities; and
 - 6. Specific action (if any) required by the A/E and/or the Owner to remedy or mitigate the Delay.

If the Contractor fails to provide the written notice containing the specified information, within the five (5) days, as prescribed above, the Contractor will not receive any consideration, in a Claim for an increase in Contract Time and/or for a Claim for an increase in the Contract Sum, for the time period before a written notice (containing the specified information) is provided to the Owner and the A/E.
- C. **Continuing Delay.** In the case of a continuing Delay (an actual or prospective Delay to a activity or activities for which the Contractor cannot progress pending further information), the Contractor must provide the initial notice (as described in the preceding subsection) and a further notice at each progress meeting throughout the duration of the Delay. The further notices must contain all of the specific information required in the preceding Subsection. A continuing Delay ends when the Contractor has sufficient information to progress the affected work, not when the affected work is completed. The Contractor must request an increase in the Contract Time in accordance with Subsection 11.06.C when the delayed work can progress again.
- D. **Request for an Increase in Contract Time.** If the Contract contends that the Delay is an excusable or compensable Delay, and it is entitled to an increase in Contract Time, the Contractor, in addition to providing the notice in Subsection 11.06.A, must submit a request for additional Contract Time to the Owner and the A/E within fifteen (15) days of the event ending the Delay. **The Contractor's failure to provide the written request for an increase in Contract Time containing the information specified in the following Subsection within the fifteen (15) days prescribed above will be conclusively deemed a waiver of any Claim for Delay arising from such occurrence.**

- E. **Concurrent Delay.** Concurrent delay is two or more separate Delays, as defined in Section 11.05, in the progress of the Work, one or more which is caused by the Owner and one or more which is caused by the Contractor which, at the time of the Delay, delayed critical path activities as shown on the most recent CPM Schedule of Record, that occur during the same time period, and each Delay independently delayed the Contractor from achieving Substantial Completion before the expiration of the Contract Time. Any concurrent Delay will be considered an excusable Delay; therefore, the Contractor will receive a corresponding increase in Contract Time, but will not receive any compensation for a concurrent Delay.
- F. **Supporting Documentation.** The Contractor's request for an increase in the Contract Time must identify those portions of the latest CPM Schedule of Record affected by the delay and must include an estimate of the cost and probable effect of the delay, if any, on the progress of the Work. Supporting documentation must include, but is not limited to:
1. A written detailed statement of the reasons and causes for the delay;
 2. Inclusive dates of the delay;
 3. Specific portions of the Work affected by the actual or prospective delay; provide specific Activity Names and Numbers from the most recent CPM schedule of record;
 4. Status of Work affected before commencement of the delay;
 5. Effect of the delay on available "float" time for the referenced activities and the Project;
 6. A critical path method (CPM) analysis demonstrating that the delay has affected an activity (or activities) on the critical path of the most recent CPM schedule of record at the time of the occurrence of the delay; and
 7. If the Contractor claims that the delay is an excusable delay or compensable delay, evidence that the delay was unforeseeable, beyond the Contractor's control, and without the fault or negligence of the Contractor or the negligence of anyone for whose acts the Contractor is responsible including any Subcontractor, sub-subcontractor or Supplier; and in the case of a compensable delay, was caused solely and exclusively by the acts or omissions of the Owner (excepting actions taken by the Owner to protect the public health or safety or to conform to law) or anyone for whose acts the Owner is responsible, and which are unreasonable under the circumstances involved and not reasonably within the contemplation of the parties.
- G. **Additional Time for Unusually Severe Weather.** In order for the Contractor to be entitled to an increase of the Contract Time under this Subsection, the following conditions must be satisfied:
1. The weather experienced at the Project Site during the Contract period must be found to be unusually severe, that is, more severe than the adverse weather anticipated for the Project location during any given month;
 2. The unusually severe weather must delay Work which at the time of the unusually severe weather was a critical path activity as shown on the most recent CPM Schedule of Record and which prevents the Contractor from achieving Substantial Completion before expiration of the Contract Time. The delay must be beyond the control and without the fault or negligence of the Contractor. For example, the impacted critical activity must not have occurred during unusually severe weather due to previous unexcused delays; and
 3. The Contractor must have provided a request for an increase in the Contract Time of the weather-related delay complying with Subsection 11.06.C above. The last day of the each month will be the date of the end of the delay for purposes of the fifteen (15) day requirement for submission. Any request for an increase in the Contract Time for a weather-related delay must be submitted by the 15th of the following month.
- H. **Strikes and Labor Disputes.** If strikes or labor disputes are to be considered as the basis for an excusable delay, they must be documented by data evidencing (i) the trades directly and indirectly involved in or affected by the strike or labor dispute, (ii) reasons for the strike or labor dispute, (iii) the onset and duration of the strike or labor dispute, and (iv) the measures taken by the Contractor to avoid or overcome the effects of any delay.

- I. **Review and Adjustment of Schedules.** Upon receipt of a request for an increase in the Contract Time from the Contractor complying with Subsection 11.06.C and 11.06.D (and if applicable 11.6.5) above, the Owner will review the most recent CPM Schedule of Record to determine (i) whether the delay is in fact an excusable or compensable delay, and (ii) whether any adverse effects of the delay can be overcome by an adjustment in the Project Schedule including the application of any unused "float" time available in the schedule. The Owner may require the Contractor to submit a more detailed Project Schedule than previously required in order to permit the Owner to evaluate the delay. Based on such review, the Contractor must, if required by the Owner, submit for the Owner's approval a revised Project Schedule, which minimizes the adverse effects of the delay. After review, the Owner will issue a determination of the validity of the Contractor's request. If justified, the Owner will prepare a Change Order or Contract Amendment for an increase in the Contract Time.
- J. **Limitation on Adjustments. No increase in the Contract Time or increase in the Contract Sum will be allowed for any delay or part thereof occurring more than fifteen (15) days before written request for an increase in the Contract Time for the delay is provided by the Contractor.**
1. No increase in the Contract Time or increase in the Contract Sum will be made to the extent that performance is, was or would have been suspended, delayed or interrupted by another cause for which the Contractor is responsible. No increase in the Contract Sum will be made to the extent performance was or would have been suspended, delayed or interrupted by another cause for which the Owner is not solely and exclusively responsible.
 2. **The Contractor will not receive any compensation for profit, additional bond cost or overhead (which includes extended office overhead and site-specific overhead and general conditions) or any other cost or compensation or any other damages of any kind or nature whatsoever whether incurred by the Contractor, its Subcontractor or Suppliers for delay, all of which are irrevocably waived by Contractor where the delay results from performance of additional Work (Change Order or Field Order Work including bilateral, unilateral, and constructive changes) beyond the Work required by the Contract Documents and the Contractor is paid for the additional Work. The Contractor acknowledges and agrees that the profit, additional bond cost and overhead (which includes extended office overhead and site-specific overhead and general conditions) if any, incurred by the Contractor in performing work beyond the Work required by the Contract Documents and any and all other costs, compensation or damages due Contractor (including any of its Subcontractors or Suppliers), is included in, and payable to the Contractor as part of the Change Order or Field Order Work. Contractor waives any and all other damages and cost of any nature or kind whatsoever including Claims for local and cumulative impacts as a result of such Change Order Work and any and all other Claims of any type or nature whatsoever including any Claim for loss of productivity or loss of efficiency.**
 3. The Contractor will be compensated for compensable delays only for actual and direct damages resulting from such compensable delays. Actual direct damages are limited to site specific general conditions and do not include any indirect costs such as home office overhead. The Contractor will be compensated for such actual and direct damages for compensable delays not attributable to performance of Change Order. Work for which the Contractor is not otherwise compensated in an amount not to exceed the lesser of (i) a daily rate computed by dividing eight percent (8%) of the original Contract Sum by the original Contract Time or (ii) a daily rate computed by dividing the Contractor's profit, bond cost and site-specific overhead (but not home office overhead) for the original Contract Sum by the original Contract Time.
 4. The Contractor for itself and its Subcontractors and Suppliers, irrevocably waives any and all other compensation and delay damages as a result of any compensable delays, including without limitations any Claims for any indirect cost and any Claims for loss of productivity or loss of efficiency.

- K. **Denial of Adjustments in Time or Money.** In the event the Owner denies the Contractor's Claim for a change in the Contract Time or, in the case of a compensable delay, a change in the Contract Sum, the Contractor may, within thirty (30) days after such denial, submit a Claim as provided in Article 16. Submissions made prior to the denial must be resubmitted as part of the Claim after the denial. Any Claim on account of denial of a change which is not made within such thirty (30) days of the denial will be deemed conclusively to have been waived.

11.07 DAMAGES FOR DELAY

A. **Delay Damages.**

1. **By executing a Bilateral Change Order, Field Order or Contract Amendment, the Contractor represents that the Contractor is not entitled to an increase in Contract Time or an increase in the Contract Sum beyond that specified in the Bilateral Change Order, Field Order or Contract Amendment for the Work performed or to be performed under the Modification. Nor is the Contractor entitled to an increase of the Contract Time or an increase in the Contract Sum as a result of the issuance by the Owner of a Unilateral Change Order or Field Order unless a Claim for an increase in the Contract Time and/or a Claim for an increase in the Contract Sum is made by the Contractor as and when required by this Article 11 and Article 12.**
2. **No Claim for an increase in the Contract Time and/or Claim for an increase in the Contract Sum or Claims for damages may be made by the Contractor or paid to the Contractor for any delay, disruption, inefficiency, interference or hindrance from any cause whatsoever, whether foreseeable or not, including (i) acts or omissions by the Owner, its agents, employees or consultants, (ii) Contract Documents that are negligently prepared or contain inaccurate statements, or (iii) force majeure and circumstances beyond the Contractor's control. The sole remedy for delays, disruptions or hindrances will be non-compensable increases in Contract Time for completion of the Work.**
3. **The provisions of the preceding subsection do not apply to Claims that meet all of the following conditions: (i) the Claim arises under the Contract; (ii) the Claim is limited to actual and direct damages (i.e. profit, additional bond costs (if any) and overhead (only site-specific overhead and not including home office overhead)) incurred as a result of a delay in completing the Project which the Contractor acknowledges are fully compensated for by payment of the adjustment amount specified in Subsection 11.06.I; (iii) the Contract establishes a time limit for achieving Substantial Completion and the Claim is for critical path delays that prevent achievement of Substantial Completion of the Contract within that time limit; (iv) the delay for which damages are claimed is caused solely and exclusively by the Owner; (v) the delay is not caused by actions taken by the Owner to protect the public health or safety or to conform to law; and (vi) the Contractor has fully complied with Section 11.06.**
4. **An increase in Contract Time shall be granted only for an excusable delay that is beyond the Contractor's control and occurs without the Contractor's fault or negligence. No increase in Contract Time will be granted in the absence of a written request for the increase in Contract Time complying with Section 11.06.**

- B. **Liquidated Damages.** The Owner will suffer financial loss if Substantial Completion of the Work is not achieved within the Contract Time. Accordingly, and in lieu of actual damages or proof thereof, the Contractor agrees to pay, as Liquidated Damages and not as a penalty, the amount stipulated in the Contract for each and every day of unexcused delay in achieving Substantial Completion.

- C. **Assessment of Liquidated Damages.** The Owner may assess and deduct the applicable amount of Liquidated Damages from any payment due the Contractor. If the unpaid balance of the Contract Sum is less than the amount of the Liquidated Damages, the Contractor or its Surety must pay the deficiency to the Owner upon demand.

