



**CITY COMMISSION MEETING
AGENDA FOR JUNE 25, 2024
5:00 PM
CITY HALL COMMISSION CHAMBERS
300 SOUTH FIFTH STREET**

*Any member of the public who wishes to make comments to the Board of Commissioners is asked to fill out a Public Comment Sheet and place it in the box located at the end of the Commissioner's desk on the left side of the Commission Chambers. The Mayor will call on you to speak during the **Public Comments** section of the Agenda.*

ROLL CALL

INVOCATION

PLEDGE OF ALLEGIANCE

ADDITIONS/DELETIONS

NEW EMPLOYEE INTRODUCTIONS Interim Planning Director Carol Gault - M. SMOLEN

PRESENTATION Paducah Water Agency Overview - Jason Petersen

PUBLIC COMMENTS

MAYOR'S REMARKS

Items on the Consent Agenda are considered to be routine by the Board of Commissioners and will be enacted by one motion and one vote. There will be no separate discussion of these items unless a Board member so requests, in which event the item will be removed from the Consent Agenda and considered separately. The City Clerk will read the items recommended for approval.

	I.	<u>CONSENT AGENDA</u>
	A.	Approve Minutes for the June 11, 2024, Board of Commissioners Meeting
	B.	Receive & File Documents
	C.	Appointment of Herbert Gregory to the Paducah-McCracken County Senior Citizens Board
	D.	Reappointment of Charles "Chip" Bohle, Patrick White and Joseph Benberry to the Paducah Area Transit Authority Board
	E.	Appointment of Jonathan Mark Davis and Joint Appointment of Will Cox to the Paducah-McCracken County Joint Sewer Agency Board
	F.	Reappointment of Mark Whitlow and Joint Reappointment of Alexandra Sherwood to the Paducah-McCracken County Convention Center Corporation
	G.	Personnel Actions

		H.	Reimbursement Agreement with Paducah Water for the S 24th Street Waterline Relocation Expenses - G. GUEBERT
		I.	Accept proposed premiums from the Kentucky League of Cities for Workers' Compensation, Liability Insurance, and Property Insurance Coverage for a total amount of \$1,262,094.99 - S. WILCOX
		J.	Approve Contract Modification #1 to BUILD Grant Contract for Professional Services with HDR, Inc. for \$40,000 - M. TOWNSEND
		K.	Approve an Interlocal Participation Agreement for Cooperative Purchasing with Buy Board, National Purchasing Cooperative to allow for the purchase of certain services and goods at a cost savings to the City - C. YARBER
		L.	Authorize the Acceptance of a 2024 Kentucky 911 Services Board Grant in the Amount of \$99,653 - B. LAIRD
		M.	Authorize the Acceptance of a State and Local Cybersecurity Security Grant in the Amount of \$50,000 - E. STUBER
	II.	<u>BOARD APPOINTMENT(S)</u>	
		A.	Appointment of Paul Gouriex, Uppinder Mehan, Ashlea McMillan, Elisha Winslow and Julie Harris to the Paducah Riverfront Development Authority
	III.	<u>MUNICIPAL ORDER(S)</u>	
		A.	City of Paducah Title VI Program Plan Adoption - S. WILCOX
		B.	Accept recommendation from Sports Tourism Commission for evaluated bids for Paducah Sports Park for Bid Package 01 - Site: Field Turf and approve construction contracts with Sprinturf in the amount of \$6,321,087.00 - A. CLARK & D. JORDAN
		C.	Accept recommendation from Sports Tourism Commission for evaluated bids for Paducah Sports Park for Bid Package 01 - Site: Lighting and approve construction contracts with Musco in the amount of \$2,264,475.00 - A. CLARK & D. JORDAN
		D.	Accept recommendation from Sports Tourism Commission for evaluated bids for Paducah Sports Park for Bid Package 01 - Site/Civil and Bid Package 02 - Buildings and approve construction contracts with A&K Construction in the amount of \$47,771,839.00 - A. CLARK & D. JORDAN
		E.	Accept recommendation from Sports Tourism Commission for Paducah Sports Park for Bid Package 02 - Food and Beverage and approve contract for services with Stafford Smith in the amount of \$608,833.00 - A. CLARK & D. JORDAN
	IV.	<u>ORDINANCE(S) - ADOPTION</u>	

		A.	Approve an Ordinance Creating a Real Estate Parcel Fee for the Funding of 911 Services, Maintenance, and Equipment - D. JORDAN
	V.	<u>ORDINANCE(S) - INTRODUCTION</u>	
		A.	Approve Section 8 Housing Choice Voucher Program FY25 Budget - LASICA McEWEN
	VI.	<u>COMMENTS</u>	
		A.	Comments from the City Manager
		B.	Comments from the Board of Commissioners
	VII.	<u>EXECUTIVE SESSION</u>	

June 11, 2024

At a Regular Meeting of the Paducah Board of Commissioners held on Tuesday, June 11, 2024, at 5:00 p.m., in the Commission Chambers of City Hall located at 300 South 5th Street, Mayor George Bray presided. Upon call of the roll by the City Clerk, the following answered to their names: Commissioners Guess, Henderson, Smith, Wilson, and Mayor Bray (5).

INVOCATION

Commissioner Henderson led the Invocation.

PLEDGE OF ALLEGIANCE

Mayor Bray led the pledge.

CONSENT AGENDA

Mayor Bray asked if the Board wanted any items on the Consent Agenda removed for separate consideration. No items were removed for separate consideration. Mayor Bray asked the City Clerk to read the items on the Consent Agenda.

I(A)	Approve Minutes for the May 28, 2024, Board of Commissioners Meeting
I(B)	Receive and File Documents: <u>Minute File:</u> 1. Notification by Jet Insurance Company regarding Bond cancellation for Quad State Internet, LLC <u>Contract File:</u> 1. Resignation and Release – Nic Hutchison 2. Letter to Automated Merchant Systems regarding termination of services provided by AMS_Corebt. Signed by Assistant City Manager Michelle Smolen 3. Contract with Jim Smith Contracting – Cherry Civic Center Parking Lot Rehabilitation – MO #2888 4. LaBarri Subdivision - Termination of Residential Infill Development Agreement – EMD Properties, LLC – MO #2892 5. LaBarri Subdivision - Residential Infill Development Agreement – Willett Enterprises, Inc. MO #2893 6. Contract For Services – Rightway Janitorial Services – City Park Facilities MO #2897 7. Fleet Maintenance Service Agreement with Livingston County Emergency Management – MO #2899 8. Fleet Maintenance Service Agreement with Barkley Regional Airport Authority – MO #2900 9. Agreement to Purchase ½ ton pickup 4x4 SSV for Fire Department – MO #2901 10. Contract For Services – Beautiful Paducah – BBQ on the River 2024 – MO #2903 <u>Deed File:</u>

June 11, 2024

	- Quitclaim Deed – City of Paducah to Paducah-McCracken County Senior Citizens – Alley Closure – ORD 2024-04-8807 <u>Financials:</u> - Paducah Water Works – Month ended April 30, 2024 <u>Bids and Proposals File:</u> - Robert Cherry Civic Center Parking Lot Rehabilitation - Jim Smith Contracting (MO #2888) - Central Paving Co. of Paducah - Custodial Services for City Park Facilities - Rightway Janitorial Services (MO #2897) - Purchase of one ½ ton pickup 4x4 SSV for Fire Department - Linwood Motors (MO #2901) - John Jones Auto Group
I(C)	Reappointment of Carol Young to the Paducah-McCracken County Senior Citizens Board. This term shall expire June 22, 2027
I(D)	Personnel Actions
I(E)	A MUNICIPAL ORDER AMENDING THE FY2023-2024 POSITION AND PAY SCHEDULE FOR THE FULL-TIME EMPLOYEES OF THE CITY OF PADUCAH, KENTUCKY (MO #2904; BK 13)
I(F)	A MUNICIPAL ORDER AMENDING THE FISCAL YEAR 2024 PAY GRADE SCHEDULE FOR THE EMPLOYEES OF THE CITY OF PADUCAH, KENTUCKY (MO #2905; BK 13)

Commissioner Guess offered Motion, seconded by Commissioner Henderson, that the items on the consent agenda be adopted as presented.

Adopted on call of the roll yeas, Commissioners Guess, Henderson, Smith, Wilson, and Mayor Bray (5).

MUNICIPAL ORDERS

APPROVE INTERIM PLANNING DIRECTOR EMPLOYMENT AGREEMENT WITH CAROL GAULT

Commissioner Henderson offered Motion, seconded by Commissioner Guess, that the Board of Commissioners adopt a Municipal Order entitled, “A MUNICIPAL ORDER APPROVING AN EMPLOYMENT AGREEMENT BETWEEN THE CITY OF PADUCAH AND CAROL GAULT FOR EMPLOYMENT AS INTERIM PLANNING DIRECTOR, AND AUTHORIZING THE MAYOR TO EXECUTE SAME.”

Adopted on call of the roll yeas, Commissioners Guess, Henderson, Smith, Wilson, and Mayor Bray (5). **(MO #2906; BK 13)**

APPROVE DEVELOPMENT AGREEMENT WITH C.I.R.CO CONSTRUCTION FOR 318 BROADWAY STREET (Kresge)

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Commissioner Smith offered Motion, seconded by Commissioner Wilson, that the Board of Commissioners adopt a Municipal Order entitled, “A MUNICIPAL ORDER DECLARING THE PROPERTY AT 318 BROADWAY TO BE SURPLUS, TRANSFERRING THE PROPERTY TO C.I.R.CO, LLC FOR COMPENSATION IN THE AMOUNT OF \$10,000, AND AUTHORIZING THE MAYOR TO EXECUTE A DEVELOPMENT AGREEMENT BETWEEN THE CITY OF PADUCAH, KENTUCKY, AND C.I.R.CO, LLC AND ALL DOCUMENTS RELATED TO SAME.”

Adopted on call of the roll yeas, Commissioners Guess, Henderson, Smith, Wilson, and Mayor Bray (5). **(MO # 2907; BK 13)**

ACCEPT THE 2024-2026 HOUSE BILL 1 APPROPRIATION IN THE AMOUNT OF \$3.5 MILLION FOR THE BUILD GRANT PROJECT

Commissioner Wilson offered Motion, seconded by Commissioner Smith, that the Board of Commissioners adopt a Municipal Order entitled, “A MUNICIPAL ORDER ACCEPTING GRANT FUNDS THROUGH THE DEPARTMENT FOR LOCAL GOVERNMENT FOR THE BETTER UTILIZING INVESTMENTS TO LEVERAGE DEVELOPMENT (BUILD) GRANT PROJECT IN AN AMOUNT OF \$3,500,000 TO IMPROVE THE PADUCAH RIVERFRONT AND PEDESTRIAN CORRIDOR FROM THE CONVENTION CENTER TO DOWNTOWN, AUTHORIZING THE MAYOR TO EXECUTE A MEMORANDUM OF UNDERSTANDING FOR THE FUNDS AND ALL OTHER DOCUMENTS RELATED TO SAME.”

Adopted on call of the roll yeas, Commissioners Guess, Henderson, Smith, Wilson, and Mayor Bray (5). **(MO # 2908; BK 13)**

ORDINANCE ADOPTIONS

AMEND CODE OF ORDINANCES CREATING A NEW SECTION OF THE CITY OF PADUCAH ZONING CODE RELATED TO REASONABLE ACCOMMODATION FOR RECOVERY HOMES

Commissioner Guess offered Motion, seconded by Commissioner Henderson, that the Board of Commissioners adopt an Ordinance entitled, “AN ORDINANCE ESTABLISHING SECTION 126-88, REASONABLE ACCOMMODATION FOR RECOVERY HOMES, OF THE CODE OF ORDINANCES OF THE CITY OF PADUCAH KENTUCKY.”

Adopted on call of the roll yeas, Commissioners Guess, Henderson, Smith, Wilson, and Mayor Bray (5). **(ORD NO. 2024-06-8814; BK 37)**

APPROVE FISCAL YEAR 2025 BUDGET (07/01/2024–06/30/2025) FOR THE CITY OF PADUCAH

Commissioner Henderson offered Motion, second by Commissioner Henderson, that the Board of Commissioners adopt an Ordinance entitled, “AN ORDINANCE ADOPTING THE CITY OF PADUCAH, KENTUCKY, ANNUAL OPERATING BUDGET FOR THE FISCAL YEAR JULY 1, 2024, THROUGH JUNE 30, 2025, BY ESTIMATING REVENUES AND RESOURCES AND APPROPRIATING FUNDS FOR THE OPERATION OF CITY GOVERNMENT.” This Ordinance is summarized as follows: Adopting the City of Paducah annual budget for Fiscal Year

June 11, 2024

July 1, 2024, through June 30, 2025, by estimating revenues and resources and appropriating funds for the operation of City Government at \$120,854,935, and summarized by fund as follows:

<u>FUNDS</u>	<u>APPROPRIATIONS</u>
1000 GENERAL	\$57,637,779
2300 MAP	2,501,705
2400 INVESTMENT	8,315,330
2500 TIF	0
2000 E911	3,721,817
2200 OPIOID	64,200
2700 COURT AWARDS	116,165
2800 ROOM TAX	1,850,650
3000 DEBT	3,617,780
4000 CIP	11,296,250
4200 BOND FUND	15,000,000
5000 SOLID WASTE	6,937,075
TRANSIENT BOAT	
5300 DOCK	442,681
1100 RENTAL	154,482
1200 RADIO DEPR	25,035
7000 FLEET MAINTENANCE	879,981
7100 FLEET LEASE TRUST	2,425,255
7200 INSURANCE	1,348,140
7300 HEALTH INSURANCE	3,659,420
8100 PFPF	786,765
8400 OTHER TRUSTS	<u>74,425</u>
	\$120,854,935

Adopted on call of the roll yeas, Commissioners Guess, Henderson, Smith, Wilson, and Mayor Bray (5). (ORD NO. 2024-05-8815; BK 37)

ORDINANCE INTRODUCTION

APPROVE AN ORDINANCE CREATING A REAL ESTATE PARCEL FEE FOR THE FUNDING OF 911 SERVICES, MAINTENANCE AND EQUIPMENT

Commissioner Smith offered Motion, seconded by Commissioner Wilson, that the Board of Commissioners introduce an Ordinance entitled, "AN ORDINANCE ESTABLISHING AND IMPOSING A FEE ON ALL OCCUPIED REAL ESTATE PARCELS LOCATED WITHIN THE TERRITORIAL LIMITS OF THE CITY OF PADUCAH TO FACILITATE FUNDING FOR THE PROVISION OF JOINT 911 SERVICES AS MORE FULLY SET FORTH IN THE INTERLOCAL COOPERATION AGREEMENT BETWEEN THE CITY OF PADUCAH AND MCCracken COUNTY." This Ordinance is summarized as follows: This ordinance establishes an annual parcel fee on all occupied individual residential units and all occupied individual commercial, religious, charitable, educational, and public use units located within the territorial limits of the City of Paducah.

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Parcel fees shall be placed upon the City of Paducah's property tax bills beginning with the 2024 tax bill and continuing every year thereafter. The due dates will be the same as the property tax due dates set by the Board of Commissioners. In the first year, occupied rental units will be eligible to claim a credit of \$22.50 per unit against the annual fee due.

In accordance with KRS 83A. 060, the following Section of the Ordinance which imposes fees is hereby set forth in full:

The Board of Commissioners hereby imposes the following annual parcel fees on all parcels of occupied real property, as more accurately defined in Sections 3 through 5 of this Ordinance, which are located within the jurisdictional limits of the City of Paducah:

A. Super Commercial Retail Unit (contains structure in excess of 25,000 sq. ft.)	\$1,550
B. Large Commercial Retail Unit (contains structure between 7,500 and 25,000 sq. ft.)	\$860
C. Medium Commercial Retail Unit (contains structure between 2,500 and 7,500 sq. ft.)	\$325
D. Small Commercial Retail Unit (structure between 1 and 2,500 sq. ft.)	\$210
E. Non-Commercial Retail Unit (which shall include, but not be limited to, parking lots, garages, or other areas designed for the parking of motor vehicles as defined by KRS 186.010(4) whereby the owner, occupant, lessee, or possessor of any portion of the parcel leases, rents, licenses, bails, or otherwise allows the parking or storage of motor vehicles in exchange for consideration)	\$150
F. Public Use Units (emergency service, governmental, religious, charitable, and educational)	\$35
G. Residential Units	\$45

In the event a parcel is mixed use, the parcel shall be assessed at the highest applicable assessment rate.

DISCUSSION:

PADUCAH SPORTS PARK

Communications Manager Pam Spencer offered the following summary:

“McCracken County Community Development Project Manager Steve Ervin provided an update on the Paducah Sports Park which will be constructed at the former Bluegrass Downs site and Stuart Nelson Park. Earlier this year the City and County approved the construction documents with the project placed out to bid this spring. At this time, bids have been submitted with bids received for site work, buildings, food and beverage equipment, lighting, and field turf. Ervin said that on

June 11, 2024

Monday the McCracken County Sports Tourism Commission approved recommending the construction contracts for the project to the City and County.

At January's meeting, it was announced that the estimated cost of the facility's construction is \$65 million. However, the recent bids exceeded that amount leading to a need to remove some design elements at this time including the grandstand rehabilitation, the championship field adjacent to the grandstand, a small building, maintenance area, and the basketball and pickleball areas. These features could be redesigned and added at a later date.

After these deductions, the design includes five rectangular fields and four diamond-shaped fields that can be configured in a variety of ways and sizes. These multi-use, synthetic turf fields can incorporate soccer, baseball, softball, rugby, or football. Other design features include a memorial complex to Dr. Stuart Nelson, shelter and restroom facilities, concession facilities, picnic and playground areas, and a significant amount of parking.

As outlined in the interlocal agreement, the City Commission and Fiscal Court have a 20 day window to accept the McCracken County Sports Tourism Commission's recommendation to proceed.

After a one-year construction period, the goal is for the facility to open in 2025. Over the past four years, the project has included research and analysis, stakeholder engagement, and master planning. The Paducah Sports Park has the following principles

- Become a regional destination for athletic tournament play.
- Provide high quality athletic experiences for the local community.
- Further develop the unique brand and identity of Paducah and McCracken County.

With an expectation of holding 35 to 40 tournaments per year, the McCracken County Sports Tourism Commission estimates that the facility could generate a local economic impact of approximately \$130 million in its first five years of use."

PUBLIC COMMENTS

Cheryl Glore Goodwin commented on the need for better amenities at Coleman Park, including a permanent restroom facility.

EXECUTIVE SESSION

Commissioner Wilson offered Motion, seconded by Commissioner Smith, that the Board of Commissioners go into closed session for discussion of matters pertaining to the following topics:

- A specific proposal by a business entity where public discussion of the subject matter would jeopardize the location, retention, expansion or upgrading of a business entity, as permitted by KRS 61.810(1)(g)

Adopted on call of the roll yeas, Commissioners Guess, Henderson, Smith, Wilson, and Mayor Bray (5).

RECONVENE IN OPEN SESSION

June 11, 2024

Commissioner Smith offered motion, seconded by Commissioner Guess, that the Paducah Board of Commissioners reconvene in open session.

Adopted on call of the roll yeas, Commissioners Guess, Henderson, Smith, Wilson, Mayor Bray (5).

ADJOURN

Commissioner Guess offered Motion, seconded by Commissioner Smith, that the meeting be adjourned.

Adopted on call of the roll yeas, Commissioners Guess, Henderson, Smith, Wilson, Mayor Bray (5).

TIME ADJOURNED: 7:28 p.m.

ADOPTED: June 25, 2024

George Bray, Mayor

ATTEST:

Lindsay Parish, City Clerk

June 25, 2024

RECEIVE AND FILE DOCUMENTS:

Minute File:

1. Special called meeting notice of the Paducah Board of Ethics on June 12, 2024

Contract File:

1. Interim Planning Director Employment Agreement with Carol Gault – MO #2906
2. Development Agreement with C.I.R.CO Construction for 318 Broadway Street (Kresge lot) – MO #2907

Financials:

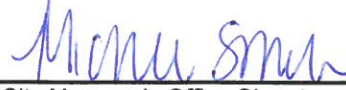
1. Paducah Water Works – month ended May 31, 2024

Bids and Proposals File:

1. Brittany Wallin – 318 Broadway – May 2023
2. CIRCO Properties – 318 Broadway – April, 2023

CITY OF PADUCAH
June 25, 2024

Upon the recommendation of the City Manager's Office, the Board of Commissioners of the City of Paducah order that the personnel changes on the attached list be approved.



City Manager's Office Signature



Date

**CITY OF PADUCAH
PERSONNEL ACTIONS
June 25, 2024**

NEW HIRES - FULL-TIME (F/T)					
<u>PUBLIC WORKS</u>	<u>POSITION</u>	<u>RATE</u>	<u>NCS/CS</u>	<u>FLSA</u>	<u>EFFECTIVE DATE</u>
Davis, Matthew R.	Fleet Mechanic II	\$22.25/hr	NCS	Non-Ex	July 11, 2025
NEW HIRES - PART-TIME (P/T)					
<u>FIRE - PREVENTION</u>	<u>POSITION</u>	<u>RATE</u>	<u>NCS/CS</u>	<u>FLSA</u>	<u>EFFECTIVE DATE</u>
Anderson, Samuel Potter	Admin Assistant - Temp	\$12.00/hr	NCS	Non-Ex	June 12, 2024
<u>PARKS & RECREATION</u>					
Smith, Milleah L.	Recreation Leader - Camp Counselor	\$12.00/hr	NCS	Non-Ex	June 12, 2024
PAYROLL ADJUSTMENTS/TRANSFERS/PROMOTIONS/TEMPORARY ASSIGNMENTS (PART-TIME)					
<u>POLICE</u>	<u>PREVIOUS POSITION AND BASE RATE OF PAY</u>	<u>CURRENT POSITION AND BASE RATE OF PAY</u>	<u>NCS/CS</u>	<u>FLSA</u>	<u>EFFECTIVE DATE</u>
Boulton, Jon K.	Equipment Specialist \$16.38/hr	Equipment Specialist \$17.04/hr	NCS	Non-Ex	June 27, 2024
<u>TECHNOLOGY</u>					
Saul, Alyson K.	GIS Intern \$17.00/hr	GIS Intern \$20.00/hr	NCS	Non-Ex	May 16, 2024
PAYROLL ADJUSTMENTS/TRANSFERS/PROMOTIONS/TEMPORARY ASSIGNMENTS (FULL-TIME)					
<u>E911</u>	<u>PREVIOUS POSITION AND BASE RATE OF PAY</u>	<u>CURRENT POSITION AND BASE RATE OF PAY</u>	<u>NCS/CS</u>	<u>FLSA</u>	<u>EFFECTIVE DATE</u>
Kitty, Ariana R.	911 Division Manager \$46.81/hr	911 Division Manager \$47.98/hr	NCS	Ex	May 30, 2024
Kitty, Ariana R.	911 Division Manager \$47.98/hr	911 Division Manager \$49.90/hr	NCS	Ex	June 27, 2024
<u>ADMINISTRATION</u>					
Smolen, Michelle L.	Assistant City Manager \$59.66/hr	Assistant City Manager \$62.64/hr	NCS	Ex	June 13, 2024
Smolen, Michelle L.	Assistant City Manager \$62.64/hr	Assistant City Manager \$65.15/hr	NCS	Ex	June 27, 2024
<u>CUSTOMER EXPERIENCE</u>					
Parish, Lindsay R.	City Clerk / CX Director \$48.42/hr	City Clerk / CX Director \$50.84/hr	NCS	Ex	June 13, 2024
Parish, Lindsay R.	City Clerk / CX Director \$50.84/hr	City Clerk / CX Director \$52.87/hr	NCS	Ex	June 27, 2024
<u>FIRE - SUPPRESSION</u>					
Broadway, Michael A.	Firefighter Appointee \$15.18/hr	Firefighter \$15.18/hr	NCS	Non-Ex	June 13, 2024
Gray, Jedediah K.	Firefighter Appointee \$15.18/hr	Firefighter \$15.18/hr	NCS	Non-Ex	June 13, 2024
Hembd, Alfred Z.	Firefighter Appointee \$15.18/hr	Firefighter \$15.18/hr	NCS	Non-Ex	June 13, 2024
Kyle, Stephen D.	Fire Chief \$73.33/hr	Fire Chief \$75.53/hr	NCS	Ex	June 13, 2024
Kyle, Stephen D.	Fire Chief \$75.53/hr	Fire Chief \$78.55/hr	NCS	Ex	June 27, 2024
Loreda, Jose A.	Firefighter Appointee \$15.18/hr	Firefighter \$15.18/hr	NCS	Non-Ex	June 13, 2024
<u>HUMAN RESOURCES</u>					
Wilcox, Stefanie E.	HR Director \$55.03/hr	HR Director \$57.78/hr	NCS	Ex	June 13, 2024
Wilcox, Stefanie E.	Director of Human Resources \$57.78/hr	Director of Human Resources \$60.09/hr	NCS	Ex	June 27, 2024
<u>PARKS & RECREATION</u>					

**CITY OF PADUCAH
PERSONNEL ACTIONS
June 25, 2024**

Askew, Lamiira A.	Administrative Assistant \$20.55/hr	Administrative Assistant \$20.86/hr	NCS	Non-Ex	May 16, 2024
Askew, Lamiira A.	Administrative Assistant \$20.86/hr	Administrative Assistant \$21.69/hr	NCS	Non-Ex	June 27, 2024
Clark, Amie R.	Director of Parks & Recreation \$51.61/hr	Director of Parks & Recreation \$53.16/hr	NCS	Ex	June 13, 2024
Clark, Amie R.	Director of Parks & Recreation \$53.16/hr	Director of Parks & Recreation \$55.29/hr	NCS	Ex	June 27, 2024
Kirks, Kennedy M.	Recreation Specialist \$21.92/hr	Recreation Specialist \$22.14/hr	NCS	Ex	May 2, 2024
<u>POLICE</u>					
Laird, Brian G.	Police Chief \$66.80/hr	Police Chief \$68.80/hr	NCS	Ex	June 13, 2024
Laird, Brian G.	Police Chief \$68.80/hr	Police Chief \$71.55/hr	NCS	Ex	June 27, 2024
Miller, Sabrina N.	Evidence Technician \$20.26/hr	Evidence Technician \$20.67/hr	NCS	Non-Ex	June 13, 2024
Miller, Sabrina N.	Evidence Technician \$20.67/hr	Evidence Technician \$21.50/hr	NCS	Non-Ex	June 27, 2024
Watson, Travis L.	Operations Captain \$43.16/hr	Support Services Captain \$43.16/hr	NCS	Ex	June 13, 2024
<u>TECHNOLOGY</u>					
Benjamin, John	Software Specialist \$30.05/hr	Software Specialist \$30.80/hr	NCS	Ex	June 13, 2024
Benjamin, John	Software Specialist \$30.80/hr	Software Specialist \$32.03/hr	NCS	Ex	June 13, 2024

TERMINATIONS - PART-TIME (P/T)

<u>PARKS & RECREATION</u>	<u>POSITION</u>	<u>REASON</u>	<u>EFFECTIVE DATE</u>
Dunn, Elisabeth	Recreation Leader - Camp Counselor	Seasonal Termination	June 25, 2024
Durfee, Weslyn	Lifeguard	Seasonal Termination	June 25, 2024
Edwards, Madelyn	Lifeguard	Seasonal Termination	June 25, 2024
Garatt, Kennedy G.	Assistant Pool Manager	Seasonal Termination	June 25, 2024
Haley, Madisyn	Lifeguard	Seasonal Termination	June 25, 2024
Herndon, Leah	Recreation Leader - Camp Counselor	Seasonal Termination	June 25, 2024
Meadows, Elise	Pool Attendant	Seasonal Termination	June 25, 2024
Oliver, Tristan	Recreation Leader	Seasonal Termination	June 25, 2024
O'Malley, Kayla	Pool Attendant	Seasonal Termination	June 25, 2024
Owens, Dylan	Lifeguard	Seasonal Termination	June 25, 2024
Peoples, Grace	Recreation Leader - Camp Counselor	Seasonal Termination	June 25, 2024
Pugh, Chesleigh	Recreation Leader - Intern	Seasonal Termination	June 25, 2024
Reese, Katherine	Recreation Leader - Camp Counselor	Seasonal Termination	June 25, 2024
Schmidt, Olivia	Lifeguard	Seasonal Termination	June 25, 2024
Wiring, Abigail	Pool Attendant	Seasonal Termination	June 25, 2024

TERMINATIONS - FULL-TIME (F/T)

<u>E911</u>	<u>POSITION</u>	<u>REASON</u>	<u>EFFECTIVE DATE</u>
Loyd, Cierra M.	Telecommunicator	Resignation	May 28, 2024
<u>PARKS & RECREATION</u>			
Shockley, David	Parks Laborer	Retirement	May 31, 2024
<u>PUBLIC WORKS</u>			
Williams, Sean	Truck Driver	Resignation	May 31, 2024

Agenda Action Form

Paducah City Commission

Meeting Date: June 25, 2024

Short Title: Reimbursement Agreement with Paducah Water for the S 24th Street Waterline Relocation Expenses - **G. GUEBERT**

Category: Municipal Order

Staff Work By: Melanie Townsend,
Brandy Topper-Curtis
Presentation By: Greg Guebert

Background Information: To construct the S 24th Street Project, the water lines within the Roadway Project area will require relocation, extension, and/or new construction, the “Water Construction.” To reduce the costs associated with the Roadway Project, Paducah Water has agreed to complete the “Water Construction” at its own expense.

Upon completion of the “Water Construction” work by Paducah Water, the City will reimburse Paducah Water for all costs involving the Water Construction, which is estimated at \$157,000. This amount is an estimate only. If the actual costs to complete the “Water Construction” exceed this estimate, payment for all materials installed and the labor required for the “Water Construction” work shall be made by the City to Paducah Water.

Does this Agenda Action Item align with a Commission Priority? Yes

If yes, please list the Commission Priority: Stormwater, Quality of Life, Southside Improvements

Communications Plan: Work with the Communications Manager to publicize and discuss the project with the residents.

Funds Available: Account Name: S 24th Street

Account Number: ST0041

Staff Recommendation: Authorize the Mayor to execute a Reimbursement Agreement with Paducah Water for “Water Construction” work related to the S 24th Street Improvement Project and authorize the Finance Director to issue payment to Paducah Water for the actual total costs upon completion of the Water Construction work, which is estimated to be \$157,000,

Attachments:

1. MO Agree - Paducah Water Works Reimburse S 24th Waterline Relocation
2. Reimbursement Agreement

MUNICIPAL ORDER NO. _____

A MUNICIPAL ORDER AUTHORIZING AND APPROVING A REIMBURSEMENT AGREEMENT BETWEEN THE CITY OF PADUCAH AND PADUCAH WATER WORKS FOR THE SOUTH 24TH STREET WATERLINE RELOCATION FOR REIMBURSEMENT OF ALL EXPENSES RELATING TO RELOCATION, EXTENSION AND/OR NEW CONSTRUCTION, IN AN APPROXIMATE AMOUNT OF \$157,000 AND AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT

BE IT ORDERED BY THE BOARD OF COMMISSIONERS OF THE CITY OF PADUCAH, KENTUCKY, AS FOLLOWS:

SECTION 1. That the City hereby authorizes and approves a Reimbursement Agreement with Paducah Water Works for all costs involving the relocation, extension and/or new construction Beautiful Paducah. The cost of this project is estimated to be \$157,000, and authorizes the Mayor to execute said agreement.

SECTION 2. The actual total cost of this project shall be paid upon completion of the work. The amount of \$157,000 is an estimate only. In the event the costs exceed this estimated amount, the City agrees to reimburse Paducah Water for the total costs required to complete the Water Construction. The cost of this project shall be funded from Account Number ST0041.

SECTION 3. This order shall be in full force and effect from and after the date of its adoption.

George Bray, Mayor

ATTEST:

Lindsay Parish, City Clerk

Adopted by the Board of Commissioners, May 28, 2024
Recorded by Lindsay Parish, City Clerk, May 28, 2024

\\MO\agree- Paducah Water Works – S. 24th Street waterline relocation project

**REIMBURSEMENT AGREEMENT
SOUTH 24th STREET IMPROVEMENT PROJECT**

THIS REIMBURSEMENT AGREEMENT is made and executed on this _____ day of _____, 2024, by and between **CITY OF PADUCAH, KENTUCKY**, a Municipal Corporation of the Second Class, with a mailing address of P.O. Box 2267, Paducah, Kentucky 42002-2267, hereinafter referred to as "City," and **PADUCAH WATER**, with a mailing address of 1800 North 8th Street, Paducah, Kentucky 42001, hereinafter referred to as "PW;"

W I T N E S S E T H:

WHEREAS, the City is in the process of constructing the South 24th Street Improvement Project, hereinafter referred to as "Roadway Project,"; and

WHEREAS, PW currently owns, operates, and maintains the water lines within the Roadway Project area; and

WHEREAS, the Roadway Project necessitates the relocation, extension, and/or construction of the water lines, hereinafter referred to as "Water Construction"; and

WHEREAS, PW agrees to administer and oversee and/or perform the necessary work to complete the Water Construction, and procure contractors/subcontractors as may be deemed necessary by PW separately at its own expense; and

WHEREAS, the City will reimburse PW for all actual costs and expenditures associated with the Water Construction upon completion of the work. Applicable costs and expenditures shall include, but not be limited to, the following: engineering and design, permitting, materials, construction, labor, equipment, inspection, certification, as-builts, advertisement and copy expenditures/fees as incurred by PW.

NOW, THEREFORE, in consideration of the foregoing, the legal adequacy and sufficiency of which is hereby acknowledged by both parties hereto, the parties do covenant and agree as follows:

1. Construction. PW agrees to administer, oversee and/or perform the necessary work to complete the Water Construction, and procure contractors/subcontractors as may be deemed necessary by PW.
2. Reimbursement. The City agrees to reimburse PW the total actual costs associated with the Water Construction upon completion, which is estimated at \$157,000. This amount is an estimate only. In the event the costs exceed this estimated amount, the City agrees to reimburse PW for the total costs required to

complete the Water Construction. Further, the City agrees to reimburse PW within sixty (60) consecutive calendar days upon receiving an itemized invoice.

- 5. Release of All Claims. Upon final payment to PW for the Water Construction, the City shall have been deemed to release PW from any and all claims, demands, and causes of action regarding any costs and expenses incurred by the City.

- 6. Miscellaneous Provisions. This Agreement represents the entire understanding by and between the parties regarding the reimbursement of the costs and expenses incurred by PW and all prior statements, promises, and agreements are merged herein by reference. This Agreement shall be binding upon the parties hereto, their heirs, successors, and assigns.

PADUCAH WATER

By: _____

Title: _____

CITY OF PADUCAH, KENTUCKY

By: _____

Title: _____

Agenda Action Form

Paducah City Commission

Meeting Date: June 25, 2024

Short Title: Accept proposed premiums from the Kentucky League of Cities for Workers' Compensation, Liability Insurance, and Property Insurance Coverage for a total amount of \$1,262,094.99 - **S. WILCOX**

Category: Municipal Order

Staff Work By: Stefanie Wilcox,
Braden Throgmorton
Presentation By: Stefanie Wilcox

Background Information: Each year, the City of Paducah receives from the Kentucky League of Cities (KLC) the invoices for payment to cover the above-mentioned areas. Total fiscal year 2024 - 2025 (FY2025) premiums are for the following: (1) Worker's Compensation \$389,033.66, (2) Liability Insurance \$703,803.82, (3) Property Insurance Coverage \$169,257.51. The Health Department to reimburse \$3,650.36, for property expenses associated with coverage of the Health Department. Paxton Park Golf Course to reimburse \$5,114.03, for property expenses associated with the Golf Course. After careful review and consideration, this year we will be increasing the general liability deductible from \$0 to \$10,000 per occurrence, the auto deductible from \$0 to \$10,000 per occurrence, and the overall liability limit from \$2 million to \$4 million.

Does this Agenda Action Item align with a Commission Priority? No

If yes, please list the Commission Priority:

Communications Plan:

Funds Available: Account Name:
Account Number:

Staff Recommendation: Recommend to continue with the Kentucky League of Cities for property, liability, and worker's compensation insurance coverage.

Attachments:

1. MO insurance - KLC FY2025
2. FY25 KLC Invoices

MUNICIPAL ORDER NO. _____

A MUNICIPAL ORDER AUTHORIZING THE FINANCE DIRECTOR TO PAY KENTUCKY LEAGUE OF CITIES FOR WORKERS' COMPENSATION, LIABILITY INSURANCE, AND PROPERTY INSURANCE COVERAGE IN A TOTAL AMOUNT OF \$1,262,094.99 FOR THE CITY OF PADUCAH AND AUTHORIZING THE MAYOR TO EXECUTE ALL DOCUMENTS RELATED TO SAME

BE IT ORDERED BY THE CITY OF PADUCAH, KENTUCKY:

SECTION 1. That the City of Paducah hereby authorizes the Finance Director to pay Kentucky League of Cities in the total amount of \$1,262,094.99 for Workers' Compensation, Liability Insurance, and Property Insurance Coverage for the City of Paducah for Fiscal Year ending June 30, 2025, for the following policies:

Workers' Compensation	\$389,033.66
Liability Insurance	\$703,803.82
Property Insurance	\$169,257.51

SECTION 2. This expenditure shall be charged to the Insurance Fund accounts. The Health Department will reimburse \$3,650.36 for property expenses associated with coverage of the Health Department. Paxton Park Golf Course will reimburse \$5,114.03 for property expenses associated with the Golf Park Course.

SECTION 3. That the City of Paducah hereby authorizes the Mayor to execute all documents related to the Kentucky League of Cities Worker's Compensation, Liability Insurance and Property Insurance Coverage for FY2025 as authorized in Section 1 above.

SECTION 4. This Order shall be in full force and effect from and after the date of its adoption.

George Bray, Mayor

ATTEST:

Lindsay Parish, City Clerk



F.E.I.N. 61-1238903

Telephone: (800) 876-4552
(859) 977-3700

City Of Paducah
P.O. Box 2267
Paducah, KY 42002

Premium Summary

Make check payable and mail to:
Kentucky League of Cities Insurance
Services
P.O. Box 34108
Lexington, KY 40588
Or pay via ACH at klc.org/SignIn

Policy Number: W5429-2024-24400

Date: 6/18/2024

Policy Number and Description	Amount
Policy Period: 7/1/2024-7/1/2025 Policy Number: W5429-2024-24400	\$ 389,033.66
A 5% late charge will be assessed on all late payments.	
Unless payment is received when due, coverage provided by this policy may be cancelled for nonpayment retroactive to the beginning of the policy inception date.	
Amount Due By 7/15/2024	\$ 389,033.66

HUB International Midwest LTD DBA HUB International Mid-South
1120 Main Street
Benton, KY 42025

Return Original with Payment



F.E.I.N. 61-1238903

Telephone: (800) 876-4552
(859) 977-3700

Premium Summary

Make check payable and mail to:
Kentucky League of Cities Insurance
Services
P.O. Box 34108
Lexington, KY 40588
Or pay via ACH at klc.org/SignIn

City Of Paducah
P.O. Box 2267
Paducah, KY 42002

Policy Number: L5429-2024-24544
Date: 6/18/2024

Policy Number and Description	Amount
Policy Period: 7/1/2024-7/1/2025 Policy Number: L5429-2024-24544	\$ 703,803.82
A 5% late charge will be assessed on all late payments.	
Unless payment is received when due, coverage provided by this policy may be cancelled for nonpayment retroactive to the beginning of the policy inception date.	
Amount Due By 7/15/2024	\$ 703,803.82

HUB International Midwest LTD DBA HUB International Mid-South
1120 Main Street
Benton, KY 42025

Return Original with Payment



F.E.I.N. 61-1238903

Telephone: (800) 876-4552
(859) 977-3700

Premium Summary

Make check payable and mail to:
Kentucky League of Cities Insurance
Services
P.O. Box 34108
Lexington, KY 40588
Or pay via ACH at klc.org/SignIn

City Of Paducah
P.O. Box 2267
Paducah, KY 42002

Policy Number: P5429-2024-24605
Date: 6/18/2024

Policy Number and Description	Amount
Policy Period: 7/1/2024-7/1/2025 Policy Number: P5429-2024-24605	\$ 169,257.51
A 5% late charge will be assessed on all late payments.	
Unless payment is received when due, coverage provided by this policy may be cancelled for nonpayment retroactive to the beginning of the policy inception date.	
Amount Due By 7/15/2024	\$ 169,257.51

HUB International Midwest LTD DBA HUB International Mid-South
1120 Main Street
Benton, KY 42025

Return Original with Payment

Agenda Action Form

Paducah City Commission

Meeting Date: June 25, 2024

Short Title: Approve Contract Modification #1 to BUILD Grant Contract for Professional Services with HDR, Inc. for \$40,000 - **M. TOWNSEND**

Category: Municipal Order

Staff Work
By: Melanie
Townsend
Presentation
By: Melanie
Townsend

Background Information: Background Information:

Summary: Approve Contract Modification for \$40,000 for Supplemental Archaeological Surveying and other out-of-scope work items requested since contract approval.

Background: In November 2019, the City of Paducah was notified of the award of \$10.4M from the Better Utilizing Investments to Leverage Development (BUILD) grant program to be administered through the Maritime Administration (MARAD). The City must complete all National Environmental Protection Act (NEPA) regulatory requirements as part of the grant obligation process. In April 2020, the City entered into a professional services contract with BFW to provide Environmental Assessment services per Ordinance 2020-04-8632 to fulfill the NEPA requirements to obligate the grant money for the City. The grant obligation deadline is September 30, 2022.

In September 2021, the City received MARAD approval to begin expending Pre-Incurred grant match funds on design and engineering. Therefore, on October 26, 2021, the Engineering Department received Requests for Qualifications for professional engineering design and construction administration services. HDR and subcontractor BFW submitted the only Statement of Qualifications. The review team reviewed the submission and found it responsive to the Request for Qualifications.

On March 23, 2022, the City and HDR, Inc. signed a Professional Services Contract for \$2,039,500.00 as approved by Ordinance 2022-23-8725.

During the design process, Task 12, "Modern Technology," was not performed, and the lump sum fee of \$32,000 will be used to cover work requested that was not in the original scope. As part of the Programmatic Agreement, the City was required to perform Supplemental Archaeological Testing, which cost \$40,000.

The total cost of work items not in the original scope is \$72,000. However, with the \$32,000 credit from Task 12, the total Contract Modification cost is \$40,000, resulting in a total contract amount of \$2,079,500.

Does this Agenda Action Item align with a Commission Priority? No

If yes, please list the Commission Priority: Downtown

Communications Plan: Work with the Communications Manager to provide public information and updates as the project progresses.

Funds Available: Account Name: BUILD grant

Account Number: DT0050

Staff Recommendation: Authorize the Mayor to sign Contract Modification #1 with HDR, Inc. for \$40,000 in Engineering Design and Construction Administration services for the BUILD FY2019 grant, for a total contract amount of \$2,079,500.00.

Attachments:

1. MO BUILD Grant HDR Contract Modification No 1
2. HDR_BUILD_EngDesConst_CM 1_request

MUNICIPAL ORDER NO. _____

A MUNICIPAL ORDER ADOPTING CONTRACT MODIFICATION NO. 1 TO THE CONTRACT WITH HDR, INC., FOR PROFESSIONAL ENGINEERING DESIGN AND CONSTRUCTION ADMINISTRATION, IN AN AMOUNT OF \$40,000 AND AUTHORIZING THE MAYOR TO EXECUTE THE CONTRACT MODIFICATION AND ALL OTHER DOCUMENTS RELATED TO SAME

WHEREAS, by Ordinance Number 2020-04-8632, the City of Paducah entered into a professional services contract with BFW to provide Environmental Assessment services to fulfill the NEPA requirements; and

WHEREAS, by Ordinance Number 2022-23-8725, the City of Paducah authorized an Agreement with HDR, INC. and subcontractor BFW to provide professional engineering design and construction administration services; and

WHEREAS, during the design process, Task 12, “Modern Technology” was not performed and the lump sum fee of \$32,000 will be used to cover the work requested that was not in the original scope; and

WHEREAS, the City requested Supplemental Archaeological Surveying and other out-of-scope work required by MARAD, this additional work resulted in additional costs of \$72,000; however, \$32,000 credit from Task 12, as part of the Programmatic Agreement brings the total to \$40,000. The total cost of the contract is now \$2,079,500.

NOW, THEREFORE, BE IT ORDERED BY THE BOARD OF COMMISSIONERS OF THE CITY OF PADUCAH, KENTUCKY:

SECTION 1. The City Commission hereby approves Contract Modification No. 1 to the Agreement with HDR, Inc., in the amount of \$40,000. This expenditure shall be charged to Project Account No. DT0050.

SECTION 2. This Order shall be in full force and effect from and after the date of its adoption.

George Bray, Mayor

ATTEST:

Lindsay Parish, City Clerk

Adopted by the Board of Commissioners, _____
Recorded by Lindsay Parish, City Clerk, _____
mo\contract modification 1 BUILD Grant – HDR, Inc.



June 4, 2024

City of Paducah
Attn: Melanie Townsend, Project Manager
300 South 5th Street
Paducah KY 42002

RE: Paducah Riverfront Infrastructure Improvement Project (10341124)
Contract Modification for engineering and related services.

Dear Melanie,

The HDR team continues to push toward construction of the Paducah Riverfront project. To that end, we have developed a cost estimate and contract modification to satisfy the latest shovel testing requirements from regulatory agencies. This contract modification will also update the current fee based on the new work requested by the City, plus identify out of scope items we have accumulated to date and reconcile that in Contract Modification 1 (CM-1). This submittal includes our understanding of the request for additional work by the City, the proposed scope of services, assumptions and clarifications, and our estimated fee and schedule.

The following is a listing of the out-of-scope items not included in the original scope:

1. Shovel testing to satisfy regulatory requirements with MARAD and the Osage Nation. Attachment A (Cost Estimate, Scope of Work and Deliverables) for the shovel testing effort, primarily performed by our subconsultant BFW (primary purpose of 32 sampling areas is to satisfy requirements in the Programmatic Agreement).
2. HDR's effort to manage the current shovel testing scope of work, to attend the regulatory agencies and City meetings on this subject, coordinate field and engineering efforts, update the design plans as required, and assist with the deliverables to the regulatory agencies.
3. Three commissioner workshops at the 30% design milestone.
4. Two complete sets of comments from the City at the 30% design milestone, requiring significant plan modifications and major design changes (original scope included one only).
5. Preparation of an Opinion of Probable Construction Cost near the 45% design milestone (original scope included OPCC at 30%, 60%, 90% and 100%).
6. Creation of a white paper regarding anticipated construction cost overruns for discussion with state legislators.
7. Request to change from Specs-Intact to KYTC Specifications which required a complete rework of the specifications package.
8. Two additional requests for 60% design concept drawings (original scope included one only).
9. Three commissioner workshops at the 60% milestone.
10. Two additional change requests on the pile anchors, floating fender configuration, and pier development at the 60% milestone (original scope included one only).

hdrinc.com

4645 Village Square Drive, Suite F | Paducah KY 42001
T 270.444.9691

11. Paver drawing development for SHPO.

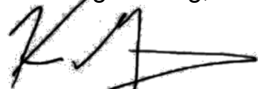
12. Three major design change requests for the guardrail / handrail along the pier (original scope included one only).

The out-of-scope work listed above yields a fee of \$72,000. As part of this Contract Modification 1 (CM-1), HDR also has a task in the original scope which was not performed, and therefore can be used as a credit toward the out of scope work. The task that was not performed was titled "Task 012 Modern Technology" with a lump sum fee of \$32,000. As a reminder, it became apparent early in the design development that the project construction budget would exceed the available grant funding. So as a cost reducing measure, the City chose to not include the development of the Modern Technology and requested this task be eliminated from our scope. We are now requesting that this \$32,000 in savings be used to help offset some of the costs of the out-of-scope items. This effectively remedies the request for CM-1 to a total of \$40,000 which is the fee for BFW to complete their portion of the shovel testing and reporting.

The HDR team sincerely appreciates the opportunity to continue forward with this flagship project for the City of Paducah. Please contact us at your convenience to discuss these updates.

Sincerely,

HDR Engineering, Inc.



Kyle Guthrie, PE
Vice President/Area Manager
kyle.guthrie@hdrinc.com



Sheryl Chino
Paducah Office Principal
sheryl.chino@hdrinc.com

Attachment A:

BFW Cost Proposal with SOW and Deliverables

ATTACHMENT A



BACON | FARMER | WORKMAN
ENGINEERING & TESTING, INC.
500 SOUTH 17TH STREET | PADUCAH, KY 42003

May 8, 2024

Mr. Shannon Provance
HDR
4645 Village Square Drive Suite F
Paducah, Kentucky 42001

RE: City of Paducah Riverfront Improvement Project – Shovel Testing Plan

Mr. Provance:

Bacon Farmer Workman Engineering & Testing, Inc. (BFW) is pleased to provide a proposal for the shovel testing plan in reference to the City of Paducah's Riverfront Improvement Project. It is our understanding that thirty-two (32) sampling areas have been identified based on the Paducah Riverfront Shovel Test Map attached to this letter. The sampling areas have been approved by all signatory parties presented in the Programmatic Agreement for this project.

Sampling will be conducted in the proposed areas using the auger method of drilling, where holes will be drilled a minimum of 50 centimeters. The sampling effort includes drilling operations, oversight and reporting of BFW's archeologist, and time for management of the effort. The following breakdown identifies the categories of costs associated:

Drilling and Sampling Collection - \$33,000.00

- Auguring and coring will occur in accordance with approved maps and deliverables associated with the sampling plan.

Archaeologist Oversight and Reporting - \$7,000.00

- BFW's archeologist will provide on-site supervision of drilling operations and provide a report of findings for the Programmatic Agreement parties.

BFW proposes to perform the above defined scope of work for a cost of \$40,000.00. Substantial deviation from these bases could result in additional incurred costs.

This proposal is based on a lump-sum cost for the services listed in scope. Additional scope items and reimbursable expenses such as permit fees, mailing expenses, etc. will be billed at BFW hourly rate schedule, incurred expenses or agreed to negotiated lump sum. If you agree with these costs, please return the executed contract for BFW's authorization to proceed.

We look forward to working with you in the future and should you have any questions or need further information, please contact our office at (270) 443-1995.

Sincerely,

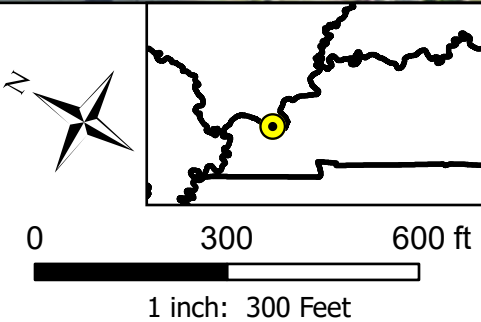
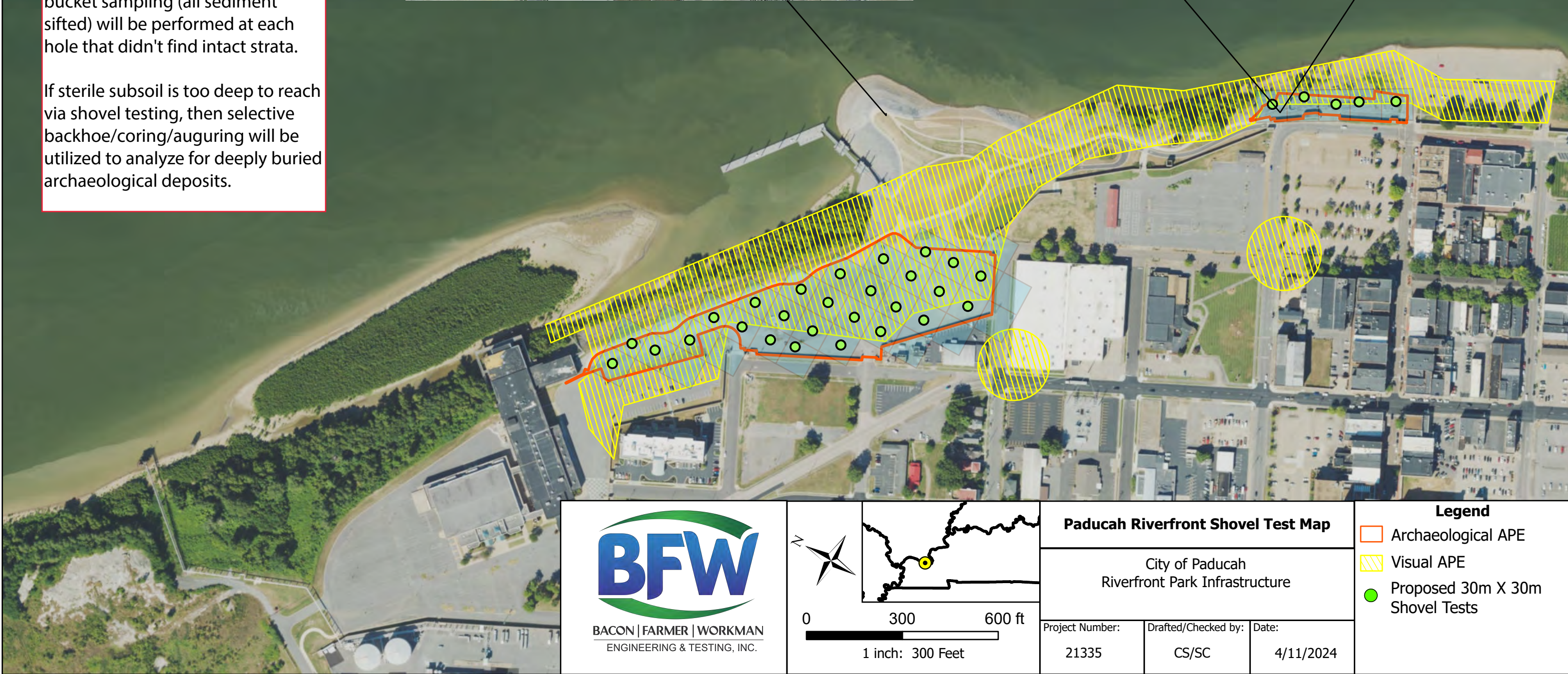
Bacon Farmer Workman Engineering & Testing, Inc.

Maegan Mansfield, P.E.
Project Manager

Proposed Shovel Tests are provided on a 30 m x 30 m grid per Osage Nation Archaeological Survey Standards. The shovel tests will be excavated to a depth of 50 cm below sterile soil.

If, disturbed deposits are noted in certain holes below the 50 cm requirement, additional auger bucket sampling (all sediment sifted) will be performed at each hole that didn't find intact strata.

If sterile subsoil is too deep to reach via shovel testing, then selective backhoe/coring/auguring will be utilized to analyze for deeply buried archaeological deposits.



Paducah Riverfront Shovel Test Map			Legend	
City of Paducah Riverfront Park Infrastructure			Archaeological APE	
Project Number: 21335			Visual APE	
Drafted/Checked by: CS/SC			Proposed 30m X 30m Shovel Tests	
Date: 4/11/2024				

Agenda Action Form

Paducah City Commission

Meeting Date: June 25, 2024

Short Title: Approve an Interlocal Participation Agreement for Cooperative Purchasing with Buy Board, National Purchasing Cooperative to allow for the purchase of certain services and goods at a cost savings to the City - **C. YARBER**

Category: Municipal Order

Staff Work
By: Debbie
Collins
Presentation
By: Chris
Yarber

Background Information: Buy Board, National Purchasing Cooperative, is an administrative agency of cooperating local governments and other governmental entities. KRS allows for local governments to enter into agreements for Cooperative Purchasing with other governmental purchasing units such as Buy Board. These agreements allow for cities to purchase certain goods and services at better rates. In order to be able to purchase cooperatively, the City must enter into an Interlocal Participation Agreement with Buy Board. This agreement is for a term of 1 year and automatically renews unless terminated by either party. Once executed, the City will be able to purchase from Buy Board agreements with providers who have participated in a sealed bid process in accordance with the Kentucky Model Procurement Code.

Does this Agenda Action Item align with a Commission Priority? No

If yes, please list the Commission Priority:

Communications Plan:

Funds Available: Account Name:
Account Number:

Staff Recommendation: To issue a Municipal Order to approve an Interlocal Agreement for Cooperative Purchasing with Buy Board to allow for the purchase of certain services and goods at cost savings to the City.

Attachments:

1. MO Interlocal Agreement - Buy Board 2024
2. BuyBoard_National Purchasing Cooperative

MUNICIPAL ORDER NO. _____

A MUNICIPAL ORDER OF THE CITY OF PADUCAH, KENTUCKY,
AUTHORIZING AND APPROVING AN INTERLOCAL PARTICIPATION
AGREEMENT FOR COOPERATIVE PURCHASING WITH BUY BOARD,
NATIONAL PURCHASING COOPERATIVE, AND AUTHORIZING THE
EXECUTION OF ALL DOCUMENTS RELATED TO SAME

WHEREAS, KRS 45A.295 & KRS 45A.300 allow for Local Governments to enter into cooperative purchasing agreements for the purchase of certain goods and services with an Interlocal Participation Agreement entered into between the participants; and

WHEREAS, the City desires to enter into an Interlocal Contract for Cooperative Purchasing with Buy Board for said purpose.

NOW THEREFORE, BE IT ORDERED BY THE CITY COMMISSION OF THE CITY OF PADUCAH, KENTUCKY, AS FOLLOWS:

SECTION 1. Recitals and Authorization. The City hereby authorizes and approves an Interlocal Contract for Cooperative Purchasing by and between the City of Paducah and Buy Board in substantially the same form attached hereto and made part hereof as **Exhibit A.** Further, the Mayor of the City is hereby authorized to execute the Interlocal Participation Agreement and all documents relating to same with such changes in the agreements not inconsistent with this Municipal Order and not substantially adverse to the City as may be approved by the official executing the same on behalf of the City.

SECTION 2. Effective Date. This Order shall be in full force and effect from and after the date of its adoption.

George Bray, Mayor

Attest:

Lindsay Parish, City Clerk

Adopted by the Board of Commissioners, June 25, 2024
Recorded by Lindsay Parish, City Clerk, June 25, 2024
\\mo\ Interlocal Cooperative Purchasing – Buy Board

EXHIBIT A



NATIONAL PURCHASING COOPERATIVE INTERLOCAL PARTICIPATION AGREEMENT

This Interlocal Participation Agreement ("Agreement") is made and entered into on the date indicated below by and between the National Purchasing Cooperative ("Cooperative"), an administrative agency of cooperating local governments and other governmental entities, acting on its own behalf and the behalf of all participating governmental entities, and the undersigned governmental entity ("Cooperative Member").

I. RECITALS

WHEREAS, the National Purchasing Cooperative was formed on May 26, 2010, by certain local governments that entered into an Organizational Interlocal Agreement; and

WHEREAS, the purpose of the Cooperative is to facilitate compliance with state procurement requirements, to identify qualified vendors of commodities, goods and services, to relieve the burdens of the governmental purchasing function, and to realize potential economies of scale, including administrative cost savings, for Cooperative Members;

NOW THEREFORE, in consideration of the mutual covenants, promises and obligations contained herein, the undersigned Cooperative Member and the Cooperative agree as follows:

II. TERMS AND CONDITIONS

1. **Adopt Organizational Interlocal Cooperation Agreement.** The Cooperative Member by the execution or acceptance of this Agreement hereby adopts and approves the Organizational Interlocal Agreement, as last amended and restated, which agreement is incorporated herein by reference (and is available from the Cooperative upon request). The Organizational Interlocal Agreement establishes the Cooperative as an administrative agency of its collective participants, and Cooperative Member agrees to become a participant or additional party to the Organizational Interlocal Agreement.

2. **Term.** The initial term of this Agreement shall commence on the date it is executed by both parties and shall automatically renew for successive one-year terms unless sooner terminated in accordance with the provisions of this Agreement. If the Cooperative Member is an existing Cooperative Member that joined the Cooperative by executing a participation agreement which authorized amendment upon the Cooperative providing prior written notice, then this Agreement will be deemed an Amendment by Notice, effective on the 61st day that the Cooperative Member is sent notice of this Agreement. In addition, this Agreement will continue to automatically renew for successive one-year terms on the anniversary date of the Cooperative Member's initial term (not the effective date of the amendment), unless the Agreement is sooner terminated in accordance with the provisions herein.

3. **Termination.**

(a) **By the Cooperative Member.** This Agreement may be terminated by the Cooperative Member at any time by 30 days prior written notice to the Cooperative as provided in Article III, Section 14, provided any amounts owed to any vendor have been fully paid.

(b) **By the Cooperative.** The Cooperative may terminate this Agreement by:

(1) Giving 10 days notice as provided in Article III, Section 14, to the Cooperative Member if the Cooperative Member breaches this Agreement; or

(2) Giving 30 days notice as provided in Article III, Section 14, to the Cooperative Member with or without cause.

(c) **Termination Procedure.** If the Cooperative Member terminates its participation under this Agreement or breaches this Agreement, or if the Cooperative terminates participation of the Cooperative Member, the Cooperative Member shall bear the full financial responsibility for all of its purchases made from vendors under or through this Agreement. The Cooperative may seek the whole amount due, if any, from the terminated Cooperative Member. In addition, the Cooperative Member agrees it will not be entitled to any distribution which may occur after the Cooperative Member terminates from the Cooperative.

4. **Payments by Cooperative Member.** The Cooperative Member will make timely payments to the vendor for the goods, materials and services received in accordance with the terms and conditions of the bid invitation, instructions, and all other applicable procurement documents. Payment for goods, materials and services and inspections and acceptance of goods, materials and services ordered by the procuring Cooperative Member shall be the exclusive obligation of the procuring Cooperative Member, and not the Cooperative. Furthermore, the Cooperative Member is solely responsible for negotiating and securing ancillary agreements from the vendor on such other terms and conditions, including provisions relating to insurance or bonding, that the Cooperative Member deems necessary or desirable under federal, state or local law, local policy or rule, or within its business judgment.

5. **Payments by Vendors.** The parties agree that the Cooperative will require payment from vendors which are selected to provide goods, materials or services to Cooperative Members. Such payment (hereafter "Vendor Fees") may be up to two percent (2%) of the purchase price paid by Cooperative Members or a flat fee amount that may be set from time to time by the Cooperative Board of Directors. Cooperative Member agrees that these Vendor Fees fairly compensate the Cooperative for the services and functions performed under this Agreement and that these Vendor Fees enable the Cooperative to pay the administrative, licensing, marketing, and other expenses involved in successfully operating a program of electronic commerce for the Cooperative Members. Further, Cooperative Member affirmatively disclaims any rights to such Vendor Fees, acknowledging all such fees are the property of the Cooperative. Similarly, in no event shall a Cooperative Member be responsible for payment of Vendor Fees.



6. **Distribution.** From time to time, and at the sole discretion of the Cooperative Board of Directors, the Cooperative may issue a distribution to Cooperative Members under a plan developed by the Cooperative Board of Directors. The Cooperative Member acknowledges that a distribution is never guaranteed and will depend on the overall financial condition of the Cooperative at the time of the distribution and the purchases made by the Cooperative Member.
7. **Administration.** The Cooperative may enter into contracts with others, including non-profit associations, for the administration, operation and sponsorship of the purchasing program provided through this Agreement. The Cooperative will provide reports, at least annually, to the Cooperative Member electronically or by mail. Cooperative Member will report purchase orders generated under this Agreement to the Cooperative or its designee, in accordance with instructions of the Cooperative.
8. **BuyBoard®.** Cooperative Member will have a non-exclusive license to use the BuyBoard electronic purchasing application during the term of this Agreement. Cooperative Member acknowledges and agrees that the BuyBoard electronic application and BuyBoard trade name are owned by the Texas Association of School Boards, Inc. ("TASB"), and that neither the Cooperative nor the Cooperative Member has any proprietary rights in the BuyBoard electronic application or trade name. The Cooperative Member will not attempt to resell, rent, or otherwise distribute any part of BuyBoard to any other party; nor will it attempt to modify the BuyBoard programs on the server or acquire the programming code. The Cooperative Member may not attempt to modify, adapt, translate, distribute, reverse engineer, decompile, or disassemble any component of the application. The Cooperative Member will use BuyBoard in accordance with instructions from the Cooperative (or its designee) and will discontinue use upon termination of participation in the Cooperative. The Cooperative Member will maintain equipment, software and conduct testing to operate the BuyBoard system at its own expense.

III. GENERAL PROVISIONS

1. **Amendment by Notice.** The Board may amend this Agreement, provided that prior written notice is sent to the Cooperative Member at least 60 days prior to the effective date of any change described in such amendment and provided that the Cooperative Member does not terminate its participation in the Cooperative before the expiration of said 60 days.
2. **Authorization to Participate and Compliance with Local Policies.** Each Cooperative Member represents that its governing body has duly authorized its participation in the Cooperative and that the Cooperative Member will comply with all state and local laws and policies pertaining to purchasing of goods and services through its membership in the Cooperative.
3. **Bylaws.** The Cooperative Member agrees to abide by the Bylaws of the Cooperative, as they may be amended, and any and all written policies and procedures established by the Cooperative that apply to Cooperative Members. The Cooperative shall provide written notice to the Cooperative Member of any amendment to the Bylaws of the Cooperative and any written policy or procedure of the Cooperative that is intended to be binding on and applicable to the Cooperative Member. In addition to any other notice method specified in this Agreement, notice under this Section may be satisfied by posting of the applicable bylaws,



policy, or procedure on the Cooperative's website or BuyBoard application landing page for Cooperative Members.

4. **Cooperation and Access.** The Cooperative Member agrees that it will cooperate in compliance with any reasonable requests for information and/or records made by the Cooperative. The Cooperative reserves the right to review and audit the relevant and available records of any Cooperative Member. Any breach of this provision shall be considered material and shall make the Agreement subject to termination on 10 days written notice to the Cooperative Member.

5. **Coordinator.** The Cooperative Member agrees to appoint a program coordinator who shall have express authority to represent and bind the Cooperative Member, and the Cooperative will not be required to contact any other individual regarding program matters. Any notice to or any agreements with the coordinator shall be binding upon the Cooperative Member. The Cooperative Member reserves the right to change the coordinator as needed by giving written notice to the Cooperative. Such notice is not effective until actually received by the Cooperative.

6. **Current Revenue.** The Cooperative Member hereby represents that all payments, fees, and disbursements required of it hereunder shall be made from current revenues budgeted and available to the Cooperative Member.

7. **Defense and Prosecution of Claims.** The Cooperative Member authorizes the Cooperative to handle the commencement, defense, intervention, or participation in a judicial, administrative, or other governmental proceeding or in an arbitration, mediation, or any other form of alternative dispute resolution, or other appearances of the Cooperative (as an entity) in any litigation, claim or dispute which arises from the services provided by the Cooperative. Neither this provision nor any other provision in this Agreement will create a legal duty for the Cooperative to provide a defense or prosecute a claim; rather, the Cooperative may exercise this right in its sole discretion and to the extent permitted or authorized by law. The Cooperative Member shall reasonably cooperate and supply any information necessary or helpful in such prosecution or defense. Subject to specific revocation, the Cooperative Member hereby designates the Cooperative to act as a class representative on its behalf in matters arising out of this Agreement and pertaining to the collective or predominant interest of Cooperative Members. Nothing herein grants the Cooperative any rights to file, defend, or settle any claim on behalf of the Cooperative Member in its individual capacity.

8. **Governance.** The Board of Directors (Board) will govern the Cooperative in accordance with the Bylaws.

9. **Legal Authority.** The Cooperative Member represents to the Cooperative the following:

a) The Cooperative Member has conferred with legal counsel and determined it is duly authorized by the laws of the jurisdiction in which the Cooperative Member lies to participate in cooperative purchasing, and specifically, the National Purchasing Cooperative.

b) The Cooperative Member possesses the legal authority to enter into this Agreement and can allow this Agreement to automatically renew without subsequent action of its governing body.

c) Purchases made under this Agreement will satisfy all procedural procurement requirements that the Cooperative Member must meet under all applicable local policy, regulation, or state law.

d) All requirements—local or state—for a third party to approve, record or authorize the Agreement have been met.

10. **Disclaimer.** THE COOPERATIVE, ITS ENDORSERS, SPONSORS, AND SERVICING CONTRACTORS, WHETHER CURRENT OR FORMER AND INCLUDING TASB, ("COOPERATIVE AND ASSOCIATES") DO NOT WARRANT THAT THE OPERATION OR USE OF COOPERATIVE SERVICES WILL BE UNINTERRUPTED OR ERROR FREE.

THE COOPERATIVE AND ASSOCIATES HEREBY DISCLAIM ANY AND ALL WARRANTIES, EXPRESS OR IMPLIED, IN REGARD TO ANY INFORMATION, PRODUCT OR SERVICE FURNISHED UNDER THIS AGREEMENT, INCLUDING WITHOUT LIMITATION, ANY AND ALL IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

11. **Limitation of Liability.** To the extent permitted by law and without waiver of the disclaimer or other limitation of liability in this Agreement, the parties agree that:

- a) Neither party waives any immunity from liability afforded under law;
- b) In regard to any lawsuit or formal adjudication arising out of or relating to this Agreement, neither party shall be liable to the other under any circumstance for special, incidental, consequential, or exemplary damages;
- c) The maximum amount of damages recoverable will be limited to the amount of fees which the Cooperative received as a direct result of the Cooperative Member's purchase activity, within 12 months of when the lawsuit or action was filed; and
- d) In the event of a lawsuit or formal adjudication the prevailing party will be entitled to recover reasonable attorney's fees.

Without waiver of the disclaimer or other limitation of liability in this Agreement, the parties further agree to limit the liability of Cooperative and Associates up to the maximum amount each received from or through the Cooperative, as a direct result of the undersigned Cooperative Member's purchase activity, within 12 months of the filing of any lawsuit or action.

12. **Limitation of Rights.** Except as otherwise expressly provided in this Agreement, nothing in this Agreement is intended to confer upon any person, other than the parties hereto, any benefits, rights, or remedies under or by reason of this Agreement.

13. **Merger/Entirety.** This Agreement, together with the Cooperative's Bylaws and Organizational Interlocal Agreement, as amended and restated, represents the complete understanding of the Cooperative and Cooperative Member. To the extent there exists any conflict between the terms of this Agreement and that of prior agreements, the terms of this Agreement shall control and take precedence over all prior participation agreements.

14. **Notice.** Any written notice to the Cooperative may be given by email to BuyBoard Administrator at membership@buyboard.com; by U.S. mail, postage prepaid, and delivered to the National Purchasing Cooperative, P.O. Box 400, Austin, Texas 78767-0400; by overnight courier or hand delivery to National Purchasing Cooperative, 12007 Research Blvd., Austin, Texas 78759; or by other mode of delivery typically



used in commerce and accessible to the intended recipient. Notices to Cooperative Member may be given by email to the Cooperative Member's Coordinator or other email address of record provided by the Cooperative Member; by U.S. mail, postage prepaid, and delivered to the Cooperative Member's Coordinator or chief executive officer (e.g., superintendent, city manager, county judge or mayor); or by other mode of delivery typically used in commerce and accessible to the intended recipient.

15. **Severability.** If any portion of this Agreement shall be declared illegal or held unenforceable for any reason, the remaining portions shall continue in full force and effect.

16. **Signatures/Counterparts.** The failure of a party to provide an original, manually executed signature to the other party will not affect the validity, enforceability or binding effect of this Agreement because either party may rely upon an electronic or facsimile signature as if it were an original, including any Cooperative Member signature executed by click and accept or similar electronic signature and acceptance. Furthermore, this Agreement may be executed in several separate counterparts, each of which shall be an original and all of which shall constitute one and the same instrument.

17. **Authority.** By the execution and delivery of this Agreement, the undersigned individual represents that the individual is duly authorized by all requisite administrative action required to enter into and bind the entity that is a party to this Agreement.

[Signature page follows.]



WHEREFORE, the parties, acting through their duly authorized representatives, accept this Agreement.

NATIONAL PURCHASING COOPERATIVE:

By: _____
Dan Troxell, Ph.D.
Assistant Secretary

Date: _____

COOPERATIVE MEMBER:

[Signature required unless accepted as an Amendment by Notice as described in the Agreement.]

(Government Entity Name)

By: _____
Signature of authorized representative of Cooperative Member

Date: _____

George Bray, Mayor
Printed name and title of authorized representative

Coordinator for the Cooperative Member is:

Chris Varber
Name

Public Works Director
Title

1120 N 10th St.
Mailing Address

Paducah
City

Kentucky 42001
State Zip Code

270-444-8511
Telephone

Fax

cvarber@paducahky.gov
Email

Agenda Action Form

Paducah City Commission

Meeting Date: June 25, 2024

Short Title: Authorize the Acceptance of a 2024 Kentucky 911 Services Board Grant in the Amount of \$99,653 - **B. LAIRD**

Category: Municipal Order

Staff Work By: Anthony Copeland, Ariana
Kitty, Hope Reasons
Presentation By: Brian Laird

Background Information: The 911 Services Board Grant Program was created in 2006 to help Public Safety Answering Points (PSAP) acquire E911 equipment, and is now focused on supporting the Next Gen 911 Road Map and enhanced NG911 Mapping Guide standards. One of the basic components of the NG911 Road Map is the capture of text, photo, and video data. The Paducah Police Department requested \$99,653 for data capture/recording hardware and software that will work in conjunction with the new radio system upgrade. The Commission approved the application for this grant with MO 2869 on March 26, 2024. The grant requires a 10% match in the amount of \$11,072 for a total project cost of \$110,725.

Does this Agenda Action Item align with a Commission Priority? Yes

If yes, please list the Commission Priority: 911 Radio Upgrades

Communications Plan:

Funds Available: Account Name: Computer Software Maintenance

Account Number: 20004001 522020

Staff Recommendation: Authorize the acceptance of the 911 Services Board Grant and the Mayor to sign all documentation related to same.

Attachments:

1. MO accept - 911 Services Board Grant 2024

MUNICIPAL ORDER NO. _____

**A MUNICIPAL ORDER AUTHORIZING THE MAYOR TO EXECUTE
ALL DOCUMENTS NECESSARY TO RECEIVE GRANT FUNDS
THROUGH THE 911 SERVICES BOARD GRANT PROGRAM IN THE
AMOUNT OF \$99,653 FOR THE PURCHASE OF DATA
CAPTURE/RECORDING HARDWARE AND SOFTWARE FOR THE
PADUCAH POLICE DEPARTMENT**

WHEREAS, on March 26, 2024, the Board of Commissioners approved Municipal Order No. 2869, which authorized the submission of a 2024 Kentucky 911 Services Board Grant, which has now been awarded to the City of Paducah; and

WHEREAS, the City has been notified of a total award of \$99,653, which requires a 10% match in the amount of \$11,072 (for a total project cost of \$110,725); and

WHEREAS, the City of Paducah now wishes to accept all awarded grant funds.

NOW, THEREFORE, BE IT ORDERED BY THE CITY OF PADUCAH,
KENTUCKY:

SECTION 1. That the City of Paducah hereby accepts grant funds in the amount of \$99,653 through the 911 Services Board Grant Program to purchase capture/recording hardware and software for the Paducah Police Department that will work in conjunction with the new radio system upgrade.

SECTION 2. That the Mayor is hereby authorized to execute the grant agreement and all documents related to same, as authorized in Section 1, above.

SECTION 3. The 10% match in the amount of \$11,072 shall be paid from Computer Software Maintenance Account Number 20004001 522020.

SECTION 4. This order shall be in full force and effect from and after the date of its adoption.

George Bray, Mayor

ATTEST:

Lindsay Parish, City Clerk

Agenda Action Form

Paducah City Commission

Meeting Date: June 25, 2024

Short Title: Authorize the Acceptance of a State and Local Cybersecurity Security Grant in the Amount of \$50,000 - **E.STUBER**

Category: Municipal Order

Staff Work By: Eric
Stuber, Hope Reasons
Presentation By: Eric
Stuber

Background Information: The FY 2023 State and Local Cybersecurity Grant Program (SLGCP) addresses the 2020-2024 DHS Strategic Plan by helping DHS achieve Goal 3: Secure Cyberspace and Critical Infrastructure. This includes assessing and countering evolving cybersecurity risks. Additionally, the FY 2023 SLCGP supports the 2022-2026 FEMA Strategic Plan, which outlines a bold vision with three ambitious goals, including Promote and Sustain a Ready FEMA and Prepared Nation. The FY 2023 SLCGP also aligns with the Cybersecurity and Infrastructure Security Agency's (CISA) 2023–2025 Strategic Plan, which encompasses Goal 1: Cyber Defense, Goal 2: Risk Reduction and Resilience and Goal 3: Operational Collaboration.

The City of Paducah Technology Department requested \$40,000 to conduct internal and external cybersecurity vulnerability assessments. Initially, the grant required a 20% match of \$10,000 for a total project cost of \$50,000. However, since the application was submitted, the match requirement has been waived and the City is being awarded the full amount of \$50,000. Matching funds are no longer required. The Board of Commissioners approved the application for this grant with MO 2783 on September 5, 2023.

Does this Agenda Action Item align with a Commission Priority? No

If yes, please list the Commission Priority:

Communications Plan:

Funds Available: Account Name:
Account Number:

Staff Recommendation: Authorize the acceptance of the State and Local Cybersecurity Grant and the Mayor to sign all documentation related to same.

Attachments:

1. MO accept - Cybersecurirty Grant

MUNICIPAL ORDER NO. _____

A MUNICIPAL ORDER AUTHORIZING THE MAYOR TO EXECUTE ALL DOCUMENTS NECESSARY TO RECEIVE GRANT FUNDS THROUGH THE STATE AND LOCAL CYBERSECURITY SECURITY GRANT (SLGCP) IN THE AMOUNT OF \$50,000 TO CONDUCT INTERNAL AND EXTERNAL CYBERSECURITY VULNERABILITY ASSESSMENTS.

WHEREAS, on September 5, 2023, the Board of Commissioners approved Municipal Order No. 2783, which authorized the submission of an application for a FY2023 State and Local Cybersecurity Grant, which has now been awarded to the City of Paducah; and

WHEREAS, the City requested a \$40,000 grant, which required a 20% match for a total project cost of \$50,000; however, since the application was submitted, the match requirement has been waived and the City is being awarded the full amount of \$50,000 and matching funds are no longer being required; and

WHEREAS, the City of Paducah now wishes to accept all awarded grant funds.

NOW, THEREFORE, BE IT ORDERED BY THE CITY OF PADUCAH, KENTUCKY:

SECTION 1. That the City of Paducah hereby accepts grant funds in the amount of \$50,000 through the State and Local Cybersecurity Grant Program (SLGCP) to conduct internal and external cybersecurity vulnerability assessments.

SECTION 2. That the Mayor is hereby authorized to execute the grant agreement and all documents related to same, as authorized in Section 1, above.

SECTION 3. No match is required for this grant.

SECTION 4. This order shall be in full force and effect from and after the date of its adoption.

George Bray, Mayor

ATTEST:

Lindsay Parish, City Clerk

Agenda Action Form

Paducah City Commission

Meeting Date: June 25, 2024

Short Title: City of Paducah Title VI Program Plan Adoption - **S. WILCOX**

Category: Municipal Order

Staff Work
By: Stefanie
Wilcox
Presentation
By: Stefanie
Wilcox

Background Information: The City of Paducah (City), as a federal grant recipient, is required by the Federal Transit Administration (FTA) to conform to Title VI of the Civil Rights Act of 1964 and its amendments. Section 601 of Title VI of the Civil Rights Act of 1964 requires that “No person in the United States, on the grounds of race, color or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination, under any program or activity receiving Federal financial assistance.” Presidential Executive Order 12898 addresses environmental justice in minority and low-income populations. Presidential Executive Order 13166 addresses services to those individuals with limited English proficiency. The City is committed to enforcing the provisions of Title VI and protecting the rights and opportunities of all persons associated with the agency. The city’s commitment includes following all applicable laws and regulations that affect the region and those organizations, both public and private, which participate and benefit through our programs. The City will take positive and realistic affirmative steps to ensure that all persons and/or firms wishing to participate in its programs are given an equal and equitable chance to participate. Along with the Title VI Program, a Disability Nondiscrimination Policy and an accommodation request process will be created as well.

Does this Agenda Action Item align with a Commission Priority? No

If yes, please list the Commission Priority:

Communications Plan:

Funds Available: Account Name:
Account Number:

Staff Recommendation: Approve and implement the City of Paducah Title VI Program Plan effective July 1, 2024, with the Disability Nondiscrimination Policy.

Attachments:

1. MO Title VI Program Plan FY25
2. FINAL COP Title VI Plan FY25

MUNICIPAL ORDER NO. _____

**A MUNICIPAL ORDER ADOPTING THE TITLE VI PROGRAM PLAN
FOR THE CITY OF PADUCAH FOR JULY 1, 2024 THROUGH JUNE 30,
2025**

WHEREAS, the City of Paducah (City), as a federal grant recipient, is required by the Federal Transit Administration (FTA) to conform to Title VI of the Civil Rights Act of 1964 and its amendments; and

WHEREAS, the City is committed to enforcing the provisions of Title VI and protecting the rights and opportunities of all persons associated with the agency; and

WHEREAS, the City now wishes to approve and implement the City of Paducah Title VI Program Plan.

NOW, THEREFORE, BE IT ORDERED BY THE CITY OF PADUCAH,
KENTUCKY:

SECTION 1. That the City of Paducah hereby approves and implements the City of Paducah Title VI Program Plan, which shall be effective July 1, 2024, through June 30, 2025.

SECTION 2. That the Mayor is hereby authorized to execute all documents necessary as authorized in Section 1, above.

SECTION 3. This order shall be in full force and effect from and after the date of its adoption.

George Bray, Mayor

ATTEST:

Lindsay Parish, City Clerk

Adopted by the Board of Commissioners, June 25, 2024
Recorded by Claudia Meeks, Assistant City Clerk, June 25, 2024
\\mo\\Title VI Program Plan FY25



TITLE VI PROGRAM PLAN

City of Paducah

July 1, 2024 – June 30, 2025

Daron Jordan, City Manager
Stefanie Wilcox, Human Resources Director & Title VI Coordinator

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I. GLOSSARY/DEFINITIONS

Affirmative Action: a good-faith effort to eliminate past and present discrimination in all federally assisted programs and to ensure future nondiscriminatory practices.

African American (Black): A person having origins in any of the black racial groups of Africa.

American Indian or Alaska Native: a person having origins in any of the original peoples of North and South America (including Central America) who maintains cultural identification through tribal affiliation or community attachment.

Applicant: an eligible public entity or organization that submits an application for financial assistance under a program administered on behalf of the State.

Asian: a person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian Subcontinent, including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand and Vietnam.

Assurance: a written “policy statement” or “contractual agreement” signed by the agency head in which a recipient agrees to administer federally assisted programs in accordance with civil rights laws and regulations.

Beneficiary: any person or group of people (other than states) entitled to receive benefits, directly or indirectly, from any federally assisted program (*i.e.*, relocated persons, impacted citizens, communities, etc.).

CITY: shall refer to the City of Paducah, a home rule city of the Commonwealth of Kentucky.

City Manager: The City of Paducah City Manager is responsible for Title VI activities in accordance with KYTC policies and directives as well as state/federal statute/law and state/federal administrative regulations and have the authority to appoint Title VI Designee(s) for the City.

Complaint: a verbal or written allegation of discrimination that indicates that a federally assisted program is operated in such a manner that it results in disparity of treatment to persons or groups of persons because of race, color or national origin.

Compliance: a satisfactory condition wherein an applicant, recipient, or sub recipient has effectively implemented all of the Title VI requirements or can demonstrate that every good-faith effort toward achieving this end has been made.

Contract: a mutually binding legal relationship or any modification thereof obligating the seller to furnish supplies or services, including construction, and obligating the buyer to pay for them. Throughout this document, a lease is considered a contract.

Contractor: any person, corporation, partnership, organization, or incorporated association that participates, through a contract or subcontract, in any program or activity covered by this plan including lessees.

Discrimination: involves any act or inaction, whether intentional or unintentional in any program or activity of a federal aid recipient, sub recipient, or contractor, which results in disparate treatment, disparate impact, or perpetuating the effects of prior discrimination based on race, color, sex, national origin, age, disability or in the case of disability, failing to make a reasonable accommodation.

Division: one of the administrative subdivisions of an office of the Kentucky Transportation Cabinet. The term *district* should be considered equivalent to *division* as an administrative subdivision of an office of the KYTC.

Federal Assistance:

- Grants and loans of federal funds
- The grant or donation of federal property and interests in property
- The detail of federal personnel
- The sale and lease of, and the permission to use (on other than a casual or transient basis), federal property or any interest in such property without
- Consideration or with nominal consideration, or with consideration which is reduced for the purpose of assisting the recipient, or in recognition of the public interest to be served by such sale or lease to the recipient
- Any federal agreement, arrangement, or other contract that has, as one of its purposes, the provision of assistance

Federal Highway Administration or FHWA: agency within the U.S. Department of Transportation that supports State and local governments in the design, construction and maintenance of the Nation's highway system (Federal Aid Highway Program) and various federally and tribal owned lands (Federal Lands Highway Program).

Grantee: any public or private agency, institution or organization to whom federal financial assistance is intended for any program.

Hispanic or Latino: A person of Cuban, Mexican, Puerto Rican, South or Central American or other Spanish culture or origin, regardless of race.

Interpretation: The process of listening to something in one language and orally interpreting it in another. The mix of LEP services under the Oral Languages Services is as follows:

- Hiring bilingual staff
- Hiring staff interpreters
- Using telephone interpreter lines
- Using community volunteers
- Use of family members, friends, and other customers/passengers as interpreters

Kentucky Transportation Cabinet or KYTC: the agency of Kentucky charged by its laws with the responsibility for all modes of transportation.

Limited English Proficiency or LEP: Individuals who do not speak English as their primary language and who have a limited ability to read, speak, write or understand English can be limited English proficient.

Metropolitan Planning Organization or MPO: policy board of an organization created and designated to carry out the metropolitan transportation planning process. MPOs are required to represent localities in all Urbanized Areas (UZA) of populations over 50,000, as determined by the US Census. MPOs are designated by agreement between the Governor and units of general-purpose local government that together represent at least 75 percent of the affected population (including the largest incorporated city, based on population, as named by the Bureau of the Census) or in accordance with procedures established by applicable State or local law. When submitting the transportation improvement program (described below), to the State for inclusion in the statewide program, MPOs self-certify that they have met all federal requirements.

Minority: A person or groups of persons differing from others in some characteristics who may be subjected to differential treatment based on race, color or national origin. Includes *African Americans, Hispanics or Latinos, American Indian or Alaska Native, Asians and Native Hawaiian or Other Pacific Islander*.

Native Hawaiian or Other Pacific Islander: A person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands.

Non-compliance: the condition wherein a recipient has failed to meet prescribed requirements and has shown a lack of good-faith effort in implementing all of the Title VI requirements.

Non-minority or non-minority group people: Caucasians

Persons: Where designation of persons by race, color or national origin is required, the following designations ordinarily may be used: “White not of Hispanic origin,” “Black not of Hispanic origin,” “Hispanic,” “Asian or Pacific Islander,” “American Indian or Alaskan Native.” Additional subcategories based on national origin or primary language spoken may be used, where appropriate, on either a national or a regional basis.

Primary recipient: KYTC or any department, division, or agency authorized to request federal assistance on behalf of sub-recipients and to distribute financial assistance to sub-recipient’s contracts for carrying out a program.

Program: includes any highway, project, or activity that provides services, financial aid or other benefits to individuals, including education or training, work opportunities, health, welfare, rehabilitation, housing or other services, whether provided directly by the recipient of federal financial assistance or provided by others through contracts or other arrangements with the recipient (i.e. Planning, Environment, Design, Right-of-Way, Construction, Safety, & Research).

Program area officials: the officials who are responsible for carrying out technical program responsibilities.

Public participation: an open process in which the rights of the community to be informed to provide comments to the Government and to receive a response from the Government are met through a full opportunity to be involved and to express needs and goals.

Recipient: Kentucky or any political subdivision or instrumentality thereof or any public or private agency, institution, or organization or other entity; or any individual in Kentucky to whom federal assistance is extended, either directly or through another recipient, for any program. Recipient includes any successor, assignee, or transferee thereof. The term “**recipient**” does not include any ultimate beneficiary under any such program. Examples of recipients include MPOs, Council of Governments (COG), towns, cities, counties, school districts or any sub recipient.

Secretary: The chief administrative officer of the Kentucky Transportation Cabinet or KYTC.

Statewide Transportation Improvement Program or STIP: statewide transportation improvement program (STIP) for all areas of the State covering a period of at least four years. The STIP is a staged, multi-year, statewide intermodal program of transportation projects, consistent with the statewide transportation plan and planning processes as well as metropolitan plans, transportation improvement programs (TIP), and planning processes. The STIP must be developed in cooperation with the metropolitan planning organizations (MPO), public transit providers, and any Regional Transportation Planning Organizations (RTPO) in the State and must be compatible with the TIPs for the metropolitan areas in the State.

Statewide Transportation Plan or STP: a long-range transportation plan that provides for the development and implementation of the multimodal transportation system (including transit, highway, bicycle, pedestrian and accessible transportation) for the State. This plan must identify how the transportation system will meet the State’s economic, transportation, development and sustainability goals for at least a 20-year planning horizon.

Sub-grantee: Any public or private agency, institution, or organization to whom federal financial assistance is intended (through another recipient) for any program.

Title VI Officer, Coordinator or Liaison: refers to the responsible City official in matters relating to Title VI. The Title VI Officer, Coordinator or Liaison reports to and assists the City Manager of the City in carrying out the required Title VI responsibilities.

Title VI Program: the system of requirements developed to implement Title VI of the Civil Rights Act of 1964. When appropriate, the phrase “Title VI Program” also refers to the civil rights provisions of other federal non-discrimination authorities to the extent that they prohibit discrimination on the grounds of race, color, national origin, sex, age and disability, including income level and Limited English Proficiency in programs or activities receiving federal financial assistance.

Translation: Translation is the replacement of a written text from one language into an equivalent written text in another language.

Transportation Improvement Programs or TIP: plan developed by Metropolitan Planning Organization cooperation with the State and public transit providers detailing a list of upcoming transportation projects, covering a period of at least four years. It should include capital and non-capital surface transportation projects, bicycle and pedestrian facilities and other transportation enhancements, Federal Lands Highway projects and safety projects included in the State's Strategic Highway Safety Plan. The TIP should include all regionally significant projects receiving FHWA or FTA funds, or for which FHWA or FTA approval is required.

White: A person having origins in any of the original peoples of Europe, the Middle East, or North Africa.

II. OVERVIEW

Title VI of the Civil Rights Act of 1964 is a non-discrimination statute. Specifically, Title VI provides that “no person in the United States shall, on the ground of race, color or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance” (42 U.S.C. Section 2000d). Each federal department and agency, which is empowered to extend Federal financial assistance to any program or activity, by way of grant, loan, federal personnel or any federal agreement contract is authorized and directed to make the provisions of Section 2000d of this title.

The City of Paducah Board of Commissioners is the governing body of the City. As a recipient of federal funds through grant program(s), the City is subject to Title VI of the Civil Rights Act of 1964. The City works to ensure that nondiscriminatory services are offered throughout the region thereby enhancing both the quality of life and the economic vitality.

Non-Discrimination Authorities

- Title VI of the Civil Rights Act of 1964 (42 USC 2000d et seq.)
- Section 162 (a) of the Federal Aid Highway Act of 1973 (23 USC 324)
- Age Discrimination Act of 1975
- Section 504 of the Rehabilitation Act of 1973
- Americans With Disabilities Act of 1990
- Civil Rights Restoration Act of 1987
- 49 CFR Part 21
- 23 CFR Part 200
- U.S. DOT Order 1050.2
- Executive Order #12898 (Environmental Justice)
- Executive Order #13166 (Limited-English-Proficiency)



City of Paducah

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The City of Paducah

TITLE VI “STATEMENT OF POLICY”

The City of Paducah (CITY) is committed to a policy of non-discrimination in the conduct of its business, including its Title VI responsibilities – delivery of equitable and accessible transportation services. CITY recognizes its responsibilities to the communities in which it operates and to the society it serves. It is CITY’s policy to utilize to its best efforts to assure their “Statement of Policy” is accomplished.

Statement of Policy:

CITY as a federal grant recipient, is required by the Federal Transit Administration (FTA) to conform to Title VI of the Civil Rights Act of 1964 and its amendments. Section 601 of Title VI of the Civil Rights Act of 1964 requires that “No person in the United States, on the grounds of race, color or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination, under any program or activity receiving Federal financial assistance.” Presidential Executive Order 12898 addresses environmental justice in minority and low-income populations. Presidential Executive Order 13166 addresses services to those individuals with limited English proficiency.

CITY is committed to enforcing the provisions of Title VI and protecting the rights and opportunities of all persons associated with the agency. CITY’s commitment includes following all applicable laws and regulations that affect the Region and those organizations, both public and private, which participate and benefit through our programs.

CITY will take positive and realistic affirmative steps to ensure that all persons and/or firms wishing to participate in its programs are given an equal and equitable chance to participate.

CITY’s sub-recipients and contractors are required to prevent discrimination and ensure nondiscrimination in all of their programs, activities and services.

CITY is responsible for providing leadership, direction and policy to ensure compliance with Title

VI of the 1964 Civil Rights Act in respect to its transit services. Any person(s) who feels that they have been discriminated against is encouraged to report such violations in writing to the local transit authority's office:

CITY's objective is to:

- A. Encourage local transit agencies to provide that the level and quality of public transportation service is provided in a nondiscriminatory manner;
- B. Promote full and fair participation in public transportation decision-making without regard to race, color, or national origin;
- C. Make efforts to provide meaningful access to programs and activities by persons with limited English proficiency;
- D. Identify and address, as appropriate, disproportionately high and adverse human health and environmental effects, including social and economic effects of programs and activities on minority populations and low-income populations;
- E. Work to prevent the denial, reduction, or delay in benefits related to programs and activities that benefit minority populations or low-income populations and to notify beneficiaries of protections available under Title VI;
- F. Adhere to the Title VI reporting requirements of the Federal Transit Administration through the annual Certification and Assurance module in TEAM and provide written Title VI policy documentation every three years as required in as required in FTA circular 4702.1A;
- G. Provide public notification of Title VI protections in all public places where CITY conducts business or operations.

The responsibility for carrying out CITY's commitment to this program has been delegated by the City Manager to Stefanie Wilcox, a Title VI Compliance Officer who will receive and investigate Title VI complaints which come through the complaint procedure. However, all managers, supervisors and employees share in the responsibility for making CITY's Title VI Program a success. Additional information concerning CITY's obligations and the complaint procedure can be found on the CITY's web site www.paducahky.gov or by calling 270-444-8800.



City of Paducah

300 South 5th Street
Paducah, KY 42003
(270) 444-8800
Fax: (270) 444-8515
www.paducahky.gov

City of Paducah

Title VI Policy Statement

It is the policy of the City of Paducah (CITY) to afford equal opportunity to all persons to the end that no person in the United States shall, on the grounds of race, color, sex, disability, age or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving federal financial assistance from the U.S. Government.

Program and activities to which this policy applies include, but are not limited to, the use of grants in connection with federal-aid highway systems, the Surface Transportation and Reauthorization & Reform Act of 2015, the Highway Safety Act of 1966 and the National Traffic and Motor Vehicle and Safety Act of 1966, leases of real property and the grant of permits, licenses, easements and rights of way covering real property, Urban Mass Transportation Research Programs, and other grants for the support of basic scientific research.

This policy shall be prominently posted in all personnel office, EEO offices, and on the CITY's internal website.

Signed and approved this _____ day of April 2024.

Daron Jordan
City Manager

III. GENERAL REPORTING

TITLE VI NOTICE TO THE PUBLIC

See next page for the notice that is posted in all CITY administrative reception areas and transfer centers. The text is printed on all route and schedule guides and is stated on the CITY website.



City of Paducah

300 South 5th Street
Paducah, KY 42003
(270) 444-8550
Fax: (270) 444-8515
www.paducahky.gov

Notifying the Public of Rights Under Title VI

City of Paducah (CITY)

The CITY operates its programs without regard to race, color and national origin in accordance with the Title VI of the Civil Rights Act. Any person who believes she or he has been subjected to discrimination prohibited under Title VI may file a complaint with CITY.

To request or receive additional information on CITY's civil rights program and the procedures and/or to file a complaint, please contact the person listed below:

Stefanie Wilcox, Title VI Coordinator
City of Paducah
300 South 5th Street
Paducah, Kentucky 42003

Telephone: 270-444-8540 TTY 800-648-6056
Email Address: swilcox@paducahky.gov

Visit website: www.paducahky.gov

To file a discrimination complaint, the written complaint must be filed to the address above within 180 days of the alleged discrimination. Written complaints may also be filed with the U.S. Department of Transportation/Federal Transit Administration (FTA) no later than 180 days after the date of the alleged discrimination, unless the time for filing is extended by FTA. **Attention: Title VI Program Coordinator, East Building, 5th Floor-TCR, 1200 New Jersey Ave., SE Washington, DC 20590. Written complaints may also be filed with the KYTC Office of Transportation Delivery Project Manager or Title VI Coordinator, Kentucky Transportation Cabinet, 200 Mero Street, Frankfort, KY 40622.** To accommodate limited English proficient individuals, oral complaints to be documented and/or translated may also be given at the above address.

If information is needed in another language, contact CITY at 270-444-8540.



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Notificación al público de los derechos bajo el Título VI

City of Paducah (CITY)

CITY opera sus programas sin tener en cuenta la raza, el color y origen nacional de acuerdo con el Título VI de la Ley de Derechos Civiles. Cualquier persona que crea que ella o él ha sido agraviada por cualquier práctica discriminatoria ilegal bajo el Titulo VI puede presentar una queja ante CITY.

Para más información sobre el programa de derechos civiles de CITY y los procedimientos para presentar una queja, comuníquese con el CITY a:

Stefanie Wilcox, Coordinador Título VI
Ciudad de Paducah
300 Calle Quinta Sur
Paducah, Kentucky 42003

Teléfono: 270-247-7171 TTY 800-648-6056
Dirección de correo electrónico: swilcox@paducahky.gov

Visite el sitio web: www.paducahky.gov

Para presentar una queja por discriminación, la queja por escrito debe presentarse a la dirección antes mencionada dentro de los 180 días de la supuesta discriminación. Las quejas por escrito también se pueden presentar ante el Departamento de Transporte de los EE. UU. / Administración Federal de Tránsito (FTA) a más tardar 180 días después de la fecha de la supuesta discriminación, a menos que el FTA prorrogue el plazo de presentación. **Atención: Coordinador del Programa Título VI, Edificio Este, 5to Piso-TCR, 1200 New Jersey Ave., SE Washington, DC 20590. También se pueden presentar quejas por escrito ante el Gerente del Proyecto de Entrega de la Oficina de Transporte de KYTC o Coordinador del Título VI, Gabinete de Transporte de Kentucky, 200 Mero Street, Frankfort, KY 40622.** Para dar cabida a personas con conocimientos limitados de inglés, las quejas orales que deben documentarse y / o traducirse también pueden presentarse en la dirección anterior.

Si necesita información en otro idioma, comuníquese con CITY al 270-444-8540.

Title VI Program Coordinator or Liaison

Daron Jordan, City Manager, has overall responsibility for implementation, compliance and reporting with respect to Title VI. Inquiries related to these activities should be directed to:

City Manager
Daron Jordan
300 South 5th Street
Paducah, KY 42003
(270) 444-8800
(270) 444-8503
djordan@paducahky.gov

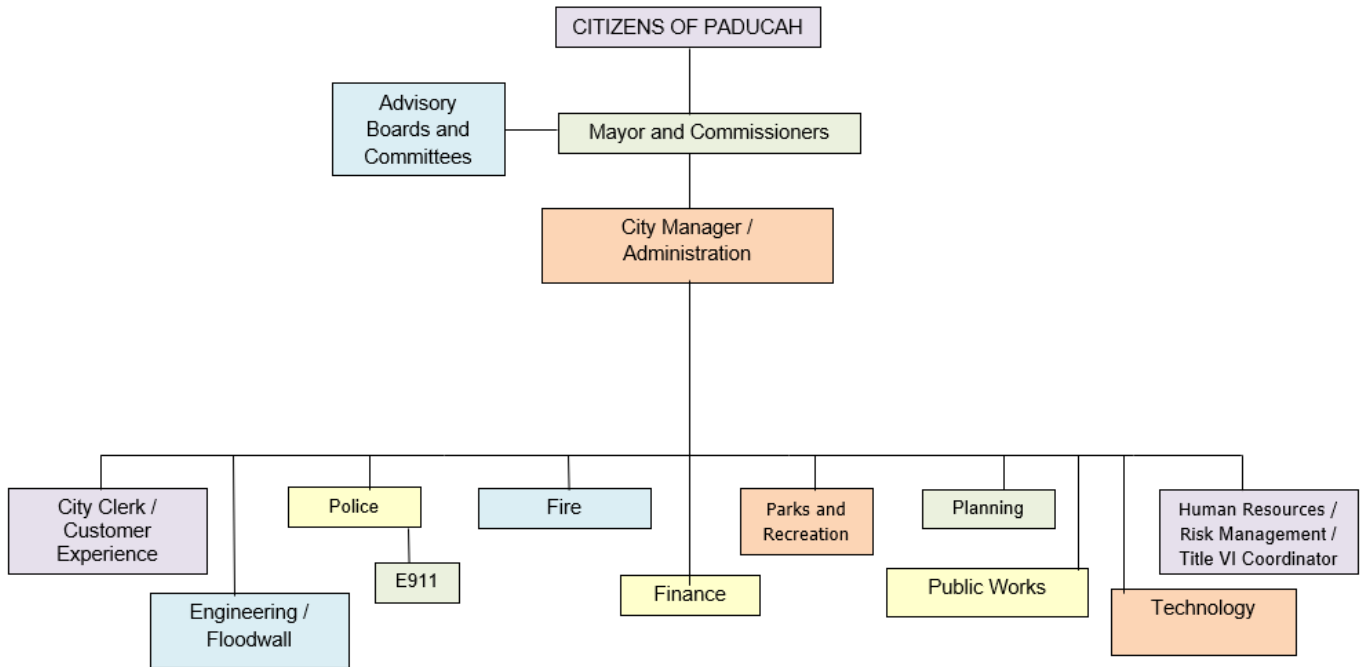
Title VI Coordinator
Stefanie Wilcox
300 South 5th Street
Paducah, KY 42003
(270) 444-8800
(270) 444-8540
swilcox@paducahky.gov

Stefanie Wilcox is designated as the Title VI Coordinator and is responsible for the oversight and coordination of CITY's compliance with Title VI and all related statutes, regulations and directives. The Title VI Coordinator has direct access to the CITY's City Manager. General responsibilities of the Title VI Coordinator include but are not limited to the following:

- Coordinating Title VI program development with Metropolitan Planning Organizations (MPOs), Local Public Agencies (LPAs) and CITY managers and staff
- Establishing procedures for processing Title VI program reviews and/or sub-recipient/contractor reviews
- Coordinating Title VI training for CITY staff, sub-recipients/contractors and stakeholders
- Preparing required reports
- Providing guidance and advice on the Title VI Program to CITY staff
- Annually updating CITY's Title VI Program Plan

CITY OF PADUCAH TITLE VI ORG CHART

ORGANIZATIONAL CHART



The summary of race and national origin for City of Paducah employees is as follows:

RACE/NATIONAL ORGIN	NUMBER	PERCENTAGE
White Females	74	24%
White Males	189	62%
African American Females	6	2%
African American Males	23	8%
Hispanic Females	3	1%
Hispanic Males	5	2%
Other Females	1	0%
Other Males	4	1%
Total	305	100%

IV. STATEMENT OF ASSURANCES



City of Paducah

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STANDARD TITLE VI ASSURANCE

City of Paducah

The City of Paducah, (hereinafter referred to as the “Subrecipient”) hereby agrees that as a condition to receiving any Federal financial assistance from the U.S. Department of Transportation, it will comply with Title VI of the Civil Rights Act of 1964, 78Stat. 252, 42 U.S.C. 2000d-4 (hereinafter referred to as the “Act”), and all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, (49 CFR, Part 21) Nondiscrimination in Federally Assisted Program of the Department of Transportation- Effectuation of Title VI of the Civil Rights Act of 1964 (hereinafter referred to as the “Regulations”) and other pertinent directives, no person in the United States shall, on the grounds of race, color, national origin, sex, age (over 40), religion sexual orientation, gender identity, veteran status, or disability be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Recipient receives Federal financial assistance from the U.S. Department of Transportation, including the Federal Highway Administration, and hereby give assurance that it will promptly take any necessary measures to effectuate the agreement. This assurance is required by subsection 21.7(a) (1) of the Regulations.

More specifically and without limiting the above general assurance, the Recipient hereby gives the following specifies assurances with respects to its Federal-aid Highway Program:

1. That the Recipient agrees that each “facility” and each “program” as defined in subsections 21.23(b) and 21.23I of the Regulations and will be (with regard to a “facility”) operated in compliance with all requirements imposed by, or pursuant to, the Regulations.
2. That the Recipient shall insert the following notification in all solicitations for bids for work or material subject of the Regulations made in connection with the Federal-aid Highway Program and, in an adapted form in all proposals for negotiated agreements.

Construction Proposals

The City of Paducah, in accordance with the provisions of the Title VI of the Civil Rights Act of 1964 (78 Stat. 252) and the regulations of the Federal Department of Transportation (49 CFR, Part 21), issued pursuant to such Act, hereby notifies all bidders that it will affirmatively insure that the contract entered into pursuant to this advertisement will be awarded to the lowest responsible bidder without discrimination on the grounds of race, color, national origin, sex, age (over 40), religion, sexual orientation, gender identity, veteran status, or disability.

Agreements for Other Services

Compliance with Regulations: The Consultant shall comply with the regulations of the City of Paducah and the Department of Highways, relative to nondiscrimination in Federally Assisted Programs of the CITY, Department of Highways (49 CFR, Part 21) which are herein incorporated by reference and made a part of this contract.

3. That the Recipient shall insert one of these nondiscrimination clauses in every contract subject to the Act and the Regulations.
4. That the Recipient shall also insert into every relevant contract a clause stating that the contractors will not discriminate against any employee or applicant for employment because of race, color, national origin, sex, age (over 40), religion, sexual orientation, gender identity, veteran status, or disability.
5. That where the Recipient receives Federal financial assistance to construct a facility, or part of a facility, these assurances shall extend to the entire facility and facilities operated in connection therewith.
6. That where the Recipient receives Federal financial assistance in the form of, or for the acquisition of real property, these assurances shall extend to rights to space on, over, or under such property.
7. That these assurances obligate the Recipients for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, real property or interest therein or structures of improvement thereon, in which case the assurance obligates the Recipient or any transferee for the longer of the following periods: (a) the period during which the property is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefit; or (b) the period during which the Recipient retains ownership or possession of the property.

Statement of Assurances

Page 3 of 3

8. The recipient shall provide for such methods of administration for the program as are found by the Secretary of Transportation, or the delegated authority, to give a reasonable guarantee that it, other recipients, sub grantees, contractors, subcontractors, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed by or pursuant to the Act, the Regulations and these assurances.
9. The Recipient agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Act, the Regulations, and these assurances.

These assurances are given in consideration of, and for, obtaining all Federal grants, loans, contracts, property, discounts, and/or other Federal financial assistance extended after the date hereof, to the Recipient by the U.S. Department of Transportation under the Federal-aid Highway Program. The person whose signature appears below is authorized to sign these assurances on behalf of the Recipient.

Signed and approved this ____ day of June 2024.

Daron Jordan
City Manager

V. PROGRAM REVIEW PROCEDURES

Each division within CITY and all its departments and program areas are responsible for the following under Title VI:

- Collecting and analyzing data on minority and low-income populations to determine the potential impact of proposed plans, programs and projects
- Ensuring all contract documents contain the appropriate Title VI provisions
- Consulting with the Title VI Officer, Coordinator or Liaison and the City Manager when complaints are received, prior to sending any information to KYTC.
- Ensuring that all people are treated equitably regardless of race, color or national origin
- Monitoring Title VI accomplishments, notifying the Title VI Officer, Coordinator or Liaison of problem areas and summarizing activities for inclusion in the Title VI Plan Update
- Developing and updating internal policies and procedures to ensure Title VI compliance during all phases of projects and activities
- Ensuring that all business pertaining to the selection, negotiation, and administration of consultant contracts and agreements is accomplished without discrimination based on race, color or national origin
- Ensuring that efforts are made to include minority and women owned businesses in consideration for contracts
- Ensuring that internal and external publications and all other relevant communications disseminated to the public include the Title VI policy reference
- Providing reasonable accommodations, information in the appropriate language or interpreters as needed for individuals with disabilities and LEP persons

Special Emphasis Program Areas

The CITY does not currently have any “Special Emphasis Program Areas.” Based on the information collected through program review procedures, the Title VI Coordinator will determine whether a program area will be identified as a “Special Emphasis Program Area.” If a “Special Emphasis Program Area” is identified, a plan will be drafted on how best to remedy the trend or pattern of discrimination. The Title VI Coordinator will notify the City Manager of the CITY, who will ensure that the program area complies with the remediation plan.

Sub-Recipient Review Procedures

Each sub-recipient of federal funds under grants administered by the CITY shall have a Title VI plan which shall be available for review by CITY staff. The CITY shall periodically review all programs funded through federal assistance for those sub-recipients who have been found by the CITY to be in non-compliance with Title VI. Reviews will use a desk audit, self-survey, and/or onsite inspections. Employees or grant sub-recipients who refuse to voluntarily comply with Title VI or to take corrective actions required by the CITY shall face disciplinary action, or in the case of grant sub-recipients, may face termination or suspension of the contractual relationship with the CITY. Any trends, patterns of discrimination, or complaints filed against a sub-recipient will automatically trigger the review process.

VI. PROGRAMS OR ACTIVITIES SUBJECT TO TITLE VI

- A. U.S. Housing and Urban Development's Community Development Block Grant (CDBG), U.S. Federal Highway Administration funding, U.S. Department of Labor's Workforce Innovation and Opportunity Act (WIOA), funding and U.S. Health and Human Services, Administration for Community Living programs. Funds are designated for the following program areas:

- Housing
- Community Projects
- Public Services
- Public Facilities
- Economic Development
- Community Emergency Relief Fund
- U.S. Department of Labor WIOA
- Transportation
- Aging

The U.S. Department of Housing and Urban Development (HUD) funded Community Development Block Grant (CDBG) program for DLG, Federal Highway Administration, Department of Labor, WIOA, and Health and Human Services, Administration for Community Living to provide assistance to communities for use in revitalizing neighborhoods, expanding affordable housing and economic opportunities, providing infrastructure and/or improving community facilities, providing workforce development to the Purchase region, and the provision of services for our Senior Citizens.

- B. The Land and Water Conservation Fund (LWCF) provides federal grant funds to protect important natural areas, to acquire land for outdoor recreation and to development or renovate public outdoor recreation facilities such as campgrounds, picnic areas, sports & playfields, swimming facilities, boating facilities, fishing facilities, trail, natural areas and passive parks.

Potential Beneficiaries: Cities and counties, state and federal agencies are eligible to apply for funding. The maximum grant amount is \$250,000. The minimum amount is \$12,500. It is a 50% matching reimbursement program.

- C. The Recreational Trails Program provides grant funds to develop and renovate recreation trails for both motorized and non-motorized use. It does not fund equipment such as mowers and gators.

Potential Beneficiaries: Eligible applicants are city and county governments, state and federal agencies, and non-profit organizations.

- D. The ARC is a federal-state economic development program. To assist in the economic development of Appalachia through a diversity of projects in the areas of public infrastructure (water, sewer, solid waste, housing, and telecommunications), human resource development (education/workforce development, affordable/accessible healthcare, and leadership development) and business/entrepreneurial development.

Potential Beneficiaries Local governments, special districts, and non-profit entities that include Kentucky's 51 most eastern and south-central Counties are eligible to apply for the grant dollars. Thirty-two "distressed" counties also have access to a separate restricted allocation of funds.

- E. The National Forest Receipt-Sharing Payments program provides "pass-through" funds to counties. The State Local Finance Officer receives notice of wire transfer from the US Department of Agriculture Forest Service for funds to be distributed annually to various counties.

Potential Beneficiaries: Counties.

The Flood Control Receipts program provides "pass-through" funds to counties. The State Local Finance Officer receives a check annually from the US Army Corps of Engineers. The check is deposited with the KY State Treasurer, authorization for payment to Counties is processed and checks are then prepared to send this money to the Counties in accordance with the statement from the federal government which was enclosed with the check.

Potential Beneficiaries: Counties.

The Kentucky Infrastructure Authority administers two federal grant programs from the Environmental Protection Agency:

1. Capitalization Grants for Clean Water State Revolving Funds provides assistance for: (1) construction of publicly owned wastewater treatment works; and (2) nonpoint source management activities. Funds are loaned to local government entities.
2. Capitalization Grants for Drinking Water State Revolving Funds provides assistance for infrastructure improvement projects that are needed to achieve or maintain compliance with Safe Drinking Water Act requirements, protect public health, and assist systems with economic need. Funds are loaned to local government entities.

VII. COMPLIANCE

- A. The CITY shall make every effort to regulate, monitor, review, and report on the federal programs to assure compliance.
- B. Upon a finding by the CITY of noncompliance, CITY shall take the following actions with regard to:

1. Processing

The compliance officer shall immediately notify the Responsible Official in writing of the violations held to constitute noncompliance with Title VI and of the steps necessary to correct these violations.

2. Reporting

The compliance officer shall notify the sub-recipient or employee found to be in noncompliance, in writing within 30 days of the compliance officer's report of noncompliance, of the violations and corrective measures necessary to remedy the violations.

3. Resolution

The CITY shall attempt to secure voluntary compliance with Title VI. In the event that efforts to secure voluntary compliance are not secured within a reasonable period of time, the compliance officer will notify the Responsible Official, in writing, of the recommended corrective action.

4. Enforcement of corrective actions

The Responsible Official shall implement corrective actions within thirty (30) days of receipt and acceptance of the notification of recommended corrective action.

Employees or grant sub-recipients who refuse to voluntarily comply with Title VI or to take corrective actions required by the CITY shall face disciplinary action, or in the case of grant sub-recipients, may face termination or suspension of the contractual relationship with CITY.

5. Monitoring of programs

The CITY shall undertake to periodically monitor all programs funded through federal assistance for those sub-recipients who have been found by the CITY to be in non-compliance with Title VI.

VIII. ENVIRONMENTAL JUSTICE (EJ)

Executive Order (E.O. 12898) was issued to focus federal attention on the environmental and human health conditions in minority and low-income communities to promote non-discrimination in federal programs substantially affecting human health and the environment and to provide minority and low-income communities access to public information on and an opportunity for public participation in matters relating to human health or the environment. The CITY will utilize the US Census Bureau data, the American Community survey data, and the following checklist to identify targeted populations:

- Make a list of potential demographic groups to consider for the region or start with the required EJ populations defined by the Executive Order and supportive guidance
- Consider groups that are underrepresented in typical public involvement and transportation decision making processes, have limited access to the full benefits of the transportation system or have encountered disproportionate impacts from past transportation decisions
- Decide on the level of detail required for identifying groups spatially and identifying data sources to use to conduct a spatial demographic profile
- Engage leaders and representatives of demographic groups to help identify target populations, spatially and non-spatially

IX. AGENCY TITLE VI TRAINING PLAN

All CITY staff will be provided with the Title VI plan and will be educated on procedures and services available. Each employee is required annually to receive and document Title VI training and acknowledge that it is the employee's responsibility to abide by the Title VI plan and seek clarification, if necessary. This information will also be part of the CITY's staff orientation process for new hires. Annual employee training will be conducted in April and/or May of 2025. Each employee will view the training at their individual workstation. Employee will sign an acknowledgement (see example at Appendix F) that they have understood the Title VI training and have the responsibility of abiding by the Title VI nondiscrimination plan. Those training records will be on file at the CITY.

Part of CITY's Title VI plan is deciding what level of staff training is needed. It is important that staff members, especially those having contact with the public, know their obligation to provide meaningful access to information and services for Title VI covered persons. Even staff members who do not interact regularly with Title VI covered persons should be aware of and understand the Title VI plan. Properly training staff is a key element in the effective implementation of the Title VI plan.

Staff and Operations staff are trained to recognize when a Title VI covered person is need of assistance. This awareness training, which is delivered by video, is included in Reservations Orientation and Initial On-The-Job Training.

X. DATA COLLECTION/REPORTING/ANALYSIS

Statistical data on race, color, national origin, sex, age, disability, and LEP of participants in and beneficiaries of the CITY's programs, (i.e., affected populations, and participants) will be gathered, analyzed, and maintained by the CITY to determine the transportation investment benefits and burdens to the population, including minority and low-income populations. Each of the CITY's Program Areas will maintain data relative to their programs and activities. Data gathering procedures will be reviewed regularly to ensure sufficiency of the data in meeting the requirements of Title VI program administration. Analysis of the data collected by the program emphasis areas may include:

- The race, color, national origin, sex, age, disability, income and LEP of the population eligible to be served
- Socioeconomic Assessment to evaluate project's potential impacts to the human environment
- Persons to include in the decision-making process
- Percent of benefits allocated to persons below the poverty line vs. persons above the poverty line
- Distribution of benefits (dollars, facilities, systems, projects) to groups and communities
- Projected population increases versus planned facilities and types of facilities
- Language needs assessment
- Transportation needs of all persons within boundaries of plans or projects
- Strategies to address impacts
- The manner in which services are or will be provided and the related data necessary for determining whether any persons are or will be denied such services on the basis of prohibited discrimination
- The location of existing or proposed facilities connected with the program and related information for determining whether the location has or will have the effect of unnecessarily denying access to any persons on the basis of prohibited discrimination
- The present or proposed membership, by race, color, national origin, sex, disability and age, in any planning or advisory body which is an integral part of the program
- Strategies to disseminate information

XI. CITY TITLE VI COMPLAINT PROCEDURE

These procedures cover all complaints under Title VI of the Civil Rights Act of 1964, Executive Order 12898 “Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations” (1964), and Executive Order 13166 “Improving Access to Services for Person with Limited English Proficiency” (2000), for alleged discrimination in any program or activity administered by City of Paducah.

Any person who believes she/he or any specific class of persons has been subjected to discrimination or retaliation prohibited by any of the Civil Rights authorities, based upon race, color, or national origin by City of Paducah (hereinafter referred to as “CITY”) may file a written complaint in accordance with the following procedure:

Who can file?

Any person who believes they—or with a specific class of persons—were subjected to discrimination on the basis of race, color, or national origin in the programs and activities of a CITY may file a Title VI complaint.

Where can one file?

Complaints may be filed with KYTC, FHWA Division Offices, the FHWA Headquarters Office of Civil Rights, the United States Department of Transportation (USDOT) Departmental Office of Civil Rights, or the U.S. Department of Justice. See addresses below.

When must one file?

According to U.S. DOT regulations, 49 CFR § 21.11(b), a complaint must be filed not later than 180 days after the date of the last instance of alleged discrimination, unless the time for filing is extended by the investigating agency.

What should a complaint look like?

Complaints should be in writing and signed and may be filed by mail, fax, in person, or e-mail. However, the complainant may call CITY and provide the allegations by telephone, and the agency will transcribe the allegations of the complaint as provided over the telephone and send a written complaint to the complainant for correction and signature. A complaint should contain at least the following information:

- A written explanation of what has happened;
- A way to contact the complainant;
- The basis of the complaint (e.g., race, color, national origin);
- The identification of a specific person/people and the respondent (e.g., agency/organization) alleged to have discriminated;
- Sufficient information to understand the facts that led the complainant to believe that discrimination occurred in a program or activity that receives Federal financial assistance; and
- The date(s) of the alleged discriminatory act(s). Complaint should indicate if the alleged discrimination is on-going.

How are complaints routed?

FHWA is responsible for all decisions regarding whether a complaint should be accepted, dismissed, or referred to another agency. With this understanding, complaints should be routed in the following ways:

- All complaints should be routed to the FHWA Headquarters Office of Civil Rights (HCR) for processing. HCR is responsible for all determinations regarding whether to accept, dismiss, or transfer Title VI complaints filed against CITY.
- Complaints filed with CITY will be forwarded to KYTC, KYTC will forward the complaint to Kentucky's FHWA Division Office, which will forward the complaint to HCR. If a complaint is filed with KYTC, then the KYTC will forward the complaint to Kentucky's FHWA Division Office, which should forward the complaint to HCR.
- CITY and KYTC must log all complaints received.
- When HCR decides on whether to accept, dismiss, or transfer the complaint, HCR will notify the Complainant, the Kentucky FHWA Division Office, KYTC, and CITY.

Complaints may be sent to:
Kentucky Transportation Cabinet
Office for Civil Rights
200 Mero Street, 6th Floor
Frankfort, KY 40622

And/Or

US Federal Highway Administration Kentucky Division
John C Watts Federal Building
330 W Broadway St Ste 264,
Frankfort, KY 40601
Attention: Civil Rights Specialist

And/Or

Federal Highway Administration Headquarters - Office of Civil Rights
1200 New Jersey Avenue, SE HCR-40, Room E81-101
Washington, DC 20590
202-366-0693 or Fax: 202-366-1599
TTY: 202-366-5751

Additionally, complaints may be filed with the U.S. Department of Justice at:

Federal Coordination and Compliance Section - NWB Civil Rights Division
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530

What are the potential outcomes for processing a complaint?

There are four potential outcomes for processing complaints:

- **Accept:** if a complaint is timely filed (see “**When must one file?**” above), contains sufficient information to support a claim under Title VI, and concerns matters under FHWA’s jurisdiction, then HCR will send to the complainant, the respondent agency, and the FHWA Division Office a written notice that it has accepted the complaint for investigation.
- **Preliminary review:** if it is unclear whether the complaint allegations are sufficient to support a claim under Title VI, then HCR may (1) dismiss it or (2) engage in a preliminary review to acquire additional information from the complainant and/or respondent before deciding whether to accept, dismiss, or refer the complaint.
- **Procedural Dismissal:** if a complaint is not timely filed (see “**When must one file?**” above), is not in writing and signed, or features other procedural/practical defects, then HCR will send the complainant, respondent, and FHWA Kentucky Division Office a written notice that it is dismissing the complaint.
- **Referral/Dismissal:** if the complaint is procedurally sufficient but FHWA (1) lacks jurisdiction over the subject matter or (2) lacks jurisdiction over the respondent entity, then HCR will either dismiss the complaint or refer it to another agency that does have jurisdiction. If HCR dismisses the complaint, it will send the complainant, respondent, and FHWA Kentucky Division Office a copy of the written dismissal notice. For referrals, FHWA will send a written referral notice with a copy of the complaint to the proper Federal agency and a copy to the USDOT Departmental Office of Civil Rights.

HCR is responsible for conducting all investigations of KYTC and CITY. In the case of a complaint filed against CITY, HCR may either conduct the investigation itself, or it may delegate the investigation to KYTC. If HCR chooses to delegate the investigation of CITY, HCR will communicate its acceptance of the complaint to the complainant and respondent, but KYTC will conduct all data requests, interviews, and analysis. KYTC will then create a Report of Investigation (ROI), which it will send to HCR. Finally, HCR will review the ROI and compose a Letter of Finding based on the ROI. All Letters of finding issued by FHWA are administratively final.

What are the timeframes for investigations?

For FHWA, there is no regulatory timeframe for completing investigations. However, FHWA strives to complete all tasks within 180 days from the date of acceptance. If KYTC is delegated an investigation from FHWA, 23 CFR §200.9(b)(3) provides that KYTC must complete investigations within 60 days of receipt (meaning the date it receives the delegated complaint from FHWA).

Investigation files are confidential and will be maintained by KYTC. The contents of such files will only be disclosed to appropriate KYTC personnel and federal authorities in accordance with Federal and State laws. KYTC will retain files in accordance with records retention schedules and all Federal guidelines.

A. CITY TITLE VI INVESTIGATIONS, COMPLAINTS AND LAWSUITS

FTA Circular 4702.1B, Chapter III, Paragraph 7: In order to comply with the reporting requirements of 49 CFR 21.9(b), FTA requires all recipients to prepare and maintain a list of any of the following that allege discrimination on the basis of race, color, or national origin: active investigations; lawsuits, and complaints naming the recipient.

In accordance with 49 CFR 21.9(b), CITY must record and report any investigations, complaints, or lawsuits involving allegations of discrimination. The records of these events shall include the date the investigation, lawsuit, or complaint was filed; a summary of the allegations; the status of the investigation, lawsuit, or complaint; and actions taken by CITY in response; and final findings related to the investigation, lawsuit, or complaint. The records for the previous three (3) years shall be included in the Title VI Plan when it is submitted to Kentucky Transportation Cabinet.

CITY has had no investigations, complaints, or lawsuits involving allegations of discrimination on the basis of race, color, or national origin over the past three (3) years of calendar years 2021, 2022 and 2023. A summary of these incidents is recorded in Table 1.

Table 1: Summary of Investigations, Lawsuits, and Complaints

	Date (Month, Day, Year)	Summary (include basis of complaint: race, color, or national origin)	Status	Action(s) Taken
Investigations				
1. N/A	N/A	N/A	N/A	N/A
2.				
Lawsuits				
1. N/A	N/A	N/A	N/A	N/A
2.				
Complaints				
1. N/A	N/A	N/A	N/A	N/A
2.				

XII. PUBLIC PARTICIPATION PLAN

Public Involvement Plan/Community Outreach

The Public Participation Plan for CITY was developed to ensure that all members of the public, including minorities, disabled, low income, LEP populations, are encouraged to participate in the decision-making process. The public outreach strategies described in the Plan are designed to provide public with effective access to information about CITY services and to provide means for considering public comment.

Community Outreach is a requirement of Title VI. Recipients and sub-recipients shall seek out and consider the viewpoints of minority and low-income populations in the course of conducting public outreach. Recipients have wide latitude to determine what specific measures are most appropriate and should make this determination based on the composition of the affected population, the public involvement process, and the resources of the recipient.

As an agency receiving federal financial assistance, we have made the following community outreach efforts:

- Conduct local or regional public / information meetings as requested
- Utilizing CITY Monthly Updates to reach educate and inform the public on various programs
- Conducting meetings with local officials and interested community leaders
- Using e-mail distribution lists to provide information to interested persons and agencies
- Committee reports during the monthly CITY Board of Director's meetings
- Using the CITY Web Site, Facebook and Instagram to post projects/information/comments and providing a link for public feedback
- Address civic groups, chamber meetings, government meetings
- Attending fiscal court and city council meetings
- Utilize existing services / programs at the CITY to distribute information (i.e. Housing, Aging, Workforce Investment)
- Use surveys in newsletters, mail-outs, emails, Survey Monkey, etc. to gain public input

Third Party Groups

The CITY will seek to increase public outreach to the underserved populations by contacting third party groups and asking for their assistance in creating public awareness concerning transportation related issues. The agencies, groups or people that wish to provide assistance can be utilized to distribute materials pertaining to the statewide planning process. The members may be able to utilize their brochures, newsletters, word of mouth, etc. concerning public meetings, announcements of public review and comment periods for statewide planning documents by sharing and distributing the information with the populations they service. These groups may include, but not be limited to the following:

Senior citizen centers
Public libraries
Public health departments
Public transit authorities
NAACP
Housing authorities
Post offices
County or city clerk's office
United Way
Churches
Migrant education programs
Adult education programs
Chamber of commerce
Community based services
Human relations commissions
State government agencies
Disabled American Veterans

Public Meetings

The CITY will hold local or regional public information/input meetings as requested to provide additional opportunities for public comments.

Newspapers

Information can be sent to the local newspapers in the region. While none are identified as targeting specific traditionally underserved audiences, all have the potential to have traditionally underserved subscribers. Information can be distributed to the newspapers relating to media releases with announcements of meeting dates and locations, announcements of documents available for public review and comment, and information about the statewide planning process.

Radio

Information can be sent to radio stations that serve the region. None are identified as targeting specific traditionally underserved audiences, but all have the potential to have traditionally served underserved listeners. Public meeting invitations can be sent to the stations along with media releases with announcements of meeting dates and locations and information about the statewide planning process or statewide documents available for public review and comment.

Television

Information can be sent to television stations that serve the region. This could include regular network broadcast stations as well as local cable access channels that may be available throughout the region. These channels can also be utilized in creating public awareness.

Traveling Exhibits

Traveling exhibits may be used to display information about public meetings, review of statewide documents and the statewide planning process. The following locations may be utilized to display information:

Public libraries
Post offices

County courthouses
City halls
Community centers, meeting halls, churches
Chamber of commerce
KYTC Highway District 1 office
City of Paducah office
Schools
Public housing authorities
Senior citizen centers or housing
Malls, restaurants, shopping centers
Special event locations
Other identified locations through planning process

Coordinated Public Transit-Human Services Transportation Plan (Coordinated Plan)

The two year transportation authorization entitled Fixing America's Surface Transportation (FAST) Act as amended by Federal and State Grants under Section 5311 Rural Area Formula Program, Appalachian Development Transportation Assistance, Commonwealth Veterans Transportation Program and JARC (Job Access and Reverse Commute) Programs under the Federal Transit Act of 1964, as amended funds would be used for capital equipment and transit operations. Under the requirements of Moving Ahead for Progress in the 21st Century (MAP-21) and the Enhanced Mobility of Senior and Individuals with Disabilities Program (5310) meetings are and will be held to make improvements on a local coordinated plan for public transit.

Public Notification.

The CITY will disseminate Title VI Program information to employees, contractors, sub-recipients and beneficiaries, as well as to the public. A variety of public notification and participation procedures will be used to encourage the early and continuous involvement of citizens, communities, and others interested in the planning process and decisions of the CITY. The CITY will discuss and/or distribute Title VI information using mass media including, but not limited to the following:

- Policy statements
- Inclusion of Title VI language in contracts
- New employee orientation
- Federal EEO posters
- CITY website
- Standard procedures manual
- Significant publications, i.e., newspapers, brochures, and written literature
- Mailings
- Meetings open to the public
- Events

Further notices informing the public and all employees that the CITY complies with Title VI of the Civil Rights Act of 1964 will be displayed in a prominent place.

Customer Complaint Process

Citizens may call the CITY at 270-444-8540 to lodge a complaint or comment. All complaints/comments are input into a database and then distributed to the relevant manager who researches the complaint and responds back to the citizen.

Bilingual Outreach

Upon request CITY provides Spanish-speaking guests with information on public transit services in Spanish. Staff will assist with outreach programs and public meetings as requested.

CITY submits an annual Section 5304 request to the Kentucky Transportation Cabinet and as part of this process a regional coordination meeting is conducted. All meetings will seek to incorporate minority, individuals with disabilities and LEP individuals' and their ability to provide feedback.

Practices which will be included:

- a. Scheduling meetings at times and locations that are convenient and accessible for minority and LEP communities
- b. Coordinating with community and faith-based organizations, education institutions, and other organizations to implement public engagement strategies that reach out specifically to members of affected minority and/or LEP communities.
- c. Providing opportunities for public participation through means other than written communications, such as personal interviews or use of audio or video recording devices to capture oral comments.

XIII. LANGUAGE ACCESS PLAN

CITY has taken excerpts from “Implementing the Department of Transportation’s Policy Guidance Concerning Recipients’ Responsibilities to Limited English Proficient (LEP) Persons: A Handbook for Public Transportation Providers” as prepared by The Federal Transit Administration Office of Civil Rights, dated April 13, 2007.

CITY recognizes the need to provide equal service opportunities for all individuals in the service area. Most individuals living in the United States read, write, speak, and understand English. There are many individuals, however, for whom English is not their primary language. The 2020 census shows that 40.5 million individuals speak Spanish and over 10.8 million individuals speak an Asian or Pacific Island language at home. If these individuals have a limited ability to read, write, speak, or understand English, they are limited English proficient, or “LEP.”

Language for LEP individuals can potentially hinder some individuals from arranging transportation services needed. The Federal Government funds an array of services that can be made meaningfully accessible to otherwise eligible LEP persons. The Federal Government is committed to improving the accessibility of these programs and activities to eligible LEP persons, a goal that reinforces its equally important commitment to promoting programs and activities designed to help individuals learn English.

Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d et seq., and its implementing regulations provide that no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination under any program or activity that receives Federal financial assistance. The Supreme Court, in *Lau v. Nichols*, 414 U.S. 563 (1974), interpreted Title VI regulations prohibits conduct that has a disproportionate effect on LEP persons because such conduct constitutes national origin discrimination (page 5).

Executive Order 13166, “Improving Access to Services for Persons with Limited English Proficiency,” reprinted at 65 FR 50121 (August 16, 2000), directs each Federal agency to examine the services it provides and develop and implement a system by which LEP persons can meaningfully access those services. Federal agencies were instructed to publish guidance for their respective recipients in order to assist them with their obligations to LEP persons under Title VI. The Executive Order states that recipients must take reasonable steps to ensure meaningful access to their programs and activities by LEP persons (Pages 5-6).

The U.S. DOT published revised guidance for its recipients on December 14, 2005. This document states that Title VI and its implementing regulations require that DOT recipients take responsible steps to ensure meaningful access to the benefits, services, information, and other important portions of their programs and activities for individuals who are Limited English Proficient (LEP) and that recipients should use DOT LEP Guidance to determine how best to comply with statutory

and regulatory obligations to provide meaningful access to the benefits, services, information, and other important portions of their programs and activities for individuals who are LEP (page 6).

The FTA references the DOT LEP guidance in its Circular 4702.1A, “Title VI and Title VI-Dependent Guidelines for FTA Recipients,” which was published on April 13, 2007. Chapter IV, Part 4 of this Circular reiterates the requirement to take responsible steps to ensure meaningful access to benefits, services, and information for LEP persons and suggests that FTA recipients and sub-recipients develop a language implementation plan consistent with the provisions of Section VII of the DOT LEP guidance (page 6).

In accordance with the Executive Order, the U.S. Department of Transportation issued Policy Guidance Concerning Recipient’s Responsibilities to Limited English Proficient (LEP) Persons, which is modeled after DOJ’s guidance. As described in the guidance, DOT recipients are required to take reasonable steps to ensure meaningful access to their programs and activities by LEP persons. The guidance applies to all DOT funding recipients, which include state departments of transportation, state motor vehicle administrations, airport operators, metropolitan planning organizations, and regional, state, and local transit operators, among many others. Coverage extends to a recipient’s entire program or activity, i.e., to all parts of a recipient’s operations. This is true even if only one part of the recipient receives the Federal assistance. For example, if DOT provides assistance to a state department of transportation to rehabilitate a particular highway on the National Highway System, all of the operations of the entire state department of transportation—not just the particular highway program or project—are covered by the DOT guidance.

The DOT guidance outlines four factors recipients should apply to the various kinds of contacts they have with the public to assess language needs and decide what reasonable steps they should take to ensure meaningful access for LEP persons:

1. The number or proportion of LEP persons eligible to be served or likely to be encountered by a program, activity, or service of the recipient or grantee.
2. The frequency with which LEP individuals come in contact with the program.
3. The nature and importance of the program, activity, or service provided by the recipient to people’s lives.
4. The resources available to the recipient and costs.

The greater the number or proportion of eligible LEP persons; the greater the frequency with which they have contact with a program, activity, or service; and the greater the importance of that program, activity, or service, the more likely enhanced language services will be needed. Smaller recipients with more limited budgets are typically not expected to provide the same level of language service as larger recipients with larger budgets. The intent of DOT’s guidance is to suggest a balance that ensures meaningful access by LEP persons to critical services while not imposing undue burdens on small organizations and local governments. After completing the above four-factor analysis, recipients can determine the appropriate “mix” of LEP services required. Recipients have two main ways to provide language services: oral

interpretation either in person or via telephone interpretation service and written translation. The correct mix should be based on what is both necessary and reasonable in light of the four-factor analysis. For instance, a motor vehicle department or an emergency hazardous material cleanup team in a largely Hispanic neighborhood may need immediate oral interpreters available and decide to hire full-time bilingual staff. In contrast, there may be circumstances where the importance and nature of the activity and number or proportion and frequency of contact with LEP persons may be low and the costs and resources needed to provide language services may be high in which pre-arranged language services for the particular service may not be necessary. The languages spoken by the LEP individuals with whom the recipient has frequent contact often determine the languages into which documents will be translated and the types of interpreters provided.

Plan for Assisting Persons of Limited English Proficiency

How to Identify an LEP Person Who Needs Language Assistance?

Below are tools to help identify persons who may need language assistance:

1. Examine records requests for language assistance from past scheduled transportation needs to anticipate the possible need for assistance at upcoming appointments;
2. When CITY sets up at events, set up a sign-in sheet table, have a staff member greet and briefly speak to each attendee. To informally gauge the attendee's ability to speak and understand English, ask a question that requires a full sentence reply;
3. Staff should keep lists of individuals seeking language assistances on telephones, in office and on vehicles;
4. Post a notice of available language assistance on CITY vehicles, subcontractor vehicles and reception area.
5. Persons who do not speak English as their primary language and who have a limited ability to read, speak write or understand English can be limited English proficient, or "LEP." These individuals may be entitled to language assistance with respect to a particular type of service, benefit or encounter.

Title 49 CFR, Appendix C, Section (3)(iv) requires that "the location of projects requiring land acquisition and the displacement of persons from their residences and business may not be determined on the basis of race, color, or national origin." For purposes of this requirement, "facilities" does not include bus shelters, as they are considered transit amenities. It also does not include transit stations, power substations, or any other project evaluated by the National Environmental Policy Act (NEPA) process. Facilities included in the provision include, but are not limited to, storage facilities, maintenance facilities, operations centers, etc. In order to comply with the regulations, CITY will ensure the following:

CITY will complete a Title VI equity analysis for any facility during the planning stage with regard to where a project is located or sited to ensure the location is selected without regard to race, color, or national origin. City of Paducah will engage in outreach to persons potentially impacted by the siting of the facility. The Title VI equity analysis must compare

the equity impacts of various siting alternatives, and the analysis must occur before the selection of the preferred site.

When evaluating locations of facilities, CITY will give attention to other facilities with similar impacts in the area to determine if any cumulative adverse impacts might result. Analysis should be done at the Census tract or block group level where appropriate to ensure that proper perspective is given to localized impacts.

If CITY determines that the location of the project will result in a disparate impact on the basis of race, color, or national origin, CITY may only locate the project in that location if there is a substantial legitimate justification for locating the project there, and where there are no alternative locations that would have a less disparate impact on the basis of race, color, or national origin. CITY must demonstrate and document how both tests are met. CITY will consider and analyze alternatives to determine whether those alternatives would have less of a disparate impact on the basis of race, color, or national origin, and then implement the least discriminatory alternative.

MEANINGFUL ACCESS FOUR FACTOR ANALYSIS

(1) THE NUMBER OR PROPORTION OF LEP PERSONS ELIGIBLE TO BE SERVED OR LIKELY TO BE ENCOUNTERED BY A PROGRAM, ACTIVITY OR SERVICE OF THE RECIPIENT:

FROM THE U.S. CENSUS BUREAU 2019 ACS 5-YEAR ESTIMATES, 58.5 MILLION PEOPLE OF THE U.S. POPULATION WERE HISPANIC OR LATINO ORIGIN MAKING PEOPLE OF HISPANIC ORIGIN THE NATION'S LARGEST ETHNIC OR RACIAL MINORITY. 40.7 MILLION IS THE NUMBER OF U.S. RESIDENTS 5 AND OLDER WHO SPEAK SPANISH AT HOME IN. THIS IS A 135 PERCENT INCREASE SINCE 1990 WHEN IT WAS 17.3 MILLION. THOSE WHO SPEAK SPANISH AT HOME CONSTITUTED 12.5 PERCENT OF U.S. RESIDENTS 5 AND OLDER. MORE THAN HALF OF THESE SPANISH SPEAKERS SPOKE ENGLISH "VERY WELL."

Kentucky Demographics: According to the U.S. Census Bureau, the American Community Survey 5-Year Estimate indicated that Kentucky was ranked 39 out of 50 by percent of population Age 5+ Spanish Speaking. The total number of Spanish Speaking in Kentucky was 113,336 out of a total population of 4,526,154 Age 5+. According to these statistics 2.5% of Kentucky Residents Age 5+ are Spanish Speaking.

(2) THE FREQUENCY WITH WHICH LEP INDIVIDUALS COME IN CONTACT WITH THE PROGRAM, ACTIVITY, OR SERVICE:

The numbers are clearly showing an increase in the number of foreign-born residents in Kentucky as well as an increase in the number of Spanish Speaking residents. CITY will continue to monitor changes in demographics as they become available through Census and Studies. CITY will also work closely with local agencies in an effort to monitor developments in the region.

CITY will monitor the frequency with which LEP individuals come in contact with the program and services. CITY will report all encounters with LEP persons on the OTD Section 5304 Monthly

Report. Reporting accuracy will improve with ongoing training and tracking measures implemented.

(3) THE NATURE AND IMPORTANCE OF THE PROGRAM, ACTIVITY, OR SERVICE PROVIDED BY THE PROGRAM:

CITY understands they play an important role in the lives of our community. The individuals utilizing public transportation services in the region need this mobility to maintain a continued quality of life. A LEP person's inability to use public transit may hinder their ability to access health care, education or employment. CITY will continue to outreach to all individuals and promote their efforts. This will increase their need to promote their services for individuals to realize the service is available. When they speak to groups, they make them aware they will assist any individual with LEP.

(4) THE RESOURCES AVAILABLE TO THE RECIPIENT AND FOR LEP OUTREACH, AS WELL AS THE COSTS ASSOCIATED WITH THAT OUTREACH:

These additional language assistance tools will be utilized to assist LEP individuals at no additional cost:

www.freetranslation.com is used to translate Transportation Committee agendas and other documents as necessary.

With adequate notice CITY will use Murray State University's Institute for International Studies interpreters to provide information in other languages. The ESL contact person is Weihong Gao and may be contacted at 270/809-4103. An alternate contact for translation services is Vince Medlock and he can be reached at 270/293-8315.

The University of Tennessee Martin provides a third translation option through their Office of International Affairs. The contact person is Ms. Lori Jackson and she can be contacted at 731/881-3582. Karli Smith is a Program Resource Specialist and she can be reached at 731/881-7420. The International Admissions office can be reached at 731/881-7344.

The US Census 2000 Language Identification Flashcard is available to assist staff in assessing LEP needs.

A Google Translation Browser has been added to the CITY website, so all posted documents are available in multiple languages.

IMPLEMENTATION PLAN

Staff Training

Part of CITY's LEP plan is determining what level of staff training is needed. It is important for staff members, especially those having frequent contact with the public, to understand the obligation to provide meaningful access to information and services for LEP persons. Likewise, staff members who are less likely to interact with LEP persons should also be aware of and have a level of understanding of the resources available to CITY for assisting LEP persons. Properly training staff is key in the effective implementation of a LEP plan. Staff will be trained annually to recognize when a LEP person is in need of language assistance and respond by providing information in a format that the LEP person can understand.

LANGUAGE ASSISTANCE MEASURES

1. Staff will take reasonable steps to provide the opportunity for meaningful access to LEP clients who have difficulty communicating in English.
2. The following resources will be available to accommodate LEP persons:
 - a. A list of volunteer Spanish Language interpreters will be maintained and will provide within a reasonable time period.
 - b. Language interpretation will be accessed for all languages through a telephone interpretation service for critical need situations.
3. Network with local human service organizations that provide services to LEP individuals and seek opportunities to provide information about the transit program and services.
4. Include "Spanish" on all job recruitment notices.
5. Incorporate an option for machine translation into multiple languages for CITY's website (www.purchaseadd.org).

Outreach Techniques

When the staff prepares a document or schedules a meeting for which the target audience is expected to include LEP individuals, the documents, meeting notices, flyers, and agendas will be printed in an alternative language based on the known LEP population. Interpreters will be available as requested.

Monitoring and Updating the LEP Plan

This plan is designed to be flexible and is one that can be easily updated. As such, it is important to consider whether new documents and services need to be made accessible for LEP persons, and also to monitor changes in demographics and types of services, and to update the LEP plan when appropriate. At a minimum, the CITY will follow the Title VI program update schedule for the LEP plan.

Each update should examine all plan components such as:

1. How many LEP persons were encountered?
2. Were their needs met?
3. What is the current LEP population in the OTO region?
4. Has there been a change in the types of languages where translation services are needed?
5. Determine whether local language assistance programs have been effective and sufficient to meet the need.
6. Determine where CITY's fully complies with goals of this LEP Plan
7. Determine whether complaints have been received concerning the failure to meet the needs of LEP individuals
8. Maintain a Title VI complaint log, to include LEP issues and basis of complaints.

Safe Harbor Provision

DOT has adopted the Department of Justice's Safe Harbor Provision, which outlines circumstances that can provide a "safe harbor" for recipients regarding translation of written materials for LEP population. The Safe Harbor Provision stipulates that, if a recipient provides written translation of vital documents for each eligible LEP language group that constitutes five percent (5%) or 1,000 persons, whichever is less, of the total population of persons eligible to be served or likely to be affected or encountered, then such action will be considered strong evidence of compliance with the recipient's written translation obligations. Translation of non-vital documents, if needed, can be provided orally. If there are fewer than 50 persons in a language group that reaches five percent (5%) trigger, the recipient is not required to translate vital written materials but should provide written notice in the primary LEP language group of the right to receive competent oral interpretation of those written materials, free of cost.

SPEAK ENGLISH "LESS THAN VERY WELL"
TOTALS BY COUNTY

County	Total Pop 5 years and Older	Speaks English Less Than Very Well	Percentage (%)
McCracken	63,305	726	1.1

American Community Survey 5-Year Estimates (2017-2021)

As outlined in the previous chart, McCracken County does not contain a LEP group of over 1,000. CITY will provide good faith efforts to meet the needs of the LEP population, if and when necessary. CITY may determine, based on the Four Factor Analysis, that even though a language group meets the threshold specified by the Safe Harbor Provision, written translation may not be an effective means to provide language assistance measures.

XIV. MINORITY REPRESENTATION

Title 49 CFR Section 21 5(b)(1)(vii) states that a recipient may not, on the grounds of race, color or national origin, “deny a person the opportunity to participate as a member of a planning, advisory or similar body which is an integral part of the program.” Recipients that have transit-related, nonelected planning board, advisory councils or committees, or similar committees, the membership of which is selected by the recipient, must provide a table depicting the racial breakdown of the membership of those committees, and a description of efforts made to encourage the participation of minorities on such committee.

The CITY governing body consists of five (5) board members elected by City residents. There is a Mayor that serves a four-year term, and City Commissioners that serve two-year terms. The highest voted for Commissioner serves as Mayor-Pro-Tem in the absence of the Mayor.

Currently the five members consist of, four (4) men and one (1) woman with four (4) Caucasians and one (1) African American.

CITY is committed to meeting the needs of the region’s citizens and ensuring that no person is excluded from participation in or denied the benefits of its services. Efforts to encourage participation of minorities on the board are a mission of the board of commissioners. As well, CITY strives to ensure that the composition of the employee body reflects a representation of minority participation. CITY will continue to encourage minority groups to consider employment with the City.

XV. DEMOGRAPHICS OF CITY

Percent of Minority Population

Race and Hispanic Origin	Paducah city, Kentucky	McCracken County, Kentucky
Population estimates, July 1, 2023, (V2023)	26,749	67,428
PEOPLE		
Race and Hispanic Origin		
White alone, percent	70.5%	84.8%
Black or African American alone, percent (a)	21.9%	11.2%
American Indian and Alaska Native alone, percent (a)	0.4%	0.4%
Asian alone, percent (a)	1.3%	1.0%
Native Hawaiian and Other Pacific Islander alone, percent (a)	0.0%	0.1%
Two or More Races, percent	5.3%	2.6%
Hispanic or Latino, percent (b)	2.9%	3.0%
White alone, not Hispanic or Latino, percent	70.0%	82.4%

Percent of Adult Population with a Disability

Health	Paducah city, Kentucky	McCracken County, Kentucky
Population estimates, July 1, 2023, (V2023)	26,749	67,428
PEOPLE		
Health		
With a disability, under age 65 years, percent, 2018-2022	14.0%	11.5%
Persons without health insurance, under age 65 years, percent	8.2%	5.7%

Percent of Population in Poverty Status

Income & Poverty	Paducah city, Kentucky	McCracken County, Kentucky
Population estimates, July 1, 2023, (V2023)	26,749	67,428
PEOPLE		
Income & Poverty		
Median household income (in 2022 dollars), 2018-2022	\$46,984	\$58,490
Per capita income in past 12 months (in 2022 dollars), 2018-2022	\$37,828	\$36,401
Persons in poverty, percent	22.3%	15.2%

Percent of Population Over 65 Years of Age

Age and Sex	Paducah city, Kentucky	McCracken County, Kentucky
Population estimates, July 1, 2023, (V2023)	26,749	67,428
PEOPLE		
Age and Sex		
Persons under 5 years, percent	5.6%	5.4%
Persons under 18 years, percent	20.2%	21.5%
Persons 65 years and over, percent	18.1%	21.1%
Female persons, percent	53.1%	51.5%

Percent of Population with Limited English Proficiency (LEP)

Families & Living Arrange...	Paducah city, Kentucky	McCracken County, Kentucky
Population estimates, July 1, 2023, (V2023)	26,749	67,428
PEOPLE		
Families & Living Arrangements		
Households, 2018-2022	11,432	27,000
Persons per household, 2018-2022	2.26	2.46
Living in same house 1 year ago, percent of persons age 1 year+, 2018-2022	88.2%	89.7%
Language other than English spoken at home, percent of persons age 5 years+, 2018-2022	2.5%	2.5%

Population Estimates, July 1, 2023 (V2023) -- Paducah city, McCracken County, KY." Quick Facts, <https://www.census.gov/quickfacts/fact/table/paducahcitykentucky,mccrackencountykentucky/PST045223>. Accessed 20 June 2024.

XVI. REVIEW OF STA DIRECTIVES

The CITY's Title VI Implementation Plan is designed to comply with the statutes and requirements under the law and as directed by KYTC/FHWA to accomplish the goals of the Title VI Act of 1964.

The table below is a list of resources that include laws, procedures, directives, plans and/or guidance used by the CITY to develop and administer Title VI implementation.

DIVISION/OFFICE	PROCEDURES, MANUAL, DIRECTIVE
KYTC	Official Order 110248: Standard Title VI Assurance (6/27/2016)
KYTC	Official Order 110249: Title VI Policy Statement (6/27/2016)
KYTC	Title VI Program Plan (10/1/2021 – 9/30/2022)
KYTC	Language Access Plan (LAP) (10/1/2020 – 9/30/2021)
FHWA	Title VI Implementation Plan Checklist
FWHA (Video)	Overview of Civil Rights Program Requirements for Local Public Agencies
United States Code	Title VI 1964 Civil Rights Act

XVII. COMPLIANCE/NONCOMPLIANCE REPORTING

Throughout the year, the Title VI Coordinator periodically meets with the directors and the division heads of CITY to review the policies and procedures relative to Title VI. This includes, but is not limited to, a review of files and statistics of complaints received for investigation and services offered to recipients and beneficiaries of CITY's services.

In the event of noncompliance with this, plan or applicable regulations and laws are determined via a complaint investigation or through the self-survey process; the CITY will make every effort to attain full compliance.

The Title VI Coordinator shall notify the appropriate program head in the event a complaint investigation, compliance review or self-survey indicates noncompliance. The notification shall state the condition of noncompliance, recommended approach to correct the situation, and the time period for the response and corrective action. The Title VI Coordinator may conduct an interview to consult with the program head regarding the correct approach to remedy noncompliance.

XVIII. APPENDICES¹

¹ Appendices A-E contain the U.S. DOT Order No. 1050.2A

APPENDIX A

During the performance of this contract, the contractor, for itself, its assignees and successors in interest (hereinafter referred to as the “contractor”) agrees as follows:

1. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Non-discrimination in Federally assisted programs of the U.S. Department of Transportation, Federal Highway Administration, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Nondiscrimination:** The contractor with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project or program set forth in Appendix B of 49 CFR Part 21.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment each potential subcontractor or supplier will be notified by the contractor of the contractor’s obligations under this contract and the Acts and the Regulations relative to nondiscrimination on the grounds of race, color or national origin.
4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information and its facilities as may be determined by the Recipient or the Federal Highway Administration to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the Recipient or the Federal Highway Administration, as appropriate and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a contractor’s noncompliance with the nondiscrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:

- a. withholding payments to the contractor under the contract until the contractor complies; and/or
- b. cancelling, terminating, or suspending a contract, in whole or in part.

6. Incorporation of Provisions: The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the Recipient or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States

APPENDIX B

CLAUSES FOR DEEDS TRANSFERRING UNITED STATES PROPERTY

The following clauses will be included in deeds effecting or recording the transfer of real property, structures, or improvements thereon, or granting interest therein from the United States pursuant to the provisions of Assurance 4:

NOW, THEREFORE, the Department of Transportation as authorized by law and upon the condition that the (*Title of Recipient*) will accept title to the lands and maintain the project constructed thereon in accordance with (*Name of Appropriate Legislative Authority*), the Regulations for the Administration of Federal Highway Program, and the policies and procedures prescribed by the Federal Highway Administration of the U.S. Department of Transportation in accordance and in compliance with all requirements imposed by Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. § 2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto the (*Title of Recipient*) all the right, title and interest of the U.S. Department of Transportation in and to said lands described in Exhibit A attached hereto and made a part hereof.

(HABENDUM CLAUSE)

TO HAVE AND TO HOLD said lands and interests therein unto (*Title of Recipient*) and its successors forever, subject, however, to the covenants, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and will be binding on the (*Title of Recipient*), its successors and assigns.

The (*Title of Recipient*), in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that (1) no person will on the grounds of race, color or national origin be excluded from participation in, be denied the benefits of or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over or under such lands hereby conveyed [,] [and]² (2) that the (*Title of Recipient*) will use the lands and interests in lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally assisted programs of the U.S. Department of Transportation, Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations and Acts may be

² Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to make clear the purpose of Title VI

amended [, and (3) that in the event of breach of any of the above-mentioned non-discrimination conditions, the Department will have a right to enter or re-enter said lands and facilities on said land, and that above described land and facilities will thereon revert to and vest in and become the absolute property of the U.S. Department of Transportation and its assigns as such interest existed prior to this instruction].³

³ Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to make clear the purpose of Title VI

APPENDIX C

CLAUSES FOR TRANSFER OF REAL PROPERTY ACQUIRED OR IMPROVED UNDER THE ACTIVITY, FACILITY, OR PROGRAM

The following clauses will be included in deeds, licenses, leases, permits or similar instruments entered into by the (*Title of Recipient*) pursuant to the provisions of Assurance 7(a):

- A. The (grantee, lessee, permittee, etc. as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest and assigns, as a part of the consideration hereof, does hereby covenant and agree [in the case of deeds and leases add “as a covenant running with the land”] that:
 - 1. In the event facilities are constructed, maintained or otherwise operated on the property described in this (deed, license, lease, permit, etc.) for a purpose for which a U.S. Department of Transportation activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) will maintain and operate such facilities and services in compliance with all requirements imposed by the Acts and Regulations (as may be amended) such that no person on the grounds of race, color or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.
- B. With respect to licenses, leases, permits, etc., in the event of breach of any of the above Non-discrimination covenants, (*Title of Recipient*) will have the right to terminate the (lease, license, permit, etc.) and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the (lease, license, permit, etc.) had never been made or issued.⁴
- C. With respect to a deed, in the event of breach of any of the above Non-discrimination covenants, the (*Title of Recipient*) will have the right to enter or re-enter the lands and facilities thereon, and the above described lands and facilities will there upon revert to and vest in and become the absolute property of the (*Title of Recipient*) and its assigns.⁵

⁴ See footnote 9

⁵ Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to make clear the purpose of Title VI

APPENDIX D

CLAUSES FOR CONSTRUCTION/USE/ACCESS TO REAL PROPERTY ACQUIRED UNDER THE ACTIVITY, FACILITY OR PROGRAM

The following clauses will be included in deeds, licenses, permits, or similar instruments/agreements entered into by (Title of Recipient) pursuant to the provisions of Assurance 7(b):

- A. The (grantee, licensee, permittee, etc., as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add, “as a covenant running with the land”) that (1) no person on the ground of race, color or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permittee, etc.) will use the premises in compliance with all other requirements imposed by or pursuant to the Acts and Regulations, as amended, set forth in this Assurance.
- B. With respect to (licenses, leases, permits, etc.) in the event of breach of any of the above nondiscrimination covenants, (Title of Recipient) will have the right to terminate the (license, permit, etc., as appropriate) and to enter or re-enter and repossess said land and the facilities thereon and hold the same as if said (license, permit, etc., as appropriate) had never been made or issued.⁶
- C. With respect to deeds in the event of breach of any of the above nondiscrimination covenants, (Title of Recipient) will there upon revert to, vest in and become the absolute property of (Title of Recipient) and its assigns.

⁶ Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to make clear the purpose of Title VI

APPENDIX E

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the “contractor”) agrees to comply with the following non-discrimination statutes and authorities; including but not limited to the following:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin) and 49 CFR Part 21;
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 *et seq.*), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation and certain testing entities (42 U.S.C. §§ 12131 -- 12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;

- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 ET seq).

APPENDIX F

Active employees will complete the training and sign an acknowledgement (example below) that they understand the training and will abide by the Title VI nondiscrimination plan in accordance with the training.

CITY OF PADUCAH

TITLE VI ANNUAL TRAINING

I confirm that I listened, and understood the Title VI training, also I understand that as an employee, it is my responsibility to abide by the Title VI nondiscrimination plan, in accordance with the training.

If I have questions about the plan, or materials presented I understand it is my responsibility to seek clarification.

Employee Signature_____

Date_____

Print name_____

XVIII. BOARD POLICY APPROVAL

POLICY APPROVAL BY THE GOVERNING BOARD

Final governing Board Approval for the TITLE VI “STATEMENT OF POLICY”
is made this ____ day of June 2024.

George P. Bray, Mayor

City of Paducah

Mayor Signature

Date

Agenda Action Form

Paducah City Commission

Meeting Date: June 25, 2024

Short Title: Accept recommendation from Sports Tourism Commission for evaluated bids for Paducah Sports Park for Bid Package 01 - Site: Field Turf and approve construction contracts with Sprinturf in the amount of \$6,321,087.00 - **A. CLARK & D. JORDAN**

Category: Municipal Order

Staff Work By: Amie
Clark
Presentation By: Amie
Clark, Daron Jordan

Background Information: PFGW Architects, on behalf of the Sports Tourism Commission, McCracken County Fiscal Court, and City of Paducah released a Request for Bids on February 17 for Field Turf for the Paducah Sports Park. Bid Opening was held March 26. Eight (8) bids were submitted.

A selection committee with representation from the Fiscal Court, City, Design Team, and Operations Team was formed to review and evaluate the bids. After review, the committee recommends moving forward with a contract for services with Sprinturf for the Field Turf portion of the project.

Per the ILA, the McCracken County Sports Tourism commission must approve and make a recommendation to both the Fiscal Court and the City Commission for consideration and approval of construction contracts. The McCracken County Sports Tourism Commission approved the recommendation from the selection committee on Monday, June 10, and proceeds with a recommendation for a contract for services with Sprinturf.

Accept recommendation from the Sports Tourism Commission and authorize execution of a contract for services with Sprinturf in the amount of \$6,321,087.00 for Bid Package 1: Site - Field Turf for the Paducah Sports Park project.

Does this Agenda Action Item align with a Commission Priority? Yes

If yes, please list the Commission Priority: Paducah Sports Park

Communications Plan:

Funds Available: Account Name:
Account Number:

Staff Recommendation: Accept and approve

Attachments:

1. MO Field Turf Spinturf
2. SPRINTURF A101-2017 - FINAL DRAFT Bid Package 1A-20240620

MUNICIPAL ORDER NO. _____

A MUNICIPAL ORDER APPROVING THE RECOMMENDATION OF THE McCracken County Sports Tourism Commission to accept the bid package for site field turf for the Paducah Sports Park project in the amount of \$6,321,087 and authorizing the Mayor to execute all documents relating to same

WHEREAS, on September 7, 2022, the City of Paducah, the County of McCracken, and the McCracken County Sports Tourism Commission entered into an Interlocal Cooperation Agreement for the Development and Operation of the Paducah-McCracken County Athletic Complex (hereinafter "Interlocal Agreement"); and

WHEREAS, in accordance with the requirements of the Interlocal Agreement, the McCracken County Sports Tourism Commission has presented its recommendation of the best-evaluated bids and associated construction contracts for the completion of the work contemplated by the formerly approved construction plans; and

WHEREAS, the City Commission now desires to accept the McCracken County Sports Tourism Commission's recommendation for the Site Field Turf for the Paducah Sports Park Project.

NOW, THEREFORE, BE IT ORDERED BY THE CITY OF PADUCAH, KENTUCKY:

SECTION 1. That the City Commission hereby approves the recommendation of the McCracken County Sports Tourism Commission, and accepts the bid proposal of Spinturf, LLC, in the amount of \$6,321,087, for Site Field Turf for the Paducah Sports Park Project.

SECTION 2. That the Mayor is hereby authorized to execute an agreement and all other documents necessary with Spinturf, LLC, for the Site Field Turf for the Paducah Sports Park, as authorized in Section 1 above. Said agreement shall be in accordance with the specifications, bid proposal, and all contract documents heretofore approved and incorporated in the bid.

SECTION 3. This Order will be in full force and effect from and after the date of its adoption.

George Bray, Mayor

ATTEST:

Lindsay Parish, City Clerk

Adopted by the Board of Commissioners, _____

Recorded by Lindsay Parish, City Clerk, _____

MO\Agree – Spinturf Paducah Sports Park Turf – Sports Tourism Commission

AIA® Document A101® – 2017

Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum

AGREEMENT made as of the twenty fourth day of June in the year two thousand twenty-four.

(In words, indicate day, month and year.)

BETWEEN the Owner:

(Name, legal status, address and other information)

McCracken County Fiscal Court
300 Clarence Gaines Street
Paducah, KY 42003

and the Contractor:

(Name, legal status, address and other information)

Sprinturf, LLC
146 Fairchild Street
Suite 150
Daniel Island, SC 29492

for the following Project:

(Name, location and detailed description)

Paducah Sports Park
Bid Package 1A – Field Turf
Paducah, Kentucky 42001

The Architect:

(Name, legal status, address and other information)

Peck Flannery Gream Warren Inc.
PO Box 510
101 South Fourth Street
Paducah, Kentucky 42002-0510

The Owner and Contractor agree as follows.

ADDITIONS AND DELETIONS:

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

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

The parties should complete A101®–2017, Exhibit A, Insurance and Bonds, contemporaneously with this Agreement. AIA Document A201®–2017, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

TABLE OF ARTICLES

- 1 THE CONTRACT DOCUMENTS
- 2 THE WORK OF THIS CONTRACT
- 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION
- 4 CONTRACT SUM
- 5 PAYMENTS
- 6 DISPUTE RESOLUTION
- 7 TERMINATION OR SUSPENSION
- 8 MISCELLANEOUS PROVISIONS
- 9 ENUMERATION OF CONTRACT DOCUMENTS

EXHIBIT A INSURANCE AND BONDS

ARTICLE 1 THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary, and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. An enumeration of the Contract Documents, other than a Modification, appears in Article 9.

ARTICLE 2 THE WORK OF THIS CONTRACT

The Contractor shall fully execute the Work described in the Contract Documents, except as specifically indicated in the Contract Documents to be the responsibility of others.

ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 3.1 The date of commencement of the Work shall be:

(Check one of the following boxes.)

- ☐ The date of this Agreement.
- ☒ A date set forth in a notice to proceed issued by the Owner.
- ☐ Established as follows:
(Insert a date or a means to determine the date of commencement of the Work.)

If a date of commencement of the Work is not selected, then the date of commencement shall be the date of this Agreement.

§ 3.2 The Contract Time shall be measured from the date of commencement of the Work.

§ 3.3 Substantial Completion

§ 3.3.1 Subject to adjustments of the Contract Time as provided in the Contract Documents, the Contractor shall achieve Substantial Completion of the entire Work:

(Check one of the following boxes and complete the necessary information.)

- ☒ Not later than five hundred five (505) calendar days from the date of commencement of the Work.
- ☐ By the following date:

§ 3.3.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work are to be completed prior to Substantial Completion of the entire Work, the Contractor shall achieve Substantial Completion of such portions by the following dates:

Portion of Work

Substantial Completion Date

§ 3.3.3 If the Contractor fails to achieve Substantial Completion as provided in this Section 3.3, liquidated damages, if any, shall be assessed as set forth in Section 4.5.

ARTICLE 4 CONTRACT SUM

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum shall be six million, three hundred twenty-one thousand, eighty-seven dollars and 00/100 (\$ 6,321,087.00), subject to additions and deductions as provided in the Contract Documents.

§ 4.2 Alternates

§ 4.2.1 Alternates, if any, included in the Contract Sum:

Item	Price
N/A	

§ 4.2.2 Subject to the conditions noted below, the following alternates may be accepted by the Owner following execution of this Agreement. Upon acceptance, the Owner shall issue a Modification to this Agreement. *(Insert below each alternate and the conditions that must be met for the Owner to accept the alternate.)*

Item	Price	Conditions for Acceptance
N/A		

§ 4.3 Allowances, if any, included in the Contract Sum:
(Identify each allowance.)

Item	Price
N/A	

§ 4.4 Unit prices, if any:
(Identify the item and state the unit price and quantity limitations, if any, to which the unit price will be applicable.)

Item	Units and Limitations	Price per Unit (\$0.00)
------	-----------------------	-------------------------

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

\$1,000.00 per calendar day until completion.

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

ARTICLE 5 PAYMENTS

§ 5.1 Progress Payments

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

§ 5.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:

Init.

§ 5.1.3 Provided that an Application for Payment is received by the Architect not later than the 25th day of a month, the Owner shall make payment of the amount certified to the Contractor not later than the 15th day of the following month. If an Application for Payment is received by the Architect after the application date fixed above, payment of the amount certified shall be made by the Owner not later than forty five (45) days after the Architect receives the Application for Payment.

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

§ 5.1.4 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form, and supported by such data to substantiate its accuracy, as the Architect may require. This schedule of values shall be used as a basis for reviewing the Contractor's Applications for Payment.

§ 5.1.5 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

§ 5.1.6 In accordance with AIA Document A201™-2017, General Conditions of the Contract for Construction, and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

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

- .1 That portion of the Contract Sum properly allocable to completed Work;
- .2 That portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction, or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing; and
- .3 That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified.

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

- .1 The aggregate of any amounts previously paid by the Owner;
- .2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A201-2017;
- .3 Any amount for which the Contractor does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Contractor intends to pay;
- .4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A201-2017; and
- .5 Retainage withheld pursuant to Section 5.1.7.

§ 5.1.7 Retainage

§ 5.1.7.1 For each progress payment made prior to Substantial Completion of the Work, the Owner may withhold the following amount, as retainage, from the payment otherwise due:

(Insert a percentage or amount to be withheld as retainage from each Application for Payment. The amount of retainage may be limited by governing law.)

Ten percent (10%)

§ 5.1.7.1.1 The following items are not subject to retainage:

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

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

(If the retainage established in Section 5.1.7.1 is to be modified prior to Substantial Completion of the entire Work, including modifications for Substantial Completion of portions of the Work as provided in Section 3.3.2, insert provisions for such modifications.)

After issuance of Certificate of Substantial Completion, Retainage shall be reduced to five percent (5%).

§ 5.1.7.3 Except as set forth in this Section 5.1.7.3, upon Substantial Completion of the Work, the Contractor may submit an Application for Payment that includes the retainage withheld from prior Applications for Payment pursuant to this Section 5.1.7. The Application for Payment submitted at Substantial Completion shall not include retainage as follows:

(Insert any other conditions for release of retainage upon Substantial Completion.)

§ 5.1.8 If final completion of the Work is materially delayed through no fault of the Contractor, the Owner shall pay the Contractor any additional amounts in accordance with Article 9 of AIA Document A201–2017.

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

§ 5.2 Final Payment

§ 5.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when

- .1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Article 12 of AIA Document A201–2017, and to satisfy other requirements, if any, which extend beyond final payment; and
- .2 a final Certificate for Payment has been issued by the Architect.

§ 5.2.2 The Owner's final payment to the Contractor shall be made no later than 30 days after the issuance of the Architect's final Certificate for Payment, or as follows:

§ 5.3 Interest

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

(Insert rate of interest agreed upon, if any.)

%

ARTICLE 6 DISPUTE RESOLUTION

§ 6.1 Initial Decision Maker

The Architect will serve as the Initial Decision Maker pursuant to Article 15 of AIA Document A201–2017, unless the parties appoint below another individual, not a party to this Agreement, to serve as the Initial Decision Maker.

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

§ 6.2 Binding Dispute Resolution

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

(Check the appropriate box.)

- | | |
|-------------------------------------|--|
| ☒ | Arbitration pursuant to Section 15.4 of AIA Document A201–2017 |
| ☐ | Litigation in a court of competent jurisdiction |
| ☐ | Other <i>(Specify)</i> |

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

ARTICLE 7 TERMINATION OR SUSPENSION

§ 7.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A201–2017.

§ 7.1.1 If the Contract is terminated for the Owner's convenience in accordance with Article 14 of AIA Document A201–2017, then the Owner shall pay the Contractor a termination fee as follows:

(Insert the amount of, or method for determining, the fee, if any, payable to the Contractor following a termination for the Owner's convenience.)

§ 7.2 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201–2017.

ARTICLE 8 MISCELLANEOUS PROVISIONS

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

§ 8.2 The Owner's representative:

(Name, address, email address, and other information)

Steve Ervin, Community Development Project Manager
McCracken County Fiscal Court
300 Clarence Gaines Street
Paducah, KY 42003

§ 8.3 The Contractor's representative:

(Name, address, email address, and other information)

Marc Belluomini, Vice President of Sales
Spinturf, LLC
146 Fairchild Street
Suite 150
Daniel Island, SC 29492

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

§ 8.5 Insurance and Bonds

§ 8.5.1 The Owner and the Contractor shall purchase and maintain insurance as set forth in AIA Document A101™–2017, Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum, Exhibit A, Insurance and Bonds, and elsewhere in the Contract Documents.

§ 8.5.2 The Contractor shall provide bonds as set forth in AIA Document A101™–2017 Exhibit A, and elsewhere in the Contract Documents.

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

(If other than in accordance with AIA Document E203–2013, insert requirements for delivering notice in electronic format such as name, title, and email address of the recipient and whether and how the system will be required to generate a read receipt for the transmission.)

§ 8.7 Other provisions:

ARTICLE 9 ENUMERATION OF CONTRACT DOCUMENTS

§ 9.1 This Agreement is comprised of the following documents:

- .1 AIA Document A101™–2017, Standard Form of Agreement Between Owner and Contractor
- .2 AIA Document A101™–2017, Exhibit A, Insurance and Bonds

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- .3 AIA Document A201™–2017, General Conditions of the Contract for Construction
 .4
 (Paragraphs deleted)
 Drawings

Number – Bid Package 1A	Title	Date	Pages
See Attached Index of Drawings	000117-Index of Drawings	February 20, 2024	6

- .5 Specifications

Section – Bid Package 1A	Title	Date	Pages
See Attached Table of Contents	0001100-Table of Contents	February 20, 2024	4

- .6 Addenda, if any:

Number – Bid Package 1A	Date	Pages
Addendum No. 1	February 23, 2024	16
Addendum No. 2	March 11, 2024	102
Addendum No. 3	March 14, 2024	12
Addendum No. 4	March 21, 2024	93

Portions of Addenda relating to bidding or proposal requirements are not part of the Contract Documents unless the bidding or proposal requirements are also enumerated in this Article 9.

- .7 Other Exhibits:
 (Check all boxes that apply and include appropriate information identifying the exhibit where required.)

☐ AIA Document E204™–2017, Sustainable Projects Exhibit, dated as indicated below:
 (Insert the date of the E204-2017 incorporated into this Agreement.)

☐ The Sustainability Plan:

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

☐ Supplementary and other Conditions of the Contract:

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

- .9 Other documents, if any, listed below:
 (List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201™–2017 provides that the advertisement or invitation to bid, Instructions to Bidders, sample forms, the Contractor's bid or proposal, portions of Addenda relating to bidding or proposal requirements, and other information furnished by the Owner in anticipation of receiving bids or proposals, are not part of the Contract Documents unless enumerated in this Agreement. Any such documents should be listed here only if intended to be part of the Contract Documents.)