ARTICLE 12

CHANGES

12.01 CHANGES INSTRUMENTS

- A. **Amendment only by Written Modification.** The Contract may be amended or modified only by a written Modification as defined in Subsection 1.01.CB.
- B. **Change Instruments.** Changes in the scope of the Contract may be effected only by a written Amendment signed by the Contractor and Owner. Changes in the Work which are within the general scope of the Contract may be effected, without invalidating the Contract, by a Change Order or Field Order. The Contract Time and Contract Sum may be changed only by a Change Order or Contract Amendment.
- C. **Change Orders.** The Contractor must submit a request for change to the Contract Sum (Change Order) covering a contemplated change within ten (10) days after request of the Owner or the Architect/Engineer or within ten (10) days of the event giving rise to the Contractor's request for a change in the Contract Sum or Contract Time. No increase in the Contract Time or increase in the Contract Sum or will be allowed the Contractor for the cost or time involved in making change proposals. Change Orders must define or confirm in detail the Work which is proposed to be added, deleted, or changed and must include any adjustment which the Contractor believes to be necessary in (i) the Contract Time, or (ii) the Contract Sum. Any proposed adjustment must include detailed documentation including but not limited to: cost, properly itemized and supported by sufficient substantiating data to permit evaluation including cost of labor, materials, supplies and equipment, rental cost of machinery and equipment, additional bond cost, plus a fixed fee for profit and overhead (which includes office overhead and site-specific overhead and general conditions) of the specified percentage (%) on the bid proposal form if the Work is performed by the Contractor, or the specified percentage (%) on the bid proposal form if the Work is performed by a Subcontractor or Sub-subcontractor. The Subcontractors or Sub-subcontractors overhead and profit in turn must not exceed the specified percentage (%) on the bid proposal form. Change Orders are binding upon the Contractor and may be accepted or rejected by the Owner in its discretion. Acceptance of a change order may only be made in a written Modification. The Owner may, at its option, instruct the Contractor to proceed with the Work involved in a unilateral Change Order or unilateral Field Order in accordance with this Article 12, without accepting the change order in its entirety.
- D. **Preparation and Submission of Change Orders and Contract Amendments.** If the Owner determines that a change proposal is appropriate, the Facilities Project Manager or designee will prepare and submit a request for a Change Order or Contract Amendment providing for an appropriate adjustment in the Contract Time or Contract Sum, or both, for further action by the Director. No such change is effective until the Change Order has been approved by the Director.
- E. **Performance of Changes.** Unless otherwise provided, the Contractor must perform changes in the Work promptly upon receipt of executed Modifications under applicable provisions of the Contract Documents.

12.02 CHANGE DIRECTIVE

- A. **Utilization.** A Change Directive is a written directive by the Owner to the Contractor directing a change in the Work which is within the general scope of the contract and which may increase or decrease the Contract Time and/or the Contract Sum issued with or without the consent of the Contractor.
- B. **Adjustments in Amount Payable to Contractor.** A Change Directive may provide for an adjustment in the amount payable to the Contractor based only on one of the following methods:
 - 1. A fixed or not-to-exceed sum agreed to by the Owner and Contractor and stated in the change instrument;
 - 2. Unit Prices stated in the Contract Documents; or

3. Reasonable and fair cost estimate, properly itemized and supported by sufficient substantiating data to permit evaluation which will be limited to estimated costs of labor, materials, supplies and equipment, rental cost of machinery and equipment, additional bond cost, plus a fixed fee for profit and overhead (which includes office overhead and site-specific overhead and general conditions) of ten percent (10%) if the Work is performed by the Contractor, or five percent (5%) if the Work is performed by a Subcontractor or Sub-subcontractor. The Subcontractors or Sub-subcontractors overhead and profit in turn must not exceed ten percent (10%). **The total percentage of overhead and profit payable by the Owner (to both the Contractor and all sub-tier subcontractors), regardless of the sub-tier which performs the work, shall not exceed fifteen percent (15%).**
 4. Actual cost, properly itemized and supported by sufficient substantiating data to permit evaluation which will be limited to actual cost of labor, actual cost of materials, supplies and equipment, actual rental cost of machinery and equipment, additional bond cost, plus a fixed fee for profit and overhead (which includes office overhead and site-specific overhead and general conditions) of ten percent (10%) if the Work is performed by the Contractor, or five percent (5%) if the Work is performed by a Subcontractor or Sub-subcontractor. The Subcontractors or Sub-subcontractors overhead and profit in turn must not exceed ten percent (10%). **The total percentage of overhead and profit payable by the Owner (to both the Contractor and all sub-tier subcontractors), regardless of the sub-tier which performs the work, shall not exceed fifteen percent (15%).**
 5. In the absence of an agreement between the Owner and Contractor, the amount must be determined in accord with Subsection 12.02.B.2 or 12.02.B.3 above, using whichever will result in the lowest cost to the Owner.
- C. **Adjustments in Project Schedule.** A Change Order may provide for an adjustment in the Contract Time if justified by the requirements of Article 11.
- D. **Absence of Proposed Adjustments.** If a Change Order is silent as to any adjustment to the Contract Time or the Contract Sum, it will be conclusively presumed that none is intended and none will be allowed unless the Contractor files an objection as and when specified in the following Subsection.
- E. **Action Upon Receipt.** Upon receipt of a Unilateral Change Order, the Contractor must promptly proceed with the change in the Work involved. The Contractor must advise the Owner and the Architect/Engineer in writing, promptly and in no event later than ten (10) days after issuance of the Change Order, of the Contractor's objection (i) to the amount or method, if any, provided for in the Unilateral Change Order for adjustment in the Contract Time or in the amount payable to the Contractor, or (ii) to the absence of any adjustment to the Contract Time or the Contract Sum. Any objection to be valid must contain the specific adjustment in the Contract Time or the Contract Sum to which the Contractor claims it is entitled including a detailed explanation of the basis for its request. A Claim for an increase in the Contract Time, to be valid, must contain the supporting documentation specified in Subsection 11.06. A Claim for an increase in the Contract Sum, to be valid, must further be documented and calculated as specified in Subsection 12.02.B. Failure of the Contractor to object as and when specified in this Subsection is deemed an acceptance of the Unilateral Change Order as issued and a waiver of any Claim by the Contractor to any adjustment to the Contract Time or the Contract Sum.

12.03 FIELD ORDERS

- A. **Utilization.** A Field Order is a written instruction issued by the Owner to the Contractor directing a change in the Work when unforeseen and unanticipated conditions arise which require immediate action to mitigate costs or avoid delays. It may provide for additional compensation to be paid to the Contractor (outside of the Contract), but does not change the Contract Time or Contract Sum.

1. The Owner may issue a unilateral Field Order to avoid Project Delay before the Contractor has prepared its cost proposal. In these instances, the Contractor should, unless noted otherwise on the Field Order, submit its cost proposal within ten (10) days and the Owner will review the cost proposal in accordance with Section 12.03.
 2. The Owner may issue a Field Order directing the Contractor to proceed with work which the Contractor and the Owner and/or A/E disagree as to whether it is a Change to the Work. In these instances, the Contractor shall submit its Claims for an increase in the Contract Time and/or an increase in the Contract Sum in accordance with Articles 11 and 12 and the Owner will make a determination on the Claims. If the Contractor disagrees with the determination, the Contractor must file a Dispute in accordance with Article 16.
- B. **Adjustments in Amount Payable to Contractor.** A Field Order may provide for an adjustment in the amount payable to the Contractor based only on one of the following methods:
1. A fixed or not-to-exceed sum stated in the change instrument;
 2. Unit Prices stated in the Contract Documents;
 3. Reasonable and fair cost estimate, properly itemized and supported by sufficient substantiating data to permit evaluation which will be limited to estimated costs of labor, materials, supplies and equipment, rental cost of machinery and equipment, additional bond cost, plus a fixed fee for profit and overhead (which includes office overhead and site-specific overhead and general conditions) of the specified percentage (%) on the bid proposal form if the Work is performed by the Contractor, or the specified percentage (%) on the bid proposal form if the Work is performed by a Subcontractor or Sub-subcontractor. The Subcontractors or Sub-subcontractors overhead and profit in turn must not exceed ten percent (10%). The total percentage of overhead and profit payable by the Owner (to both the Contractor and all sub-tier subcontractors), regardless of the sub-tier which performs the work, shall not exceed twenty percent (20%);
 4. Actual cost, properly itemized and supported by sufficient substantiating data to permit evaluation which will be limited to actual cost of labor, actual cost of materials, supplies and equipment, actual rental cost of machinery and equipment, additional bond cost, plus a fixed fee for profit and overhead (which includes office overhead and site-specific overhead and general conditions) of ten percent (10%) if the Work is performed by the Contractor, or five percent (5%) if the Work is performed by a Subcontractor or Sub-subcontractor. The term 'cost' as used in this subsection is limited to the cost incurred in the actual performance of the work. The Subcontractors or Sub-subcontractors overhead and profit in turn must not exceed ten percent (10%). The total percentage of overhead and profit payable by the Owner (to both the Contractor and all sub-tier subcontractors), regardless of the sub-tier which performs the work, shall not exceed twenty percent (20%); or
 5. In the absence of an agreement between the Owner and Contractor, the amount must be determined in accord with Subsections 12.03.B.2 or 12.03.B.3 above, using whichever will result in the lowest cost to the Owner.
- C. **Adjustments in Project Schedule.** A Field Order may not be used to adjust the Contract Time. If the Contractor files an objection under Subsection 12.03.E below which results in an entitlement by the Contractor to an increase in the Contract Time, it will be implemented by execution of a Change Order or Contract Amendment.
- D. **Absence of Proposed Adjustments.** If a Field Order is silent as to any adjustment to the Contract Time or the Contract Sum, it will be conclusively presumed that none is intended and none will be allowed unless the Contractor files an objection as and when specified in the following Subsection.

- E. **Action Upon Receipt.** Upon receipt of a (unilateral or bilateral) Field Order, the Contractor must promptly proceed with the change in the Work involved. The Contractor must advise the Owner and the Architect/Engineer in writing, promptly and in no event later than ten (10) days after issuance of the Field Order, of the Contractor's objection (i) to the amount or method, if any, provided for in the Field Order for adjustment in the Contract Time or to the Contract Sum, or (ii) to the absence of any adjustment in the Contract Time or to the Contract Sum. Any objection to be valid must contain the specific adjustment to the Contract Time or the Contract Sum to which the Contractor claims it is entitled including a detailed explanation of the basis for the Claim. A Claim for an increase in the Contract Time, to be valid, must contain the supporting documentation specified in Section 11.06. A Claim for an increase to the Contract Sum, to be valid, must further be documented and calculated as specified in Subsection 12.02.B. Failure of the Contractor to object as and when specified in this Section is deemed an acceptance of the Field Order as issued and a waiver of any Claim by the Contractor to an adjustment to the Contract Time or the Contract Sum.

12.04 DIFFERING CONDITIONS (SITE AND STRUCTURAL)

- A. **Differing Site Conditions.** When the Contract contains a Differing Site Condition clause, requests may be made by the Contractor and, if justified, approved by the Owner for an increase in Contract Time and an increase in the Contract Sum as consequence of differing site or subsurface conditions encountered by the Contractor. For Contract Modification purposes, the Geotechnical Studies establish a baseline for expected subsurface conditions.
1. The Contractor must show a material difference between the Geotechnical Studies and actual subsurface conditions to justify a Contract Modification. The Contractor must promptly, before conditions are disturbed and in no event later than five (5) days after first observing such conditions, give written notice to the Owner and Architect/Engineer of:
 2. Subsurface or latent physical conditions at the site which differ materially from those indicated in the Contract; or
 3. Unknown physical conditions at the site, of an unusual nature, which differ materially from those ordinarily encountered and generally recognized as inhering in work of the character provided for in the Contract.
- Failure of the Contractor either (i) to provide notice before disturbing the existing conditions or (ii) failure to give notice within five (5) days of first observing such conditions is conclusively deemed a waiver of any Claim relating to such conditions.**
- B. **Differing Structural Conditions in Remodeling or Renovation Contracts.** If this is a Contract for a remodeling or renovation of an existing structure and the Contractor encounters conditions in the structure (not as to the site or subsurface conditions) which differ materially from those indicated in the Contract Documents, the Contractor must give written notice thereof to the Owner and the Architect/Engineer promptly before conditions are disturbed and in no event later than five (5) days after first observing such conditions. **Failure of the Contractor either (i) to provide notice before disturbing the existing conditions or (ii) failure to give notice within five (5) days of first observing such conditions is conclusively deemed a waiver of any entitlement to an increase in the Contract Time and/or an increase in the Contract Sum relating to such conditions.**

- C. **Investigation and Determination by Architect/Engineer.** After receipt of the written notice, the Architect/Engineer will promptly investigate any alleged differing condition(s) and provide a written report of its findings to the Owner. If the Architect/Engineer and Owner determine that the conditions vary materially from the Contract Documents, the Architect/Engineer will produce technical revisions to the Contract Documents as required. The Contractor shall submit Claims for an increase in the Contract Time and/or an increase in the Contract Sum in accordance with Articles 11 and 12 and the Owner will issue a corresponding Modification. To avoid Delay, the Owner may issue a unilateral Field Order or Change Order before receipt of the contractor's Claim. In that instance, a second Modification will be issued after review and acceptance of the Contractor's Claims. If the Owner determines that the actual conditions are not materially different or that no change in the terms of the Contract is justified, the Owner will so notify the Contractor in writing.
- D. **Claims Over Differing Structural Conditions.** If the Contractor objects to the Owner's finding under Subsection 12.04.C, the Contractor must file a notice as and when provided in Subsection 12.05.A below and the same will be resolved as provided in Subsection 12.05.B below. Failure of the Contractor to file the notice as and when required by Subsection 12.05.A below and Article 11 of the Contract will be conclusively deemed a waiver of any Claim relating to any such differing condition.

12.05 CONSTRUCTIVE CHANGES AND DISPUTED ADJUSTMENTS

- A. **Notice to Owner and Architect/Engineer.** The Contractor must advise the Owner and the Architect/Engineer in writing promptly and in no event later than ten (10) days after (i) issuance of any interpretation, clarification, instruction, direction or order whether orally or in writing from either the Owner or the Architect/Engineer, or (ii) the occurrence of any event or discovery of any condition (including any condition as provided in Section 12.04 above), which the Contractor believes or has reason to believe entitles the Contractor to an increase in the Contract Time or an increase in the Contract Sum; and except in the case of an emergency involving possible loss of life or bodily injury or property damage exceeding \$50,000, the required written notice must be provided by the Contractor prior to proceeding with the Work. Failure of the Contractor to provide such notice constitutes an acceptance of the interpretation, clarification, instruction, direction, order, event or condition without adjustment to the amount payable to the Contractor and/or the Contract Time and a conclusive waiver of any Claim relating to the same. Any objection to be valid must contain the specific adjustment to the Contract Time and/or Contract Sum to which the Contractor claims it is entitled including a detailed explanation of the basis for the request. A Claim for an increase in the Contract Time must further contain the supporting documentation specified in Section 11.06. A Claim for an increase in the Contract Sum must further be documented and calculated as specified in Subsection 12.02.B.
- B. **Disputed Adjustments.** All disputed adjustments under this Contract will be determined in accordance with Article 16 if, as conditions precedent thereto, the Contractor has timely provided all notices and objections required under the terms of the Contract.

12.06 SUBSTITUTIONS AND OR-EQUAL ITEMS

- A. **Allowance of Substitutions and Or-Equal Items.** The Contract Sum and Contract Time are based on the requirements of the Contract Documents and use of the materials and equipment specified therein. Proposals to use Substitutions and Or-Equal Items after Contract execution is neither invited nor favored by the Owner. Or-Equal Items will be considered only where permitted by the Specifications, and Substitutions will be considered only where the specified item is not available or where significant overall cost savings are offered to the Owner. No Substitution or Or-Equal Item will be used without specific written acceptance of the Owner, which may be withheld in the sole discretion of the Owner. The determination by the Owner that an item is not an "or-equal" but a proposed Substitution, and any decision by the Owner regarding the acceptability or use of an Or-Equal or Substitution will be final and without further recourse by the Contractor. In making such determinations the Owner may, but will not be required, to rely upon the recommendations of the Architect/Engineer.

- B. **Or-Equal Items.** The Contractor must submit any requests for the use of an Or-Equal Item, if specifically permitted by the Specifications, to the Owner in writing through the Architect/Engineer. If in the Owner's sole discretion an item of material or equipment proposed by the Contractor is functionally equal to that named and sufficiently similar so that no change in design or related Work will be required, it may be considered for eligibility as an Or-Equal Item, in which case further review of the proposed item will, in the Owner's sole discretion, be accomplished subject to compliance with all of the requirements for acceptance of a proposed Substitution except as expressly waived by the Owner. A decision in the Owner's sole discretion that an item of material or equipment proposed by the Contractor does not qualify as an Or-Equal Item, does not preclude a request by the Contractor that it be considered a proposed Substitution under Subsection 12.06.C below. An Or-Equal Item may only be accepted by the Owner in writing.
- C. **Substitutions.** After the Contract has been executed, the Owner and Architect/Engineer will consider a formal request submitted by the Contractor for the substitution of products or materials in place of those specified, when such request is accompanied by:
1. Evidence that the specified item is unavailable;
 2. Complete data on the proposed Substitution substantiating compliance with the Contract Documents, including product identification and description, performance and test data, references and samples where applicable, and an itemized comparison of the proposed item with the products specified or named in the Contract Documents;
 3. Data indicating the effect of the Substitution on the Project Schedule and the Contract Time, if any, on the general design and artistic effect where applicable, and its effect on work under separate contracts;
 4. accurate cost data on the proposed item in comparison with the product specified, whether or not the Substitution of such item will require an adjustment to the Contract Sum; and
 5. Any additional information required by the Owner or the Architect/Engineer to permit evaluation.
- D. **Representations by Contractor.** Requests for Substitution based on Subsection 12.06.C above are understood to mean that the Contractor:
1. Represents having personally investigated the proposed Substitution and having determined that it is equal or superior in all respects to that specified;
 2. Will warrant the Substitution to the same extent and will provide the same or better special Warranties and Guarantees for the Substitution as was required for the item originally specified;
 3. Certifies that the cost data is complete and includes all related costs under the Contract including, if known to the Contractor, cost under separate contracts and the Architect/Engineer's redesign costs, and that the Contractor waives all Claims for additional costs and agrees to pay all such additional costs, whether known or not, related to the Substitution including any cost which subsequently become apparent;
 4. Certifies that the schedule and time data are complete and include all related time under the Contract (excluding time under separate contracts and for the Architect/Engineer's redesign), and that the Contractor waives all Claims for delay related to the Substitution which subsequently become apparent; and
 5. Will coordinate the installation of the proposed Substitute, making such changes as may be required for the Work to be complete in all respects.
- E. **Costs Borne by Contractor.** The Contractor must bear all costs of preparing and submitting requests for Substitutions and the use of Or-Equal Items. The Contractor bears the risk for the proper fit and performance of substituted and "or-equal" materials and the burden for additional work, time and expense resulting from substituted and "or-equal" materials. The costs of the Owner's and Architect/Engineer's additional services attributable to their review, evaluation, acceptance, design and implementation must also be borne by the Contractor.

- F. **Timeliness.** All requests for use of an Or-equal or Substitution must be made in a timely manner in sufficient time to permit adequate review and approval or acceptance by the Owner and the Architect/Engineer, coordination with Separate Contractors, and preparation of any changes to the Contract Documents which would be required by acceptance of any proposed Substitution or Or-Equal Item so as not to delay the Work or the Project.
- G. **Improper Substitutions.** Submission of an item as part of a Shop Drawing, Sample or Product Data does not constitute compliance with Section 12.06, even if the Shop Drawing, Sample or Product Data is or has been approved. The Owner may direct removal of any unapproved Substitutions and/or Or-Equal items, and replacement with approved items, at Contractor's cost and with no increase in the Contract Time.

ARTICLE 13

PAYMENTS

13.01 SCHEDULE OF VALUES

- A. **Submission.** Within ten (10) days after issuance of a Intent To Award, the Contractor must submit to the Owner a Schedule of Values which allocates the Contract Sum among all portions of the Work.
- B. **Form and Contents of Schedule of Values.** The Schedule of Values must be prepared in such a manner that each item of Work and each subcontracted item of work is shown as one or more line items on AIA Document G703, Continuation Sheet (latest edition), or such other form as may be prescribed by the Owner. Unless otherwise required, each line item must include its allocable share of the Contractor's overhead and profit. The Schedule of Values must be prepared in such detail and must be supported by such data to substantiate its accuracy as required by both the Owner and the Architect/Engineer.
- C. **Review and Approval.** The Architect/Engineer will review the Schedule of Values with the Owner and advise the Contractor of its approval or any revisions that may be required for approval. This Schedule of Values as approved by the Architect/Engineer and Owner, will be used as a basis for reviewing the Contractor's Applications for Payment, and must be revised and resubmitted as necessary to reflect adjustments to the Contract Sum by approved Contract Modifications.

13.02 APPLICATION FOR PAYMENT

- A. **Initial Review and Submission.** The Contractor must submit to the Architect/Engineer complete and itemized Applications for Payment for Work on a monthly basis in accordance with a schedule approved by the Owner. Each Application for Payment must be consistent with the approved Schedule of Values. In order to expedite the review and approval of Applications for Payment, the Contractor may submit to and review with the Architect/Engineer and Owner a draft Application for Payment at a progress meeting prior to submitting a formal Application for Payment.
- B. **Form and Contents of Application.** The form of Application for Payment must be AIA Document G702, Application and Certificate for Payment, supported by AIA Document G703, Continuation Sheet (latest edition), or such other form as may be prescribed by the Owner. The application must be notarized and supported by sufficient data to demonstrate the Contractor's right to payment and compliance with the payment provisions of the Contract to the satisfaction of the Owner and the Architect/Engineer, such as copies of requisitions from Subcontractors and material Suppliers, partial lien waivers, releases and other documents. Each Application for Payment must reflect approved Change Orders and Contract Amendments and the Contract retainage provided for in the Contract Documents.

- C. **Inclusion of Stored Materials.** Applications for Payment may include materials and equipment delivered and suitably stored at the Site for subsequent incorporation in the Work. **The Owner has no obligation or responsibility to pay for materials stored off the Site.** If determined to be in the Owner's best interest and specifically approved in writing in advance by the Owner, an Application for Payment may include materials and equipment stored off the Site at a location agreed upon in writing which is within the county in which the facility resides in. **Material stored outside of the county the facility resides in will not be considered for payment unless agreed upon by the Facilities Project Manager.** Payment for materials and equipment stored on or off the Site is conditioned upon compliance by the Contractor with procedures satisfactory to the Owner to protect the Owner's interest. Payment for materials and equipment stored off the Site will, in addition, be conditioned upon the Contractor's provision of applicable insurance, storage, and transportation to the Site.
- D. **Exclusion of Amounts Not Payable to Subcontractors and Suppliers.** Under applicable provisions of Michigan law, payments received by the Contractor are held in trust for Subcontractors and Suppliers who have furnished labor and materials covered by an Application for Payment. Accordingly, Applications for Payment may not include requests for payment of amounts for Work performed by a Subcontractor or Supplier that the Contractor does not intend to pay for said work.
- E. **Contract Retainage.** Until Substantial Completion of the Work, the amount of each monthly Application for Payment must include the value of each line item as indicated on the approved Schedule of Values, to the extent completed, less contract retainage of ten percent (10%). Such contract retainage will apply whether or not the Owner is entitled to withhold additional amounts under the Contract. The Contractor has no right to receive any such retainage, or interest thereon, until Substantial Completion. Upon Substantial Completion and with the Surety's consent (if applicable) to the reduction in the retainage, the Contract retainage will be reduced to five percent (5%) of the Contract Sum if the manner of completion of the Work and its progress are and remain satisfactory to the Owner and the Architect/Engineer, and will remain in effect until Final Completion.
- The full ten percent (10%) retainage will be reinstated if the manner of completion of the Work and its progress do not remain satisfactory to the Owner and the Architect/Engineer, or if the Surety withholds its consent, or if there is a failure to properly perform under any of the provisions of the Contract.
- F. **Passage of Clear Title.** The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. By submitting an Application for Payment, the Contractor further warrants that all Work for which payments have previously been received from the Owner are free and clear of liens, claims, security interests or encumbrances in favor of the Contractor, Subcontractors, material Suppliers, or other persons or entities having provided labor, materials and equipment relating to the Work.
- G. **Contractor's Certification.** Before the Contractor receives a progress payment, the Contractor must certify in writing that, in accordance with contractual arrangements, Subcontractors and Suppliers:
1. Have been paid from the proceeds of previous progress payments; and
 2. Will be paid in a timely manner from the proceeds of the progress payment currently due.
 3. **The foregoing certification will be deemed to have been inserted into any Application for Payment from which it has been omitted.**
 4. In the event the Contractor has not paid or does not pay as certified, such failure **constitutes a ground for Termination** under Subsection 15.03.B of the Contract.