Contractors Original Form of Proposal
 Exhibit - Cost Reduction List Bid Package 1A-Field Turf
 Contractors Performance & Payment Bonds
 Contractors Certificate of Insurance
 Bid Package 1A - Index of Drawings
 Bid Package 1A - Table of Contents

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

McCracken County Fiscal Court

Sprinturf, LLC

OWNER *(Signature)*

CONTRACTOR *(Signature)*

Craig Z. Clymer, Judge Executive
(Printed name and title)

Marc Belluomini, Vice President of Sales
(Printed name and title)

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AIA® Document A201® – 2017

General Conditions of the Contract for Construction

for the following PROJECT:

(Name and location or address)

Paducah Sports Park – Bid Package 1A - Field Turf
Paducah, Kentucky 42001

THE OWNER:

(Name, legal status and address)

McCracken County Fiscal Court
300 Clarence Gaines Street
Paducah, KY 42003

THE ARCHITECT:

(Name, legal status and address)

Peck Flannery Gream Warren Inc.
PO Box 510
101 South Fourth Street
Paducah, KY 42002-0510

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13	MISCELLANEOUS PROVISIONS

ADDITIONS AND DELETIONS:

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

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

For guidance in modifying this document to include supplementary conditions, see AIA Document A503™, Guide for Supplementary Conditions.

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ARTICLE 1 GENERAL PROVISIONS

§ 1.1 Basic Definitions

§ 1.1.1 The Contract Documents

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

§ 1.1.2 The Contract

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

§ 1.1.3 The Work

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

§ 1.1.4 The Project

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

§ 1.1.5 The Drawings

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

§ 1.1.6 The Specifications

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

§ 1.1.7 Instruments of Service

Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Architect and the Architect's consultants under their respective professional services agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, and other similar materials.

§ 1.1.8 Initial Decision Maker

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

§ 1.2 Correlation and Intent of the Contract Documents

§ 1.2.1 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results.

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

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

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

§ 1.3 Capitalization

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

§ 1.4 Interpretation

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

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

§ 1.5.1 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and retain all common law, statutory, and other reserved rights in their Instruments of Service, including copyrights. The Contractor, Subcontractors, Sub-subcontractors, and suppliers shall not own or claim a copyright in the Instruments of Service. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the Architect's or Architect's consultants' reserved rights.

§ 1.5.2 The Contractor, Subcontractors, Sub-subcontractors, and suppliers are authorized to use and reproduce the Instruments of Service provided to them, subject to any protocols established pursuant to Sections 1.7 and 1.8, solely and exclusively for execution of the Work. All copies made under this authorization shall bear the copyright notice, if any, shown on the Instruments of Service. The Contractor, Subcontractors, Sub-subcontractors, and suppliers may not use the Instruments of Service on other projects or for additions to the Project outside the scope of the Work without the specific written consent of the Owner, Architect, and the Architect's consultants.

§ 1.6 Notice

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

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

§ 1.7 Digital Data Use and Transmission

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

§ 1.8 Building Information Models Use and Reliance

Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document

G202™–2013, Project Building Information Modeling Protocol Form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

ARTICLE 2 OWNER

§ 2.1 General

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

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

§ 2.2 Evidence of the Owner's Financial Arrangements

§ 2.2.1 Prior to commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. The Contractor shall have no obligation to commence the Work until the Owner provides such evidence. If commencement of the Work is delayed under this Section 2.2.1, the Contract Time shall be extended appropriately.

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

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

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

§ 2.3 Information and Services Required of the Owner

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

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

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

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

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

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

§ 2.4 Owner's Right to Stop the Work

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

§ 2.5 Owner's Right to Carry Out the Work

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a ten-day period after receipt of notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such default or neglect. Such action by the Owner and amounts charged to the Contractor are both subject to prior approval of the Architect and the Architect may, pursuant to Section 9.5.1, withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Architect's additional services made necessary by such default, neglect, or failure. If current and future payments are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner. If the Contractor disagrees with the actions of the Owner or the Architect, or the amounts claimed as costs to the Owner, the Contractor may file a Claim pursuant to Article 15.

ARTICLE 3 CONTRACTOR

§ 3.1 General

§ 3.1.1 The Contractor is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Contractor shall be lawfully licensed, if required in the jurisdiction where the Project is located. The Contractor shall designate in writing a representative who shall have express authority to bind the Contractor with respect to all matters under this Contract. The term "Contractor" means the Contractor or the Contractor's authorized representative.

§ 3.1.2 The Contractor shall perform the Work in accordance with the Contract Documents.

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

§ 3.2 Review of Contract Documents and Field Conditions by Contractor

§ 3.2.1 Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become generally familiar with local conditions under which the Work is to be performed, and correlated personal observations with requirements of the Contract Documents.

§ 3.2.2 Because the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 2.3.4, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating coordination and construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, the Contractor shall promptly report to the Architect any errors, inconsistencies or omissions discovered by or made known to the Contractor as a request for information in such form as the Architect may require. It is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional, unless otherwise specifically provided in the Contract Documents.

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

§ 3.2.4 If the Contractor believes that additional cost or time is involved because of clarifications or instructions the Architect issues in response to the Contractor's notices or requests for information pursuant to Sections 3.2.2 or 3.2.3, the Contractor shall submit Claims as provided in Article 15. If the Contractor fails to perform the obligations of Sections 3.2.2 or 3.2.3, the Contractor shall pay such costs and damages to the Owner, subject to Section 15.1.7, as would have been avoided if the Contractor had performed such obligations. If the Contractor performs those obligations, the Contractor shall not be liable to the Owner or Architect for damages resulting from errors, inconsistencies or omissions in the Contract Documents, for differences between field measurements or conditions and the Contract Documents, or for nonconformities of the Contract Documents to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities.

§ 3.3 Supervision and Construction Procedures

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

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

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

§ 3.4 Labor and Materials

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

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

§ 3.4.3 The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Work. The Contractor shall not permit employment of unfit persons or persons not properly skilled in tasks assigned to them.

§ 3.5 Warranty

§ 3.5.1 The Contractor warrants to the Owner and Architect that materials and equipment furnished under the Contract will be of good quality and new unless the Contract Documents require or permit otherwise. The Contractor further warrants that the Work will conform to the requirements of the Contract Documents and will be free from defects, except for those inherent in the quality of the Work the Contract Documents require or permit. Work, materials, or equipment not conforming to these requirements may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Architect, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

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

§ 3.6 Taxes

The Contractor shall pay sales, consumer, use and similar taxes for the Work provided by the Contractor that are legally enacted when bids are received or negotiations concluded, whether or not yet effective or merely scheduled to go into effect.

§ 3.7 Permits, Fees, Notices and Compliance with Laws

§ 3.7.1 Unless otherwise provided in the Contract Documents, the Contractor shall secure and pay for the building permit as well as for other permits, fees, licenses, and inspections by government agencies necessary for proper execution and completion of the Work that are customarily secured after execution of the Contract and legally required at the time bids are received or negotiations concluded.

§ 3.7.2 The Contractor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to performance of the Work.

§ 3.7.3 If the Contractor performs Work knowing it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Contractor shall assume appropriate responsibility for such Work and shall bear the costs attributable to correction.

§ 3.7.4 Concealed or Unknown Conditions

If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner and the Architect before conditions are disturbed and in no event later than 14 days after first observance of the conditions. The Architect will promptly investigate such conditions and, if the Architect determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend that an equitable adjustment be made in the Contract Sum or Contract Time, or both. If the Architect determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall promptly notify the Owner and Contractor, stating the reasons. If either party disputes the Architect's determination or recommendation, that party may submit a Claim as provided in Article 15.

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

§ 3.8 Allowances

§ 3.8.1 The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for such amounts and by such persons or entities as the Owner may direct, but the Contractor shall not be required to employ persons or entities to whom the Contractor has reasonable objection.

§ 3.8.2 Unless otherwise provided in the Contract Documents,

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

§ 3.8.3 Materials and equipment under an allowance shall be selected by the Owner with reasonable promptness.

§ 3.9 Superintendent

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

§ 3.9.2 The Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect of the name and qualifications of a proposed superintendent. Within 14 days of receipt of the information, the Architect may notify the Contractor, stating whether the Owner or the Architect (1) has reasonable objection to the proposed superintendent or (2) requires additional time for review. Failure of the Architect to provide notice within the 14-day period shall constitute notice of no reasonable objection.

§ 3.9.3 The Contractor shall not employ a proposed superintendent to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not change the superintendent without the Owner's consent, which shall not unreasonably be withheld or delayed.

§ 3.10 Contractor's Construction and Submittal Schedules

§ 3.10.1 The Contractor, promptly after being awarded the Contract, shall submit for the Owner's and Architect's information a Contractor's construction schedule for the Work. The schedule shall contain detail appropriate for the Project, including (1) the date of commencement of the Work, interim schedule milestone dates, and the date of Substantial Completion; (2) an apportionment of the Work by construction activity; and (3) the time required for completion of each portion of the Work. The schedule shall provide for the orderly progression of the Work to completion and shall not exceed time limits current under the Contract Documents. The schedule shall be revised at appropriate intervals as required by the conditions of the Work and Project.

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

§ 3.10.3 The Contractor shall perform the Work in general accordance with the most recent schedules submitted to the Owner and Architect.

§ 3.11 Documents and Samples at the Site

The Contractor shall make available, at the Project site, the Contract Documents, including Change Orders, Construction Change Directives, and other Modifications, in good order and marked currently to indicate field changes and selections made during construction, and the approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be in electronic form or paper copy, available to the Architect and Owner, and

delivered to the Architect for submittal to the Owner upon completion of the Work as a record of the Work as constructed.

§ 3.12 Shop Drawings, Product Data and Samples

§ 3.12.1 Shop Drawings are drawings, diagrams, schedules, and other data specially prepared for the Work by the Contractor or a Subcontractor, Sub-subcontractor, manufacturer, supplier, or distributor to illustrate some portion of the Work.

§ 3.12.2 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams, and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.

§ 3.12.3 Samples are physical examples that illustrate materials, equipment, or workmanship, and establish standards by which the Work will be judged.

§ 3.12.4 Shop Drawings, Product Data, Samples, and similar submittals are not Contract Documents. Their purpose is to demonstrate how the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents for those portions of the Work for which the Contract Documents require submittals. Review by the Architect is subject to the limitations of Section 4.2.7. Informational submittals upon which the Architect is not expected to take responsive action may be so identified in the Contract Documents. Submittals that are not required by the Contract Documents may be returned by the Architect without action.

§ 3.12.5 The Contractor shall review for compliance with the Contract Documents, approve, and submit to the Architect, Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents, in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Owner or of Separate Contractors.

§ 3.12.6 By submitting Shop Drawings, Product Data, Samples, and similar submittals, the Contractor represents to the Owner and Architect that the Contractor has (1) reviewed and approved them, (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so, and (3) checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.

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

§ 3.12.8 The Work shall be in accordance with approved submittals except that the Contractor shall not be relieved of responsibility for deviations from the requirements of the Contract Documents by the Architect's approval of Shop Drawings, Product Data, Samples, or similar submittals, unless the Contractor has specifically notified the Architect of such deviation at the time of submittal and (1) the Architect has given written approval to the specific deviation as a minor change in the Work, or (2) a Change Order or Construction Change Directive has been issued authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples, or similar submittals, by the Architect's approval thereof.

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

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

§ 3.12.10.1 If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of the Contractor by the Contract Documents, the Owner and the Architect will

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

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

§ 3.13 Use of Site

The Contractor shall confine operations at the site to areas permitted by applicable laws, statutes, ordinances, codes, rules and regulations, lawful orders of public authorities, and the Contract Documents and shall not unreasonably encumber the site with materials or equipment.

§ 3.14 Cutting and Patching

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

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

§ 3.15 Cleaning Up

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

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

§ 3.16 Access to Work

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

§ 3.17 Royalties, Patents and Copyrights

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

§ 3.18 Indemnification

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

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

ARTICLE 4 ARCHITECT

§ 4.1 General

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

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

§ 4.2 Administration of the Contract

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

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

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

§ 4.2.4 Communications

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

§ 4.2.5 Based on the Architect's evaluations of the Contractor's Applications for Payment, the Architect will review and certify the amounts due the Contractor and will issue Certificates for Payment in such amounts.

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

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

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

§ 4.2.9 The Architect will conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion pursuant to Section 9.8; receive and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract and assembled by the Contractor pursuant to Section 9.10; and issue a final Certificate for Payment pursuant to Section 9.10.

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

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

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

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

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

ARTICLE 5 SUBCONTRACTORS

§ 5.1 Definitions

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

§ 5.1.2 A Sub-subcontractor is a person or entity who has a direct or indirect contract with a Subcontractor to perform a portion of the Work at the site. The term "Sub-subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Sub-subcontractor or an authorized representative of the Sub-subcontractor.

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

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

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

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

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

§ 5.3 Subcontractual Relations

By appropriate written agreement, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work that the Contractor, by these Contract Documents, assumes toward the Owner and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies, and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Contract Documents. Subcontractors will similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

§ 5.4 Contingent Assignment of Subcontracts

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

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

When the Owner accepts the assignment of a subcontract agreement, the Owner assumes the Contractor's rights and obligations under the subcontract.

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

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

ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

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

§ 6.1.1 The term "Separate Contractor(s)" shall mean other contractors retained by the Owner under separate agreements. The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and with Separate Contractors retained under Conditions of the Contract substantially similar to those of this Contract, including those provisions of the Conditions of the Contract related to insurance and waiver of subrogation.

§ 6.1.2 When separate contracts are awarded for different portions of the Project or other construction or operations on the site, the term "Contractor" in the Contract Documents in each case shall mean the Contractor who executes each separate Owner-Contractor Agreement.

§ 6.1.3 The Owner shall provide for coordination of the activities of the Owner's own forces and of each Separate Contractor with the Work of the Contractor, who shall cooperate with them. The Contractor shall participate with any Separate Contractors and the Owner in reviewing their construction schedules. The Contractor shall make any revisions to its construction schedule deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the Contractor, Separate Contractors, and the Owner until subsequently revised.

§ 6.1.4 Unless otherwise provided in the Contract Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces or with Separate Contractors, the Owner or its Separate Contractors shall have the same obligations and rights that the Contractor has under the Conditions of the Contract, including, without excluding others, those stated in Article 3, this Article 6, and Articles 10, 11, and 12.

§ 6.2 Mutual Responsibility

§ 6.2.1 The Contractor shall afford the Owner and Separate Contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Contractor's construction and operations with theirs as required by the Contract Documents.

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

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

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

§ 6.2.5 The Owner and each Separate Contractor shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 3.14.

§ 6.3 Owner's Right to Clean Up

If a dispute arises among the Contractor, Separate Contractors, and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish, the Owner may clean up and the Architect will allocate the cost among those responsible.

ARTICLE 7 CHANGES IN THE WORK

§ 7.1 General

§ 7.1.1 Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order, Construction Change Directive or order for a minor change in the Work, subject to the limitations stated in this Article 7 and elsewhere in the Contract Documents.

§ 7.1.2 A Change Order shall be based upon agreement among the Owner, Contractor, and Architect. A Construction Change Directive requires agreement by the Owner and Architect and may or may not be agreed to by the Contractor. An order for a minor change in the Work may be issued by the Architect alone.

§ 7.1.3 Changes in the Work shall be performed under applicable provisions of the Contract Documents. The Contractor shall proceed promptly with changes in the Work, unless otherwise provided in the Change Order, Construction Change Directive, or order for a minor change in the Work.

§ 7.2 Change Orders

§ 7.2.1 A Change Order is a written instrument prepared by the Architect and signed by the Owner, Contractor, and Architect stating their agreement upon all of the following:

- .1 The change in the Work;
- .2 The amount of the adjustment, if any, in the Contract Sum; and
- .3 The extent of the adjustment, if any, in the Contract Time.

§ 7.3 Construction Change Directives

§ 7.3.1 A Construction Change Directive is a written order prepared by the Architect and signed by the Owner and Architect, directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum or Contract Time, or both. The Owner may by Construction Change Directive, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions, or other revisions, the Contract Sum and Contract Time being adjusted accordingly.

§ 7.3.2 A Construction Change Directive shall be used in the absence of total agreement on the terms of a Change Order.

§ 7.3.3 If the Construction Change Directive provides for an adjustment to the Contract Sum, the adjustment shall be based on one of the following methods:

- .1 Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
- .2 Unit prices stated in the Contract Documents or subsequently agreed upon;
- .3 Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
- .4 As provided in Section 7.3.4.

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

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

§ 7.3.5 If the Contractor disagrees with the adjustment in the Contract Time, the Contractor may make a Claim in accordance with applicable provisions of Article 15.

§ 7.3.6 Upon receipt of a Construction Change Directive, the Contractor shall promptly proceed with the change in the Work involved and advise the Architect of the Contractor's agreement or disagreement with the method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the Contract Sum or Contract Time.

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

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

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

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

§ 7.4 Minor Changes in the Work

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

ARTICLE 8 TIME

§ 8.1 Definitions

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

§ 8.1.2 The date of commencement of the Work is the date established in the Agreement.

§ 8.1.3 The date of Substantial Completion is the date certified by the Architect in accordance with Section 9.8.

§ 8.1.4 The term "day" as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.

§ 8.2 Progress and Completion

§ 8.2.1 Time limits stated in the Contract Documents are of the essence of the Contract. By executing the Agreement, the Contractor confirms that the Contract Time is a reasonable period for performing the Work.

§ 8.2.2 The Contractor shall not knowingly, except by agreement or instruction of the Owner in writing, commence the Work prior to the effective date of insurance required to be furnished by the Contractor and Owner.

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

§ 8.3 Delays and Extensions of Time

§ 8.3.1 If the Contractor is delayed at any time in the commencement or progress of the Work by (1) an act or neglect of the Owner or Architect, of an employee of either, or of a Separate Contractor; (2) by changes ordered in the Work; (3) by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, adverse weather conditions documented in accordance with Section 15.1.6.2, or other causes beyond the Contractor's control; (4) by delay authorized by the Owner pending mediation and binding dispute resolution; or (5) by other causes that the Contractor asserts, and the Architect determines, justify delay, then the Contract Time shall be extended for such reasonable time as the Architect may determine.

§ 8.3.2 Claims relating to time shall be made in accordance with applicable provisions of Article 15.

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

ARTICLE 9 PAYMENTS AND COMPLETION

§ 9.1 Contract Sum

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

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

§ 9.2 Schedule of Values

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

§ 9.3 Applications for Payment

§ 9.3.1 At least ten days before the date established for each progress payment, the Contractor shall submit to the Architect an itemized Application for Payment prepared in accordance with the schedule of values, if required under Section 9.2, for completed portions of the Work. The application shall be notarized, if required, and supported by all data substantiating the Contractor's right to payment that the Owner or Architect require, such as copies of requisitions, and releases and waivers of liens from Subcontractors and suppliers, and shall reflect retainage if provided for in the Contract Documents.

§ 9.3.1.1 As provided in Section 7.3.9, such applications may include requests for payment on account of changes in the Work that have been properly authorized by Construction Change Directives, or by interim determinations of the Architect, but not yet included in Change Orders.

§ 9.3.1.2 Applications for Payment shall not include requests for payment for portions of the Work for which the Contractor does not intend to pay a Subcontractor or supplier, unless such Work has been performed by others whom the Contractor intends to pay.

§ 9.3.2 Unless otherwise provided in the Contract Documents, payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed upon in writing. Payment for materials and equipment stored on or off the site shall be conditioned upon compliance by the Contractor with procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest, and shall include the costs of applicable insurance, storage, and transportation to the site, for such materials and equipment stored off the site.

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

§ 9.4 Certificates for Payment

§ 9.4.1 The Architect will, within seven days after receipt of the Contractor's Application for Payment, either (1) issue to the Owner a Certificate for Payment in the full amount of the Application for Payment, with a copy to the Contractor; or (2) issue to the Owner a Certificate for Payment for such amount as the Architect determines is properly due, and notify the Contractor and Owner of the Architect's reasons for withholding certification in part as provided in Section 9.5.1; or (3) withhold certification of the entire Application for Payment, and notify the Contractor and Owner of the Architect's reason for withholding certification in whole as provided in Section 9.5.1.

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

§ 9.5 Decisions to Withhold Certification

§ 9.5.1 The Architect may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Architect's opinion the representations to the Owner required by Section 9.4.2 cannot be made. If the Architect is unable to certify payment in the amount of the Application, the Architect will notify the Contractor and Owner as provided in Section 9.4.1. If the Contractor and Architect cannot agree on a revised amount, the Architect will promptly issue a Certificate for Payment for the amount for which the Architect is able to make such representations to the Owner. The Architect may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued, to such extent as may be necessary in the Architect's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from acts and omissions described in Section 3.3.2, because of

- .1 defective Work not remedied;
- .2 third party claims filed or reasonable evidence indicating probable filing of such claims, unless security acceptable to the Owner is provided by the Contractor;
- .3 failure of the Contractor to make payments properly to Subcontractors or suppliers for labor, materials or equipment;

- .4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
- .5 damage to the Owner or a Separate Contractor;
- .6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
- .7 repeated failure to carry out the Work in accordance with the Contract Documents.

§ 9.5.2 When either party disputes the Architect's decision regarding a Certificate for Payment under Section 9.5.1, in whole or in part, that party may submit a Claim in accordance with Article 15.

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

§ 9.5.4 If the Architect withholds certification for payment under Section 9.5.1.3, the Owner may, at its sole option, issue joint checks to the Contractor and to any Subcontractor or supplier to whom the Contractor failed to make payment for Work properly performed or material or equipment suitably delivered. If the Owner makes payments by joint check, the Owner shall notify the Architect and the Contractor shall reflect such payment on its next Application for Payment.

§ 9.6 Progress Payments

§ 9.6.1 After the Architect has issued a Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the Contract Documents, and shall so notify the Architect.

§ 9.6.2 The Contractor shall pay each Subcontractor, no later than seven days after receipt of payment from the Owner, the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner.

§ 9.6.3 The Architect will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Contractor and action taken thereon by the Architect and Owner on account of portions of the Work done by such Subcontractor.

§ 9.6.4 The Owner has the right to request written evidence from the Contractor that the Contractor has properly paid Subcontractors and suppliers amounts paid by the Owner to the Contractor for subcontracted Work. If the Contractor fails to furnish such evidence within seven days, the Owner shall have the right to contact Subcontractors and suppliers to ascertain whether they have been properly paid. Neither the Owner nor Architect shall have an obligation to pay, or to see to the payment of money to, a Subcontractor or supplier, except as may otherwise be required by law.

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

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

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

§ 9.6.8 Provided the Owner has fulfilled its payment obligations under the Contract Documents, the Contractor shall defend and indemnify the Owner from all loss, liability, damage or expense, including reasonable attorney's fees and litigation expenses, arising out of any lien claim or other claim for payment by any Subcontractor or supplier of any tier. Upon receipt of notice of a lien claim or other claim for payment, the Owner shall notify the Contractor. If approved by the applicable court, when required, the Contractor may substitute a surety bond for the property against which the lien or other claim for payment has been asserted.

§ 9.7 Failure of Payment

If the Architect does not issue a Certificate for Payment, through no fault of the Contractor, within seven days after receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor within seven days after the date established in the Contract Documents, the amount certified by the Architect or awarded by binding dispute resolution, then the Contractor may, upon seven additional days' notice to the Owner and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided for in the Contract Documents.

§ 9.8 Substantial Completion

§ 9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use.

§ 9.8.2 When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall prepare and submit to the Architect a comprehensive list of items to be completed or corrected prior to final payment. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.

§ 9.8.3 Upon receipt of the Contractor's list, the Architect will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect's inspection discloses any item, whether or not included on the Contractor's list, which is not sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work or designated portion thereof for its intended use, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Architect. In such case, the Contractor shall then submit a request for another inspection by the Architect to determine Substantial Completion.

§ 9.8.4 When the Work or designated portion thereof is substantially complete, the Architect will prepare a Certificate of Substantial Completion that shall establish the date of Substantial Completion; establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance; and fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 9.8.5 The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in the Certificate. Upon such acceptance, and consent of surety if any, the Owner shall make payment of retainage applying to the Work or designated portion thereof. Such payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Contract Documents.

§ 9.9 Partial Occupancy or Use

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

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

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

§ 9.10 Final Completion and Final Payment

§ 9.10.1 Upon receipt of the Contractor's notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Architect will promptly make such inspection. When the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Architect will promptly issue a final Certificate for Payment stating that to the best of the Architect's knowledge, information and belief, and on the basis of the Architect's on-site visits and inspections, the Work has been completed in accordance with the Contract Documents and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Architect's final Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect, (3) a written statement that the Contractor knows of no reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment, (5) documentation of any special warranties, such as manufacturers' warranties or specific Subcontractor warranties, and (6) if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts and releases and waivers of liens, claims, security interests, or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien, claim, security interest, or encumbrance. If a lien, claim, security interest, or encumbrance remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging the lien, claim, security interest, or encumbrance, including all costs and reasonable attorneys' fees.

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

§ 9.10.4 The making of final payment shall constitute a waiver of Claims by the Owner except those arising from

- .1 liens, Claims, security interests, or encumbrances arising out of the Contract and unsettled;
- .2 failure of the Work to comply with the requirements of the Contract Documents;
- .3 terms of special warranties required by the Contract Documents; or
- .4 audits performed by the Owner, if permitted by the Contract Documents, after final payment.

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

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

§ 10.1 Safety Precautions and Programs

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

§ 10.2 Safety of Persons and Property

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

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

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

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

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

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

§ 10.2.6 The Contractor shall designate a responsible member of the Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the Owner and Architect.

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

§ 10.2.8 Injury or Damage to Person or Property

If either party suffers injury or damage to person or property because of an act or omission of the other party, or of others for whose acts such party is legally responsible, notice of the injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding 21 days after discovery. The notice shall provide sufficient detail to enable the other party to investigate the matter.

§ 10.3 Hazardous Materials and Substances

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

§ 10.3.2 Upon receipt of the Contractor's notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Contract Documents, the Owner shall furnish in writing to the Contractor and Architect the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of the material or substance or who are to perform the task of removal or safe containment of the material or substance. The Contractor and the Architect will

promptly reply to the Owner in writing stating whether or not either has reasonable objection to the persons or entities proposed by the Owner. If either the Contractor or Architect has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Contractor and the Architect have no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Contractor. By Change Order, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable additional costs of shutdown, delay, and start-up.

§ 10.3.3 To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Subcontractors, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area if in fact the material or substance presents the risk of bodily injury or death as described in Section 10.3.1 and has not been rendered harmless, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), except to the extent that such damage, loss, or expense is due to the fault or negligence of the party seeking indemnity.

§ 10.3.4 The Owner shall not be responsible under this Section 10.3 for hazardous materials or substances the Contractor brings to the site unless such materials or substances are required by the Contract Documents. The Owner shall be responsible for hazardous materials or substances required by the Contract Documents, except to the extent of the Contractor's fault or negligence in the use and handling of such materials or substances.

§ 10.3.5 The Contractor shall reimburse the Owner for the cost and expense the Owner incurs (1) for remediation of hazardous materials or substances the Contractor brings to the site and negligently handles, or (2) where the Contractor fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence.

§ 10.3.6 If, without negligence on the part of the Contractor, the Contractor is held liable by a government agency for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Contract Documents, the Owner shall reimburse the Contractor for all cost and expense thereby incurred.

§ 10.4 Emergencies

In an emergency affecting safety of persons or property, the Contractor shall act, at the Contractor's discretion, to prevent threatened damage, injury, or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Article 15 and Article 7.

ARTICLE 11 INSURANCE AND BONDS

§ 11.1 Contractor's Insurance and Bonds

§ 11.1.1 The Contractor shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Contractor shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Owner, Architect, and Architect's consultants shall be named as additional insureds under the Contractor's commercial general liability policy or as otherwise described in the Contract Documents.

§ 11.1.2 The Contractor shall provide surety bonds of the types, for such penal sums, and subject to such terms and conditions as required by the Contract Documents. The Contractor shall purchase and maintain the required bonds from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located.

§ 11.1.3 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished.

§ 11.1.4 Notice of Cancellation or Expiration of Contractor's Required Insurance. Within three (3) business days of the date the Contractor becomes aware of an impending or actual cancellation or expiration of any insurance required by the Contract Documents, the Contractor shall provide notice to the Owner of such impending or actual cancellation or expiration. Upon receipt of notice from the Contractor, the Owner shall, unless the lapse in coverage arises from an act

or omission of the Owner, have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by the Contractor. The furnishing of notice by the Contractor shall not relieve the Contractor of any contractual obligation to provide any required coverage.

§ 11.2 Owner's Insurance

§ 11.2.1 The Owner shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Owner shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located.

§ 11.2.2 Failure to Purchase Required Property Insurance. If the Owner fails to purchase and maintain the required property insurance, with all of the coverages and in the amounts described in the Agreement or elsewhere in the Contract Documents, the Owner shall inform the Contractor in writing prior to commencement of the Work. Upon receipt of notice from the Owner, the Contractor may delay commencement of the Work and may obtain insurance that will protect the interests of the Contractor, Subcontractors, and Sub-Subcontractors in the Work. When the failure to provide coverage has been cured or resolved, the Contract Sum and Contract Time shall be equitably adjusted. In the event the Owner fails to procure coverage, the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent the loss to the Owner would have been covered by the insurance to have been procured by the Owner. The cost of the insurance shall be charged to the Owner by a Change Order. If the Owner does not provide written notice, and the Contractor is damaged by the failure or neglect of the Owner to purchase or maintain the required insurance, the Owner shall reimburse the Contractor for all reasonable costs and damages attributable thereto.

§ 11.2.3 Notice of Cancellation or Expiration of Owner's Required Property Insurance. Within three (3) business days of the date the Owner becomes aware of an impending or actual cancellation or expiration of any property insurance required by the Contract Documents, the Owner shall provide notice to the Contractor of such impending or actual cancellation or expiration. Unless the lapse in coverage arises from an act or omission of the Contractor: (1) the Contractor, upon receipt of notice from the Owner, shall have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by either the Owner or the Contractor; (2) the Contract Time and Contract Sum shall be equitably adjusted; and (3) the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent any loss to the Owner would have been covered by the insurance had it not expired or been cancelled. If the Contractor purchases replacement coverage, the cost of the insurance shall be charged to the Owner by an appropriate Change Order. The furnishing of notice by the Owner shall not relieve the Owner of any contractual obligation to provide required insurance.

§ 11.3 Waivers of Subrogation

§ 11.3.1 The Owner and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents, and employees, each of the other; (2) the Architect and Architect's consultants; and (3) Separate Contractors, if any, and any of their subcontractors, sub-subcontractors, agents, and employees, for damages caused by fire, or other causes of loss, to the extent those losses are covered by property insurance required by the Agreement or other property insurance applicable to the Project, except such rights as they have to proceeds of such insurance. The Owner or Contractor, as appropriate, shall require similar written waivers in favor of the individuals and entities identified above from the Architect, Architect's consultants, Separate Contractors, subcontractors, and sub-subcontractors. The policies of insurance purchased and maintained by each person or entity agreeing to waive claims pursuant to this section 11.3.1 shall not prohibit this waiver of subrogation. This waiver of subrogation shall be effective as to a person or entity (1) even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, (2) even though that person or entity did not pay the insurance premium directly or indirectly, or (3) whether or not the person or entity had an insurable interest in the damaged property.

§ 11.3.2 If during the Project construction period the Owner insures properties, real or personal or both, at or adjacent to the site by property insurance under policies separate from those insuring the Project, or if after final payment property insurance is to be provided on the completed Project through a policy or policies other than those insuring the Project during the construction period, to the extent permissible by such policies, the Owner waives all rights in accordance with the terms of Section 11.3.1 for damages caused by fire or other causes of loss covered by this separate property insurance.

§ 11.4 Loss of Use, Business Interruption, and Delay in Completion Insurance

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The Owner, at the Owner's option, may purchase and maintain insurance that will protect the Owner against loss of use of the Owner's property, or the inability to conduct normal operations, due to fire or other causes of loss. The Owner waives all rights of action against the Contractor and Architect for loss of use of the Owner's property, due to fire or other hazards however caused.

§11.5 Adjustment and Settlement of Insured Loss

§ 11.5.1 A loss insured under the property insurance required by the Agreement shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause and of Section 11.5.2. The Owner shall pay the Architect and Contractor their just shares of insurance proceeds received by the Owner, and by appropriate agreements the Architect and Contractor shall make payments to their consultants and Subcontractors in similar manner.

§ 11.5.2 Prior to settlement of an insured loss, the Owner shall notify the Contractor of the terms of the proposed settlement as well as the proposed allocation of the insurance proceeds. The Contractor shall have 14 days from receipt of notice to object to the proposed settlement or allocation of the proceeds. If the Contractor does not object, the Owner shall settle the loss and the Contractor shall be bound by the settlement and allocation. Upon receipt, the Owner shall deposit the insurance proceeds in a separate account and make the appropriate distributions. Thereafter, if no other agreement is made or the Owner does not terminate the Contract for convenience, the Owner and Contractor shall execute a Change Order for reconstruction of the damaged or destroyed Work in the amount allocated for that purpose. If the Contractor timely objects to either the terms of the proposed settlement or the allocation of the proceeds, the Owner may proceed to settle the insured loss, and any dispute between the Owner and Contractor arising out of the settlement or allocation of the proceeds shall be resolved pursuant to Article 15. Pending resolution of any dispute, the Owner may issue a Construction Change Directive for the reconstruction of the damaged or destroyed Work.

ARTICLE 12 UNCOVERING AND CORRECTION OF WORK

§ 12.1 Uncovering of Work

§ 12.1.1 If a portion of the Work is covered contrary to the Architect's request or to requirements specifically expressed in the Contract Documents, it must, if requested in writing by the Architect, be uncovered for the Architect's examination and be replaced at the Contractor's expense without change in the Contract Time.

§ 12.1.2 If a portion of the Work has been covered that the Architect has not specifically requested to examine prior to its being covered, the Architect may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, the Contractor shall be entitled to an equitable adjustment to the Contract Sum and Contract Time as may be appropriate. If such Work is not in accordance with the Contract Documents, the costs of uncovering the Work, and the cost of correction, shall be at the Contractor's expense.

§ 12.2 Correction of Work

§ 12.2.1 Before Substantial Completion

The Contractor shall promptly correct Work rejected by the Architect or failing to conform to the requirements of the Contract Documents, discovered before Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Architect's services and expenses made necessary thereby, shall be at the Contractor's expense.

§ 12.2.2 After Substantial Completion

§ 12.2.2.1 In addition to the Contractor's obligations under Section 3.5, if, within one year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.9.1, or by terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of notice from the Owner to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the one-year period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor and to make a claim for breach of warranty. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner or Architect, the Owner may correct it in accordance with Section 2.5.

§ 12.2.2.2 The one-year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual completion of that portion of the Work.

§ 12.2.2.3 The one-year period for correction of Work shall not be extended by corrective Work performed by the Contractor pursuant to this Section 12.2.

§ 12.2.3 The Contractor shall remove from the site portions of the Work that are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner.

§ 12.2.4 The Contractor shall bear the cost of correcting destroyed or damaged construction of the Owner or Separate Contractors, whether completed or partially completed, caused by the Contractor's correction or removal of Work that is not in accordance with the requirements of the Contract Documents.

§ 12.2.5 Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

§ 12.3 Acceptance of Nonconforming Work

If the Owner prefers to accept Work that is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

ARTICLE 13 MISCELLANEOUS PROVISIONS

§ 13.1 Governing Law

The Contract shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 15.4.

§ 13.2 Successors and Assigns

§ 13.2.1 The Owner and Contractor respectively bind themselves, their partners, successors, assigns, and legal representatives to covenants, agreements, and obligations contained in the Contract Documents. Except as provided in Section 13.2.2, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

§ 13.2.2 The Owner may, without consent of the Contractor, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner's rights and obligations under the Contract Documents. The Contractor shall execute all consents reasonably required to facilitate the assignment.

§ 13.3 Rights and Remedies

§ 13.3.1 Duties and obligations imposed by the Contract Documents and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights, and remedies otherwise imposed or available by law.

§ 13.3.2 No action or failure to act by the Owner, Architect, or Contractor shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed upon in writing.

§ 13.4 Tests and Inspections

§ 13.4.1 Tests, inspections, and approvals of portions of the Work shall be made as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules, and regulations or lawful orders of public authorities. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections, and

approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections, and approvals. The Contractor shall give the Architect timely notice of when and where tests and inspections are to be made so that the Architect may be present for such procedures. The Owner shall bear costs of tests, inspections, or approvals that do not become requirements until after bids are received or negotiations concluded. The Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations so require.

§ 13.4.2 If the Architect, Owner, or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection, or approval not included under Section 13.4.1, the Architect will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection, or approval, by an entity acceptable to the Owner, and the Contractor shall give timely notice to the Architect of when and where tests and inspections are to be made so that the Architect may be present for such procedures. Such costs, except as provided in Section 13.4.3, shall be at the Owner's expense.

§ 13.4.3 If procedures for testing, inspection, or approval under Sections 13.4.1 and 13.4.2 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, all costs made necessary by such failure, including those of repeated procedures and compensation for the Architect's services and expenses, shall be at the Contractor's expense.

§ 13.4.4 Required certificates of testing, inspection, or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the Architect.

§ 13.4.5 If the Architect is to observe tests, inspections, or approvals required by the Contract Documents, the Architect will do so promptly and, where practicable, at the normal place of testing.

§ 13.4.6 Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

§ 13.5 Interest

Payments due and unpaid under the Contract Documents shall bear interest from the date payment is due at the rate the parties agree upon in writing or, in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT

§ 14.1 Termination by the Contractor

§ 14.1.1 The Contractor may terminate the Contract if the Work is stopped for a period of 30 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, for any of the following reasons:

- .1 Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;
- .2 An act of government, such as a declaration of national emergency, that requires all Work to be stopped;
- .3 Because the Architect has not issued a Certificate for Payment and has not notified the Contractor of the reason for withholding certification as provided in Section 9.4.1, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Contract Documents; or
- .4 The Owner has failed to furnish to the Contractor reasonable evidence as required by Section 2.2.

§ 14.1.2 The Contractor may terminate the Contract if, through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, repeated suspensions, delays, or interruptions of the entire Work by the Owner as described in Section 14.3, constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less.

§ 14.1.3 If one of the reasons described in Section 14.1.1 or 14.1.2 exists, the Contractor may, upon seven days' notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work executed, as well as reasonable overhead and profit on Work not executed, and costs incurred by reason of such termination.

§ 14.1.4 If the Work is stopped for a period of 60 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, or their agents or employees or any other persons or entities performing portions of the Work because the Owner has repeatedly failed to fulfill the Owner's obligations under the Contract Documents with respect to matters important to the progress of the Work, the Contractor may, upon seven additional days' notice to the Owner and the Architect, terminate the Contract and recover from the Owner as provided in Section 14.1.3.

§ 14.2 Termination by the Owner for Cause

§ 14.2.1 The Owner may terminate the Contract if the Contractor

- .1 repeatedly refuses or fails to supply enough properly skilled workers or proper materials;
- .2 fails to make payment to Subcontractors or suppliers in accordance with the respective agreements between the Contractor and the Subcontractors or suppliers;
- .3 repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or
- .4 otherwise is guilty of substantial breach of a provision of the Contract Documents.

§ 14.2.2 When any of the reasons described in Section 14.2.1 exist, and upon certification by the Architect that sufficient cause exists to justify such action, the Owner may, without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:

- .1 Exclude the Contractor from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;
- .2 Accept assignment of subcontracts pursuant to Section 5.4; and
- .3 Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.

§ 14.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 14.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

§ 14.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including compensation for the Architect's services and expenses made necessary thereby, and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The amount to be paid to the Contractor or Owner, as the case may be, shall be certified by the Initial Decision Maker, upon application, and this obligation for payment shall survive termination of the Contract.

§ 14.3 Suspension by the Owner for Convenience

§ 14.3.1 The Owner may, without cause, order the Contractor in writing to suspend, delay or interrupt the Work, in whole or in part for such period of time as the Owner may determine.

§ 14.3.2 The Contract Sum and Contract Time shall be adjusted for increases in the cost and time caused by suspension, delay, or interruption under Section 14.3.1. Adjustment of the Contract Sum shall include profit. No adjustment shall be made to the extent

- .1 that performance is, was, or would have been, so suspended, delayed, or interrupted, by another cause for which the Contractor is responsible; or
- .2 that an equitable adjustment is made or denied under another provision of the Contract.

§ 14.4 Termination by the Owner for Convenience

§ 14.4.1 The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause.

§ 14.4.2 Upon receipt of notice from the Owner of such termination for the Owner's convenience, the Contractor shall

- .1 cease operations as directed by the Owner in the notice;
- .2 take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and
- .3 except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.

§ 14.4.3 In case of such termination for the Owner's convenience, the Owner shall pay the Contractor for Work properly executed; costs incurred by reason of the termination, including costs attributable to termination of Subcontracts; and the termination fee, if any, set forth in the Agreement.

ARTICLE 15 CLAIMS AND DISPUTES

§ 15.1 Claims

§ 15.1.1 Definition

A Claim is a demand or assertion by one of the parties seeking, as a matter of right, payment of money, a change in the Contract Time, or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Contractor arising out of or relating to the Contract. The responsibility to substantiate Claims shall rest with the party making the Claim. This Section 15.1.1 does not require the Owner to file a Claim in order to impose liquidated damages in accordance with the Contract Documents.

§ 15.1.2 Time Limits on Claims

The Owner and Contractor shall commence all Claims and causes of action against the other and arising out of or related to the Contract, whether in contract, tort, breach of warranty or otherwise, in accordance with the requirements of the binding dispute resolution method selected in the Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Contractor waive all Claims and causes of action not commenced in accordance with this Section 15.1.2.

§ 15.1.3 Notice of Claims

§ 15.1.3.1 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered prior to expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party and to the Initial Decision Maker with a copy sent to the Architect, if the Architect is not serving as the Initial Decision Maker. Claims by either party under this Section 15.1.3.1 shall be initiated within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later.

§ 15.1.3.2 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party. In such event, no decision by the Initial Decision Maker is required.

§ 15.1.4 Continuing Contract Performance

§ 15.1.4.1 Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 14, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents.

§ 15.1.4.2 The Contract Sum and Contract Time shall be adjusted in accordance with the Initial Decision Maker's decision, subject to the right of either party to proceed in accordance with this Article 15. The Architect will issue Certificates for Payment in accordance with the decision of the Initial Decision Maker.

§ 15.1.5 Claims for Additional Cost

If the Contractor wishes to make a Claim for an increase in the Contract Sum, notice as provided in Section 15.1.3 shall be given before proceeding to execute the portion of the Work that is the subject of the Claim. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4.

§ 15.1.6 Claims for Additional Time

§ 15.1.6.1 If the Contractor wishes to make a Claim for an increase in the Contract Time, notice as provided in Section 15.1.3 shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay, only one Claim is necessary.

§ 15.1.6.2 If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated, and had an adverse effect on the scheduled construction.

§ 15.1.7 Waiver of Claims for Consequential Damages

The Contractor and Owner waive Claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes

- .1 damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and
- .2 damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit, except anticipated profit arising directly from the Work.

This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 14. Nothing contained in this Section 15.1.7 shall be deemed to preclude assessment of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.

§ 15.2 Initial Decision

§ 15.2.1 Claims, excluding those where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2 or arising under Sections 10.3, 10.4, and 11.5, shall be referred to the Initial Decision Maker for initial decision. The Architect will serve as the Initial Decision Maker, unless otherwise indicated in the Agreement. Except for those Claims excluded by this Section 15.2.1, an initial decision shall be required as a condition precedent to mediation of any Claim. If an initial decision has not been rendered within 30 days after the Claim has been referred to the Initial Decision Maker, the party asserting the Claim may demand mediation and binding dispute resolution without a decision having been rendered. Unless the Initial Decision Maker and all affected parties agree, the Initial Decision Maker will not decide disputes between the Contractor and persons or entities other than the Owner.

§ 15.2.2 The Initial Decision Maker will review Claims and within ten days of the receipt of a Claim take one or more of the following actions: (1) request additional supporting data from the claimant or a response with supporting data from the other party, (2) reject the Claim in whole or in part, (3) approve the Claim, (4) suggest a compromise, or (5) advise the parties that the Initial Decision Maker is unable to resolve the Claim if the Initial Decision Maker lacks sufficient information to evaluate the merits of the Claim or if the Initial Decision Maker concludes that, in the Initial Decision Maker's sole discretion, it would be inappropriate for the Initial Decision Maker to resolve the Claim.

§ 15.2.3 In evaluating Claims, the Initial Decision Maker may, but shall not be obligated to, consult with or seek information from either party or from persons with special knowledge or expertise who may assist the Initial Decision Maker in rendering a decision. The Initial Decision Maker may request the Owner to authorize retention of such persons at the Owner's expense.

§ 15.2.4 If the Initial Decision Maker requests a party to provide a response to a Claim or to furnish additional supporting data, such party shall respond, within ten days after receipt of the request, and shall either (1) provide a response on the requested supporting data, (2) advise the Initial Decision Maker when the response or supporting data will be furnished, or (3) advise the Initial Decision Maker that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Initial Decision Maker will either reject or approve the Claim in whole or in part.

§ 15.2.5 The Initial Decision Maker will render an initial decision approving or rejecting the Claim, or indicating that the Initial Decision Maker is unable to resolve the Claim. This initial decision shall (1) be in writing; (2) state the reasons therefor; and (3) notify the parties and the Architect, if the Architect is not serving as the Initial Decision Maker, of any change in the Contract Sum or Contract Time or both. The initial decision shall be final and binding on the parties but subject to mediation and, if the parties fail to resolve their dispute through mediation, to binding dispute resolution.

§ 15.2.6 Either party may file for mediation of an initial decision at any time, subject to the terms of Section 15.2.6.1.

§ 15.2.6.1 Either party may, within 30 days from the date of receipt of an initial decision, demand in writing that the other party file for mediation. If such a demand is made and the party receiving the demand fails to file for mediation within 30 days after receipt thereof, then both parties waive their rights to mediate or pursue binding dispute resolution proceedings with respect to the initial decision.

§ 15.2.7 In the event of a Claim against the Contractor, the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

§ 15.2.8 If a Claim relates to or is the subject of a mechanic's lien, the party asserting such Claim may proceed in accordance with applicable law to comply with the lien notice or filing deadlines.

§ 15.3 Mediation

§ 15.3.1 Claims, disputes, or other matters in controversy arising out of or related to the Contract, except those waived as provided for in Sections 9.10.4, 9.10.5, and 15.1.7, shall be subject to mediation as a condition precedent to binding dispute resolution.

§ 15.3.2 The parties shall endeavor to resolve their Claims by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of binding dispute resolution proceedings but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration is stayed pursuant to this Section 15.3.2, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§ 15.3.3 Either party may, within 30 days from the date that mediation has been concluded without resolution of the dispute or 60 days after mediation has been demanded without resolution of the dispute, demand in writing that the other party file for binding dispute resolution. If such a demand is made and the party receiving the demand fails to file for binding dispute resolution within 60 days after receipt thereof, then both parties waive their rights to binding dispute resolution proceedings with respect to the initial decision.

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

§ 15.4 Arbitration

§ 15.4.1 If the parties have selected arbitration as the method for binding dispute resolution in the Agreement, any Claim subject to, but not resolved by, mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of the Agreement. The Arbitration shall be conducted in the place where the Project is located, unless another location is mutually agreed upon. A demand for arbitration shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the arbitration. The party filing a notice of demand for arbitration must assert in the demand all Claims then known to that party on which arbitration is permitted to be demanded.

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

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

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

§ 15.4.4 Consolidation or Joinder

§ 15.4.4.1 Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation, (2) the arbitrations to be consolidated substantially involve common questions of law or fact, and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

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

§ 15.4.4.3 The Owner and Contractor grant to any person or entity made a party to an arbitration conducted under this Section 15.4, whether by joinder or consolidation, the same rights of joinder and consolidation as those of the Owner and Contractor under this Agreement.



MCCRACKEN COUNTY FISCAL COURT

PADUCAH SPORTS PARK

BID PACKAGE 01 – SITE

PADUCAH, KY 42003

BID DATE: TUESDAY, MARCH 26, 2024 @ 2:00PM CST

PHONE: 843-936-6023 • FAX: 843-284-8823 • INFO@SPRINTURF.COM

146 FAIRCHILD STREET, SUITE 150, DANIEL ISLAND, SC 29492



MANUFACTURER QUALIFICATIONS

- ✓ ABOUT SPRINTURF
 - ✓ SUPPLY CHAIN
- ✓ ISO-9001 CERTIFICATION
- ✓ ASBA CERTIFICATION
 - ✓ INSTALL LIST
- ✓ BONDING LETTER
- ✓ FINANCIAL LETTER

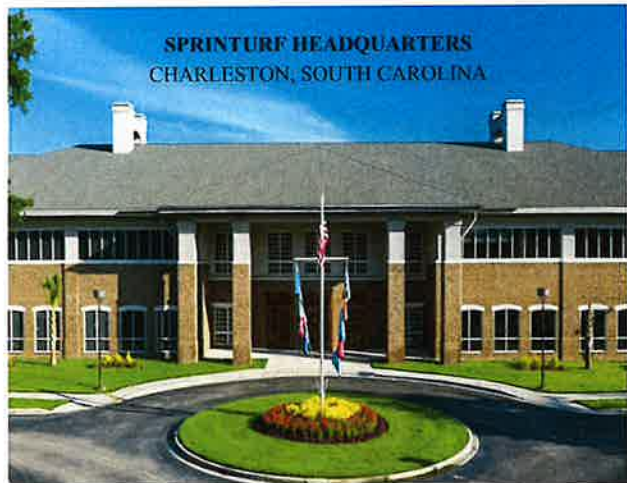
HISTORY - 100% AMERICAN MADE & OWNED

Sprinturf is one of the original artificial turf companies. Formed in 1998, this company has over **3,500 installations** throughout the United States. In 2010, Integrated Turf Solutions (ITS), one of only two companies manufacturing artificial turf products in North America, united with Sprinturf, one of the most reputable turf marketers and installers in the country. **The new Sprinturf became the FIRST fully integrated polyethylene turf company in North America - making it a world-class model, providing the best-in-class economics, logistics, quality, and service.**

LOCATIONS

Charleston, South Carolina is home to Sprinturf's headquarters. Additionally, Sprinturf runs two manufacturing facilities, one in **Chatsworth, Georgia**, and the other in **Dadeville, Alabama**.

The Dadeville facility extrudes an extensive selection of nylon, polyethylene, and polypropylene yarns, as well as the most recent slit film and spinneret monofilament yarns. The tufting and urethane coating processes for Sprinturf are in the Chatsworth, Georgia, facility. Over **3,500 fields** in North America have received yarn and finished synthetic grass products from the Dadeville and Chatsworth factories combined.



CAPABILITIES

Sprinturf often completes projects on schedule, significantly exceeding the industry average of 60% to 70%. Within twenty-one (21) days of receiving approved submittals, Sprinturf can manufacture and deliver synthetic turf for this project. **Sprinturf offers a manufacturer's warranty that is eight (8) years long and completely guaranteed by a third party because it oversees all aspects of testing and manufacturing.** Additionally, Sprinturf is the only turf manufacturer that guarantees a minimum tuft bind of 10. For all yarns produced in Sprinturf facilities to date, **there have been no fiber failures.**

Furthermore, Sprinturf offers **SprintCare**, a distinctive maintenance package. Sprinturf stands with you from the start (resin pellet) till your field is taken out ten years from now. Sprinturf provides the best pricing while making sure that all production conforms with all EPA and CPSC laws on heavy metals, etc. because there aren't many other players in the game.

QUALITY

In a variety of ways, the Sprinturf system is exceptional. We produce everything ourselves, therefore our top-notch quality procedures are built around prevention rather than detection. Additionally, the manufacturing facility for Sprinturf is **ISO-9001 certified**. All the fibers are produced domestically throughout America. Slit tape fibers have been produced by us since 2002, and spinnerette monofilament since 2006. Eliminating imports of any kind gives Sprinturf a compliance edge with U.S. laws and regulations in addition to quality control. We completely manage the manufacturing process from the pellet to the completed good because we perform all the tufting and urethane coating ourselves. Additionally, we have a fully functional internal lab with Instrons, color cameras, UV weatherometers, and a Lisport accelerated wear tester.

MANUFACTURING

Sprinturf produces the highest-quality turf systems in the market thanks to its vertically integrated manufacturing process and unmatched quality control. Our two locations in Georgia and Alabama house manufacturing equipment valued at \$35 million. Our yarn factory at Sprinturf produces the most recent monofilament and slit tape extrusion lines that create our UltraBlade and MX fibers. Sprinturf extrudes a variety of nylon and polyethylene yarns, including textured, dual-colored, and dual-shaped yarns. To create our yarns, we only employ resins and color concentrates of the finest caliber.



Our innovative tufting and coating facility has been in operation since 2004 and is **ISO-9001 certified**. Sprinturf tufts and coatings a broad range of artificial turf products for use in landscape and sporting field applications. For all our turf systems, Sprinturf's unique urethane formulas provide industry-leading tuft binds. Compared to other companies, our custom created perforation system offers improved drainage rates (more than 60 inches per hour without infill).

AMERICA

Sprinturf has made significant investments in the United States and American workers. Only Sprinturf turf company that manufactures all the turf internally and in the United States. Sprinturf is an all-encompassing provider, beginning with the resin pellet and finishing with the installed field. Every job and every investment dollar are in the United States. **We have more turf-related hard assets in the United States than the other three large turf corporations combined.**



SAFETY

Out of all the playing surfaces, Sprinturf is one of the safes of any kind. Sprinturf employees would even create this playing surface for their own children thanks to its revolutionary patented 100% all-rubber system, standard rubber, and sand mix. Additionally, the polymers utilized in the production of Sprinturf synthetic turf products are bought from reputable firms like Dow and Exxon and have been examined and determined to be compliant with California's strict **Proposition 65** regulations.

FINANCES & BONDING

One of only four national synthetic grass companies, Sprinturf is the only one to own all its \$50 million-plus American manufacturing facilities. The two biggest resin suppliers in the sector, Exxon and Dow, have long-standing supply and research partnerships with Sprinturf. The annual manufacturing and supply capacity of Sprinturf exceeds 25 million square feet.

Comprehensive commercial general liability, auto, liability, and workers' compensation insurance are all carried by Sprinturf. In addition, with a \$10 million per field limit and a \$10 million annual aggregate coverage, its third-party insured warranty is the finest in the market. For your reference, copies of its liability insurance certificate(s), third-party warranty, and sample warranty are supplied here.

We are happy to report that Sprinturf's surety is prepared to support contract performance and payment bonds on individual projects up to \$7 million and aggregate work programs of \$50 million and would be open to considering higher limits if necessary. This is based on Sprinturf's experience, financial stability, and management team.

SPRINTURF SUPPLY CHAIN

THE KEY TO ON-TIME DELIVERY OF YOUR FIELD

MADE AND MANUFACTURED IN THE USA

Your field is 100% Made In America. This means that Sprinturf is not effected by shipping issues.

FIBER – CERTIFICATE OF ORIGIN

Sprinturf will provide you with a Certificate of Origin (CO) declaring that your field was manufactured in the US.

<https://www.cbp.gov/sites/default/files/assets/documents/2023-Jan/CBP%20Form%200434.pdf>

ISO CERTIFIED FACTORY

Our ISO certified factory, in the US, monitors and ensures the quality of the product you are buying.

IN-HOUSE INSTALLATION CREWS

In-house crews completing the chain of custody. Sprinturf in-house crews assure quality and consistency in every field we install.





ISO-9001 CERTIFICATION

ISO-9001 CERTIFICATION

ISO-9001 is the international standard for Quality Management Systems (QMS), published by ISO (the International Organization for Standardization). In order to be released and updated, ISO-9001 had to be agreed upon by a majority of member countries so that it would become an internationally recognized standard, which means it is accepted by a majority of countries worldwide.

QUALITY MANAGEMENT SYSTEM (QMS)

The Quality Management System, which is often referred to as a QMS, is a collection of policies, processes, documented procedures and records. This collection of documentation defines the set of internal rules that will govern how your company creates and delivers your product or service to your customers. The QMS must be tailored to the needs of your company and the product or service you provide, but the ISO-9001 standard provides a set of guidelines to help make sure that you do not miss any important elements that a QMS needs to be successful.



Our dedicated high-speed tufting machines and polyurethane coater are in our ISO-9001 certified Chatsworth, GA facility.



Sprinturf first became ISO-9001 Certified in 2014. We are listed in 2% of companies worldwide that passed the ISO-9001 audit with ZERO non-compliance in the first attempt.

ISO-9001 CERTIFICATION BENEFITS

The ISO-9001 standard is recognized worldwide and you can be confident that Sprinturf:

- Minimizes mistakes
- Improves reporting and communications
- Provides better quality products and service
- Has reliable production scheduling and delivery
- Standards are maintained by annual assessments

CFB-S
AMERICAN
SPORTS BUILDERS
ASSOCIATION
CERTIFIED FIELD BUILDER - Synthetic Turf

**AMERICAN
SPORTS BUILDERS
ASSOCIATION**

*Through Its Certification Board
Has Conferred Upon*

Jeff Fowler

The Designation

CERTIFIED FIELD BUILDER - Synthetic Turf

FOR EFFORTS TO RAISE THE PROFESSIONAL
STANDARDS OF FIELD CONSTRUCTION AND
FOR HAVING SUCCESSFULLY FULFILLED THE
CONDITIONS OF ELIGIBILITY AND PASSED THE
REQUIRED EXAMINATION.

*In witness whereof we have set our hands on
this 31st day of December, 2023*

Certification expires: December 31, 2026

[Signature]
Executive Director

[Signature]
Certification Chairman





COMPLETED INSTALLATIONS

Completed	Project Name	City	State	S.F.
12/11/2023	Woodford County HS 23-S-KY042	Versailles	KY	91,300
11/24/2023	Ohio County Schools - Baseball Field 23-S-KY030	Hartford	KY	126,200
11/22/2023	Ohio County Schools - Softball Field 23-S-KY030	Hartford	KY	126,200
10/31/2023	South Laurel High School Baseball & Softball Synthetic Turf 23-S-KY148	London	KY	145,900
10/27/2023	North Laurel High School Baseball & Softball Synthetic Turf 23-S-KY146&147	London	KY	149,700
8/11/2023	Lincoln Co HS Field Improvements KY 23-S-KY070	Stanford	KY	90,200
7/26/2023	Lawrence Co High Football I - Soccer 23-S-KY017	Louisa	KY	101,500
7/26/2023	Asbury University - 23-S-KY016	Wilmore	KY	116,000
7/14/2023	Henderson Sports Complex 23-S-KY139	Henderson	KY	102,326
7/5/2023	Ohio County Schools - Football Field 23-S-KY030	Hartford	KY	126,200
5/25/2023	Taylor Co High School Indoor Practice Facility 22-S-KY156	Campbellsville	KY	18,000
8/22/2022	Union College 22-S-KY090	Barbourville	KY	98,280
8/15/2022	Eminence Athletic Field - 22-S-KY099	Eminence	KY	98,000
7/20/2022	Shelby Valley HS KY Sports Field replacement 22-S-KY102	Pikeville	KY	101,200
7/15/2022	Knox County Schools KY - 22-S-KY133	Corbin	KY	182,300
7/11/2022	Estill County High School	Irvine	KY	79,800
6/24/2022	Pulaski County HS 22-S-KY064	Somerset	KY	171,557
10/13/2020	Betsy Layne - 20-S-KY036	Stanville	KY	27,070
9/29/2020	Taylor County HS - 20-S-KY063	Campbellsville	KY	137,220
7/31/2020	North Laurel High School - 20-S-KY069	London	KY	91,500
7/23/2020	Boyd County High School - 19-S-KY097	Ashland	KY	100,000
5/15/2020	Bardstown High School - 20-S-KY003	Bardstown	KY	91,080
8/1/2019	Daviess County High School - 18-S-KY-103	Owensboro	KY	115,416
8/1/2019	Apollo High School - 18-S-KY102	Owensboro	KY	108,344
8/30/2018	Kentucky Wesleyan College Football Field	Owensboro	KY	83,996
8/30/2017	Rowan County High School	Morehead	KY	77,840
12/1/2016	Owensboro Middle School	Owensboro	KY	86,750
7/28/2014	Magoffin High School	Salersville	KY	83,900
8/16/2013	Elizabethtown Independent High School	Elizabethtown	KY	79,000
7/26/2013	Perry County Athletic Complex	Hazard	KY	88,800



MADE IN U.S.A.



MADE IN U.S.A.



SPRINTURE CERTIFICATE OF AUTHENTICITY

We guarantee our full range of artificial turf products are all manufactured in the U.S.A. This brings you the best value for your investment, when it comes to any type of turf project, while also creating jobs in America.

Sprinturf has more than 2,200 turf installations in leading sports programs, colleges, universities and professional athletic teams across North America and abroad. Its high-performing, dual-yarn systems are manufactured in the U.S.A. at Sprinturf facilities in Alabama and Georgia. Founded in the 1990's and acquired by integrated turf solutions (ITS) in 2010, Sprinturf is the only company in North America that extrudes 100% of its fibers in-house and in the U.S.A.

SPRINTURF

REGISTERED

UNIVERSITY



One Towne Square, Suite 1075
Southfield, MI 48076-3732

January 29, 2024

RE: Sprinturf, LLC – Letter of Bondability

We are providing this information at the request of our principal.

We have been providing surety bonds for Sprinturf, LLC since 2020. We have approved bonds for them covering jobs up to \$8,000,000.00 and potential work programs of \$60,000,000.00.

We continue to be confident in Sprinturf, LLC ability to perform and we recommend them for your favorable consideration.

This letter is not to be construed as an agreement to provide surety bonds for any particular project, but is offered as an indication of our past experience and confidence in this firm. Any specific requests for bonds will be underwritten on its own merits.

Western Surety Company is listed on the U.S. Treasury Department's List of Approved Sureties (Department Circular 570) and is rated A (Excellent) with Financial Size Category of XIV (\$1.5 Billion to \$2 Billion) by A.M. Best Company.

Sincerely,
Western Surety Company

A handwritten signature in blue ink that reads "Theresa J Foley".

Theresa J Foley
Attorney-In-Fact



Western Surety Company

POWER OF ATTORNEY APPOINTING INDIVIDUAL ATTORNEY-IN-FACT

Know All Men By These Presents, That WESTERN SURETY COMPANY, a South Dakota corporation, is a duly organized and existing corporation having its principal office in the City of Sioux Falls, and State of South Dakota, and that it does by virtue of the signature and seal herein affixed hereby make, constitute and appoint

Vicki S Duncan, Kristie A Pudvan, Judy K Wilson, Nicholas R Hylant, Individually, of Toledo, OH
Susan E Hurd, Individually of Dublin, OH
Jamie Laurencelle, Jennifer A Jarosz, Kathy S Zack, Michael Schatz, Individually, of Troy, MI
Lisa M Wilmot, Sarayu S Nair, Individually, of Ann Arbor, MI
Theresa J Foley, Jacksonville, FL

its true and lawful Attorney(s)-in-Fact with full power and authority hereby conferred to sign, seal and execute for and on its behalf bonds, undertakings and other obligatory instruments of similar nature

- In Unlimited Amounts -

and to bind it thereby as fully and to the same extent as if such instruments were signed by a duly authorized officer of the corporation and all the acts of said Attorney, pursuant to the authority hereby given, are hereby ratified and confirmed.

This Power of Attorney is made and executed pursuant to and by authority of the By-Law printed on the reverse hereof, duly adopted, as indicated, by the shareholders of the corporation.

In Witness Whereof, WESTERN SURETY COMPANY has caused these presents to be signed by its Vice President and its corporate seal to be hereto affixed on this 23rd day of May, 2022.



WESTERN SURETY COMPANY

Paul T. Bruflat, Vice President

State of South Dakota
County of Minnehaha

} ss

On this 23rd day of May, 2022, before me personally came Paul T. Bruflat, to me known, who, being by me duly sworn, did depose and say: that he resides in the City of Sioux Falls, State of South Dakota; that he is the Vice President of WESTERN SURETY COMPANY described in and which executed the above instrument; that he knows the seal of said corporation; that the seal affixed to the said instrument is such corporate seal; that it was so affixed pursuant to authority given by the Board of Directors of said corporation and that he signed his name thereto pursuant to like authority, and acknowledges same to be the act and deed of said corporation.

My commission expires

March 2, 2026



M. Bent, Notary Public

CERTIFICATE

I, L. Nelson, Assistant Secretary of WESTERN SURETY COMPANY do hereby certify that the Power of Attorney hereinabove set forth is still in force, and further certify that the By-Law of the corporation printed on the reverse hereof is still in force. In testimony whereof I have hereunto subscribed my name and affixed the seal of the said corporation this 29th day of January 2024



WESTERN SURETY COMPANY

L. Nelson, Assistant Secretary

Authorizing By-Law

ADOPTED BY THE SHAREHOLDERS OF WESTERN SURETY COMPANY

This Power of Attorney is made and executed pursuant to and by authority of the following By-Law duly adopted by the shareholders of the Company.

Section 7. All bonds, policies, undertakings, Powers of Attorney, or other obligations of the corporation shall be executed in the corporate name of the Company by the President, Secretary, and Assistant Secretary, Treasurer, or any Vice President, or by such other officers as the Board of Directors may authorize. The President, any Vice President, Secretary, any Assistant Secretary, or the Treasurer may appoint Attorneys in Fact or agents who shall have authority to issue bonds, policies, or undertakings in the name of the Company. The corporate seal is not necessary for the validity of any bonds, policies, undertakings, Powers of Attorney or other obligations of the corporation. The signature of any such officer and the corporate seal may be printed by facsimile.

SPRINTURF PREQUALIFICATION STATEMENT

Sprinturf, LLC
PlayCore Wisconsin, Inc.
146 Fairchild Street, Suite 150
Daniel Island, SC 29492
Telephone: 843-936-6023
Fax: 843-410-5712
Website: www.sprinturf.com



RE: PREQUALIFICATION STATEMENT FOR FURNISHING SPORTS SURFACING & INSTALLATION SERVICES

To whom it may concern,

The Sprinturf Division of PlayCore Wisconsin, Inc., in collaboration with your local Sprinturf regional sales representative, seeks to prequalify as a manufacturer of athletic sports turf surfacing. Additionally, we are positioned to provide installation services through our network of factory-trained direct and certified installers. As this submittal attests, Sprinturf is fully qualified to provide the necessary equipment and services to fulfill the requirements of the most demanding project.

Sprinturf has been installing sports surfacing fields continuously since 1998. The Sprinturf Division is a vertically integrated company with extensive design, manufacturing, distribution, and installation capabilities. With two manufacturing facilities devoted solely to the manufacture of sports surfacing, Sprinturf is well equipped to handle orders of any size. Seasonal weekly production under the PlayCore umbrella can exceed \$5,000,000. Daily inventory often exceeds \$6,000,000. Sprinturf does all yarn extrusion, twisting, texturizing, tufting, and coating “in-house”. Once an order is entered, Sprinturf is ready to deliver equipment to its customers within 21 to 30 days.

Sprinturf currently employs 400+ people to design and manufacture commercial artificial turf sports surfacing materials. The staff includes industrial designers, product managers, structural engineers, a landscape architect, and one CAD operators in the product development, design, and processing groups. Additionally, several consultants collaborate in key areas. PlayCore products are distributed in the United States by a network of 13 domestic independent sales organizations employing 130 sales and 98 support personnel. Seventeen international distributors market PlayCore products worldwide.

PlayCore conducts “GT College” annually and holds seminars throughout the year to disseminate the latest in product improvements and new design directions, computer technology, safety compliance, risk management, installation techniques, ADA requirements, and related topics. Staff members are CPSI-certified playground safety inspectors. Sprinturf provides local on-site playground design services utilizing laptop computers with exclusive GTCAD programing; furnishes CPSI safety audits; equipment selection consultations; safety surfacing materials; and installation by “factory-certified” installers for complete “turnkey” packages. On average, Sprinturf sales agencies have been serving customers for 23 years.

Chartwell Investments acquired all issued and outstanding shares of PlayCore stock in April 2000, and the company became privately held. Irving Place Capital (formerly Bear Stearns Merchant Banking), together with the company management, purchased PlayCore in February 2007. On May 30, 2014, PlayCore was acquired by Sentinel Capital Partners, a New York middle-market private equity firm which subsequently sold the company to Court Square Capital Partners <https://www.courtsquare.com/>. PlayCore product sales for 2023 are expected to exceed \$900,000,000.

PlayCore is a leading designer, manufacturer, and marketer of a broad range of commercial playground and park equipment, safety surfacing, site amenities, fitness, and related products. PlayCore currently operates in seven distribution locations, four

SPRINTURF PREQUALIFICATION STATEMENT

core manufacturing facilities; and ten specialized manufacturing sites. Registered in Delaware, Sprinturf division headquarters relocated to Daniel Island, South Carolina U.S.A. in 2018. In October of 2023, PlayCore Wisconsin, Inc., acquired Sprinturf, LLC. The PlayCore Federal Identification Number is 39-1720480; the DUNS Number is 006639710; and the CAGE Code is 84308.

We submit this as verification that Sprinturf is financially sound, experienced, and well positioned to provide a full-solution, total turnkey package for sports surfacing and related services from design to final inspection. As a privately held company, Court Square Capital Partners refrains from the distribution of financial data on segments of its investment portfolio that may be subject to public disclosure. Should further financial particulars on PlayCore be necessary, kindly contact Ms. Joni Manley, Vice President of Finance and Accounting, 423-648-5890, jmanley@playcore.com.

We certify the information submitted herein is true and correct.

SPRINTURF DIVISION

Sincerely,



Kyle Horne

Vice President of Finance

Sprinturf, LLC

khorne@sprinturf.com

843-936-6009



Phone: 843-936-6023

Fax: 843-410-5712

146 Fairchild Street, Suite 150

Daniel Island, SC 29492

March 26, 2024

McCracken County Fiscal Court
300 Clarence Gaines Street
Paducah, KY 42003

RE: Statement of Patent Non-Infringement & Quality Assurance

Sprinturf certifies that the proposed synthetic turf system, materials, details and/or installation methods do not violate any manufacturers' patents or patents pending. It is the intent of this Section not to infringe upon any existing patents, licenses or rights of individuals or companies. A copy of Patent #5,976,645 can be provided upon request.

This letter is to certify that Sprinturf's proposed turf system will meet and exceed all specific requirements of the project. Sprinturf, as both the manufacturer and installer of this turf system, is committed to providing the highest quality turf product and service. We pride ourselves on the continued excellent service in all services we provide to our clients.

Upon approval of the synthetic turf system, Sprinturf shall hold the Owner and Architect harmless as to any liability and/or costs of any type, including but not limited to, legal costs, royalties, replacement costs, etc. associated with any patent infringement claim from our materials and/or installation.

Sincerely,

A handwritten signature in blue ink that reads "Daniel Dietrich".

Daniel Dietrich
Chief Estimator

LITIGATION

Nothing is currently pending or, to Sprinturf's knowledge, threatened against or affecting the Sprinturf Group, the Business, any of the Assets, or any of the transactions contemplated by this Agreement ("Litigation"), and to Sprinturf's knowledge, there is no basis for any Litigation. This applies to all actions, suits, investigations, claims, or proceedings, whether civil, criminal, or administrative. There have been no ongoing legal disputes between Sprinturf and any third parties in the last ten years preceding March 26, 2024.



INSTALLER QUALIFICATIONS

- ✓ RESUMES
- ✓ SUPERVISORY PERSONNEL LETTER

TY AYDIN

VICE PRESIDENT OF FIELD OPERATIONS

SPRINTURF, LLC

88 Hogback Road, Pittstown, NJ 08867

Phone: 201.481.0412

Email: taydin@sprinturf.com

31 YEARS IN THE INDUSTRY

PROFESSIONAL EXPERIENCE

SPRINTURF, LLC – Vice President of Field Operations

2012 – Present

IC IMPROVEMENTS INC – Project Superintendent/Foreman
1996-2010

IC IMPROVEMENTS INC – Installations Director
1992-1996

RECENT PROJECT EXPERIENCE

- ✓ John Handley High School
- ✓ West Homewood Park Athletic Complex
- ✓ East Ash Multi-Sport Complex Fields (2)
- ✓ Webb Bridge Park
- ✓ Libbey High School Baseball Field
- ✓ Lovell Field
- ✓ Smith Playground Ball Field
- ✓ University Of Nevada - Reno Peccole Baseball Field
- ✓ Mt. Vernon High School Field
- ✓ New Mexico Highlands University
- ✓ Nova Classical Academy
- ✓ North Haven Middle School (East and West Field)
- ✓ Bethel University Baseball Field
- ✓ Chaska Middle School Multipurpose Dome & Field
- ✓ Bear Brand Park Baseball Fields (2)
- ✓ G.E.T. High School Athletic Playing Fields (3)
- ✓ Eglin Air Force Base
- ✓ West Valley High School
- ✓ Hardeeville Recreation Complex Field
- ✓ Marymoor Park Fields (4)
- ✓ Arrowhead Union High School Stadium
- ✓ Cameron HS Synthetic Turf Multi-Purpose Field
- ✓ Bishop Monague Catholic High School Fields (2)
- ✓ Josie De La Cruz Big Springs Athletic Facility
- ✓ West Manchester High School
- ✓ Hillside School
- ✓ Northwest High School
- ✓ University of Pittsburgh - Recreation
- ✓ Lovington High School Football Field
- ✓ Apex Lutz Sports Complex & Long Lake Park
- ✓ John Ansford Park
- ✓ Vernon Hills School - Glodis Field
- ✓ Hilton Head County Park
- ✓ Carl Sandburg Middle School
- ✓ Northwestern High School Fields (3)
- ✓ Mooresville High School Softball Field
- ✓ Westfield High School Soccer Field
- ✓ Knights of Columbus Field
- ✓ Wethersfield High School Cottone Field (2 Fields)
- ✓ Southwestern High School Mustangs Stadium
- ✓ Old Van Asselt Elementary School & Whitman Ms Fields (2)
- ✓ Waupaca High School City of Joplin Baseball Stadium
- ✓ Complex Middletown South High School
- ✓ Tomlinson Middle School
- ✓ Sparta High School Athletic Complex
- ✓ Lasalle University - McCarthy Stadium
- ✓ Gustavus Adolphus College Baseball Field
- ✓ Thomas Jefferson Hs Stadium and Practice Field
- ✓ Thomas Jefferson Hs Stadium and Practice Field Rowan County High School
- ✓ West Jordan High School
- ✓ Albertus Magnus High School Multipurpose Field
- ✓ St. Croix Prep Athletic Fields
- ✓ Franklin High School
- ✓ North Andover High School
- ✓ Mt. Vernon High School
- ✓ Rye Brook
- ✓ Waunakee High School Warrior Stadium
- ✓ Tc Roberson
- ✓ O.M.M. Soccer Field
- ✓ Klahowya Secondary School
- ✓ Maconaquah High School
- ✓ Kutztown University Andre Rison Stadium Bishop Hendrickson High School
- ✓ Clovis High School
- ✓ Ums-Wright Practice Field
- ✓ Orange Bowl Field at Harris Field Park
- ✓ Harding High School (2 Fields)
- ✓ Ardrey Kell
- ✓ Northeast High School
- ✓ Palmdale Aerospace Academy
- ✓ City of Magee Sports Complex Fields (8)
- ✓ Mt. Ayr Community High School Football Field
- ✓ New London Spicer High School
- ✓ The Citadel Practice Field
- ✓ Lutheran Secondary Multi-Purpose Field
- ✓ Sayville Middle School
- ✓ Waconia High School
- ✓ Burke – Toney Stadium
- ✓ Mississinewa High School - Football & Track Stadium
- ✓ Nichols College
- ✓ Irvington Community Park
- ✓ Boyle Road Field
- ✓ Carlsbad Hs Football, Softball and Baseball Fields
- ✓ Cedar Crest College Falcon Plex Field
- ✓ Doral Meadows Park Fields (2)

DUSTIN MARTELLI

INSTALLATION FOREMAN/SUPERVISOR

SPRINTURF, LLC

Phone: 330-353-0859

Email: dmartelli@sprinturf.com

25 YEARS IN THE INDUSTRY

RESPONSIBILITIES & HIGHLIGHTS

Dustin has over 25 years of experience in the industry, beginning in 1996 when he spent four years as a Project Foreman for IC Improvements Inc. In 2011, Dustin came to work for Sprinturf and is now an Installation Foreman and Supervisor in the Northeast and Central Regions of the US.

PROFESSIONAL EXPERIENCE

SPRINTURF, LLC – Installation Foreman/Supervisor
2011 – Present

IC IMPROVEMENTS INC – Project Superintendent/Foreman
1996-2000

REFERENCES

DONNA KUKAROLA, Forsyth County
770-888-8872

PETER SPANOS, North Andover Public Schools
781-335-6465

DEBORA WESTBROOK, Procurement Director, City of
Alpharetta
678-297-6050

FRANK PAYNE, Director, O.M.M. Athletic Club, Inc
914-263-3904

CERTIFICATIONS & TRAINING

OSHA 10 & First Aid Certified

RECENT PROJECT EXPERIENCE

St. John's University – Clemons Stadium, MN
Fowler Park, GA
Southwest Minnesota State, MN
West End High School, AL
Steubenville High School BB/SB, OH
Eastbrook High School, IN
Harman Baseball Field, IN
Westbrook Christian School FB/BB, AL
Wylie E Groves HS, MI
Tuskegee University Football, AL
Allen Park High School, MI
Duncan Creek Park, GA
St John's University Clemens Stadium, MN
Washington High School Baseball/Softball, MO
Ceraland Park, IN
Tega Cay, SC
Loris High School, SC
West Ottawa High School, MI
Allen Park High School, MI
Carolina Forrest HS – Horry County, SC
Deaconess Sports Park, IN
Delta High School, IN
Dawson County Soccer, GA
Episcopal Day School, GA
Hartman Baseball Field, IN
Heath Springs Soccer Complex, SC
Shelton High School, CT
Canon-McMillian High School, PA
Atlantic Coast Athletic Club, VA
Olympic Soccer Center, WA
Jesuit College Preparatory School, TX

Randall's Island Park (5 fields), NY
Cobb County Park (8 Fields), GA
Webb Bridge Park, GA
Dexter High School (2 Fields), MI
Cascade High School, IN
University of Wisconsin-Oshkosh, WI
University of Wisconsin-Green Bay, WI
North Park, GA
Middletown South High School, NJ
Farmington Public Schools (2 fields), MI
Bartholomew East & North High Schools, IN
Ball State University, IN
Roncalli High School, RI
Bishop Hendrickson High School, RI
Albertus Magnus High School, NY
Harrison High School, IN
McCutcheon High School, IN
Sumner High School, WA
Sandy High School (3 Fields), OR
St. Mark's School – Clark Field, MA
Middletown High School North, NJ
Susquehannock High School, PA
Super Dome Outdoor Field, NJ
Ambridge Senior High School, PA
The SportsZone, NH
Tiffin City Schools, OH
Garland Independent School District, TX
Gatesville Independent School District, TX

Metuchen High School, NJ
Chambersburg Area Senior HS, PA
Orangetown Mighty Midgets –
Orangetown, NY
Bald Eagle Area High School, Wingate, PA
Lutheran Secondary Multi-Purpose Field
IN
Rye Brook Field, NY
Rumson-Fair Haven Regional High
School, NJ
Holmdel High School – Holmdel, NJ
Matawan Regional High School,
Aberdeen, NJ
East Region All-Weather Fields,
Dartmouth, NH
North Andover High School, MA
Teaneck Armory Soccer Coliseum, NJ
Good Sports USA – Wall, NJ
West Orange HS Lincoln Field, NJ
Catholic Memorial High School, MA
University of Montana Grizzlies Stadium,
MT
Tri-States Sports, PA
Karns City High School, PA
Union Town High School, PA
Santa Maria Valley YMCA – Santa Maria,
CA
Belmont High School, MA



Phone: 843-936-6023

Fax: 843-410-5712

146 Fairchild Street, Suite 150

Daniel Island, SC 29492

March 26, 2024

McCracken County Fiscal Court
300 Clarence Gaines Street
Paducah, KY 42003

RE: Supervisory Personnel Letter

Sprinturf, LLC certifies that the designated Supervisory Personnel (installation foreman) on the project are fully competent, trained, experienced, and certified in the installation of specified slit-film material, including sewing seam and proper installation of the infill mixture.

Please feel free to contact me at our corporate office for any questions or clarifications regarding this letter.

Sincerely,

A handwritten signature in blue ink that reads "Daniel Dietrich".

Daniel Dietrich
Chief Estimator

REQUEST FOR PROPOSAL

MCCRACKEN COUNTY FISCAL COURT

SPRINTURF®

TURF PRODUCT INFORMATION

- ✓ TURF SPECIFICATIONS
 - ✓ TURF TESTING
 - ✓ COLOR CHART
- ✓ CERTIFICATION LETTER

SPRINTURF

ULTRABLADE™

DFE EXTREME

42

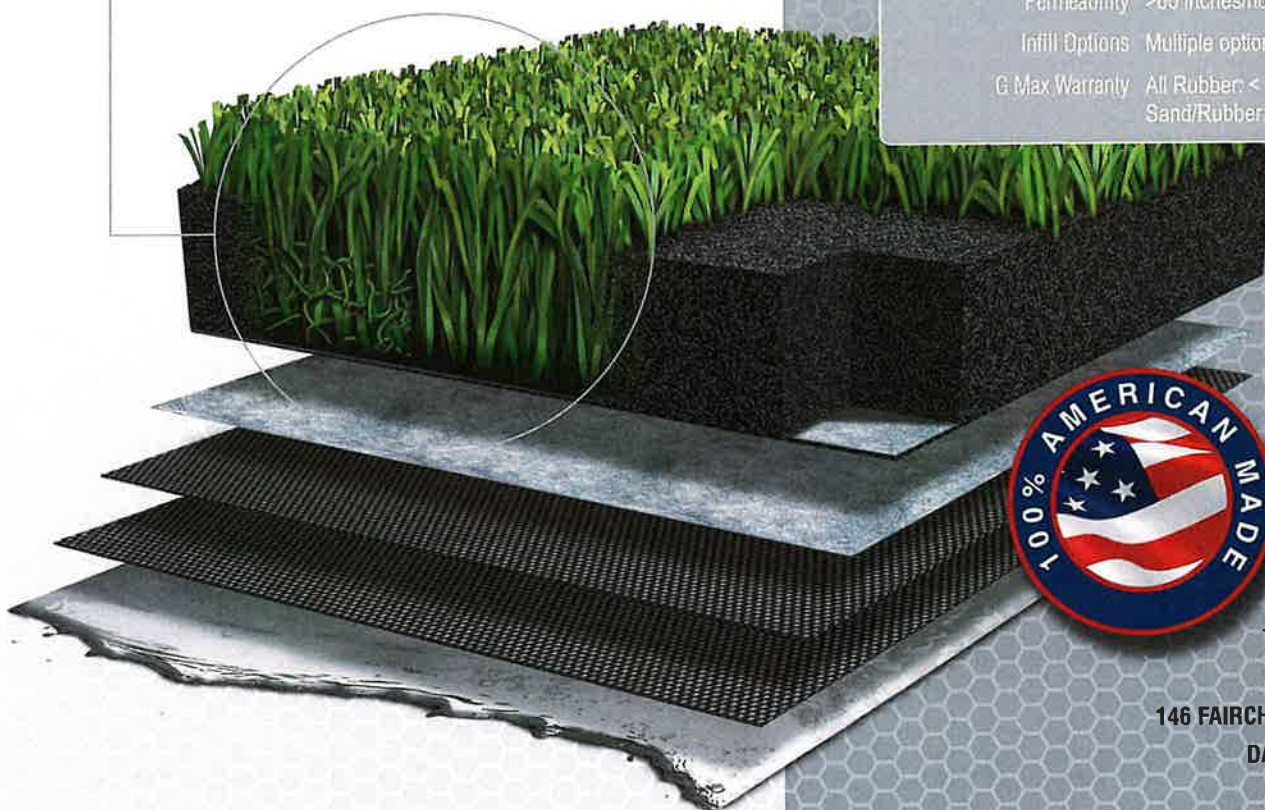
SLIT-FILM / MONOFILAMENT

Sprinturf has the most dual fiber fields in the nation. DFE Extreme fields feature a 330 micron plus monofilament and a 120 micron plus slit film. Exclusively made in-house and in America.

The combination of monofilament and parallel-fibrillated fibers interlock to nearly eliminate infill flyout – a common complaint amongst athletes, coaches, and parents. The available two color configuration provides stunning aesthetics.

Sprinturf DFE Extreme fields feature two unique polymer technologies. State of the art C8 monofilament resins from Dow and Nova are married to a proprietary metallocene slit film resin from Exxon. The combined product featuring the greatest polymer suppliers in the world provide unmatched durability with exceptional resilience, playability, and safety.

AVAILABLE WITH OR WITHOUT THATCH ZONE



SPECIFICATIONS

	Fiber: Fibrillated Long-Slit / Monofilament
Fiber Supplier	ITS - Sprinturf
Fiber Denier	10,000 / 10,800
Fiber Thickness	120 Microns / 330 Microns
Pile Height	2.25"
Face Weight	42 oz / yd ²
Primary Backing	Non-Woven/Woven/Woven
Primary Backing Weight	8.5 oz / yd ²
Secondary Backing	Polyurethane
Secondary Backing Weight	22 oz / yd ²
Total Weight (w/o Infill)	72.5 oz / yd ²
Tufting Gauge	3/8" or 1/2"
Tuft Bind	>10 lbs/force
Permeability	>60 inches/hour
Infill Options	Multiple options available
G Max Warranty	All Rubber: < 150G's Sand/Rubber: < 175G's

The information provided above represents the standard characteristics for the named product. It required this product can be manufactured to meet alternative specification requirements within our manufacturing tolerances. The above referenced data and supporting reports apply only to the sample tested and are not necessarily indicative of the qualities of apparently identical or similar products.