13.03 CERTIFICATE FOR PAYMENT

- A. **Issuance of Certificate for Payment.** The Architect/Engineer will, within ten (10) days after receipt of the Contractor's Application for Payment, will issue to the Owner a Certificate for Payment for such amount as the Architect/Engineer determines is properly due, with a copy to the Contractor, or notify the Owner in writing of the Architect/Engineer's reasons for withholding certification in whole or in part as provided in Subsection 13.03.C.
- B. **Representation in Certificate for Payment.** The issuance of a Certificate for Payment will constitute a representation by the Architect/Engineer to the Owner, based on the Architect/Engineer's observations at the Site and the data comprising the Application for Payment, that to the best of the Architect/Engineer's knowledge, information and belief, (i) the Work has progressed to the point indicated and (ii) the quality of the Work, to the extent certified as having been completed, is in accordance with the Contract Documents. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to minor deviations from the Contract Documents correctable prior to completion and to specific qualifications expressed by the Architect/Engineer, in writing in the Certificate for Payment, and are not binding upon the Owner. The issuance of a Certificate for Payment will not be a representation that the Architect/Engineer has (i) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (ii) reviewed construction means, methods, techniques, sequences or procedures, or (iii) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.
- C. **Withholding Certification.** The Architect/Engineer may decide not to certify payment and may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Architect/Engineer's opinion the representations to the Owner required by Subsection 13.03.B cannot be made. If the Architect/Engineer is unable to certify payment in the amount of the Application for Payment, the Architect/Engineer will notify the Contractor and Owner as provided in Subsection 13.03.A. If the Contractor and Architect/Engineer cannot agree on a revised amount, the Architect/Engineer will promptly issue a Certificate for Payment for the amount for which the Architect/Engineer is able to make such representations to the Owner. The Architect/Engineer may also decide not to certify payment or may nullify the whole or a part of a Certificate for Payment previously issued, to such extent as may be necessary in the Architect/Engineer's opinion to protect the Owner from loss because of the causes set forth in Subsection 13.03.D.
- D. **Grounds for Withholding Certification.** The Architect/Engineer may withhold certification, or the Owner may withhold payment, to the extent reasonably necessary, to protect the Owner from loss on account of:
1. The quality of a portion, or all, of the Contractor's Work not being in accordance with the requirements of this Contract and with construction industry standards;
 2. Claims made, or likely to be made, against the Owner or its property on account of the Contractor's performance;
 3. Reasonable evidence that the Contractor has failed to use Contract funds, previously paid the Contractor by the Owner, to pay Contractor's Work and Project-related obligations including, but not limited to, Subcontractors, laborers and material and equipment Suppliers;
 4. Reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
 5. Loss by, or damage to the Owner or another contractor;
 6. Reasonable evidence that the Contractor's rate of progress is such that, in the Owner's opinion, Substantial or Final Completion of the Work for the Project, or both, may be inexcusably delayed;
 7. Failure to carry out the Work in accordance with the Contract Documents;
 8. The quantity of the Contractor's Work being less than that stated in the Contractor's Application for Payment, or otherwise;

9. Other items which entitle the Owner to a setoff against the amounts due the Contractor; or
 10. Failure of the Contractor to remove or bond off liens by its Subcontractors or Suppliers.
- E. **Release of Certificate When Grounds Removed.** When the reasons for withholding certification are removed, the Architect/Engineer will certify payment for amounts previously withheld.

13.04 PROGRESS PAYMENTS

- A. **Withholding of Payment by Owner.** The Owner may withhold payment on a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if the Owner, based on its own Site observations, inspections or other evidence available to the Owner, does not concur with the Architect/Engineer's representations under Subsection 13.03.B or with the Architect/Engineer's finding of removal of conditions as provided in Subsection 13.03.E. In such case the Owner will notify the Architect/Engineer and the Contractor of the reasons for withholding payment in whole or in part as permitted by this Subsection 13.4.1. If the Contractor and Owner cannot agree on a revised amount, the Owner will promptly initiate payment for an amount which the Owner determines to be appropriate. The Owner may also decide not to make payment as necessary to protect the Owner from loss because of the causes set forth in Subsection 13.03.D. In that event, Contractor must submit a revised Application for Payment for the Owner's review and approval once such causes have been remedied along with evidence reasonably satisfactory to the Owner that such causes have in fact been remedied.
- B. **Payment.** Payments on Certificates for Payment which are approved by the Owner as "proper invoices" within the meaning of applicable laws and regulations will be paid within thirty (30) days after the Owner approves the Certificate for Payment.
- C. **Payment Not Acceptance of Defective Work.** Issuance of a Certificate for Payment by the Architect/Engineer or the making of any progress payment by the Owner does not constitute acceptance of Work that is not in accordance with the Contract Documents.
- D. **Payment Contingent on Performance.** Progress payments may be withheld to the extent the Contractor is not in full compliance with the Contract. The Owner's failure to make progress payments is not an event of default by the Owner under the Contract, nor does it give rise to the right of the Contractor to stop work.
- E. **Waiver of Claims by Contractor.** Acceptance of progress payments by the Contractor, a Subcontractor, Sub-subcontractor or Supplier (to the extent not previously waived) constitutes a waiver of Claims arising from any occurrence existing prior to payment, or arising from performance of the Work for which payment is made by that payee except those previously made in writing and identified by that payee as unsettled on the Application for Payment and which fully comply with the requirements of Articles 11, 12 and/or 16.

13.05 SWORN STATEMENT

- A. A Sworn Statement must be provided by the contractor to the Owner when payments are due to the contractor from the Owner, or when the contractor requests payment from the Owner. The Sworn Statement shall list each subcontractor and supplier with whom the person issuing the Sworn Statement has contracted relative to the improvement to the real property. The Sworn Statement shall contain a list of laborers with whom the person issuing the Sworn Statement has contracted relative to the improvement to the real property and for whom payment for wages or fringe benefits and withholding's are due but unpaid and the itemized amount of such wages or fringe benefits and withholding's.

13.06 WAIVER OF CONSTRUCTION LIEN

- A. A person shall not require, as part of any contract for an improvement, that the right to a construction lien be waived in advance of work performed. A waiver obtained as part of a contract for an improvement is contrary to public policy, and shall be invalid, except to the extent that payment for labor and material furnished was actually made to the person giving the waiver. Acceptance by a lien claimant of a promissory note or other evidence of indebtedness from an Owner or contractor shall not of itself serve to waive or discharge otherwise valid construction lien rights.
1. A lien claimant who receives full payment for his or her contract shall provide to the Owner or designee a Full Unconditional Waiver of Lien.
 2. A lien claimant who receives partial payment for his or her contract shall provide to the Owner or designee a Partial Unconditional Waiver of Lien for the amount which the lien claimant has received, if the owner or designee requests the Partial Unconditional Waiver.
 3. A Partial Conditional Waiver of Lien or a Full Conditional Waiver of Lien shall be effective upon payment of the amount indicated in the waiver.
 4. For purposes of the Michigan Construction Lien Act, retainage that is not payable under a contract until the happening of a certain event in addition to the providing of an improvement is not due as of the date of the providing of the improvement.
 5. A waiver of lien shall be effective when a person makes payment relying on the waiver unless at the time payment was made the person making the payment has written notice that the consideration for the waiver has failed.

ARTICLE 14

SUBSTANTIAL AND FINAL COMPLETION

14.01 PARTIAL OCCUPANCY OR USE

- A. **Occupancy by Owner.** The Owner may occupy or use any completed or partially completed portion of the Work prior to Substantial Completion of all of the Work pursuant to Subsection 14.01.B below.
- B. **Notice by Owner.** The Owner may, at any time, request the Contractor in writing to permit the Owner to occupy or use any such portion of the Work. Such partial occupancy or use may commence whether or not the portion is Substantially Complete. Consent of the Contractor to partial occupancy or use must not be unreasonably withheld.
- C. **Notice by Contractor.** When the Contractor considers that a portion of the Work designated in the Contract Documents for partial occupancy or use can be occupied or used for its intended purpose without significant interference with the Contractor's performance of the remainder of the Work, the Contractor may notify the Owner and the Architect/Engineer in writing and request an inspection of that portion and a partial Certificate of Substantial Completion. Such notice must be issued not less than ten (10) days in advance of the date that such Work will be ready for inspection. The determination whether the particular portion of the Work may be occupied for its intended use is at the Owner's sole discretion.
- D. **Inspection.** Following notice by either the Owner or the Contractor, the Contractor must prepare and submit to the Architect/Engineer a list of items remaining to be completed or corrected as provided in Subsection 14.02.C. Immediately prior to such partial occupancy or use, the Owner, Contractor and Architect/Engineer will jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition and stage of progress of the Work.
- E. **Conditions for Partial Occupancy or Use.** Unless otherwise provided in the Contract Documents or by agreement between the Owner and the Contractor, such partial occupancy or use will be subject to the Owner's assumption of responsibility for security, operation, safety, maintenance, heat, utilities, damage to the Work (other than damage caused by the Contractor) and insurance with respect to the portions of the Work to be occupied or used by the Owner. The period for correction of such portions of the Work and Warranties required by the Contract Documents will commence upon such partial occupancy or use.

- F. **Partial Occupancy or Use Not Acceptance of Defective Work.** Unless otherwise agreed to in writing by the Owner, partial occupancy or use of a portion or portions of the Work does not constitute acceptance of Work not complying with the requirements of the Contract Documents.

14.02 SUBSTANTIAL COMPLETION

- A. **Notice and Request for Preliminary Inspection.** When the Contractor considers that the Work is substantially complete and that items remaining to be completed or corrected can be accomplished within another thirty (30) days, the Contractor must give written notice to the Owner and the Architect/Engineer and request an inspection of the Work as provided in Subsection 14. 2.C. The Contractor's notice and request for an inspection must be accompanied by a comprehensive Punch List describing all items to be completed or corrected before final completion and the Submittals required by Subsection 14.02.B below. The Contractor must proceed promptly to complete and correct items on the list. Failure to include an item on such list does not alter the Contractor's responsibility to complete all Work in accordance with the Contract Documents.
- B. **Submittals on Substantial Completion.** In addition to the Punch List, the Contractor must submit the following with its request for a determination of Substantial Completion:
1. A use and occupancy permit;
 2. Final test reports as provided in Subsection 10.05.G and certificates of inspection and approval required for use and occupancy;
 3. Fire Marshal's approval; (if applicable)
 4. Approvals from, and transfer documents for, all utilities;
 5. Warranties and Guarantees as provided in Subsection 10.02.D,
 6. Final, approved operating and maintenance manuals for materials and systems specified in the Contract Documents;
 7. All documents and verification of training required in accordance with any Quality Control or Commissioning Plan; and
 8. Schedule to complete the Punch list and value of Work not yet complete.
- C. **Substantial Completion Inspection and Correction.** Upon receipt of the Punch List, the Architect/Engineer will make an inspection to determine whether the Work or designated portion thereof is substantially complete and whether remaining items can be completed or corrected within thirty (30) days. The Owner may make a similar inspection. If such inspection(s) disclose any deficiency not included on the Punch List, the Architect/Engineer shall add the deficiency to the Punch list. If such inspection(s) discloses any item, whether or not included on the Punch List, which, in the opinion of the Owner or the Architect/Engineer, (i) must be completed or corrected before the Work can be occupied or used for its intended purpose, or (ii) cannot be completed or corrected within thirty (30) days, the Architect/Engineer will so advise the Contractor, and the Contractor must promptly complete or correct such item prior to Substantial Completion.
- D. **Re-inspection.** If the Architect/Engineer advises the Contractor per Subsection 14.02.C that Work is required prior to Substantial Completion, the Contractor must complete the required Work. Following the completion or correction of Work required by the Owner or the Architect/Engineer before issuance of a Certificate of Substantial Completion, the Contractor must notify the Owner and the Architect/Engineer and request another inspection by the Owner and the Architect/Engineer to determine Substantial Completion. The Contractor must submit a revised Punch List with such notice. The Architect/Engineer will promptly notify the Contractor if the Owner or the Architect/Engineer do not concur that the Work is substantially complete. In such case, the Contractor must bear the cost of any additional services of the Owner or the Architect/Engineer until the Work is determined to be Substantially Complete.

- E. **Certification of Substantial Completion.** When the Owner and the Architect/Engineer concur that the Work is Substantially Complete and that Work remaining to be completed or corrected can be accomplished within a period of thirty (30) days, the Architect/Engineer will prepare a Certificate of Substantial Completion and a revised (final) Punch List. The Certificate of Substantial Completion must be signed by the Contractor, Architect/Engineer and the Owner with the Owner's signature indicating acceptance of Substantial Completion. The Certificate of Substantial Completion shall include the final Punch List and shall fix the Date of Substantial Completion and the time periods within which the Contractor must finish all items on the Punch List accompanying the Certificate.
- F. **Execution and Acceptance of Certificate.** The Certificate of Substantial Completion and accompanying Punch List must be signed by the Owner and Contractor, which will constitute their written acceptance of responsibilities assigned to them in such Certificate.
- G. **Conditions of Substantial Completion.** To the extent provided in the Contract Documents or in the Certificate of Substantial Completion, the Owner, upon execution of the Certificate, will assume responsibility for security, operation, safety, maintenance, heat, utilities, damage to the Work (other than damage caused by the Contractor) and insurance.
- H. **Commencement of Warranties.** Warranties and/or guarantees required by the Contract Documents will commence on the Date of Substantial Completion of the Work unless otherwise provided in the Certificate of Substantial Completion or the Contract Documents.
- I. **Delivery of Premises and Access to Work.** Upon execution of the Certificate of Substantial Completion, the Contractor will deliver custody and control of such Work to the Owner. The Owner will thereafter provide the Contractor reasonable access to such Work to permit the Contractor to fulfill the correction, completion and other responsibilities remaining under the Contract and the Certificate of Substantial Completion.
- J. **Timing of Final Completion.** Unless otherwise provided in the Certificate of Substantial Completion, the Contractor must complete or correct all items included in the final Punch List within thirty (30) days after the Date of Substantial Completion.
- K. **Broom Clean.** At the time of Substantial Completion, in addition to removing rubbish and leaving the building "broom clean," the Contractor must replace any broken or damaged materials, remove stains, spots, marks and dirt from decorated Work, clean all fixtures, vacuum all carpets and wet mop all other floors, and comply with such additional requirements, if any, which may be specified in the Contract Documents.

14.03 FINAL COMPLETION

- A. **Notice and Request for Final Inspection.** When the Contractor has completed or corrected all items on the final Punch List and considers that the Work is complete and ready for final acceptance, the Contractor must give written notice to the Owner and the Architect/Engineer and request a final inspection of the Work as provided in Subsection 14.03.B. The Contractor's notice and request for a final inspection must be accompanied by a final Application for Payment and the Submittals required by Subsection 14.03.C.
- B. **Final Inspection and Certificate of Final Completion.** Upon receipt of the Contractor's notice and request for final inspection, the Owner and the Architect/Engineer will promptly make such inspection and, when the Owner and the Architect/Engineer concur that the Work has been fully completed and is acceptable under the Contract Documents, the Owner will issue a Certificate of Final Completion to the Contractor. The Contractor's notice and request for final inspection constitutes a representation by the Contractor to the Owner that the Work has been completed in full and strict accordance with terms and conditions of the Contract Documents. The Architect/Engineer will promptly notify the Contractor if the Owner or the Architect/Engineer do not concur that the Work is finally complete. In such case, the Contractor complete and/or correct the outstanding Work and must bear the cost of any additional services of the Owner or the Architect/Engineer until Final Completion is achieved.
- C. **Final Submittals.** Neither final payment nor any remaining retained percentage will become due until the Contractor submits the following documents to the Architect/Engineer:

1. A release or waiver of liens on behalf of the Contractor and a similar release. or waiver on behalf of each Subcontractor and Supplier, accompanied by AIA Document G706A, Affidavit of Release of Liens (latest edition) or such other form as may be prescribed by the Owner;
2. A written statement that the Contractor knows of no substantial reason that the insurance will not be renewable to cover the period required by the Contract Documents;
3. If the Owner required a Surety Bond for the project, provide a Consent of Surety to final payment, submitted on AIA Document G707 (latest edition) or other form prescribed by the Owner;
4. Other data required by the Owner establishing payment or satisfaction of obligations, such as receipts, releases and waivers of liens, claims, security interests or encumbrances arising out of the Contract, to the extent and in such form as may be prescribed by the Owner;
5. A certified building location survey and as-built site plan in the form and number required by the Contract Documents;
6. All warranties and/or guarantees required by the Contract Documents;
7. Record Documents as provided in Subsection 2.04.E and return of Contract Documents as provided therein;
8. Attic stock items as required by the Contract Documents; and
9. As applicable, documentation of approval by the Authorities Having Jurisdiction (AHJ) of all Storm Erosion and Sedimentation Control (SESC) permit work as to allow close-out of the SESC Permit. AHJ approval will be based on satisfying all AHJ Permit requirements including the submission of acceptable as-built drawing and other required SESC documents.

14.04 FINAL ACCEPTANCE AND PAYMENT

- A. **Final Certificate for Payment.** The Architect/Engineer and the Owner will promptly review the final submittals, and after notice from the Owner that all final submittals are acceptable and that the Contract has been fully performed, the Architect/Engineer will issue a final Certificate for Payment. The Contractor's Application for final Payment constitutes a further representation that the conditions listed in Subsections 14.03.B and 14.03.C as precedent to the Contractor's being entitled to final payment have been fulfilled.
- B. **Delay in Final Completion.** If, after Substantial Completion of the Work, Final Completion cannot be achieved and is materially delayed through no fault of the Contractor or as a result of issuance of Contract Modifications issued after Substantial Completion, and the Architect/Engineer so confirms, the Owner will, upon Application for Payment by the Contractor and Certification of Payment by the Architect/Engineer, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed and accepted, provided that the remaining Contract balance for Work not fully completed or corrected after making such payment is not less than the greater of (i) the amount of the retainage stipulated in the Contract Documents and currently being retained or (ii) the Owner's estimate of the amount necessary to complete and correct any Work not fully completed or corrected after making such payment. Provided further that if bonds have been furnished, the written consent of Surety to payment of the balance due for that portion of the Work fully completed and accepted is submitted by the Contractor to the Architect/Engineer prior to the Architect/Engineer's issuance of the Certificate for Payment. Such payment will be subject to the same terms and conditions governing final payment.
 1. Additional Work requested by the Owner after Substantial Completion. If the Owner directs that Work be performed beyond the Work specified in the Contract but within the general scope of the Contract (Change Order or Field Order Work) after Substantial Completion, the Contractor is entitled to an increase in the Contract Time equal to the time required to perform the additional Work, but is still liable to the Owner for any prior unexcused delays.

- C. **Final Payment.** Final payment, constituting the entire unpaid balance of the Contract Sum and other amounts payable to the Contractor, less any amounts withheld by the Owner under Subsection 14.04.D, will be made by the Owner to the Contractor not more than thirty (30) days after:
1. The Contract has been fully performed by the Contractor except for the Contractor's responsibility to correct nonconforming Work as provided in Subsection 10.02.B and to satisfy other requirements, if any, which necessarily survive final payment; and
 2. A final Certificate for Payment has been issued by the Architect/Engineer and approved by the Owner as a "proper invoice" within the meaning of applicable laws and regulations.
- D. **Withholding by Owner from Final Payment.** The Owner may deduct such sums from final payment as may be due on account of actual or Liquidated Damages or other unsettled obligations under the Contract Documents, such as the acceptance of defective or nonconforming Work and costs payable by the Contractor.
- E. **Waiver of Claims by Owner.** The making of final payment does not constitute a waiver of claims by the Owner arising from the Contractor's performance of the Work including but not limited to:
1. Liens, claims, security interests or encumbrances arising out of the Contract and unsettled;
 2. Failure of the Work to comply with the requirements of the Contract Documents;
 3. Terms of Guarantees or Warranties required by the Contract Documents; and
 4. Unresolved claims or disputes.
- F. **Waiver of Claims by Contractor.** Acceptance of final payment by the Contractor, a Subcontractor, Sub-subcontractor or Supplier (to the extent not previously waived) constitutes a waiver of Claims arising from any occurrence existing prior to final payment, or arising from, performance of the Work for which final payment is made by that payee except those previously made in writing and identified by that payee as unsettled on the final Application for Payment and which fully comply with the provisions of Articles 11, 12 and 16.

ARTICLE 15

RIGHTS AND REMEDIES

15.01 OWNER'S RIGHTS AND REMEDIES

- A. **Special and Additional Testing and Inspection.** The Owner, on its own initiative or upon the recommendation of the Architect/Engineer, has the right to require additional inspection or testing of the Work as provided in Section 10.05.
- B. **Rejection of Nonconforming Work.** The Owner has the right and the Architect/Engineer has authority to reject Work which does not conform to the Contract Documents as provided in Subsection 10.06.A and to require its correction or replacement as provided in Subsection 10.06.B unless accepted by the Owner under Subsection 10.06.C.
- C. **Withholding of Certificates and Withholding of Payments.** The Architect/Engineer has the authority to withhold a Certificate for Payment in accordance with Subsections 13.03.C and 13.03.D. The Owner has the right to withhold payment on a Certificate for Payment as provided in Subsections 13.03.D and 13.04.A.
- D. **Additional Bonds and Insurance.** The Owner has the right to require the Contractor to furnish additional bonds as provided in 17.01.C and additional insurance as provided in Subsection 17.02.C.

- E. **Removal of Superintendent, Personnel, Subcontractors or Suppliers.** The Owner has the right to require the Contractor to remove and replace the Contractor's Superintendent, Project Manager, Quality Control Manager and/or any of the Contractor's key project personnel, at no additional cost to the Owner, if the Contractor fails to maintain good order and discipline at the Site under Subsection 5.03.C, if any key personnel proves to be unsatisfactory under Subsection 5.04.B, or if personnel are not properly qualified as required by Subsection 5.5.5. The Owner has the right to require the removal and replacement of any Subcontractor or Supplier as provided in Subsections 6.01.E and 6.01.F.
- F. **Stopping or Suspending the Work.** The Owner has the right to order the Contractor to stop the Work as provided in Subsection 11.04.A or to suspend the Work as provided in Subsection 11.04.B.
- G. **Correction of Defective Work by Owner.** The Owner has the right to correct rejected or nonconforming or defective Work as provided in Subsection 10.06.F.
- H. **Cleaning Up.** If the Contractor fails to clean up as provided in the Contract Documents, the Owner may do so as provided in Subsection 5.06.G.
- I. **Owner Takeover.** If the Contractor defaults or otherwise neglects to carry out or complete the Work or a designated portion thereof in accordance with the Contract Documents, whether before or after Substantial Completion, the Owner may include with any notice of default in the performance of such Work, notice of the Owner's intent to remedy the default and perform the Work itself or with other forces, if not remedied by the Contractor within the time specified in the notice, in which case an appropriate Change Order will be issued deducting from payments then or thereafter due the Contractor the cost of correcting the deficiencies or completing such Work, including compensation for the Owner's and the Architect/Engineer's additional services made necessary by such default, neglect or failure. If payments then or thereafter due the Contractor are not sufficient to cover such amounts, the Contractor must pay the difference to the Owner upon written demand.