TOLL FREE: 877-686-887

FAX: 843-410-5712

146 FAIRCHILD STREET, SUITE 150,
DANIEL ISLAND, SC 29492



CLIENT:

Company:	Sprinturf
Address:	146 Fairchild Street
	Suite 150
	Daniel Island, SC 29492

TEST MATERIAL:

Date Material Received:	February 3, 2023
Material Type:	Synthetic Turf
Material Condition:	Excellent, New
Material ID:	42 oz DFE 2.0"

Test Overview:

Testing Services was instructed by the client to perform fiber, construction, and performance analysis on a submitted finished synthetic turf roll identified as: 42 oz DFE 2.0" in accordance with ASTM, EN, FIFA, or other accredited test methods outlined in the project specification.

Test Methods:

Standard:	ASTM D7138	Test Method:	Standard Test Method for Determination of Melting Temperatures of Synthetic Fibers (Fiber ID)
Standard:	ASTM D1907	Test Method:	Standard Test Method for Liner Density of Yarn by the Skein Method (Yarn Denier)
Standard:	ASTM D3218	Test Method:	Standard Test Method for Specification of Polyolefin Monofilaments (Ribbon Thickness & Width)
Standard:	ASTM D2256	Test Method:	Standard Test Method for Tensile Properties of Yarns by the Single Strand Method (Yarn Breaking Strength/Elongation)
Standard:	ASTM F2765	Test Method:	Standard Specification for Total Lead Content in Synthetic Turf Fibers (Lead Content)
Standard:	ASTM D5848	Test Method:	Standard Test Method for Mass Per Unit Area of Pile Yarn Floor Coverings (Weights: Total, Face, Primary, Secondary)
Standard:	ASTM D5823	Test Method:	Standard Test Method for Tuft Height of Pile Floor Coverings (Tuft Height above Backing)
Standard:	ASTM D5793	Test Method:	Standard Test Method for Binding Sites per Unit Length or Width of Pile Yarn Floorcoverings (Stitch & Gauge Count)
Standard:	TSI Internal	Test Method:	Perforation Spacing and Diameter (Drainage Hole Diameter and Spacing)
Standard:	ASTM D1335	Test Method:	Standard Test Method for Tuft Bind Strength of Pile Yarn Floor Coverings (Tuft Lock)
Standard:	ASTM D5034	Test Method:	Standard Test Method for Breaking Strength of Textile Fabrics (Grab Tear Strength)
Standard:	ASTM F1551	Test Method:	Standard Test Methods for Comprehensive Characterization of Synthetic Turf Playing Surfaces and Materials: Suffix-DIN 18-035, Part 6: Water Permeability of Synthetic Turf Systems and Permeable Bases (Water Permeability)
Standard:	ASTM D2859	Test Method:	Standard Test Method for Ignition Characteristics of Finished Textile Pile Yarn Floorcoverings (Pill Flammability)
Standard:	ASTM F1015	Test Method:	Standard Test Method for Relative Abrasiveness Index of Synthetic Turf Playing Surfaces (Abrasiveness)

Test Results:

Yarn Analysis					
Method	Test Description	Test Result			
		10,000 Slit Film		10,800 Monofilament	
ASTM D7138 Method 2	Fiber Melt Point, Identification	120°C	Polyethylene	119°C	Polyethylene
ASTM D1907	Denier	10,248		11,128	
ASTM D3218	Ribbon Thickness	128 microns		310 microns	
	Ribbon Width	0.361"		0.043" X 6 ends	
ASTM D2256	Average Yarn Breaking Strength	35.7 lbs/force		17.6 lbs/force	
	Average Yarn Elongation @ Break	112.6 %		77.6 %	
ASTM F2765	Total Lead Content	10.3 mg/Kg		3.08 mg/Kg	



TESTING SERVICES

LABORATORY TEST REPORT

Report # 90931
Lab Test Number: 3354-3211
Report Date: February 16, 2023

TEST SUMMARY

www.testingservices.us • (706)226-1400
office@testingservices.us

CLIENT:

Company:	Sprinturf
Address:	146 Fairchild Street
	Suite 150
	Daniel Island, SC 29492

TEST MATERIAL:

Date Material Received:	February 3, 2023
Material Type:	Synthetic Turf
Material Condition:	Excellent, New
Material ID:	42 oz DFE 2.0"

Test Results:

Construction Analysis		
Method	Test Description	Test Result
ASTM D5848	Total Product Weight	75.9 oz/lyd ²
	Pile Yam Weight	42.4 oz/lyd ²
	Primary Backing Weight	9.20 oz/lyd ²
	Secondary Backing Weight	24.3 oz/lyd ²
ASTM D5823	Average Tuft Height	2.00"
ASTM D5793	Stitch Count	2.66 spi
ASTM D5793	Gauge	3/8"
ASTM D1335	Average Tuft Bind	15.6 lbs/force
ASTM D5034	Average Grab Tear Strength: Length Direction	291 lbs/force
ASTM D5034	Average Grab Tear Strength: Width Direction	290 lbs/force

Test Results:

Performance Analysis		
Method	Test Description	Test Result
ASTM F1551	Water Permeability (1)	65.3 inches/hr
ASTM D2859-16	Pill Flammability (1)	8 out of 8 Pass Meets 16CFR 1630 (FF1-70)
ASTM F1015	Abrasiveness Index (1)	30

¹ Infill System: 30% Sand, 70% Rubber to depth of 35mm

We undertake all assignments for our clients on a best effort basis. Our findings and judgments are based on the information to us using the latest test methods available.
TSI can only ensure the test results for the specific items tested.
Unless otherwise noted in the deviations sections of this report, all tests are performed in compliance with stated test method.

Test Report Approval:

Erle Miles, III, Lab Director Testing Services (TSI) LLC

TSI Accreditation: Our laboratory is accredited by the US Dept. of Commerce, National Institute of Standards and Technology: ISO/IEC 17025:2005. Our code # is: NVLAP 100108-0.
TSI is an Organizational Member of ASTM (American Society for Testing and Materials). TSI is a certified independent testing laboratory by the STC (Synthetic Turf Council).



SPRINTURF

ULTRABLADE™

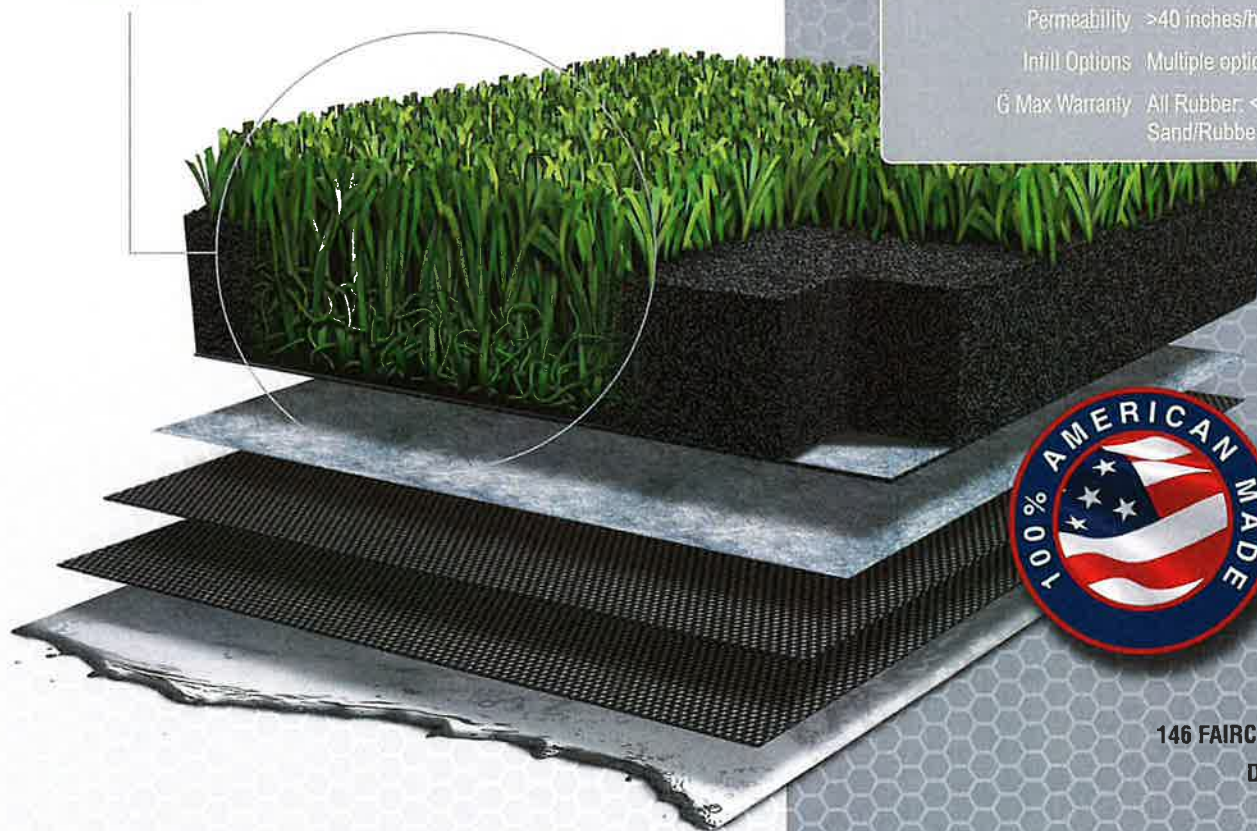
SYNTHETIC TURF SYSTEM

90

WITH THATCH

Sprinturf's parallel long slit fibrillated fibers are featured in the most fields in the nation over 10 years old. Exclusively made in-house and in America. Sprinturf pioneered the Ultrablade parallel slit fiber system in 1998. Over 250 fields have been installed with Ultrablade since 2006 alone. The current Ultrablade slit fiber system features a proprietary Exxon metallacene resin. The 120 micron plus fiber provides unmatched durability. Tensile strengths average 40 percent higher than comparable Tencate XP fibers. Ultrablade routinely passes 100,000 plus cycles on Lisport accelerated testing. Installations include University of Pennsylvania, Valdosta State University, and Ball State University.

THATCH ZONE



SPECIFICATIONS

Fiber	Fibrillated, Parallel Long Slit
Fiber Supplier	ITS - Sprinturf
Fiber Denier	10,000
Fiber Thickness	120 Microns
Pile Height	1.6"
Face Weight	90 oz / yd ²
Primary Backing	Non-Woven/Woven/Woven
Primary Backing Weight	8.5 oz / yd ²
Secondary Backing	Polyurethane
Secondary Backing Weight	35 oz / yd ²
Total Weight (w/o infill)	134.5 oz / yd ²
Tufting Gauge	3/8" or 1/2"
Tuft Bind	>12 lbs/force
Permeability	>40 inches/hour
Infill Options	Multiple options available
G Max Warranty	All Rubber: < 150G's Sand/Rubber: < 175G's

The information provided above represents the standard characteristics for the named product. It required this product can be manufactured to meet alternative specification requirements within our manufacturing tolerances. The above referenced data and supporting reports apply only to the sample tested and are not necessarily indicative of the qualities of apparently identical or similar products.



TOLL FREE: 877-686-887

FAX: 843-410-5712

146 FAIRCHILD STREET, SUITE 150,
DANIEL ISLAND, SC 29492



CLIENT:

Company:	Sprinturf
Address:	146 Fairchild Street
	Suite 150
	Daniel Island, SC 29492

TEST MATERIAL:

Date Material Received:	February 3, 2023
Material Type:	Synthetic Turf
Material Condition:	Excellent, New
Material ID:	50 oz UltraBlade with PE Thatch 2.0"

Test Overview:

Testing Services was instructed by the client to perform fiber, construction, and performance analysis on a submitted finished synthetic turf roll identified as: **50 oz UltraBlade with PE Thatch 2.0"** in accordance with ASTM, EN, FIFA, or other accredited test methods outlined in the project specification.

Test Methods:

Standard:	ASTM D7138	Test Method:	Standard Test Method for Determination of Melting Temperatures of Synthetic Fibers (Fiber ID)
Standard:	ASTM D1907	Test Method:	Standard Test Method for Liner Density of Yarn by the Skein Method (Yarn Denier)
Standard:	ASTM D3218	Test Method:	Standard Test Method for Specification of Polyolefin Monofilaments (Ribbon Thickness & Width)
Standard:	ASTM D2256	Test Method:	Standard Test Method for Tensile Properties of Yarns by the Single Strand Method (Yarn Breaking Strength/Elongation)
Standard:	ASTM F2765	Test Method:	Standard Specification for Total Lead Content in Synthetic Turf Fibers (Lead Content)
Standard:	ASTM D5848	Test Method:	Standard Test Method for Mass Per Unit Area of Pile Yarn Floor Coverings (Weights: Total, Face, Primary, Secondary)
Standard:	ASTM D5823	Test Method:	Standard Test Method for Tuft Height of Pile Floor Coverings (Tuft Height above Backing)
Standard:	ASTM D5793	Test Method:	Standard Test Method for Binding Sites per Unit Length or Width of Pile Yarn Floorcoverings (Stitch & Gauge Count)
Standard:	TSI Internal	Test Method:	Perforation Spacing and Diameter (Drainage Hole Diameter and Spacing)
Standard:	ASTM D1335	Test Method:	Standard Test Method for Tuft Bind Strength of Pile Yarn Floor Coverings (Tuft Lock)
Standard:	ASTM D5034	Test Method:	Standard Test Method for Breaking Strength of Textile Fabrics (Grab Tear Strength)
Standard:	ASTM F1551	Test Method:	Standard Test Methods for Comprehensive Characterization of Synthetic Turf Playing Surfaces and Materials: Suffix-DIN 18-035, Part 6: Water Permeability of Synthetic Turf Systems and Permeable Bases (Water Permeability)
Standard:	ASTM D2859	Test Method:	Standard Test Method for Ignition Characteristics of Finished Textile Pile Yarn Floorcoverings (Pill Flammability)
Standard:	ASTM F1015	Test Method:	Standard Test Method for Relative Abrasiveness Index of Synthetic Turf Playing Surfaces (Abrasiveness)

Test Results:

Yarn Analysis			
Method	Test Description	Test Result 10,000 Slit Film	
ASTM D7138 Method 2	Fiber Melt Point, Identification	120°C	Polyethylene
ASTM D1907	Denier	10,248	
ASTM D3218	Ribbon Thickness	128 microns	
	Ribbon Width	0.361"	
ASTM D2256	Average Yarn Breaking Strength	35.7 lbs/force	
	Average Yarn Elongation @ Break	112.6 %	
ASTM F2765	Total Lead Content	10.3 mg/Kg	



TESTING SERVICES

LABORATORY TEST REPORT

Report # 9093
Lab Test Number: 3354-321
Report Date: February 16, 2023

TEST SUMMARY

www.testingservices.us • (706)226-1400
office@testingservices.us

CLIENT:

Company:	Sprinturf
Address:	146 Fairchild Street
	Suite 150
	Daniel Island, SC 29492

TEST MATERIAL:

Date Material Received:	February 3, 2023
Material Type:	Synthetic Turf
Material Condition:	Excellent, New
Material ID:	50 oz UltraBlade with PE Thatch 2.0"

Test Results:

Construction Analysis		
Method	Test Description	Test Result
ASTM D5848	Total Product Weight	78.59 oz/yd ²
	Pile Yam Weight	49.5 oz/yd ²
	Primary Backing Weight	9.20 oz/yd ²
	Secondary Backing Weight	19.89 oz/yd ²
ASTM D5823	Average Tuft Height	2.0"
ASTM D5793	Stitch Count	2.66 spi
ASTM D5793	Gauge	3/8"
ASTM D1335	Average Tuft Bind	13.7 lbs/force
ASTM D5034	Average Grab Tear Strength: Length Direction	240 lbs/force
ASTM D5034	Average Grab Tear Strength: Width Direction	296 lbs/force

Test Results:

Performance Analysis		
Method	Test Description	Test Result
ASTM F1551	Water Permeability (")	65.6 inches/hr
ASTM D2859-16	Pill Flammability	8 out of 8 Pass
ASTM F1015	Abrasiveness Index	26

* Infill System: 30% Sand, 70% Rubber to depth of 35mm

We undertake all assignments for our clients on a best effort basis. Our findings and judgments are based on the information to us using the latest test methods available. TSI can only ensure the test results for the specific items tested.

Unless otherwise noted in the deviations sections of this report, all tests are performed in compliance with stated test method.

Test Report Approval:

Erle Miles, III, Lab Director Testing Services (TSI) LLC

TSI Accreditation:

Our laboratory is accredited by the US Dept. of Commerce, National Institute of Standards and Technology: ISO/IEC 17025:2005. Our code # is: NVLAP 100108-0. TSI is an Organizational Member of ASTM (American Society for Testing and Materials). TSI is a certified independent testing laboratory by the STC (Synthetic Turf Council).



LEFT TO RIGHT – COLORS SHOWN IN ORDER OF COLOR WHEEL



• WHITE



• YELLOW



NAVY BLUE



RED



• BLACK



FLORIDA BLUE



CLAY RED



• VEGAS GOLD



LIGHT BLUE



PURPLE



ORANGE



GOLD



MAROON



• GREY



BROWN



CRIMSON*



• FIELD GREEN*



• LIME / FIELD GREEN*

***COLORS NOT SHOWN ON COLOR WHEEL**

Please note that the colors represented in regards to this product may vary within industry standards from actual material. While reliable, these colors are intended only as an informational source for your benefit and do not constitute a warranty and/or guarantee. The Purchaser is still required to determine if the color of the actual material meets the individual needs of the Purchaser.

• DENOTES NO UPCHARGE COLORS. ALL OTHER COLORS AVAILABLE FOR ADDITIONAL COST.



Phone: 843-936-6023

Fax: 843-410-5712

146 Fairchild Street, Suite 150

Daniel Island, SC 29492

March 26, 2024

McCracken County Fiscal Court

300 Clarence Gaines Street

Paducah, KY 42003

RE: In-House, All-American Company

Sprinturf will act as installer and manufacturer on this project and will use all in-house employees for this project. Sprinturf certifies our in-house installation crews are trained and certified by Sprinturf to perform this installation. Sprinturf manufactures all our own polyethylene turf fibers at our own facilities that are in the United States, specifically in Dadeville, AL and Chatsworth, GA.

Sincerely,

A handwritten signature in blue ink that reads "Daniel Dietrich".

Daniel Dietrich
Chief Estimator



WARRANTY & INSURANCE

- ✓ SAMPLE 8-YEAR WARRANTY
- ✓ SAMPLE LIABILITY INSURANCE
- ✓ SAMPLE WARRANTY OUTLINE
- ✓ CERTIFICATE OF INSURANCE COPY



LIMITED 8-YEAR WARRANTY

Sprinturf warrants the synthetic grass turf field at the XXXXXXXX for a period of eight (8) years from the date of substantial completion or "first use" (whichever comes first) against defects in the materials and workmanship provided including but not limited to, excessive ultraviolet degradation, loss of tensile strength, or excessive fading, as recognized by accepted industry standards. Sprinturf will, at its option, either repair or replace the affected area without charge to the Owner for the duration of the Warranty period. No cash refunds will be made. Sprinturf also warrants that the average G-Max level of its synthetic turf field will not exceed XXXXXXXX for the duration of the Warranty period.

Failure to follow the recommendations for proper maintenance of the synthetic grass turf field as outlined in our "Maintenance Guidelines" supplied to every customer at time of completion will void this Warranty.

This Limited Warranty does not cover:

- Damage due to external causes including, but not limited to, the application of chemicals or cleaning agents, vandalism, fire, flood, fireworks, contamination, windstorm, acts of God, change in water table and improper care.
- Damage resulting from accidents, force majeure, misuse, abuse, and neglect or from other than normal and ordinary intended use of the Product.
- Damage resulting from failure to maintain the Product in accordance with the Maintenance Guidelines provided to the Owner. It will be the Owner's responsibility to keep a detailed log of the maintenance provided to the field including (a) date and time of maintenance, (b) personnel providing the maintenance and (c) the maintenance action taken.
- All perceived or potential problems must be reported to Sprinturf headquarters in writing within 48 hours of the occurrence. Failure to do so will void this warranty.
- Damage resulting from materials applied or labor performed, including, but not limited to, repair or attempted repair by anyone other than Sprinturf or an authorized Sprinturf third party serviceperson.
- Use of improper footwear such as long spiked track shoes. Standard plastic molded soccer, lacrosse, football, or baseball shoes are recommended.
- Any recommendations by a third party provided to the Owner or its representative without the written approval of Sprinturf, which would alter or change materials or workmanship that were originally supplied or installed by Sprinturf.
- Damage attributable to normal wear and tear, as determined by acceptable standards in the synthetic turf industry.
- Improper design of sub-base or drainage system.

The obligations of Sprinturf under the Warranty are subject to full payment of all monies due Sprinturf for materials and/or labor related to the above referenced project. This Warranty will be voided if any third party, contractor, or turf manufacturer other than Sprinturf performs any labor or service on the subject field.

Sprinturf does not warrant recommendations, drawings, undocumented subgrade for engineer witnessed proof rolls or compaction tests, specifications, or plans made by Owner or its design professionals, architects, or other representatives. This Warranty is limited to the remedies of repair or replacement, which shall constitute the exclusive remedies available, and all other remedies or recourses that might otherwise be available are hereby waived by the Owner. Sprinturf will also not warrant any field where grooming tines have been used.

Sprinturf shall have no other obligations or liability for damages arising out of or in connection with the use or performance of the product including, but not limited to, damages for personal injury or economic losses. Sprinturf disclaims liability for incidental and consequential damages for breach of any express or implied warranty, including any implied Warranty of merchantability, with respect to the product.

This Warranty constitutes Sprinturf's entire obligation. All other prior written or oral agreements or drafts of agreements between the parties pertaining to the subject matter of this Warranty are superseded and of no force and effect and may not be used as evidence in interpreting the provisions of this Warranty. This Warranty is a Supplier's/Manufacturer's warranty. Any surety bond posted by ITS Sprinturf Holdings, LLC and/or Sprinturf, LLC to Owner/Obligee for the securitization of bid, performance and payment obligation does not guarantee any obligation contemplated in the warranty.

Date of Substantial Completion: _____

By: _____

Justin Reddy, President

Date: _____

Witness: _____

Date: _____

ACORDTM**CERTIFICATE OF LIABILITY INSURANCE**

DATE (MM/DD/YYYY)

11/29/2023

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer any rights to the certificate holder in lieu of such endorsement(s).

PRODUCER USI Insurance Services, LLC 6100 Fairview Rd Ste 1400 Charlotte, NC 28210 704 543-0258	CONTACT NAME: PHONE (A/C, No, Ext): 704 543-0258 FAX (A/C, No): E-MAIL ADDRESS: <table border="1"> <tr> <th data-bbox="815 420 1432 445">INSURER(S) AFFORDING COVERAGE</th> <th data-bbox="1438 420 1573 445">NAIC #</th> </tr> <tr> <td data-bbox="815 449 1432 474">INSURER A : Summit Specialty Insurance</td> <td data-bbox="1438 449 1573 474">SURPLU</td> </tr> <tr> <td data-bbox="815 478 1432 504">INSURER B : Validus Reinsurance LTD</td> <td data-bbox="1438 478 1573 504">SURPLU</td> </tr> <tr> <td data-bbox="815 508 1432 533">INSURER C :</td> <td data-bbox="1438 508 1573 533"></td> </tr> <tr> <td data-bbox="815 537 1432 562">INSURER D :</td> <td data-bbox="1438 537 1573 562"></td> </tr> <tr> <td data-bbox="815 567 1432 592">INSURER E :</td> <td data-bbox="1438 567 1573 592"></td> </tr> <tr> <td data-bbox="815 596 1432 621">INSURER F :</td> <td data-bbox="1438 596 1573 621"></td> </tr> </table>	INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A : Summit Specialty Insurance	SURPLU	INSURER B : Validus Reinsurance LTD	SURPLU	INSURER C :		INSURER D :		INSURER E :		INSURER F :	
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INSURER C :															
INSURER D :															
INSURER E :															
INSURER F :															
INSURED Sprinturf, LLC 146 Fairchild Street Suite 150 Daniel Island, SC 29492															

COVERAGES**CERTIFICATE NUMBER:****REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☐ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☐ PRO-JECT ☐ LOC OTHER:						EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$ \$
	AUTOMOBILE LIABILITY ☐ ANY AUTO OWNED AUTOS ONLY ☐ HIRED AUTOS ONLY ☐ SCHEDULED AUTOS NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	UMBRELLA LIAB ☐ OCCUR EXCESS LIAB ☐ CLAIMS-MADE DED \$ RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? ☐ Y/N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		N/A				PER STATUTE ☐ OTH-ER ☐ E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
A	Products Recall			CMR0000011401	07/15/2023	07/15/2024	\$5M Policy Period Agg
B	Products Recall			CMJ332439A23	07/15/2023	07/15/2024	\$5M/Excess Primary \$5M

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Confirmation of Coverage**CERTIFICATE HOLDER****CANCELLATION**

Sprinturf, LLC
146 Fairchild Street Suite 150
Daniel Island, SC 29492

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Paula B. Bulman

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USI Insurance Services
6100 Fairview Road, Suite 800
Charlotte, NC 28210
Direct: (704) 543-0258
Fax: (610) 537-1902
Toll Free: (800) 868-8834

Date: 7/17/2023

Sprinturf, LLC. "Insured" has secured as insurance policy through our firm, USI Insurance Services. Outlined below are the key terms and conditions for the policy(ies).

1. Insuring Agreement:

In consideration of the premium paid and subject to all of the terms and conditions of the policies, the insurer will indemnify the insured for loss in respect to a Covered Incident.

2. Covered Incident:

"Covered Incident" shall mean the discovery of a defect, deficiency, inadequacy, or breach of warranty.

3. Limit of Liability:

\$10,000,000 each covered incident. \$10,000,000 aggregate.

4. Deductible:

No deductible applies to the Warranty Holder.

5. Policy Territory:

The policy contains no policy territory restrictions.

6. Security: Underwriter – Summit Specialty Insurance Company.

A.M Best Co. has affirmed the financial strength rating of A (Excellent)

7. Policy Period:

July 15, 2023 to July 15, 2024

Notwithstanding any of the statements provided in this outline, all terms and conditions of the policies dictate coverage.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
11/06/2023

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

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PRODUCER
MARSH USA, LLC.
Two Alliance Center
3560 Lenox Road, Suite 2400
Atlanta, GA 30326
Attn: Atlanta.CertRequest@marsh.com / Fax: 212-948-4321
CN102326389-CAS-GAUWX-23-24

CONTACT
NAME: Brenda Young-Epps
PHONE (A/C, No, Ext): (404) 995 3074
E-MAIL: brenda.youngepps@marsh.com
FAX (A/C, No):
ADDRESS:

INSURER(S) AFFORDING COVERAGE

NAIC #

INSURER A : Evanston Insurance Company

35378

INSURER B : Continental Casualty Company

20443

INSURER C : American Casualty Company Of Reading, Pa

20427

INSURER D : Transportation Insurance Co

20494

INSURER E : N/A

N/A

INSURER F : The Continental Insurance Company

35289

INSURED
Sprinturf, LLC
146 Fairchild Street Suite 150
Daniel Island, SC 29492

COVERAGES

CERTIFICATE NUMBER:

ATL-005861696-01

REVISION NUMBER: 0

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSD WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR ☒ SIR \$250,000 Per Occ. GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☒ PRO-JECT ☐ LOC OTHER:		MKL72PBC002028	08/01/2023	08/01/2024	EACH OCCURRENCE \$ 2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 2,000,000 GENERAL AGGREGATE \$ 4,000,000 PRODUCTS - COMP/OP AGG \$ 4,000,000 POLICY AGGREGATE \$ 10,000,000
B	AUTOMOBILE LIABILITY ☒ ANY AUTO ☐ OWNED AUTOS ONLY ☐ SCHEDULED AUTOS ☐ HIRED AUTOS ONLY ☐ NON-OWNED AUTOS ONLY		BUA 7039895527	08/01/2023	08/01/2024	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ Comp./Coll. Ded.: \$1,000 \$
F	☒ UMBRELLA LIAB ☒ OCCUR ☐ EXCESS LIAB ☐ CLAIMS-MADE DED ☒ RETENTION \$ 0		7039984806 RETENTION Umb Catastrophe \$25,000	08/01/2023	08/01/2024	EACH OCCURRENCE \$ 10,000,000 AGGREGATE \$ 10,000,000 \$
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) ☒ Y/N ☒ N If yes, describe under DESCRIPTION OF OPERATIONS below	N/A	WC 7 39895530 WC 7 39895544 WC 7 39918871 WC 7 39929062	08/01/2023 08/01/2023 08/01/2023 08/01/2023	08/01/2024 08/01/2024 08/01/2024 08/01/2024	☒ PER STATUTE ☐ OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
For Information Only

CERTIFICATE HOLDER

Sprinturf, LLC
146 Fairchild Street
Suite 150
Daniel Island, SC 29492

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE
of Marsh USA LLC

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ADDITIONAL REMARKS SCHEDULE

Page 2 of 2

AGENCY MARSH USA, LLC.		NAMED INSURED Sprinturf, LLC 146 Fairchild Street Suite 150 Daniel Island, SC 29492
POLICY NUMBER		
CARRIER	NAIC CODE	EFFECTIVE DATE:

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,

FORM NUMBER: 25 FORM TITLE: Certificate of Liability Insurance

Workers' Compensation (Continued):

Carrier: Transportation Insurance Company

Policy Number: WC 7039918885

Dates: 08/01/2023 - 08/01/2024

WC 7 39895530 - AL, CO, FL, GA, ID, IL, IN, KS, KY, ME, MD, MI, MN, MO, MT, NV, NY, NC, OK, OR, PA, SC, TN, TX, UT, VA

WC 7 39895544 - CA

WC 7 39918871 - AZ, OR, WI

WC 7039918885 - OH, ND, WY, WA

SPRINTURF *SprintCare*

SYNTHETIC TURF MAINTENANCE PROGRAM

Each step of our comprehensive maintenance service will be diligently performed by one of our SprintCare Certified Technicians. Fields can only be groomed in the months of September to May.

**SEE YOUR
SALES REPRESENTATIVE**



MAINTENANCE VISIT INCLUDES:

- 1 CLEAN & REDISTRIBUTE INFILL**
Clean and redistributes infill evenly
- 2 FIELD BRUSHING**
Brushing alleviates compaction and reinvigorates fibers
- 3 FIELD INSPECTION**
Careful inspection of the field and remediation of seams, numbers or logos, if necessary
- 4 INFILL DEPTH TESTING**
Infill depth testing with a remediation recommendation
- 5 WRITTEN REPORT**
Detailed written report for owners record
- 6 GMAX TESTING**
Gmax testing for field safety. (Available for additional cost)

877.686.8873 • WWW.SPRINTURF.COM

SPRINTURF®

Headquarters
146 Fairchild Street
Suite 150
Daniel Island, SC 29492
T: 877-686-8873
F: 843-410-5712

**Manufacturing
Facilities:**
799 Industrial Drive
Chatsworth, GA 30705
170 Rice Ave
Dadeville, AL 36853

REQUEST FOR PROPOSAL

MCCRACKEN COUNTY FISCAL COURT



SUBMITTALS

- ✓ FORM OF PROPOSAL
 - ✓ BID BOND
- ✓ NON-COLLUSION AFFIDAVIT
- ✓ CORPORATE RESOLUTION

SECTION 004113.1 - FORM OF PROPOSAL 1(A) – FIELD TURF

PROJECT: Bid Package 01 – Site
Former Bluegrass Downs Grandstand
150 Downs Drive
Paducah, Kentucky

Name of Contractor: Sprinturf, LLC

Mailing Address: 146 Fairchild Street
Suite 150
Charleston, SC 29492

Business Phone: 843-936-6023

TO: Steve Ervin, Community Development Project Manager
McCracken County Fiscal Court
300 Clarence Gaines Street
Paducah, KY 42001

Having carefully examined the Instructions to Bidders, Contract Agreement, General Conditions, Special Conditions, Specifications, and Drawings on the above referenced project, the undersigned bidder proposes to furnish all labor, materials, equipment, tools, supplies, services, and temporary devices required to complete the work in accordance with the contract documents and any addenda listed below for the price stated herein.

BASE BID:

Material	\$ <u>4,805,970.00</u>
Labor	\$ <u>1,937,865.00</u>
Tax	\$ <u>166,405.00</u>
TOTAL	\$ <u>6,910,240.00</u>

For the construction required to complete the work in accordance with the contract documents, I/We submit the following lump sum price of

Six Million, Nine Hundred Ten Thousand, Two Hundred & Forty DOLLARS 00 CENTS
(use words)

ALTERNATE BID:

For omission from or addition to those items, services, or construction specified in Bidding Documents by alternate number, the following lump sum price will be added or deducted from the base bid.

Alternate Bid No.	Alternate Description	+ (Add to the Base Bid)	- (Deduct from the Base Bid)	No Cost Change from the Base Bid)
Alt. Bid No. 4	Voluntary Alternate for Multiple Bids			

ADDENDA:

Receipt of Addenda Number(s) 1 thru 4 is acknowledged.

UNIT PRICES:

Refer to attached sheet(s) for listing of unit prices.

PROPOSED SUBCONTRACTORS:

Refer to attached sheet(s) for listing of proposed subcontractors.

PROPOSED MATERIALS AND EQUIPMENT:

Refer to attached sheet(s) for listing of proposed materials and equipment.

PREVIOUS PROJECTS:

Refer to attached sheet(s) for listing of previous projects.

REFERENCES:

Refer to attached sheet(s) for listing of project references.

UNIT PRICES:

Unit Prices shall include the furnishing of all labor, materials, supplies, services and shall include all: Items of cost, overhead and profit for the contractor and subcontractor involved, and shall be used uniformly without modification for either addition or deduction. The unit prices as established shall be used to determine the equitable adjustment of the contract price in connection with changes or extra work performed under the contract, and rules of measurement as set forth in the General Conditions shall govern.

WORK	PRICE	UNIT
1.	\$ _____	/ _____
2.	\$ _____	/ _____
3.	\$ _____	/ _____
4.	\$ _____	/ _____
5.	\$ _____	/ _____
6.	\$ _____	/ _____
7.	\$ _____	/ _____
8.	\$ _____	/ _____
9.	\$ _____	/ _____
10.	\$ _____	/ _____
11.	\$ _____	/ _____
12.	\$ _____	/ _____
13.	\$ _____	/ _____
14.	\$ _____	/ _____
15.	\$ _____	/ _____

Name of Contractor: Sprinturf, LLC

Authorized
Representative Daniel Dietrich Title Chief Estimator

 Date 3/26/2024
(Signature)

The following list of proposed subcontractors is required to be executed, completed and submitted with the Bidder's Proposal. All subcontractors are subject to approval by the Owner. Failure to submit this list, completely filled out, may cause rejection of bid.

004113.1 - 4

The following list of proposed subcontractors is required to be executed, completed and submitted with the Bidder's Proposal. All subcontractors are subject to approval by the Owner. Failure to submit this list, completely filled out, may cause rejection of bid.

[illegible]

The following list of proposed subcontractors is required to be executed, completed and submitted with the Bidder's Proposal. All subcontractors are subject to approval by the Owner. Failure to submit this list, completely filled out, may cause rejection of bid.

[illegible]

Refer to attached sheet(s) for complete listing of major components of the proposed materials and equipment. Refer to attached justification of proposed material and equipment if proposing a substitution or equal to the material and equipment contained in the Bid Documents.

The following list of materials and equipment is required to be executed, completed and submitted with the Bidder's Proposal. Failure to submit this list, completely filled out, may cause rejection of bid.

004113.1 - 5

LIST OF PREVIOUS PROJECTS

The following list of previous projects is required to be executed, completed and submitted with the Bidder's Proposal. Failure to submit this list, completely filled out, may cause rejection of bid.

PROJECT NAME: City of Gardendale - Bill Noble Park - North

PROJECT LOCATION: Gardendale, AL

SF OF TURF INSTALLED: 528,840

YEAR COMPLETED: 2023

PROJECT NAME: Kokomo Sports Complex - 20-S-IN074

PROJECT LOCATION: Kokomo, IN

SF OF TURF INSTALLED: 673,488

YEAR COMPLETED: 2021

PROJECT NAME: East Cobb Baseball Complex (8 Fields)

PROJECT LOCATION: Marietta, GA

SF OF TURF INSTALLED: 600,325

YEAR COMPLETED: 2020

LIST OF PROJECT REFERENCES

The following list of project references is required to be executed, completed and submitted with the Bidder's Proposal. Failure to submit this list, completely filled out, may cause rejection of bid.

PROJECT NAME: Union College

PROJECT LOCATION: Barbourville , KY

REFERENCE NAME: Tim Curry

CONTACT INFORMATION: 606-599-2973

tcurry@unionky.edu

PROJECT NAME: Eminence Athletic Field - Eminence Independent Schools

PROJECT LOCATION: Eminence, KY

REFERENCE NAME: Dr. Buddy Berry, Superintendent

CONTACT INFORMATION: 502-773-3050

buddy.berry@eminence.kyschools.us

PROJECT NAME: Taylor County High School - Taylor County School.s

PROJECT LOCATION: Campbellsville, KY

REFERENCE NAME: Chris Goodin

CONTACT INFORMATION: 270-849-8244

chris.goodin@taylor.kyschools.us

AIA® Document A310™ – 2010

Bid Bond

CONTRACTOR:

(Name, legal status and address)

Sprinturf LLC
146 Fairchild Street, Suite 150
Daniel Island, SC 29492

SURETY:

(Name, legal status and principal place of business)

Western Surety Company
151 N Franklin St.
Chicago, IL 60606

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

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

OWNER:

(Name, legal status and address)

McCracken County Fiscal Court
300 Clarence Gaines Street
Paducah, KY 42003

BOND AMOUNT: Five Percent of the Total Amount Bid

PROJECT:

(Name, location or address, and Project number, if any)

Bid Package 01 - Site, Paducah Sports Park / Bid Package 1(A) - Field Turf

The Contractor and Surety are bound to the Owner in the amount set forth above, for the payment of which the Contractor and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, as provided herein. The conditions of this Bond are such that if the Owner accepts the bid of the Contractor within the time specified in the bid documents, or within such time period as may be agreed to by the Owner and Contractor, and the Contractor either (1) enters into a contract with the Owner in accordance with the terms of such bid, and gives such bond or bonds as may be specified in the bidding or Contract Documents, with a surety admitted in the jurisdiction of the Project and otherwise acceptable to the Owner, for the faithful performance of such Contract and for the prompt payment of labor and material furnished in the prosecution thereof; or (2) pays to the Owner the difference, not to exceed the amount of this Bond, between the amount specified in said bid and such larger amount for which the Owner may in good faith contract with another party to perform the work covered by said bid, then this obligation shall be null and void, otherwise to remain in full force and effect. The Surety hereby waives any notice of an agreement between the Owner and Contractor to extend the time in which the Owner may accept the bid. Waiver of notice by the Surety shall not apply to any extension exceeding sixty (60) days in the aggregate beyond the time for acceptance of bids specified in the bid documents, and the Owner and Contractor shall obtain the Surety's consent for an extension beyond sixty (60) days.

If this Bond is issued in connection with a subcontractor's bid to a Contractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

When this Bond has been furnished to comply with a statutory or other legal requirement in the location of the Project, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When no such provision is furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

Signed and sealed this 26th day of March 2024


(Witness) Julia Gabrielse

Sprinturf LLC
(Principal)


(Title) Daniel Dietrich, Chief Estimator
Western Surety Company


(Witness) Ryan Foley


(Surety) Theresa J Foley, Attorney-in-Fact
(Seal)



The Surety shall guarantee that the work will be free of defective materials and workmanship for a period of twelve (12) months following completion of Commissioning. Any additional warranty or maintenance whether express or implied is extended by the Principal only, and the Surety assumes no liability for such guarantee regardless of the terms and conditional of the contract

CAUTION: You should sign an original AIA Contract Document, on which this text appears in RED. An original assures that changes will not be obscured.

Init.

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Western Surety Company

POWER OF ATTORNEY APPOINTING INDIVIDUAL ATTORNEY-IN-FACT

Know All Men By These Presents, That WESTERN SURETY COMPANY, a South Dakota corporation, is a duly organized and existing corporation having its principal office in the City of Sioux Falls, and State of South Dakota, and that it does by virtue of the signature and seal herein affixed hereby make, constitute and appoint

Vicki S Duncan, Kristie A Pudvan, Judy K Wilson, Nicholas R Hylant, Individually, of Toledo, OH
Susan E Hurd, Individually of Dublin, OH
Jennifer A Jarosz, Kathy S Zack, Michael Schatz, Individually, of Troy, MI
Theresa J Foley, Jacksonville, FL

its true and lawful Attorney(s)-in-Fact with full power and authority hereby conferred to sign, seal and execute for and on its behalf bonds, undertakings and other obligatory instruments of similar nature

- In Unlimited Amounts -

and to bind it thereby as fully and to the same extent as if such instruments were signed by a duly authorized officer of the corporation and all the acts of said Attorney, pursuant to the authority hereby given, are hereby ratified and confirmed.

This Power of Attorney is made and executed pursuant to and by authority of the Authorizing By-Laws and Resolutions printed at the bottom of this page, duly adopted, as indicated, by the shareholders of the corporation.

In Witness Whereof, WESTERN SURETY COMPANY has caused these presents to be signed by its Vice President and its corporate seal to be hereto affixed on this 31st day of January, 2024.



WESTERN SURETY COMPANY

Larry Kasten, Vice President

State of South Dakota }
County of Minnehaha } ss

On this 31st day of January, 2024, before me personally came Larry Kasten, to me known, who, being by me duly sworn, did depose and say: that he resides in the City of Sioux Falls, State of South Dakota; that he is a Vice President of WESTERN SURETY COMPANY described in and which executed the above instrument; that he knows the seal of said corporation; that the seal affixed to the said instrument is such corporate seal; that it was so affixed pursuant to authority given by the Board of Directors of said corporation and that he signed his name thereto pursuant to like authority, and acknowledges same to be the act and deed of said corporation.

My commission expires

March 2, 2026



M. Bent, Notary Public

CERTIFICATE

I, Paula Kolsrud, Assistant Secretary of WESTERN SURETY COMPANY do hereby certify that the Power of Attorney hereinabove set forth is still in force, and further certify that the By-Law and Resolutions of the corporation printed below this certificate are still in force. In testimony whereof I have hereunto subscribed my name and affixed the seal of the said corporation this 26th day of March 2024.



WESTERN SURETY COMPANY

Paula Kolsrud, Assistant Secretary

Authorizing By-Laws and Resolutions

ADOPTED BY THE SHAREHOLDERS OF WESTERN SURETY COMPANY

This Power of Attorney is made and executed pursuant to and by authority of the following By-Law duly adopted by the shareholders of the Company.

Section 7. All bonds, policies, undertakings, Powers of Attorney, or other obligations of the corporation shall be executed in the corporate name of the Company by the President, Secretary, and Assistant Secretary, Treasurer, or any Vice President, or by such other officers as the Board of Directors may authorize. The President, any Vice President, Secretary, any Assistant Secretary, or the Treasurer may appoint Attorneys in Fact or agents who shall have authority to issue bonds, policies, or undertakings in the name of the Company. The corporate seal is not necessary for the validity of any bonds, policies, undertakings, Powers of Attorney or other obligations of the corporation. The signature of any such officer and the corporate seal may be printed by facsimile.

This Power of Attorney is signed by Larry Kasten, Vice President, who has been authorized pursuant to the above Bylaw to execute power of attorneys on behalf of Western Surety Company.

This Power of Attorney may be signed by digital signature and sealed by a digital or otherwise electronic-formatted corporate seal under and by the authority of the following Resolution adopted by the Board of Directors of the Company by unanimous written consent dated the 27th day of April, 2022:

"RESOLVED: That it is in the best interest of the Company to periodically ratify and confirm any corporate documents signed by digital signatures and to ratify and confirm the use of a digital or otherwise electronic-formatted corporate seal, each to be considered the act and deed of the Company."

Go to www.cnasurety.com > Owner / Obligor Services > Validate Bond Coverage, if you want to verify bond authenticity.

NON-COLLUSION AFFIDAVIT

OF

SPRINTURF, LLC

I, Daniel Dietrich, being first duly sworn, deposes and says that I am the Chief Estimator of Sprinturf, LLC, the company, association, organization, or corporation; that the bid is genuine and not collusive or sham; that the bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid, and has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham bid, or that anyone shall refrain from bidding; that the bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the bid price of the bidder or any other bidder, or to fix any overhead, profit, or cost element of the bid price, or that of any other bidder, or to secure any advantage against the public body awarding the contract of anyone interested in the proposed contract; that all statements contained in the bid are true; and, further, that the bidder has not, directly or indirectly, submitted his or her bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company association, organization, bid depository, or to any member or agent thereof to effectuate a collusive or sham bid.

OATH AND AFFIRMATION

I HEREBY AFFIRM UNDER THE PENALTIES FOR PERJURY THAT THE FACTS AND INFORMATION CONTAINED IN THE FOREGOING STATEMENT ARE TRUE AND CORRECT.

Dated this 26th day of March, 2024.



Sprinturf, LLC

(Name of Organization)

Chief Estimator

(Title of Person Signing)

(Signature)

ACKNOWLEDGEMENT

STATE OF South Carolina)
COUNTY OF Charleston) ss

Before me, a Notary Public, personally appeared the above named and swore that the statements contained in the foregoing document are true and correct.

Subscribed and sworn to me this 26th day of March, 2024.

Notary Public Signature

My Commission Expires:



CORPORATE RESOLUTION/AUTHORITY CERTIFICATE

OF

SPRINTURF, LLC

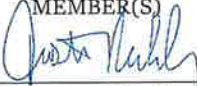
We, the undersigned Member(s) of Sprinturf, LLC, a limited liability company duly organized and existing under the laws of Delaware (hereinafter the "Company"), with authority granted in the Operating Agreement to make binding resolutions on behalf of the Company, hereby resolve:

It is resolved that Daniel Dietrich, Chief Estimator of Sprinturf, LLC hereby is authorized to execute contracts and obligations in the name and behalf of said company, and affix its Corporate Seal thereto, and such execution of any contract or bond of obligation on Sprinturf, LLC behalf under the seal of the company shall be valid and binding.

I, Justin Reddy, hereby certify that I am the President of Sprinturf, LLC and that Daniel Dietrich is duly elected Director of said company, and the above vote has not been amended or rescinded and remains in full force and effect as of the date of this certificate.

Dated this 26th day of March, 2024.



MEMBER(S)

Justin Reddy, President

ACKNOWLEDGEMENT

STATE OF South Carolina)
) ss
COUNTY OF Charleston)

Before me, a Notary Public, personally appeared the above named and swore that the statements contained in the foregoing document are true and correct.

Subscribed and sworn to me this 26th day of March, 2024.



Notary Public Signature

My Commission Expires: _____





Exhibit – Cost Reduction List Bid Package 1A – Field Turf | Sprinturf

Base Bid	Vendor Provide Pricing		Status
Base Bid		\$ 6,910,240.00	
Alternate pricing			
Field curb by turf vendor	\$ 257,054.00		Rejected; retain as alternate pricing
Remove Field 1 (Championship) from current design	\$ (602,410.00)	\$ (602,410.00)	accepted, retain as alternate pricing
Add shock pad at turf	\$ 1,346,400.00	\$ -	Rejected
update turf to 50 oz DFE Extreme product in lieu of base bid 42 oz product	\$ 359,878.00	\$ -	Rejected; retain as alternate pricing
upgrade turf to 46 oz DFE extreme product in lieu of base bid 42 oz product'	\$ 224,541.00	\$ -	Rejected; retain as alternate pricing
provide two Sprintcare visits for ten (10) fields per years during the warranty period.	\$ 95,249.00	\$ -	Rejected; retain as alternate pricing
Turf for surface at diamond playground, 1940 SF	\$ 13,257.00	\$ 13,257.00	
Remove one rectangle field (field #10). And associated retaining wall.	\$ (543,234.00)	\$ -	Rejected
Deduct pickleball courts and parking as shown in Bid drawings	n/c	n/c	Accepted
Eliminate basketball courts and parking	n/c	n/c	Accepted
Adjusted Contract Price less above adjustments		\$ 6,321,087.00	

DOCUMENT 000117 – INDEX OF DRAWINGS

BID PACKAGE 01 – SITE
PADUCAH SPORTS PARK
PADUCAH, KENTUCKY

<u>NUMBER</u>	<u>TITLE</u>
	COVER SHEET: BID PACKAG 01 – SITE
	SHEET INDEX
<u>CIVIL - SITE DEMOLITION</u>	
C1.0	OVERALL SITE DEMOLITION PLAN
C1.1	ENLARGED DEMOLITION PLAN
C1.2	ENLARGED DEMOLITION PLAN
C1.3	ENLARGED DEMOLITION PLAN
C1.4	ENLARGED DEMOLITION PLAN
C1.5	ENLARGED DEMOLITION PLAN
C1.6	ENLARGED DEMOLITION PLAN
C1.7	ENLARGED DEMOLITION PLAN
C1.8	ENLARGED DEMOLITION PLAN
C1.9	ENLARGED DEMOLITION PLAN
C1.10	ENLARGED DEMOLITION PLAN
C1.11	DISC GOLF COURSE DEMOLTION PLAN
<u>CIVIL - SITE DEVELOPMENT</u>	
C2.0A	OVERALL SITE DEVELOPMENT PLAN
C2.0B	OVERALL SITE DEVELOPMENT PLAN - WEST
C2.0C	OVERALL SITE DEVELOPMENT PLAN - EAST
C2.1	ENLARGED DEVELOPMENT PLAN
C2.2	ENLARGED DEVELOPMENT PLAN
C2.3	ENLARGED DEVELOPMENT PLAN
C2.4	ENLARGED DEVELOPMENT PLAN
C2.5	ENLARGED DEVELOPMENT PLAN
C2.6	ENLARGED DEVELOPMENT PLAN
C2.7	ENLARGED DEVELOPMENT PLAN
C2.8	ENLARGED DEVELOPMENT PLAN
C2.9	ENLARGED DEVELOPMENT PLAN
C2.10	ENLARGED DEVELOPMENT PLAN
C2.11	ENLARGED DEVELOPMENT PLAN
C2.12	ENLARGED DEVELOPMENT PLAN
C2.13	ENLARGED DEVELOPMENT PLAN
C2.14	ENLARGED DEVELOPMENT PLAN
C2.15	ENLARGED DEVELOPMENT PLAN
C2.16	ENLARGED DEVELOPMENT PLAN
C2.17	ENLARGED DEVELOPMENT PLAN
C2.18	ENLARGED DEVELOPMENT PLAN
C2.19	ENLARGED DEVELOPMENT PLAN
C2.20	ENLARGED DEVELOPMENT PLAN
C2.21	ENLARGED DEVELOPMENT PLAN

CIVIL - SITE GRADING

C3.0	OVERALL SITE GRADING PLAN
C3.1	ENLARGED GRADING PLAN
C3.2	ENLARGED GRADING PLAN
C3.3	ENLARGED GRADING PLAN
C3.4	ENLARGED GRADING PLAN
C3.5	ENLARGED GRADING PLAN
C3.6	ENLARGED GRADING PLAN
C3.7	ENLARGED GRADING PLAN
C3.8	ENLARGED GRADING PLAN
C3.9	ENLARGED GRADING PLAN
C3.10	ENLARGED GRADING PLAN
C3.11	ENLARGED GRADING PLAN
C3.12	ENLARGED GRADING PLAN
C3.13	ENLARGED GRADING PLAN
C3.14	ENLARGED GRADING PLAN
C3.15	ENLARGED GRADING PLAN
C3.16	ENLARGED GRADING PLAN
C3.17	ENLARGED GRADING PLAN
C3.18	ENLARGED GRADING PLAN
C3.19	ENLARGED GRADING PLAN
C3.20	ENLARGED GRADING PLAN
C3.21	ENLARGED GRADING PLAN
C3.30	OVERALL EROSION AND SEDIMENTATION CONTROL PLAN
C3.31	ENLARGED EROSION AND SEDIMENTATION CONTROL PLAN
C3.32	ENLARGED EROSION AND SEDIMENTATION CONTROL PLAN
C3.33	ENLARGED EROSION AND SEDIMENTATION CONTROL PLAN
C3.34	ENLARGED EROSION AND SEDIMENTATION CONTROL PLAN
C3.35	ENLARGED EROSION AND SEDIMENTATION CONTROL PLAN
C3.36	ENLARGED EROSION AND SEDIMENTATION CONTROL PLAN
C3.37	EROSION AND SEDIMENTATION CONTROL DETAILS

CIVIL - SITE STORMWATER

C4.0A	OVERALL SITE STORMWATER PLAN
C4.0B	OVERALL SITE STORMWATER PLAN - WEST
C4.0C	OVERALL SITE STORMWATER PLAN - EAST
C4.1	ENLARGED STORMWATER PLAN
C4.2	ENLARGED STORMWATER PLAN
C4.3	ENLARGED STORMWATER PLAN
C4.4	ENLARGED STORMWATER PLAN
C4.5	ENLARGED STORMWATER PLAN
C4.7	ENLARGED STORMWATER PLAN
C4.8	ENLARGED STORMWATER PLAN
C4.9	ENLARGED STORMWATER PLAN
C4.10	ENLARGED STORMWATER PLAN
C4.11	ENLARGED STORMWATER PLAN
C4.12	ENLARGED STORMWATER PLAN
C4.13	ENLARGED STORMWATER PLAN
C4.14	ENLARGED STORMWATER PLAN
C4.15	ENLARGED STORMWATER PLAN

C4.16	ENLARGED STORMWATER PLAN
C4.17	ENLARGED STORMWATER PLAN
C4.18	ENLARGED STORMWATER PLAN
C4.19	ENLARGED STORMWATER PLAN
C4.21	ENLARGED STORMWATER PLAN
C4.22	STORMWATER STRUCTURE AND PIPE TABLES
C4.23	STORMWATER STRUCTURE AND PIPE TABLES
C4.24	STORMWATER DETAILS
C4.25	STORMWATER DETAILS
C4.26	STORMWATER DETAILS
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CIVIL - SITE UTILITY

C5.0	OVERALL SITE UTILITY PLAN
C5.2	ENLARGED UTILITY PLAN
C5.3	ENLARGED UTILITY PLAN
C5.4	ENLARGED UTILITY PLAN
C5.5	ENLARGED UTILITY PLAN
C5.6	ENLARGED UTILITY PLAN
C5.8	ENLARGED UTILITY PLAN
C5.9	ENLARGED UTILITY PLAN
C5.10	ENLARGED UTILITY PLAN
C5.13	ENLARGED UTILITY PLAN
C5.14	ENLARGED UTILITY PLAN
C5.16	ENLARGED UTILITY PLAN
C5.17	ENLARGED UTILITY PLAN
C5.18	ENLARGED UTILITY PLAN
C5.21	ENLARGED UTILITY PLAN
C5.22	UTILITY DETAILS
C5.23	UTILITY DETAILS
C5.24	SANITARY SEWER LIFT STATION DETAILS
C5.25	SANITARY SEWER LIFT STATION DETAILS
C5.26	SANITARY SEWER PLAN AND PROFILE - LINE A & B
C5.27	SANITARY SEWER PLAN AND PROFILE - FORCE MAIN
C5.28	SANITARY SEWER PLAN AND PROFILE - FORCE MAIN
C5.29	SANITARY SEWER PLAN AND PROFILE - FORCE MAIN
C5.30	SANITARY SEWER PLAN AND PROFILE - LINE C
C5.31	SANITARY SEWER PLAN AND PROFILE - LINE D
C5.32	WATER MAIN RELOCATION PLAN AND PROFILE

CIVIL - SITE DETAILS

C6.0	SITE DETAILS
C6.1	SITE DETAILS
C6.2	SITE DETAILS

LANDSCAPE

L1.0	SITE FURNISHINGS AND AMENITIES – KEY PLAN
L2.0	SITE FURNISHINGS AND AMENITIES PLAN
L2.1	SITE FURNISHINGS AND AMENITIES PLAN
L2.2	SITE FURNISHINGS AND AMENITIES PLAN

L2.3	SITE FURNISHINGS AND AMENITIES PLAN
L3.0	SITE FURNISHINGS AND AMENITIES PLAN ENLARGEMENT
L3.1	SITE FURNISHINGS AND AMENITIES PLAN ENLARGEMENT
L3.2	SITE FURNISHINGS AND AMENITIES PLAN ENLARGEMENT
L3.3	SITE FURNISHINGS AND AMENITIES PLAN ENLARGEMENT
L3.4	SITE FURNISHINGS AND AMENITIES PLAN ENLARGEMENT
L3.5	SITE FURNISHINGS AND AMENITIES PLAN ENLARGEMENT
L3.6	SITE FURNISHINGS AND AMENITIES PLAN ENLARGEMENT
L3.7	SITE FURNISHINGS AND AMENITIES PLAN ENLARGEMENT
L4.0	OVERALL PLANTING PLAN AND PLANTING NOTES
L5.0	PLANTING PLAN
L5.1	PLANTING PLAN
L5.2	PLANTING PLAN
L5.3	PLANTING PLAN
L5.4	PLANTING PLAN
L5.5	PLANTING PLAN
L5.6	PLANTING PLAN
L5.7	PLANTING PLAN
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L5.15	PLANTING PLAN
L5.16	PLANTING PLAN
L5.17	PLANTING PLAN
L5.18	PLANTING PLAN
L6.0	PLANTING PLAN ENLARGEMENT
L6.1	PLANTING PLAN ENLARGEMENT
L6.2	PLANTING PLAN ENLARGEMENT
L6.3	PLANTING PLAN ENLARGEMENT
L7.0	SITE FURNISHING AND AMENITIES DETAILS
L7.1	SITE FURNISHING AND AMENITIES DETAILS
L7.2	SITE FURNISHING AND AMENITIES DETAILS
L7.3	SITE FURNISHING AND AMENITIES DETAILS
L7.4	SITE FURNISHING AND AMENITIES DETAILS
L7.5	SITE FURNISHING AND AMENITIES DETAILS
L7.6	SITE FURNISHING AND AMENITIES DETAILS
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L7.8	SITE FURNISHING AND AMENITIES DETAILS
L7.9	SITE FURNISHING AND AMENITIES DETAILS
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L7.11	SITE FURNISHING AND AMENITIES DETAILS
L7.12	SITE FURNISHING AND AMENITIES DETAILS
L7.13	SITE FURNISHING AND AMENITIES DETAILS
L7.14	SITE FURNISHING AND AMENITIES DETAILS
L7.15	SITE FURNISHING AND AMENITIES DETAILS
L7.16	SITE FURNISHING AND AMENITIES DETAILS

L7.17 PLANTING DETAILS

LANDSCAPE – DISC GOLF

DG1.0 DISC GOLF LAYOUT

STRUCTURAL

- S1.0 STRUCTURAL NOTES
- S1.1 PICNIC SHELTERS FOUNDATION PLANS & DETAILS
- S1.2 DUGOUTS FOUNDATION PLANS & DETAILS
- S1.3 PICKLEBALL COURT PLANS – ALTERNATE NO. 1
- S1.4 BASKETBALL COURTS PLANS – ALTERNATE NO. 2
- S3.1 FOUNDATION DETAILS

IRRIGATION

- IR100 IRRIGATION INFRASTRUCTURE & AUTOMATION
- IR101 IRRIGATION INFRASTRUCTURE & AUTOMATION
- IR102 IRRIGATION INFRASTRUCTURE & AUTOMATION
- IR103 IRRIGATION INFRASTRUCTURE & AUTOMATION
- IR104 IRRIGATION INFRASTRUCTURE & AUTOMATION
- IR105 IRRIGATION INFRASTRUCTURE & AUTOMATION
- IR106 IRRIGATION INFRASTRUCTURE & AUTOMATION
- IR107 IRRIGATION INFRASTRUCTURE & AUTOMATION
- IR108 IRRIGATION INFRASTRUCTURE & AUTOMATION
- IR109 IRRIGATION INFRASTRUCTURE & AUTOMATION

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- EU0.0 SITE LEAD SHEET
- EU1.1 OVERALL SITE PLAN
- EU1.2 PARTIAL ENLARGED SITE PLAN
- EU1.3 PARTIAL ENLARGED SITE PLAN
- EU1.4 PARTIAL ENLARGED SITE PLAN
- EU1.5 PARTIAL ENLARGED SITE PLAN
- EU1.6 PARTIAL ENLARGED SITE PLAN
- EU1.7 PARTIAL ENLARGED SITE PLAN
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- EU1.9 PARTIAL ENLARGED SITE PLAN
- EU1.10 PARTIAL ENLARGED SITE PLAN
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- EU1.12 PARTIAL ENLARGED SITE PLAN
- EU2.1 ELECTRICAL ENLARGED PLANS
- EU2.2 ELECTRICAL ENLARGED PLAN
- EU2.3 ELECTRICAL ENLARGED PLAN
- EU4.0 SITE DETAILS
- EU4.1 ELECTRICAL SITE DETAILS AND SCHEDULES

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- T1.0 COVER SHEET
- T2.0 GENERAL SUMMARY - STUART NELSON PARK ROAD
- T2.1 TYPICAL SECTIONS - STUART NELSON PARK ROAD
- T2.2 GENERAL NOTES - STUART NELSON PARK ROAD

T3.0	PLAN & PROFILE - US 60 TURN LANE EXTENSION
T4.0	PLAN & PROFILE - STUART NELSON PARK ROAD
T5.0	PLAN & PROFILE - STUART NELSON PARK ROAD
T6.0	PLAN & PROFILE - STUART NELSON PARK ROAD
T7.0	PLAN & PROFILE - STUART NELSON PARK ROAD
T8.0	EPSC, SIGNING & STRIPING PLAN - STUART NELSON PARK ROAD
T9.0	EPSC, SIGNING & STRIPING PLAN - STUART NELSON PARK ROAD
T10.0	EPSC, SIGNING & STRIPING PLAN - STUART NELSON PARK ROAD
T11.0	EPSC, SIGNING & STRIPING PLAN - STUART NELSON PARK ROAD
T12.0	CROSS SECTIONS - STUART NELSON PARK ROAD
T13.0	CROSS SECTIONS - STUART NELSON PARK ROAD
T14.0	CROSS SECTIONS - STUART NELSON PARK ROAD
T15.0	CROSS SECTIONS - STUART NELSON PARK ROAD
T16.0	CROSS SECTIONS - STUART NELSON PARK ROAD
T17.0	CROSS SECTIONS - STUART NELSON PARK ROAD
T18.0	CROSS SECTIONS - STUART NELSON PARK ROAD
T19.0	CROSS SECTIONS - STUART NELSON PARK ROAD
T20.0	CROSS SECTIONS - STUART NELSON PARK ROAD
T21.0	CROSS SECTIONS - STUART NELSON PARK ROAD
T22.0	CROSS SECTIONS - STUART NELSON PARK ROAD
T23.0	CROSS SECTIONS - STUART NELSON PARK ROAD
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T36.0	CROSS SECTIONS - STUART NELSON PARK ROAD
T37.0	CROSS SECTIONS - STUART NELSON PARK ROAD
T38.0	CROSS SECTIONS - STUART NELSON PARK ROAD
T39.0	CROSS SECTIONS - STUART NELSON PARK ROAD
T40.0	CROSS SECTIONS - STUART NELSON PARK ROAD
T41.0	CROSS SECTIONS - STUART NELSON PARK ROAD
T42.0	CROSS SECTIONS - STUART NELSON PARK ROAD
T43.0	CROSS SECTIONS - STUART NELSON PARK ROAD
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T45.0	CROSS SECTIONS - STUART NELSON PARK ROAD
T46.0	CROSS SECTIONS - STUART NELSON PARK ROAD
T47.0	CROSS SECTIONS - STUART NELSON PARK ROAD

END OF DOCUMENT 000117

Bid Package 01 – Site
Paducah Sports Park
150 Downs Drive
Paducah, Kentucky

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Agenda Action Form

Paducah City Commission

Meeting Date: June 25, 2024

Short Title: Accept recommendation from Sports Tourism Commission for evaluated bids for Paducah Sports Park for Bid Package 01 - Site: Lighting and approve construction contracts with Musco in the amount of \$2,264,475.00 - **A. CLARK & D. JORDAN**

Category: Municipal Order

Staff Work By: Amie
Clark
Presentation By: Amie
Clark, Daron Jordan

Background Information: PFGW Architects, on behalf of the Sports Tourism Commission, McCracken County Fiscal Court, and City of Paducah released a Request for Bids on February 17 for Field Lighting for the Paducah Sports Park. Bid Opening was held March 26. Five (5) bids were submitted.

A selection committee with representation from the Fiscal Court, City, Design Team, and Operations Team was formed to review and evaluate the bids. After review, the committee recommends moving forward with a contract for services with Musco for the Lighting portion of the project.

Per the ILA, the McCracken County Sports Tourism commission must approve and make a recommendation to both the Fiscal Court and the City Commission for consideration and approval of construction contracts. The McCracken County Sports Tourism Commission approved the recommendation from the selection committee on Monday, June 10, and proceeds with a recommendation for a contract for services with Musco.

Accept recommendation from the Sports Tourism Commission and authorize execution of a contract for services with Musco in the amount of \$2,264,475.00 for Bid Package 1: Site - Lighting for the Paducah Sports Park project.

Does this Agenda Action Item align with a Commission Priority? Yes

If yes, please list the Commission Priority: Paducah Sports Park

Communications Plan:

Funds Available: Account Name:
Account Number:

Staff Recommendation: Approve

Attachments:

1. MO Field Lighting Musco
2. MUSCO_A101-2017 - FINAL DRAFT Bid Package 1B_20240620

MUNICIPAL ORDER NO. _____

A MUNICIPAL ORDER APPROVING THE RECOMMENDATION OF THE McCracken County Sports Tourism Commission to accept the bid package for field lighting for the Paducah Sports Park project in the amount of \$2,264,475 and authorizing the Mayor to execute all documents relating to same

WHEREAS, on September 7, 2022, the City of Paducah, the County of McCracken, and the McCracken County Sports Tourism Commission entered into an Interlocal Cooperation Agreement for the Development and Operation of the Paducah-McCracken County Athletic Complex (hereinafter “Interlocal Agreement”); and

WHEREAS, in accordance with the requirements of the Interlocal Agreement, the McCracken County Sports Tourism Commission has presented its recommendation of the best-evaluated bids and associated construction contracts for the completion of the work contemplated by the formerly approved construction plans; and

WHEREAS, the City Commission now desires to accept the McCracken County Sports Tourism Commission's recommendation for Field Lighting for the Paducah Sports Park Project.

NOW, THEREFORE, BE IT ORDERED BY THE CITY OF PADUCAH, KENTUCKY:

SECTION 1. That the City Commission hereby approves the recommendation of the McCracken County Sports Tourism Commission, and accepts the bid proposal of Musco Sports Lighting, LLC, in the amount of \$2,264,475, for Field Lighting for the Paducah Sports Park Project.

SECTION 2. That the Mayor is hereby authorized to execute an agreement and all other documents necessary with Musco Sports Lighting, LLC, for Field Lighting for the Paducah Sports Park, as authorized in Section 1 above. Said agreement shall be in accordance with the specifications, bid proposal, and all contract documents heretofore approved and incorporated in the bid.

SECTION 3. This Order will be in full force and effect from and after the date of its adoption.

George Bray, Mayor

ATTEST:

Lindsay Parish, City Clerk

Adopted by the Board of Commissioners, _____

Recorded by Lindsay Parish, City Clerk, _____

MO\Agree – Musco Sports Lighting Field Lighting – Sports Tourism Commission

AIA Document A101® – 2017

Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum

AGREEMENT made as of the twenty fourth day of June in the year two thousand twenty-four.

(In words, indicate day, month and year.)

BETWEEN the Owner:

(Name, legal status, address and other information)

McCracken County Fiscal Court
300 Clarence Gaines Street
Paducah, KY 42003

and the Contractor:

(Name, legal status, address and other information)

Musco Sports Lighting, LLC
100 1st Ave. West
PO Box 800
Oskaloosa, IA 52577

for the following Project:

(Name, location and detailed description)

Paducah Sports Park
Bid Package 1B – Field Lighting
Paducah, Kentucky 42001

The Architect:

(Name, legal status, address and other information)

Peck Flannery Gream Warren Inc.
PO Box 510
101 South Fourth Street
Paducah, Kentucky 42002-0510

The Owner and Contractor agree as follows.

ADDITIONS AND DELETIONS:

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

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

The parties should complete A101®–2017, Exhibit A, Insurance and Bonds, contemporaneously with this Agreement. AIA Document A201®–2017, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

Init.

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User Notes:

(1867986479)

TABLE OF ARTICLES

1	THE CONTRACT DOCUMENTS
2	THE WORK OF THIS CONTRACT
3	DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION
4	CONTRACT SUM
5	PAYMENTS
6	DISPUTE RESOLUTION
7	TERMINATION OR SUSPENSION
8	MISCELLANEOUS PROVISIONS
9	ENUMERATION OF CONTRACT DOCUMENTS

EXHIBIT A INSURANCE AND BONDS

ARTICLE 1 THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary, and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. An enumeration of the Contract Documents, other than a Modification, appears in Article 9.

ARTICLE 2 THE WORK OF THIS CONTRACT

The Contractor shall fully execute the Work described in the Contract Documents, except as specifically indicated in the Contract Documents to be the responsibility of others.

ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 3.1 The date of commencement of the Work shall be:

(Check one of the following boxes.)

☐ The date of this Agreement.

☒ A date set forth in a notice to proceed issued by the Owner.

☐ Established as follows:

(Insert a date or a means to determine the date of commencement of the Work.)

If a date of commencement of the Work is not selected, then the date of commencement shall be the date of this Agreement.

§ 3.2 The Contract Time shall be measured from the date of commencement of the Work.

§ 3.3 Substantial Completion

§ 3.3.1 Subject to adjustments of the Contract Time as provided in the Contract Documents, the Contractor shall achieve Substantial Completion of the entire Work:

(Check one of the following boxes and complete the necessary information.)

☒ Not later than five hundred five (505) calendar days from the date of commencement of the Work.

☐ By the following date:

§ 3.3.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work are to be completed prior to Substantial Completion of the entire Work, the Contractor shall achieve Substantial Completion of such portions by the following dates:

Portion of Work	Substantial Completion Date
-----------------	-----------------------------

§ 3.3.3 If the Contractor fails to achieve Substantial Completion as provided in this Section 3.3, liquidated damages, if any, shall be assessed as set forth in Section 4.5.

ARTICLE 4 CONTRACT SUM

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor’s performance of the Contract. The Contract Sum shall be two million, two hundred sixty-four thousand, four hundred seventy-five and 00/100 (\$2,264,475.00), subject to additions and deductions as provided in the Contract Documents.

§ 4.2 Alternates

§ 4.2.1 Alternates, if any, included in the Contract Sum:

Item	Price
N/A	

§ 4.2.2 Subject to the conditions noted below, the following alternates may be accepted by the Owner following execution of this Agreement. Upon acceptance, the Owner shall issue a Modification to this Agreement. (Insert below each alternate and the conditions that must be met for the Owner to accept the alternate.)

Item	Price	Conditions for Acceptance
N/A		

§ 4.3 Allowances, if any, included in the Contract Sum: (Identify each allowance.)

Item	Price
N/A	

§ 4.4 Unit prices, if any: (Identify the item and state the unit price and quantity limitations, if any, to which the unit price will be applicable.)

Item	Units and Limitations	Price per Unit (\$0.00)
------	-----------------------	-------------------------

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

\$1,000.00 per calendar day until completion.

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

ARTICLE 5 PAYMENTS

§ 5.1 Progress Payments

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

§ 5.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:

§ 5.1.3 Provided that an Application for Payment is received by the Architect not later than the 25th day of a month, the Owner shall make payment of the amount certified to the Contractor not later than the 15th day of the following month. If an Application for Payment is received by the Architect after the application date fixed above, payment of the amount certified shall be made by the Owner not later than forty five (45) days after the Architect receives the Application for Payment.

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

§ 5.1.4 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form, and supported by such data to substantiate its accuracy, as the Architect may require. This schedule of values shall be used as a basis for reviewing the Contractor's Applications for Payment.

§ 5.1.5 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

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

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

- .1 That portion of the Contract Sum properly allocable to completed Work;
- .2 That portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction, or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing; and
- .3 That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified.

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

- .1 The aggregate of any amounts previously paid by the Owner;
- .2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A201–2017;
- .3 Any amount for which the Contractor does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Contractor intends to pay;
- .4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A201–2017; and
- .5 Retainage withheld pursuant to Section 5.1.7.

§ 5.1.7 Retainage

§ 5.1.7.1 For each progress payment made prior to Substantial Completion of the Work, the Owner may withhold the following amount, as retainage, from the payment otherwise due:

(Insert a percentage or amount to be withheld as retainage from each Application for Payment. The amount of retainage may be limited by governing law.)

Ten percent (10%)

§ 5.1.7.1.1 The following items are not subject to retainage:

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

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

(If the retainage established in Section 5.1.7.1 is to be modified prior to Substantial Completion of the entire Work, including modifications for Substantial Completion of portions of the Work as provided in Section 3.3.2, insert provisions for such modifications.)

After issuance of Certificate of Substantial Completion, Retainage shall be reduced to five percent (5%).

§ 5.1.7.3 Except as set forth in this Section 5.1.7.3, upon Substantial Completion of the Work, the Contractor may submit an Application for Payment that includes the retainage withheld from prior Applications for Payment pursuant to this Section 5.1.7. The Application for Payment submitted at Substantial Completion shall not include retainage as follows:

(Insert any other conditions for release of retainage upon Substantial Completion.)

§ 5.1.8 If final completion of the Work is materially delayed through no fault of the Contractor, the Owner shall pay the Contractor any additional amounts in accordance with Article 9 of AIA Document A201–2017.

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

§ 5.2 Final Payment

§ 5.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when

- .1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Article 12 of AIA Document A201–2017, and to satisfy other requirements, if any, which extend beyond final payment; and
- .2 a final Certificate for Payment has been issued by the Architect.

§ 5.2.2 The Owner's final payment to the Contractor shall be made no later than 30 days after the issuance of the Architect's final Certificate for Payment, or as follows:

§ 5.3 Interest

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

(Insert rate of interest agreed upon, if any.)

%

ARTICLE 6 DISPUTE RESOLUTION

§ 6.1 Initial Decision Maker

The Architect will serve as the Initial Decision Maker pursuant to Article 15 of AIA Document A201–2017, unless the parties appoint below another individual, not a party to this Agreement, to serve as the Initial Decision Maker.

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

§ 6.2 Binding Dispute Resolution

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

(Check the appropriate box.)

- ☒ [X] Arbitration pursuant to Section 15.4 of AIA Document A201–2017
☐ [] Litigation in a court of competent jurisdiction
☐ [] Other *(Specify)*

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

Init.

ARTICLE 7 TERMINATION OR SUSPENSION

§ 7.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A201–2017.

§ 7.1.1 If the Contract is terminated for the Owner’s convenience in accordance with Article 14 of AIA Document A201–2017, then the Owner shall pay the Contractor a termination fee as follows:

(Insert the amount of, or method for determining, the fee, if any, payable to the Contractor following a termination for the Owner’s convenience.)

§ 7.2 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201–2017.

ARTICLE 8 MISCELLANEOUS PROVISIONS

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

§ 8.2 The Owner’s representative:

(Name, address, email address, and other information)

Steve Ervin, Community Development Project Manager
McCracken County Fiscal Court
300 Clarence Gaines Street
Paducah, KY 42003

§ 8.3 The Contractor’s representative:

(Name, address, email address, and other information)

Curt Mickey, KY Field Sales Representative
Musco Sports Lighting, LLC
100 1st Ave. West
PO Box 800
Oskaloosa, IA 52577

§ 8.4 Neither the Owner’s nor the Contractor’s representative shall be changed without ten days’ prior notice to the other party.

§ 8.5 Insurance and Bonds

§ 8.5.1 The Owner and the Contractor shall purchase and maintain insurance as set forth in AIA Document A101™–2017, Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum, Exhibit A, Insurance and Bonds, and elsewhere in the Contract Documents.

§ 8.5.2 The Contractor shall provide bonds as set forth in AIA Document A101™–2017 Exhibit A, and elsewhere in the Contract Documents.

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

(If other than in accordance with AIA Document E203–2013, insert requirements for delivering notice in electronic format such as name, title, and email address of the recipient and whether and how the system will be required to generate a read receipt for the transmission.)

§ 8.7 Other provisions:

ARTICLE 9 ENUMERATION OF CONTRACT DOCUMENTS

§ 9.1 This Agreement is comprised of the following documents:

- .1 AIA Document A101™–2017, Standard Form of Agreement Between Owner and Contractor
- .2 AIA Document A101™–2017, Exhibit A, Insurance and Bonds
- .3 AIA Document A201™–2017, General Conditions of the Contract for Construction
- .4

(Paragraphs deleted)

Drawings

Number – Bid Package 1A	Title	Date	Pages
See Attached Index of Drawings	000117-Index of Drawings	February 20, 2024	6

- .5 Specifications

Section – Bid Package 1B	Title	Date	Pages
See Attached Table of Contents	0001100-Table of Contents	February 20, 2024	4

- .6 Addenda, if any:

Number – Bid Package 1B	Date	Pages
Addendum No. 1	February 23, 2024	16
Addendum No. 2	March 11, 2024	102
Addendum No. 3	March 14, 2024	12
Addendum No. 4	March 21, 2024	93

Portions of Addenda relating to bidding or proposal requirements are not part of the Contract Documents unless the bidding or proposal requirements are also enumerated in this Article 9.

- .7 Other Exhibits:

(Check all boxes that apply and include appropriate information identifying the exhibit where required.)

☐ AIA Document E204™–2017, Sustainable Projects Exhibit, dated as indicated below:
(Insert the date of the E204-2017 incorporated into this Agreement.)

☐ The Sustainability Plan:

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

☐ Supplementary and other Conditions of the Contract:

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

- .9 Other documents, if any, listed below:

(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201™–2017 provides that the advertisement or invitation to bid, Instructions to Bidders, sample forms, the Contractor's bid or proposal, portions of Addenda relating to bidding or proposal requirements, and other information furnished by the Owner in anticipation of receiving bids or proposals, are not part of the Contract Documents unless enumerated in this Agreement. Any such documents should be listed here only if intended to be part of the Contract Documents.)

Contractors Original Form of Proposal
Exhibit – Cost Reduction List Bid Backage 1B-Field Lighting
Contractors Performance & Payment Bonds
Contractors Certificate of Insurance
Index of Drawings

Init.

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

McCracken County Fiscal Court

Musco Sports Lighting, LLC

OWNER *(Signature)*

CONTRACTOR *(Signature)*

Craig Z. Clymer, Judge Executive
(Printed name and title)

James M. Hansen, Secretary
(Printed name and title)

Init.

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User Notes:

(1867986479)

AIA® Document A201® – 2017

General Conditions of the Contract for Construction

for the following PROJECT:

(Name and location or address)

Paducah Sports Park – Bid Package 1B – Field Lighting
Paducah, Kentucky 42001

THE OWNER:

(Name, legal status and address)

McCracken County Fiscal Court
300 Clarence Gaines Street
Paducah, KY 42003

THE ARCHITECT:

(Name, legal status and address)

Peck Flannery Gream Warren Inc.
PO Box 510
101 South Fourth Street
Paducah, KY 42002-0510

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ARTICLE 1 GENERAL PROVISIONS

§ 1.1 Basic Definitions

§ 1.1.1 The Contract Documents

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

§ 1.1.2 The Contract

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

§ 1.1.3 The Work

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

§ 1.1.4 The Project

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

§ 1.1.5 The Drawings

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

§ 1.1.6 The Specifications

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

§ 1.1.7 Instruments of Service

Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Architect and the Architect's consultants under their respective professional services agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, and other similar materials.

§ 1.1.8 Initial Decision Maker

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

§ 1.2 Correlation and Intent of the Contract Documents

§ 1.2.1 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results.

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

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

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

§ 1.3 Capitalization

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

§ 1.4 Interpretation

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

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

§ 1.5.1 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and retain all common law, statutory, and other reserved rights in their Instruments of Service, including copyrights. The Contractor, Subcontractors, Sub-subcontractors, and suppliers shall not own or claim a copyright in the Instruments of Service. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the Architect's or Architect's consultants' reserved rights.

§ 1.5.2 The Contractor, Subcontractors, Sub-subcontractors, and suppliers are authorized to use and reproduce the Instruments of Service provided to them, subject to any protocols established pursuant to Sections 1.7 and 1.8, solely and exclusively for execution of the Work. All copies made under this authorization shall bear the copyright notice, if any, shown on the Instruments of Service. The Contractor, Subcontractors, Sub-subcontractors, and suppliers may not use the Instruments of Service on other projects or for additions to the Project outside the scope of the Work without the specific written consent of the Owner, Architect, and the Architect's consultants.

§ 1.6 Notice

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

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

§ 1.7 Digital Data Use and Transmission

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

§ 1.8 Building Information Models Use and Reliance

Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document

G202™–2013, Project Building Information Modeling Protocol Form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

ARTICLE 2 OWNER

§ 2.1 General

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

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

§ 2.2 Evidence of the Owner's Financial Arrangements

§ 2.2.1 Prior to commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. The Contractor shall have no obligation to commence the Work until the Owner provides such evidence. If commencement of the Work is delayed under this Section 2.2.1, the Contract Time shall be extended appropriately.

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

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

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

§ 2.3 Information and Services Required of the Owner

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

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

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

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

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

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

§ 2.4 Owner's Right to Stop the Work

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

§ 2.5 Owner's Right to Carry Out the Work

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a ten-day period after receipt of notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such default or neglect. Such action by the Owner and amounts charged to the Contractor are both subject to prior approval of the Architect and the Architect may, pursuant to Section 9.5.1, withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Architect's additional services made necessary by such default, neglect, or failure. If current and future payments are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner. If the Contractor disagrees with the actions of the Owner or the Architect, or the amounts claimed as costs to the Owner, the Contractor may file a Claim pursuant to Article 15.

ARTICLE 3 CONTRACTOR

§ 3.1 General

§ 3.1.1 The Contractor is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Contractor shall be lawfully licensed, if required in the jurisdiction where the Project is located. The Contractor shall designate in writing a representative who shall have express authority to bind the Contractor with respect to all matters under this Contract. The term "Contractor" means the Contractor or the Contractor's authorized representative.

§ 3.1.2 The Contractor shall perform the Work in accordance with the Contract Documents.

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

§ 3.2 Review of Contract Documents and Field Conditions by Contractor

§ 3.2.1 Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become generally familiar with local conditions under which the Work is to be performed, and correlated personal observations with requirements of the Contract Documents.

§ 3.2.2 Because the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 2.3.4, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating coordination and construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, the Contractor shall promptly report to the Architect any errors, inconsistencies or omissions discovered by or made known to the Contractor as a request for information in such form as the Architect may require. It is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional, unless otherwise specifically provided in the Contract Documents.

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

§ 3.2.4 If the Contractor believes that additional cost or time is involved because of clarifications or instructions the Architect issues in response to the Contractor's notices or requests for information pursuant to Sections 3.2.2 or 3.2.3, the Contractor shall submit Claims as provided in Article 15. If the Contractor fails to perform the obligations of Sections 3.2.2 or 3.2.3, the Contractor shall pay such costs and damages to the Owner, subject to Section 15.1.7, as would have been avoided if the Contractor had performed such obligations. If the Contractor performs those obligations, the Contractor shall not be liable to the Owner or Architect for damages resulting from errors, inconsistencies or omissions in the Contract Documents, for differences between field measurements or conditions and the Contract Documents, or for nonconformities of the Contract Documents to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities.

§ 3.3 Supervision and Construction Procedures

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

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

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

§ 3.4 Labor and Materials

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

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

§ 3.4.3 The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Work. The Contractor shall not permit employment of unfit persons or persons not properly skilled in tasks assigned to them.

§ 3.5 Warranty

§ 3.5.1 The Contractor warrants to the Owner and Architect that materials and equipment furnished under the Contract will be of good quality and new unless the Contract Documents require or permit otherwise. The Contractor further warrants that the Work will conform to the requirements of the Contract Documents and will be free from defects, except for those inherent in the quality of the Work the Contract Documents require or permit. Work, materials, or equipment not conforming to these requirements may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Architect, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

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

§ 3.6 Taxes

The Contractor shall pay sales, consumer, use and similar taxes for the Work provided by the Contractor that are legally enacted when bids are received or negotiations concluded, whether or not yet effective or merely scheduled to go into effect.

§ 3.7 Permits, Fees, Notices and Compliance with Laws

§ 3.7.1 Unless otherwise provided in the Contract Documents, the Contractor shall secure and pay for the building permit as well as for other permits, fees, licenses, and inspections by government agencies necessary for proper execution and completion of the Work that are customarily secured after execution of the Contract and legally required at the time bids are received or negotiations concluded.

§ 3.7.2 The Contractor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to performance of the Work.

§ 3.7.3 If the Contractor performs Work knowing it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Contractor shall assume appropriate responsibility for such Work and shall bear the costs attributable to correction.

§ 3.7.4 Concealed or Unknown Conditions

If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner and the Architect before conditions are disturbed and in no event later than 14 days after first observance of the conditions. The Architect will promptly investigate such conditions and, if the Architect determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend that an equitable adjustment be made in the Contract Sum or Contract Time, or both. If the Architect determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall promptly notify the Owner and Contractor, stating the reasons. If either party disputes the Architect's determination or recommendation, that party may submit a Claim as provided in Article 15.

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

§ 3.8 Allowances

§ 3.8.1 The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for such amounts and by such persons or entities as the Owner may direct, but the Contractor shall not be required to employ persons or entities to whom the Contractor has reasonable objection.

§ 3.8.2 Unless otherwise provided in the Contract Documents,

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

§ 3.8.3 Materials and equipment under an allowance shall be selected by the Owner with reasonable promptness.

§ 3.9 Superintendent

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

§ 3.9.2 The Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect of the name and qualifications of a proposed superintendent. Within 14 days of receipt of the information, the Architect may notify the Contractor, stating whether the Owner or the Architect (1) has reasonable objection to the proposed superintendent or (2) requires additional time for review. Failure of the Architect to provide notice within the 14-day period shall constitute notice of no reasonable objection.

§ 3.9.3 The Contractor shall not employ a proposed superintendent to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not change the superintendent without the Owner's consent, which shall not unreasonably be withheld or delayed.

§ 3.10 Contractor's Construction and Submittal Schedules

§ 3.10.1 The Contractor, promptly after being awarded the Contract, shall submit for the Owner's and Architect's information a Contractor's construction schedule for the Work. The schedule shall contain detail appropriate for the Project, including (1) the date of commencement of the Work, interim schedule milestone dates, and the date of Substantial Completion; (2) an apportionment of the Work by construction activity; and (3) the time required for completion of each portion of the Work. The schedule shall provide for the orderly progression of the Work to completion and shall not exceed time limits current under the Contract Documents. The schedule shall be revised at appropriate intervals as required by the conditions of the Work and Project.

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

§ 3.10.3 The Contractor shall perform the Work in general accordance with the most recent schedules submitted to the Owner and Architect.

§ 3.11 Documents and Samples at the Site

The Contractor shall make available, at the Project site, the Contract Documents, including Change Orders, Construction Change Directives, and other Modifications, in good order and marked currently to indicate field changes and selections made during construction, and the approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be in electronic form or paper copy, available to the Architect and Owner, and

delivered to the Architect for submittal to the Owner upon completion of the Work as a record of the Work as constructed.

§ 3.12 Shop Drawings, Product Data and Samples

§ 3.12.1 Shop Drawings are drawings, diagrams, schedules, and other data specially prepared for the Work by the Contractor or a Subcontractor, Sub-subcontractor, manufacturer, supplier, or distributor to illustrate some portion of the Work.

§ 3.12.2 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams, and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.

§ 3.12.3 Samples are physical examples that illustrate materials, equipment, or workmanship, and establish standards by which the Work will be judged.

§ 3.12.4 Shop Drawings, Product Data, Samples, and similar submittals are not Contract Documents. Their purpose is to demonstrate how the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents for those portions of the Work for which the Contract Documents require submittals. Review by the Architect is subject to the limitations of Section 4.2.7. Informational submittals upon which the Architect is not expected to take responsive action may be so identified in the Contract Documents. Submittals that are not required by the Contract Documents may be returned by the Architect without action.

§ 3.12.5 The Contractor shall review for compliance with the Contract Documents, approve, and submit to the Architect, Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents, in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Owner or of Separate Contractors.

§ 3.12.6 By submitting Shop Drawings, Product Data, Samples, and similar submittals, the Contractor represents to the Owner and Architect that the Contractor has (1) reviewed and approved them, (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so, and (3) checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.

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

§ 3.12.8 The Work shall be in accordance with approved submittals except that the Contractor shall not be relieved of responsibility for deviations from the requirements of the Contract Documents by the Architect's approval of Shop Drawings, Product Data, Samples, or similar submittals, unless the Contractor has specifically notified the Architect of such deviation at the time of submittal and (1) the Architect has given written approval to the specific deviation as a minor change in the Work, or (2) a Change Order or Construction Change Directive has been issued authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples, or similar submittals, by the Architect's approval thereof.

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

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

§ 3.12.10.1 If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of the Contractor by the Contract Documents, the Owner and the Architect will

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

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

§ 3.13 Use of Site

The Contractor shall confine operations at the site to areas permitted by applicable laws, statutes, ordinances, codes, rules and regulations, lawful orders of public authorities, and the Contract Documents and shall not unreasonably encumber the site with materials or equipment.

§ 3.14 Cutting and Patching

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

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

§ 3.15 Cleaning Up

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

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

§ 3.16 Access to Work

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

§ 3.17 Royalties, Patents and Copyrights

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

§ 3.18 Indemnification

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

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

ARTICLE 4 ARCHITECT

§ 4.1 General

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

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

§ 4.2 Administration of the Contract

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

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

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

§ 4.2.4 Communications

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

§ 4.2.5 Based on the Architect's evaluations of the Contractor's Applications for Payment, the Architect will review and certify the amounts due the Contractor and will issue Certificates for Payment in such amounts.

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

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

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

§ 4.2.9 The Architect will conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion pursuant to Section 9.8; receive and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract and assembled by the Contractor pursuant to Section 9.10; and issue a final Certificate for Payment pursuant to Section 9.10.

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

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

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

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

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

ARTICLE 5 SUBCONTRACTORS

§ 5.1 Definitions

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

§ 5.1.2 A Sub-subcontractor is a person or entity who has a direct or indirect contract with a Subcontractor to perform a portion of the Work at the site. The term "Sub-subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Sub-subcontractor or an authorized representative of the Sub-subcontractor.

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

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

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

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

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

§ 5.3 Subcontractual Relations

By appropriate written agreement, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work that the Contractor, by these Contract Documents, assumes toward the Owner and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies, and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Contract Documents. Subcontractors will similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

§ 5.4 Contingent Assignment of Subcontracts

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

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

When the Owner accepts the assignment of a subcontract agreement, the Owner assumes the Contractor's rights and obligations under the subcontract.

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

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

ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

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

§ 6.1.1 The term "Separate Contractor(s)" shall mean other contractors retained by the Owner under separate agreements. The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and with Separate Contractors retained under Conditions of the Contract substantially similar to those of this Contract, including those provisions of the Conditions of the Contract related to insurance and waiver of subrogation.

§ 6.1.2 When separate contracts are awarded for different portions of the Project or other construction or operations on the site, the term "Contractor" in the Contract Documents in each case shall mean the Contractor who executes each separate Owner-Contractor Agreement.

§ 6.1.3 The Owner shall provide for coordination of the activities of the Owner's own forces and of each Separate Contractor with the Work of the Contractor, who shall cooperate with them. The Contractor shall participate with any Separate Contractors and the Owner in reviewing their construction schedules. The Contractor shall make any revisions to its construction schedule deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the Contractor, Separate Contractors, and the Owner until subsequently revised.

§ 6.1.4 Unless otherwise provided in the Contract Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces or with Separate Contractors, the Owner or its Separate Contractors shall have the same obligations and rights that the Contractor has under the Conditions of the Contract, including, without excluding others, those stated in Article 3, this Article 6, and Articles 10, 11, and 12.

§ 6.2 Mutual Responsibility

§ 6.2.1 The Contractor shall afford the Owner and Separate Contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Contractor's construction and operations with theirs as required by the Contract Documents.

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

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

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

§ 6.2.5 The Owner and each Separate Contractor shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 3.14.

§ 6.3 Owner's Right to Clean Up

If a dispute arises among the Contractor, Separate Contractors, and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish, the Owner may clean up and the Architect will allocate the cost among those responsible.

ARTICLE 7 CHANGES IN THE WORK

§ 7.1 General

§ 7.1.1 Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order, Construction Change Directive or order for a minor change in the Work, subject to the limitations stated in this Article 7 and elsewhere in the Contract Documents.

§ 7.1.2 A Change Order shall be based upon agreement among the Owner, Contractor, and Architect. A Construction Change Directive requires agreement by the Owner and Architect and may or may not be agreed to by the Contractor. An order for a minor change in the Work may be issued by the Architect alone.

§ 7.1.3 Changes in the Work shall be performed under applicable provisions of the Contract Documents. The Contractor shall proceed promptly with changes in the Work, unless otherwise provided in the Change Order, Construction Change Directive, or order for a minor change in the Work.

§ 7.2 Change Orders

§ 7.2.1 A Change Order is a written instrument prepared by the Architect and signed by the Owner, Contractor, and Architect stating their agreement upon all of the following:

- .1 The change in the Work;
- .2 The amount of the adjustment, if any, in the Contract Sum; and
- .3 The extent of the adjustment, if any, in the Contract Time.

§ 7.3 Construction Change Directives

§ 7.3.1 A Construction Change Directive is a written order prepared by the Architect and signed by the Owner and Architect, directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum or Contract Time, or both. The Owner may by Construction Change Directive, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions, or other revisions, the Contract Sum and Contract Time being adjusted accordingly.

§ 7.3.2 A Construction Change Directive shall be used in the absence of total agreement on the terms of a Change Order.

§ 7.3.3 If the Construction Change Directive provides for an adjustment to the Contract Sum, the adjustment shall be based on one of the following methods:

- .1 Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
- .2 Unit prices stated in the Contract Documents or subsequently agreed upon;
- .3 Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
- .4 As provided in Section 7.3.4.

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

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

§ 7.3.5 If the Contractor disagrees with the adjustment in the Contract Time, the Contractor may make a Claim in accordance with applicable provisions of Article 15.

§ 7.3.6 Upon receipt of a Construction Change Directive, the Contractor shall promptly proceed with the change in the Work involved and advise the Architect of the Contractor's agreement or disagreement with the method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the Contract Sum or Contract Time.

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

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

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

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

§ 7.4 Minor Changes in the Work

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

ARTICLE 8 TIME

§ 8.1 Definitions

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

§ 8.1.2 The date of commencement of the Work is the date established in the Agreement.

§ 8.1.3 The date of Substantial Completion is the date certified by the Architect in accordance with Section 9.8.

§ 8.1.4 The term "day" as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.

§ 8.2 Progress and Completion

§ 8.2.1 Time limits stated in the Contract Documents are of the essence of the Contract. By executing the Agreement, the Contractor confirms that the Contract Time is a reasonable period for performing the Work.

§ 8.2.2 The Contractor shall not knowingly, except by agreement or instruction of the Owner in writing, commence the Work prior to the effective date of insurance required to be furnished by the Contractor and Owner.

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

§ 8.3 Delays and Extensions of Time

§ 8.3.1 If the Contractor is delayed at any time in the commencement or progress of the Work by (1) an act or neglect of the Owner or Architect, of an employee of either, or of a Separate Contractor; (2) by changes ordered in the Work; (3) by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, adverse weather conditions documented in accordance with Section 15.1.6.2, or other causes beyond the Contractor's control; (4) by delay authorized by the Owner pending mediation and binding dispute resolution; or (5) by other causes that the Contractor asserts, and the Architect determines, justify delay, then the Contract Time shall be extended for such reasonable time as the Architect may determine.

§ 8.3.2 Claims relating to time shall be made in accordance with applicable provisions of Article 15.

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

ARTICLE 9 PAYMENTS AND COMPLETION

§ 9.1 Contract Sum

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

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

§ 9.2 Schedule of Values

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

§ 9.3 Applications for Payment

§ 9.3.1 At least ten days before the date established for each progress payment, the Contractor shall submit to the Architect an itemized Application for Payment prepared in accordance with the schedule of values, if required under Section 9.2, for completed portions of the Work. The application shall be notarized, if required, and supported by all data substantiating the Contractor's right to payment that the Owner or Architect require, such as copies of requisitions, and releases and waivers of liens from Subcontractors and suppliers, and shall reflect retainage if provided for in the Contract Documents.

§ 9.3.1.1 As provided in Section 7.3.9, such applications may include requests for payment on account of changes in the Work that have been properly authorized by Construction Change Directives, or by interim determinations of the Architect, but not yet included in Change Orders.

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§ 9.3.1.2 Applications for Payment shall not include requests for payment for portions of the Work for which the Contractor does not intend to pay a Subcontractor or supplier, unless such Work has been performed by others whom the Contractor intends to pay.

§ 9.3.2 Unless otherwise provided in the Contract Documents, payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed upon in writing. Payment for materials and equipment stored on or off the site shall be conditioned upon compliance by the Contractor with procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest, and shall include the costs of applicable insurance, storage, and transportation to the site, for such materials and equipment stored off the site.

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

§ 9.4 Certificates for Payment

§ 9.4.1 The Architect will, within seven days after receipt of the Contractor's Application for Payment, either (1) issue to the Owner a Certificate for Payment in the full amount of the Application for Payment, with a copy to the Contractor; or (2) issue to the Owner a Certificate for Payment for such amount as the Architect determines is properly due, and notify the Contractor and Owner of the Architect's reasons for withholding certification in part as provided in Section 9.5.1; or (3) withhold certification of the entire Application for Payment, and notify the Contractor and Owner of the Architect's reason for withholding certification in whole as provided in Section 9.5.1.

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

§ 9.5 Decisions to Withhold Certification

§ 9.5.1 The Architect may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Architect's opinion the representations to the Owner required by Section 9.4.2 cannot be made. If the Architect is unable to certify payment in the amount of the Application, the Architect will notify the Contractor and Owner as provided in Section 9.4.1. If the Contractor and Architect cannot agree on a revised amount, the Architect will promptly issue a Certificate for Payment for the amount for which the Architect is able to make such representations to the Owner. The Architect may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued, to such extent as may be necessary in the Architect's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from acts and omissions described in Section 3.3.2, because of

- .1 defective Work not remedied;
- .2 third party claims filed or reasonable evidence indicating probable filing of such claims, unless security acceptable to the Owner is provided by the Contractor;
- .3 failure of the Contractor to make payments properly to Subcontractors or suppliers for labor, materials or equipment;

- .4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
- .5 damage to the Owner or a Separate Contractor;
- .6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
- .7 repeated failure to carry out the Work in accordance with the Contract Documents.

§ 9.5.2 When either party disputes the Architect's decision regarding a Certificate for Payment under Section 9.5.1, in whole or in part, that party may submit a Claim in accordance with Article 15.

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

§ 9.5.4 If the Architect withholds certification for payment under Section 9.5.1.3, the Owner may, at its sole option, issue joint checks to the Contractor and to any Subcontractor or supplier to whom the Contractor failed to make payment for Work properly performed or material or equipment suitably delivered. If the Owner makes payments by joint check, the Owner shall notify the Architect and the Contractor shall reflect such payment on its next Application for Payment.

§ 9.6 Progress Payments

§ 9.6.1 After the Architect has issued a Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the Contract Documents, and shall so notify the Architect.

§ 9.6.2 The Contractor shall pay each Subcontractor, no later than seven days after receipt of payment from the Owner, the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner.

§ 9.6.3 The Architect will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Contractor and action taken thereon by the Architect and Owner on account of portions of the Work done by such Subcontractor.

§ 9.6.4 The Owner has the right to request written evidence from the Contractor that the Contractor has properly paid Subcontractors and suppliers amounts paid by the Owner to the Contractor for subcontracted Work. If the Contractor fails to furnish such evidence within seven days, the Owner shall have the right to contact Subcontractors and suppliers to ascertain whether they have been properly paid. Neither the Owner nor Architect shall have an obligation to pay, or to see to the payment of money to, a Subcontractor or supplier, except as may otherwise be required by law.

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

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

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

§ 9.6.8 Provided the Owner has fulfilled its payment obligations under the Contract Documents, the Contractor shall defend and indemnify the Owner from all loss, liability, damage or expense, including reasonable attorney's fees and litigation expenses, arising out of any lien claim or other claim for payment by any Subcontractor or supplier of any tier. Upon receipt of notice of a lien claim or other claim for payment, the Owner shall notify the Contractor. If approved by the applicable court, when required, the Contractor may substitute a surety bond for the property against which the lien or other claim for payment has been asserted.

§ 9.7 Failure of Payment

If the Architect does not issue a Certificate for Payment, through no fault of the Contractor, within seven days after receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor within seven days after the date established in the Contract Documents, the amount certified by the Architect or awarded by binding dispute resolution, then the Contractor may, upon seven additional days' notice to the Owner and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided for in the Contract Documents.

§ 9.8 Substantial Completion

§ 9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use.

§ 9.8.2 When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall prepare and submit to the Architect a comprehensive list of items to be completed or corrected prior to final payment. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.

§ 9.8.3 Upon receipt of the Contractor's list, the Architect will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect's inspection discloses any item, whether or not included on the Contractor's list, which is not sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work or designated portion thereof for its intended use, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Architect. In such case, the Contractor shall then submit a request for another inspection by the Architect to determine Substantial Completion.

§ 9.8.4 When the Work or designated portion thereof is substantially complete, the Architect will prepare a Certificate of Substantial Completion that shall establish the date of Substantial Completion; establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance; and fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 9.8.5 The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in the Certificate. Upon such acceptance, and consent of surety if any, the Owner shall make payment of retainage applying to the Work or designated portion thereof. Such payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Contract Documents.

§ 9.9 Partial Occupancy or Use

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

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

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

§ 9.10 Final Completion and Final Payment

§ 9.10.1 Upon receipt of the Contractor's notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Architect will promptly make such inspection. When the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Architect will promptly issue a final Certificate for Payment stating that to the best of the Architect's knowledge, information and belief, and on the basis of the Architect's on-site visits and inspections, the Work has been completed in accordance with the Contract Documents and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Architect's final Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect, (3) a written statement that the Contractor knows of no reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment, (5) documentation of any special warranties, such as manufacturers' warranties or specific Subcontractor warranties, and (6) if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts and releases and waivers of liens, claims, security interests, or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien, claim, security interest, or encumbrance. If a lien, claim, security interest, or encumbrance remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging the lien, claim, security interest, or encumbrance, including all costs and reasonable attorneys' fees.

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

§ 9.10.4 The making of final payment shall constitute a waiver of Claims by the Owner except those arising from

- .1 liens, Claims, security interests, or encumbrances arising out of the Contract and unsettled;
- .2 failure of the Work to comply with the requirements of the Contract Documents;
- .3 terms of special warranties required by the Contract Documents; or
- .4 audits performed by the Owner, if permitted by the Contract Documents, after final payment.

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

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

§ 10.1 Safety Precautions and Programs

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

§ 10.2 Safety of Persons and Property

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

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

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

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

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

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

§ 10.2.6 The Contractor shall designate a responsible member of the Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the Owner and Architect.

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

§ 10.2.8 Injury or Damage to Person or Property

If either party suffers injury or damage to person or property because of an act or omission of the other party, or of others for whose acts such party is legally responsible, notice of the injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding 21 days after discovery. The notice shall provide sufficient detail to enable the other party to investigate the matter.

§ 10.3 Hazardous Materials and Substances

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

§ 10.3.2 Upon receipt of the Contractor's notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Contract Documents, the Owner shall furnish in writing to the Contractor and Architect the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of the material or substance or who are to perform the task of removal or safe containment of the material or substance. The Contractor and the Architect will

promptly reply to the Owner in writing stating whether or not either has reasonable objection to the persons or entities proposed by the Owner. If either the Contractor or Architect has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Contractor and the Architect have no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Contractor. By Change Order, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable additional costs of shutdown, delay, and start-up.

§ 10.3.3 To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Subcontractors, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area if in fact the material or substance presents the risk of bodily injury or death as described in Section 10.3.1 and has not been rendered harmless, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), except to the extent that such damage, loss, or expense is due to the fault or negligence of the party seeking indemnity.

§ 10.3.4 The Owner shall not be responsible under this Section 10.3 for hazardous materials or substances the Contractor brings to the site unless such materials or substances are required by the Contract Documents. The Owner shall be responsible for hazardous materials or substances required by the Contract Documents, except to the extent of the Contractor's fault or negligence in the use and handling of such materials or substances.

§ 10.3.5 The Contractor shall reimburse the Owner for the cost and expense the Owner incurs (1) for remediation of hazardous materials or substances the Contractor brings to the site and negligently handles, or (2) where the Contractor fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence.

§ 10.3.6 If, without negligence on the part of the Contractor, the Contractor is held liable by a government agency for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Contract Documents, the Owner shall reimburse the Contractor for all cost and expense thereby incurred.

§ 10.4 Emergencies

In an emergency affecting safety of persons or property, the Contractor shall act, at the Contractor's discretion, to prevent threatened damage, injury, or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Article 15 and Article 7.

ARTICLE 11 INSURANCE AND BONDS

§ 11.1 Contractor's Insurance and Bonds

§ 11.1.1 The Contractor shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Contractor shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Owner, Architect, and Architect's consultants shall be named as additional insureds under the Contractor's commercial general liability policy or as otherwise described in the Contract Documents.

§ 11.1.2 The Contractor shall provide surety bonds of the types, for such penal sums, and subject to such terms and conditions as required by the Contract Documents. The Contractor shall purchase and maintain the required bonds from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located.

§ 11.1.3 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished.

§ 11.1.4 Notice of Cancellation or Expiration of Contractor's Required Insurance. Within three (3) business days of the date the Contractor becomes aware of an impending or actual cancellation or expiration of any insurance required by the Contract Documents, the Contractor shall provide notice to the Owner of such impending or actual cancellation or expiration. Upon receipt of notice from the Contractor, the Owner shall, unless the lapse in coverage arises from an act

or omission of the Owner, have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by the Contractor. The furnishing of notice by the Contractor shall not relieve the Contractor of any contractual obligation to provide any required coverage.

§ 11.2 Owner's Insurance

§ 11.2.1 The Owner shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Owner shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located.

§ 11.2.2 Failure to Purchase Required Property Insurance. If the Owner fails to purchase and maintain the required property insurance, with all of the coverages and in the amounts described in the Agreement or elsewhere in the Contract Documents, the Owner shall inform the Contractor in writing prior to commencement of the Work. Upon receipt of notice from the Owner, the Contractor may delay commencement of the Work and may obtain insurance that will protect the interests of the Contractor, Subcontractors, and Sub-Subcontractors in the Work. When the failure to provide coverage has been cured or resolved, the Contract Sum and Contract Time shall be equitably adjusted. In the event the Owner fails to procure coverage, the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent the loss to the Owner would have been covered by the insurance to have been procured by the Owner. The cost of the insurance shall be charged to the Owner by a Change Order. If the Owner does not provide written notice, and the Contractor is damaged by the failure or neglect of the Owner to purchase or maintain the required insurance, the Owner shall reimburse the Contractor for all reasonable costs and damages attributable thereto.

§ 11.2.3 Notice of Cancellation or Expiration of Owner's Required Property Insurance. Within three (3) business days of the date the Owner becomes aware of an impending or actual cancellation or expiration of any property insurance required by the Contract Documents, the Owner shall provide notice to the Contractor of such impending or actual cancellation or expiration. Unless the lapse in coverage arises from an act or omission of the Contractor: (1) the Contractor, upon receipt of notice from the Owner, shall have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by either the Owner or the Contractor; (2) the Contract Time and Contract Sum shall be equitably adjusted; and (3) the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent any loss to the Owner would have been covered by the insurance had it not expired or been cancelled. If the Contractor purchases replacement coverage, the cost of the insurance shall be charged to the Owner by an appropriate Change Order. The furnishing of notice by the Owner shall not relieve the Owner of any contractual obligation to provide required insurance.

§ 11.3 Waivers of Subrogation

§ 11.3.1 The Owner and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents, and employees, each of the other; (2) the Architect and Architect's consultants; and (3) Separate Contractors, if any, and any of their subcontractors, sub-subcontractors, agents, and employees, for damages caused by fire, or other causes of loss, to the extent those losses are covered by property insurance required by the Agreement or other property insurance applicable to the Project, except such rights as they have to proceeds of such insurance. The Owner or Contractor, as appropriate, shall require similar written waivers in favor of the individuals and entities identified above from the Architect, Architect's consultants, Separate Contractors, subcontractors, and sub-subcontractors. The policies of insurance purchased and maintained by each person or entity agreeing to waive claims pursuant to this section 11.3.1 shall not prohibit this waiver of subrogation. This waiver of subrogation shall be effective as to a person or entity (1) even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, (2) even though that person or entity did not pay the insurance premium directly or indirectly, or (3) whether or not the person or entity had an insurable interest in the damaged property.

§ 11.3.2 If during the Project construction period the Owner insures properties, real or personal or both, at or adjacent to the site by property insurance under policies separate from those insuring the Project, or if after final payment property insurance is to be provided on the completed Project through a policy or policies other than those insuring the Project during the construction period, to the extent permissible by such policies, the Owner waives all rights in accordance with the terms of Section 11.3.1 for damages caused by fire or other causes of loss covered by this separate property insurance.

§ 11.4 Loss of Use, Business Interruption, and Delay in Completion Insurance

The Owner, at the Owner's option, may purchase and maintain insurance that will protect the Owner against loss of use of the Owner's property, or the inability to conduct normal operations, due to fire or other causes of loss. The Owner waives all rights of action against the Contractor and Architect for loss of use of the Owner's property, due to fire or other hazards however caused.

§11.5 Adjustment and Settlement of Insured Loss

§ 11.5.1 A loss insured under the property insurance required by the Agreement shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause and of Section 11.5.2. The Owner shall pay the Architect and Contractor their just shares of insurance proceeds received by the Owner, and by appropriate agreements the Architect and Contractor shall make payments to their consultants and Subcontractors in similar manner.

§ 11.5.2 Prior to settlement of an insured loss, the Owner shall notify the Contractor of the terms of the proposed settlement as well as the proposed allocation of the insurance proceeds. The Contractor shall have 14 days from receipt of notice to object to the proposed settlement or allocation of the proceeds. If the Contractor does not object, the Owner shall settle the loss and the Contractor shall be bound by the settlement and allocation. Upon receipt, the Owner shall deposit the insurance proceeds in a separate account and make the appropriate distributions. Thereafter, if no other agreement is made or the Owner does not terminate the Contract for convenience, the Owner and Contractor shall execute a Change Order for reconstruction of the damaged or destroyed Work in the amount allocated for that purpose. If the Contractor timely objects to either the terms of the proposed settlement or the allocation of the proceeds, the Owner may proceed to settle the insured loss, and any dispute between the Owner and Contractor arising out of the settlement or allocation of the proceeds shall be resolved pursuant to Article 15. Pending resolution of any dispute, the Owner may issue a Construction Change Directive for the reconstruction of the damaged or destroyed Work.

ARTICLE 12 UNCOVERING AND CORRECTION OF WORK

§ 12.1 Uncovering of Work

§ 12.1.1 If a portion of the Work is covered contrary to the Architect's request or to requirements specifically expressed in the Contract Documents, it must, if requested in writing by the Architect, be uncovered for the Architect's examination and be replaced at the Contractor's expense without change in the Contract Time.

§ 12.1.2 If a portion of the Work has been covered that the Architect has not specifically requested to examine prior to its being covered, the Architect may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, the Contractor shall be entitled to an equitable adjustment to the Contract Sum and Contract Time as may be appropriate. If such Work is not in accordance with the Contract Documents, the costs of uncovering the Work, and the cost of correction, shall be at the Contractor's expense.

§ 12.2 Correction of Work

§ 12.2.1 Before Substantial Completion

The Contractor shall promptly correct Work rejected by the Architect or failing to conform to the requirements of the Contract Documents, discovered before Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Architect's services and expenses made necessary thereby, shall be at the Contractor's expense.

§ 12.2.2 After Substantial Completion

§ 12.2.2.1 In addition to the Contractor's obligations under Section 3.5, if, within one year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.9.1, or by terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of notice from the Owner to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the one-year period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor and to make a claim for breach of warranty. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner or Architect, the Owner may correct it in accordance with Section 2.5.

§ 12.2.2.2 The one-year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual completion of that portion of the Work.

§ 12.2.2.3 The one-year period for correction of Work shall not be extended by corrective Work performed by the Contractor pursuant to this Section 12.2.

§ 12.2.3 The Contractor shall remove from the site portions of the Work that are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner.

§ 12.2.4 The Contractor shall bear the cost of correcting destroyed or damaged construction of the Owner or Separate Contractors, whether completed or partially completed, caused by the Contractor's correction or removal of Work that is not in accordance with the requirements of the Contract Documents.

§ 12.2.5 Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

§ 12.3 Acceptance of Nonconforming Work

If the Owner prefers to accept Work that is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

ARTICLE 13 MISCELLANEOUS PROVISIONS

§ 13.1 Governing Law

The Contract shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 15.4.

§ 13.2 Successors and Assigns

§ 13.2.1 The Owner and Contractor respectively bind themselves, their partners, successors, assigns, and legal representatives to covenants, agreements, and obligations contained in the Contract Documents. Except as provided in Section 13.2.2, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

§ 13.2.2 The Owner may, without consent of the Contractor, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner's rights and obligations under the Contract Documents. The Contractor shall execute all consents reasonably required to facilitate the assignment.

§ 13.3 Rights and Remedies

§ 13.3.1 Duties and obligations imposed by the Contract Documents and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights, and remedies otherwise imposed or available by law.

§ 13.3.2 No action or failure to act by the Owner, Architect, or Contractor shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed upon in writing.

§ 13.4 Tests and Inspections

§ 13.4.1 Tests, inspections, and approvals of portions of the Work shall be made as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules, and regulations or lawful orders of public authorities. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections, and

approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections, and approvals. The Contractor shall give the Architect timely notice of when and where tests and inspections are to be made so that the Architect may be present for such procedures. The Owner shall bear costs of tests, inspections, or approvals that do not become requirements until after bids are received or negotiations concluded. The Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations so require.

§ 13.4.2 If the Architect, Owner, or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection, or approval not included under Section 13.4.1, the Architect will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection, or approval, by an entity acceptable to the Owner, and the Contractor shall give timely notice to the Architect of when and where tests and inspections are to be made so that the Architect may be present for such procedures. Such costs, except as provided in Section 13.4.3, shall be at the Owner's expense.

§ 13.4.3 If procedures for testing, inspection, or approval under Sections 13.4.1 and 13.4.2 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, all costs made necessary by such failure, including those of repeated procedures and compensation for the Architect's services and expenses, shall be at the Contractor's expense.

§ 13.4.4 Required certificates of testing, inspection, or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the Architect.

§ 13.4.5 If the Architect is to observe tests, inspections, or approvals required by the Contract Documents, the Architect will do so promptly and, where practicable, at the normal place of testing.

§ 13.4.6 Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

§ 13.5 Interest

Payments due and unpaid under the Contract Documents shall bear interest from the date payment is due at the rate the parties agree upon in writing or, in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT

§ 14.1 Termination by the Contractor

§ 14.1.1 The Contractor may terminate the Contract if the Work is stopped for a period of 30 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, for any of the following reasons:

- .1 Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;
- .2 An act of government, such as a declaration of national emergency, that requires all Work to be stopped;
- .3 Because the Architect has not issued a Certificate for Payment and has not notified the Contractor of the reason for withholding certification as provided in Section 9.4.1, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Contract Documents; or
- .4 The Owner has failed to furnish to the Contractor reasonable evidence as required by Section 2.2.

§ 14.1.2 The Contractor may terminate the Contract if, through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, repeated suspensions, delays, or interruptions of the entire Work by the Owner as described in Section 14.3, constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less.

§ 14.1.3 If one of the reasons described in Section 14.1.1 or 14.1.2 exists, the Contractor may, upon seven days' notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work executed, as well as reasonable overhead and profit on Work not executed, and costs incurred by reason of such termination.

§ 14.1.4 If the Work is stopped for a period of 60 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, or their agents or employees or any other persons or entities performing portions of the Work because the Owner has repeatedly failed to fulfill the Owner's obligations under the Contract Documents with respect to matters important to the progress of the Work, the Contractor may, upon seven additional days' notice to the Owner and the Architect, terminate the Contract and recover from the Owner as provided in Section 14.1.3.

§ 14.2 Termination by the Owner for Cause

§ 14.2.1 The Owner may terminate the Contract if the Contractor

- .1 repeatedly refuses or fails to supply enough properly skilled workers or proper materials;
- .2 fails to make payment to Subcontractors or suppliers in accordance with the respective agreements between the Contractor and the Subcontractors or suppliers;
- .3 repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or
- .4 otherwise is guilty of substantial breach of a provision of the Contract Documents.

§ 14.2.2 When any of the reasons described in Section 14.2.1 exist, and upon certification by the Architect that sufficient cause exists to justify such action, the Owner may, without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:

- .1 Exclude the Contractor from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;
- .2 Accept assignment of subcontracts pursuant to Section 5.4; and
- .3 Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.

§ 14.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 14.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

§ 14.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including compensation for the Architect's services and expenses made necessary thereby, and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The amount to be paid to the Contractor or Owner, as the case may be, shall be certified by the Initial Decision Maker, upon application, and this obligation for payment shall survive termination of the Contract.

§ 14.3 Suspension by the Owner for Convenience

§ 14.3.1 The Owner may, without cause, order the Contractor in writing to suspend, delay or interrupt the Work, in whole or in part for such period of time as the Owner may determine.

§ 14.3.2 The Contract Sum and Contract Time shall be adjusted for increases in the cost and time caused by suspension, delay, or interruption under Section 14.3.1. Adjustment of the Contract Sum shall include profit. No adjustment shall be made to the extent

- .1 that performance is, was, or would have been, so suspended, delayed, or interrupted, by another cause for which the Contractor is responsible; or
- .2 that an equitable adjustment is made or denied under another provision of the Contract.

§ 14.4 Termination by the Owner for Convenience

§ 14.4.1 The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause.

§ 14.4.2 Upon receipt of notice from the Owner of such termination for the Owner's convenience, the Contractor shall

- .1 cease operations as directed by the Owner in the notice;
- .2 take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and
- .3 except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.

§ 14.4.3 In case of such termination for the Owner's convenience, the Owner shall pay the Contractor for Work properly executed; costs incurred by reason of the termination, including costs attributable to termination of Subcontracts; and the termination fee, if any, set forth in the Agreement.

ARTICLE 15 CLAIMS AND DISPUTES

§ 15.1 Claims

§ 15.1.1 Definition

A Claim is a demand or assertion by one of the parties seeking, as a matter of right, payment of money, a change in the Contract Time, or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Contractor arising out of or relating to the Contract. The responsibility to substantiate Claims shall rest with the party making the Claim. This Section 15.1.1 does not require the Owner to file a Claim in order to impose liquidated damages in accordance with the Contract Documents.

§ 15.1.2 Time Limits on Claims

The Owner and Contractor shall commence all Claims and causes of action against the other and arising out of or related to the Contract, whether in contract, tort, breach of warranty or otherwise, in accordance with the requirements of the binding dispute resolution method selected in the Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Contractor waive all Claims and causes of action not commenced in accordance with this Section 15.1.2.

§ 15.1.3 Notice of Claims

§ 15.1.3.1 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered prior to expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party and to the Initial Decision Maker with a copy sent to the Architect, if the Architect is not serving as the Initial Decision Maker. Claims by either party under this Section 15.1.3.1 shall be initiated within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later.

§ 15.1.3.2 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party. In such event, no decision by the Initial Decision Maker is required.

§ 15.1.4 Continuing Contract Performance

§ 15.1.4.1 Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 14, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents.

§ 15.1.4.2 The Contract Sum and Contract Time shall be adjusted in accordance with the Initial Decision Maker's decision, subject to the right of either party to proceed in accordance with this Article 15. The Architect will issue Certificates for Payment in accordance with the decision of the Initial Decision Maker.

§ 15.1.5 Claims for Additional Cost

If the Contractor wishes to make a Claim for an increase in the Contract Sum, notice as provided in Section 15.1.3 shall be given before proceeding to execute the portion of the Work that is the subject of the Claim. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4.

§ 15.1.6 Claims for Additional Time

§ 15.1.6.1 If the Contractor wishes to make a Claim for an increase in the Contract Time, notice as provided in Section 15.1.3 shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay, only one Claim is necessary.

§ 15.1.6.2 If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated, and had an adverse effect on the scheduled construction.

§ 15.1.7 Waiver of Claims for Consequential Damages

The Contractor and Owner waive Claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes

- .1 damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and
- .2 damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit, except anticipated profit arising directly from the Work.

This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 14. Nothing contained in this Section 15.1.7 shall be deemed to preclude assessment of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.

§ 15.2 Initial Decision

§ 15.2.1 Claims, excluding those where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2 or arising under Sections 10.3, 10.4, and 11.5, shall be referred to the Initial Decision Maker for initial decision. The Architect will serve as the Initial Decision Maker, unless otherwise indicated in the Agreement. Except for those Claims excluded by this Section 15.2.1, an initial decision shall be required as a condition precedent to mediation of any Claim. If an initial decision has not been rendered within 30 days after the Claim has been referred to the Initial Decision Maker, the party asserting the Claim may demand mediation and binding dispute resolution without a decision having been rendered. Unless the Initial Decision Maker and all affected parties agree, the Initial Decision Maker will not decide disputes between the Contractor and persons or entities other than the Owner.

§ 15.2.2 The Initial Decision Maker will review Claims and within ten days of the receipt of a Claim take one or more of the following actions: (1) request additional supporting data from the claimant or a response with supporting data from the other party, (2) reject the Claim in whole or in part, (3) approve the Claim, (4) suggest a compromise, or (5) advise the parties that the Initial Decision Maker is unable to resolve the Claim if the Initial Decision Maker lacks sufficient information to evaluate the merits of the Claim or if the Initial Decision Maker concludes that, in the Initial Decision Maker's sole discretion, it would be inappropriate for the Initial Decision Maker to resolve the Claim.

§ 15.2.3 In evaluating Claims, the Initial Decision Maker may, but shall not be obligated to, consult with or seek information from either party or from persons with special knowledge or expertise who may assist the Initial Decision Maker in rendering a decision. The Initial Decision Maker may request the Owner to authorize retention of such persons at the Owner's expense.

§ 15.2.4 If the Initial Decision Maker requests a party to provide a response to a Claim or to furnish additional supporting data, such party shall respond, within ten days after receipt of the request, and shall either (1) provide a response on the requested supporting data, (2) advise the Initial Decision Maker when the response or supporting data will be furnished, or (3) advise the Initial Decision Maker that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Initial Decision Maker will either reject or approve the Claim in whole or in part.

§ 15.2.5 The Initial Decision Maker will render an initial decision approving or rejecting the Claim, or indicating that the Initial Decision Maker is unable to resolve the Claim. This initial decision shall (1) be in writing; (2) state the reasons therefor; and (3) notify the parties and the Architect, if the Architect is not serving as the Initial Decision Maker, of any change in the Contract Sum or Contract Time or both. The initial decision shall be final and binding on the parties but subject to mediation and, if the parties fail to resolve their dispute through mediation, to binding dispute resolution.

§ 15.2.6 Either party may file for mediation of an initial decision at any time, subject to the terms of Section 15.2.6.1.

§ 15.2.6.1 Either party may, within 30 days from the date of receipt of an initial decision, demand in writing that the other party file for mediation. If such a demand is made and the party receiving the demand fails to file for mediation within 30 days after receipt thereof, then both parties waive their rights to mediate or pursue binding dispute resolution proceedings with respect to the initial decision.

§ 15.2.7 In the event of a Claim against the Contractor, the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

§ 15.2.8 If a Claim relates to or is the subject of a mechanic's lien, the party asserting such Claim may proceed in accordance with applicable law to comply with the lien notice or filing deadlines.

§ 15.3 Mediation

§ 15.3.1 Claims, disputes, or other matters in controversy arising out of or related to the Contract, except those waived as provided for in Sections 9.10.4, 9.10.5, and 15.1.7, shall be subject to mediation as a condition precedent to binding dispute resolution.

§ 15.3.2 The parties shall endeavor to resolve their Claims by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of binding dispute resolution proceedings but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration is stayed pursuant to this Section 15.3.2, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§ 15.3.3 Either party may, within 30 days from the date that mediation has been concluded without resolution of the dispute or 60 days after mediation has been demanded without resolution of the dispute, demand in writing that the other party file for binding dispute resolution. If such a demand is made and the party receiving the demand fails to file for binding dispute resolution within 60 days after receipt thereof, then both parties waive their rights to binding dispute resolution proceedings with respect to the initial decision.

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

§ 15.4 Arbitration

§ 15.4.1 If the parties have selected arbitration as the method for binding dispute resolution in the Agreement, any Claim subject to, but not resolved by, mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of the Agreement. The Arbitration shall be conducted in the place where the Project is located, unless another location is mutually agreed upon. A demand for arbitration shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the arbitration. The party filing a notice of demand for arbitration must assert in the demand all Claims then known to that party on which arbitration is permitted to be demanded.

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

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

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

§ 15.4.4 Consolidation or Joinder

§ 15.4.4.1 Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation, (2) the arbitrations to be consolidated substantially involve common questions of law or fact, and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

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

§ 15.4.4.3 The Owner and Contractor grant to any person or entity made a party to an arbitration conducted under this Section 15.4, whether by joinder or consolidation, the same rights of joinder and consolidation as those of the Owner and Contractor under this Agreement.

SECTION 004113.2 - FORM OF PROPOSAL 1(B) – FIELD LIGHTING

PROJECT: Bid Package 01 – Site
Former Bluegrass Downs Grandstand
150 Downs Drive
Paducah, Kentucky

Name of Contractor: Musco Sports Lighting, LLC
Mailing Address: 100 1st Ave West
PO Box 800
Oskaloosa, IA 52577
Business Phone: 800-825-6020

TO: Steve Ervin, Community Development Project Manager
McCracken County Fiscal Court
300 Clarence Gaines Street
Paducah, KY 42001

Having carefully examined the Instructions to Bidders, Contract Agreement, General Conditions, Special Conditions, Specifications, and Drawings on the above referenced project, the undersigned bidder proposes to furnish all labor, materials, equipment, tools, supplies, services, and temporary devices required to complete the work in accordance with the contract documents and any addenda listed below for the price stated herein.

BASE BID:

Material	\$ <u>1,141,350</u>
Labor	\$ <u>533,650</u>
Tax (6% Sales Tax)	\$ <u>—</u>
TOTAL	\$ <u>2,275,000</u>

For the construction required to complete the work in accordance with the contract documents, I/We submit the following lump sum price of

Two Million - Two hundred seventy-five thousand DOLLARS 00 CENTS
(use words)

ALTERNATE BID:

For omission from or addition to those items, services, or construction specified in Bidding Documents by alternate number, the following lump sum price will be added or deducted from the base bid.

Alternate Bid No.	Alternate Description	+ (Add to the Base Bid)	- (Deduct from the Base Bid)	No Cost Change from the Base Bid)
Alt. Bid No. 1	Pickleball Courts and Associated Site Work and Amenities	\$199,000	—	—
Alt. Bid No. 2	Basketball Courts and Associated Site Work and Amenities	\$54,000		
Alt. Bid No. 4	Voluntary Alternate for Multiple Bids Show-Light on Championship	\$50,000	—	—

ADDENDA:

Receipt of Addenda Number(s) __1__ thru __4__ is acknowledged.

UNIT PRICES:

Refer to attached sheet(s) for listing of unit prices.

PROPOSED SUBCONTRACTORS:

Refer to attached sheet(s) for listing of proposed subcontractors.

PROPOSED MATERIALS AND EQUIPMENT:

Refer to attached sheet(s) for listing of proposed materials and equipment.

PREVIOUS PROJECTS:

Refer to attached sheet(s) for listing of previous projects.

REFERENCES:

Refer to attached sheet(s) for listing of project references.

UNIT PRICES:

Unit Prices shall include the furnishing of all labor, materials, supplies, services and shall include all: Items of cost, overhead and profit for the contractor and subcontractor involved, and shall be used uniformly without modification for either addition or deduction. The unit prices as established shall be used to determine the equitable adjustment of the contract price in connection with changes or extra work performed under the contract, and rules of measurement as set forth in the General Conditions shall govern.

WORK	PRICE	UNIT
1. Field Sports Lighting & Installation	\$	/ 1
2. Rock excavation	\$ 450 ⁰⁰	/ hr.
3.	\$	/
4.	\$	/
5.	\$	/
6.	\$	/
7.	\$	/
8.	\$	/
9.	\$	/
10.	\$	/
11.	\$	/
12.	\$	/
13.	\$	/
14.	\$	/
15.	\$	/

Name of Contractor: Musco Sports Lighting, LLC

Authorized
Representative Curt Mickey,

Title KY Field Sales Representative

(Signature)

Date 3/26/29

LIST OF PROPOSED SUBCONTRACTORS

The following list of proposed subcontractors is required to be executed, completed and submitted with the Bidder's Proposal. All subcontractors are subject to approval by the Owner. Failure to submit this list, completely filled out, may cause rejection of bid.

[illegible]

LIST OF MATERIALS AND EQUIPMENT

Refer to attached sheet(s) for complete listing of major components of the proposed materials and equipment. Refer to attached justification of proposed material and equipment if proposing a substitution or equal to the material and equipment contained in the Bid Documents.

Every item listed under the different phases of construction must be clearly identified so that the Owner will definitely know what the bidder proposes to furnish. The use of a dealer's name or stating "as per plans and specifications" will not be considered as sufficient identification.

The following list of materials and equipment is required to be executed, completed and submitted with the Bidder's Proposal. Failure to submit this list, completely filled out, may cause rejection of bid.

[illegible]

LIST OF PROJECT REFERENCES

The following list of project references is required to be executed, completed and submitted with the Bidder's Proposal. Failure to submit this list, completely filled out, may cause rejection of bid.

PROJECT NAME: Great Crossing Park Athletic Fields

PROJECT LOCATION: Georgetown, KY

REFERENCE NAME: DT Wells - County Chair Scott County Parks & Recreation

CONTACT INFORMATION: danieltaylorwells@yahoo.com

Mobile: 502-316-3922

PROJECT NAME: Corbin High School Football - Miller BB/SB

PROJECT LOCATION: Cobin, KY

REFERENCE NAME: Marlon Sams - City Manager with City of Corbin

CONTACT INFORMATION: marlon.sams@corbin-ky.com

Mobile: 606-215-0121

PROJECT NAME: Murray State University Football / Softball

PROJECT LOCATION: Murray, KY

REFERENCE NAME: Brock Rydecki - Associate Athletic Director

CONTACT INFORMATION: jrydecki@murraystate.edu

270-809-3369

LIST OF PREVIOUS PROJECTS

The following list of previous projects is required to be executed, completed and submitted with the Bidder's Proposal. Failure to submit this list, completely filled out, may cause rejection of bid.

PROJECT NAME: Grimes Sports Complex

PROJECT LOCATION: Grimes, IA

NUMBER OF FIELDS: (6) Baseball, (9) Softball, (12) Soccer, (18) Multi-Use

YEAR COMPLETED: 2023

PROJECT NAME: Elizabethtown Sports Park

PROJECT LOCATION: Elizabethtown, KY

NUMBER OF FIELDS: (8) Softball, (4) Baseball, (8) Soccer

YEAR COMPLETED: 2011

PROJECT NAME: Albertville Sports Complex

PROJECT LOCATION: Albertville, AL

NUMBER OF FIELDS: (9) Baseball/Softball, (4) Soccer, (1) Football

YEAR COMPLETED: 2019

PROJECT NAME: Snowden Grove Soccer Fields

PROJECT LOCATION: South Haven, MS

NUMBER OF FIELDS: (7) Soccer Field

YEAR COMPLETED: 2020

Multi-Use Facilities

Babcock Park

Hialeah, Florida

Baldoin Athletic Facility

Brunswick, Maine

Bill Noble Sports Complex

Gardendale, Alabama

Buena Vista Sports Complex

Laredo, Texas

Citizen Potawatomi Nation Complex

Shawnee, Oklahoma

Coppermine Edgewood Complex

Edgewood, Maryland

Cornerstone Park Athletic Complex

Starkville, Mississippi

Culpeper Sports Complex

Culpeper, Virginia

Eagle Pass Sports Complex

Eagle Pass, Texas

Eastport South Manor Complex

Manorville, New York

Fallon Sports Park

Dublin, California

Fishhawk Sports Complex

Lithia, Florida

Florence Athletic Complex

Florence, South Carolina

Frontier Family Park

Queen Creek, Arizona

Grimes Sportsplex

Grimes, Iowa

Hamilton Crossing Park

Cartersville, Georgia

Harold Patterson Sports Center

Arlington, Texas

Holiday Park

Fort Lauderdale, Florida

John R Jones Athletic Complex

Pensacola, Florida

Jupiter Community Park LED

Jupiter, Florida

Keller Sports Park

Keller, Texas

Kellogg Zaher Sports Complex

Las Vegas, Nevada

Lee County Athletic Park

Sanford, North Carolina

Liberty Sports Park

Upper Marlboro, Maryland

Midlothian Community Park

Midlothian, Texas

Mike Jacobs Sports Park

Tucson, Arizona

Mills Field Park

Saint Johns, Florida

Moyer Sports Complex

Salem, Virginia

mTrade Park

Oxford, Mississippi

Northland Sports Park

Kansas City, Missouri

Northwest Park

Rogers, Arkansas

Plummer Park

Edwardsville, Illinois

Red Mountain Park

Mesa, Arizona

Riverbend Park

Dalton, Georgia

Sanford Sports Complex South

Sioux Falls, South Dakota

Sawnee Mountain Park

Cumming, Georgia

Seminole Palms Park

Royal Palm Beach, Florida

The Fields at 17 Springs

Millbrook, Alabama

Tradition Regional Park

Port Saint Lucie, Florida

Trotters Park

Orlando, Florida

Waukee Triumph Park

Waukee, Iowa

Wayne Makin Sports Complex

Norco, California

Woodson Park Complex

Oklahoma City, Oklahoma

WSFS Bank Sportsplex

Chester, Pennsylvania

Baseball/Softball

Bakersfield Park

Flower Mound, Texas

Bill Williams Softball Complex

Midland, Texas

Canton Township Victory Park

Canton, Michigan

Champion Park

Kokomo, Indiana

DeMuth Park

Palm Springs, California

Hopefield Perfect Game

Kansas City, Missouri

IMG Academy Baseball Complex

Bradenton, Florida

Kino Sports Complex

Tucson, Arizona

McQuillan Softball Complex

Rochester, Minnesota

Michael O. Buchanon Park

Bowling Green, Kentucky

Moss Bluff Park

Lake Charles, Louisiana

Patriot Park North

Fairfax, Virginia

Pecos Baseball Complex

Pecos, Texas

Phillips Park

Bentonville, Arkansas

Reyes Mashburn Nelms Park

Midland, Texas

Sokol Park

Northport, Alabama

Surprise Stadium

Surprise, Arizona

Soccer

Betty Wilson Soccer Complex

Las Vegas, Nevada

Bridgeview Soccer Fields

Bridgeview, Illinois

Conway Soccer Complex

Conway, Arkansas

Ed Radice Park

Tampa, Florida

Lebanon Sports Complex

Lebanon, Tennessee

North Lowndes Soccer Complex

Lowndes, Georgia

Paragon Star Sports Complex

Lee's Summit, Missouri

Rick Klein Park

Amarillo, Texas

Roseville Soccer Complex

Roseville, California

South Lakes Park

Oklahoma City, Oklahoma

Winged Deer Park

Johnson City, Tennessee

Baseball

- Corbin Rotary Park**
Corbin, Kentucky
- Greenup County High School**
Greenup, Kentucky
- Greenwood High School**
Bowling Green, Kentucky
- Louisville Slugger Field** 
MiLB – Louisville Bats
Louisville, Kentucky
- North Oldham High School**
Goshen, Kentucky
- Tates Creek High School**
Lexington, Kentucky
- Scott County High School** 
Georgetown, Kentucky
- Trinity High School**
Saint Matthews, Kentucky

Football

- Apollo High School**
Owensboro, Kentucky
- Barren County High School**
Glasgow, Kentucky
- Bishop Brossart High School**
Alexandria, Kentucky
- Bowling Green High School**  
Bowling Green, Kentucky
- Boyd County High School** 
Ashland, Kentucky
- Campbell County Middle School**
Alexandria, Kentucky
- Corbin High School**   
Corbin, Kentucky
- Covington Catholic**
Park Hills, Kentucky
- Daviess County High School**
Owensboro, Kentucky
- Erlanger Elsmere School District**
Lloyd Football Stadium
Erlanger, Kentucky
- Kentucky Country Day School**  
Louisville, Kentucky
- Owensboro Middle School**
Owensboro, Kentucky
- Pulaski County High School**   
Somerset, Kentucky
- Thomas More College**
Crestview Hills, Kentucky

Soccer

- Capitol View Park**  
Frankfort, Kentucky
- Henderson County High School** 
Henderson, Kentucky
- Louisville City FC**  
Butchertown Stadium
Louisville, Kentucky
- Notre Dame High School**  
Park Hills, Kentucky
- Preston Miller Park**
Bowling Green, Kentucky
- Somerset High School**
Somerset, Kentucky

Softball

- Glasgow High School**
Glasgow, Kentucky
- Henderson County High School**
Henderson, Kentucky
- North Oldham High School**
Goshen, Kentucky
- Robertson County High School**
Mt. Olivet, Kentucky
- University of Louisville**   
Louisville, Kentucky

Little League

- Fern Creek Miracle Field**
Louisville, Kentucky
- Kereiakes Park**
Bowling Green, Kentucky
- Ray Jewel Park** 
Taylorsville, Kentucky

Other

- KFC YUM Center**  
Louisville Arena
Basketball
Louisville, Kentucky
- Muhlenburg County Park**
Parking lot lighting
Greenville, Kentucky

Tennis

- Freeman Lake Park**
Elizabethtown, Kentucky
- Greenwood High School**
Bowling Green, Kentucky
- Woodland Park**
Lexington, Kentucky

Multi-Sport

- Beechwood High School**
Baseball, Soccer & Softball
Fort Mitchell, Kentucky
- Bethlehem High School**
Football, Soccer & Softball
Bardstown, Kentucky
- Carter County Sports Complex**
Baseball, Football, Soccer & Softball
Grayson, Kentucky
- Eastern Kentucky University**   
Basketball, Football, Track & Sand
Volleyball
Richmond, Kentucky
- George Rogers Clark High School**
Baseball, Football, Softball & Tennis
Winchester, Kentucky
- Great Crossing High School**  
Baseball, Football, Soccer & Softball
Georgetown, Kentucky
- Great Crossing Park**
Baseball, Softball & Tennis
Georgetown, Kentucky
- Hart County High School**
Football & Tennis
Munfordville, Kentucky
- Mount Washington Park**
Baseball, Softball & Soccer
Mount Washington, Kentucky
- Murray State University**
Football 
Murray, Kentucky
- Spalding University**
Soccer & Softball
Louisville, Kentucky
- Spencer County**
Baseball, Softball & Tennis
Taylorsville, Kentucky
- University of Kentucky**
Commonwealth Stadium
Football, Softball, Soccer, Tennis.
Intramural field, Baseball 
Lexington, Kentucky
- Warren County Park**
Baseball & Softball
Bowling Green, Kentucky
- Warren County Schools**
Greenwood High School – Baseball &
Tennis
Bowling Green, Kentucky



AIA® Document A310™ – 2010

Bid Bond

CONTRACTOR:

(Name, legal status and address)

Musco Sports Lighting, LLC

100 1st Avenue West
Oskaloosa, IA 52577

SURETY:

(Name, legal status and principal place
of business)

Travelers Casualty and Surety Company of America
One Tower Square, 6GS
Hartford, CT 06183

OWNER:

(Name, legal status and address)

City of Paducah
300 S. 5th St.
Paducah, KY 42002

BOND AMOUNT: Five percent of Bid Amount-----(5%)

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

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

PROJECT:

(Name, location or address, and Project number, if any)

Paducah McCracken County Sports Complex - Project #225151

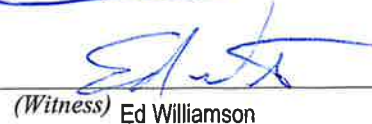
The Contractor and Surety are bound to the Owner in the amount set forth above, for the payment of which the Contractor and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, as provided herein. The conditions of this Bond are such that if the Owner accepts the bid of the Contractor within the time specified in the bid documents, or within such time period as may be agreed to by the Owner and Contractor, and the Contractor either (1) enters into a contract with the Owner in accordance with the terms of such bid, and gives such bond or bonds as may be specified in the bidding or Contract Documents, with a surety admitted in the jurisdiction of the Project and otherwise acceptable to the Owner, for the faithful performance of such Contract and for the prompt payment of labor and material furnished in the prosecution thereof; or (2) pays to the Owner the difference, not to exceed the amount of this Bond, between the amount specified in said bid and such larger amount for which the Owner may in good faith contract with another party to perform the work covered by said bid, then this obligation shall be null and void, otherwise to remain in full force and effect. The Surety hereby waives any notice of an agreement between the Owner and Contractor to extend the time in which the Owner may accept the bid. Waiver of notice by the Surety shall not apply to any extension exceeding sixty (60) days in the aggregate beyond the time for acceptance of bids specified in the bid documents, and the Owner and Contractor shall obtain the Surety's consent for an extension beyond sixty (60) days.

If this Bond is issued in connection with a subcontractor's bid to a Contractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

When this Bond has been furnished to comply with a statutory or other legal requirement in the location of the Project, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

SEE LIMITED MAINTENANCE PROVISION RIDER ATTACHED HERETO AND MADE A PART HEREOF
Signed and sealed this 26th day of March, 2024


(Witness)


(Witness) Ed Williamson

Musco Sports Lighting, LLC

(Principal)

(Title)

Travelers Casualty and Surety Company of America

(Surety)

(Title)

Dean M. Clark, Attorney-in-Fact

(Seal)

(Seal)

Init.

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Limited Maintenance Provision

Rider

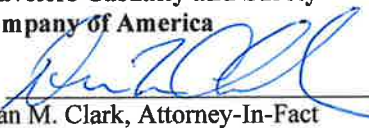
To be attached to and form part of bond no. BID BOND issued by the **Travelers Casualty and Surety Company of America** on behalf of Musco Sports Lighting, LLC in the amount of Five Percent of the Amount Bid (5%) and dated March 26th, 2024, in favor City of Paducah, 300 S. 5th St., Paducah, KY 42002 for Paducah McCracken County Sports Complex – Proj. No. 225151

Principal and Surety shall guarantee that the work will be free of defective materials and workmanship for a period of **Twelve (12)** months following completion of the contract. Any additional warranty or guarantee whether expressed or implied is extended by the Principal or Manufacturer only, and the Surety assumes no liability for such a guarantee.

Musco Sports Lighting, LLC

By: 

**Travelers Casualty and Surety
Company of America**

By: 

Dean M. Clark, Attorney-In-Fact

Albertville, AL

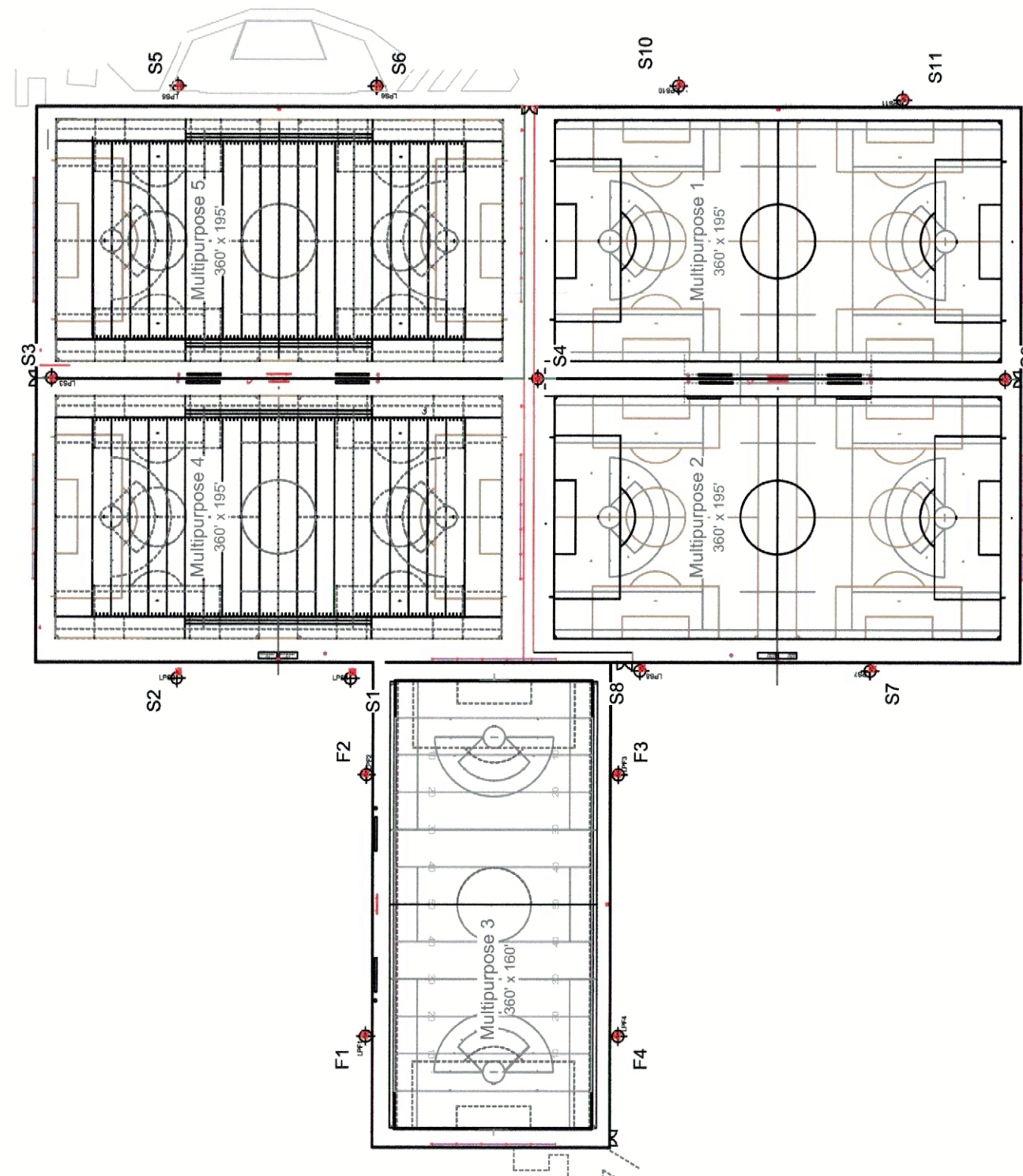
INCLUDES:

- Multipurpose 1**

Electrical System Requirements: Refer to Amperage

EQUIPMENT LIST FOR AREAS SHOWN

* This structure utilizes a back-to-back mounting configuration.





GUARANTEED PERFORMANCE
EQUIPMENT LAYOUT
Elizabethtown Sports Park
Elizabethtown, KY

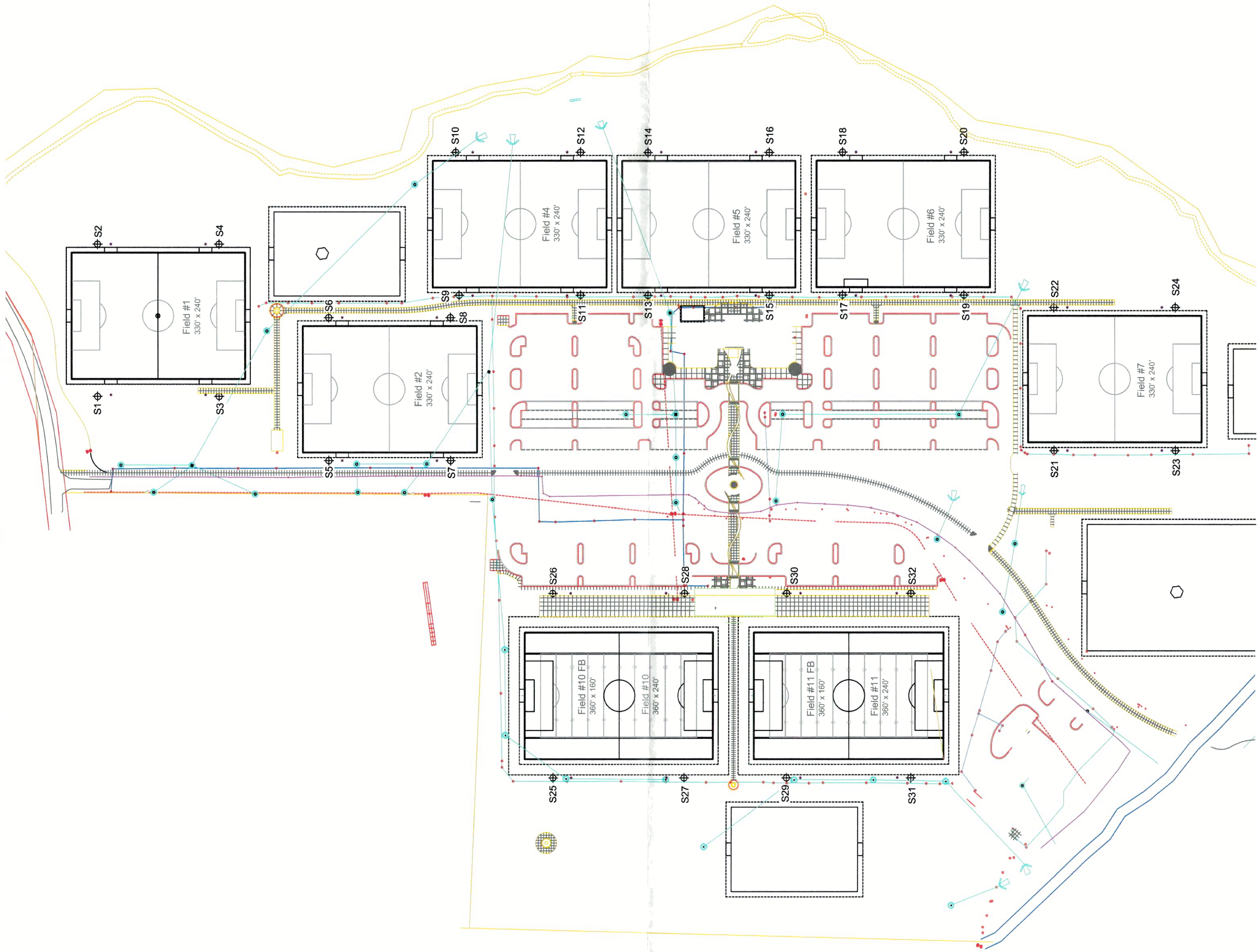
- INCLUDES:**
- Field #1
 - Field #10
 - Field #10 FB
 - Field #11
 - Field #11 FB
 - Field #2
 - Field #4
 - Field #6
 - Field #7

Electrical System Requirements: Refer to Amperage Draw Chart and/or the "Musco Control System Summary" for electrical sizing.

Installation Requirements: Results assume +/- 3% nominal voltage at line side of the ballast and structures located within 3 feet (1m) of design locations.

EQUIPMENT LIST FOR AREAS SHOWN				
QTY	LOCATION	SIZE	WATTAGE EQUIVALENT	LUMINAIRE TYPE
22	S1	70'	-	1500W MZ
	S3, S5-S9	70'	-	1500W MZ
2	S10-S24	70'	-	1500W MZ
4	S25, S27	80'	-	1500W MZ
	S29, S31	80'	-	1500W MZ
4	S30, S32	90'	-	1500W MZ
32	TOTALS			

SINGLE LUMINAIRE AMPERAGE DRAW CHART				
Ballast Specifications				
(30 min power factor)				
Line Amperage Per Luminaire	208	240	277	347
(max draw)	(80)	(80)	(80)	(80)
Single Phase Voltage	208	240	277	347
1500 watt MZ	8.6	7.7	7.5	6.5



SCALE IN FEET 1 : 150
0 150' 300'

By: Ryan Wolter

Date: 12-Jul-11

File #: 138028Sprod

Pole location(s) Ⓢ dimensions are relative to 0.0 reference point(s) Ⓢ
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Print Date (12Jul2011) & Time (08:16)



GUARANTEED PERFORMANCE

EQUIPMENT LAYOUT

Elizabethtown Sports Park
Elizabethtown, KY

INCLUDES:

- Diamond #10
- Diamond #11
- Diamond #12
- Diamond #9

Electrical System Requirements: Refer to Amperage Draw Chart and/or the "Musco Control System Summary" for electrical sizing.

Installation Requirements: Results assume +/- 3% nominal voltage at line side of the ballast and structures located within 3 feet (1m) of design locations.

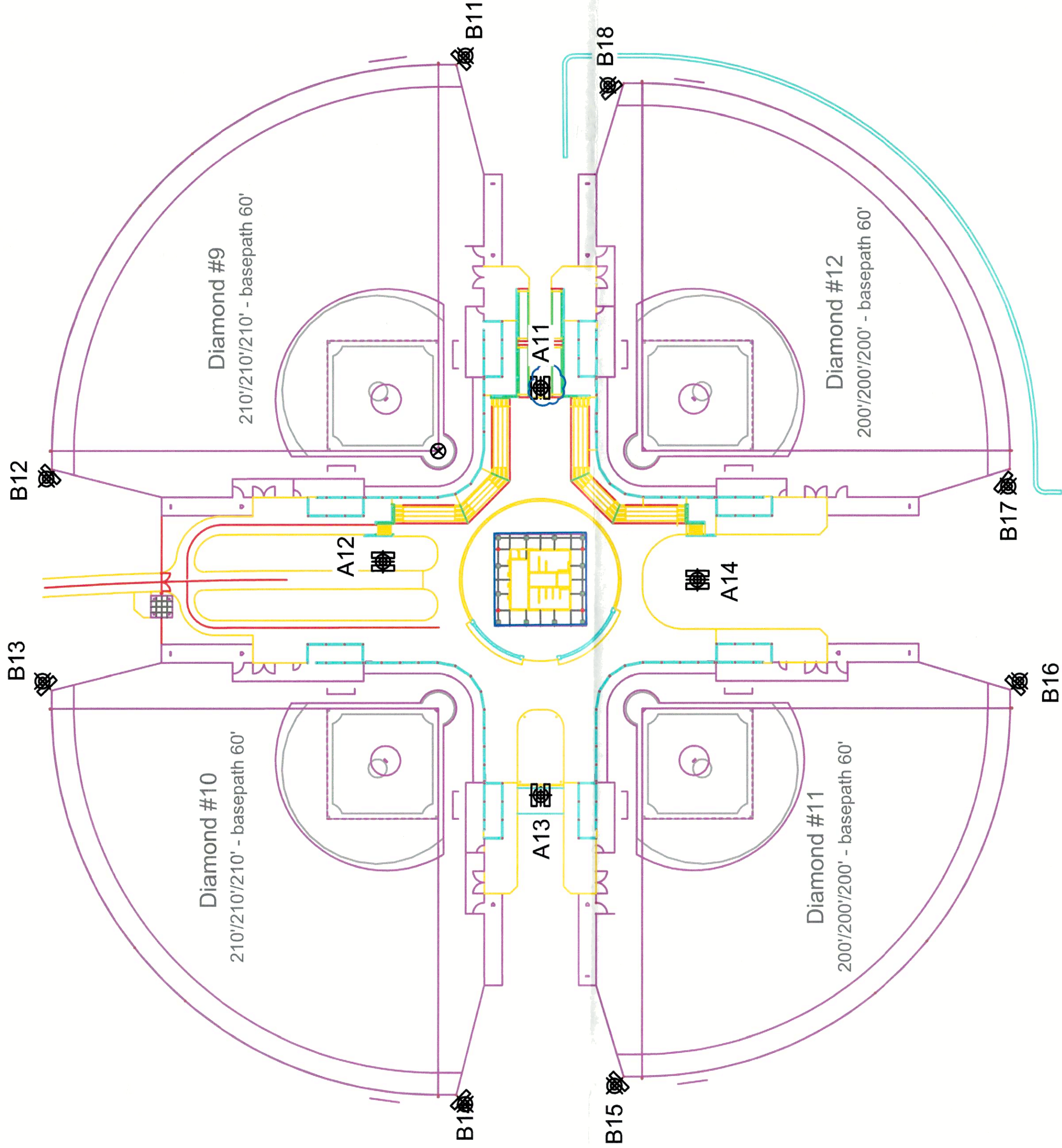
EQUIPMENT LIST FOR AREAS SHOWN

Pole			Luminaires			
QTY	LOCATION	SIZE	GRADE ELEVATION	MOUNTING HEIGHT	LAMP TYPE	QTY / POLE
3	A11-A13	70'	-	70'	1500W MZ	4/4*
1	A14	70'	-	70'	1500W MZ	4/4*
8	B11-B18	60'	-	60'	1500W MZ	5
12	TOTALS			72		

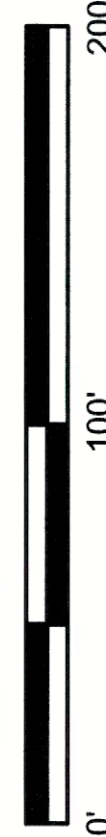
* This structure utilizes a back-to-back mounting configuration

SINGLE LUMINAIRE AMPERAGE DRAW CHART

Ballast Specifications (.90 min power factor)	Line Amperage Per Luminaire (max draw)				
Single Phase Voltage	208 (60)	220 (60)	240 (60)	277 (60)	380 (60)
1500 watt MZ	-	-	-	-	-



SCALE IN FEET 1 : 100



Pole location(s) + dimensions are relative to 0.0 reference point(s) ⊗

By: Ryan Wolver

File #: 138028CprodR1

Date: 24-Aug-11

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GUARANTEED PERFORMANCE

EQUIPMENT LAYOUT

Elizabethtown Sports Park
Elizabethtown, KY

INCLUDES:

- Diamond #5
- Diamond #6
- Diamond #7
- Diamond #8
- Walkway Lighting

Electrical System Requirements: Refer to Amperage Draw Chart and/or the "Musco Control System Summary" for electrical sizing.

Installation Requirements: Results assume +/- 3% nominal voltage at line side of the ballast and structures located within 3 feet (1m) of design locations.

EQUIPMENT LIST FOR AREAS SHOWN

Pole				Luminaires		
QTY	LOCATION	SIZE	GRADE ELEVATION	MOUNTING HEIGHT	LAMP TYPE	QTY / POLE
1	A7	70'	-	70'	1500W MZ	5/5*
6	A8-A9 A10 B8-B9 B10	70'	-	70'	1500W MZ	5/5*
1	B7	70'	-	70'	1500W MZ	5/5*
6	C10-C15	70'	-	70'	1500W MZ	5
2	C16, C9	70'	-	60'	400W MH	1
				70'	1500W MZ	5
16	←————TOTALS			————→		122

* This structure utilizes a back-to-back mounting configuration

* This structure utilizes a back-to-back mounting configuration

SINGLE LUMINAIRE AMPERAGE DRAW CHART

Ballast Specifications (90 min power factor)		Line Amperage Per Luminaire (max draw)					
Single Phase Voltage		208 (60)	220 (60)	240 (60)	277 (60)	347 (60)	480 (60)
400 watt MH		2.3	-	2.0	1.7	1.4	-
1500 watt MZ		8.6	7.7	7.5	6.5	5.1	-

By: Ryan Wolver

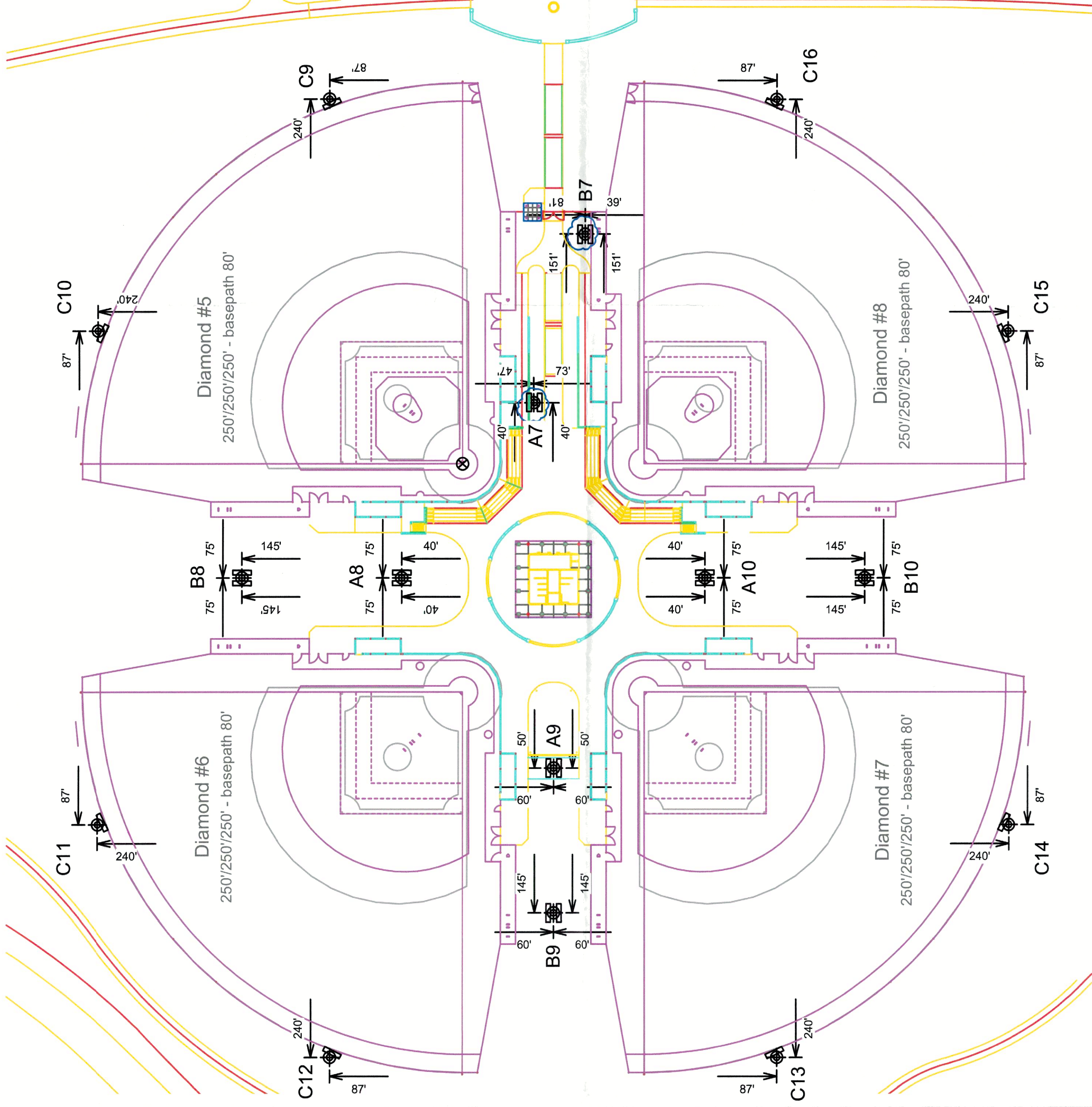
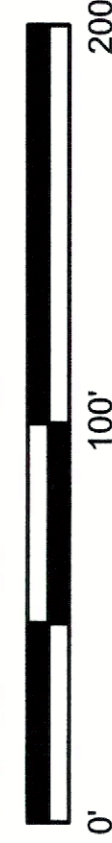
File #: 138028BprodR1

Date: 24-Aug-11

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Pole location(s) ⚡ dimensions are relative to 0,0 reference point(s) ⊗

SCALE IN FEET 1 : 100





GUARANTEED PERFORMANCE

EQUIPMENT LAYOUT

Elizabethtown Sports Park
Elizabethtown, KY

INCLUDES:

- Diamond #1
- Diamond #2
- Diamond #3
- Diamond #4

Electrical System Requirements: Refer to Amperage Draw Chart and/or the "Musco Control System Summary" for electrical sizing.

Installation Requirements: Results assume +/- 3% nominal voltage at line side of the ballast and structures located within 3 feet (1m) of design locations.

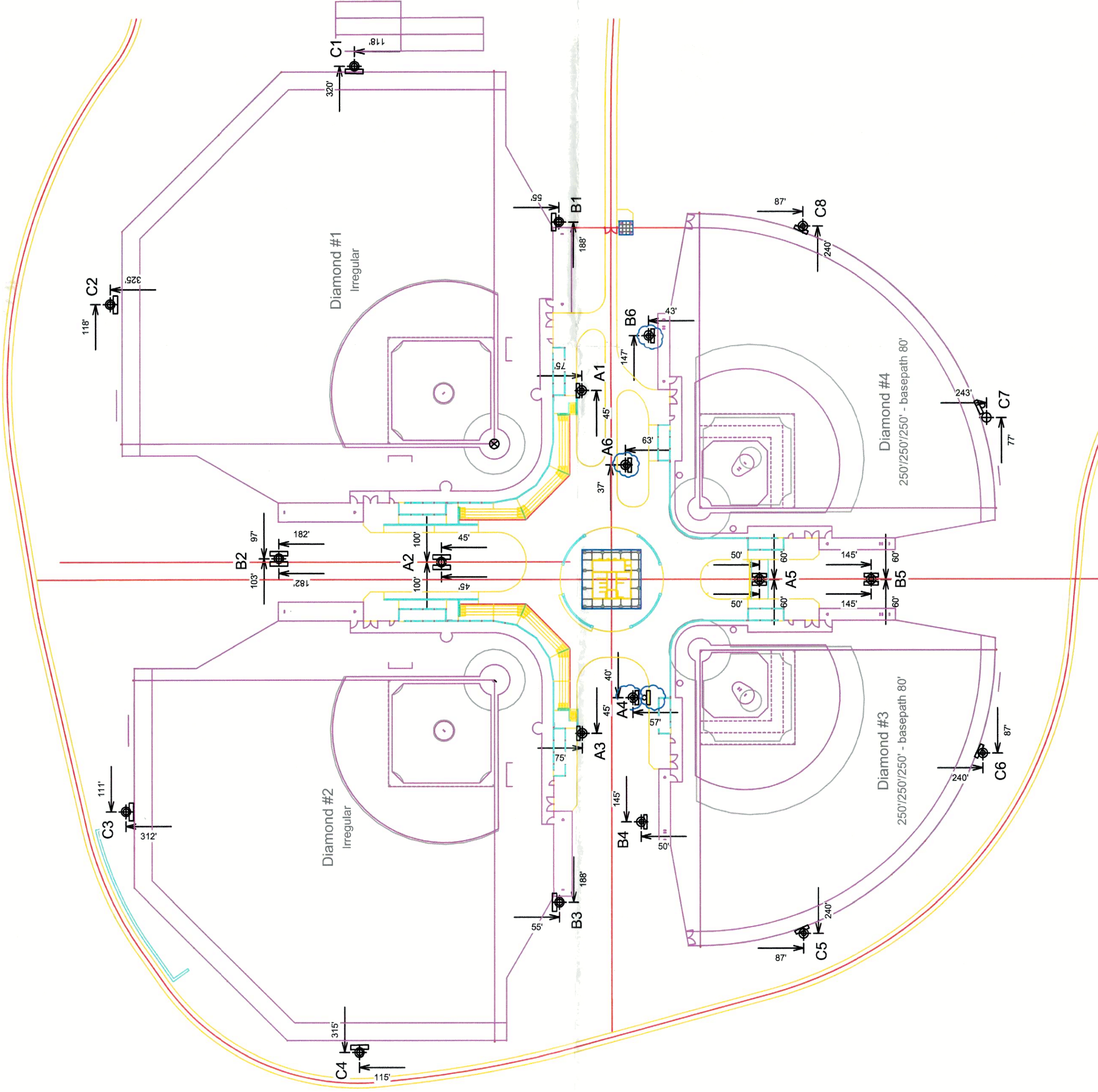
EQUIPMENT LIST FOR AREAS SHOWN

Pole		Luminaires	
QTY	LOCATION	CLASS	GRADE ELEVATION
2	A1, A3	LSS90A	-
1	A2	LSS90C	-
1	A4	LSS70C	-
2	A5, B5	LSS70D	-
1	A6	LSS70A	-
1	B1	LSS80B	-
1	B2	LSS90C	-
1	B3	LSS80A	-
2	B4, B6	LSS70B	-
4	C1-C4	LSS70C	-
4	C5-C8	LSS70B	-
TOTALS			
20			154

* This structure utilizes a back-to-back mounting configuration

SINGLE LUMINAIRE AMPERAGE DRAW CHART

Ballast Specifications	Line Amperage Per Luminaire			
(90 min power factor)	(max draw)			
Single Phase Voltage	208	220	240	277
1500 watt MZ	8.6	7.7	7.5	6.5
				5.1
				3.7



SCALE IN FEET 1 : 100



Pole location(s) ⚡ dimensions are relative to 0.0 reference point(s) ⊗

By: Ryan Wolver

File #: 138028AprodR1

Date: 18-Aug-11

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Print Date (18/Aug/2011) & Time (13:31)

Southaven Park Phase 1
Southaven, MS

EQUIPMENT LAYOUT

INCLUDES:

- Soccer 1
- Soccer 2
- Soccer 3
- Soccer 4
- Soccer 5
- Soccer 6
- Soccer 7

Electrical System Requirements: Refer to Amperage Draw Chart and/or the "Musco Control System Summary" for electrical sizing.

Installation Requirements: Results assume ± 3% nominal voltage at line side of the driver and structures located within 3 feet (1m) of design locations.