15.02 TERMINATION BY OWNER FOR CONVENIENCE

- A. **Owner's Right to Terminate for Convenience.** The Owner may, at any time, terminate the Contract or any portion thereof or of the Work for the Owner's convenience and without cause.
- B. **Action by Contractor Upon Notice.** Upon receipt of written notice from the Owner of termination, the Contractor must:
 - 1. Cease operations as directed by the Owner in the notice and, if required by the Owner, participate in an inspection of the Work with the Owner and the Architect/Engineer to record the extent of completion thereof, to identify the Work remaining to be completed or corrected, and to determine what temporary facilities, tools, equipment and construction machinery are to remain at the Site pending completion of the Work;
 - 2. Complete or correct the items directed by the Owner, and take actions necessary, or that the Owner may direct, for the protection and preservation of any stored materials and equipment and completed Work;
 - 3. Unless otherwise directed by the Owner, remove its tools, equipment and construction machinery from the Site, and
 - 4. Except as directed by the Owner, terminate all existing subcontracts and purchase orders related to the Work and enter into no further subcontracts or purchase orders therefor.
- C. **Action by Owner Following Notice.** Following written notice from the Owner of termination, the Owner may:
 - 1. Take possession of the Site and of all materials and equipment thereon, and at the Owner's option, such temporary facilities, tools, construction equipment and machinery thereon owned or rented by the Contractor that the Owner elects to utilize in completing the Work;
 - 2. Accept assignment of subcontracts and purchase orders as provided in Section 6.04, and
 - 3. Complete the Work by whatever reasonable method the Owner may deem expedient.

- D. **Contract Adjustments.** In case of termination for the Owner's convenience, the Contractor will be entitled to compensation only for the following items:
1. Payment for acceptable Work performed up to the date of termination;
 2. The costs of preservation and protection of the Work if requested to do so by the Owner;
 3. The cost of terminating the following contracts including:
 - a. Purchased materials but only if not returnable and provided to the Owner, or the restocking or return charge, if any, if returnable at the Owner's written election;
 - b. Equipment rental contracts if not terminable at no cost but not to exceed an amount equal to thirty (30) days rental;
 4. Documented transportation costs associated with removing Contractor-owned equipment;
 5. Documented demobilization and close-out costs; and
 6. Overhead and profit on the foregoing not to exceed ten (10%) percent.
 7. The Contractor will not be compensated for the cost of terminating subcontracts which must be terminable at no cost to the Owner if the Contract is terminated. The Contractor will not be compensated for the cost of any idled employees unless the employee is under a written employment contract entitling the employee to continued employment after termination of the Contract and the employee cannot be assigned to other work provided that in all events the Contractor's costs must be limited to thirty (30) days of employment costs from the date of the notice of termination. **The Contractor is not entitled to any other costs or compensation (including lost or expected profit, uncompensated overhead or related expenses, or the cost of preparing and documenting its compensable expenses under this Subsection 15.02.D as a consequence of the Owner's termination of the Contract for convenience. The Contractor conclusively and irrevocably waives its right to any other compensation or damages (compensatory or punitive) arising from termination of the Contract.** If the Owner and the Contractor are unable to agree upon the amounts specified in this subsection, the Contractor may submit a Claim as provided in Article 16. The Claim must be limited to resolution of the amounts specified in Subsections 15.02.D.1, 15.02.D.2, 15.02.D.3 and 15.02.D.4 of this Subsection 15.02.D.
 8. **No other cost, damages or expenses may be claimed or paid to the Contractor or considered as part of the Claim, the same being hereby conclusively and irrevocably waived by the Contractor.** Any such Claim must be filed with the Director within thirty (30) days of the termination of the Contract and must contain a written statement setting forth the specific reasons and supporting calculations as to the amounts the Contractor claims to be entitled to under this Subsection, all with supporting documentation of all cost claimed as a result of the termination of the Contract.
- E. **Obligations to Continue.** The Contractor's obligations surviving final payment under the Contract, including without limitation those with respect to insurance, indemnification, and correction of Work which has been completed at the time of termination, remains effective notwithstanding termination for convenience of the Owner.

15.03 TERMINATION BY THE OWNER FOR CAUSE

- A. **Owner's Right to Terminate for Cause.** The Owner may terminate the Contract for cause for any of the reasons set forth in the following Subsection 15.03.B.
- B. **Grounds for Termination.** The Owner has the right to terminate the Contract for cause if the Contractor:
1. Fails to supply adequate properly skilled workers or proper materials;
 2. Fails to make payment to Subcontractors or Suppliers for materials or labor in accordance with the respective agreements between the Contractor and the Subcontractors or Suppliers;
 3. Fails to comply with any laws, ordinances, or rules, regulations or orders of a public authority having jurisdiction;
 4. Fails to perform the Work in accordance with the Contract Documents or otherwise breaches any provision of the Contract Documents;

5. Files for bankruptcy (voluntary or involuntary);
 6. Is guilty of an anticipatory breach or repudiation of the Contract;
 7. Fails to make satisfactory progress in the prosecution of the Contract; or
 8. Endangers the performance of this Contract.
- C. **Notice of Termination.** The Director may terminate the Contract, in whole or in part, whenever the Director determines that sufficient grounds for termination exist as provided in Subsection 15.03.B. The Director will provide the Contractor with a written notice to cure the default. If the default is not cured, the termination for default is effective on the date specified in the Director's written notice. However, if the Director determines that default contributes to the curtailment of an essential service or poses an immediate threat to life, health, or property, the Director may terminate the Contract immediately upon issuing oral or written notice to the Contractor without any prior notice or opportunity to cure. In addition to any other remedies provided by law or the Contract, the Contractor must compensate the Owner for additional costs that foreseeably would be incurred by the Owner, whether the costs are actually incurred or not, to obtain substitute performance. A termination for default is a termination for convenience if the termination for default is later found to be without justification.
- D. **Action by Contractor and Owner.** Upon termination for cause, the Contractor must take those actions described in Subsection 15.02.B, and the Owner may take those actions described in Subsection 15.02.C, subject to the prior rights of the Contractor's Surety.
- E. **Suspension of Payments.** When the Owner terminates the Contract for cause, the Contractor is not entitled to receive further payment until the Work is completed and the costs of completion have been established.
- F. **Adjustments and Payments.** If the unpaid balance of the Contract Sum less amounts which the Owner is entitled to offset from the unpaid Contract balance including actual or Liquidated Damages, exceeds the costs of completing the Work, including compensation for the Owner's and the Architect/Engineer's services made necessary thereby, such excess will be paid to the Contractor or Surety, as directed by the Surety. If such costs exceed the unpaid Contract balance, the Contractor must pay the difference to the Owner upon written demand. This obligation for payment survives termination of the Contract.
- G. **Right to Take Other Than Low Bid.** In completing the Work following termination for cause or for convenience, the Owner is not required to solicit competitive bids or to award completion work to the lowest bidder, but may obtain such completion work and related services on the basis of sole source procurement and negotiated compensation.
- H. **Termination As If For Convenience.** If, after termination of the Contract, it is determined that the Owner did not have sufficient grounds to terminate for cause, the rights and obligations of the parties will be the same as if the termination had been issued for the convenience of the Owner, and the provisions of Section 15.02, including Subsection 15.02.D, will apply.

15.04 CONTRACTOR'S NO RIGHT TO STOP WORK

- A. The Contractor has no right to stop Work as a consequence of non-payment. In the event of any disagreement between the Contractor and Owner involving the Contractor's entitlement to payment, the Contractor's only remedy is to file a Claim in accordance with Article 16. The Contractor must diligently proceed with the Work pending resolution of the Claim, Dispute and/or Dispute Appeal. If, however, an Application for Payment has been approved for payment by the Owner, and the Owner fails to make payment within sixty (60) days of the approval for payment by the Owner, the Contractor may upon ten (10) days written notice to the Owner, stop work if payment is not made by the Owner within ten (10) days following the notice.

ARTICLE 16

CLAIMS, DISPUTES, AND DISPUTE APPEALS

16.01 CLAIM

- A. A Claim is a written request by the Contractor that seeks the payment of money, an adjustment of time, an adjustment or interpretation of a Contract provision, or other relief arising under or relating to the Contract. Claims include all requests for additional Contract Time and/or Contract Sum in accordance with Articles 11 and/or 12.
- B. A Claim must be filed, in writing, with the Contract Administrator within the time and containing the information required in:
 - 1. Section 11.06, as to an excusable or compensable delay;
 - 2. Subsection 12.02.E, as to a unilateral Change Order;
 - 3. Subsection 12.05.A, as to a Constructive Change;
 - 4. Subsection 12.03.F as to a unilateral Field Order;
 - 5. Subsections 12.04.C, 12.04.D and 12.05.A as to differing Site and Structural conditions; and
 - 6. Subsection 15.02.D as to a disagreement arising from termination of the Contract.
- C. As to a disagreement over interpretation of a Contract provision or the Contract Documents, the Contractor must file a Claim within ten (10) days of issuance or statement of the contrary interpretation by Owner.
- D. As to any other Claim arising under or relating to the Contract, the Work or the Project, the Contractor must file a Claim within ten (10) days of the event giving rise to the Claim, unless otherwise specified in the Contract Documents.
- E. A Claim will be deemed to have been conclusively waived by the Contractor if it is not filed within the specified time or it does not contain the required information.

16.02 CONTRACT ADMINISTRATOR'S DECISION ON CONTRACTOR'S CLAIM

- A. The Contract Administrator is responsible for issuing decisions on Claims. The Contract Administrator's final decision on a Claim shall be considered an event giving rise to a Dispute and the Contractor must file any Dispute within the time period stated in Section 16.03 below from the date of the Contract Administrator's final decision.

16.03 DISPUTE

- A. A Dispute means an unresolved Claim. If a dispute shall arise between Contractor and Owner on a Project, as the first step in resolving such dispute, the dispute shall be submitted to the contractors Project Manager. In the event that the dispute has not been resolved by the mutual agreement of the Project Managers, Contractor and Owner shall each appoint a senior representative with decision-making authority to meet for the purpose of resolving such dispute. The meeting shall take place within thirty (30) days of written request to the other Party to negotiate with senior representatives.

16.04 APPEAL OF THE SENIOR REPRESENTATIVES DECISION (DISPUTE APPEAL).

- A. If after fourteen (14) days of negotiation the dispute is not resolved, the dispute shall be referred to non-binding facilitative mediation. The request for mediation shall be filed in writing with the other Party to this Agreement, and may be made concurrently with the filing of a demand for arbitration. But, in such event, mediation shall proceed in advance thereof and arbitration shall be stayed pending mediation.