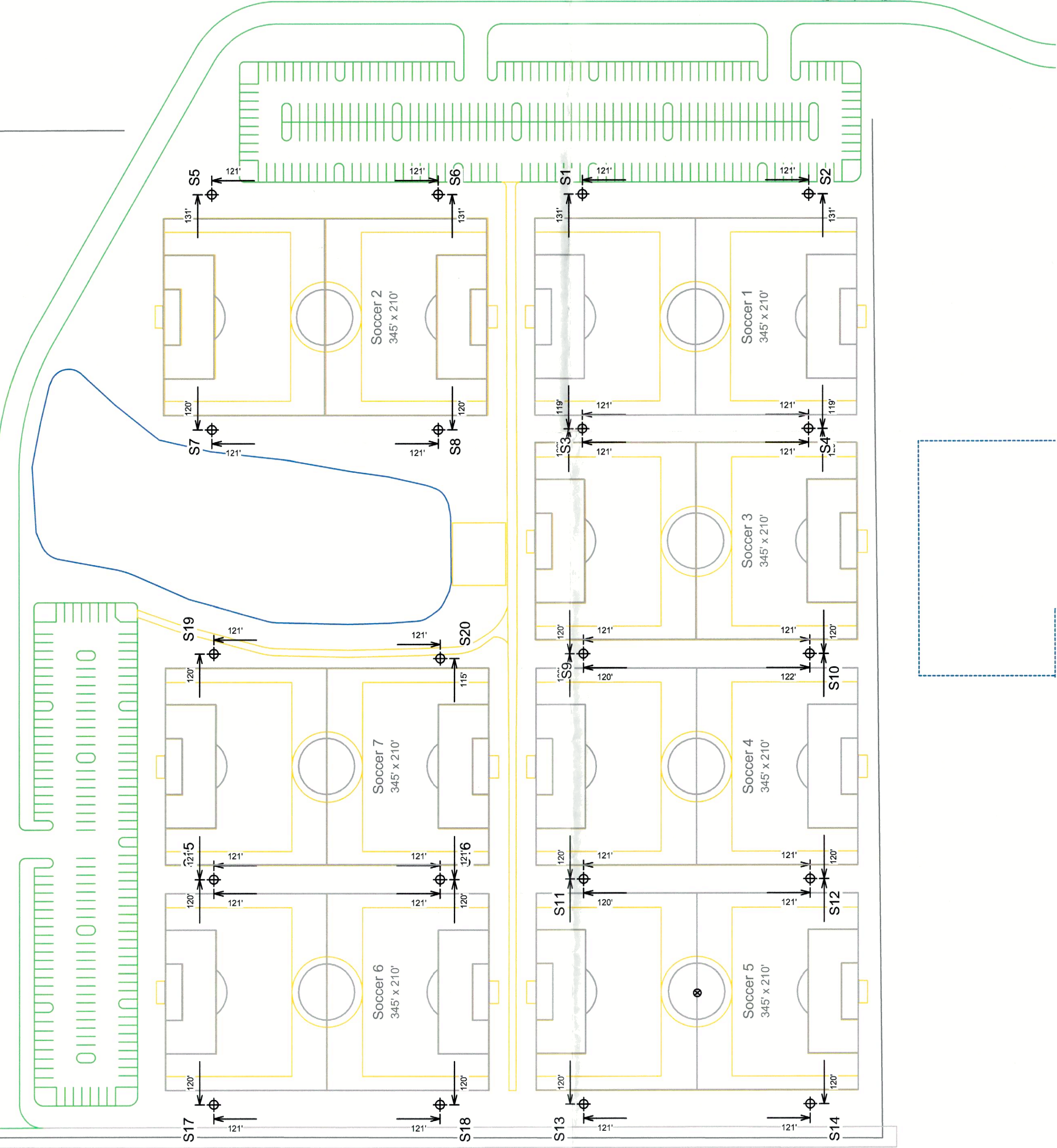
EQUIPMENT LIST FOR AREAS SHOWN

QTY	LOCATION	SIZE	GRADE ELEVATION	MOUNTING HEIGHT	Luminaires		QTY
					TYPE	POLE	
8	S1-S2 S13-S14 S17-S18 S5-S6	70"	-	70'	TLC-LED-1200		6
2	S3-S4 S9-S12	70"	-	70'	TLC-LED-1200		5/5*
6	S15-S16 S19-S20	70"	-	70'	TLC-LED-1200		5/6*
4	S19-S20 S7-S8	70"	-	70'	TLC-LED-1200		5
20	TOTALS						154

* This structure utilizes a back-to-back mounting configuration

SINGLE LUMINAIRE AMPERAGE DRAW CHART

Ballast Specifications (90 min power factor)		Line Amperage Per Luminaire (max draw)							
Single Phase Voltage		208 (60)	220 (60)	240 (60)	277 (60)	347 (60)	380 (60)	480 (60)	
TLC-LED-1200		7.0	6.6	6.1	5.2	4.2	4.0	3.0	



Pole location(s) Ⓢ dimensions are relative to 0,0 reference point(s) ⊗



SCALE IN FEET 1 : 120



ENGINEERED DESIGN By: Isaac Sanders • File #156073_prod_r1 • 30-Jun-20



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EQUIPMENT LAYOUT



Travelers Casualty and Surety Company of America
Travelers Casualty and Surety Company
St. Paul Fire and Marine Insurance Company

POWER OF ATTORNEY

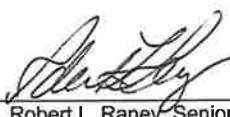
KNOW ALL MEN BY THESE PRESENTS: That Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company are corporations duly organized under the laws of the State of Connecticut (herein collectively called the "Companies"), and that the Companies do hereby make, constitute and appoint **Dean M. Clark** of **DES MOINES**, **Iowa**, their true and lawful Attorney(s)-in-Fact to sign, execute, seal and acknowledge any and all bonds, recognizances, conditional undertakings and other writings obligatory in the nature thereof on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

IN WITNESS WHEREOF, the Companies have caused this instrument to be signed, and their corporate seals to be hereto affixed, this **21st** day of **April**, 2021.



State of Connecticut

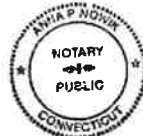
City of Hartford ss.

By: 
Robert L. Raney, Senior Vice President

On this the **21st** day of **April**, 2021, before me personally appeared **Robert L. Raney**, who acknowledged himself to be the Senior Vice President of each of the Companies, and that he, as such, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing on behalf of said Companies by himself as a duly authorized officer.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

My Commission expires the **30th** day of **June**, 2026




Anna P. Nowik, Notary Public

This Power of Attorney is granted under and by the authority of the following resolutions adopted by the Boards of Directors of each of the Companies, which resolutions are now in full force and effect, reading as follows:

RESOLVED, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President, any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary may appoint Attorneys-in-Fact and Agents to act for and on behalf of the Company and may give such appointee such authority as his or her certificate of authority may prescribe to sign with the Company's name and seal with the Company's seal bonds, recognizances, contracts of indemnity, and other writings obligatory in the nature of a bond, recognizance, or conditional undertaking, and any of said officers or the Board of Directors at any time may remove any such appointee and revoke the power given him or her; and it is

FURTHER RESOLVED, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President may delegate all or any part of the foregoing authority to one or more officers or employees of this Company, provided that each such delegation is in writing and a copy thereof is filed in the office of the Secretary; and it is

FURTHER RESOLVED, that any bond, recognizance, contract of indemnity, or writing obligatory in the nature of a bond, recognizance, or conditional undertaking shall be valid and binding upon the Company when (a) signed by the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary and duly attested and sealed with the Company's seal by a Secretary or Assistant Secretary; or (b) duly executed (under seal, if required) by one or more Attorneys-in-Fact and Agents pursuant to the power prescribed in his or her certificate or their certificates of authority or by one or more Company officers pursuant to a written delegation of authority; and it is

FURTHER RESOLVED, that the signature of each of the following officers: President, any Executive Vice President, any Senior Vice President, any Vice President, any Assistant Vice President, any Secretary, any Assistant Secretary, and the seal of the Company may be affixed by facsimile to any Power of Attorney or to any certificate relating thereto appointing Resident Vice Presidents, Resident Assistant Secretaries or Attorneys-in-Fact for purposes only of executing and attesting bonds and undertakings and other writings obligatory in the nature thereof, and any such Power of Attorney or certificate bearing such facsimile signature or facsimile seal shall be valid and binding upon the Company and any such power so executed and certified by such facsimile signature and facsimile seal shall be valid and binding on the Company in the future with respect to any bond or understanding to which it is attached.

I, **Kevin E. Hughes**, the undersigned, Assistant Secretary of each of the Companies, do hereby certify that the above and foregoing is a true and correct copy of the Power of Attorney executed by said Companies, which remains in full force and effect.

Dated this **26th** day of **March**, 2024.




Kevin E. Hughes, Assistant Secretary

To verify the authenticity of this Power of Attorney, please call us at 1-800-421-3880.
Please refer to the above-named Attorney(s)-in-Fact and the details of the bond to which this Power of Attorney is attached.



PADUCAH
SPORTS PARK

Exhibit – Cost Reduction List Bid Package 1B – Field Lighting | Musco Sports Lighting

Base Bid	Vendor Pricing	Status
Base Bid	\$ 2,733,000.00	
Alternate pricing		
Remove Field 1 (Championship) from current design	\$ (165,525.00)	Accepted
change warranty from 25 year to 10 year	\$ (155,000.00)	Rejected
Remove one rectangle field (field #10). And associated retaining wall.	\$ -	Rejected
Deduct pickleball courts and parking as shown in Bid drawings	\$ (199,000.00)	Accepted
Eliminate basketball courts and parking	\$ (54,000.00)	Accepted
RGBA Lighting and Entertainment lighting	\$ (50,000.00)	Accepted
Adjusted Contract Price less above adjustments	\$ 2,264,475.00	

DOCUMENT 000117 – INDEX OF DRAWINGS

BID PACKAGE 01 – SITE
PADUCAH SPORTS PARK
PADUCAH, KENTUCKY

<u>NUMBER</u>	<u>TITLE</u>
	COVER SHEET: BID PACKAG 01 – SITE
	SHEET INDEX
<u>CIVIL - SITE DEMOLITION</u>	
C1.0	OVERALL SITE DEMOLITION PLAN
C1.1	ENLARGED DEMOLITION PLAN
C1.2	ENLARGED DEMOLITION PLAN
C1.3	ENLARGED DEMOLITION PLAN
C1.4	ENLARGED DEMOLITION PLAN
C1.5	ENLARGED DEMOLITION PLAN
C1.6	ENLARGED DEMOLITION PLAN
C1.7	ENLARGED DEMOLITION PLAN
C1.8	ENLARGED DEMOLITION PLAN
C1.9	ENLARGED DEMOLITION PLAN
C1.10	ENLARGED DEMOLITION PLAN
C1.11	DISC GOLF COURSE DEMOLTION PLAN
<u>CIVIL - SITE DEVELOPMENT</u>	
C2.0A	OVERALL SITE DEVELOPMENT PLAN
C2.0B	OVERALL SITE DEVELOPMENT PLAN - WEST
C2.0C	OVERALL SITE DEVELOPMENT PLAN - EAST
C2.1	ENLARGED DEVELOPMENT PLAN
C2.2	ENLARGED DEVELOPMENT PLAN
C2.3	ENLARGED DEVELOPMENT PLAN
C2.4	ENLARGED DEVELOPMENT PLAN
C2.5	ENLARGED DEVELOPMENT PLAN
C2.6	ENLARGED DEVELOPMENT PLAN
C2.7	ENLARGED DEVELOPMENT PLAN
C2.8	ENLARGED DEVELOPMENT PLAN
C2.9	ENLARGED DEVELOPMENT PLAN
C2.10	ENLARGED DEVELOPMENT PLAN
C2.11	ENLARGED DEVELOPMENT PLAN
C2.12	ENLARGED DEVELOPMENT PLAN
C2.13	ENLARGED DEVELOPMENT PLAN
C2.14	ENLARGED DEVELOPMENT PLAN
C2.15	ENLARGED DEVELOPMENT PLAN
C2.16	ENLARGED DEVELOPMENT PLAN
C2.17	ENLARGED DEVELOPMENT PLAN
C2.18	ENLARGED DEVELOPMENT PLAN
C2.19	ENLARGED DEVELOPMENT PLAN
C2.20	ENLARGED DEVELOPMENT PLAN
C2.21	ENLARGED DEVELOPMENT PLAN

CIVIL - SITE GRADING

C3.0	OVERALL SITE GRADING PLAN
C3.1	ENLARGED GRADING PLAN
C3.2	ENLARGED GRADING PLAN
C3.3	ENLARGED GRADING PLAN
C3.4	ENLARGED GRADING PLAN
C3.5	ENLARGED GRADING PLAN
C3.6	ENLARGED GRADING PLAN
C3.7	ENLARGED GRADING PLAN
C3.8	ENLARGED GRADING PLAN
C3.9	ENLARGED GRADING PLAN
C3.10	ENLARGED GRADING PLAN
C3.11	ENLARGED GRADING PLAN
C3.12	ENLARGED GRADING PLAN
C3.13	ENLARGED GRADING PLAN
C3.14	ENLARGED GRADING PLAN
C3.15	ENLARGED GRADING PLAN
C3.16	ENLARGED GRADING PLAN
C3.17	ENLARGED GRADING PLAN
C3.18	ENLARGED GRADING PLAN
C3.19	ENLARGED GRADING PLAN
C3.20	ENLARGED GRADING PLAN
C3.21	ENLARGED GRADING PLAN
C3.30	OVERALL EROSION AND SEDIMENTATION CONTROL PLAN
C3.31	ENLARGED EROSION AND SEDIMENTATION CONTROL PLAN
C3.32	ENLARGED EROSION AND SEDIMENTATION CONTROL PLAN
C3.33	ENLARGED EROSION AND SEDIMENTATION CONTROL PLAN
C3.34	ENLARGED EROSION AND SEDIMENTATION CONTROL PLAN
C3.35	ENLARGED EROSION AND SEDIMENTATION CONTROL PLAN
C3.36	ENLARGED EROSION AND SEDIMENTATION CONTROL PLAN
C3.37	EROSION AND SEDIMENTATION CONTROL DETAILS

CIVIL - SITE STORMWATER

C4.0A	OVERALL SITE STORMWATER PLAN
C4.0B	OVERALL SITE STORMWATER PLAN - WEST
C4.0C	OVERALL SITE STORMWATER PLAN - EAST
C4.1	ENLARGED STORMWATER PLAN
C4.2	ENLARGED STORMWATER PLAN
C4.3	ENLARGED STORMWATER PLAN
C4.4	ENLARGED STORMWATER PLAN
C4.5	ENLARGED STORMWATER PLAN
C4.7	ENLARGED STORMWATER PLAN
C4.8	ENLARGED STORMWATER PLAN
C4.9	ENLARGED STORMWATER PLAN
C4.10	ENLARGED STORMWATER PLAN
C4.11	ENLARGED STORMWATER PLAN
C4.12	ENLARGED STORMWATER PLAN
C4.13	ENLARGED STORMWATER PLAN
C4.14	ENLARGED STORMWATER PLAN
C4.15	ENLARGED STORMWATER PLAN

C4.16	ENLARGED STORMWATER PLAN
C4.17	ENLARGED STORMWATER PLAN
C4.18	ENLARGED STORMWATER PLAN
C4.19	ENLARGED STORMWATER PLAN
C4.21	ENLARGED STORMWATER PLAN
C4.22	STORMWATER STRUCTURE AND PIPE TABLES
C4.23	STORMWATER STRUCTURE AND PIPE TABLES
C4.24	STORMWATER DETAILS
C4.25	STORMWATER DETAILS
C4.26	STORMWATER DETAILS
C4.27	STORMWATER DETAILS

CIVIL - SITE UTILITY

C5.0	OVERALL SITE UTILITY PLAN
C5.2	ENLARGED UTILITY PLAN
C5.3	ENLARGED UTILITY PLAN
C5.4	ENLARGED UTILITY PLAN
C5.5	ENLARGED UTILITY PLAN
C5.6	ENLARGED UTILITY PLAN
C5.8	ENLARGED UTILITY PLAN
C5.9	ENLARGED UTILITY PLAN
C5.10	ENLARGED UTILITY PLAN
C5.13	ENLARGED UTILITY PLAN
C5.14	ENLARGED UTILITY PLAN
C5.16	ENLARGED UTILITY PLAN
C5.17	ENLARGED UTILITY PLAN
C5.18	ENLARGED UTILITY PLAN
C5.21	ENLARGED UTILITY PLAN
C5.22	UTILITY DETAILS
C5.23	UTILITY DETAILS
C5.24	SANITARY SEWER LIFT STATION DETAILS
C5.25	SANITARY SEWER LIFT STATION DETAILS
C5.26	SANITARY SEWER PLAN AND PROFILE - LINE A & B
C5.27	SANITARY SEWER PLAN AND PROFILE - FORCE MAIN
C5.28	SANITARY SEWER PLAN AND PROFILE - FORCE MAIN
C5.29	SANITARY SEWER PLAN AND PROFILE - FORCE MAIN
C5.30	SANITARY SEWER PLAN AND PROFILE - LINE C
C5.31	SANITARY SEWER PLAN AND PROFILE - LINE D
C5.32	WATER MAIN RELOCATION PLAN AND PROFILE

CIVIL - SITE DETAILS

C6.0	SITE DETAILS
C6.1	SITE DETAILS
C6.2	SITE DETAILS

LANDSCAPE

L1.0	SITE FURNISHINGS AND AMENITIES – KEY PLAN
L2.0	SITE FURNISHINGS AND AMENITIES PLAN
L2.1	SITE FURNISHINGS AND AMENITIES PLAN
L2.2	SITE FURNISHINGS AND AMENITIES PLAN

L2.3	SITE FURNISHINGS AND AMENITIES PLAN
L3.0	SITE FURNISHINGS AND AMENITIES PLAN ENLARGEMENT
L3.1	SITE FURNISHINGS AND AMENITIES PLAN ENLARGEMENT
L3.2	SITE FURNISHINGS AND AMENITIES PLAN ENLARGEMENT
L3.3	SITE FURNISHINGS AND AMENITIES PLAN ENLARGEMENT
L3.4	SITE FURNISHINGS AND AMENITIES PLAN ENLARGEMENT
L3.5	SITE FURNISHINGS AND AMENITIES PLAN ENLARGEMENT
L3.6	SITE FURNISHINGS AND AMENITIES PLAN ENLARGEMENT
L3.7	SITE FURNISHINGS AND AMENITIES PLAN ENLARGEMENT
L4.0	OVERALL PLANTING PLAN AND PLANTING NOTES
L5.0	PLANTING PLAN
L5.1	PLANTING PLAN
L5.2	PLANTING PLAN
L5.3	PLANTING PLAN
L5.4	PLANTING PLAN
L5.5	PLANTING PLAN
L5.6	PLANTING PLAN
L5.7	PLANTING PLAN
L5.8	PLANTING PLAN
L5.9	PLANTING PLAN
L5.10	PLANTING PLAN
L5.11	PLANTING PLAN
L5.12	PLANTING PLAN
L5.13	PLANTING PLAN
L5.14	PLANTING PLAN
L5.15	PLANTING PLAN
L5.16	PLANTING PLAN
L5.17	PLANTING PLAN
L5.18	PLANTING PLAN
L6.0	PLANTING PLAN ENLARGEMENT
L6.1	PLANTING PLAN ENLARGEMENT
L6.2	PLANTING PLAN ENLARGEMENT
L6.3	PLANTING PLAN ENLARGEMENT
L7.0	SITE FURNISHING AND AMENITIES DETAILS
L7.1	SITE FURNISHING AND AMENITIES DETAILS
L7.2	SITE FURNISHING AND AMENITIES DETAILS
L7.3	SITE FURNISHING AND AMENITIES DETAILS
L7.4	SITE FURNISHING AND AMENITIES DETAILS
L7.5	SITE FURNISHING AND AMENITIES DETAILS
L7.6	SITE FURNISHING AND AMENITIES DETAILS
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L7.8	SITE FURNISHING AND AMENITIES DETAILS
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Paducah Sports Park
150 Downs Drive
Paducah, Kentucky

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Agenda Action Form

Paducah City Commission

Meeting Date: June 25, 2024

Short Title: Accept recommendation from Sports Tourism Commission for evaluated bids for Paducah Sports Park for Bid Package 01 - Site/Civil and Bid Package 02 - Buildings and approve construction contracts with A&K Construction in the amount of \$47,771,839.00 - **A. CLARK & D. JORDAN**

Category: Municipal Order

Staff Work By: Amie Clark
Presentation By: Amie Clark, Daron Jordan

Background Information: PFGW Architects, on behalf of the Sports Tourism Commission, McCracken County Fiscal Court, and City of Paducah released a Request for Bids on February 17 for Site/Civil for the Paducah Sports Park. Bid Opening was held March 26. Three (3) bids were submitted. Bid Package 02: Buildings was released on March 23. Bid Opening was held April 30. Two (2) bids were submitted.

A selection committee with representation from the Fiscal Court, City, Design Team, and Operations Team was formed to review and evaluate the bids. A&K Construction submitted bids for both Bid Package 01 and Bid Package 02, and was the apparent low bidder for both packages. After review, the selection committee recommended a contract with A&K Construction for both packages.

Per the ILA, the McCracken County Sports Tourism commission must approve and make a recommendation to both the Fiscal Court and the City Commission for consideration and approval of construction contracts. The McCracken County Sports Tourism Commission approved the recommendation from the selection committee on Monday, June 10, and proceeds with a recommendation for a contract for services with A&K Construction.

Accept recommendation from the Sports Tourism Commission and authorize execution of a contract for services with A&K Construction in the amount of \$47,771,839.00 for Bid Package 1: Site/Civil and Bid Package 02: Buildings for the Paducah Sports Park project.

Does this Agenda Action Item align with a Commission Priority? Yes

If yes, please list the Commission Priority: Paducah Sports Park

Communications Plan:

Funds Available: Account Name:
Account Number:

Staff Recommendation: Approve

Attachments:

1. MO A&K Construction Sports Park
2. AK A101-2017 - FINAL DRAFT Bid Package 1C_20240620

MUNICIPAL ORDER NO. _____

A MUNICIPAL ORDER APPROVING THE RECOMMENDATION OF THE McCracken County Sports Tourism Commission to accept the bid package for general site construction and building construction for the Paducah Sports Park project in the amount of \$47,771,839 and authorizing the Mayor to execute all documents relating to same

WHEREAS, on September 7, 2022, the City of Paducah, the County of McCracken, and the McCracken County Sports Tourism Commission entered into an Interlocal Cooperation Agreement for the Development and Operation of the Paducah-McCracken County Athletic Complex (hereinafter "Interlocal Agreement"); and

WHEREAS, in accordance with the requirements of the Interlocal Agreement, the McCracken County Sports Tourism Commission has presented its recommendation of the best-evaluated bids and associated construction contracts for the completion of the work contemplated by the formerly approved construction plans; and

WHEREAS, the City Commission now desires to accept the McCracken County Sports Tourism Commission's recommendation for the General Site Construction and Building Construction for the Paducah Sports Park Project.

NOW, THEREFORE, BE IT ORDERED BY THE CITY OF PADUCAH, KENTUCKY:

SECTION 1. That the City Commission hereby approves the recommendation of the McCracken County Sports Tourism Commission, and accepts the bid proposal of A&K Construction, in the amount of \$47,771,839, for General Site Construction and Building Construction for the Paducah Sports Park Project.

SECTION 2. That the Mayor is hereby authorized to execute an agreement and all other documents necessary with A&K Construction, for the General Site Construction and Building Construction for the Paducah Sports Park, as authorized in Section 1 above. Said agreement shall be in accordance with the specifications, bid proposal, and all contract documents heretofore approved and incorporated in the bid.

SECTION 3. This Order will be in full force and effect from and after the date of its adoption.

George Bray, Mayor

ATTEST:

Lindsay Parish, City Clerk

Adopted by the Board of Commissioners, _____
Recorded by Lindsay Parish, City Clerk, _____
MO\Agree – A&K Construction Sports Park – Sports Tourism Commission

AIA® Document A101® – 2017

Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum

AGREEMENT made as of the twenty fourth day of June in the year two thousand twenty-four.

(In words, indicate day, month and year.)

BETWEEN the Owner:

(Name, legal status, address and other information)

McCracken County Fiscal Court
300 Clarence Gaines Street
Paducah, KY 42003

and the Contractor:

(Name, legal status, address and other information)

A&K Construction
100 Calloway Court
Paducah, KY 42001

for the following Project:

(Name, location and detailed description)

Paducah Sports Park
Bid Package 1C & 2A – Site & Building
Paducah, Kentucky 42001

The Architect:

(Name, legal status, address and other information)

Peck Flannery Gream Warren Inc.
PO Box 510
101 South Fourth Street
Paducah, Kentucky 42002-0510

The Owner and Contractor agree as follows.

ADDITIONS AND DELETIONS:

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

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

The parties should complete A101®–2017, Exhibit A, Insurance and Bonds, contemporaneously with this Agreement. AIA Document A201®–2017, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

TABLE OF ARTICLES

- 1 THE CONTRACT DOCUMENTS
- 2 THE WORK OF THIS CONTRACT
- 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION
- 4 CONTRACT SUM
- 5 PAYMENTS
- 6 DISPUTE RESOLUTION
- 7 TERMINATION OR SUSPENSION
- 8 MISCELLANEOUS PROVISIONS
- 9 ENUMERATION OF CONTRACT DOCUMENTS

EXHIBIT A INSURANCE AND BONDS

ARTICLE 1 THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary, and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. An enumeration of the Contract Documents, other than a Modification, appears in Article 9.

ARTICLE 2 THE WORK OF THIS CONTRACT

The Contractor shall fully execute the Work described in the Contract Documents, except as specifically indicated in the Contract Documents to be the responsibility of others.

ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 3.1 The date of commencement of the Work shall be:

(Check one of the following boxes.)

- ☐ The date of this Agreement.
- ☒ A date set forth in a notice to proceed issued by the Owner.
- ☐ Established as follows:
(Insert a date or a means to determine the date of commencement of the Work.)

If a date of commencement of the Work is not selected, then the date of commencement shall be the date of this Agreement.

§ 3.2 The Contract Time shall be measured from the date of commencement of the Work.

§ 3.3 Substantial Completion

§ 3.3.1 Subject to adjustments of the Contract Time as provided in the Contract Documents, the Contractor shall achieve Substantial Completion of the entire Work:

(Check one of the following boxes and complete the necessary information.)

- ☒ Bid Package 1C & 2A - Not later than five hundred five (505) calendar days from the date of commencement of the Work.
- ☐ By the following date:

Init.

§ 3.3.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work are to be completed prior to Substantial Completion of the entire Work, the Contractor shall achieve Substantial Completion of such portions by the following dates:

Portion of Work	Substantial Completion Date
-----------------	-----------------------------

§ 3.3.3 If the Contractor fails to achieve Substantial Completion as provided in this Section 3.3, liquidated damages, if any, shall be assessed as set forth in Section 4.5.

ARTICLE 4 CONTRACT SUM

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor’s performance of the Contract. The Contract Sum shall be forty seven million, seven hundred seventy-one thousand, eight hundred thirty-eight dollars and 83/100 (\$47,771,838.83), subject to additions and deductions as provided in the Contract Documents.

§ 4.2 Alternates

§ 4.2.1 Alternates, if any, included in the Contract Sum:

Item	Price
N/A	

§ 4.2.2 Subject to the conditions noted below, the following alternates may be accepted by the Owner following execution of this Agreement. Upon acceptance, the Owner shall issue a Modification to this Agreement.
(Insert below each alternate and the conditions that must be met for the Owner to accept the alternate.)

Item	Price	Conditions for Acceptance
N/A		

§ 4.3 Allowances, if any, included in the Contract Sum:
(Identify each allowance.)

Item	Price
N/A	

§ 4.4 Unit prices, if any:
(Identify the item and state the unit price and quantity limitations, if any, to which the unit price will be applicable.)

Item	Units and Limitations	Price per Unit (\$0.00)
------	-----------------------	-------------------------

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

\$1,000.00 per calendar day until completion.

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

ARTICLE 5 PAYMENTS

§ 5.1 Progress Payments

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

Init.

§ 5.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:

§ 5.1.3 Provided that an Application for Payment is received by the Architect not later than the 25th day of a month, the Owner shall make payment of the amount certified to the Contractor not later than the 15th day of the following month. If an Application for Payment is received by the Architect after the application date fixed above, payment of the amount certified shall be made by the Owner not later than forty five (45) days after the Architect receives the Application for Payment.

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

§ 5.1.4 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form, and supported by such data to substantiate its accuracy, as the Architect may require. This schedule of values shall be used as a basis for reviewing the Contractor's Applications for Payment.

§ 5.1.5 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

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

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

- .1 That portion of the Contract Sum properly allocable to completed Work;
- .2 That portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction, or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing; and
- .3 That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified.

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

- .1 The aggregate of any amounts previously paid by the Owner;
- .2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A201–2017;
- .3 Any amount for which the Contractor does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Contractor intends to pay;
- .4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A201–2017; and
- .5 Retainage withheld pursuant to Section 5.1.7.

§ 5.1.7 Retainage

§ 5.1.7.1 For each progress payment made prior to Substantial Completion of the Work, the Owner may withhold the following amount, as retainage, from the payment otherwise due:

(Insert a percentage or amount to be withheld as retainage from each Application for Payment. The amount of retainage may be limited by governing law.)

Ten percent (10%)

§ 5.1.7.1.1 The following items are not subject to retainage:

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

§ 5.1.7.2 Reduction or limitation of retainage, if any, shall be as follows:
(If the retainage established in Section 5.1.7.1 is to be modified prior to Substantial Completion of the entire Work, including modifications for Substantial Completion of portions of the Work as provided in Section 3.3.2, insert provisions for such modifications.)

After issuance of Certificate of Substantial Completion, Retainage shall be reduced to five percent (5%).

§ 5.1.7.3 Except as set forth in this Section 5.1.7.3, upon Substantial Completion of the Work, the Contractor may submit an Application for Payment that includes the retainage withheld from prior Applications for Payment pursuant to this Section 5.1.7. The Application for Payment submitted at Substantial Completion shall not include retainage as follows:
(Insert any other conditions for release of retainage upon Substantial Completion.)

§ 5.1.8 If final completion of the Work is materially delayed through no fault of the Contractor, the Owner shall pay the Contractor any additional amounts in accordance with Article 9 of AIA Document A201–2017.

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

§ 5.2 Final Payment

§ 5.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when

- .1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Article 12 of AIA Document A201–2017, and to satisfy other requirements, if any, which extend beyond final payment; and
- .2 a final Certificate for Payment has been issued by the Architect.

§ 5.2.2 The Owner's final payment to the Contractor shall be made no later than 30 days after the issuance of the Architect's final Certificate for Payment, or as follows:

§ 5.3 Interest

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

%

ARTICLE 6 DISPUTE RESOLUTION

§ 6.1 Initial Decision Maker

The Architect will serve as the Initial Decision Maker pursuant to Article 15 of AIA Document A201–2017, unless the parties appoint below another individual, not a party to this Agreement, to serve as the Initial Decision Maker.
(If the parties mutually agree, insert the name, address and other contact information of the Initial Decision Maker, if other than the Architect.)

§ 6.2 Binding Dispute Resolution

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

☒ [X] Arbitration pursuant to Section 15.4 of AIA Document A201–2017

Init.

- [] Litigation in a court of competent jurisdiction
[] Other (*Specify*)

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

ARTICLE 7 TERMINATION OR SUSPENSION

§ 7.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A201–2017.

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

§ 7.2 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201–2017.

ARTICLE 8 MISCELLANEOUS PROVISIONS

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

§ 8.2 The Owner's representative:
(*Name, address, email address, and other information*)

Steve Ervin, Community Development Project Manager
McCracken County Fiscal Court
300 Clarence Gaines Street
Paducah, KY 42003

§ 8.3 The Contractor's representative:
(*Name, address, email address, and other information*)

Bill Boyd, President
A&K Construction, Inc.
100 Calloway Court
Paducah, KY 42001

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

§ 8.5 Insurance and Bonds

§ 8.5.1 The Owner and the Contractor shall purchase and maintain insurance as set forth in AIA Document A101™–2017, Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum, Exhibit A, Insurance and Bonds, and elsewhere in the Contract Documents.

§ 8.5.2 The Contractor shall provide bonds as set forth in AIA Document A101™–2017 Exhibit A, and elsewhere in the Contract Documents.

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

(If other than in accordance with AIA Document E203–2013, insert requirements for delivering notice in electronic format such as name, title, and email address of the recipient and whether and how the system will be required to generate a read receipt for the transmission.)

§ 8.7 Other provisions:

ARTICLE 9 ENUMERATION OF CONTRACT DOCUMENTS

§ 9.1 This Agreement is comprised of the following documents:

- .1 AIA Document A101™–2017, Standard Form of Agreement Between Owner and Contractor
- .2 AIA Document A101™–2017, Exhibit A, Insurance and Bonds
- .3 AIA Document A201™–2017, General Conditions of the Contract for Construction
- .4 Drawings

Number – Bid Package 1C	Title	Date	Pages
See Attached Index of Drawings	000117-Index of Drawings	February 20, 2024	6

Number – Bid Package 2A	Title	Date	Pages
See Attached Index of Drawings	000117-Index of Drawings	March 26, 2024	8

- .5 Specifications

Section – Bid Package 1C	Title	Date	Pages
See Attached Table of Contents	0001100-Table of Contents	February 20, 2024	4

Section – Bid Package 2A	Title	Date	Pages
See Attached Table of Contents	000110–Table of Contents	March 26, 2024	6

- .6 Addenda, if any:

Number – Bid Package 1C	Date	Pages
Addendum No. 1	February 23, 2024	16
Addendum No. 2	March 11, 2024	102
Addendum No. 3	March 14, 2024	12
Addendum No. 4	March 21, 2024	93

Number – Bid Package 2A	Date	Pages
Addendum No. 1	February 23, 2024	38
Addendum No. 2	March 11, 2024	65
Addendum No. 3	March 14, 2024	39
Addendum No. 4	March 21, 2024	2

Portions of Addenda relating to bidding or proposal requirements are not part of the Contract Documents unless the bidding or proposal requirements are also enumerated in this Article 9.

- .7 Other Exhibits:
(Check all boxes that apply and include appropriate information identifying the exhibit where required.)

☐ AIA Document E204™–2017, Sustainable Projects Exhibit, dated as indicated below:
(Insert the date of the E204-2017 incorporated into this Agreement.)

☐ The Sustainability Plan:

Init.

Title	Date	Pages
[] Supplementary and other Conditions of the Contract:		

Document	Title	Date	Pages
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- .9 Other documents, if any, listed below:
(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201™-2017 provides that the advertisement or invitation to bid, Instructions to Bidders, sample forms, the Contractor's bid or proposal, portions of Addenda relating to bidding or proposal requirements, and other information furnished by the Owner in anticipation of receiving bids or proposals, are not part of the Contract Documents unless enumerated in this Agreement. Any such documents should be listed here only if intended to be part of the Contract Documents.)

Contractors Original Form of Proposal
Exhibit – Const Reduction List Bid Backage 1C & 2A
Contractors Performance & Payment Bonds
Contractors Certificate of Insurance
Bid Package 1C & 2A - Index of Drawings
Bid Package 1C & 2A - Table of Contents

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

McCracken County Fiscal Court

A&K Construction, Inc.

OWNER *(Signature)*

CONTRACTOR *(Signature)*

Craig Z. Clymer, Judge Executive
(Printed name and title)

Bill Boyd, President
(Printed name and title)

Init.

AIA® Document A201® – 2017

General Conditions of the Contract for Construction

for the following PROJECT:

(Name and location or address)

Paducah Sports Park – Bid Package 1C & 2A – Site & Building
Paducah, Kentucky 42001

THE OWNER:

(Name, legal status and address)

McCracken County Fiscal Court
300 Clarence Gaines Street
Paducah, KY 42003

THE ARCHITECT:

(Name, legal status and address)

Peck Flannery Gream Warren Inc.
PO Box 510
101 South Fourth Street
Paducah, KY 42002-0510

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11	INSURANCE AND BONDS
12	UNCOVERING AND CORRECTION OF WORK
13	MISCELLANEOUS PROVISIONS

ADDITIONS AND DELETIONS:

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

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

For guidance in modifying this document to include supplementary conditions, see AIA Document A503™, Guide for Supplementary Conditions.

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ARTICLE 1 GENERAL PROVISIONS

§ 1.1 Basic Definitions

§ 1.1.1 The Contract Documents

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

§ 1.1.2 The Contract

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

§ 1.1.3 The Work

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

§ 1.1.4 The Project

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

§ 1.1.5 The Drawings

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

§ 1.1.6 The Specifications

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

§ 1.1.7 Instruments of Service

Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Architect and the Architect's consultants under their respective professional services agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, and other similar materials.

§ 1.1.8 Initial Decision Maker

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

§ 1.2 Correlation and Intent of the Contract Documents

§ 1.2.1 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results.

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

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

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

§ 1.3 Capitalization

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

§ 1.4 Interpretation

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

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

§ 1.5.1 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and retain all common law, statutory, and other reserved rights in their Instruments of Service, including copyrights. The Contractor, Subcontractors, Sub-subcontractors, and suppliers shall not own or claim a copyright in the Instruments of Service. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the Architect's or Architect's consultants' reserved rights.

§ 1.5.2 The Contractor, Subcontractors, Sub-subcontractors, and suppliers are authorized to use and reproduce the Instruments of Service provided to them, subject to any protocols established pursuant to Sections 1.7 and 1.8, solely and exclusively for execution of the Work. All copies made under this authorization shall bear the copyright notice, if any, shown on the Instruments of Service. The Contractor, Subcontractors, Sub-subcontractors, and suppliers may not use the Instruments of Service on other projects or for additions to the Project outside the scope of the Work without the specific written consent of the Owner, Architect, and the Architect's consultants.

§ 1.6 Notice

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

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

§ 1.7 Digital Data Use and Transmission

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

§ 1.8 Building Information Models Use and Reliance

Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document

G202™–2013, Project Building Information Modeling Protocol Form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

ARTICLE 2 OWNER

§ 2.1 General

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

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

§ 2.2 Evidence of the Owner's Financial Arrangements

§ 2.2.1 Prior to commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. The Contractor shall have no obligation to commence the Work until the Owner provides such evidence. If commencement of the Work is delayed under this Section 2.2.1, the Contract Time shall be extended appropriately.

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

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

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

§ 2.3 Information and Services Required of the Owner

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

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

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

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

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

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

§ 2.4 Owner's Right to Stop the Work

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

§ 2.5 Owner's Right to Carry Out the Work

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a ten-day period after receipt of notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such default or neglect. Such action by the Owner and amounts charged to the Contractor are both subject to prior approval of the Architect and the Architect may, pursuant to Section 9.5.1, withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Architect's additional services made necessary by such default, neglect, or failure. If current and future payments are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner. If the Contractor disagrees with the actions of the Owner or the Architect, or the amounts claimed as costs to the Owner, the Contractor may file a Claim pursuant to Article 15.

ARTICLE 3 CONTRACTOR

§ 3.1 General

§ 3.1.1 The Contractor is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Contractor shall be lawfully licensed, if required in the jurisdiction where the Project is located. The Contractor shall designate in writing a representative who shall have express authority to bind the Contractor with respect to all matters under this Contract. The term "Contractor" means the Contractor or the Contractor's authorized representative.

§ 3.1.2 The Contractor shall perform the Work in accordance with the Contract Documents.

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

§ 3.2 Review of Contract Documents and Field Conditions by Contractor

§ 3.2.1 Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become generally familiar with local conditions under which the Work is to be performed, and correlated personal observations with requirements of the Contract Documents.

§ 3.2.2 Because the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 2.3.4, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating coordination and construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, the Contractor shall promptly report to the Architect any errors, inconsistencies or omissions discovered by or made known to the Contractor as a request for information in such form as the Architect may require. It is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional, unless otherwise specifically provided in the Contract Documents.

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

§ 3.2.4 If the Contractor believes that additional cost or time is involved because of clarifications or instructions the Architect issues in response to the Contractor's notices or requests for information pursuant to Sections 3.2.2 or 3.2.3, the Contractor shall submit Claims as provided in Article 15. If the Contractor fails to perform the obligations of Sections 3.2.2 or 3.2.3, the Contractor shall pay such costs and damages to the Owner, subject to Section 15.1.7, as would have been avoided if the Contractor had performed such obligations. If the Contractor performs those obligations, the Contractor shall not be liable to the Owner or Architect for damages resulting from errors, inconsistencies or omissions in the Contract Documents, for differences between field measurements or conditions and the Contract Documents, or for nonconformities of the Contract Documents to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities.

§ 3.3 Supervision and Construction Procedures

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

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

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

§ 3.4 Labor and Materials

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

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

§ 3.4.3 The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Work. The Contractor shall not permit employment of unfit persons or persons not properly skilled in tasks assigned to them.

§ 3.5 Warranty

§ 3.5.1 The Contractor warrants to the Owner and Architect that materials and equipment furnished under the Contract will be of good quality and new unless the Contract Documents require or permit otherwise. The Contractor further warrants that the Work will conform to the requirements of the Contract Documents and will be free from defects, except for those inherent in the quality of the Work the Contract Documents require or permit. Work, materials, or equipment not conforming to these requirements may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Architect, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

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

§ 3.6 Taxes

The Contractor shall pay sales, consumer, use and similar taxes for the Work provided by the Contractor that are legally enacted when bids are received or negotiations concluded, whether or not yet effective or merely scheduled to go into effect.

§ 3.7 Permits, Fees, Notices and Compliance with Laws

§ 3.7.1 Unless otherwise provided in the Contract Documents, the Contractor shall secure and pay for the building permit as well as for other permits, fees, licenses, and inspections by government agencies necessary for proper execution and completion of the Work that are customarily secured after execution of the Contract and legally required at the time bids are received or negotiations concluded.

§ 3.7.2 The Contractor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to performance of the Work.

§ 3.7.3 If the Contractor performs Work knowing it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Contractor shall assume appropriate responsibility for such Work and shall bear the costs attributable to correction.

§ 3.7.4 Concealed or Unknown Conditions

If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner and the Architect before conditions are disturbed and in no event later than 14 days after first observance of the conditions. The Architect will promptly investigate such conditions and, if the Architect determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend that an equitable adjustment be made in the Contract Sum or Contract Time, or both. If the Architect determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall promptly notify the Owner and Contractor, stating the reasons. If either party disputes the Architect's determination or recommendation, that party may submit a Claim as provided in Article 15.

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

§ 3.8 Allowances

§ 3.8.1 The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for such amounts and by such persons or entities as the Owner may direct, but the Contractor shall not be required to employ persons or entities to whom the Contractor has reasonable objection.

§ 3.8.2 Unless otherwise provided in the Contract Documents,

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

§ 3.8.3 Materials and equipment under an allowance shall be selected by the Owner with reasonable promptness.

§ 3.9 Superintendent

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

§ 3.9.2 The Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect of the name and qualifications of a proposed superintendent. Within 14 days of receipt of the information, the Architect may notify the Contractor, stating whether the Owner or the Architect (1) has reasonable objection to the proposed superintendent or (2) requires additional time for review. Failure of the Architect to provide notice within the 14-day period shall constitute notice of no reasonable objection.

§ 3.9.3 The Contractor shall not employ a proposed superintendent to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not change the superintendent without the Owner's consent, which shall not unreasonably be withheld or delayed.

§ 3.10 Contractor's Construction and Submittal Schedules

§ 3.10.1 The Contractor, promptly after being awarded the Contract, shall submit for the Owner's and Architect's information a Contractor's construction schedule for the Work. The schedule shall contain detail appropriate for the Project, including (1) the date of commencement of the Work, interim schedule milestone dates, and the date of Substantial Completion; (2) an apportionment of the Work by construction activity; and (3) the time required for completion of each portion of the Work. The schedule shall provide for the orderly progression of the Work to completion and shall not exceed time limits current under the Contract Documents. The schedule shall be revised at appropriate intervals as required by the conditions of the Work and Project.

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

§ 3.10.3 The Contractor shall perform the Work in general accordance with the most recent schedules submitted to the Owner and Architect.

§ 3.11 Documents and Samples at the Site

The Contractor shall make available, at the Project site, the Contract Documents, including Change Orders, Construction Change Directives, and other Modifications, in good order and marked currently to indicate field changes and selections made during construction, and the approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be in electronic form or paper copy, available to the Architect and Owner, and

delivered to the Architect for submittal to the Owner upon completion of the Work as a record of the Work as constructed.

§ 3.12 Shop Drawings, Product Data and Samples

§ 3.12.1 Shop Drawings are drawings, diagrams, schedules, and other data specially prepared for the Work by the Contractor or a Subcontractor, Sub-subcontractor, manufacturer, supplier, or distributor to illustrate some portion of the Work.

§ 3.12.2 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams, and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.

§ 3.12.3 Samples are physical examples that illustrate materials, equipment, or workmanship, and establish standards by which the Work will be judged.

§ 3.12.4 Shop Drawings, Product Data, Samples, and similar submittals are not Contract Documents. Their purpose is to demonstrate how the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents for those portions of the Work for which the Contract Documents require submittals. Review by the Architect is subject to the limitations of Section 4.2.7. Informational submittals upon which the Architect is not expected to take responsive action may be so identified in the Contract Documents. Submittals that are not required by the Contract Documents may be returned by the Architect without action.

§ 3.12.5 The Contractor shall review for compliance with the Contract Documents, approve, and submit to the Architect, Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents, in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Owner or of Separate Contractors.

§ 3.12.6 By submitting Shop Drawings, Product Data, Samples, and similar submittals, the Contractor represents to the Owner and Architect that the Contractor has (1) reviewed and approved them, (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so, and (3) checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.

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

§ 3.12.8 The Work shall be in accordance with approved submittals except that the Contractor shall not be relieved of responsibility for deviations from the requirements of the Contract Documents by the Architect's approval of Shop Drawings, Product Data, Samples, or similar submittals, unless the Contractor has specifically notified the Architect of such deviation at the time of submittal and (1) the Architect has given written approval to the specific deviation as a minor change in the Work, or (2) a Change Order or Construction Change Directive has been issued authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples, or similar submittals, by the Architect's approval thereof.

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

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

§ 3.12.10.1 If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of the Contractor by the Contract Documents, the Owner and the Architect will

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

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

§ 3.13 Use of Site

The Contractor shall confine operations at the site to areas permitted by applicable laws, statutes, ordinances, codes, rules and regulations, lawful orders of public authorities, and the Contract Documents and shall not unreasonably encumber the site with materials or equipment.

§ 3.14 Cutting and Patching

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

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

§ 3.15 Cleaning Up

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

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

§ 3.16 Access to Work

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

§ 3.17 Royalties, Patents and Copyrights

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

§ 3.18 Indemnification

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

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

ARTICLE 4 ARCHITECT

§ 4.1 General

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

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

§ 4.2 Administration of the Contract

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

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

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

§ 4.2.4 Communications

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

§ 4.2.5 Based on the Architect's evaluations of the Contractor's Applications for Payment, the Architect will review and certify the amounts due the Contractor and will issue Certificates for Payment in such amounts.

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

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

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

§ 4.2.9 The Architect will conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion pursuant to Section 9.8; receive and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract and assembled by the Contractor pursuant to Section 9.10; and issue a final Certificate for Payment pursuant to Section 9.10.

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

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

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

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

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

ARTICLE 5 SUBCONTRACTORS

§ 5.1 Definitions

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

§ 5.1.2 A Sub-subcontractor is a person or entity who has a direct or indirect contract with a Subcontractor to perform a portion of the Work at the site. The term "Sub-subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Sub-subcontractor or an authorized representative of the Sub-subcontractor.

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

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

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

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

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

§ 5.3 Subcontractual Relations

By appropriate written agreement, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work that the Contractor, by these Contract Documents, assumes toward the Owner and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies, and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Contract Documents. Subcontractors will similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

§ 5.4 Contingent Assignment of Subcontracts

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

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

When the Owner accepts the assignment of a subcontract agreement, the Owner assumes the Contractor's rights and obligations under the subcontract.

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

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

ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

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

§ 6.1.1 The term "Separate Contractor(s)" shall mean other contractors retained by the Owner under separate agreements. The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and with Separate Contractors retained under Conditions of the Contract substantially similar to those of this Contract, including those provisions of the Conditions of the Contract related to insurance and waiver of subrogation.

§ 6.1.2 When separate contracts are awarded for different portions of the Project or other construction or operations on the site, the term "Contractor" in the Contract Documents in each case shall mean the Contractor who executes each separate Owner-Contractor Agreement.

§ 6.1.3 The Owner shall provide for coordination of the activities of the Owner's own forces and of each Separate Contractor with the Work of the Contractor, who shall cooperate with them. The Contractor shall participate with any Separate Contractors and the Owner in reviewing their construction schedules. The Contractor shall make any revisions to its construction schedule deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the Contractor, Separate Contractors, and the Owner until subsequently revised.

§ 6.1.4 Unless otherwise provided in the Contract Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces or with Separate Contractors, the Owner or its Separate Contractors shall have the same obligations and rights that the Contractor has under the Conditions of the Contract, including, without excluding others, those stated in Article 3, this Article 6, and Articles 10, 11, and 12.

§ 6.2 Mutual Responsibility

§ 6.2.1 The Contractor shall afford the Owner and Separate Contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Contractor's construction and operations with theirs as required by the Contract Documents.

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

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

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

§ 6.2.5 The Owner and each Separate Contractor shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 3.14.

§ 6.3 Owner's Right to Clean Up

If a dispute arises among the Contractor, Separate Contractors, and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish, the Owner may clean up and the Architect will allocate the cost among those responsible.

ARTICLE 7 CHANGES IN THE WORK

§ 7.1 General

§ 7.1.1 Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order, Construction Change Directive or order for a minor change in the Work, subject to the limitations stated in this Article 7 and elsewhere in the Contract Documents.

§ 7.1.2 A Change Order shall be based upon agreement among the Owner, Contractor, and Architect. A Construction Change Directive requires agreement by the Owner and Architect and may or may not be agreed to by the Contractor. An order for a minor change in the Work may be issued by the Architect alone.

§ 7.1.3 Changes in the Work shall be performed under applicable provisions of the Contract Documents. The Contractor shall proceed promptly with changes in the Work, unless otherwise provided in the Change Order, Construction Change Directive, or order for a minor change in the Work.

§ 7.2 Change Orders

§ 7.2.1 A Change Order is a written instrument prepared by the Architect and signed by the Owner, Contractor, and Architect stating their agreement upon all of the following:

- .1 The change in the Work;
- .2 The amount of the adjustment, if any, in the Contract Sum; and
- .3 The extent of the adjustment, if any, in the Contract Time.

§ 7.3 Construction Change Directives

§ 7.3.1 A Construction Change Directive is a written order prepared by the Architect and signed by the Owner and Architect, directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum or Contract Time, or both. The Owner may by Construction Change Directive, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions, or other revisions, the Contract Sum and Contract Time being adjusted accordingly.

§ 7.3.2 A Construction Change Directive shall be used in the absence of total agreement on the terms of a Change Order.

§ 7.3.3 If the Construction Change Directive provides for an adjustment to the Contract Sum, the adjustment shall be based on one of the following methods:

- .1 Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
- .2 Unit prices stated in the Contract Documents or subsequently agreed upon;
- .3 Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
- .4 As provided in Section 7.3.4.

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

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

§ 7.3.5 If the Contractor disagrees with the adjustment in the Contract Time, the Contractor may make a Claim in accordance with applicable provisions of Article 15.

§ 7.3.6 Upon receipt of a Construction Change Directive, the Contractor shall promptly proceed with the change in the Work involved and advise the Architect of the Contractor's agreement or disagreement with the method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the Contract Sum or Contract Time.

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

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

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

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

§ 7.4 Minor Changes in the Work

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

ARTICLE 8 TIME

§ 8.1 Definitions

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

§ 8.1.2 The date of commencement of the Work is the date established in the Agreement.

§ 8.1.3 The date of Substantial Completion is the date certified by the Architect in accordance with Section 9.8.

§ 8.1.4 The term "day" as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.

§ 8.2 Progress and Completion

§ 8.2.1 Time limits stated in the Contract Documents are of the essence of the Contract. By executing the Agreement, the Contractor confirms that the Contract Time is a reasonable period for performing the Work.

§ 8.2.2 The Contractor shall not knowingly, except by agreement or instruction of the Owner in writing, commence the Work prior to the effective date of insurance required to be furnished by the Contractor and Owner.

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

§ 8.3 Delays and Extensions of Time

§ 8.3.1 If the Contractor is delayed at any time in the commencement or progress of the Work by (1) an act or neglect of the Owner or Architect, of an employee of either, or of a Separate Contractor; (2) by changes ordered in the Work; (3) by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, adverse weather conditions documented in accordance with Section 15.1.6.2, or other causes beyond the Contractor's control; (4) by delay authorized by the Owner pending mediation and binding dispute resolution; or (5) by other causes that the Contractor asserts, and the Architect determines, justify delay, then the Contract Time shall be extended for such reasonable time as the Architect may determine.

§ 8.3.2 Claims relating to time shall be made in accordance with applicable provisions of Article 15.

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

ARTICLE 9 PAYMENTS AND COMPLETION

§ 9.1 Contract Sum

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

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

§ 9.2 Schedule of Values

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

§ 9.3 Applications for Payment

§ 9.3.1 At least ten days before the date established for each progress payment, the Contractor shall submit to the Architect an itemized Application for Payment prepared in accordance with the schedule of values, if required under Section 9.2, for completed portions of the Work. The application shall be notarized, if required, and supported by all data substantiating the Contractor's right to payment that the Owner or Architect require, such as copies of requisitions, and releases and waivers of liens from Subcontractors and suppliers, and shall reflect retainage if provided for in the Contract Documents.

§ 9.3.1.1 As provided in Section 7.3.9, such applications may include requests for payment on account of changes in the Work that have been properly authorized by Construction Change Directives, or by interim determinations of the Architect, but not yet included in Change Orders.

§ 9.3.1.2 Applications for Payment shall not include requests for payment for portions of the Work for which the Contractor does not intend to pay a Subcontractor or supplier, unless such Work has been performed by others whom the Contractor intends to pay.

§ 9.3.2 Unless otherwise provided in the Contract Documents, payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed upon in writing. Payment for materials and equipment stored on or off the site shall be conditioned upon compliance by the Contractor with procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest, and shall include the costs of applicable insurance, storage, and transportation to the site, for such materials and equipment stored off the site.

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

§ 9.4 Certificates for Payment

§ 9.4.1 The Architect will, within seven days after receipt of the Contractor's Application for Payment, either (1) issue to the Owner a Certificate for Payment in the full amount of the Application for Payment, with a copy to the Contractor; or (2) issue to the Owner a Certificate for Payment for such amount as the Architect determines is properly due, and notify the Contractor and Owner of the Architect's reasons for withholding certification in part as provided in Section 9.5.1; or (3) withhold certification of the entire Application for Payment, and notify the Contractor and Owner of the Architect's reason for withholding certification in whole as provided in Section 9.5.1.

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

§ 9.5 Decisions to Withhold Certification

§ 9.5.1 The Architect may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Architect's opinion the representations to the Owner required by Section 9.4.2 cannot be made. If the Architect is unable to certify payment in the amount of the Application, the Architect will notify the Contractor and Owner as provided in Section 9.4.1. If the Contractor and Architect cannot agree on a revised amount, the Architect will promptly issue a Certificate for Payment for the amount for which the Architect is able to make such representations to the Owner. The Architect may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued, to such extent as may be necessary in the Architect's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from acts and omissions described in Section 3.3.2, because of

- .1 defective Work not remedied;
- .2 third party claims filed or reasonable evidence indicating probable filing of such claims, unless security acceptable to the Owner is provided by the Contractor;
- .3 failure of the Contractor to make payments properly to Subcontractors or suppliers for labor, materials or equipment;

- .4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
- .5 damage to the Owner or a Separate Contractor;
- .6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
- .7 repeated failure to carry out the Work in accordance with the Contract Documents.

§ 9.5.2 When either party disputes the Architect's decision regarding a Certificate for Payment under Section 9.5.1, in whole or in part, that party may submit a Claim in accordance with Article 15.

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

§ 9.5.4 If the Architect withholds certification for payment under Section 9.5.1.3, the Owner may, at its sole option, issue joint checks to the Contractor and to any Subcontractor or supplier to whom the Contractor failed to make payment for Work properly performed or material or equipment suitably delivered. If the Owner makes payments by joint check, the Owner shall notify the Architect and the Contractor shall reflect such payment on its next Application for Payment.

§ 9.6 Progress Payments

§ 9.6.1 After the Architect has issued a Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the Contract Documents, and shall so notify the Architect.

§ 9.6.2 The Contractor shall pay each Subcontractor, no later than seven days after receipt of payment from the Owner, the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner.

§ 9.6.3 The Architect will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Contractor and action taken thereon by the Architect and Owner on account of portions of the Work done by such Subcontractor.

§ 9.6.4 The Owner has the right to request written evidence from the Contractor that the Contractor has properly paid Subcontractors and suppliers amounts paid by the Owner to the Contractor for subcontracted Work. If the Contractor fails to furnish such evidence within seven days, the Owner shall have the right to contact Subcontractors and suppliers to ascertain whether they have been properly paid. Neither the Owner nor Architect shall have an obligation to pay, or to see to the payment of money to, a Subcontractor or supplier, except as may otherwise be required by law.

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

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

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

§ 9.6.8 Provided the Owner has fulfilled its payment obligations under the Contract Documents, the Contractor shall defend and indemnify the Owner from all loss, liability, damage or expense, including reasonable attorney's fees and litigation expenses, arising out of any lien claim or other claim for payment by any Subcontractor or supplier of any tier. Upon receipt of notice of a lien claim or other claim for payment, the Owner shall notify the Contractor. If approved by the applicable court, when required, the Contractor may substitute a surety bond for the property against which the lien or other claim for payment has been asserted.

§ 9.7 Failure of Payment

If the Architect does not issue a Certificate for Payment, through no fault of the Contractor, within seven days after receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor within seven days after the date established in the Contract Documents, the amount certified by the Architect or awarded by binding dispute resolution, then the Contractor may, upon seven additional days' notice to the Owner and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided for in the Contract Documents.

§ 9.8 Substantial Completion

§ 9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use.

§ 9.8.2 When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall prepare and submit to the Architect a comprehensive list of items to be completed or corrected prior to final payment. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.

§ 9.8.3 Upon receipt of the Contractor's list, the Architect will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect's inspection discloses any item, whether or not included on the Contractor's list, which is not sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work or designated portion thereof for its intended use, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Architect. In such case, the Contractor shall then submit a request for another inspection by the Architect to determine Substantial Completion.

§ 9.8.4 When the Work or designated portion thereof is substantially complete, the Architect will prepare a Certificate of Substantial Completion that shall establish the date of Substantial Completion; establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance; and fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 9.8.5 The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in the Certificate. Upon such acceptance, and consent of surety if any, the Owner shall make payment of retainage applying to the Work or designated portion thereof. Such payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Contract Documents.

§ 9.9 Partial Occupancy or Use

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

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

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

§ 9.10 Final Completion and Final Payment

§ 9.10.1 Upon receipt of the Contractor's notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Architect will promptly make such inspection. When the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Architect will promptly issue a final Certificate for Payment stating that to the best of the Architect's knowledge, information and belief, and on the basis of the Architect's on-site visits and inspections, the Work has been completed in accordance with the Contract Documents and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Architect's final Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect, (3) a written statement that the Contractor knows of no reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment, (5) documentation of any special warranties, such as manufacturers' warranties or specific Subcontractor warranties, and (6) if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts and releases and waivers of liens, claims, security interests, or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien, claim, security interest, or encumbrance. If a lien, claim, security interest, or encumbrance remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging the lien, claim, security interest, or encumbrance, including all costs and reasonable attorneys' fees.

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

§ 9.10.4 The making of final payment shall constitute a waiver of Claims by the Owner except those arising from

- .1 liens, Claims, security interests, or encumbrances arising out of the Contract and unsettled;
- .2 failure of the Work to comply with the requirements of the Contract Documents;
- .3 terms of special warranties required by the Contract Documents; or
- .4 audits performed by the Owner, if permitted by the Contract Documents, after final payment.

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

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

§ 10.1 Safety Precautions and Programs

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

§ 10.2 Safety of Persons and Property

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

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

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

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

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

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

§ 10.2.6 The Contractor shall designate a responsible member of the Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the Owner and Architect.

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

§ 10.2.8 Injury or Damage to Person or Property

If either party suffers injury or damage to person or property because of an act or omission of the other party, or of others for whose acts such party is legally responsible, notice of the injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding 21 days after discovery. The notice shall provide sufficient detail to enable the other party to investigate the matter.

§ 10.3 Hazardous Materials and Substances

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

§ 10.3.2 Upon receipt of the Contractor's notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Contract Documents, the Owner shall furnish in writing to the Contractor and Architect the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of the material or substance or who are to perform the task of removal or safe containment of the material or substance. The Contractor and the Architect will

promptly reply to the Owner in writing stating whether or not either has reasonable objection to the persons or entities proposed by the Owner. If either the Contractor or Architect has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Contractor and the Architect have no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Contractor. By Change Order, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable additional costs of shutdown, delay, and start-up.

§ 10.3.3 To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Subcontractors, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area if in fact the material or substance presents the risk of bodily injury or death as described in Section 10.3.1 and has not been rendered harmless, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), except to the extent that such damage, loss, or expense is due to the fault or negligence of the party seeking indemnity.

§ 10.3.4 The Owner shall not be responsible under this Section 10.3 for hazardous materials or substances the Contractor brings to the site unless such materials or substances are required by the Contract Documents. The Owner shall be responsible for hazardous materials or substances required by the Contract Documents, except to the extent of the Contractor's fault or negligence in the use and handling of such materials or substances.

§ 10.3.5 The Contractor shall reimburse the Owner for the cost and expense the Owner incurs (1) for remediation of hazardous materials or substances the Contractor brings to the site and negligently handles, or (2) where the Contractor fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence.

§ 10.3.6 If, without negligence on the part of the Contractor, the Contractor is held liable by a government agency for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Contract Documents, the Owner shall reimburse the Contractor for all cost and expense thereby incurred.

§ 10.4 Emergencies

In an emergency affecting safety of persons or property, the Contractor shall act, at the Contractor's discretion, to prevent threatened damage, injury, or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Article 15 and Article 7.

ARTICLE 11 INSURANCE AND BONDS

§ 11.1 Contractor's Insurance and Bonds

§ 11.1.1 The Contractor shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Contractor shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Owner, Architect, and Architect's consultants shall be named as additional insureds under the Contractor's commercial general liability policy or as otherwise described in the Contract Documents.

§ 11.1.2 The Contractor shall provide surety bonds of the types, for such penal sums, and subject to such terms and conditions as required by the Contract Documents. The Contractor shall purchase and maintain the required bonds from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located.

§ 11.1.3 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished.

§ 11.1.4 Notice of Cancellation or Expiration of Contractor's Required Insurance. Within three (3) business days of the date the Contractor becomes aware of an impending or actual cancellation or expiration of any insurance required by the Contract Documents, the Contractor shall provide notice to the Owner of such impending or actual cancellation or expiration. Upon receipt of notice from the Contractor, the Owner shall, unless the lapse in coverage arises from an act

or omission of the Owner, have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by the Contractor. The furnishing of notice by the Contractor shall not relieve the Contractor of any contractual obligation to provide any required coverage.

§ 11.2 Owner's Insurance

§ 11.2.1 The Owner shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Owner shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located.

§ 11.2.2 Failure to Purchase Required Property Insurance. If the Owner fails to purchase and maintain the required property insurance, with all of the coverages and in the amounts described in the Agreement or elsewhere in the Contract Documents, the Owner shall inform the Contractor in writing prior to commencement of the Work. Upon receipt of notice from the Owner, the Contractor may delay commencement of the Work and may obtain insurance that will protect the interests of the Contractor, Subcontractors, and Sub-Subcontractors in the Work. When the failure to provide coverage has been cured or resolved, the Contract Sum and Contract Time shall be equitably adjusted. In the event the Owner fails to procure coverage, the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent the loss to the Owner would have been covered by the insurance to have been procured by the Owner. The cost of the insurance shall be charged to the Owner by a Change Order. If the Owner does not provide written notice, and the Contractor is damaged by the failure or neglect of the Owner to purchase or maintain the required insurance, the Owner shall reimburse the Contractor for all reasonable costs and damages attributable thereto.

§ 11.2.3 Notice of Cancellation or Expiration of Owner's Required Property Insurance. Within three (3) business days of the date the Owner becomes aware of an impending or actual cancellation or expiration of any property insurance required by the Contract Documents, the Owner shall provide notice to the Contractor of such impending or actual cancellation or expiration. Unless the lapse in coverage arises from an act or omission of the Contractor: (1) the Contractor, upon receipt of notice from the Owner, shall have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by either the Owner or the Contractor; (2) the Contract Time and Contract Sum shall be equitably adjusted; and (3) the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent any loss to the Owner would have been covered by the insurance had it not expired or been cancelled. If the Contractor purchases replacement coverage, the cost of the insurance shall be charged to the Owner by an appropriate Change Order. The furnishing of notice by the Owner shall not relieve the Owner of any contractual obligation to provide required insurance.

§ 11.3 Waivers of Subrogation

§ 11.3.1 The Owner and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents, and employees, each of the other; (2) the Architect and Architect's consultants; and (3) Separate Contractors, if any, and any of their subcontractors, sub-subcontractors, agents, and employees, for damages caused by fire, or other causes of loss, to the extent those losses are covered by property insurance required by the Agreement or other property insurance applicable to the Project, except such rights as they have to proceeds of such insurance. The Owner or Contractor, as appropriate, shall require similar written waivers in favor of the individuals and entities identified above from the Architect, Architect's consultants, Separate Contractors, subcontractors, and sub-subcontractors. The policies of insurance purchased and maintained by each person or entity agreeing to waive claims pursuant to this section 11.3.1 shall not prohibit this waiver of subrogation. This waiver of subrogation shall be effective as to a person or entity (1) even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, (2) even though that person or entity did not pay the insurance premium directly or indirectly, or (3) whether or not the person or entity had an insurable interest in the damaged property.

§ 11.3.2 If during the Project construction period the Owner insures properties, real or personal or both, at or adjacent to the site by property insurance under policies separate from those insuring the Project, or if after final payment property insurance is to be provided on the completed Project through a policy or policies other than those insuring the Project during the construction period, to the extent permissible by such policies, the Owner waives all rights in accordance with the terms of Section 11.3.1 for damages caused by fire or other causes of loss covered by this separate property insurance.

§ 11.4 Loss of Use, Business Interruption, and Delay in Completion Insurance

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The Owner, at the Owner's option, may purchase and maintain insurance that will protect the Owner against loss of use of the Owner's property, or the inability to conduct normal operations, due to fire or other causes of loss. The Owner waives all rights of action against the Contractor and Architect for loss of use of the Owner's property, due to fire or other hazards however caused.

§11.5 Adjustment and Settlement of Insured Loss

§ 11.5.1 A loss insured under the property insurance required by the Agreement shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause and of Section 11.5.2. The Owner shall pay the Architect and Contractor their just shares of insurance proceeds received by the Owner, and by appropriate agreements the Architect and Contractor shall make payments to their consultants and Subcontractors in similar manner.

§ 11.5.2 Prior to settlement of an insured loss, the Owner shall notify the Contractor of the terms of the proposed settlement as well as the proposed allocation of the insurance proceeds. The Contractor shall have 14 days from receipt of notice to object to the proposed settlement or allocation of the proceeds. If the Contractor does not object, the Owner shall settle the loss and the Contractor shall be bound by the settlement and allocation. Upon receipt, the Owner shall deposit the insurance proceeds in a separate account and make the appropriate distributions. Thereafter, if no other agreement is made or the Owner does not terminate the Contract for convenience, the Owner and Contractor shall execute a Change Order for reconstruction of the damaged or destroyed Work in the amount allocated for that purpose. If the Contractor timely objects to either the terms of the proposed settlement or the allocation of the proceeds, the Owner may proceed to settle the insured loss, and any dispute between the Owner and Contractor arising out of the settlement or allocation of the proceeds shall be resolved pursuant to Article 15. Pending resolution of any dispute, the Owner may issue a Construction Change Directive for the reconstruction of the damaged or destroyed Work.

ARTICLE 12 UNCOVERING AND CORRECTION OF WORK

§ 12.1 Uncovering of Work

§ 12.1.1 If a portion of the Work is covered contrary to the Architect's request or to requirements specifically expressed in the Contract Documents, it must, if requested in writing by the Architect, be uncovered for the Architect's examination and be replaced at the Contractor's expense without change in the Contract Time.

§ 12.1.2 If a portion of the Work has been covered that the Architect has not specifically requested to examine prior to its being covered, the Architect may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, the Contractor shall be entitled to an equitable adjustment to the Contract Sum and Contract Time as may be appropriate. If such Work is not in accordance with the Contract Documents, the costs of uncovering the Work, and the cost of correction, shall be at the Contractor's expense.

§ 12.2 Correction of Work

§ 12.2.1 Before Substantial Completion

The Contractor shall promptly correct Work rejected by the Architect or failing to conform to the requirements of the Contract Documents, discovered before Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Architect's services and expenses made necessary thereby, shall be at the Contractor's expense.

§ 12.2.2 After Substantial Completion

§ 12.2.2.1 In addition to the Contractor's obligations under Section 3.5, if, within one year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.9.1, or by terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of notice from the Owner to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the one-year period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor and to make a claim for breach of warranty. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner or Architect, the Owner may correct it in accordance with Section 2.5.

§ 12.2.2.2 The one-year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual completion of that portion of the Work.

§ 12.2.2.3 The one-year period for correction of Work shall not be extended by corrective Work performed by the Contractor pursuant to this Section 12.2.

§ 12.2.3 The Contractor shall remove from the site portions of the Work that are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner.

§ 12.2.4 The Contractor shall bear the cost of correcting destroyed or damaged construction of the Owner or Separate Contractors, whether completed or partially completed, caused by the Contractor's correction or removal of Work that is not in accordance with the requirements of the Contract Documents.

§ 12.2.5 Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

§ 12.3 Acceptance of Nonconforming Work

If the Owner prefers to accept Work that is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

ARTICLE 13 MISCELLANEOUS PROVISIONS

§ 13.1 Governing Law

The Contract shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 15.4.

§ 13.2 Successors and Assigns

§ 13.2.1 The Owner and Contractor respectively bind themselves, their partners, successors, assigns, and legal representatives to covenants, agreements, and obligations contained in the Contract Documents. Except as provided in Section 13.2.2, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

§ 13.2.2 The Owner may, without consent of the Contractor, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner's rights and obligations under the Contract Documents. The Contractor shall execute all consents reasonably required to facilitate the assignment.

§ 13.3 Rights and Remedies

§ 13.3.1 Duties and obligations imposed by the Contract Documents and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights, and remedies otherwise imposed or available by law.

§ 13.3.2 No action or failure to act by the Owner, Architect, or Contractor shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed upon in writing.

§ 13.4 Tests and Inspections

§ 13.4.1 Tests, inspections, and approvals of portions of the Work shall be made as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules, and regulations or lawful orders of public authorities. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections, and

approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections, and approvals. The Contractor shall give the Architect timely notice of when and where tests and inspections are to be made so that the Architect may be present for such procedures. The Owner shall bear costs of tests, inspections, or approvals that do not become requirements until after bids are received or negotiations concluded. The Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations so require.

§ 13.4.2 If the Architect, Owner, or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection, or approval not included under Section 13.4.1, the Architect will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection, or approval, by an entity acceptable to the Owner, and the Contractor shall give timely notice to the Architect of when and where tests and inspections are to be made so that the Architect may be present for such procedures. Such costs, except as provided in Section 13.4.3, shall be at the Owner's expense.

§ 13.4.3 If procedures for testing, inspection, or approval under Sections 13.4.1 and 13.4.2 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, all costs made necessary by such failure, including those of repeated procedures and compensation for the Architect's services and expenses, shall be at the Contractor's expense.

§ 13.4.4 Required certificates of testing, inspection, or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the Architect.

§ 13.4.5 If the Architect is to observe tests, inspections, or approvals required by the Contract Documents, the Architect will do so promptly and, where practicable, at the normal place of testing.

§ 13.4.6 Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

§ 13.5 Interest

Payments due and unpaid under the Contract Documents shall bear interest from the date payment is due at the rate the parties agree upon in writing or, in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT

§ 14.1 Termination by the Contractor

§ 14.1.1 The Contractor may terminate the Contract if the Work is stopped for a period of 30 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, for any of the following reasons:

- .1 Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;
- .2 An act of government, such as a declaration of national emergency, that requires all Work to be stopped;
- .3 Because the Architect has not issued a Certificate for Payment and has not notified the Contractor of the reason for withholding certification as provided in Section 9.4.1, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Contract Documents; or
- .4 The Owner has failed to furnish to the Contractor reasonable evidence as required by Section 2.2.

§ 14.1.2 The Contractor may terminate the Contract if, through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, repeated suspensions, delays, or interruptions of the entire Work by the Owner as described in Section 14.3, constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less.

§ 14.1.3 If one of the reasons described in Section 14.1.1 or 14.1.2 exists, the Contractor may, upon seven days' notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work executed, as well as reasonable overhead and profit on Work not executed, and costs incurred by reason of such termination.

§ 14.1.4 If the Work is stopped for a period of 60 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, or their agents or employees or any other persons or entities performing portions of the Work because the Owner has repeatedly failed to fulfill the Owner's obligations under the Contract Documents with respect to matters important to the progress of the Work, the Contractor may, upon seven additional days' notice to the Owner and the Architect, terminate the Contract and recover from the Owner as provided in Section 14.1.3.

§ 14.2 Termination by the Owner for Cause

§ 14.2.1 The Owner may terminate the Contract if the Contractor

- .1 repeatedly refuses or fails to supply enough properly skilled workers or proper materials;
- .2 fails to make payment to Subcontractors or suppliers in accordance with the respective agreements between the Contractor and the Subcontractors or suppliers;
- .3 repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or
- .4 otherwise is guilty of substantial breach of a provision of the Contract Documents.

§ 14.2.2 When any of the reasons described in Section 14.2.1 exist, and upon certification by the Architect that sufficient cause exists to justify such action, the Owner may, without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:

- .1 Exclude the Contractor from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;
- .2 Accept assignment of subcontracts pursuant to Section 5.4; and
- .3 Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.

§ 14.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 14.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

§ 14.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including compensation for the Architect's services and expenses made necessary thereby, and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The amount to be paid to the Contractor or Owner, as the case may be, shall be certified by the Initial Decision Maker, upon application, and this obligation for payment shall survive termination of the Contract.

§ 14.3 Suspension by the Owner for Convenience

§ 14.3.1 The Owner may, without cause, order the Contractor in writing to suspend, delay or interrupt the Work, in whole or in part for such period of time as the Owner may determine.

§ 14.3.2 The Contract Sum and Contract Time shall be adjusted for increases in the cost and time caused by suspension, delay, or interruption under Section 14.3.1. Adjustment of the Contract Sum shall include profit. No adjustment shall be made to the extent

- .1 that performance is, was, or would have been, so suspended, delayed, or interrupted, by another cause for which the Contractor is responsible; or
- .2 that an equitable adjustment is made or denied under another provision of the Contract.

§ 14.4 Termination by the Owner for Convenience

§ 14.4.1 The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause.

§ 14.4.2 Upon receipt of notice from the Owner of such termination for the Owner's convenience, the Contractor shall

- .1 cease operations as directed by the Owner in the notice;
- .2 take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and
- .3 except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.

§ 14.4.3 In case of such termination for the Owner's convenience, the Owner shall pay the Contractor for Work properly executed; costs incurred by reason of the termination, including costs attributable to termination of Subcontracts; and the termination fee, if any, set forth in the Agreement.

ARTICLE 15 CLAIMS AND DISPUTES

§ 15.1 Claims

§ 15.1.1 Definition

A Claim is a demand or assertion by one of the parties seeking, as a matter of right, payment of money, a change in the Contract Time, or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Contractor arising out of or relating to the Contract. The responsibility to substantiate Claims shall rest with the party making the Claim. This Section 15.1.1 does not require the Owner to file a Claim in order to impose liquidated damages in accordance with the Contract Documents.

§ 15.1.2 Time Limits on Claims

The Owner and Contractor shall commence all Claims and causes of action against the other and arising out of or related to the Contract, whether in contract, tort, breach of warranty or otherwise, in accordance with the requirements of the binding dispute resolution method selected in the Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Contractor waive all Claims and causes of action not commenced in accordance with this Section 15.1.2.

§ 15.1.3 Notice of Claims

§ 15.1.3.1 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered prior to expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party and to the Initial Decision Maker with a copy sent to the Architect, if the Architect is not serving as the Initial Decision Maker. Claims by either party under this Section 15.1.3.1 shall be initiated within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later.

§ 15.1.3.2 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party. In such event, no decision by the Initial Decision Maker is required.

§ 15.1.4 Continuing Contract Performance

§ 15.1.4.1 Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 14, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents.

§ 15.1.4.2 The Contract Sum and Contract Time shall be adjusted in accordance with the Initial Decision Maker's decision, subject to the right of either party to proceed in accordance with this Article 15. The Architect will issue Certificates for Payment in accordance with the decision of the Initial Decision Maker.

§ 15.1.5 Claims for Additional Cost

If the Contractor wishes to make a Claim for an increase in the Contract Sum, notice as provided in Section 15.1.3 shall be given before proceeding to execute the portion of the Work that is the subject of the Claim. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4.

§ 15.1.6 Claims for Additional Time

§ 15.1.6.1 If the Contractor wishes to make a Claim for an increase in the Contract Time, notice as provided in Section 15.1.3 shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay, only one Claim is necessary.

§ 15.1.6.2 If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated, and had an adverse effect on the scheduled construction.

§ 15.1.7 Waiver of Claims for Consequential Damages

The Contractor and Owner waive Claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes

- .1 damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and
- .2 damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit, except anticipated profit arising directly from the Work.

This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 14. Nothing contained in this Section 15.1.7 shall be deemed to preclude assessment of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.

§ 15.2 Initial Decision

§ 15.2.1 Claims, excluding those where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2 or arising under Sections 10.3, 10.4, and 11.5, shall be referred to the Initial Decision Maker for initial decision. The Architect will serve as the Initial Decision Maker, unless otherwise indicated in the Agreement. Except for those Claims excluded by this Section 15.2.1, an initial decision shall be required as a condition precedent to mediation of any Claim. If an initial decision has not been rendered within 30 days after the Claim has been referred to the Initial Decision Maker, the party asserting the Claim may demand mediation and binding dispute resolution without a decision having been rendered. Unless the Initial Decision Maker and all affected parties agree, the Initial Decision Maker will not decide disputes between the Contractor and persons or entities other than the Owner.

§ 15.2.2 The Initial Decision Maker will review Claims and within ten days of the receipt of a Claim take one or more of the following actions: (1) request additional supporting data from the claimant or a response with supporting data from the other party, (2) reject the Claim in whole or in part, (3) approve the Claim, (4) suggest a compromise, or (5) advise the parties that the Initial Decision Maker is unable to resolve the Claim if the Initial Decision Maker lacks sufficient information to evaluate the merits of the Claim or if the Initial Decision Maker concludes that, in the Initial Decision Maker's sole discretion, it would be inappropriate for the Initial Decision Maker to resolve the Claim.

§ 15.2.3 In evaluating Claims, the Initial Decision Maker may, but shall not be obligated to, consult with or seek information from either party or from persons with special knowledge or expertise who may assist the Initial Decision Maker in rendering a decision. The Initial Decision Maker may request the Owner to authorize retention of such persons at the Owner's expense.

§ 15.2.4 If the Initial Decision Maker requests a party to provide a response to a Claim or to furnish additional supporting data, such party shall respond, within ten days after receipt of the request, and shall either (1) provide a response on the requested supporting data, (2) advise the Initial Decision Maker when the response or supporting data will be furnished, or (3) advise the Initial Decision Maker that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Initial Decision Maker will either reject or approve the Claim in whole or in part.

§ 15.2.5 The Initial Decision Maker will render an initial decision approving or rejecting the Claim, or indicating that the Initial Decision Maker is unable to resolve the Claim. This initial decision shall (1) be in writing; (2) state the reasons therefor; and (3) notify the parties and the Architect, if the Architect is not serving as the Initial Decision Maker, of any change in the Contract Sum or Contract Time or both. The initial decision shall be final and binding on the parties but subject to mediation and, if the parties fail to resolve their dispute through mediation, to binding dispute resolution.

§ 15.2.6 Either party may file for mediation of an initial decision at any time, subject to the terms of Section 15.2.6.1.

§ 15.2.6.1 Either party may, within 30 days from the date of receipt of an initial decision, demand in writing that the other party file for mediation. If such a demand is made and the party receiving the demand fails to file for mediation within 30 days after receipt thereof, then both parties waive their rights to mediate or pursue binding dispute resolution proceedings with respect to the initial decision.

§ 15.2.7 In the event of a Claim against the Contractor, the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

§ 15.2.8 If a Claim relates to or is the subject of a mechanic's lien, the party asserting such Claim may proceed in accordance with applicable law to comply with the lien notice or filing deadlines.

§ 15.3 Mediation

§ 15.3.1 Claims, disputes, or other matters in controversy arising out of or related to the Contract, except those waived as provided for in Sections 9.10.4, 9.10.5, and 15.1.7, shall be subject to mediation as a condition precedent to binding dispute resolution.

§ 15.3.2 The parties shall endeavor to resolve their Claims by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of binding dispute resolution proceedings but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration is stayed pursuant to this Section 15.3.2, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§ 15.3.3 Either party may, within 30 days from the date that mediation has been concluded without resolution of the dispute or 60 days after mediation has been demanded without resolution of the dispute, demand in writing that the other party file for binding dispute resolution. If such a demand is made and the party receiving the demand fails to file for binding dispute resolution within 60 days after receipt thereof, then both parties waive their rights to binding dispute resolution proceedings with respect to the initial decision.

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

§ 15.4 Arbitration

§ 15.4.1 If the parties have selected arbitration as the method for binding dispute resolution in the Agreement, any Claim subject to, but not resolved by, mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of the Agreement. The Arbitration shall be conducted in the place where the Project is located, unless another location is mutually agreed upon. A demand for arbitration shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the arbitration. The party filing a notice of demand for arbitration must assert in the demand all Claims then known to that party on which arbitration is permitted to be demanded.

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

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

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

§ 15.4.4 Consolidation or Joinder

§ 15.4.4.1 Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation, (2) the arbitrations to be consolidated substantially involve common questions of law or fact, and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

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

§ 15.4.4.3 The Owner and Contractor grant to any person or entity made a party to an arbitration conducted under this Section 15.4, whether by joinder or consolidation, the same rights of joinder and consolidation as those of the Owner and Contractor under this Agreement.

SECTION 004113.3 - FORM OF PROPOSAL 1(C) – GENERAL SITE CONSTRUCTION

PROJECT: Bid Package 01 – Site
Former Bluegrass Downs Grandstand
150 Downs Drive
Paducah, Kentucky

Name of Contractor: A&K Construction, Inc.

Mailing Address: 100 Calloway Court

Paducah, KY 42001

Business Phone: 270-441-7752

TO: Steve Ervin, Community Development Project Manager
McCracken County Fiscal Court
300 Clarence Gaines Street
Paducah, KY 42001

Having carefully examined the Instructions to Bidders, Contract Agreement, General Conditions, Special Conditions, Specifications, and Drawings on the above referenced project, the undersigned bidder proposes to furnish all labor, materials, equipment, tools, supplies, services, and temporary devices required to complete the work in accordance with the contract documents and any addenda listed below for the price stated herein.

BASE BID:

Grading and Earthwork	\$	12,128,306.00	12,128,306.
Site Utilities	\$	870,000.00	
General Site Construction	\$	16,370,440.00	
Roads and Parking	\$	8,831,758.00	8,831,758.00
Site Structures	\$	2,429,009.00	
Playground Equipment	\$	339,324.00	
Landscaping	\$	N/A	
Irrigation	\$	1,512,929.00	
Planting Material	\$	3,564,234.00	
TOTAL	\$	46,046,000.00	

For the construction required to complete the work in accordance with the contract documents, I/We submit the following lump sum price of

Forty-six million four DOLLARS NO CENTS
(use words) 54 thousand

ALTERNATE BID:

For omission from or addition to those items, services, or construction specified in Bidding Documents by alternate number, the following lump sum price will be added or deducted from the base bid.

Coordinate Alternate Bid No. 1 and No. 2 with Package 1(B) – Field Lighting.

Alternate Bid No.	Alternate Description	+ (Add to the Base Bid)	- (Deduct from the Base Bid) \$	No Cost Change from the Base Bid)
Alt. Bid No. 1	Pickleball Courts and Associated Site Work and Amenities		<1,385,000>	
Alt. Bid No. 2	Basketball Courts and Associated Site Work and Amenities		<675,000>	
Alt. Bid No. 3	Sanitary Sewer Wet Weather Overflow		<126,000>	

ADDENDA:

Receipt of Addenda Number(s) 1 thru 4 is acknowledged.

UNIT PRICES:

Refer to attached sheet(s) for listing of unit prices.

PROPOSED SUBCONTRACTORS:

Refer to attached sheet(s) for listing of proposed subcontractors.

PROPOSED MATERIALS AND EQUIPMENT:

Refer to attached sheet(s) for listing of proposed materials and equipment.

REFERENCES:

Refer to attached sheet(s) for listing of project references.

UNIT PRICES:

Unit Prices shall include the furnishing of all labor, materials, supplies, services and shall include all: Items of cost, overhead and profit for the contractor and subcontractor involved, and shall be used uniformly without modification for either addition or deduction. The unit prices as established shall be used to determine the equitable adjustment of the contract price in connection with changes or extra work performed under the contract, and rules of measurement as set forth in the General Conditions shall govern.

	WORK	PRICE	UNIT
	Civil		
1.	Concrete Sidewalks – Installed	\$ 484.49	/ CY
2.	Concrete Curbs – Installed	\$ 43.70	/ LF
3.	Asphalt Paving – Installed	\$ 128.71	/ CY
4.	Chain Link Fencing - Installed	\$ 65.78	/ LF
5.	XXX	\$	/
	Landscape		
1.	Shade Tree – Installed	\$ 950.00	/ EA
2.	Ornamental Tree – Installed	\$ 950.00	/ EA
3.	Evergreen Tree – Installed	\$ 950.00	/ EA
4.	Shrub – Installed	\$ 161.00	/ EA
5.	Perennial – Installed	\$ 39.10	/ EA
6.	Plug – Installed	\$ 20.70	/ EA
7.	Sod – Installed	\$.98	/ SF
8.	Seed – Installed	\$.21	/ SF
9.	Mulch – Installed	\$ 115.00	/ CY
10.	Irrigation Piping – Installed	\$ 13.80	/ LF

Name of Contractor: A&K Construction, Inc.

Authorized Representative Bill Boyd Title President

 Date 3/26/24
(Signature)

LIST OF PROPOSED SUBCONTRACTORS

The following list of proposed subcontractors is required to be executed, completed and submitted with the Bidder's Proposal. All subcontractors are subject to approval by the Owner. Failure to submit this list, completely filled out, may cause rejection of bid.

BRANCH OF WORK	SUBCONTRACTOR
STRUCTURE DEMOLITION (DIVISION 02)	Central Paving
CAST-IN-PLACE CONCRETE (DIVISION 03)	A & K
POST-TENSION REINFORCEMENT (DIVISION 03)	Hellas
MASONRY (DIVISION 04)	Shawn Jones Masonry
STRUCTURAL STEEL FABRICATOR (DIVISION 05)	Summit
SITE CLEARING (DIVISION 31)	Central Paving
SITE GRADING (DIVISION 31)	" "
ELECTRICAL (DIVISION 26)	Jay's Electric
CONCRETE PAVING (DIVISION 32)	A & K
ASPHALT PAVING (DIVISION 32)	Central Paving
PLANTING/LANDSCAPING (DIVISION 32)	James Sanders Nursery
IRRIGATION (DIVISION 32)	" "
FENCING AND GATES (DIVISION 32)	Empire Net & Fence
SITE UTILITIES (DIVISION 33)	Wood Brothers

LIST OF MATERIALS AND EQUIPMENT

Every item listed under the different phases of construction must be clearly identified so that the Owner will definitely know what the bidder proposes to furnish. The use of a dealer's name or stating "as per plans and specifications" will not be considered as sufficient identification.

The following list of materials and equipment is required to be executed, completed and submitted with the Bidder's Proposal. Failure to submit this list, completely filled out, may cause rejection of bid.

MATERIAL	MANUFACTURER/MODEL NO.
CAST-IN-PLACE-CONCRETE	Southern Concrete
CONCRETE MASONRY	Lee Bldg Products
BRICK VENEER MASONRY	Bower Stone Shale
STONE MASONRY	Indiana Limestone
STRUCTURAL STEEL	Summit
ASPHALT PAVING	Central Paving
PLAYGROUND EQUIPMENT	Game Time
SHELTERS/PAVILIONS	CFT
SHADE STRUCTURES	Shade Solutions
SITE FURNISHINGS	Play Pros
SPORT NETTING	USS
SITE LIGHTING FIXTURES	Lithonia
LIGHT POLES	US Architectural Lighting
PULL BOXES	Quazite
POWER PEDASTAL	Legrand
PANELBOARD	Square D

LIST OF PROJECT REFERENCES

The following list of project references is required to be executed, completed and submitted with the Bidder's Proposal. Failure to submit this list, completely filled out, may cause rejection of bid.

PROJECT NAME: McCracken County High School

PROJECT LOCATION: Paducah, KY

REFERENCE NAME: Holly King

CONTACT INFORMATION: Holly King - 270-519-9867

PROJECT NAME: Madisonville Sports Plex

PROJECT LOCATION: Madisonville, KY

REFERENCE NAME: Chris Jones

CONTACT INFORMATION: Chris Jones - Sherman Carter Barnhart - 270-564-1146

cjones@scbarchitects.com

PROJECT NAME: Paducah Middle School

PROJECT LOCATION: Paducah, KY

REFERENCE NAME: Troy Brock - Paducah Public Schools

CONTACT INFORMATION: Troy Brock - 270-994-7008

troy.brock@paducah.kyschools.us

SECTION 004600.3 – BID EVALUATION FORM – GENERAL SITE CONSTRUCTION

PROJECT: Paducah Sports Park
Bid Package 01 - Site

DATE: 3/26/24 To be completed by Owner once bids have been received.

BIDDER: A&K Construction, Inc.

GRADING CRITERIA:

Evaluate the Bidder's Criteria on a rated value scale:

0 = the lowest value to 10 = the highest value for each item listed below.

Rating x Weighted Percent = Criterion Score

The Sum of all Criterion Scores shall be the Owner's basis of the Bidder's Overall Score.

NO.	CRITERIA ITEMS	RATING VALUE (0- 10)	WEIGHTED PERCENT	CRITERION SCORE
1.	Ability to meet or exceed the plans, specifications and performance requirements.		20	
2.	Incorporation of local vendors and subcontractors.		10	
3.	Comparison with basis-of-design products.		10	
4.	Amount of self-performance by bidder forces.		10	
5.	Price and value of bid per evaluation of the selection committee.		20	
6.	Financial stability, bondable, recent litigation of the vendor.		10	
7.	Ability to assist Owner with direct purchasing process.		10	
8.	Customer references.		10	

BIDDER'S OVERALL TOTAL SCORE _____

PREFERENCE TO KENTUCKY BIDDERS

1. Bidder is a resident of the following state: Kentucky
2. If Bidder is a non-resident of the Commonwealth of Kentucky, indicate if any preference is given by the resident's state: _____
3. Addition of any reciprocal preference for resident bidders: _____

BID BOND

Travelers Casualty and Surety Company of America
Hartford, CT 06183

CONTRACTOR:

(Name, legal status and address)

A & K Construction Inc.
100 Calloway Court
Paducah, KY 42001

OWNER:

(Name, legal status and address)

McCracken County Fiscal Court
300 Clarence Gains Street
Paducah KY 42003

SURETY:

(Name, legal status and principal place of business)

Travelers Casualty and Surety Company of America
One Tower Square
Hartford, CT 06183

BOND AMOUNT: 5% of attached bid

PROJECT:

(Name, location or address, and Project number, if any)

Paducah Sports Park - Bid Package 1 - Site - General Site Construction
Paducah KY

The Contractor and Surety are bound to the Owner in the amount set forth above, for the payment of which the Contractor and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, as provided herein. The conditions of this Bond are such that if the Owner accepts the bid of the Contractor within the time specified in the bid documents, or within such time period as may be agreed to by the Owner and Contractor, and the Contractor either (1) enters into a contract with the Owner in accordance with the terms of such bid, and gives such bond or bonds as may be specified in the bidding or Contract Documents, with a surety admitted in the jurisdiction of the Project and otherwise acceptable to the Owner, for the faithful performance of such Contract and for the prompt payment of labor and material furnished in the prosecution thereof; or (2) pays to the Owner the difference, not to exceed the amount of this Bond, between the amount specified in said bid and such larger amount for which the Owner may in good faith contract with another party to perform the work covered by said bid, then this obligation shall be null and void, otherwise to remain in full force and effect. The Surety hereby waives any notice of an agreement between the Owner and Contractor to extend the time in which the Owner may accept the bid. Waiver of notice by the Surety shall not apply to any extension exceeding sixty (60) days in the aggregate beyond the time for acceptance of bids specified in the bid documents, and the Owner and Contractor shall obtain the Surety's consent for an extension beyond sixty (60) days.

If this Bond is issued in connection with a subcontractor's bid to a Contractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

When this Bond has been furnished to comply with a statutory or other legal requirement in the location of the Project, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

Signed and sealed this 25 day of March, 2024

A & K Construction, Inc.

Kim Boyle

(Principal)

(Seal)

President

(Title)

Travelers Casualty and Surety Company of America

Misty G. Meyer

(Surety) Misty G. Meyer

(Seal)

Attorney-in-Fact

(Title)

Keith Lumbert

(Witness)

Nate T. Byerly

(Witness) Nate T. Byerly





Travelers Casualty and Surety Company of America
Travelers Casualty and Surety Company
St. Paul Fire and Marine Insurance Company

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company are corporations duly organized under the laws of the State of Connecticut (herein collectively called the "Companies"), and that the Companies do hereby make, constitute and appoint **Misty G. Meyer** of **BENTON**, **Kentucky**, their true and lawful Attorney(s)-in-Fact to sign, execute, seal and acknowledge any and all bonds, recognizances, conditional undertakings and other writings obligatory in the nature thereof on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

IN WITNESS WHEREOF, the Companies have caused this instrument to be signed, and their corporate seals to be hereto affixed, this **21st day of April, 2021**.



State of Connecticut

By: 
Robert L. Raney, Senior Vice President

City of Hartford ss.

On this the **21st day of April, 2021**, before me personally appeared **Robert L. Raney**, who acknowledged himself to be the Senior Vice President of each of the Companies, and that he, as such, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing on behalf of said Companies by himself as a duly authorized officer.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

My Commission expires the **30th day of June, 2026**




Anna P. Nowik, Notary Public

This Power of Attorney is granted under and by the authority of the following resolutions adopted by the Boards of Directors of each of the Companies, which resolutions are now in full force and effect, reading as follows:

RESOLVED, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President, any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary may appoint Attorneys-in-Fact and Agents to act for and on behalf of the Company and may give such appointee such authority as his or her certificate of authority may prescribe to sign with the Company's name and seal with the Company's seal bonds, recognizances, contracts of indemnity, and other writings obligatory in the nature of a bond, recognizance, or conditional undertaking, and any of said officers or the Board of Directors at any time may remove any such appointee and revoke the power given him or her; and it is

FURTHER RESOLVED, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President may delegate all or any part of the foregoing authority to one or more officers or employees of this Company, provided that each such delegation is in writing and a copy thereof is filed in the office of the Secretary; and it is

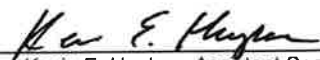
FURTHER RESOLVED, that any bond, recognizance, contract of indemnity, or writing obligatory in the nature of a bond, recognizance, or conditional undertaking shall be valid and binding upon the Company when (a) signed by the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary and duly attested and sealed with the Company's seal by a Secretary or Assistant Secretary; or (b) duly executed (under seal, if required) by one or more Attorneys-in-Fact and Agents pursuant to the power prescribed in his or her certificate or their certificates of authority or by one or more Company officers pursuant to a written delegation of authority; and it is

FURTHER RESOLVED, that the signature of each of the following officers: President, any Executive Vice President, any Senior Vice President, any Vice President, any Assistant Vice President, any Secretary, any Assistant Secretary, and the seal of the Company may be affixed by facsimile to any Power of Attorney or to any certificate relating thereto appointing Resident Vice Presidents, Resident Assistant Secretaries or Attorneys-in-Fact for purposes only of executing and attesting bonds and undertakings and other writings obligatory in the nature thereof, and any such Power of Attorney or certificate bearing such facsimile signature or facsimile seal shall be valid and binding upon the Company and any such power so executed and certified by such facsimile signature and facsimile seal shall be valid and binding on the Company in the future with respect to any bond or understanding to which it is attached.

I, **Kevin E. Hughes**, the undersigned, Assistant Secretary of each of the Companies, do hereby certify that the above and foregoing is a true and correct copy of the Power of Attorney executed by said Companies, which remains in full force and effect.

Dated this **25** day of **March**, **2024**




Kevin E. Hughes, Assistant Secretary

To verify the authenticity of this Power of Attorney, please call us at 1-800-421-3880.

Please refer to the above-named Attorney(s)-in-Fact and the details of the bond to which this Power of Attorney is attached.



**SURETY BOND SEAL ADDENDUM
TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA**

Due to logistical issues associated with the use of traditional seals during the COVID-19 pandemic, Travelers Casualty and Surety Company of America ("Travelers") has authorized its Attorneys-in-Fact to affix Travelers' corporate seal to any bond executed on behalf of Travelers by any such Attorney-in-Fact by attaching this Addendum to said bond.

To the extent this Addendum is attached to a bond that is executed on behalf of Travelers by its Attorney-in-Fact, Travelers hereby agrees that the seal below shall be deemed affixed to said bond to the same extent as if its raised corporate seal was physically affixed to the face of the bond.

Dated this 16th day of March, 2020.

Travelers Casualty and Surety Company of America



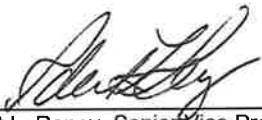
By: 
Robert L. Raney, Senior Vice President



Exhibit – Cost Reduction List Bid Package 1C Site / 2A Buildings | A&K Construction

Base Bid - A&K	Vendor Provide Pricing		Status
Base Bid Site		\$ 46,046,000.00	
Base Bid Structures		\$ 19,917,000.00	
Eliminate field curb from site vendor	\$ (172,524.00)	\$ -	Rejected
Vol. Alt for combination of Bid package 1 and Bid package 2.	\$ (126,000.00)	\$ (126,000.00)	Accepted
Site masonry	PENDING	\$ -	Pending
Shade structures	PENDING	\$ -	Pending
Overall reductions in landscaping including but not limited: reductions, direct purchase, island landscaping. Change in plant material, reducing to city min, changing to seeding and others previously covered under VE #9A through #9P]	\$ (1,724,496.00)	\$ (1,724,496.00)	Accepted
Replace Modular Dugout with Site Dugouts (net replacement costs with stick-build)	\$ (198,750.00)	\$ (198,750.00)	Accepted
Reductions to irrigation system (subject to landscaping reductions (25% targeted reduction)]	\$ (500,000.00)	\$ (500,000.00)	Accepted
Reduce/modify Soil amendments	\$ (39,500.00)	\$ (39,500.00)	Accepted
eliminate 10 islands at SNP road parking lot	in others	in others	Accepted
Eliminate bio-char from landscaping rootzone	\$ (550,000.00)	\$ (550,000.00)	Accepted
Convert maintenance and overflow parking at Metcalf to gravel	\$ (411,000.00)	\$ (411,000.00)	Accepted
Recycle and dispose of recyclable materials on site potentially at existing track pond.	\$ (15,350.00)	\$ (15,350.00)	Accepted
Eliminate show power at championship field	\$ (32,540.00)	\$ (32,540.00)	Accepted
Reduce height and type of perimeter fence (vinyl and cedar	\$ (40,000.00)	\$ (40,000.00)	Accepted
grandstand - open lower floor concept. Eliminate HVAC and exterior enclosure on west side of building	PENDING	\$ -	Pending
Eliminate entire grandstand element, replace with limited new structure less 15% for demolition and replacement design	\$ (8,407,232.00)	\$ (8,407,232.00)	Accepted
Eliminate other amenities associated with concerts	PENDING	\$ -	Pending
Eliminate other amenities associated with concerts	PENDING	\$ -	Pending
Remove Field 1 (Championship) from current design	\$ (1,311,000.00)	\$ (1,311,000.00)	Accepted
Eliminate balance of site improvements at maintenance yard and operate from rental property	in VE #30	\$ -	Accepted
eliminate new maintenance building complex	\$ (1,412,668.00)	\$ (1,412,668.00)	Accepted
eliminate all renovations to existing maintenance buildings	in above	in above	Accepted
Delete improvements to 650 building, remove from site. Leave 15% for demolition/redesign	\$ (325,568.00)	\$ (325,568.00)	Accepted
Eliminate playground equipment as shown in bid package #1. Eliminate all but community SN Park equipment.	\$ (157,000.00)	\$ (157,000.00)	Accepted
playground by turf contractor, at SNP, Credit from A&K. See VE #135 for missing playground surface	PENDING		
Delete playground amenities. Netting and seating, etc	\$ (48,400.00)	\$ (48,400.00)	
Alternate rock design at fields/ drainpipe savings, crowning of field; 1/2% crowning	\$ 275,000.00	\$ -	Rejected
Remove one rectangle field (field #10). And associated retaining wall.	REJECTED	\$ -	Rejected
Eliminate event dog runs	\$ (17,641.00)	\$ (17,641.00)	Accepted
Eliminate bike racks	\$ (7,301.00)	\$ (7,301.00)	Accepted
Deduct pickleball courts and parking as shown in Bid drawings	\$ (1,385,000.00)	\$ (1,385,000.00)	Accepted
Reduce flag poles to 2 total	\$ (11,719.00)	\$ (11,719.00)	Accepted
Reduce LF of curb gutter by 10%. Possibly at bioswales, use of wheel stops in lieu of C/G,	\$ (38,000.00)	\$ -	Pending
Eliminate Field stabilization - rectangle fields only	\$ (702,000.00)	\$ (702,000.00)	Accepted
Convert asphalt parking areas to porous grass	PENDING	\$ -	Pending
Convert asphalt paving areas to dustless material	PENDING	\$ -	Pending
Review changing pavers to concrete, standard, 4000 psi, 4" paving/sidewalk.	\$ (116,000.00)	\$ (116,000.00)	Accepted
Review changing pavers to DG at SN memorial	\$ (104,385.00)	\$ -	Rejected
Review changing of Vehicular Pavers to asphalt.	\$ (15,826.00)	\$ (15,826.00)	Accepted

Continued



Review changing of Concrete to asphalt or DG at sidewalks and perimeter walks. At picnic grove	\$ (31,900.00)	\$ (31,900.00)	Accepted
Eliminate unfunded wet weather overflow station	\$ (126,000.00)	\$ -	Rejected
Eliminate basketball courts and parking	\$ (675,000.00)	\$ (675,000.00)	Accepted
Eliminate basketball courts and parking	\$ (709,000.00)	\$ (709,000.00)	Accepted
Reduce tension netting to edge of the dugouts: see detail	\$ (190,000.00)	\$ (190,000.00)	Accepted
Reduce concrete strength to 4000psi, 4"	\$ (189,375.00)	\$ (189,375.00)	Accepted
Alternate hat and bat racks	\$ (188,000.00)	\$ (188,000.00)	Accepted
alternate players benches	\$ (108,000.00)	\$ (108,000.00)	Accepted
alternate trash receptacles	\$ (138,040.00)	\$ (138,040.00)	Accepted
reduction/alternate tables	\$ (27,885.00)	\$ (27,885.00)	Accepted
SNP Road redesign by BFW raising grade to salvage pavement. Review savings.	\$ 65,450.00	\$ 65,450.00	Accepted
Removing water quality ditch	\$ (48,000.00)	\$ (48,000.00)	Accepted
eliminate 2nd dumpster at SNP (west side)	\$ (71,262.00)	\$ -	pending
Remove bioswale Downs Roads	\$ (72,000.00)	\$ (72,000.00)	Accepted
Brick and CMU/cast stone vs limestone benches	\$ (70,550.00)	\$ (70,550.00)	Accepted
Eliminate all brick/CMU/stone benches	\$ (40,700.00)	\$ (40,700.00)	Accepted
Reduce paving section to 1" surface asphalt, 2" base asphalt over 8" of DGA.	\$ (306,625.00)	\$ (306,625.00)	Accepted
Adjusted Contract Price less above adjustments		\$ 45,678,384.00	
OWNER ELECTED ALLOWANCE - OWNER CONTROLLED		\$ 1,952,485.00	
TOTAL ADJUSTED CONTRACT PRICE		\$ 47,630,869.00	

DOCUMENT 000117 – INDEX OF DRAWINGS

BID PACKAGE 01 – SITE
PADUCAH SPORTS PARK
PADUCAH, KENTUCKY

<u>NUMBER</u>	<u>TITLE</u>
	COVER SHEET: BID PACKAG 01 – SITE
	SHEET INDEX
<u>CIVIL - SITE DEMOLITION</u>	
C1.0	OVERALL SITE DEMOLITION PLAN
C1.1	ENLARGED DEMOLITION PLAN
C1.2	ENLARGED DEMOLITION PLAN
C1.3	ENLARGED DEMOLITION PLAN
C1.4	ENLARGED DEMOLITION PLAN
C1.5	ENLARGED DEMOLITION PLAN
C1.6	ENLARGED DEMOLITION PLAN
C1.7	ENLARGED DEMOLITION PLAN
C1.8	ENLARGED DEMOLITION PLAN
C1.9	ENLARGED DEMOLITION PLAN
C1.10	ENLARGED DEMOLITION PLAN
C1.11	DISC GOLF COURSE DEMOLTION PLAN
<u>CIVIL - SITE DEVELOPMENT</u>	
C2.0A	OVERALL SITE DEVELOPMENT PLAN
C2.0B	OVERALL SITE DEVELOPMENT PLAN - WEST
C2.0C	OVERALL SITE DEVELOPMENT PLAN - EAST
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C2.2	ENLARGED DEVELOPMENT PLAN
C2.3	ENLARGED DEVELOPMENT PLAN
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C2.6	ENLARGED DEVELOPMENT PLAN
C2.7	ENLARGED DEVELOPMENT PLAN
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C2.9	ENLARGED DEVELOPMENT PLAN
C2.10	ENLARGED DEVELOPMENT PLAN
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C2.12	ENLARGED DEVELOPMENT PLAN
C2.13	ENLARGED DEVELOPMENT PLAN
C2.14	ENLARGED DEVELOPMENT PLAN
C2.15	ENLARGED DEVELOPMENT PLAN
C2.16	ENLARGED DEVELOPMENT PLAN
C2.17	ENLARGED DEVELOPMENT PLAN
C2.18	ENLARGED DEVELOPMENT PLAN
C2.19	ENLARGED DEVELOPMENT PLAN
C2.20	ENLARGED DEVELOPMENT PLAN
C2.21	ENLARGED DEVELOPMENT PLAN

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C3.4	ENLARGED GRADING PLAN
C3.5	ENLARGED GRADING PLAN
C3.6	ENLARGED GRADING PLAN
C3.7	ENLARGED GRADING PLAN
C3.8	ENLARGED GRADING PLAN
C3.9	ENLARGED GRADING PLAN
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C3.15	ENLARGED GRADING PLAN
C3.16	ENLARGED GRADING PLAN
C3.17	ENLARGED GRADING PLAN
C3.18	ENLARGED GRADING PLAN
C3.19	ENLARGED GRADING PLAN
C3.20	ENLARGED GRADING PLAN
C3.21	ENLARGED GRADING PLAN
C3.30	OVERALL EROSION AND SEDIMENTATION CONTROL PLAN
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C3.34	ENLARGED EROSION AND SEDIMENTATION CONTROL PLAN
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C3.37	EROSION AND SEDIMENTATION CONTROL DETAILS

CIVIL - SITE STORMWATER

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C4.0B	OVERALL SITE STORMWATER PLAN - WEST
C4.0C	OVERALL SITE STORMWATER PLAN - EAST
C4.1	ENLARGED STORMWATER PLAN
C4.2	ENLARGED STORMWATER PLAN
C4.3	ENLARGED STORMWATER PLAN
C4.4	ENLARGED STORMWATER PLAN
C4.5	ENLARGED STORMWATER PLAN
C4.7	ENLARGED STORMWATER PLAN
C4.8	ENLARGED STORMWATER PLAN
C4.9	ENLARGED STORMWATER PLAN
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C4.16	ENLARGED STORMWATER PLAN
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C4.18	ENLARGED STORMWATER PLAN
C4.19	ENLARGED STORMWATER PLAN
C4.21	ENLARGED STORMWATER PLAN
C4.22	STORMWATER STRUCTURE AND PIPE TABLES
C4.23	STORMWATER STRUCTURE AND PIPE TABLES
C4.24	STORMWATER DETAILS
C4.25	STORMWATER DETAILS
C4.26	STORMWATER DETAILS
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C5.4	ENLARGED UTILITY PLAN
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C5.23	UTILITY DETAILS
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C5.25	SANITARY SEWER LIFT STATION DETAILS
C5.26	SANITARY SEWER PLAN AND PROFILE - LINE A & B
C5.27	SANITARY SEWER PLAN AND PROFILE - FORCE MAIN
C5.28	SANITARY SEWER PLAN AND PROFILE - FORCE MAIN
C5.29	SANITARY SEWER PLAN AND PROFILE - FORCE MAIN
C5.30	SANITARY SEWER PLAN AND PROFILE - LINE C
C5.31	SANITARY SEWER PLAN AND PROFILE - LINE D
C5.32	WATER MAIN RELOCATION PLAN AND PROFILE

CIVIL - SITE DETAILS

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C6.1	SITE DETAILS
C6.2	SITE DETAILS

LANDSCAPE

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L2.0	SITE FURNISHINGS AND AMENITIES PLAN
L2.1	SITE FURNISHINGS AND AMENITIES PLAN
L2.2	SITE FURNISHINGS AND AMENITIES PLAN

L2.3	SITE FURNISHINGS AND AMENITIES PLAN
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L3.1	SITE FURNISHINGS AND AMENITIES PLAN ENLARGEMENT
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L3.5	SITE FURNISHINGS AND AMENITIES PLAN ENLARGEMENT
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END OF DOCUMENT 000117

Bid Package 01 – Site
Paducah Sports Park
150 Downs Drive
Paducah, Kentucky

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END OF DOCUMENT 000110

Agenda Action Form

Paducah City Commission

Meeting Date: June 25, 2024

Short Title: Accept recommendation from Sports Tourism Commission for Paducah Sports Park for Bid Package 02 - Food and Beverage and approve contract for services with Stafford Smith in the amount of \$608,833.00 - **A. CLARK & D. JORDAN**

Category: Municipal Order

Staff Work By: Amie Clark
Presentation By: Amie Clark, Daron Jordan

Background Information: PFGW Architects, on behalf of the Sports Tourism Commission, McCracken County Fiscal Court, and City of Paducah released a Request for Bids on March 23 for Food and Beverage for the Paducah Sports Park. Bid Opening was held April 30. One (1) bid was submitted.

A selection committee with representation from the Fiscal Court, City, Design Team, and Operations Team was formed to review and evaluate the bids. After review, the committee recommends moving forward with a contract for services with Stafford Smith for the Food and Beverage portion of the project.

Per the ILA, the McCracken County Sports Tourism commission must approve and make a recommendation to both the Fiscal Court and the City Commission for consideration and approval of construction contracts. The McCracken County Sports Tourism Commission approved the recommendation from the selection committee on Monday, June 10, and proceeds with a recommendation for a contract for services with Stafford Smith.

Accept recommendation from the Sports Tourism Commission and authorize execution of a contract for services with Stafford Smith in an amount not to exceed \$608,833.00 for Food and Beverage for the Paducah Sports Park project.

Does this Agenda Action Item align with a Commission Priority? Yes

If yes, please list the Commission Priority: Paducah Sports Park

Communications Plan:

Funds Available: Account Name:
Account Number:

Staff Recommendation: Approve

Attachments:

1. MO Food & Beverage Stafford Smith
2. SS A101-2017 - FINAL DRAFT Bid Package 2B_Food Services_2024

MUNICIPAL ORDER NO. _____

A MUNICIPAL ORDER APPROVING THE RECOMMENDATION OF THE McCracken County Sports Tourism Commission to accept the bid package for food and beverage services for the Paducah Sports Park Project in the amount not to exceed \$608,833 and authorizing the Mayor to execute all documents relating to same

WHEREAS, on September 7, 2022, the City of Paducah, the County of McCracken, and the McCracken County Sports Tourism Commission entered into an Interlocal Cooperation Agreement for the Development and Operation of the Paducah-McCracken County Athletic Complex (hereinafter "Interlocal Agreement"); and

WHEREAS, in accordance with the requirements of the Interlocal Agreement, the McCracken County Sports Tourism Commission has presented its recommendation of the best-evaluated bids and associated construction contracts for the completion of the work contemplated by the formerly approved construction plans; and

WHEREAS, the City Commission now desires to accept the McCracken County Sports Tourism Commission's recommendation for Food and Beverage Services for the Paducah Sports Park Project.

NOW, THEREFORE, BE IT ORDERED BY THE CITY OF PADUCAH, KENTUCKY:

SECTION 1. That the City Commission hereby approves the recommendation of the McCracken County Sports Tourism Commission, and accepts the bid proposal of Stafford Smith, Inc., in the amount of \$608,833, for Food & Beverage Services for the Paducah Sports Park Project.

SECTION 2. That the Mayor is hereby authorized to execute an agreement and all other documents necessary with Stafford Smith, Inc., for Food & Beverage Services for the Paducah Sports Park, as authorized in Section 1 above. Said agreement shall be in accordance with the specifications, bid proposal, and all contract documents heretofore approved and incorporated in the bid.

SECTION 3. This Order will be in full force and effect from and after the date of its adoption.

George Bray, Mayor

ATTEST:

Lindsay Parish, City Clerk

Adopted by the Board of Commissioners, _____

Recorded by Lindsay Parish, City Clerk, _____

MO\Agree – Stafford Smith Inc Food & Beverage – Sports Tourism Commission



AIA® Document A101® – 2017

Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum

AGREEMENT made as of the twenty fourth day of June in the year two thousand twenty-four.

(In words, indicate day, month and year.)

BETWEEN the Owner:

(Name, legal status, address and other information)

McCracken County Fiscal Court
300 Clarence Gaines Street
Paducah, KY 42003

and the Contractor:

(Name, legal status, address and other information)

Stafford Smith, Inc.
3414 S. Burdick Street
Kalamazoo, MI 49001

for the following Project:

(Name, location and detailed description)

Paducah Sports Park
Bid Package 2B – Food Services
Paducah, Kentucky 42001

The Architect:

(Name, legal status, address and other information)

Peck Flannery Gream Warren Inc.
PO Box 510
101 South Fourth Street
Paducah, Kentucky 42001

The Owner and Contractor agree as follows.

ADDITIONS AND DELETIONS:

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

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

The parties should complete A101®–2017, Exhibit A, Insurance and Bonds, contemporaneously with this Agreement. AIA Document A201®–2017, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

Init.

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TABLE OF ARTICLES

- 1 THE CONTRACT DOCUMENTS
- 2 THE WORK OF THIS CONTRACT
- 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION
- 4 CONTRACT SUM
- 5 PAYMENTS
- 6 DISPUTE RESOLUTION
- 7 TERMINATION OR SUSPENSION
- 8 MISCELLANEOUS PROVISIONS
- 9 ENUMERATION OF CONTRACT DOCUMENTS

EXHIBIT A INSURANCE AND BONDS

ARTICLE 1 THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary, and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. An enumeration of the Contract Documents, other than a Modification, appears in Article 9.

ARTICLE 2 THE WORK OF THIS CONTRACT

The Contractor shall fully execute the Work described in the Contract Documents, except as specifically indicated in the Contract Documents to be the responsibility of others.

ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 3.1 The date of commencement of the Work shall be:

(Check one of the following boxes.)

- ☐ The date of this Agreement.
- ☒ A date set forth in a notice to proceed issued by the Owner.
- ☐ Established as follows:
(Insert a date or a means to determine the date of commencement of the Work.)

If a date of commencement of the Work is not selected, then the date of commencement shall be the date of this Agreement.

§ 3.2 The Contract Time shall be measured from the date of commencement of the Work.

§ 3.3 Substantial Completion

§ 3.3.1 Subject to adjustments of the Contract Time as provided in the Contract Documents, the Contractor shall achieve Substantial Completion of the entire Work:

(Check one of the following boxes and complete the necessary information.)

- ☐ Not later than five hundred five (505) calendar days from the date of commencement of the Work.
- ☐ By the following date:

Init.

§ 3.3.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work are to be completed prior to Substantial Completion of the entire Work, the Contractor shall achieve Substantial Completion of such portions by the following dates:

Portion of Work	Substantial Completion Date
-----------------	-----------------------------

§ 3.3.3 If the Contractor fails to achieve Substantial Completion as provided in this Section 3.3, liquidated damages, if any, shall be assessed as set forth in Section 4.5.

ARTICLE 4 CONTRACT SUM

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor’s performance of the Contract. The Contract Sum shall be six hundred eight thousand, eight hundred thirty-three and 00/100 (\$608,833.00), subject to additions and deductions as provided in the Contract Documents.

§ 4.2 Alternates

§ 4.2.1 Alternates, if any, included in the Contract Sum:

Item	Price
N/A	

§ 4.2.2 Subject to the conditions noted below, the following alternates may be accepted by the Owner following execution of this Agreement. Upon acceptance, the Owner shall issue a Modification to this Agreement. (Insert below each alternate and the conditions that must be met for the Owner to accept the alternate.)

Item	Price	Conditions for Acceptance
N/A		

§ 4.3 Allowances, if any, included in the Contract Sum: (Identify each allowance.)

Item	Price
N/A	

§ 4.4 Unit prices, if any: (Identify the item and state the unit price and quantity limitations, if any, to which the unit price will be applicable.)

Item	Units and Limitations	Price per Unit (\$0.00)
N/A		

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

\$1,000.00 per calendar day until completion.

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

ARTICLE 5 PAYMENTS

§ 5.1 Progress Payments

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

§ 5.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:

§ 5.1.3 Provided that an Application for Payment is received by the Architect not later than the 25th day of a month, the Owner shall make payment of the amount certified to the Contractor not later than the 15th day of the following month. If an Application for Payment is received by the Architect after the application date fixed above, payment of the amount certified shall be made by the Owner not later than forty five (45) days after the Architect receives the Application for Payment.

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

§ 5.1.4 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form, and supported by such data to substantiate its accuracy, as the Architect may require. This schedule of values shall be used as a basis for reviewing the Contractor's Applications for Payment.

§ 5.1.5 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

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

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

- .1 That portion of the Contract Sum properly allocable to completed Work;
- .2 That portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction, or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing; and
- .3 That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified.

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

- .1 The aggregate of any amounts previously paid by the Owner;
- .2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A201–2017;
- .3 Any amount for which the Contractor does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Contractor intends to pay;
- .4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A201–2017; and
- .5 Retainage withheld pursuant to Section 5.1.7.

§ 5.1.7 Retainage

§ 5.1.7.1 For each progress payment made prior to Substantial Completion of the Work, the Owner may withhold the following amount, as retainage, from the payment otherwise due:

(Insert a percentage or amount to be withheld as retainage from each Application for Payment. The amount of retainage may be limited by governing law.)

Ten Percent (10%)

§ 5.1.7.1.1 The following items are not subject to retainage:

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

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

(If the retainage established in Section 5.1.7.1 is to be modified prior to Substantial Completion of the entire Work, including modifications for Substantial Completion of portions of the Work as provided in Section 3.3.2, insert provisions for such modifications.)

After issuance of Certificate of Substantial Completion, Retainage shall be reduced to five percent (5%).

§ 5.1.7.3 Except as set forth in this Section 5.1.7.3, upon Substantial Completion of the Work, the Contractor may submit an Application for Payment that includes the retainage withheld from prior Applications for Payment pursuant to this Section 5.1.7. The Application for Payment submitted at Substantial Completion shall not include retainage as follows:

(Insert any other conditions for release of retainage upon Substantial Completion.)

§ 5.1.8 If final completion of the Work is materially delayed through no fault of the Contractor, the Owner shall pay the Contractor any additional amounts in accordance with Article 9 of AIA Document A201–2017.

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

§ 5.2 Final Payment

§ 5.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when

- .1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Article 12 of AIA Document A201–2017, and to satisfy other requirements, if any, which extend beyond final payment; and
- .2 a final Certificate for Payment has been issued by the Architect.

§ 5.2.2 The Owner's final payment to the Contractor shall be made no later than 30 days after the issuance of the Architect's final Certificate for Payment, or as follows:

§ 5.3 Interest

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

(Insert rate of interest agreed upon, if any.)

%

ARTICLE 6 DISPUTE RESOLUTION

§ 6.1 Initial Decision Maker

The Architect will serve as the Initial Decision Maker pursuant to Article 15 of AIA Document A201–2017, unless the parties appoint below another individual, not a party to this Agreement, to serve as the Initial Decision Maker.

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

§ 6.2 Binding Dispute Resolution

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

(Check the appropriate box.)

☒ [X] Arbitration pursuant to Section 15.4 of AIA Document A201–2017

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[] Litigation in a court of competent jurisdiction

[] Other (*Specify*)

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

ARTICLE 7 TERMINATION OR SUSPENSION

§ 7.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A201–2017.

§ 7.1.1 If the Contract is terminated for the Owner's convenience in accordance with Article 14 of AIA Document A201–2017, then the Owner shall pay the Contractor a termination fee as follows:

(Insert the amount of, or method for determining, the fee, if any, payable to the Contractor following a termination for the Owner's convenience.)

§ 7.2 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201–2017.

ARTICLE 8 MISCELLANEOUS PROVISIONS

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

§ 8.2 The Owner's representative:

(Name, address, email address, and other information)

Steve Ervin, Community Development Project Manager
McCracken County Fiscal Court
300 Clarence Gaines Street
Paducah, KY 42003

§ 8.3 The Contractor's representative:

(Name, address, email address, and other information)

David Stafford, President / CEO
Stafford Smith, Inc.
3414 S. Burdick Street
Kalamazoo, MI 49001

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

§ 8.5 Insurance and Bonds

§ 8.5.1 The Owner and the Contractor shall purchase and maintain insurance as set forth in AIA Document A101™–2017, Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum, Exhibit A, Insurance and Bonds, and elsewhere in the Contract Documents.

§ 8.5.2 The Contractor shall provide bonds as set forth in AIA Document A101™–2017 Exhibit A, and elsewhere in the Contract Documents.

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

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(If other than in accordance with AIA Document E203–2013, insert requirements for delivering notice in electronic format such as name, title, and email address of the recipient and whether and how the system will be required to generate a read receipt for the transmission.)

§ 8.7 Other provisions:

ARTICLE 9 ENUMERATION OF CONTRACT DOCUMENTS

§ 9.1 This Agreement is comprised of the following documents:

- .1 AIA Document A101™–2017, Standard Form of Agreement Between Owner and Contractor
- .2 AIA Document A101™–2017, Exhibit A, Insurance and Bonds
- .3 AIA Document A201™–2017, General Conditions of the Contract for Construction

(Paragraphs deleted)

(Insert the date of the E203-2013 incorporated into this Agreement.)

- .4 Drawings

Number	Title	Date	Pages
See Attached Index of Drawing	000117-Index of Drawings	March 26, 2024	8

- .5 Specifications

Section	Title	Date	Pages
See Attached Table of Contents	000110-Table of Contents	March 26, 2024	5

- .6 Addenda, if any:

Number	Date	Pages
Addendum No. 1	February 23, 2024	1
Addendum No. 2	March 11, 2024	102
Addendum No. 3	March 14, 2024	14
Addendum No. 4	March 21, 2024	93

Portions of Addenda relating to bidding or proposal requirements are not part of the Contract Documents unless the bidding or proposal requirements are also enumerated in this Article 9.

- .7 Other Exhibits:

(Check all boxes that apply and include appropriate information identifying the exhibit where required.)

- ☐ AIA Document E204™–2017, Sustainable Projects Exhibit, dated as indicated below:
(Insert the date of the E204-2017 incorporated into this Agreement.)

- ☐ The Sustainability Plan:

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

- ☐ Supplementary and other Conditions of the Contract:

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

.9 Other documents, if any, listed below:

(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201™-2017 provides that the advertisement or invitation to bid, Instructions to Bidders, sample forms, the Contractor's bid or proposal, portions of Addenda relating to bidding or proposal requirements, and other information furnished by the Owner in anticipation of receiving bids or proposals, are not part of the Contract Documents unless enumerated in this Agreement. Any such documents should be listed here only if intended to be part of the Contract Documents.)

Contractors Original Form of Proposal
Exhibit – Cost Reduction List Bid Package 2B-Food Services
Contractors Performance & Payment Bonds
Contractors Certificate of Insurance
Index of Drawings
Table of Contents

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

McCracken County Fiscal Court

Stafford Smith, Inc.

OWNER (Signature)

CONTRACTOR (Signature)

Craig Z. Clymer, Judge Executive
(Printed name and title)

David Stafford, President / CEO
(Printed name and title)

Init.

AIA® Document A201® – 2017

General Conditions of the Contract for Construction

for the following PROJECT:

(Name and location or address)

Paducah Sports Park – Bid Package 2B Food Services
Paducah, Kentucky 42001

THE OWNER:

(Name, legal status and address)

McCracken County Fiscal Court
300 Clarence Gaines Street
Paducah, KY 42003

THE ARCHITECT:

(Name, legal status and address)

Peck Flannery Gream Warren Inc.
PO Box 510
101 South Fourth Street
Paducah, KY 42002-0510

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3	CONTRACTOR
4	ARCHITECT
5	SUBCONTRACTORS
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10	PROTECTION OF PERSONS AND PROPERTY
11	INSURANCE AND BONDS
12	UNCOVERING AND CORRECTION OF WORK
13	MISCELLANEOUS PROVISIONS

ADDITIONS AND DELETIONS:

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

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

For guidance in modifying this document to include supplementary conditions, see AIA Document A503™, Guide for Supplementary Conditions.

14 TERMINATION OR SUSPENSION OF THE CONTRACT

15 CLAIMS AND DISPUTES

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ARTICLE 1 GENERAL PROVISIONS

§ 1.1 Basic Definitions

§ 1.1.1 The Contract Documents

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

§ 1.1.2 The Contract

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

§ 1.1.3 The Work

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

§ 1.1.4 The Project

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

§ 1.1.5 The Drawings

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

§ 1.1.6 The Specifications

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

§ 1.1.7 Instruments of Service

Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Architect and the Architect's consultants under their respective professional services agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, and other similar materials.

§ 1.1.8 Initial Decision Maker

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

§ 1.2 Correlation and Intent of the Contract Documents

§ 1.2.1 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results.

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

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

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

§ 1.3 Capitalization

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

§ 1.4 Interpretation

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

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

§ 1.5.1 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and retain all common law, statutory, and other reserved rights in their Instruments of Service, including copyrights. The Contractor, Subcontractors, Sub-subcontractors, and suppliers shall not own or claim a copyright in the Instruments of Service. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the Architect's or Architect's consultants' reserved rights.

§ 1.5.2 The Contractor, Subcontractors, Sub-subcontractors, and suppliers are authorized to use and reproduce the Instruments of Service provided to them, subject to any protocols established pursuant to Sections 1.7 and 1.8, solely and exclusively for execution of the Work. All copies made under this authorization shall bear the copyright notice, if any, shown on the Instruments of Service. The Contractor, Subcontractors, Sub-subcontractors, and suppliers may not use the Instruments of Service on other projects or for additions to the Project outside the scope of the Work without the specific written consent of the Owner, Architect, and the Architect's consultants.

§ 1.6 Notice

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

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

§ 1.7 Digital Data Use and Transmission

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

§ 1.8 Building Information Models Use and Reliance

Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document

G202™–2013, Project Building Information Modeling Protocol Form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

ARTICLE 2 OWNER

§ 2.1 General

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

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

§ 2.2 Evidence of the Owner's Financial Arrangements

§ 2.2.1 Prior to commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. The Contractor shall have no obligation to commence the Work until the Owner provides such evidence. If commencement of the Work is delayed under this Section 2.2.1, the Contract Time shall be extended appropriately.

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

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

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

§ 2.3 Information and Services Required of the Owner

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

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

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

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

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

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

§ 2.4 Owner's Right to Stop the Work

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

§ 2.5 Owner's Right to Carry Out the Work

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a ten-day period after receipt of notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such default or neglect. Such action by the Owner and amounts charged to the Contractor are both subject to prior approval of the Architect and the Architect may, pursuant to Section 9.5.1, withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Architect's additional services made necessary by such default, neglect, or failure. If current and future payments are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner. If the Contractor disagrees with the actions of the Owner or the Architect, or the amounts claimed as costs to the Owner, the Contractor may file a Claim pursuant to Article 15.

ARTICLE 3 CONTRACTOR

§ 3.1 General

§ 3.1.1 The Contractor is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Contractor shall be lawfully licensed, if required in the jurisdiction where the Project is located. The Contractor shall designate in writing a representative who shall have express authority to bind the Contractor with respect to all matters under this Contract. The term "Contractor" means the Contractor or the Contractor's authorized representative.

§ 3.1.2 The Contractor shall perform the Work in accordance with the Contract Documents.

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

§ 3.2 Review of Contract Documents and Field Conditions by Contractor

§ 3.2.1 Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become generally familiar with local conditions under which the Work is to be performed, and correlated personal observations with requirements of the Contract Documents.

§ 3.2.2 Because the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 2.3.4, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating coordination and construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, the Contractor shall promptly report to the Architect any errors, inconsistencies or omissions discovered by or made known to the Contractor as a request for information in such form as the Architect may require. It is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional, unless otherwise specifically provided in the Contract Documents.

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

§ 3.2.4 If the Contractor believes that additional cost or time is involved because of clarifications or instructions the Architect issues in response to the Contractor's notices or requests for information pursuant to Sections 3.2.2 or 3.2.3, the Contractor shall submit Claims as provided in Article 15. If the Contractor fails to perform the obligations of Sections 3.2.2 or 3.2.3, the Contractor shall pay such costs and damages to the Owner, subject to Section 15.1.7, as would have been avoided if the Contractor had performed such obligations. If the Contractor performs those obligations, the Contractor shall not be liable to the Owner or Architect for damages resulting from errors, inconsistencies or omissions in the Contract Documents, for differences between field measurements or conditions and the Contract Documents, or for nonconformities of the Contract Documents to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities.

§ 3.3 Supervision and Construction Procedures

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

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

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

§ 3.4 Labor and Materials

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

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

§ 3.4.3 The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Work. The Contractor shall not permit employment of unfit persons or persons not properly skilled in tasks assigned to them.

§ 3.5 Warranty

§ 3.5.1 The Contractor warrants to the Owner and Architect that materials and equipment furnished under the Contract will be of good quality and new unless the Contract Documents require or permit otherwise. The Contractor further warrants that the Work will conform to the requirements of the Contract Documents and will be free from defects, except for those inherent in the quality of the Work the Contract Documents require or permit. Work, materials, or equipment not conforming to these requirements may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Architect, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

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

§ 3.6 Taxes

The Contractor shall pay sales, consumer, use and similar taxes for the Work provided by the Contractor that are legally enacted when bids are received or negotiations concluded, whether or not yet effective or merely scheduled to go into effect.

§ 3.7 Permits, Fees, Notices and Compliance with Laws

§ 3.7.1 Unless otherwise provided in the Contract Documents, the Contractor shall secure and pay for the building permit as well as for other permits, fees, licenses, and inspections by government agencies necessary for proper execution and completion of the Work that are customarily secured after execution of the Contract and legally required at the time bids are received or negotiations concluded.

§ 3.7.2 The Contractor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to performance of the Work.

§ 3.7.3 If the Contractor performs Work knowing it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Contractor shall assume appropriate responsibility for such Work and shall bear the costs attributable to correction.

§ 3.7.4 Concealed or Unknown Conditions

If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner and the Architect before conditions are disturbed and in no event later than 14 days after first observance of the conditions. The Architect will promptly investigate such conditions and, if the Architect determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend that an equitable adjustment be made in the Contract Sum or Contract Time, or both. If the Architect determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall promptly notify the Owner and Contractor, stating the reasons. If either party disputes the Architect's determination or recommendation, that party may submit a Claim as provided in Article 15.

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

§ 3.8 Allowances

§ 3.8.1 The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for such amounts and by such persons or entities as the Owner may direct, but the Contractor shall not be required to employ persons or entities to whom the Contractor has reasonable objection.

§ 3.8.2 Unless otherwise provided in the Contract Documents,

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

§ 3.8.3 Materials and equipment under an allowance shall be selected by the Owner with reasonable promptness.

§ 3.9 Superintendent

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

§ 3.9.2 The Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect of the name and qualifications of a proposed superintendent. Within 14 days of receipt of the information, the Architect may notify the Contractor, stating whether the Owner or the Architect (1) has reasonable objection to the proposed superintendent or (2) requires additional time for review. Failure of the Architect to provide notice within the 14-day period shall constitute notice of no reasonable objection.

§ 3.9.3 The Contractor shall not employ a proposed superintendent to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not change the superintendent without the Owner's consent, which shall not unreasonably be withheld or delayed.

§ 3.10 Contractor's Construction and Submittal Schedules

§ 3.10.1 The Contractor, promptly after being awarded the Contract, shall submit for the Owner's and Architect's information a Contractor's construction schedule for the Work. The schedule shall contain detail appropriate for the Project, including (1) the date of commencement of the Work, interim schedule milestone dates, and the date of Substantial Completion; (2) an apportionment of the Work by construction activity; and (3) the time required for completion of each portion of the Work. The schedule shall provide for the orderly progression of the Work to completion and shall not exceed time limits current under the Contract Documents. The schedule shall be revised at appropriate intervals as required by the conditions of the Work and Project.

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

§ 3.10.3 The Contractor shall perform the Work in general accordance with the most recent schedules submitted to the Owner and Architect.

§ 3.11 Documents and Samples at the Site

The Contractor shall make available, at the Project site, the Contract Documents, including Change Orders, Construction Change Directives, and other Modifications, in good order and marked currently to indicate field changes and selections made during construction, and the approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be in electronic form or paper copy, available to the Architect and Owner, and

delivered to the Architect for submittal to the Owner upon completion of the Work as a record of the Work as constructed.

§ 3.12 Shop Drawings, Product Data and Samples

§ 3.12.1 Shop Drawings are drawings, diagrams, schedules, and other data specially prepared for the Work by the Contractor or a Subcontractor, Sub-subcontractor, manufacturer, supplier, or distributor to illustrate some portion of the Work.

§ 3.12.2 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams, and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.

§ 3.12.3 Samples are physical examples that illustrate materials, equipment, or workmanship, and establish standards by which the Work will be judged.

§ 3.12.4 Shop Drawings, Product Data, Samples, and similar submittals are not Contract Documents. Their purpose is to demonstrate how the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents for those portions of the Work for which the Contract Documents require submittals. Review by the Architect is subject to the limitations of Section 4.2.7. Informational submittals upon which the Architect is not expected to take responsive action may be so identified in the Contract Documents. Submittals that are not required by the Contract Documents may be returned by the Architect without action.

§ 3.12.5 The Contractor shall review for compliance with the Contract Documents, approve, and submit to the Architect, Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents, in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Owner or of Separate Contractors.

§ 3.12.6 By submitting Shop Drawings, Product Data, Samples, and similar submittals, the Contractor represents to the Owner and Architect that the Contractor has (1) reviewed and approved them, (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so, and (3) checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.

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

§ 3.12.8 The Work shall be in accordance with approved submittals except that the Contractor shall not be relieved of responsibility for deviations from the requirements of the Contract Documents by the Architect's approval of Shop Drawings, Product Data, Samples, or similar submittals, unless the Contractor has specifically notified the Architect of such deviation at the time of submittal and (1) the Architect has given written approval to the specific deviation as a minor change in the Work, or (2) a Change Order or Construction Change Directive has been issued authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples, or similar submittals, by the Architect's approval thereof.

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

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

§ 3.12.10.1 If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of the Contractor by the Contract Documents, the Owner and the Architect will

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

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

§ 3.13 Use of Site

The Contractor shall confine operations at the site to areas permitted by applicable laws, statutes, ordinances, codes, rules and regulations, lawful orders of public authorities, and the Contract Documents and shall not unreasonably encumber the site with materials or equipment.

§ 3.14 Cutting and Patching

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

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

§ 3.15 Cleaning Up

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

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

§ 3.16 Access to Work

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

§ 3.17 Royalties, Patents and Copyrights

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

§ 3.18 Indemnification

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

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

ARTICLE 4 ARCHITECT

§ 4.1 General

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

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

§ 4.2 Administration of the Contract

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

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

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

§ 4.2.4 Communications

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

§ 4.2.5 Based on the Architect's evaluations of the Contractor's Applications for Payment, the Architect will review and certify the amounts due the Contractor and will issue Certificates for Payment in such amounts.

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

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

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

§ 4.2.9 The Architect will conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion pursuant to Section 9.8; receive and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract and assembled by the Contractor pursuant to Section 9.10; and issue a final Certificate for Payment pursuant to Section 9.10.

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

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

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

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

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

ARTICLE 5 SUBCONTRACTORS

§ 5.1 Definitions

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

§ 5.1.2 A Sub-subcontractor is a person or entity who has a direct or indirect contract with a Subcontractor to perform a portion of the Work at the site. The term "Sub-subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Sub-subcontractor or an authorized representative of the Sub-subcontractor.

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

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

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

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

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

§ 5.3 Subcontractual Relations

By appropriate written agreement, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work that the Contractor, by these Contract Documents, assumes toward the Owner and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies, and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Contract Documents. Subcontractors will similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

§ 5.4 Contingent Assignment of Subcontracts

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

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

When the Owner accepts the assignment of a subcontract agreement, the Owner assumes the Contractor's rights and obligations under the subcontract.

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

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

ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

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

§ 6.1.1 The term "Separate Contractor(s)" shall mean other contractors retained by the Owner under separate agreements. The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and with Separate Contractors retained under Conditions of the Contract substantially similar to those of this Contract, including those provisions of the Conditions of the Contract related to insurance and waiver of subrogation.

§ 6.1.2 When separate contracts are awarded for different portions of the Project or other construction or operations on the site, the term "Contractor" in the Contract Documents in each case shall mean the Contractor who executes each separate Owner-Contractor Agreement.

§ 6.1.3 The Owner shall provide for coordination of the activities of the Owner's own forces and of each Separate Contractor with the Work of the Contractor, who shall cooperate with them. The Contractor shall participate with any Separate Contractors and the Owner in reviewing their construction schedules. The Contractor shall make any revisions to its construction schedule deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the Contractor, Separate Contractors, and the Owner until subsequently revised.

§ 6.1.4 Unless otherwise provided in the Contract Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces or with Separate Contractors, the Owner or its Separate Contractors shall have the same obligations and rights that the Contractor has under the Conditions of the Contract, including, without excluding others, those stated in Article 3, this Article 6, and Articles 10, 11, and 12.

§ 6.2 Mutual Responsibility

§ 6.2.1 The Contractor shall afford the Owner and Separate Contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Contractor's construction and operations with theirs as required by the Contract Documents.

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

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

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

§ 6.2.5 The Owner and each Separate Contractor shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 3.14.

§ 6.3 Owner's Right to Clean Up

If a dispute arises among the Contractor, Separate Contractors, and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish, the Owner may clean up and the Architect will allocate the cost among those responsible.

ARTICLE 7 CHANGES IN THE WORK

§ 7.1 General

§ 7.1.1 Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order, Construction Change Directive or order for a minor change in the Work, subject to the limitations stated in this Article 7 and elsewhere in the Contract Documents.

§ 7.1.2 A Change Order shall be based upon agreement among the Owner, Contractor, and Architect. A Construction Change Directive requires agreement by the Owner and Architect and may or may not be agreed to by the Contractor. An order for a minor change in the Work may be issued by the Architect alone.

§ 7.1.3 Changes in the Work shall be performed under applicable provisions of the Contract Documents. The Contractor shall proceed promptly with changes in the Work, unless otherwise provided in the Change Order, Construction Change Directive, or order for a minor change in the Work.

§ 7.2 Change Orders

§ 7.2.1 A Change Order is a written instrument prepared by the Architect and signed by the Owner, Contractor, and Architect stating their agreement upon all of the following:

- .1 The change in the Work;
- .2 The amount of the adjustment, if any, in the Contract Sum; and
- .3 The extent of the adjustment, if any, in the Contract Time.

§ 7.3 Construction Change Directives

§ 7.3.1 A Construction Change Directive is a written order prepared by the Architect and signed by the Owner and Architect, directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum or Contract Time, or both. The Owner may by Construction Change Directive, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions, or other revisions, the Contract Sum and Contract Time being adjusted accordingly.

§ 7.3.2 A Construction Change Directive shall be used in the absence of total agreement on the terms of a Change Order.

§ 7.3.3 If the Construction Change Directive provides for an adjustment to the Contract Sum, the adjustment shall be based on one of the following methods:

- .1 Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
- .2 Unit prices stated in the Contract Documents or subsequently agreed upon;
- .3 Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
- .4 As provided in Section 7.3.4.

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

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

§ 7.3.5 If the Contractor disagrees with the adjustment in the Contract Time, the Contractor may make a Claim in accordance with applicable provisions of Article 15.

§ 7.3.6 Upon receipt of a Construction Change Directive, the Contractor shall promptly proceed with the change in the Work involved and advise the Architect of the Contractor's agreement or disagreement with the method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the Contract Sum or Contract Time.

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

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

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

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

§ 7.4 Minor Changes in the Work

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

ARTICLE 8 TIME

§ 8.1 Definitions

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

§ 8.1.2 The date of commencement of the Work is the date established in the Agreement.

§ 8.1.3 The date of Substantial Completion is the date certified by the Architect in accordance with Section 9.8.

§ 8.1.4 The term "day" as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.

§ 8.2 Progress and Completion

§ 8.2.1 Time limits stated in the Contract Documents are of the essence of the Contract. By executing the Agreement, the Contractor confirms that the Contract Time is a reasonable period for performing the Work.

§ 8.2.2 The Contractor shall not knowingly, except by agreement or instruction of the Owner in writing, commence the Work prior to the effective date of insurance required to be furnished by the Contractor and Owner.

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

§ 8.3 Delays and Extensions of Time

§ 8.3.1 If the Contractor is delayed at any time in the commencement or progress of the Work by (1) an act or neglect of the Owner or Architect, of an employee of either, or of a Separate Contractor; (2) by changes ordered in the Work; (3) by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, adverse weather conditions documented in accordance with Section 15.1.6.2, or other causes beyond the Contractor's control; (4) by delay authorized by the Owner pending mediation and binding dispute resolution; or (5) by other causes that the Contractor asserts, and the Architect determines, justify delay, then the Contract Time shall be extended for such reasonable time as the Architect may determine.

§ 8.3.2 Claims relating to time shall be made in accordance with applicable provisions of Article 15.

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

ARTICLE 9 PAYMENTS AND COMPLETION

§ 9.1 Contract Sum

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

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

§ 9.2 Schedule of Values

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

§ 9.3 Applications for Payment

§ 9.3.1 At least ten days before the date established for each progress payment, the Contractor shall submit to the Architect an itemized Application for Payment prepared in accordance with the schedule of values, if required under Section 9.2, for completed portions of the Work. The application shall be notarized, if required, and supported by all data substantiating the Contractor's right to payment that the Owner or Architect require, such as copies of requisitions, and releases and waivers of liens from Subcontractors and suppliers, and shall reflect retainage if provided for in the Contract Documents.

§ 9.3.1.1 As provided in Section 7.3.9, such applications may include requests for payment on account of changes in the Work that have been properly authorized by Construction Change Directives, or by interim determinations of the Architect, but not yet included in Change Orders.

§ 9.3.1.2 Applications for Payment shall not include requests for payment for portions of the Work for which the Contractor does not intend to pay a Subcontractor or supplier, unless such Work has been performed by others whom the Contractor intends to pay.

§ 9.3.2 Unless otherwise provided in the Contract Documents, payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed upon in writing. Payment for materials and equipment stored on or off the site shall be conditioned upon compliance by the Contractor with procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest, and shall include the costs of applicable insurance, storage, and transportation to the site, for such materials and equipment stored off the site.

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

§ 9.4 Certificates for Payment

§ 9.4.1 The Architect will, within seven days after receipt of the Contractor's Application for Payment, either (1) issue to the Owner a Certificate for Payment in the full amount of the Application for Payment, with a copy to the Contractor; or (2) issue to the Owner a Certificate for Payment for such amount as the Architect determines is properly due, and notify the Contractor and Owner of the Architect's reasons for withholding certification in part as provided in Section 9.5.1; or (3) withhold certification of the entire Application for Payment, and notify the Contractor and Owner of the Architect's reason for withholding certification in whole as provided in Section 9.5.1.

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

§ 9.5 Decisions to Withhold Certification

§ 9.5.1 The Architect may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Architect's opinion the representations to the Owner required by Section 9.4.2 cannot be made. If the Architect is unable to certify payment in the amount of the Application, the Architect will notify the Contractor and Owner as provided in Section 9.4.1. If the Contractor and Architect cannot agree on a revised amount, the Architect will promptly issue a Certificate for Payment for the amount for which the Architect is able to make such representations to the Owner. The Architect may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued, to such extent as may be necessary in the Architect's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from acts and omissions described in Section 3.3.2, because of

- .1 defective Work not remedied;
- .2 third party claims filed or reasonable evidence indicating probable filing of such claims, unless security acceptable to the Owner is provided by the Contractor;
- .3 failure of the Contractor to make payments properly to Subcontractors or suppliers for labor, materials or equipment;

- .4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
- .5 damage to the Owner or a Separate Contractor;
- .6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
- .7 repeated failure to carry out the Work in accordance with the Contract Documents.

§ 9.5.2 When either party disputes the Architect's decision regarding a Certificate for Payment under Section 9.5.1, in whole or in part, that party may submit a Claim in accordance with Article 15.

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

§ 9.5.4 If the Architect withholds certification for payment under Section 9.5.1.3, the Owner may, at its sole option, issue joint checks to the Contractor and to any Subcontractor or supplier to whom the Contractor failed to make payment for Work properly performed or material or equipment suitably delivered. If the Owner makes payments by joint check, the Owner shall notify the Architect and the Contractor shall reflect such payment on its next Application for Payment.

§ 9.6 Progress Payments

§ 9.6.1 After the Architect has issued a Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the Contract Documents, and shall so notify the Architect.

§ 9.6.2 The Contractor shall pay each Subcontractor, no later than seven days after receipt of payment from the Owner, the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner.

§ 9.6.3 The Architect will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Contractor and action taken thereon by the Architect and Owner on account of portions of the Work done by such Subcontractor.

§ 9.6.4 The Owner has the right to request written evidence from the Contractor that the Contractor has properly paid Subcontractors and suppliers amounts paid by the Owner to the Contractor for subcontracted Work. If the Contractor fails to furnish such evidence within seven days, the Owner shall have the right to contact Subcontractors and suppliers to ascertain whether they have been properly paid. Neither the Owner nor Architect shall have an obligation to pay, or to see to the payment of money to, a Subcontractor or supplier, except as may otherwise be required by law.

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

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

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

§ 9.6.8 Provided the Owner has fulfilled its payment obligations under the Contract Documents, the Contractor shall defend and indemnify the Owner from all loss, liability, damage or expense, including reasonable attorney's fees and litigation expenses, arising out of any lien claim or other claim for payment by any Subcontractor or supplier of any tier. Upon receipt of notice of a lien claim or other claim for payment, the Owner shall notify the Contractor. If approved by the applicable court, when required, the Contractor may substitute a surety bond for the property against which the lien or other claim for payment has been asserted.

§ 9.7 Failure of Payment

If the Architect does not issue a Certificate for Payment, through no fault of the Contractor, within seven days after receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor within seven days after the date established in the Contract Documents, the amount certified by the Architect or awarded by binding dispute resolution, then the Contractor may, upon seven additional days' notice to the Owner and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided for in the Contract Documents.

§ 9.8 Substantial Completion

§ 9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use.

§ 9.8.2 When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall prepare and submit to the Architect a comprehensive list of items to be completed or corrected prior to final payment. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.

§ 9.8.3 Upon receipt of the Contractor's list, the Architect will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect's inspection discloses any item, whether or not included on the Contractor's list, which is not sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work or designated portion thereof for its intended use, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Architect. In such case, the Contractor shall then submit a request for another inspection by the Architect to determine Substantial Completion.

§ 9.8.4 When the Work or designated portion thereof is substantially complete, the Architect will prepare a Certificate of Substantial Completion that shall establish the date of Substantial Completion; establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance; and fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 9.8.5 The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in the Certificate. Upon such acceptance, and consent of surety if any, the Owner shall make payment of retainage applying to the Work or designated portion thereof. Such payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Contract Documents.

§ 9.9 Partial Occupancy or Use

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

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

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

§ 9.10 Final Completion and Final Payment

§ 9.10.1 Upon receipt of the Contractor's notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Architect will promptly make such inspection. When the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Architect will promptly issue a final Certificate for Payment stating that to the best of the Architect's knowledge, information and belief, and on the basis of the Architect's on-site visits and inspections, the Work has been completed in accordance with the Contract Documents and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Architect's final Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect, (3) a written statement that the Contractor knows of no reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment, (5) documentation of any special warranties, such as manufacturers' warranties or specific Subcontractor warranties, and (6) if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts and releases and waivers of liens, claims, security interests, or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien, claim, security interest, or encumbrance. If a lien, claim, security interest, or encumbrance remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging the lien, claim, security interest, or encumbrance, including all costs and reasonable attorneys' fees.

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

§ 9.10.4 The making of final payment shall constitute a waiver of Claims by the Owner except those arising from

- .1 liens, Claims, security interests, or encumbrances arising out of the Contract and unsettled;
- .2 failure of the Work to comply with the requirements of the Contract Documents;
- .3 terms of special warranties required by the Contract Documents; or
- .4 audits performed by the Owner, if permitted by the Contract Documents, after final payment.

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

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

§ 10.1 Safety Precautions and Programs

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

§ 10.2 Safety of Persons and Property

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

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

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

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

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

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

§ 10.2.6 The Contractor shall designate a responsible member of the Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the Owner and Architect.

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

§ 10.2.8 Injury or Damage to Person or Property

If either party suffers injury or damage to person or property because of an act or omission of the other party, or of others for whose acts such party is legally responsible, notice of the injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding 21 days after discovery. The notice shall provide sufficient detail to enable the other party to investigate the matter.

§ 10.3 Hazardous Materials and Substances

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

§ 10.3.2 Upon receipt of the Contractor's notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Contract Documents, the Owner shall furnish in writing to the Contractor and Architect the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of the material or substance or who are to perform the task of removal or safe containment of the material or substance. The Contractor and the Architect will

promptly reply to the Owner in writing stating whether or not either has reasonable objection to the persons or entities proposed by the Owner. If either the Contractor or Architect has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Contractor and the Architect have no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Contractor. By Change Order, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable additional costs of shutdown, delay, and start-up.

§ 10.3.3 To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Subcontractors, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area if in fact the material or substance presents the risk of bodily injury or death as described in Section 10.3.1 and has not been rendered harmless, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), except to the extent that such damage, loss, or expense is due to the fault or negligence of the party seeking indemnity.

§ 10.3.4 The Owner shall not be responsible under this Section 10.3 for hazardous materials or substances the Contractor brings to the site unless such materials or substances are required by the Contract Documents. The Owner shall be responsible for hazardous materials or substances required by the Contract Documents, except to the extent of the Contractor's fault or negligence in the use and handling of such materials or substances.

§ 10.3.5 The Contractor shall reimburse the Owner for the cost and expense the Owner incurs (1) for remediation of hazardous materials or substances the Contractor brings to the site and negligently handles, or (2) where the Contractor fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence.

§ 10.3.6 If, without negligence on the part of the Contractor, the Contractor is held liable by a government agency for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Contract Documents, the Owner shall reimburse the Contractor for all cost and expense thereby incurred.

§ 10.4 Emergencies

In an emergency affecting safety of persons or property, the Contractor shall act, at the Contractor's discretion, to prevent threatened damage, injury, or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Article 15 and Article 7.

ARTICLE 11 INSURANCE AND BONDS

§ 11.1 Contractor's Insurance and Bonds

§ 11.1.1 The Contractor shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Contractor shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Owner, Architect, and Architect's consultants shall be named as additional insureds under the Contractor's commercial general liability policy or as otherwise described in the Contract Documents.

§ 11.1.2 The Contractor shall provide surety bonds of the types, for such penal sums, and subject to such terms and conditions as required by the Contract Documents. The Contractor shall purchase and maintain the required bonds from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located.

§ 11.1.3 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished.

§ 11.1.4 Notice of Cancellation or Expiration of Contractor's Required Insurance. Within three (3) business days of the date the Contractor becomes aware of an impending or actual cancellation or expiration of any insurance required by the Contract Documents, the Contractor shall provide notice to the Owner of such impending or actual cancellation or expiration. Upon receipt of notice from the Contractor, the Owner shall, unless the lapse in coverage arises from an act

or omission of the Owner, have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by the Contractor. The furnishing of notice by the Contractor shall not relieve the Contractor of any contractual obligation to provide any required coverage.

§ 11.2 Owner's Insurance

§ 11.2.1 The Owner shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Owner shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located.

§ 11.2.2 Failure to Purchase Required Property Insurance. If the Owner fails to purchase and maintain the required property insurance, with all of the coverages and in the amounts described in the Agreement or elsewhere in the Contract Documents, the Owner shall inform the Contractor in writing prior to commencement of the Work. Upon receipt of notice from the Owner, the Contractor may delay commencement of the Work and may obtain insurance that will protect the interests of the Contractor, Subcontractors, and Sub-Subcontractors in the Work. When the failure to provide coverage has been cured or resolved, the Contract Sum and Contract Time shall be equitably adjusted. In the event the Owner fails to procure coverage, the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent the loss to the Owner would have been covered by the insurance to have been procured by the Owner. The cost of the insurance shall be charged to the Owner by a Change Order. If the Owner does not provide written notice, and the Contractor is damaged by the failure or neglect of the Owner to purchase or maintain the required insurance, the Owner shall reimburse the Contractor for all reasonable costs and damages attributable thereto.

§ 11.2.3 Notice of Cancellation or Expiration of Owner's Required Property Insurance. Within three (3) business days of the date the Owner becomes aware of an impending or actual cancellation or expiration of any property insurance required by the Contract Documents, the Owner shall provide notice to the Contractor of such impending or actual cancellation or expiration. Unless the lapse in coverage arises from an act or omission of the Contractor: (1) the Contractor, upon receipt of notice from the Owner, shall have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by either the Owner or the Contractor; (2) the Contract Time and Contract Sum shall be equitably adjusted; and (3) the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent any loss to the Owner would have been covered by the insurance had it not expired or been cancelled. If the Contractor purchases replacement coverage, the cost of the insurance shall be charged to the Owner by an appropriate Change Order. The furnishing of notice by the Owner shall not relieve the Owner of any contractual obligation to provide required insurance.

§ 11.3 Waivers of Subrogation

§ 11.3.1 The Owner and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents, and employees, each of the other; (2) the Architect and Architect's consultants; and (3) Separate Contractors, if any, and any of their subcontractors, sub-subcontractors, agents, and employees, for damages caused by fire, or other causes of loss, to the extent those losses are covered by property insurance required by the Agreement or other property insurance applicable to the Project, except such rights as they have to proceeds of such insurance. The Owner or Contractor, as appropriate, shall require similar written waivers in favor of the individuals and entities identified above from the Architect, Architect's consultants, Separate Contractors, subcontractors, and sub-subcontractors. The policies of insurance purchased and maintained by each person or entity agreeing to waive claims pursuant to this section 11.3.1 shall not prohibit this waiver of subrogation. This waiver of subrogation shall be effective as to a person or entity (1) even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, (2) even though that person or entity did not pay the insurance premium directly or indirectly, or (3) whether or not the person or entity had an insurable interest in the damaged property.

§ 11.3.2 If during the Project construction period the Owner insures properties, real or personal or both, at or adjacent to the site by property insurance under policies separate from those insuring the Project, or if after final payment property insurance is to be provided on the completed Project through a policy or policies other than those insuring the Project during the construction period, to the extent permissible by such policies, the Owner waives all rights in accordance with the terms of Section 11.3.1 for damages caused by fire or other causes of loss covered by this separate property insurance.

§ 11.4 Loss of Use, Business Interruption, and Delay in Completion Insurance

The Owner, at the Owner's option, may purchase and maintain insurance that will protect the Owner against loss of use of the Owner's property, or the inability to conduct normal operations, due to fire or other causes of loss. The Owner waives all rights of action against the Contractor and Architect for loss of use of the Owner's property, due to fire or other hazards however caused.

§11.5 Adjustment and Settlement of Insured Loss

§ 11.5.1 A loss insured under the property insurance required by the Agreement shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause and of Section 11.5.2. The Owner shall pay the Architect and Contractor their just shares of insurance proceeds received by the Owner, and by appropriate agreements the Architect and Contractor shall make payments to their consultants and Subcontractors in similar manner.

§ 11.5.2 Prior to settlement of an insured loss, the Owner shall notify the Contractor of the terms of the proposed settlement as well as the proposed allocation of the insurance proceeds. The Contractor shall have 14 days from receipt of notice to object to the proposed settlement or allocation of the proceeds. If the Contractor does not object, the Owner shall settle the loss and the Contractor shall be bound by the settlement and allocation. Upon receipt, the Owner shall deposit the insurance proceeds in a separate account and make the appropriate distributions. Thereafter, if no other agreement is made or the Owner does not terminate the Contract for convenience, the Owner and Contractor shall execute a Change Order for reconstruction of the damaged or destroyed Work in the amount allocated for that purpose. If the Contractor timely objects to either the terms of the proposed settlement or the allocation of the proceeds, the Owner may proceed to settle the insured loss, and any dispute between the Owner and Contractor arising out of the settlement or allocation of the proceeds shall be resolved pursuant to Article 15. Pending resolution of any dispute, the Owner may issue a Construction Change Directive for the reconstruction of the damaged or destroyed Work.

ARTICLE 12 UNCOVERING AND CORRECTION OF WORK

§ 12.1 Uncovering of Work

§ 12.1.1 If a portion of the Work is covered contrary to the Architect's request or to requirements specifically expressed in the Contract Documents, it must, if requested in writing by the Architect, be uncovered for the Architect's examination and be replaced at the Contractor's expense without change in the Contract Time.

§ 12.1.2 If a portion of the Work has been covered that the Architect has not specifically requested to examine prior to its being covered, the Architect may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, the Contractor shall be entitled to an equitable adjustment to the Contract Sum and Contract Time as may be appropriate. If such Work is not in accordance with the Contract Documents, the costs of uncovering the Work, and the cost of correction, shall be at the Contractor's expense.

§ 12.2 Correction of Work

§ 12.2.1 Before Substantial Completion

The Contractor shall promptly correct Work rejected by the Architect or failing to conform to the requirements of the Contract Documents, discovered before Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Architect's services and expenses made necessary thereby, shall be at the Contractor's expense.

§ 12.2.2 After Substantial Completion

§ 12.2.2.1 In addition to the Contractor's obligations under Section 3.5, if, within one year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.9.1, or by terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of notice from the Owner to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the one-year period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor and to make a claim for breach of warranty. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner or Architect, the Owner may correct it in accordance with Section 2.5.

§ 12.2.2.2 The one-year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual completion of that portion of the Work.

§ 12.2.2.3 The one-year period for correction of Work shall not be extended by corrective Work performed by the Contractor pursuant to this Section 12.2.

§ 12.2.3 The Contractor shall remove from the site portions of the Work that are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner.

§ 12.2.4 The Contractor shall bear the cost of correcting destroyed or damaged construction of the Owner or Separate Contractors, whether completed or partially completed, caused by the Contractor's correction or removal of Work that is not in accordance with the requirements of the Contract Documents.

§ 12.2.5 Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

§ 12.3 Acceptance of Nonconforming Work

If the Owner prefers to accept Work that is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

ARTICLE 13 MISCELLANEOUS PROVISIONS

§ 13.1 Governing Law

The Contract shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 15.4.

§ 13.2 Successors and Assigns

§ 13.2.1 The Owner and Contractor respectively bind themselves, their partners, successors, assigns, and legal representatives to covenants, agreements, and obligations contained in the Contract Documents. Except as provided in Section 13.2.2, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

§ 13.2.2 The Owner may, without consent of the Contractor, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner's rights and obligations under the Contract Documents. The Contractor shall execute all consents reasonably required to facilitate the assignment.

§ 13.3 Rights and Remedies

§ 13.3.1 Duties and obligations imposed by the Contract Documents and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights, and remedies otherwise imposed or available by law.

§ 13.3.2 No action or failure to act by the Owner, Architect, or Contractor shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed upon in writing.

§ 13.4 Tests and Inspections

§ 13.4.1 Tests, inspections, and approvals of portions of the Work shall be made as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules, and regulations or lawful orders of public authorities. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections, and

approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections, and approvals. The Contractor shall give the Architect timely notice of when and where tests and inspections are to be made so that the Architect may be present for such procedures. The Owner shall bear costs of tests, inspections, or approvals that do not become requirements until after bids are received or negotiations concluded. The Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations so require.

§ 13.4.2 If the Architect, Owner, or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection, or approval not included under Section 13.4.1, the Architect will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection, or approval, by an entity acceptable to the Owner, and the Contractor shall give timely notice to the Architect of when and where tests and inspections are to be made so that the Architect may be present for such procedures. Such costs, except as provided in Section 13.4.3, shall be at the Owner's expense.

§ 13.4.3 If procedures for testing, inspection, or approval under Sections 13.4.1 and 13.4.2 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, all costs made necessary by such failure, including those of repeated procedures and compensation for the Architect's services and expenses, shall be at the Contractor's expense.

§ 13.4.4 Required certificates of testing, inspection, or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the Architect.

§ 13.4.5 If the Architect is to observe tests, inspections, or approvals required by the Contract Documents, the Architect will do so promptly and, where practicable, at the normal place of testing.

§ 13.4.6 Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

§ 13.5 Interest

Payments due and unpaid under the Contract Documents shall bear interest from the date payment is due at the rate the parties agree upon in writing or, in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT

§ 14.1 Termination by the Contractor

§ 14.1.1 The Contractor may terminate the Contract if the Work is stopped for a period of 30 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, for any of the following reasons:

- .1 Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;
- .2 An act of government, such as a declaration of national emergency, that requires all Work to be stopped;
- .3 Because the Architect has not issued a Certificate for Payment and has not notified the Contractor of the reason for withholding certification as provided in Section 9.4.1, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Contract Documents; or
- .4 The Owner has failed to furnish to the Contractor reasonable evidence as required by Section 2.2.

§ 14.1.2 The Contractor may terminate the Contract if, through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, repeated suspensions, delays, or interruptions of the entire Work by the Owner as described in Section 14.3, constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less.

§ 14.1.3 If one of the reasons described in Section 14.1.1 or 14.1.2 exists, the Contractor may, upon seven days' notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work executed, as well as reasonable overhead and profit on Work not executed, and costs incurred by reason of such termination.

§ 14.1.4 If the Work is stopped for a period of 60 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, or their agents or employees or any other persons or entities performing portions of the Work because the Owner has repeatedly failed to fulfill the Owner's obligations under the Contract Documents with respect to matters important to the progress of the Work, the Contractor may, upon seven additional days' notice to the Owner and the Architect, terminate the Contract and recover from the Owner as provided in Section 14.1.3.

§ 14.2 Termination by the Owner for Cause

§ 14.2.1 The Owner may terminate the Contract if the Contractor

- .1 repeatedly refuses or fails to supply enough properly skilled workers or proper materials;
- .2 fails to make payment to Subcontractors or suppliers in accordance with the respective agreements between the Contractor and the Subcontractors or suppliers;
- .3 repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or
- .4 otherwise is guilty of substantial breach of a provision of the Contract Documents.

§ 14.2.2 When any of the reasons described in Section 14.2.1 exist, and upon certification by the Architect that sufficient cause exists to justify such action, the Owner may, without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:

- .1 Exclude the Contractor from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;
- .2 Accept assignment of subcontracts pursuant to Section 5.4; and
- .3 Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.

§ 14.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 14.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

§ 14.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including compensation for the Architect's services and expenses made necessary thereby, and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The amount to be paid to the Contractor or Owner, as the case may be, shall be certified by the Initial Decision Maker, upon application, and this obligation for payment shall survive termination of the Contract.

§ 14.3 Suspension by the Owner for Convenience

§ 14.3.1 The Owner may, without cause, order the Contractor in writing to suspend, delay or interrupt the Work, in whole or in part for such period of time as the Owner may determine.

§ 14.3.2 The Contract Sum and Contract Time shall be adjusted for increases in the cost and time caused by suspension, delay, or interruption under Section 14.3.1. Adjustment of the Contract Sum shall include profit. No adjustment shall be made to the extent

- .1 that performance is, was, or would have been, so suspended, delayed, or interrupted, by another cause for which the Contractor is responsible; or
- .2 that an equitable adjustment is made or denied under another provision of the Contract.

§ 14.4 Termination by the Owner for Convenience

§ 14.4.1 The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause.

§ 14.4.2 Upon receipt of notice from the Owner of such termination for the Owner's convenience, the Contractor shall

- .1 cease operations as directed by the Owner in the notice;
- .2 take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and
- .3 except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.

§ 14.4.3 In case of such termination for the Owner's convenience, the Owner shall pay the Contractor for Work properly executed; costs incurred by reason of the termination, including costs attributable to termination of Subcontracts; and the termination fee, if any, set forth in the Agreement.

ARTICLE 15 CLAIMS AND DISPUTES

§ 15.1 Claims

§ 15.1.1 Definition

A Claim is a demand or assertion by one of the parties seeking, as a matter of right, payment of money, a change in the Contract Time, or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Contractor arising out of or relating to the Contract. The responsibility to substantiate Claims shall rest with the party making the Claim. This Section 15.1.1 does not require the Owner to file a Claim in order to impose liquidated damages in accordance with the Contract Documents.

§ 15.1.2 Time Limits on Claims

The Owner and Contractor shall commence all Claims and causes of action against the other and arising out of or related to the Contract, whether in contract, tort, breach of warranty or otherwise, in accordance with the requirements of the binding dispute resolution method selected in the Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Contractor waive all Claims and causes of action not commenced in accordance with this Section 15.1.2.

§ 15.1.3 Notice of Claims

§ 15.1.3.1 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered prior to expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party and to the Initial Decision Maker with a copy sent to the Architect, if the Architect is not serving as the Initial Decision Maker. Claims by either party under this Section 15.1.3.1 shall be initiated within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later.

§ 15.1.3.2 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party. In such event, no decision by the Initial Decision Maker is required.

§ 15.1.4 Continuing Contract Performance

§ 15.1.4.1 Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 14, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents.

§ 15.1.4.2 The Contract Sum and Contract Time shall be adjusted in accordance with the Initial Decision Maker's decision, subject to the right of either party to proceed in accordance with this Article 15. The Architect will issue Certificates for Payment in accordance with the decision of the Initial Decision Maker.

§ 15.1.5 Claims for Additional Cost

If the Contractor wishes to make a Claim for an increase in the Contract Sum, notice as provided in Section 15.1.3 shall be given before proceeding to execute the portion of the Work that is the subject of the Claim. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4.

§ 15.1.6 Claims for Additional Time

§ 15.1.6.1 If the Contractor wishes to make a Claim for an increase in the Contract Time, notice as provided in Section 15.1.3 shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay, only one Claim is necessary.

§ 15.1.6.2 If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated, and had an adverse effect on the scheduled construction.

§ 15.1.7 Waiver of Claims for Consequential Damages

The Contractor and Owner waive Claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes

- .1 damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and
- .2 damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit, except anticipated profit arising directly from the Work.

This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 14. Nothing contained in this Section 15.1.7 shall be deemed to preclude assessment of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.

§ 15.2 Initial Decision

§ 15.2.1 Claims, excluding those where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2 or arising under Sections 10.3, 10.4, and 11.5, shall be referred to the Initial Decision Maker for initial decision. The Architect will serve as the Initial Decision Maker, unless otherwise indicated in the Agreement. Except for those Claims excluded by this Section 15.2.1, an initial decision shall be required as a condition precedent to mediation of any Claim. If an initial decision has not been rendered within 30 days after the Claim has been referred to the Initial Decision Maker, the party asserting the Claim may demand mediation and binding dispute resolution without a decision having been rendered. Unless the Initial Decision Maker and all affected parties agree, the Initial Decision Maker will not decide disputes between the Contractor and persons or entities other than the Owner.

§ 15.2.2 The Initial Decision Maker will review Claims and within ten days of the receipt of a Claim take one or more of the following actions: (1) request additional supporting data from the claimant or a response with supporting data from the other party, (2) reject the Claim in whole or in part, (3) approve the Claim, (4) suggest a compromise, or (5) advise the parties that the Initial Decision Maker is unable to resolve the Claim if the Initial Decision Maker lacks sufficient information to evaluate the merits of the Claim or if the Initial Decision Maker concludes that, in the Initial Decision Maker's sole discretion, it would be inappropriate for the Initial Decision Maker to resolve the Claim.

§ 15.2.3 In evaluating Claims, the Initial Decision Maker may, but shall not be obligated to, consult with or seek information from either party or from persons with special knowledge or expertise who may assist the Initial Decision Maker in rendering a decision. The Initial Decision Maker may request the Owner to authorize retention of such persons at the Owner's expense.

§ 15.2.4 If the Initial Decision Maker requests a party to provide a response to a Claim or to furnish additional supporting data, such party shall respond, within ten days after receipt of the request, and shall either (1) provide a response on the requested supporting data, (2) advise the Initial Decision Maker when the response or supporting data will be furnished, or (3) advise the Initial Decision Maker that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Initial Decision Maker will either reject or approve the Claim in whole or in part.

§ 15.2.5 The Initial Decision Maker will render an initial decision approving or rejecting the Claim, or indicating that the Initial Decision Maker is unable to resolve the Claim. This initial decision shall (1) be in writing; (2) state the reasons therefor; and (3) notify the parties and the Architect, if the Architect is not serving as the Initial Decision Maker, of any change in the Contract Sum or Contract Time or both. The initial decision shall be final and binding on the parties but subject to mediation and, if the parties fail to resolve their dispute through mediation, to binding dispute resolution.

§ 15.2.6 Either party may file for mediation of an initial decision at any time, subject to the terms of Section 15.2.6.1.

§ 15.2.6.1 Either party may, within 30 days from the date of receipt of an initial decision, demand in writing that the other party file for mediation. If such a demand is made and the party receiving the demand fails to file for mediation within 30 days after receipt thereof, then both parties waive their rights to mediate or pursue binding dispute resolution proceedings with respect to the initial decision.

§ 15.2.7 In the event of a Claim against the Contractor, the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

§ 15.2.8 If a Claim relates to or is the subject of a mechanic's lien, the party asserting such Claim may proceed in accordance with applicable law to comply with the lien notice or filing deadlines.

§ 15.3 Mediation

§ 15.3.1 Claims, disputes, or other matters in controversy arising out of or related to the Contract, except those waived as provided for in Sections 9.10.4, 9.10.5, and 15.1.7, shall be subject to mediation as a condition precedent to binding dispute resolution.

§ 15.3.2 The parties shall endeavor to resolve their Claims by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of binding dispute resolution proceedings but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration is stayed pursuant to this Section 15.3.2, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§ 15.3.3 Either party may, within 30 days from the date that mediation has been concluded without resolution of the dispute or 60 days after mediation has been demanded without resolution of the dispute, demand in writing that the other party file for binding dispute resolution. If such a demand is made and the party receiving the demand fails to file for binding dispute resolution within 60 days after receipt thereof, then both parties waive their rights to binding dispute resolution proceedings with respect to the initial decision.

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

§ 15.4 Arbitration

§ 15.4.1 If the parties have selected arbitration as the method for binding dispute resolution in the Agreement, any Claim subject to, but not resolved by, mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of the Agreement. The Arbitration shall be conducted in the place where the Project is located, unless another location is mutually agreed upon. A demand for arbitration shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the arbitration. The party filing a notice of demand for arbitration must assert in the demand all Claims then known to that party on which arbitration is permitted to be demanded.

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

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

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

§ 15.4.4 Consolidation or Joinder

§ 15.4.4.1 Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation, (2) the arbitrations to be consolidated substantially involve common questions of law or fact, and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

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

§ 15.4.4.3 The Owner and Contractor grant to any person or entity made a party to an arbitration conducted under this Section 15.4, whether by joinder or consolidation, the same rights of joinder and consolidation as those of the Owner and Contractor under this Agreement.

PROJECT: Bid Package 02 – Buildings
Paducah Sports Park
150 Downs Drive
Paducah, Kentucky

Business Phone: 269.343.1240

Having carefully examined the Instructions to Bidders, Contract Agreement, General Conditions, Special Conditions, Specifications, and Drawings on the above referenced project, the undersigned bidder proposes to furnish all labor, materials, equipment, tools, supplies, services, and temporary devices required to complete the work in accordance with the contract documents and any addenda listed below for the price stated herein.

FOODSERVICE EQUIPMENT

TOTAL BASE BID	\$ 1,150,477.00
----------------	-----------------

One Million One Hundred Fifty Thousand One Hundred Fourty Seven and _____ DOLLARS _____ Zero _____ CENTS
(use words)

ADDENDA:

Receipt of Addenda Number(s) 1 thru 4 is acknowledged.

UNIT PRICES:

Refer to attached sheet(s) for listing of unit prices.