ARTICLE 17

INSURANCE AND BONDS

17.01 PERFORMANCE AND PAYMENT BONDS

- A. **Requirement for Bonds.** Furnishing of Performance and Payment Bonds will not be required unless the contract documents require one to be furnished for a specific project. In the event a PPB is required, the Contractor must furnish a performance bond and a payment bond, each in an amount equal to ninety five percent (95%) of the Contract Sum as security for the faithful performance of the Contract and as security for the payment of all persons performing labor and furnishing materials in connection with the Work. The performance bond and the payment bond must be in such form as the Owner may require and must be delivered to the Owner prior to execution of the Contract by the Owner. The Surety must be acceptable to the Owner and must be approved to transact business in the State of Michigan. **The Contractor will be required, at no cost to the Owner, to provide Performance and Payment Bonds required by any utilities for performance of any utility Work or Work on utility lines or within utility easements.**
- B. **Copies to be Furnished to Beneficiaries.** Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor must promptly furnish a copy of the bonds to such person or entity.
- C. **Owner's Right to Require Additional Bonds.** The Owner has the right to require the contractor, or any Subcontractor or Sub-subcontractor, to furnish such additional bonds as are reasonably required by the Owner, the cost of which will be borne by the Owner, unless otherwise specified in the Contract Documents.

17.02 CONTRACTOR'S LIABILITY INSURANCE

- A. **Requirement for Insurance.** The Contractor shall procure and keep in effect, and cause its subcontractors to procure and keep in effect, during the period in which it performs any Work on or for the Project, insurance coverages from insurers lawfully authorized to do business in the jurisdiction where any part of the Work shall be performed, such insurance will protect Contractor from all claims set forth in Subsection 17.02.B for which Contractor may be liable, including Contractor's own negligence, whether such actions or omissions be by the Contractor, or any Subcontractor or by anyone directly or indirectly engaged by them, or by anyone for whose acts they may be liable.
- B. **Scope of Coverage.** The required insurance must be written for not less than the limits of liability specified in each applicable Work Authorization of Contract or required by law, whichever coverage is greater. Contractor shall provide and maintain in full force and effect during the performance of the Work the following insurance coverages written by a carrier or carriers with an A.M. Best rating of A- or better and a financial size classification of VII or higher:
 - 1. Commercial General Liability including coverage for Operations (extending for at least thirty six (36) months after completion of operations) Blanket or Broad Form Contractual, Personal Injury Liability, Broad form Property Damage and Blanket XCU (property damage coverage that result from blasting or explosion (X), structural damage or collapse (C), and damage caused during excavation by mechanical equipment (U)).
 - 2. Commercial Automobile Liability insurance, covering all liability arising out of any vehicle operations, covering all owned, non-owned, leased or rented equipment used in connection with the Work.
 - 3. Workers' Compensation & Employer's Liability insurance and any insurance required by any employee benefits acts or other statutes applicable where the Work is to be performed. All such insurance limits shall be State and Federal Acts statutory. The Employer's Liability limits shall not be less than and include an all states endorsement.
 - 4. Contractor's Pollution insurance with the exclusion for professional errors and omissions deleted or a combined pollution and professional errors and omissions policy where there are both exposures for the Project.

5. The Commercial General Liability and Automobile Liability shall be written or endorsed to be primary and non-contributory to any insurance maintained by Owner, and any insurance maintained by Owner shall be considered excess, contingent and non-contributory. The amount of Contractor's insurer's liability under its respective insurance policy shall not be reduced by the existence of such other insurance carried by Owner.
 6. With respect to Contractor's Commercial General Liability and Automobile Liability policies, the policies shall be written or endorsed to provide for cross-liability or severability of interest clause. "Contractor's policies should not contain any cross-liability exclusions.
 7. Except as otherwise provided in the Contract Documents, Contractor shall ensure that any and all Subcontractors procure and maintain insurance coverage of the type and in amounts as is commercially reasonable.
- C. **Additional Insureds.** Contractor shall include Owner as an additional insured on the commercial general liability and automobile liability insurance policies with respect to the Project, and Contractor's use and occupancy thereof; the additional insured endorsement shall provide coverage for the additional insureds that is as broad as coverage as possible for an additional insured under the named insured's policy, including coverage for the additional insureds' own negligence. On the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts, or equipment furnished in connection with such work or operations and automobiles owned, leased, hired, or borrowed by or on behalf of the Contractor. General liability coverage can be provided in the form of an endorsement to the Contractor's insurance (at least as broad as ISO Form CG 20 10, CG 11 85 or both CG 20 10, CG 20 26, CG 20 33, or CG 20 38; and CG 20 37 forms if later revisions used)
- D. **Insurance Coverage and Limits of Liability.** The insurance coverage and limits required by Subsections 17.02.A and 17.02.B must be written for not less than limits of liability specified in the Contract Documents or required by law, whichever is greater.
- E. **Failure to Obtain Insurance.** If Contractor fails to obtain or maintain an insurance required by this Agreement or the applicable Work Authorization of Contract, Owner, at its option, may obtain the same for Contractor and deduct the cost thereof from any payments to be made by Owner under this Agreement.
- F. **Duration of Coverage.** Coverages, whether written on an occurrence or claims-made basis, must be maintained without interruption from Notice to Proceed until Final Completion or subsequent termination of any coverage required by the Contract Documents to be maintained after final payment.
- G. **Notice of Cancellation, Expiration or Non-renewal.** The insurance policies required by this Section 17.02 must contain a provision that coverages afforded under the policies will not be canceled or allowed to expire until at least sixty (60) days prior written notice has been given to the Owner. The Certificates of Insurance and certified copies of the policies furnished by the Contractor to the Owner under the following Subsection 17.02.H must evidence compliance with this requirement. The Contractor must promptly furnish to the Owner any information of which it is aware concerning reduction or lapse including non-renewal of coverage.

- H. **Certificates and Policies of Insurance.** Prior to the commencement of any Work, Contractor must provide to Owner certificates of insurance with endorsements and the applicable declaration pages, if such declaration pages are available, acceptable to Owner that (a) evidence the insurance coverages listed in this Subsection and as required by each Work Authorization of Contract (including any self-insured retentions, for all of which Contractor shall at all times be responsible); (b) incorporate all other provisions required above; (c) show Owner as the certificate holder; (d) are signed by an authorized representative; and (e) include project name and location. With respect to any self-insured retention over \$250,000 noted on the certificates, Contractor must provide a letter on Contractor letterhead, signed by a principal of Contractor authorized to bind Contractor on such matters, stating that the Contractor will provide the same terms and conditions to the certificate holder with respect to the self-insured retentions, including additional insured status, as are provided by the overriding policy.
- I. **Acceptance or Approval by Owner.** The form and substance of all insurance policies required to be obtained by the Contractor are subject to the approval of the Owner.
- J. **Additional Insurance.** Owner reserves the right to require the designer or contractor to obtain additional insurance coverage and endorsement at Owner sole discretion and expense, according to the nature and location of Work to be performed by the designer or contractor.

17.03 PROPERTY INSURANCE

- A. **Builder's All Risk Property Insurance Coverage to Be Provided by Owner.** The Owner will procure Builder's Risk Insurance or similar Property Insurance policy at its sole cost and expense. The builder's risk insurance or similar property insurance policy must be written or endorsed to provide a waiver of subrogation in favor of Contractor. The Owner shall name Contractor as loss payee on the builder's risk insurance or similar property insurance policy with respect to the Project.
- B. **Scope of Coverage.** The Builder's Risk Insurance or similar Property Insurance policy furnished by the Owner must include coverage in amounts sufficient to cover the replacement cost of the Work in progress, including any and all applicable deductibles, for items of labor and materials in place or to be used as part of the permanent Work, including surplus materials, temporary structures, and miscellaneous materials and supplies incidental to the Work.
- C. **Work Stored or in Transit.** Unless otherwise provided in the Contract Documents, the Builder's Risk Insurance or similar Property Insurance policy procured by the owner does not cover portions of the Work stored off the Site. Contractor is responsible to retain property insurance that covers the portions of the work stored off the site at the value established by the shipping receipt at 100% of the replacement value, and also portions of work in transit.

17.04 RELATED INSURANCE REQUIREMENTS

- A. **Umbrella / Excess Liability.** Umbrella - Excess Liability coverage shall be excess over and be no less broad than all coverages described for the base Commercial General Liability and base Auto policies and shall include a duty to defend any insured. Policy limits for the primary and excess-umbrella coverage must be the same as the underlying base Commercial General Liability policy. Drop-down coverage shall be provided for reduction and/or exhaustion of underlying aggregate limits of the base Commercial General Liability policy, and the excess-umbrella coverage shall be "following form" to the underlying policies.

ARTICLE 18

NONDISCRIMINATION IN EMPLOYMENT

18.01 NONDISCRIMINATION

- A. The Contractor agrees to comply with the nondiscrimination in employment policies and provisions prohibiting unlawful employment practices in accordance with applicable state and federal laws and regulations regarding employment discrimination. The Contractor assures the Owner that, in accordance with applicable law, it does not, and agrees that it will not discriminate in any manner on the basis of race, color, religious creed, ancestry, national origin, age, sex, marital status, disability, or sexual orientation. The Contractor must bind its Subcontractors to the provisions of this Article 18; and by appropriate written agreements must require subcontractors to similarly bind their sub-subcontractors to the provisions of this Article 18.

ARTICLE 19

STATUTORY REQUIREMENTS

19.01 ETHICAL STANDARDS

- A. **Fraudulent Schemes.** Contractor shall not offer or accept any bribes, kickbacks, credits from or to any manufacturer, consultant, trade contractor, subcontractor, supplier or any other person or entity in connection with a Project. Contractor shall not confer upon any governmental, public or quasi-public official having any authority or influence over a Project any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised.
- B. **Conflict of Interest.** Contractor shall not, without the express written permission of Owner, create a conflict of interest, real or perceived, including, without limitation;
 - 1. Engaging or recommending to Owner engagement of any consultant, trade contractor, subcontractor, supplier or any other person or entity to provide services on behalf of Contractor, Owner or for Project if Contractor has a direct or indirect proprietary or other pecuniary interest in such party;
 - 2. Calling for the use of or by exclusion require or recommend the use of products, materials, equipment, systems, processes or procedures in which Contractor or in which any Contractor Agent, consultant, trade contractor, subcontractor, or supplier of Contractor has a direct or indirect proprietary or other pecuniary interest;
 - 3. Accepting employment that reasonably appears to compromise Contractor's professional judgment.
- C. **Property Access.** Contractor will ensure that Contractor's and Contractor's Agents' personnel visiting or accessing Owner's premises, including any Property, will;
 - 1. Comply with Owner's then-current internal policies, procedures and rules applicable to Owner's personnel at such premises that are provided to Contractor in writing, including, without limitation, any then-current policies, procedures and rules relating to environmental protection, health, safety, work and security;
 - 2. Comply with all terms governing the access of any information or communication systems of Owner, including, without limitation, host and personal computers, internal or external information or communication networks (including voice mail, Internet/Intranet and e-mail systems), operating systems, database systems, or hardware and software directly or indirectly accessed from Owner's systems.

- D. **Code of Excellence.** Owner has in place a Code of Excellence ("Code"), the goal of which is to ensure that all federal, state, local laws and regulations are followed. It includes a commitment to uphold a high standard of ethical and legal business practices and to prevent misconduct. Through the implementation of this Agreement, each party acknowledges the commitment to corporate compliance and agrees to conduct all transactions which occur pursuant to this Agreement in accordance with the underlying philosophy and objectives of the Code. Any compliance violations will be considered a breach of this Agreement. As part of its obligations under this Agreement, Contractor must access (and re-access on a periodic basis) Owner's website at <https://corewellhealth.org/suppliers> to review the Code, its updates, certain notices of applicable federal and state laws as a condition of its continued participation under this Agreement and associated policies. By signing this Agreement, Contractor represents and warrants that it has accessed the information described in the preceding sentence. Contractor agrees that it shall conduct its business operations in a manner consistent with the Code and will conduct all transactions under this Agreement in accordance with Applicable Laws and high ethical standards. Any material violation shall be deemed a breach of this Agreement. Contractor shall also require Contractor's Agents to comply with all of the standards listed in Section 19.1.

19.02 HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA)

- A. **HIPAA.** Contractor agrees to comply, and cause Contractor's Agents to comply, with the health information privacy provisions of the Health Insurance Portability and Accountability Act of 1996, as amended ("HIPAA"), as well as all policies, procedures and practices of Owner relating to HIPAA privacy, confidentiality and security of patients' health information so long as Owner provides a copy of the foregoing policies, procedures and practices to Contractor. Contractor further acknowledges and agrees that, from time to time, HIPAA may require modification of this Agreement for compliance purposes. Each party will cooperate with, and assist, the other party to ensure full compliance with HIPAA with regard to this Agreement. Contractor agrees to execute, and cause Contractor's Agents to execute, a HIPAA Business Associate Agreement or similar agreement upon request by Owner.

ARTICLE 20

MISCELLANEOUS PROVISIONS

20.01 MISCELLANEOUS PROVISIONS

- A. **Assignment.** The Contractor may not assign any part of the Contract without written consent of the Owner which consent is within the Owner's sole discretion.
- B. **Assignment of Payments.** In the event the Contractor desires to make an assignment of any monies due or to become due under the Contract, the Contractor must file a copy of consent of Surety and a fully executed copy of the assignment with the Owner and the Architect/Engineer. Any such assignment must be approved by the Director.
- C. **Audit Provisions.** The Owner has the right to examine the Contractor's, its Subcontractors', Sub-subcontractors' and Suppliers' records directly or indirectly pertaining or relating to the Work or the Contract. The Owner must be granted access to and an opportunity to copy such records at all reasonable times during the Contract period and for three (3) years thereafter.
- D. **Extent of Contract.** The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral.
- E. **Governing Law.** The Contract is governed by the laws of the State of Michigan.
- F. **Obligations Surviving Termination.** The Contractor's obligations under the correction of Work provisions of the Contract, Warranties, representations, indemnification obligations and other continuing obligations survive acceptance of the Work under the Contract and termination of the Contract; and do not relieve the Contractor of the Contractor's obligations thereunder.

- G. **Severability of Provisions.** If any one or more of the provisions contained in the Contract Documents should be deemed invalid, illegal or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions contained herein are not to be affected or impaired thereby; provided the same does not materially alter the rights or obligations of the parties.
- H. **Third Parties.** The Contract Documents are not to be construed to create a contractual relationship of any kind other than between the Owner and Contractor except as specified in Subsection 3.1.2.
- I. **Written Notice.** Written notices are to be given to the representatives of the parties designated in the Contract. Written notice are deemed to have been duly served if delivered in person to the addressee for which it was intended, or if delivered or sent by mail to the last business address known to the party giving notice, provided that if sent by mail it must be by first class mail postage prepaid except, if to the Owner in which case it must be by registered or certified mail. Any notice given by facsimile or e-mail must be confirmed by a copy delivered personally or by mail, and in the case of the Owner, by registered or certified mail. The date of any notice is deemed to be the earlier of the date of personal delivery or receipt by facsimile or e-mail or similar means, or if mailed, the earlier of actual receipt or three (3) days after the postmark date.

PART 2 PRODUCTS - NOT USED

PART 3 EXECUTION - NOT USED

END OF DOCUMENT 00 7200

**SECTION 00 7300
SUPPLEMENTARY CONDITIONS**

PART 1 GENERAL

1.01 SUMMARY

- A. These Supplementary Conditions amend and supplement the General Conditions defined in Document 00 7200 - General Conditions and other provisions of Contract Documents as indicated below. Provisions that are not so amended or supplemented remain in full force and effect.
- B. The terms used in these Supplementary Conditions that are defined in the General Conditions have the meanings assigned to them in the General Conditions.

PART 2 PRODUCTS - NOT USED

PART 3 EXECUTION - NOT USED

END OF SECTION 00 7300

SECTION 00 7316
INSURANCE REQUIREMENTS FOR CONSTRUCTION

PART 1 GENERAL

1.01 SECTION INCLUDES

- A. Commercial General Liability
- B. Commercial Automobile Liability
- C. Workers' Compensation
- D. Employers Liability
- E. Contractor's Pollution Liability

1.02 RELATED REQUIREMENTS

- A. Property Insurance / Builder's Risk
- B. Umbrella / Excess Liability

PART 2 PRODUCTS - NOT USED

PART 3 EXECUTION

3.01 CONTRACTOR'S INSURANCE; INDEMENTY

- A. Contractor shall procure and keep in effect, and cause its subcontractors to procure and keep in effect, during the period in which it performs any Work on or for the Project, the below outlined insurance coverages from insurers lawfully authorized to do business in the jurisdiction where any part of the Work shall be performed, such insurance will protect Contractor from all claims for which Contractor may be liable, including Contractor's own negligence, whether such actions or omissions be by the Contractor, or any Subcontractor or by anyone directly or indirectly engaged by them, or by anyone for whose acts they may be liable.
- B. The required insurance must be written for not less than the limits of liability specified herein, in each applicable Work Authorization of Contract or required by law, whichever coverage is greater. Contractor shall provide and maintain in full force and effect during the performance of the Work the following insurance coverages written by a carrier or carriers with an A.M. Best rating of A- or better and a financial size classification of VII or higher: (a) commercial general liability insurance, (b) automobile liability insurance, (c) worker's compensation insurance and employer's liability insurance, (d.) Contractor's Pollution Liability Insurance
 - 1. Commercial General Liability including coverage for Operations (extending for at least thirty six (36) months after completion of operations) Blanket or Broad Form Contractual, Personal Injury Liability, Broad form Property Damage and Blanket XCU (property damage coverage that result from blasting or explosion (X), structural damage or collapse (C), and damage caused during excavation by mechanical equipment (U)).
- C. \$2,000,000 General Aggregate Per Location
- D. \$1,000,000 Products / Completed-Operations Aggregate
- E. \$1,000,000 Personal and Advertising Injury
- F. \$1,000,000 Each Occurrence
 - 1. Commercial Automobile Liability insurance, covering all liability arising out of any vehicle operations, covering all owned, non-owned, leased or rented equipment used in connection with the Work, in amounts not less than:
- G. \$1,000,000 Combined Single Limit
 - 1. Workers' Compensation & Employer's Liability insurance and any insurance required by any employee benefits acts or other statutes applicable where the Work is to be performed. All such insurance limits shall be State and Federal Acts statutory. The Employer's Liability limits shall not be less than and include an all states endorsement:
- H. \$500,000 Each Accident

- I. \$500,000 Disease – Policy Limits
- J. \$500,000 Disease – Each Employee
 - 1. Contractor's Pollution insurance with the exclusion for professional errors and omissions deleted or a combined pollution and professional errors and omissions policy where there are both exposures for the Project.
- K. \$2,000,000 General Aggregate
- L. \$1,000,000 Each Occurrence

3.02 SPECTRUM HEALTH ADDITIONAL INSURANCE REQUIREMENTS

- A. Contractor shall include Corewell Health as an additional insured on the commercial general liability and automobile liability insurance policies with respect to the Project, and Contractor's use and occupancy thereof; the additional insured endorsement shall provide coverage for the additional insureds that is as broad as coverage as possible for an additional insured under the named insured's policy, including coverage for the additional insureds' own negligence. On the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts, or equipment furnished in connection with such work or operations and automobiles owned, leased, hired, or borrowed by or on behalf of the Contractor. General liability coverage can be provided in the form of an endorsement to the Contractor's insurance (at least as broad as ISO Form CG 20 10, CG 11 85 or both CG 20 10, CG 20 26, CG 20 33, or CG 20 38; and CG 20 37 forms if later revisions used)
- B. The Commercial General Liability and Automobile Liability shall be written or endorsed to be primary and non-contributory to any insurance maintained by Corewell Health, and any insurance maintained by Corewell Health shall be considered excess, contingent and non-contributory. The amount of Contractor's insurer's liability under its respective insurance policy shall not be reduced by the existence of such other insurance carried by Corewell Health.
- C. With respect to Contractor's Commercial General Liability and Automobile Liability policies, the policies shall be written or endorsed to provide for cross-liability or severability of interest clause. "Contractor's policies should not contain any cross-liability exclusions.
- D. Except as otherwise provided in the Work Authorization of Contract, Contractor shall ensure that any and all Subcontractors procure and maintain insurance coverage of the type and in amounts as is commercially reasonable.
- E. Prior to the commencement of any Work, Contractor must provide to Corewell Health certificates of insurance with endorsements and the applicable declaration pages, if such declaration pages are available, acceptable to Corewell Health that (a) evidence the insurance coverages listed in this Subsection and as required by each Work Authorization of Contract (including any self-insured retentions, for all of which Contractor shall at all times be responsible); (b) incorporate all other provisions required above; (c) show Corewell Health as the certificate holder; (d) are signed by an authorized representative; and (e) include project name and location. With respect to any self-insured retention over \$250,000 noted on the certificates, Contractor must provide a letter on Contractor letterhead, signed by a principal of Contractor authorized to bind Contractor on such matters, stating that the Contractor will provide the same terms and conditions to the certificate holder with respect to the self-insured retentions, including additional insured status, as are provided by the overriding policy.
- F. If Contractor fails to obtain or maintain an insurance required by this Agreement or the applicable Work Authorization of Contract, Corewell Health, at its option, may obtain the same for Contractor and deduct the cost thereof from any payments to be made by Corewell Health under this Agreement.

- G. Contractor shall indemnify, defend (using counsel reasonably approved by Corewell Health), and hold Corewell Health and its employees and agents harmless from any and all claims, damages and liabilities for injury to any person or damage to any property (other than the completed Work), including real, personal and tangible property (including reasonable attorneys' fees) arising from or relating to the negligent acts or omissions of Contractor or Contractor's Agents, in the performance or non-performance of its duties under this Agreement or breach of this Agreement. If any party asserts a lien against the Property as a result of services procured by, through, or at the direction of Contractor, or Contractor's Agents, Contractor shall defend, indemnify, and hold **Spectrum** harmless from all damages, liability, losses, and costs, including actual attorney fees.
- H. Corewell Health shall indemnify, defend and hold Contractor and its employees and agents harmless from any and all claims, damages and liabilities for injury to any person or damage to any property (including reasonable attorneys' fees) arising from or relating to the negligent acts or omissions of Corewell Health or Corewell Health's agents, in the performance or non-performance of its duties under this Agreement or breach of this Agreement where such claims, damages and liabilities are not covered by any insurance required by this Agreement.
- I. Corewell Health reserves the right to require the contractor to obtain additional insurance coverage and endorsement at Corewell Health's sole discretion and expense, according to the nature and location of Work to be performed by the contractor.

3.03 RELATED INSURANCE REQUIREMENTS

- A. PROPERTY INSURANCE / BUILDERS RISK
- B. Unless otherwise provided, Corewell Health shall procure builder's risk insurance or similar property insurance policy at its sole cost and expense in amounts sufficient to cover the replacement cost of the Work in progress, "(not including Contractor's tools and equipment)."
The builder's risk insurance or similar property insurance policy must be written or endorsed to provide a waiver of subrogation in favor of Contractor. Corewell Health shall name Contractor as loss payee on the builder's risk insurance or similar property insurance policy with respect to the Project.
- C. UMBRELLA / EXCESS LIABILITY
- D. Excess – Umbrella Liability coverage, shall be excess over and be no less broad than all coverages described for the base Commercial General Liability and base Auto policies and shall include a duty to defend any insured. Policy limits for the primary and excess-umbrella coverage must be the same as the underlying base Commercial General Liability policy. Drop-down coverage shall be provided for reduction and/or exhaustion of underlying aggregate limits of the base Commercial General Liability policy, and the excess-umbrella coverage shall be "following form" to the underlying policies
- E. \$2,000,000 General Aggregate
- F. \$1,000,000 Each Occurrence
- G. (Corewell Health may increase this at Corewell Health's expense for higher Exposure)

END OF SECTION 00 7316 00 7316