PROPOSED SUBCONTRACTORS:

Refer to attached sheet(s) for listing of proposed subcontractors.

PROPOSED MATERIALS AND EQUIPMENT:

Refer to attached sheet(s) for listing of proposed materials and equipment.

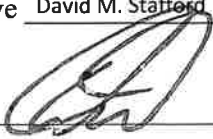
UNIT PRICES:

Unit Prices shall include the furnishing of all labor, materials, supplies, services and shall include all: Items of cost, overhead and profit for the contractor and subcontractor involved, and shall be used uniformly without modification for either addition or deduction. The unit prices as established shall be used to determine the equitable adjustment of the contract price in connection with changes or extra work performed under the contract, and rules of measurement as set forth in the General Conditions shall govern.

WORK	PRICE	UNIT
1.	\$ <u>N/A</u>	/ <u> </u>
2.	\$ <u> </u>	/ <u> </u>
3.	\$ <u> </u>	/ <u> </u>
4.	\$ <u> </u>	/ <u> </u>
5.	\$ <u> </u>	<u> </u>
6.	\$ <u> </u>	<u> </u>

Name of Contractor: Stafford Smith, Inc.

Authorized Representative David M. Stafford Title President/CEO

(Signature)  Date 4/26/2024

The following list of proposed subcontractors is required to be executed, completed and submitted with the Bidder's Proposal. All subcontractors are subject to approval by the Owner. Failure to submit this list, completely filled out, may cause rejection of bid.

[illegible]

LIST OF PREVIOUS PROJECTS

The following list of previous projects is required to be executed, completed and submitted with the Bidder's Proposal. Failure to submit this list, completely filled out, may cause rejection of bid.

PROJECT NAME: See attached Project List

PROJECT LOCATION: _____

YEAR COMPLETED: _____

PROJECT NAME: _____

PROJECT LOCATION: _____

YEAR COMPLETED: _____

PROJECT NAME: _____

PROJECT LOCATION: _____

YEAR COMPLETED: _____

LIST OF PROJECT REFERENCES

The following list of project references is required to be executed, completed and submitted with the Bidder's Proposal. Failure to submit this list, completely filled out, may cause rejection of bid.

PROJECT NAME: _____

PROJECT LOCATION: _____

REFERENCE NAME: Clark Construction

CONTACT INFORMATION: 231.549.7202

PROJECT NAME: _____

PROJECT LOCATION: _____

REFERENCE NAME: Hunt Construction

CONTACT INFORMATION: 305.492.9264

PROJECT NAME: _____

PROJECT LOCATION: _____

REFERENCE NAME: Mortenson Construction

CONTACT INFORMATION: 414.335.9138

CNA INSURANCE COMPANIES

BID BOND

KNOW ALL MEN BY THESE PRESENTS:

That we Stafford-Smith, Inc., 3414 South Burdick Street, Kalamazoo, MI 49001

Principal, and Western Surety Company, One Towne Square, Suite 1075, Southfield, MI 48076

Surety, are held and firmly bound unto McCracken County Fiscal Court, 300 Clarence Gaines Street, Paducah, KY 42003

Obligee, in the sum of Five Percent of Accompanying Bid -----

Dollars (\$ 5%) for the payment of which we bind ourselves, our legal representatives, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, Principal has submitted or is about to submit a proposal to Obligee on a contract for
Paducah Sports Park - Food Service Equipment

NOW, THEREFORE, if the said contract be awarded to Principal and Principal shall, within such time as may be specified, enter into the contract in writing and give such bond or bonds as may be specified in the bidding or contract documents with surety acceptable to Obligee; or if Principal shall fail to do so, pay to Obligee the damages which Obligee may suffer by reason of such failure not exceeding the penalty of this bond, then this obligation shall be void; otherwise to remain in full force and effect.

Signed, sealed and dated April 30th, 2024

Stafford-Smith, Inc.

by



(Principal)

(Seal)

Western Surety Company

(Surety)

by



Susan L. Small, Attorney-in-Fact

G-23054-C



For All the Commitments You Make

Western Surety Company

POWER OF ATTORNEY APPOINTING INDIVIDUAL ATTORNEY-IN-FACT

Know All Men By These Presents, That WESTERN SURETY COMPANY, a South Dakota corporation, is a duly organized and existing corporation having its principal office in the City of Sioux Falls, and State of South Dakota, and that it does by virtue of the signature and seal herein affixed hereby make, constitute and appoint

**Robert Trobec, Wendy L Hingson, John L Budde, Jeffrey A Chandler, Ian J Donald, Kathleen M Ireland, Susan L Small, Alan P Chandler, Krista L Pocket, Individually, of Troy, MI
Steven K Brandon, T J Griffin, Patrick Williams, John L Budde, Terence J Griffin, Susan L Small, Alan P Chandler, Individually, of Farmington Hills, MI**

its true and lawful Attorney(s)-in-Fact with full power and authority hereby conferred to sign, seal and execute for and on its behalf bonds, undertakings and other obligatory instruments of similar nature

- In Unlimited Amounts -

and to bind it thereby as fully and to the same extent as if such instruments were signed by a duly authorized officer of the corporation and all the acts of said Attorney, pursuant to the authority hereby given, are hereby ratified and confirmed.

This Power of Attorney is made and executed pursuant to and by authority of the By-Law and Resolutions printed on the reverse hereof, duly adopted, as indicated, by the shareholders of the corporation.

In Witness Whereof, WESTERN SURETY COMPANY has caused these presents to be signed by its Vice President and its corporate seal to be hereto affixed on this 18th day of April, 2023.



WESTERN SURETY COMPANY

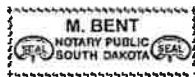
Larry Kasten, Vice President

State of South Dakota }
County of Minnehaha } ss

On this 18th day of April, 2023, before me personally came Larry Kasten, to me known, who, being by me duly sworn, did depose and say: that he resides in the City of Sioux Falls, State of South Dakota; that he is a Vice President of WESTERN SURETY COMPANY described in and which executed the above instrument; that he knows the seal of said corporation; that the seal affixed to the said instrument is such corporate seal; that it was so affixed pursuant to authority given by the Board of Directors of said corporation and that he signed his name thereto pursuant to like authority, and acknowledges same to be the act and deed of said corporation.

My commission expires

March 2, 2026



M. Bent, Notary Public

CERTIFICATE

I, L. Nelson, Assistant Secretary of WESTERN SURETY COMPANY do hereby certify that the Power of Attorney hereinabove set forth is still in force, and further certify that the By-Law and Resolutions of the corporation printed on the reverse hereof is still in force. In testimony whereof I have hereunto subscribed my name and affixed the seal of the said corporation this 30th day of April, 2024



WESTERN SURETY COMPANY

L. Nelson, Assistant Secretary

Authorizing By-Laws and Resolutions

ADOPTED BY THE SHAREHOLDERS OF WESTERN SURETY COMPANY

This Power of Attorney is made and executed pursuant to and by authority of the following By-Law duly adopted by the shareholders of the Company.

Section 7. All bonds, policies, undertakings, Powers of Attorney, or other obligations of the corporation shall be executed in the corporate name of the Company by the President, Secretary, and Assistant Secretary, Treasurer, or any Vice President, or by such other officers as the Board of Directors may authorize. The President, any Vice President, Secretary, any Assistant Secretary, or the Treasurer may appoint Attorneys in Fact or agents who shall have authority to issue bonds, policies, or undertakings in the name of the Company. The corporate seal is not necessary for the validity of any bonds, policies, undertakings, Powers of Attorney or other obligations of the corporation. The signature of any such officer and the corporate seal may be printed by facsimile.

This Power of Attorney is signed by Larry Kasten, Vice President, who has been authorized pursuant to the above Bylaw to execute power of attorneys on behalf of Western Surety Company.

This Power of Attorney may be signed by digital signature and sealed by a digital or otherwise electronic-formatted corporate seal under and by the authority of the following Resolution adopted by the Board of Directors of the Company by unanimous written consent dated the 27th day of April, 2022:

“RESOLVED: That it is in the best interest of the Company to periodically ratify and confirm any corporate documents signed by digital signatures and to ratify and confirm the use of a digital or otherwise electronic-formatted corporate seal, each to be considered the act and deed of the Company.”

Project Name: Paducah Sports Park

Bidding To: Mail Out To Owner

Project Location: Paducah, KY

CM/GC:

Due Date: 4/30/2024

FS Consultant: Duray

Addenda: 1,2,3,4

Architects:

Notes:

Substantial Completion Date: TBD

Prepared By: Stafford Smith, Inc.

Installing: TBD

Item # Prefix	Spec Item #	MANUFACTURER BID	Description	Qty	Total
1	1	Imperial Brown	Walk-In Cooler/Freezer	1	\$ 165,582
1	2	Imperial Brown-included with #1-1	Cooler Evaporator Coil	1	\$ -
1	3	Imperial Brown-included with #1-1	Cooler Evaporator Coil	1	\$ -
1	4	Imperial Brown-included with #1-1	Cooler Evaporator Coil	1	\$ -
1	5	Imperial Brown-included with #1-1	Cooler Evaporator Coil	1	\$ -
1	6	Metro	Cooler/Freezer Shelving	LOT	\$ 4,501
1	7	Metro	Dry Storage Shelving	LOT	\$ 2,444
1	8	Spare	Spare	1	\$ -
1	9	Spare	Spare	1	\$ -
1	10	Spare	Spare	1	\$ -
1	11	Advance	Hand Sink Assembly	3	\$ 2,599
1	12	By Others	Soap & Towel Dispenser	3	\$ -
1	13	Commerical Stainless	Soiled Dishtable	1	\$ 3,318
1	13.1	T&S	Twist Waste	1	\$ 106
1	14	Fisher	Pre-Rinse Faucet	1	\$ 302
1	15	Commerical Stainless	Glass Rack Shelf	1	\$ 350
1	16	Hobart	Dishwasher, Door Type	1	\$ 25,044
1	17	By Others	Condensate Hood	1	\$ -
1	18	Commerical Stainless	Pot Wash Sink/Clean Dishtable	1	\$ 7,086
1	18.1	T&S	Wall/Splash Mount Faucet	2	\$ 1,094
1	19	By Others	Grease Interceptor	1	\$ -
1	20	By Others	Mop Sink Assembly	1	\$ -
1	21	Commerical Stainless	Wall Shelf	2	\$ 1,872
1	22	Metro	Pot/Pan Shelving	1	\$ 434
1	23	Metro	Mobile Heated Cabinet	10	\$ 29,460
1	24	Manitowoc	Ice Maker	1	\$ 8,589
1	25	Manitowoc-included with #1-24	Ice Storage Bin	1	\$ -
1	26	Everpure	Water Filtration System	1	\$ 348
1	27	Commerical Stainless	Prep Table w/Sink	1	\$ 3,729
1	27.1	T&S	Wall/Splash Mount Faucet	1	\$ 381
1	27.2	T&S-included with #1.27.1	Twist Waste	2	\$ -
1	28	Commerical Stainless	Wall Shelf	2	\$ 1,404
1	29	Spare	Spare	1	\$ -
1	30	Spare	Spare	1	\$ -
1	31	True MFG	Reach-In Refrigerator	1	\$ 4,609
1	32	Metro	Dry Storage Shelving	LOT	\$ 366
1	33	Spare	Spare	1	\$ -
1	34	Spare	Spare	1	\$ -
1	35	By Others	Exhaust Hood Assembly	1	\$ -
1	36	By Others	Fire Suppression System	1	\$ -
1	37	Turbo Chef	Pizza Oven w/Stand	1	\$ 16,106
1	38	True MFG	Refrigerated Equipment Stand	1	\$ 6,032
1	39	Alto-Shaam	Cook and Hold Smoker Oven	1	\$ 12,987
1	40	Commerical Stainless	Wall Flashing	1	\$ 3,545
1	41	Garland	2 Burner Hot Plate (Gas)	1	\$ 1,283
1	41.1	Krowne	Gas Hose	1	\$ 206
1	42	Garland	Griddle (Gas)	1	\$ 2,999
1	42.1	Krowne	Gas Hose	1	\$ 206
1	43	Dean	Fryer Assembly (Gas)	1	\$ 8,679
1	43.1	Krowne	Gas Hose	1	\$ 621
1	44	True MFG	Reach-In Freezer	1	\$ 6,072
1	45	Carter Hoffmann	French Fry Warmer	1	\$ 4,016
1	46	Commerical Stainless	Work Table	1	\$ 2,668
1	47	APW	Hot Food Well	1	\$ 1,772
1	48	True MFG	Sandwich Prep Table	1	\$ 4,169
1	49	Spare	Spare	1	\$ -
1	50	Spare	Spare	1	\$ -
1	51	Commerical Stainless	Back Counter	1	\$ 5,158
1	52	Commerical Stainless	Pass-Thru Window and Trim	1	\$ 1,351
1	53	By Others	Cheese Dispenser	1	\$ -
1	54	Nemco	Hot Dog Grill	1	\$ 2,593
1	55	Gold Medal	Popcorn Popper	1	\$ 1,929
1	56	Commerical Stainless	Serving Counter	1	\$ 17,979
1	57	Hatco	Heated Merchandiser	1	\$ 5,075
1	58	Hatco	Heated Merchandiser	1	\$ 6,917
1	59	Spare	Spare	1	\$ -
1	60	Spare	Spare	1	\$ -
1	61	By Others	Pretzel Display Cabinet	1	\$ -
1	62	Hatco	Heated Display Cabinet	1	\$ 3,210
1	63	Gold Medal	Popcorn Warmer	1	\$ 2,201
1	64	True MFG	Pass-Thru Refrigerator	3	\$ 24,375

1	65	Commerical Stainless	Serving Counter	1	\$ 6,822
1	66	By Others	Cup Dispenser	1	\$ -
1	67	By Others	Soda & Ice Dispenser	1	\$ -
1	68	By Others	Undercounter Soda Bag-N-Box System	1	\$ -
1	69	Spare	Spare	1	\$ -
1	70	Spare	Spare	1	\$ -
1	71	By Others	Cup Dispenser	1	\$ -
1	72	By Others	Coffee Maker	1	\$ -
1	73	By Others	Condiment Caddy	1	\$ -
1	74	Commerical Stainless	Cashier Counter	4	\$ 13,136
1	75	By Others	POS	1	\$ -
1	76	Commerical Stainless	Condiment Caddy	1	\$ 5,167
1	77	By Others	Trash Can	LOT	\$ -
1	78	By Others	Condiment Caddy	1	\$ -
1	79	Spare	Spare	1	\$ -
1	80	Spare	Spare	1	\$ -
1	81	By Others	Condiment Dispenser	1	\$ -
1	82	By Others	Portion Cup/Lid Dispenser	1	\$ -
1	83	Spare	Spare	1	\$ -
1	84	Spare	Spare	1	\$ -
1	85	Spare	Spare	1	\$ -
1	86	Spare	Spare	1	\$ -
1	87	Spare	Spare	1	\$ -
1	88	Spare	Spare	1	\$ -
1	89	Spare	Spare	1	\$ -
1	90	Spare	Spare	1	\$ -
2	1	By Others	POS Counter	1	\$ -
2	2	By Others	POS	3	\$ -
2	3	By Others	Packaged Snack Rack	4	\$ -
2	4	Commerical Stainless	Mobile Condiment Counter	2	\$ 6,214
2	5	Server	Condiment Dispenser	6	\$ 2,562
2	6	By Others	Beverage Counter	1	\$ -
2	7	By Others	Coffee Machine	1	\$ -
2	8	By Others	Hot Chocolate Dispenser	2	\$ -
2	9	Spare	Spare	1	\$ -
2	10	Spare	Spare	1	\$ -
2	11	By Others	Disposable Cup Dispenser	2	\$ -
2	12	By Others	Condiment Caddy	2	\$ -
2	13	True MFG	Pass-Thru Refrigerator	3	\$ 24,375
2	14	Metro	Dry Storage Shelving	LOT	\$ 1,288
2	15	True MFG	Reach-In Refrigerator	1	\$ 4,609
2	16	Spare	Spare	1	\$ -
2	17	Advance	Hand Sink Assembly	1	\$ 866
2	18	By Others	Soap & Towel Dispenser	1	\$ -
2	19	Spare	Spare	1	\$ -
2	20	Spare	Spare	1	\$ -
3	1	Commerical Stainless	Front Counter	1	\$ 13,958
3	2	By Others	POS	6	\$ -
3	3	By Others	Soda & Ice Dispenser	2	\$ -
3	4	Dispensite Rite	Cup Dispenser	2	\$ 564
3	5	Wells	Drawer Warmer	4	\$ 16,092
3	6	By Others	Beverage Refrigerator	6	\$ -
3	7	Commerical Stainless	Back Counter w/Hand Sink	1	\$ 3,053
3	7.1	T&S	Deck Mount Faucet	1	\$ 112
3	8	By Others	Soap & Towel Dispenser	4	\$ -
3	9	Krowne	Draft Beer Cooler	1	\$ 5,419
3	10	Spare	Spare	1	\$ -
3	11	True MFG	Undercounter Refrigerator	3	\$ 13,085
3	12	Hatco	Heated Merchandiser Cabinet	3	\$ 21,716
3	12.1	Commerical Stainless	Pass-Thru Shelf	1	\$ 1,004
3	13	By Others	Coffee Machine	3	\$ -
3	14	Hatco	Heated Display Cabinet	5	\$ 16,052
3	15	Gold Medal	Popcorn Popper	2	\$ 3,859
3	16	By Others	Cheese Dispenser	3	\$ -
3	17	Commerical Stainless	Back Counter	1	\$ 1,773
3	18	Commerical Stainless	Back Counter	1	\$ 3,053
3	19	Spare	Spare	1	\$ -
3	20	Spare	Spare	1	\$ -
3	21	Commerical Stainless	Stainless Steel Chase	1	\$ 1,157
3	22	Advance	Hand Sink Assembly	1	\$ 1,733
3	23	Metro	Dry Storage Shelving	LOT	\$ 1,317
3	24	By Others	Mop Sink Assembly	1	\$ -
3	25	Commerical Stainless	Pot Wash Sink	1	\$ 4,824
3	25.1	T&S	Wall/Splash Mount Faucet	2	\$ 1,094
3	25.2	T&S-included with #3-25.1	Twist Waste	4	\$ -
3	26	Commerical Stainless	Wall Shelf	2	\$ 1,497
3	27	By Others	Grease Interceptor	1	\$ -
3	28	By Others	Trash Can	LOT	\$ -
3	29	Spare	Spare	1	\$ -
3	30	Spare	Spare	1	\$ -
3	31	Metro-included with #1-23	Mobile Heated Cabinet	LOT	\$ -

3	32	True MFG	Sandwich Prep Table	3	\$ 12,507
3	33	Commerical Stainless	Work Table	1	\$ 1,474
3	34	Commerical Stainless	Wall Shelf	2	\$ 842
3	35	Commerical Stainless	Work Table	1	\$ 1,734
3	36	Commerical Stainless	Wall Shelf	2	\$ 655
3	37	Commerical Stainless	Island Worktable	1	\$ 5,259
3	38	APW	Hot Food Well	1	\$ 2,329
3	39	Spare	Spare	1	\$ -
3	40	Spare	Spare	1	\$ -
3	41	Carter Hoffmann	French Fry Warmer	1	\$ 4,016
3	42	By Others	Exhaust Hood Assembly	1	\$ -
3	43	By Others	Fire Suppression System	1	\$ -
3	44	Commerical Stainless	Wall Flashing	1	\$ 2,726
3	45	Turbo Chef	Pizza Oven w/Stand	1	\$ 16,106
3	46	True MFG	Refrigerated Equipment Stand	1	\$ 6,032
3	47	Garland	2 Burner Hot Plate (Gas)	1	\$ 1,283
3	47.1	Krowne	Gas Hose	1	\$ 206
3	48	Garland	Griddle (Gas)	1	\$ 2,999
3	48.1	Krowne	Gas Hose	2	\$ 413
3	49	Alto-Shaam	Cook and Hold Smoker Oven	1	\$ 10,148
3	50	Spare	Spare	1	\$ -
3	51	Dean	Fryer Assembly (Gas)	1	\$ 8,679
3	51.1	Krowne	Gas Hose	1	\$ 621
3	52	True MFG	Reach-In Freezer	1	\$ 4,330
3	53	Commerical Stainless	Work Table	1	\$ 1,474
3	54	Commerical Stainless	Wall Shelf	2	\$ 842
3	55	Manitowoc	Ice Maker	1	\$ 8,589
3	56	Manitowoc-included with #3-55	Ice Storage Bin	1	\$ -
3	57	Everpure	Water Filtration System	1	\$ 348
3	58	By Others	Soda Bag-N Box System	1	\$ -
3	59	Spare	Spare	1	\$ -
3	60	Spare	Spare	1	\$ -
3	61	Imperial Brown-included with #1-1	Walk-In Cooler/Freezer	1	\$ -
3	62	Imperial Brown-included with #1-1	Walk-In Cooler/Freezer	1	\$ -
3	63	Imperial Brown-included with #1-1	Walk-In Cooler/Freezer	1	\$ -
3	64	Imperial Brown-included with #1-1	Walk-In Cooler/Freezer	1	\$ -
3	65	Imperial Brown-included with #1-1	Walk-In Cooler/Freezer	1	\$ -
3	66	Metro	Cooler/Freezer Shelving	LOT	\$ 3,092
3	67	Spare	Spare	1	\$ -
3	68	Spare	Spare	1	\$ -
3	69	Spare	Spare	1	\$ -
3	70	Spare	Spare	1	\$ -
3	71	Spare	Spare	1	\$ -
3	72	Spare	Spare	1	\$ -
3	73	Spare	Spare	1	\$ -
3	74	Spare	Spare	1	\$ -
3	75	Spare	Spare	1	\$ -
4	1	Commerical Stainless	Front Counter	1	\$ 13,958
4	2	By Others	POS	6	\$ -
4	3	By Others	Soda & Ice Dispenser	2	\$ -
4	4	Dispensite Rite	Cup Dispenser	2	\$ 564
4	5	Wells	Drawer Warmer	4	\$ 16,092
4	6	By Others	Beverage Refrigerator	6	\$ -
4	7	Commerical Stainless	Back Counter w/Hand Sink	1	\$ 3,053
4	7.1	T&S	Deck Mount Faucet	1	\$ 112
4	8	By Others	Soap & Towel Dispenser	4	\$ -
4	9	Krowne	Draft Beer Cooler	1	\$ 5,419
4	11	True MFG	Undercounter Refrigerator	3	\$ 13,085
4	12	Hatco	Heated Merchandiser Cabinet	3	\$ 21,716
4	12.1	Commerical Stainless	Pass Thru Shelf	3	\$ 1,004
4	13	By Others	Coffee Machine	3	\$ -
4	14	Hatco	Heated Display Cabinet	5	\$ 16,052
4	15	Gold Medal	Popcorn Popper	2	\$ 3,859
4	16	By Others	Cheese Dispenser	3	\$ -
4	17	Commerical Stainless	Back Counter	1	\$ 1,773
4	18	Commerical Stainless	Back Counter	1	\$ 3,053
4	19	Spare	Spare	1	\$ -
4	20	Spare	Spare	1	\$ -
4	21	Commerical Stainless	Stainless Steel Chase	1	\$ 1,157
4	22	Advance	Hand Sink Assembly	1	\$ 1,733
4	23	Metro	Dry Storage Shelving	LOT	\$ 1,386
4	24	By Others	Mop Sink Assembly	1	\$ -
4	25	Commerical Stainless	Pot Wash Sink	1	\$ 4,824
4	25.1	T&S	Wall/Splash Mount Faucet	2	\$ 1,094
4	25.2	T&S-included with #4-25.1	Twist Waste	4	\$ -
4	26	Commerical Stainless	Wall Shelf	2	\$ 1,497
4	27	By Others	Grease Interceptor	1	\$ -
4	28	By Others	Trash Can	LOT	\$ -
4	29	Spare	Spare	1	\$ -
4	30	Spare	Spare	1	\$ -
4	31	Metro-included with #1-23	Mobile Heated Cabinet	LOT	\$ -

4	32	True MFG	Sandwich Prep Table	3	\$ 12,507
4	33	Commerical Stainless	Work Table	1	\$ 1,474
4	34	Commerical Stainless	Wall Shelf	2	\$ 842
4	35	Commerical Stainless	Work Table	1	\$ 1,734
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4	39	Spare	Spare	1	\$ -
4	40	Spare	Spare	1	\$ -
4	41	Carter Hoffmann	French Fry Warmer	1	\$ 4,016
4	42	By Others	Exhaust Hood Assembly	1	\$ -
4	43	By Others	Fire Suppression System	1	\$ -
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4	45	Turbo Chef	Pizza Oven w/Stand	1	\$ 16,106
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4	53	Commerical Stainless	Work Table	1	\$ 1,474
4	54	Commerical Stainless	Wall Shelf	2	\$ 842
4	55	Manitowoc	Ice Maker	1	\$ 8,103
4	56	Manitowoc-included with #4-55	Ice Storage Bin	1	\$ -
4	57	Everpure	Water Filter Assembly	1	\$ 348
4	58	By Others	Soda Bag-N Box System	1	\$ -
4	59	Spare	Spare	1	\$ -
4	60	Spare	Spare	1	\$ -
4	61	Imperial Brown-included with #1-1	Walk-In Cooler/Freezer	1	\$ -
4	62	Imperial Brown-included with #1-1	Walk-In Cooler/Freezer	1	\$ -
4	63	Imperial Brown-included with #1-1	Walk-In Cooler/Freezer	1	\$ -
4	64	Imperial Brown-included with #1-1	Walk-In Cooler/Freezer	1	\$ -
4	65	Imperial Brown-included with #1-1	Walk-In Cooler/Freezer	1	\$ -
4	66	Metro	Cooler/Freezer Shelving	LOT	\$ 3,218
4	67	Spare	Spare	1	\$ -
4	68	Spare	Spare	1	\$ -
4	69	Spare	Spare	1	\$ -
4	70	Spare	Spare	1	\$ -
4	71	Spare	Spare	1	\$ -
4	72	Spare	Spare	1	\$ -
4	73	Spare	Spare	1	\$ -
4	74	Spare	Spare	1	\$ -
4	75	Spare	Spare	1	\$ -
5	1	By Others	Action Station Table	4	\$ -
5	2	By Others	Induction Warmer	2	\$ -
5	3	By Others	Carving Station	2	\$ -
5	4	By Others	Mobile Bar	2	\$ -
5	5	By Others	POS	2	\$ -
5	6	Krowne	Draft Beer Cooler	1	\$ 3,482
5	7	Spare	Spare	1	\$ -
5	8	Spare	Spare	1	\$ -
5	9	Spare	Spare	1	\$ -
5	10	Spare	Spare	1	\$ -
					\$ 889,719

BREAKDOWN	Amount \$
FREIGHT	\$ 13,330
EQUIPMENT	\$ 889,719
PARTS	\$ 1,200
INSTALLATION by Subs	\$ 166,845
SALES TAX/USE TAX	\$ 64,194
TRUCKING	\$ 5,000
MISCELLANEOUS	\$ 800
CAD	\$ 2,600
SUBTOTAL	\$ 1,143,688
PERFORMANCE BOND	\$ 6,862
GRAND TOTAL	\$ 1,150,550

Job Description	ContractAmt	Customer Name
WAL-MART FLINT 1928	174,745	SINGLETON CONSTRUCTION LLC
WAL-MART LANSING 2869-277	290,089	SINGLETON CONSTRUCTION LLC
WAL-MART GRANDVILLE 2567-244	175,283	SINGLETON CONSTRUCTION LLC
WAL-MART #1422 ALMA	293,572	SINGLETON CONSTRUCTION LLC
WAL-MART KALAMAZOO 5065-245	220,686	NOVAK CONSTRUCTION COMPANY
SAM'S MT. PLEASANT 4892	173,323	SINGLETON CONSTRUCTION LLC
WAL-MART GRAND RAPIDS 2493-201	223,668	SINGLETON CONSTRUCTION LLC
WAL-MART LUDINGTON 2102-276	241,100	SINGLETON CONSTRUCTION LLC
WAL-MART COLDWATER 1593-275	189,540	OPC CONTRACTING, INC
WAL-MART SAGINAW 2644-275	232,143	SINGLETON CONSTRUCTION LLC
WAL-MART KALAMAZOO 5064-236	227,119	NOVAK CONSTRUCTION COMPANY
WAL-MART SAGINAW 5097-256	243,511	SINGLETON CONSTRUCTION LLC
PLAZA HOTEL	68,085	THE PROJECT DELIVERY GROUP
HALLSVILLE WEST ELEMENTARY SCHOOL	630,969	WRL GENERAL CONTRACTORS, LLC
CAMP WORTH	168,861	SHARP CONSTRUCTION SERVICES, LLC
PONDER INDEPENDENT SCHOOL DISTRICT	905,967	PONDER INDEPENDENT SCHOOL DISTRICT
HMS HOST PALM BEACH HOT CONCESSIONS	143,484	HOST INTERNATIONAL, INC -DESIGN AND CONSTRUCTION
MCMURRY UNIVERSITY - GARRISON CENTER	1,335,576	SEDALCO, INC
KISSING TREE GOLF CLUBHOUSE	459,983	CARMA PASO ROBLES, LLC
BERRY STREET TURNER IMPACT CAPITAL	47,655	WHITING TURNER
HERSCHEL ASSISTED LIVING	486,731	CADENCE MCSHANE CONSTRUCTION COMPANY LLC
CHEATHAM ELEMENTARY SCHOOL	388,003	TEGRITY CONTRACTORS INC
GRIMES PARK	66,128	308 CONSTRUCTION, LLC
SPD - USAA PLANO KITCHEN & SERVERY	1,508,327	TURNER CONSTRUCTION COMPANY - DALLAS
AISD SHORT ELEMENTARY	186,747	TEGRITY CONTRACTORS INC
RAYTHEON INDEPENDENCE - FINISH OUT	643,406	AP GULF STATE INC, DBA ADOLFSON & PETERSON CONSTRUCTION
HMS HOST-JOSE CUERVO-CHILI'S CONV	295,709	HOST INTERNATIONAL, INC -DESIGN AND CONSTRUCTION
MIAMI INTERNATIONAL AIRPORT, GATE H-12 - QUIZNOS	85,980	HOST INTERNATIONAL, INC -DESIGN AND CONSTRUCTION
HMS HOST - JACKSONVILLE INTERNATIONAL AIRPORT ANGIE'S SUBS	118,148	HOST INTERNATIONAL, INC -DESIGN AND CONSTRUCTION
HMS HOST-CHILI'S POST CENTRAL	460,667	HOST INTERNATIONAL, INC -DESIGN AND CONSTRUCTION
HMS HOST TAMPA-COLUMBIA CAFE-DESIGN FEE	2,688	HOST INTERNATIONAL, INC -DESIGN AND CONSTRUCTION
HMS HOST-FORT MYERS BREWING CO	313,525	HOST INTERNATIONAL, INC -DESIGN AND CONSTRUCTION
HMS HOST (JAX-STORAGE) WALK IN COMBO	104,961	HOST INTERNATIONAL, INC -DESIGN AND CONSTRUCTION
HMS HOST (TAMPA INT'L AIRPORT) COLUMBIA CAFE	170,794	HOST INTERNATIONAL, INC -DESIGN AND CONSTRUCTION
CHILDREN'S HEALTH @ CHILDREN'S MEDICAL CENTER	821,719	VAUGHN CONSTRUCTION - IRVING
CAMP COUNTY JAIL ADDITIONS & RENOVATIONS	151,704	TEGRITY CONTRACTORS INC
TRINITY BASIN PREPARATORY	572,198	BUTLER-COHEN, LLC
3.016 LC1 TENANT LOUNGE + COFFEE	92,458	SCOTT & REID GENERAL CONTRACTORS INC
NEW YORK LIFE	11,313	SCOTT & REID GENERAL CONTRACTORS INC
TARLETON CONVOCATION CENTER	564,947	VAUGHN CONSTRUCTION
NEWTON ISD	680,161	NEWTON ISD
PEPPA PIG TEXAS	212,161	HOAR CONSTRUCTION, LLC

DISD JOHN LEWIS SOCIAL JUSTICE ACADEMY
WILLIAMS SQUARE
HMS HOST (SALT LAKE CITY INT'L)- MAGGIANO'S
HMS HOST (CHARLOTTE DOUGLAS AIRPORT)- OMB BIERGARTEN
WINDSOR RUN RB 2.1 & 2.2
DOWNTOWN ATLANTA GREYHOUND FACILITY
AMGEN FLEX BATCH
SPRAYBERRY HIGH SCHOOLGYM & CTAE RENOVATIONS
GULFPORT JOB CORPS CENTER
BARNHILL / HOLT, UC KENAN-FLAGLER
ATRIUM HEALTH, BED TOWER
CABARRUS COUNTY LIBRARY & ACTIVE LIVING CENTER
LMC CLINICAL PAVILION CAFETERIA RENOVATION
FOUR WINDS SOUTH BEND
EDISON ENVIRONMENTAL SCIENCE ACADEMY
SCHOOLCRAFT NEW ELEMENTARY SCHOOL
SHELBY (NEW) ELEMENTARY SCHOOL
HILLSIDE MIDDLE SCHOOL
MUSKEGON PUBLIC MIDDLE SCHOOL
KALAMAZOO ARMORY
GALESBURG-AUGUSTA COMMUNITY SCHOOLS
ISABELLA SHERIFF'S OFFICE & CORRECTIONS
WAYLAND MIDDLE SCHOOL
CENTRAL ELEMENTARY SCHOOL
TOWNLINE ELEMENTARY SCHOOL
HAMILTON ELEMENTARY SCHOOL
FOUR WINDS SOUTH BEND
PAW PAW HIGH SCHOOL
NEW BUFFALO ELEMENTARY SCHOOL
GUN LAKE CASINO - HI LIMIT & NOODLE BAR
DUTTON NEW ELEMENTARY SCHOOL
WEST MIDDLE SCHOOL
JACKSON YMCA
IRONWORKS PLAZA PHASE III ICE RINK, CAGE & EVENT CENTER
KANKAKEE JUNIOR HIGH SCHOOL
CLARK LINDSEY VILLAGE
FAIRFIELD JR-SR HIGH SCHOOL
NEW ADMIN CENTER, ALTERNATE EDU & RESOURCE CTR
LIBERTY INTERMEDIATE SCHOOL
HUBBARD HILL - DAYCARE BLDG
FWCS ARLINGTON ES
TOLSON CENTER
VALPARAISO HIGH SCHOOL

820,000 BECK 31 JOINT VENTURE
10,957 PACIFIC BUILDER'S INC
682,763 HOST INTERNATIONAL, INC -DESIGN AND CONSTRUCTION
408,521 HOST INTERNATIONAL, INC -DESIGN AND CONSTRUCTION
544,300 KAUFMAN LYNN CONSTRUCTION
319,504 COOPER & COMPANY GENERAL CONTRACTORS INC
1,124,054 IPS-INTEGRATED PROJECT SERVICES, LLC
259,082 BALFOUR BEATTY
795,369 ROY ANDERSON CORP
899,793 BARNILL - HOLT, A JOINT VENTURE PARTNERSHIP
3,946,606 DPR RODGERS, A JOINT VENTURE
66,825 EDIFICE, INC.
508,805 LAKELAND HOSPITAL
2,724,204 F.A. WILHELM CONSTRUCTION CO.
228,645 KALAMAZOO PUBLIC SCHOOLS
220,914 TRIANGLE ASSOCIATES
880,316 SHELBY PUBLIC SCHOOLS
791,523 KALAMAZOO PUBLIC SCHOOLS
639,102 PUBLIC SCHOOLS OF THE CITY OF MUSKEGON
219,674 44TH STREET CONSTRUCTION LLC
78,474 GALESBURG-AUGUSTA COMMUNITY SCHOOLS
401,125 CLARK CONSTRUCTION
372,606 WAYLAND UNION SCHOOLS
237,827 PORTAGE PUBLIC SCHOOLS
76,714 FRITZ WAHLFIELD CONSTRUCTION CO, INC
399,614 KENTWOOD PUBLIC SCHOOLS
391,256 F.A. WILHELM CONSTRUCTION CO.
376,752 PAW PAW PUBLIC SCHOOLS
382,258 NEW BUFFALO AREA SCHOOLS C/O THE SKILLMAN CORPORATION
264,493 PIONEER INCORPORATED
450,214 CHRISTMAN COMPANY/MAIN OFFICE
158,612 PORTAGE PUBLIC SCHOOLS
40,065 GRANGER CONSTRUCTION
124,677 WEIGAND CONSTRUCTION CO., INC.
617,321 CHICAGO HEIGHTS CONSTRUCTION COMPANY
443,840 BROEREN RUSSO BUILDERS INC.
14,201 R. YODER CONSTRUCTION, INC.
540,257 CROWN POINT COMMUNITY SCHOOL CORP
892,006 DUNELAND SCHOOL CORPORATION
175,334 DJ CONSTRUCTION CO. INC.
49,200 MICHAEL KINDER & SONS, INC.
148,037 DJ CONSTRUCTION CO. INC.
653,745 VALPARAISO COMMUNITY SCHOOLS

BLUE CHIP CASINO	260,000	BERGLUND CONSTRUCTION COMPANY
BIBICH ELEMENTARY SCHOOL	419,041	LAKE CENTRAL SCHOOL CORPORATION
GOSHEN COLLEGE - WESTLAWN NURSING	625,383	DJ CONSTRUCTION CO. INC.
PORTAGE SCHOOLS OF LEADERS	552,109	CAREER ACADEMY SOUTH BEND
CARROLL HIGH SCHOOL	52,720	WEIGAND CONSTRUCTION CO., INC.
BLUE CHIP CASINO	193,450	BERGLUND CONSTRUCTION COMPANY
SALVATION ARMY - NILES	124,169	DJ CONSTRUCTION CO. INC.
THE VILLAGE AT LAFRANIER WOODS	242,524	REENDERS, INC.
HUDSONVILLE HIGH SCHOOL HS/FRESHMAN CAMPUS	615,927	HUDSONVILLE PUBLIC SCHOOLS
HUDSONVILLE (NEW) 5-6 FACILITY	348,606	HUDSONVILLE PUBLIC SCHOOLS
HONEY CREEK 2019	292,457	ERHARDT CONSTRUCTION
THORNAPPLE-KELLOGG NEW LEARNING CENTER	34,615	THORNAPPLE KELLOGG SCHOOL
BYRON CENTER INTERMEDIATE SCHOOLS	441,608	BYRON CENTER SCHOOLS
SPECTRUM HEALTH 120 BED REHAB - CEDAR ST	879,558	CHRISTMAN COMPANY - GR RAPIDS
SPECTRUM HEALTH CENTER FOR TRANSFORMATION (CTI)	1,298,990	ROCKFORD CONSTRUCTION COMPANY
ADA HOTEL	922,602	FIRST COMPANIES INC
HOUSE OF HOPE	72,909	DAN VOS CONSTRUCTION COMPANY, INC.
OTTAWA BEACH GENERAL STORE NEW BUILD	144,722	FIRST COMPANIES INC
1534 AMPLILFY HUB CORE & SHELL	30,654	ROCKFORD CONSTRUCTION COMPANY
HOTEL ROSE	2,400	GHAFARI ASSOCIATES LLC
DELTA SKY CLUB - LAGUARDIA AIRPORT	1,385,073	HOLT CONSTRUCTION CORP
RXR, AMENITIES & FITNESS	475,376	SHAWMUT WOODWORKING & SUPPLY INC
NYU 181 MERCER - PROJECT #160971	1,617,492	TURNER CONSTRUCTION CO. NEW YORK
CITADEL FIT OUT PHASE 2A	3,648,748	JRM CONSTRUCTION MANAGEMENT LLC
MARRIOTT MOXY WILLIAMSBURG	1,035,791	BEDFORD AVENUE ASSOCIATES, LLC
AMERICAN MUSEUM OF NATURAL HISTORY	583,072	TISHMAN CONSTRUCTION CORP OF NY
FACEBOOK - 50 HUDSON YARDS	12,400,934	STRUCTURE TONE, LLC
DEBEVOISE & PLIMPTON	1,877,375	JRM CONSTRUCTION MANAGEMENT LLC
PS138X	715,000	THE MORGANTI GROUP
CITADEL - PHASE 2B	775,754	STRUCTURE TONE, LLC
NASSAU COMMUNITY COLLEGE CULINARY ARTS	615,000	CASHIN, SPINELLI & FERRETTI, LLC
JFK DELTA	1,473,476	JRM CONSTRUCTION MANAGEMENT LLC
HOULIHAN LOKEY	391,954	J.T. MAGEN & COMPANY, INC.
PS/IS 502	680,000	NAVILLUS TILE, INC.
PS26	750,000	NAVILLUS TILE, INC.
METZLER UNION INVESTMENT	739,784	L&K PARTNERS, INC
VNO PENN 2	1,199,999	TURNER CONSTRUCTION CO. NEW YORK
HS 497 QUEENS	825,000	LEON D DEMATTEIS CONSTRUCTION CORPORATION
CITADEL PHASE 3A FITOUT	868,742	JRM CONSTRUCTION MANAGEMENT LLC
DELTA ONE PREMIUM LOUNGE	2,941,874	HOLT CONSTRUCTION CORP
AIG NATIONAL HALL	138,188	PAVARINI NORTH EAST CONSTRUCTION COMPANY LLC
P.S. 121 STATEN ISLAND	740,000	LEON D DEMATTEIS CONSTRUCTION CORPORATION
CITADEL - PHASE 3B	514,758	STRUCTURE TONE, LLC

JANE STREET 9TH & 10TH FLOORS	634,329	JRM CONSTRUCTION MANAGEMENT LLC
VICTORY PARK FOOD HALL	2,212,490	HRNCIR CONSTRUCTION, LP
PARK LANE HOTEL	1,320,399	SYMPHONY CP (PARK LANE) OWNERS LLC
CPC HARLEM MEER CENTER	146,000	E.W. HOWELL CO, LLC
MORGAN STANLEY	2,720,388	STRUCTURE TONE, LLC
EQUITABLE FINANCIAL LIFE	117,500	J.T. MAGEN & COMPANY, INC.
CALISTA TAVERNA GREEK MED RST	670,655	OTG MANAGEMENT
LORD ABBETT	2,244,118	J.T. MAGEN & COMPANY, INC.
LEON'S	800,000	HAKIM HOSPITALITY LLC
FOOD HALL BAR	48,879	OTG MANAGEMENT
FRESHFIELDS BRUCKHAUS DERINGER	1,872,325	J.T. MAGEN & COMPANY, INC.
CENTRAL STEAKHOUSE	306,886	OTG MANAGEMENT
KKR - 30 HUDSON YARDS PRECON	13,956	STRUCTURE TONE, LLC
IBM	1,673,286	L&K PARTNERS, INC
CENTRAL STEAKHOUSE	40,296	OTG MANAGEMENT
O'MELVENY & MYERS 1301 A O A	403,604	STRUCTURE TONE, LLC
BLACKSTONE	112,036	JRM CONSTRUCTION MANAGEMENT LLC
BRASSERIE	468,998	OTG MANAGEMENT
WILLIAM H GRAY III	215,100	GILBANE BUILDING COMPANY - PA
PENN 1 EAST	700,000	PENN 1 BIRTIE LLC
OTG - LGA CONNECTOR TERMINAL F PROGRAM I & II	307,613	CLUNE CONSTRUCTION COMPANY LP
FACEBOOK - 50 HUDSON YARDS	24,784	STRUCTURE TONE, LLC
HRT - 73RD FLOOR	439,339	J.T. MAGEN & COMPANY, INC.
MARBELLA AT CLUB PELICAN BAY	176,203	THE MARBELLA AT PELICAN BAY CONDOMINIUM ASSOCIATION INC
JANE STREET VES 18th FLOOR	341,327	JANE STREET GROUP, LLC
JPMC - HQ3 - EXCHANGE	8,476,000	JRM CONSTRUCTION MANAGEMENT LLC
GRAND LEDGE PUBLIC SCHOOLS ATHLETICS	20,801	GRAND LEDGE PUBLIC SCHOOLS
MSU MULTICULTURAL CENTER	28,314	CHRISTMAN CONSTRUCTORS, INC.
GM LANSING	145,781	E & L CONSTRUCTION, INC.
HOWELL PUBLIC SCHOOLS - MULTI	188,971	HOWELL SCHOOLS
NORTHWEST MISSOURI STATE UNIVERSITY	169,085	NORTHWEST MISSOURI STATE UNIVERSITY
GENESEE COUNTY JUVENILE JUSTICE CENTER	317,760	E & L CONSTRUCTION, INC.
CARO CENTER PSYCHIATRIC HOSPITAL	672,057	GRANGER CONSTRUCTION
GRAND BLANC COMMUNITY SCHOOLS-ATHLETIC COMPLEX	77,583	GRAND BLANC COMMUNITY SCHOOLS
SASA/NEW SAGINAW HIGH SCHOOL	862,153	SCHOOL DISTRICT OF THE CITY OF SAGINAW
NORTH FARMINGTON HS	614,032	FARMINGTON PUBLIC SCHOOLS
SCIT PERMANENT HOUSING	86,241	J.R. HEINEMAN & SONS, INC.
FANCHER ELEMENTARY	84,115	MT PLEASANT PUBLIC SCHOOLS
SCIT TRIBAL COLLEGE	7,880	SPENCE BROTHERS - SAGINAW
MT PLEASANT SCHOOLS - MULTI	99,998	MT PLEASANT PUBLIC SCHOOLS
ALCONA MIDDLE HIGH SCHOOL	407,579	KASCO, INC.
TRAVELERS TOWER 1 CAFE RENO	257,489	OLIVER HATCHER CONSTRUCTION
FAIRBORN INTERMEDIATE 3-5	522,356	CONGER CONSTRUCTION GROUP INC

BLK - MLFO	1,464,672	BARTON MALOW BUILDERS LLC
BLK - C&S	181,719	BARTON MALOW BUILDERS LLC
GROSS POINTE NORTH HIGH SCHOOL	170,120	TURNER CONSTRUCTION - DETROIT
BLK - ELFO	334,542	BARTON MALOW BUILDERS LLC
BLOOMFIELD HILLS NORTH MS	504,771	BLOOMFIELD HILLS SCHOOLS
BLOOMFIELD HILLS SOUTH HILLS MIDDLE SCHOOL	492,825	BLOOMFIELD HILLS SCHOOLS
RAINBOW ELEMENTARY SCHOOL	393,217	ML SCHOENHERR CONSTRUCTION
SEAHOLM HIGH SCHOOL AUXILARY GYM	73,743	BIRMINGHAM PUBLIC SCHOOLS
DEARBORN PUBLIC SCHOOLS BR 02	776,242	DEARBORN PUBLIC SCHOOLS
U OF M CLINICAL INPATIENT TOWER	2,010,913	BARTON MALOW BUILDERS LLC
LIVONIA PUBLIC SCHOOLS PHASE 2 BP 1 (2023 WORK)	1,237,076	LIVONIA PUBLIC SCHOOLS
TUSKY VALLEY NEW 7-12 BUILDING	387,388	HAMMOND CONSTRUCTION
HECHTMAN APARTMENTS	331,866	G. FISHER CONSTRUCTION COMPANY
WILLIAM DAVIDSON FOUNDATION	211,054	SACHSE CONSTRUCTION
HURON PARK ELEMENTARY	85,866	ROSEVILLE COMMUNITY SCHOOLS
GARDEN CITY PUBLIC SCHOOLS	70,605	GARDEN CITY PUBLIC SCHOOLS
ARDMORE ELEMENTARY	103,449	LAKEVIEW PUBLIC SCHOOLS
LIVONIA PUBLIC SCHOOLS - 5 SITES	940,560	LIVONIA PUBLIC SCHOOLS
WARREN WOODS MIDDLE SCHOOL	130,354	BERNCO, INC.
BIRD ELEMENTARY SCHOOL	224,994	PLYMOUTH - CANTON COMMUNITY SCHOOLS
PONTIAC HIGH SCHOOL C/O BARTON MALOW	496,077	PONTIAC HIGH SCHOOL C/O BARTON MALOW BUILDERS
STEPANSKI EARLY CHILDHOOD CENTER	309,979	WATERFORD SCHOOL DISTRICT - BUSINESS SERVICES
GM DESIGN STUDIO WEST	652,778	WALBRIDGE CONSTRUCTION
GM VCC & GATE 2 GLASS HOUSE	49,719	WALBRIDGE CONSTRUCTION
MARINE CITY HIGH SCHOOL	592,611	EAST CHINA SCHOOL DISTRICT
BERMIS JUNIOR HIGH SCHOOL	64,765	BRIX CORPORATION
GREENWOOD ELEMENTARY SCHOOL	99,919	LAKEVIEW PUBLIC SCHOOLS
CROTHERS ELEMENTARY SCHOOL	331,947	CENTER LINE PUBLIC SCHOOLS
ANN ARBOR OPEN SCHOOL	51,292	ANN ARBOR PUBLIC SCHOOLS
DUNDEE MIDDLE SCHOOL	77,607	DUNDEE COMMUNITY SCHOOLS
STARKWEATHER ACADEMY	88,412	PLYMOUTH - CANTON COMMUNITY SCHOOLS
WEST MAPLE ELEMENTARY SCHOOL	115,172	BIRMINGHAM PUBLIC SCHOOLS
DAVIS JUNIOR HIGH SCHOOL	570,189	UTICA COMMUNITY SCHOOLS
WOODHAVEN HIGH SCHOOL	826,844	WOODHAVEN-BROWNSTOWN SCHOOL DISTRICT
CARROLLTON EXEMPTED VILLAGE SCHOOL DISTRICT	179,146	GREENSPACE CONSTRUCTION SERVICES, LLC
GRAHAM ELEMENTARY SCHOOL	104,728	WAYNE-WESTLAND SCHOOLS
STOTTLEMYER EARLY CHILDHOOD CTR	99,618	WAYNE-WESTLAND SCHOOLS
LINDEN HIGH SCHOOL REMODEL	227,044	LINDEN COMMUNITY SCHOOLS C/A BARTON MALOW
CENTRAL HIGH SCHOOL - TEAM BUILDINGS	7,255	WALLED LAKE CONSOLIDATED SD C/O GEORGE W AUCH CO
HOLLY MIDDLE SCHOOL	474,195	HOLLY AREA SCHOOLS
LAKEVIEW HIGH SCHOOL	305,051	LAKEVIEW PUBLIC SCHOOLS
WESTERN HIGH SCHOOL - TEAM BUILDINGS	76,920	WALLED LAKE CONSOLIDATED SD C/O GEORGE W AUCH CO
CANTON HIGH SCHOOL	42,037	PLYMOUTH - CANTON COMMUNITY SCHOOLS

HUDSON FF - HOTEL GUESTROOM LEVELS	319,247	TURNER / BARTON MALOW, A JOINT VENTURE
NORTHERN HIGH SCHOOL - TEAM BUILDINGS	7,255	WALLED LAKE CONSOLIDATED SD C/O GEORGE WAUCH CO
WEBSTER COMMUNITY CENTER	345,976	SPENCE BROTHERS - ANN ARBOR
HAIGH ELEMENTARY	175,075	DEARBORN PUBLIC SCHOOLS
BIRMINGHAM COVINGTON SCHOOL	319,872	BIRMINGHAM PUBLIC SCHOOLS
ADDAMS & KELLER ELEMENTARY SCHOOLS	391,128	ROYAL OAK SCHOOLS
ARMADA HIGH SCHOOL	51,012	R&E DEVELOPMENT GROUP LLC
ANDERSON FIELDHOUSE/HIGH SCHOOL	146,332	GRANGER CONSTRUCTION
UM DAVIDSON PDC LOCKER ROOMS	63,188	J.S. VIG CONSTRUCTION COMPANY
L'ANSE CREUSE KITCHENS	99,818	D & S CONTRACTORS INC
DRUMMOND ISLAND ELEMENTARY SCHOOL	153,258	DETOUR AREA SCHOOLS
CASEYVILLE ELEMENTARY SCHOOL	197,479	COLLINSVILLE COMMUNITY UNIT SCHOOL DISTRICT 10
FERRIS STATE UNIVERSITY - ROCK CAFE	497,229	TRIANGLE ASSOCIATES
FERRIS STATE UNIVERSITY - LEARNING CENTER	82,056	GRANGER CONSTRUCTION
ODAWA CASINO NORTHERN LIGHTS TAPROOM	50,572	SPENCE BROTHERS - SAGINAW
FAIRFIELD INNS AND SUITES	81,942	R.W. MERCER - JACKSON
TALLGRASS RB 2.2	54,305	R.G. BRINKMANN COMPANY
JOHN F KENNEDY ELEMENTARY	389,028	MANISTEE AREA SCHOOLS
FORWARD GAS STATION	150,723	FED CORPORATION
HANCOCK HIGH SCHOOL	135,274	BD OF EDUC HOUGHTON CO - HANCOCK PUBLIC SCHOOLS
GRAYLING MIDDLE SCHOOL	453,478	CRAWFORD AUSABLE SCHOOL DIST.
THE MUSEUM OF NEBRASKA ART	96,633	WHITING-TURNER CONTRACTING - MD
1451 - TALLGRASS 2.4	4,171	R.G. BRINKMANN COMPANY
CORAL SPRINGS HIGH SCHOOL	39,470	GULF BUILDING LLC
CAMPING WORLD STADIUM RENOVATIONS	1,507,426	BARTON MALOW BUILDERS - ORLANDO
LAKE WORTH HIGH SCHOOL 03-000	853,044	JAMES B. PIRTLE CONSTRUCTION CO, INC
JENSEN BEACH ELEMENTARY SCHOOL	586,080	PROCTOR CONSTRUCTION COMPANY LLC
NAPLES BEACH CLUB HOSPITALITY	1,511,352	SUFFOLK CONSTRUCTION COMPANY, INC.
PBC - HOMELESS RESOURCE CENTER 2	112,324	D STEPHENSON CONSTRUCTION, INC
MDC HOMESSTEAD STUDENT SUCCESS CENTER	113,223	JAMES B. PIRTLE CONSTRUCTION CO, INC
CITIZENM - SOUTH BEACH	543,048	AMERICARIBE LLC
GATEWAY HIGH SCHOOL	1,545,144	JAMES B. PIRTLE CONSTRUCTION CO, INC
PROFESSIONAL CONCESSIONS	65,349	PROCTOR CONSTRUCTION COMPANY LLC
OAKLAND PARK FIRE STATION NO 9	49,908	KAUFMAN LYNN CONSTRUCTION
SEMINOLE COUNTY FIRE STATION #39	85,452	CIC CONSTRUCTION GROUP USA, LLC
FIVE GUYS - PLANTATION REFRESH	12,857	R MILLER BUILDERS CORPORATION
DORAL CENRAL PARK	210,429	KAUFMAN LYNN CONSTRUCTION
CHOCTAW CASINO RESORT C/O GENERAL CONTRACTOR	4,573,713	CHOCTAW CASINO RESORT c/o TUTOR PERINI BLDG CORP.
EAST INTERMEDIATE SCHOOL	225,995	WAVERLY COMMUNITY SCHOOLS C/O BARTON MALOW
BOWEN ELEMENTARY SCHOOL	415,076	KENTWOOD PUBLIC SCHOOLS
OAKLAWN HOSPITAL	756,154	CHRISTMAN COMPANY/MAIN OFFICE
MUSKEGON BOYS & GIRLS CLUB	305,816	MUSKEGON QUALITY BUILDERS INC (MQB)
GUN LAKE CASINO PHASE 5 GAMING	4,333,241	CLARK CONSTRUCTION

KENOWA HILLS MIDDLE SCHOOL	570,926	KENOWA HILLS PUBLIC SCHOOLS
TRIBAL SCHOOL & RECREATIONAL CENTER	447,434	KONWINSKI CONSTRUCTION INC
NEW K-4 ELEMENTARY SCHOOL	427,626	BYRON CENTER SCHOOLS
WAVERLY HIGH SCHOOL	194,396	WAVERLY COMMUNITY SCHOOLS C/O BARTON MALOW
WINDSOR FOREST HIGH SCHOOL	1,146,867	JE DUNN CONSTRUCTION
KRESA - KALAMAZOO CTE CENTER	925,339	CSM GROUP
PAW PAW MIDDLE SCHOOL	232,817	PAW PAW PUBLIC SCHOOLS
FORD HUB	6,805,840	BARTON MALOW BUILDERS LLC
WACOUSTA ELEMENTARY SCHOOL	246,900	GRAND LEDGE PUBLIC SCHOOLS
U OF M -SOUTH 5TH STUDENT HOUSING & DINING	7,517,336	THE CHRISTMAN COMPANY
UHS SOUTHRIDGE BEHAVIORAL HEALTH HOSPITAL	609,741	ELZINGA AND VOLKERS, INC.
ADVOCATE SOUTH SUBURBAN HOSPITAL	811,521	ADVOCATE HEALTH AND HOSPITALS CORPORATION
CITY OF LA CROSSE - MUNICIPAL GOVERNMENT	828,060	CITY OF LA CROSSE, WISCONSON
JACKSON COUNTY CENTRAL MIDDLE SCHOOL	365,143	JACKSON COUNTY CENTRAL SCHOOLS ISD #2895
300 NORTH MICHIGAN AVENUE	439,913	LINN-MATHES INC.
DES MOINES UNIVERSITY - WEST CAMPUS	1,814,700	TURNER CONSTRUCTION COMPANY
MERCYHEALTH-CRYSTAL LAKE HOSPITAL & CLINIC	513,036	THE BOLDT COMPANY - WISCONSIN OFFICE
BELMONT CRAGIN ELEMENTARY SCHOOL	223,484	THE GEORGE SOLLITT CONSTRUCTION COMPANY
NORTH HIGH SCHOOL ADDISTIONS & RENOVATIONS	266,395	CM CONSTRUCTION COMPANY INC
FROEDTERT HEALTH	385,639	C.G. SCHMIDT
AERO THERAPEUTIC CENTER	734,271	IHC CONSTRUCTION COMPANIES LLC
ASHTON-FRANKLIN CENTER SD JR/SR HIGH SCHOOL	246,986	GEHRKE CONSTRUCTION, INC.
BADGER HIGH SCHOOL	52,578	J.P. CULLEN & SONS, INC
FIELD ELEMENTARY SCHOOL	289,332	JOSEPH CONSTRUCTION COMPANY
CPS - EVERETT ELEMENTARY	167,013	F.H. PASCHEN, S.N. NIELSEN
RILEY SCHOOL	175,560	STENSTROM GENERAL CONTRACTOR
NEAL MATH & SCIENCE ACADEMY	407,477	GILBANE BUILDING CO - CHICAGO
RC HILL ELEMENTARY SCHOOL	461,737	VALLEY VIEW COMMUNITY UNIT SCHOOL DISTRICT 365U
OBAMA PRESIDENTIAL CENTER - JV FINANCIAL	2,114,653	TURNER CONSTRUCTION - CHICAGO
DEKALB DATA CENTER 3, 5-6	1,233,249	MORTENSON - CHICAGO OPERATING GROUP
MUSCATINE SCHOOL DISTRICT CENTRAL PRODUCTION KITCHEN	2,123,375	SWANSON CONSTRUCTION CO.
SALESFORCE - SIC	157,344	SKENDER CONSTRUCTION LLC
MAYA ANGELOU ELEMENTARY SCHOOL	154,350	CMM GROUP, INC.
LA FOLLETTE HIGH SCHOOL	126,929	FINDORFF, INC
SALESFORCE - OHANA	1,318,458	SKENDER CONSTRUCTION LLC
SALESFORCE - TRAINING	258,154	SKENDER CONSTRUCTION LLC
WILLOWBROOK HIGH SCHOOL	22,768	PAUL BORG CONSTRUCTION COMPANY INC
FIRST STRIKE CASINO - 3RD FLOOR	4,562,078	GILBANE-GREENFIRE A 2022 JOINT VENTURE
THOMAS JEFFERSON ELEMENTARY SCHOOL	368,199	MONARCH CONSTRUCTION CO - ILLINOIS
IMC 41ST FLOOR	988,329	EXECUTIVE CONSTRUCTION, INC.
ESPERANZA HEALTH CENTER	83,163	MORTENSON - CHICAGO OPERATING GROUP
GLENBARD	282,988	HENRY BROS CO.
NSSD 112 - RAVINIA ADDITIONS AND RENOVATIONS	153,679	GILBANE BUILDING CO - CHICAGO

POTAWATOMI 1ST FLOOR RENOVATION	2,394,407	GILBANE-GREENFIRE A 2022 JOINT VENTURE
PLUM GROVE MIDDLE SCHOOL	339,027	LO DESTRO CONSTRUCTION COMPANY
CONRADY JR HIGH SCHOOL	238,160	IHC CONSTRUCTION COMPANIES LLC
MIDWEST MEDICAL CENTER	68,777	MARKET & JOHNSON INC
HAWK HOLLOW ADDITIONS & RENOVATIONS	685,000	THE GEORGE SOLLITT CONSTRUCTION COMPANY
BLACKHAWK TECHNICAL COLLEGE	157,105	J.P. CULLEN & SONS, INC
GLEN ELLYN PARK DISTRICT - SUNSET POOL	43,309	W.B. OLSON INC
ST CROIX CENTRAL HIGH SCHOOL	449,852	MARKET & JOHNSON INC
WALTER R. SUNDLING JUNIOR HIGH SCHOOL	373,059	MONARCH CONSTRUCTION CO - ILLINOIS
CHICAGO FIRE TRAINING FACILITY JV	670,933	PEPPER CONSTRUCTION - ILLINOIS
ONALASKA MIDDLE SCHOOL	359,195	MARKET & JOHNSON INC
AU SPARTAN CONCESSION STAND	12,711	THE BOLDT COMPANY - ILLINOIS OFFICE
PCCH PROJECT RISE PH 1	545,000	GREENFIRE MANAGEMENT SERVICES, LLC - CORPORATE
HEMMENS CULTURAL CENTER	54,963	DOHERTY CONSTRUCTION INC
TAMU WEST CAMPUS DINING FACILITY	623,368	JORDAN FOSTER CONSTRUCTION LLC
NEW CANEY HIGH SCHOOL NO. 3	1,305,337	GAMMA CONSTRUCTION COMPANY
PORT NECHES INTERMEDIATE SCHOOL	472,946	CADENCE MCSHANE CONSTRUCTION COMPANY LLC
GROVES INTERMEDIATE SCHOOL	477,176	CADENCE MCSHANE CONSTRUCTION COMPANY LLC
NISD - HIGH SCHOOL	1,604,973	H.B. NEILD & SONS, INC.
CY-FAIR ISD ELEMENTARY SCHOOL #58	555,211	ICI CONSTRUCTION INC
CFISD - FOOD PRODUCTION CENTER	5,242,572	DIVISIONONE CONSTRUCTION, LLC
NISD - LANGHAM ELEMENTARY SCHOOL	451,812	H.B. NEILD & SONS, INC.
CONROE FLEX #22	810,387	DUROTECH LP / DUROTECH GP LLC
NOTTINGHAM ELEMENTARY SCHOOL	687,703	DUROTECH LP / DUROTECH GP LLC
FRIENDSWOOD HIGH SCHOOL	1,010,398	ICI CONSTRUCTION INC
DPISD - BASEBALL & SOFTBALL COMPLEX	70,199	DUROTECH LP / DUROTECH GP LLC
STAR ACADEMY & CTE PROGRAMS, BUILDING 3	622,135	ICI CONSTRUCTION INC
CCISD WHITCOMB ELEMENTARY SCHOOL	585,605	ICI CONSTRUCTION INC
JAMES ROSS ELEMENTARY SCHOOL	449,115	ICI CONSTRUCTION INC
GALENA PARK HIGH SCHOOL & CTE ADDITIONS	3,741,744	COMEX CORPORATION
COP PUBLIC SAFETY BUILDING - PSB RENOVATIONS	129,168	DUROTECH LP / DUROTECH GP LLC
PORTER ELEMENTARY SCHOOL	1,040,000	PURCELL CONSTRUCTION INC
CFISD DURYEA ELEMENTARY SCHOOL	720,790	DIVISIONONE CONSTRUCTION, LLC
MONTGOMERY ISD PACKAGE C	1,972,475	MARSHALL CONSTRUCTION
FORT BEND ISD	91,825	DUROTECH LP / DUROTECH GP LLC
AUDUBON ELEMENTARY SCHOOL	882,778	B & C CONSTRUCTOR LP
KELSEY SEYBOLD CLINIC EXPANSION	211,128	GAMMA CONSTRUCTION COMPANY
WALLER ISD NEW ELEMENTARY SCHOOL #6	803,342	DUROTECH LP / DUROTECH GP LLC
LONDON ISD	1,200,250	WEAVER & JACOBS CONSTRUCTORS, INC.
WALLER ISD NEW ELEMENTARY SCHOOL #7	803,315	DUROTECH LP / DUROTECH GP LLC
TOMBALL INNOVATION CENTER	69,172	MILLENNIUM PROJECT SOLUTIONS INC
JERSEY MEADOW GOLF CLUB HOUSE	317,001	BROOKSTONE L.P.
W.W. THORNE STADIUM	767,275	DUROTECH LP / DUROTECH GP LLC

NEW INTERMEDIATE SCHOOL #3 - MISD	864,355	STEWART BUILDERS, INC
ANAHUAC PRIMARY SCHOOL	686,126	DUROTECH LP / DUROTECH GP LLC
SAN ROMERO EPISCOPAL CHURCH	80,627	PARADIGM CONSTRUCTION
KATY ISD KITCHEN COMPONENT - MULTI	3,233,404	DIVISIONONE CONSTRUCTION, LLC
NEW INTERMEDIATE SCHOOL #3 - MISD	959,715	STEWART BUILDERS, INC
TOMBALL WEST ELEMENTARY SCHOOL	999,969	TOMBALL ISD
NEW CANEY ISD WEST FORK HS PHASE II	401,962	DUROTECH LP / DUROTECH GP LLC
CONROE ISD FLEX #23	5,984	DUROTECH LP / DUROTECH GP LLC
WALLER ISD NEW AG SCIENCE FACILITY	60,432	STEWART BUILDERS, INC
GOOSE CREEK ISD	888,991	COMEX CORPORATION
WALLER 8 E.S	857,698	STEWART BUILDERS, INC
MONTGOMERY CTE	2,769,610	STEWART BUILDERS, INC
BHH'BURG CENTRAL ENERGY PLANT AND TUNNEL	58,309	CONGLETON - HACKER COMPANY
OSU WEXNER MEDICAL CENTER	9,944,826	WALSH TURNER JV
NEW BREATHITT COUNTY ELEMENTARY SCHOOL	426,856	STANDAER BUILDERS INC
CENTRAL HARDIN HIGH SCHOOL	757,754	ALLIANCE CORPORATION
PURDUE NELSON HALL	374,464	J R KELLY COMPANY, INC
APOLLO HIGH SCHOOL	929,544	DANCO CONSTRUCTION, INC.
LAUREL COUNTY DAY TREATMENT CENTER	255,742	HACKER BROTHERS, INC.
NORTHVIEW MIDDLE SCHOOL	509,647	MESSER POWERS JOINT VENTURE
TURFWAY PARK RACING & GAMING	1,911,032	F.A. WILHELM CONSTRUCTION CO.
SKANSKA - MONTGOMERY CO. MPEC	2,523,627	SKANSKA USA BUILDING INC
RYLAND HEIGHTS ELEMENTARY SCHOOL	202,162	CENTURY CONSTRUCTION, INC.
CHN REHABILITATION HOSPITAL - WEST INDY	422,003	TURNER CONTRUCTION - INDY
ISU - WATTERSON DINING CENTER	1,264,735	FELMLEY DICKERSON CO.
GREENBRIER GOLF AND COUNTRY CLUB LIFESTYLE CENTER	106,944	DEAN BUILDS, INC
THE BAPTIST HEALTH HAMBURG INTERIOR FIT UP	178,007	CONGLETON - HACKER COMPANY
LANPHIER HIGH SCHOOL	1,009,109	HAROLD O'SHEA BUILDERS INC DBA O'SHEA BUILDERS
MERCY KINGS MILLS HOSPITAL	620,071	DANIS BUILDING CONSTRUCTION COMPANY
PADUCAH HEADSTART	674,684	ALLIANCE CORPORATION
BOONE COUNTY NEW ANIMAL SHELTER	49,189	CONGER CONSTRUCTION GROUP INC
MT HEALTHY HIGH SCHOOL	1,663,122	CONGER CONSTRUCTION GROUP INC
SILVER CREEK HS EXPANSION & RENOVATION	1,060,035	CALHOUN CONSTRUCTION SERVICES
CORBIN HIGH SCHOOL - FOOTBALL STADIUM	6,701	HACKER BROTHERS, INC.
FISHERS EVENT CENTER	2,671,856	HUNT CONSTRUCTION GROUP - INDIANAPOLIS
ADAIR COUNTY MIDDLE SCHOOL	610,449	ADAIR COUNTY BOARD OF EDUCATION
MARION COUNTY YOUTH AND FAMILY SERVICES CENTER	798,963	F.A. WILHELM CONSTRUCTION CO.
ST VINCENT'S MICRO HOSPITAL LAFAYETTE	69,175	MEYER NAJEM CONSTRUCTION, LLC
MILFORD MIDDLE SCHOOL	1,123,730	CONGER CONSTRUCTION GROUP INC
WARREN ELEMENTARY SCHOOL	553,299	WARREN COUNTY PUBLIC SCHOOLS
CANNONSBURG ELEMENTARY SCHOOL	169,664	BOYD COUNTY PUBLIC SCHOOLS
MT CARMEL NORTHWEST HEALTH CAMPUS - DUBLIN	803,928	DANIS BUILDING CONSTRUCTION COMPANY
BUCKHORN SCHOOL	429,647	PERRY COUNTY BOARD OF EDUCATION

HAMILTON COUNTY READINESS CENTER
IOWA STATE UNIVERSITY

182,071 PATTERSON HORTH, INC.
3,500 INVISON ARCHITECTURE, LLC



Exhibit – Cost Reduction List Bid Package 2B – Food Services | Stafford Simith, Inc.

Base Bid	Vendor Provide Pricing	\$ 1,150,550.00	Status
Alternate pricing			
Eliminate food service equipment associated with Grandstand improvements design	\$ (541,717.00)	\$ (541,717.00)	Accepted
Adjust sales tax from Food Service Equipment Bid	in above	above	Accepted
Adjusted Contract Price less above adjustments		\$ 608,833.00	

OCUMENT 000117 – INDEX OF DRAWINGS

BID PACKAGE 02 - BUILDINGS
PADUCAH SPORTS PARK
PADUCAH, KENTUCKY

<u>NUMBER</u>	<u>TITLE</u>
	COVER SHEET: BID PACKAG 02 – BUILDINGS

BUILDING 1 - GRANDSTAND

L1.0	LEGEND AND SHEET INDEX
LS1.1	LIFE SAFETY PLAN AND CODE REVIEW
LS1.2	LIFE SAFETY PLAN AND CODE REVIEW
LS1.3	LIFE SAFETY PLAN AND CODE REVIEW

STRUCTURAL

S0.1	STRUCTURAL NOTES
S1.0	GRANDSTAND DEMOLITION PLANS
S1.1	GRANDSTAND FOUNDATION PLAN
S1.2	GRANDSTAND MEZZANINE PLAN
S1.3	GRANDSTAND UPPER LEVEL PLAN
S1.4	GRANDSTAND UPPER ROOF PLAN
S3.1	FOUNDATION DETAILS
S3.2	FOUNDATION DETAILS
S4.1	FRAMING DETAILS
S4.2	FRAMING DETAILS
S4.3	FRAMING DETAILS
S5.1	STRUCTURAL SCHEDULES

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A0.1	DEMOLITION PLAN - MAIN AND MEZZANINE LEVELS
A0.2	DEMOLITION PLAN - UPPER LEVEL AND ROOF
A1.1	FLOOR PLAN - MAIN LEVEL
A1.2	FLOOR PLAN - MEZZANINE LEVEL
A1.3	FLOOR PLAN - UPPER LEVEL
A2.1	ROOF PLAN AND DETAILS
A3.1	EXTERIOR ELEVATIONS
A3.2	EXTERIOR ELEVATIONS
A4.1	BUILDING SECTIONS
A4.2	BUILDING SECTIONS
A4.3	BUILDING SECTIONS
A5.1	WALL SECTIONS
A5.2	WALL DETAILS
A6.1	REFLECTED CEILING PLANS
A6.2	REFLECTED CEILING PLAN
A7.1	TOILET INTERIOR ELEVATIONS
A7.2	ENLARGED PLANS AND CASEWORK ELEVATIONS
A8.1	DOOR SCHEDULE AND DETAILS
A8.2	FINISH SCHEDULE

FIRE PROTECTION

FP0.1	FIRE PROTECTION LEAD SHEET
FPD1.1	FIRE PROTECTION DEMOLITION PLAN - GRANDSTAND- LOWER LEVEL
FPD1.2	FIRE PROTECTION DEMOLITION PLAN - GRANDSTAND- MEZZANINE LEVEL
FPD1.3	FIRE PROTECTION DEMOLITION PLAN - GRANDSTAND - UPPER LEVEL
FP1.1	FIRE PROTECTION PLANS - GRANDSTAND - LOWER LEVEL
FP1.2	FIRE PROTECTION PLANS - GRANDSTAND - MEZZANINE LEVEL
FP1.3	FIRE PROTECTION PLANS - GRANDSTAND - UPPER LEVEL

PLUMBING

P0.1	PLUMBING LEAD SHEET
PD1.1	PLUMBING DEMOLITION PLAN - GRANDSTAND - LOWER LEVEL
PD1.2	PLUMBING DEMOLITION PLAN - GRANDSTAND - UPPER LEVEL
P1.1	PLUMBING PLANS - GRANDSTAND - LOWER LEVEL
P1.2	PLUMBING PLANS - GRANDSTAND - MEZZANINE LEVEL
P1.3	PLUMBING PLANS - GRANDSTAND - UPPER LEVEL
P2.1	PLUMBING ENLARGED PLANS - GRANDSTAND
P3.1	PLUMBING DIAGRAMS
P4.1	PLUMBING DETAILS
P4.2	PLUMBING DETAILS

MECHANICAL

H0.1	HVAC LEAD SHEET
HD1.1	HVAC DEMOLITION PLAN - GRANDSTAND- LOWER LEVEL
HD1.2	HVAC DEMOLITION PLAN - GRANDSTAND- MEZZANINE LEVEL
HD1.3	HVAC DEMOLITION PLAN - GRANDSTAND - UPPER LEVEL
H1.1	HVAC PLANS - GRANDSTAND - LOWER LEVEL
H1.2	HVAC PLANS - GRANDSTAND - MEZZANINE LEVEL
H1.3	HVAC PLANS - GRANDSTAND - UPPER LEVEL
H2.1	HVAC ENLARGED PLANS
H2.2	HVAC ENLARGED PLANS
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H4.2	HVAC DETAILS
H4.3	AHU-1 VIEWS
H5.1	HVAC SCHEDULES
H5.2	HVAC SCHEDULES
H5.3	HVAC SCHEDULES

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E0.1	ELECTRICAL LEAD SHEET
ED1.1	ELECTRICAL DEMOLITION PLAN - GRANDSTAND - LOWER LEVEL
ED1.2	ELECTRICAL DEMOLITION PLAN - GRANDSTAND - UPPER LEVEL
E1.1	ELECTRICAL PLANS - GRANDSTAND - LOWER LEVEL
E1.2	ELECTRICAL PLANS - GRANDSTAND - MEZZANINE LEVEL
E1.3	ELECTRICAL PLANS - GRANDSTAND - UPPER LEVEL
E2.1	ELECTRICAL ENLARGED FLOOR PLANS
E3.1	ELECTRICAL RISER DIAGRAMS
E4.1	ELECTRICAL DETAILS
E4.2	ELECTRICAL DETAILS
E4.3	ELECTRICAL DETAILS

E4.4	ELECTRICAL DETAILS
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Paducah Sports Park
150 Downs Drive
Paducah, Kentucky

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Agenda Action Form

Paducah City Commission

Meeting Date: June 25, 2024

Short Title: Approve an Ordinance Creating a Real Estate Parcel Fee for the Funding of 911 Services, Maintenance, and Equipment - **D. JORDAN**

Category: Ordinance

Staff Work By: Daron Jordan,
Jonathan Perkins
Presentation By: Daron Jordan

Background Information: The City of Paducah and McCracken County have entered into an Interlocal Cooperation Agreement for the provision of joint 911 services. There is currently a fee-based system for financial support based upon a per-month charge on “land-line” phones in Paducah, McCracken County, Kentucky. Due to the ever-increasing use and reliance on mobile phones and the concomitant decreasing existence of land-line phones has resulted in a significant decrease in revenues to support the operations of emergency 911 communication services in Paducah, McCracken County. The reduction in revenues has resulted in inadequate funding to continue operating emergency 911 communication services in Paducah, McCracken County, Kentucky. A real estate parcel fee would assist in the funding of emergency 911 communication services and also ensure the distribution of funding to a broader range of citizens rather than just those who have land-line phones

This ordinance establishes an annual parcel fee on all occupied individual residential units and all occupied individual commercial, religious, charitable, educational, and public use units located within the territorial limits of the City of Paducah. The fee will be used for the delivery of Enhanced 911 emergency telephone service and the associated maintenance of systems and devices, including but not limited to, operating costs of the Paducah-McCracken County 911 Services Center and purchase and maintenance of E911 equipment.

The ordinance sets annual parcel fees as follows:

- Super Commercial Unit (contains structure in excess of 25,000 sq. ft.) \$1,550
- Large Commercial Unit (contains structure between 7,500 and 25,000 sq. ft.) \$860
- Medium Commercial Unit (contains structure between 2,500 and 7,500 sq. ft.) \$325
- Small Commercial Unit (structure between 1 and 2,500 sq. ft.) \$210
- Parking Lots \$150
- Public Use Units (emergency service, governmental, religious, charitable, and educational) \$35
- Residential Units \$45

Parcel fees shall be placed upon the City of Paducah’s property tax bills beginning with the 2024 tax bill and continuing every year thereafter. The due dates will be the same as the property tax due dates set by the Board of Commissioners. In the first year, occupied rental units will be eligible to claim a rebate of \$22.50 per unit against the annual fee due.

Does this Agenda Action Item align with a Commission Priority? Yes

If yes, please list the Commission Priority: 911 Radio Equipment Upgrade, Governance, and Revenue

Communications Plan:

Funds Available: Account Name:
Account Number:

Staff Recommendation: Approval.

Attachments:

1. ORD Parcel Fee Ordinance 6-20-24

ORDINANCE NO. 2024-__

AN ORDINANCE ESTABLISHING AND IMPOSING A FEE ON ALL OCCUPIED REAL ESTATE PARCELS LOCATED WITHIN THE TERRITORIAL LIMITS OF THE CITY OF PADUCAH TO FACILITATE FUNDING FOR THE PROVISION OF JOINT 911 SERVICES AS MORE FULLY SET FORTH IN THE INTERLOCAL COOPERATION AGREEMENT BETWEEN THE CITY OF PADUCAH AND MCCRACKEN COUNTY

WHEREAS, the City of Paducah and McCracken County are responsible for promoting public safety and the general welfare of the citizens of Paducah, McCracken County, Kentucky; and

WHEREAS, the operation of an emergency 911 communications system is one of the most critical of all public services, indispensable and necessary for the safety of the citizens of Paducah, McCracken County to ensure prompt response to emergencies; and

WHEREAS, the City of Paducah and McCracken County have entered into an Interlocal Cooperation Agreement for the provision of joint 911 services; and

WHEREAS, there is currently a fee-based system for financial support based upon a per-month charge on “land-line” phones in Paducah, McCracken County, Kentucky, and

WHEREAS, the ever-increasing use and reliance on mobile phones and the concomitant decreasing existence of land-line phones has resulted in a significant decrease in revenues to support the operations of emergency 911 communication services in Paducah, McCracken County, Kentucky; and

WHEREAS, the reduction in revenues has resulted in a lack of adequate funding to continue to operate emergency 911 communication services in Paducah, McCracken County, Kentucky; and

WHEREAS, KRS 65.760 (3) expressly permits local governments to fund emergency 911 communication services by the imposition of fees not in conflict with the Constitution and statutes of this state; and

WHEREAS, the distribution of funding for emergency 911 communication services among the citizens of Paducah, Kentucky through a fee on parcels located in the City of Paducah is more equitable; bears a reasonable relationship to the benefit received; and requires more citizens to support the system than the existing “land-line” phone fee; and

WHEREAS, the Kentucky Supreme Court has expressly permitted fees on real estate parcels as an appropriate mechanism for funding emergency 911 communication services; and

WHEREAS, a real estate parcel fee would assist in the funding of emergency 911 communication services and also ensure the distribution of funding to a broader range of citizens rather than just those who have land-line phones; and

WHEREAS, the Commission will repeal the land-line phone fee once sufficient funding for 911 has been collected via parcel fees.

NOW THEREFORE, BE IT HEREBY ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF PADUCAH AS FOLLOWS:

SECTION 1. That there is hereby established, imposed, and implemented an annual parcel fee on all occupied individual residential units and all occupied individual commercial, religious, charitable, educational, and public use units located within the territorial limits of the City of Paducah, as determined from the records of the McCracken County Property Valuation Administrator's office. The fee shall be used for the delivery of Enhanced 911 emergency telephone service as provided for by KRS 65.760 and the associated maintenance of systems and devices, including but not limited to, operating costs of the Paducah-McCracken County 911 Services Center and purchase and maintenance of E911 equipment.

SECTION 2. The Board of Commissioners hereby imposes the following annual parcel fees on all parcels of occupied real property, as more accurately defined in Sections 3 through 5 of this Ordinance, which are located within the jurisdictional limits of the City of

Paducah:

A. Super Commercial Unit (contains structure in excess of 25,000 sq. ft.)	\$1,550
B. Large Commercial Unit (contains structure between 7,500 and 25,000 sq. ft.)	860
C. Medium Commercial Unit (contains structure between 2,500 and 7,500 sq. ft.)	325
D. Small Commercial Unit (structure between 1 and 2,500 sq. ft.)	210
E. Parking Lots (which shall include, but not be limited to, parking lots, garages, or other areas designed for the parking of motor vehicles as defined by KRS 186.010(4) whereby the owner, occupant, lessee, or possessor of any portion of the parcel leases, rents, licenses, bails, or otherwise allows the parking or storage of motor vehicles in exchange for consideration)	150
F. Public Use Units (emergency service, governmental, religious, charitable, and educational)	35
G. Residential Units	45

In the event a parcel is mixed use, the parcel shall be assessed at the highest applicable assessment rate.

SECTION 3. An occupied *residential unit* shall be defined as each residential space designed and/or utilized for occupancy for residential purposes and includes each apartment and/or duplex unit, house, and mobile home as a separate residential unit.

SECTION 4. An occupied *commercial unit* shall be defined as a non-residential building space of any size designed and/or utilized for occupancy by an individual non-residential business or private enterprise which involves the manufacture, sale, lease, or rental of goods, or services to the public.

SECTION 5. An occupied *public use unit* shall be defined as any parcel owned or leased by:

- A. Any City, County, State, or Federal Government in which the parcel is used for the purposes of conducting the regular business of its government, its police department, or its fire department.
- B. A Fire District so long as the parcel is used by the District to deliver fire protection services pursuant to KRS Ch. 75.
- C. A non-residential building space of any size designed and/or utilized for occupancy for religious activities and/or worship.
- D. A non-residential building space of any size designed and/or utilized for occupancy for the carrying out of a charitable purpose as determined by Section 501 of the Internal Revenue Code.
- E. A non-residential building space of any size designed and/or utilized for occupancy for the purpose of education, the administration thereof or extracurricular activities.

SECTION 6. The 911 parcel fee shall be placed upon the City of Paducah's property tax bills prepared by the City's Finance Department beginning with the 2024 tax bill and continuing every year thereafter. The due dates shall be the same as the property tax due dates set by the Board of Commissioners.

SECTION 7. For the first year only, owners of all occupied residential rental units shall be eligible to claim a rebate of \$22.50 per unit against the annual fee due. This rebate, which is the equivalent of a 6-month share of the fee, is granted to allow owners of rental property additional time to recover some or all of the amount of the fee from tenants. In subsequent years, the full amount of the annual 911 parcel fee shall be paid for all occupied residential rental units. In order to be eligible for this rebate, the property owner of the occupied rental unit(s) shall complete and submit the form, attached hereto, to the City of Paducah Finance Department, which shall be received by the Finance Department on or before March 1, 2025.

SECTION 8. The Board of Commissioners, in conjunction with McCracken County, Kentucky, shall amend the Interlocal Agreement for Provision of Emergency 911 Services to create a “Joint 911 Parcel Fee Appeals Board” to address all appeals of parcel fee assessments.

SECTION 9. Any property owner may appeal the classification of their property under the terms of this Ordinance. However, an appeal shall not affect the date the parcel fee is due. A property owner wishing to appeal a classification shall file an appeal by delivering a notice of appeal to the Paducah City Clerk by no later than December 1st of the year for which the fee is due. The Joint Appeals Board shall set a date for a meeting in which the property owner can present evidence and otherwise be heard on the issue of classification. The property owner shall bear the burden of proof that the property has been incorrectly classified by clear and convincing evidence. The City shall also have the right to present evidence of proof that the classification is appropriate. If the property owner presents sufficient proof of lack of occupancy and/or any other evidence to indicate that the parcel was inappropriately classified, the Joint Appeals Board shall provide relief to the party by a majority vote, including, but not limited to, a refund of all or a portion of the parcel fee paid during the applicable tax year.

SECTION 10. All real estate parcel fees shall be collected by the City of Paducah’s Finance Department.

SECTION 11. The real estate parcel fees collected shall be accounted for and kept separate and apart from other accounts and may only be used for the funding of emergency 911 services as permitted by state law and as more fully set forth in the Interlocal Cooperation Agreement between the City of Paducah and McCracken County.

SECTION 12. The failure of any owner of real property to pay the fee as set forth in this Ordinance shall be punishable as a Class A Misdemeanor and/or by civil collection process.

SECTION 13. As more fully set forth in the Interlocal Agreement for the Provision of

Emergency 911 Services entered into by the City of Paducah and McCracken County, the 911 Board shall review the fee imposed by this Ordinance and by no later than April 1st of each year make a recommendation to the City of Paducah as to any adjustments to the then-effective parcel fee to ensure adequate funding of the Joint 911 services.

SECTION 14. Unless otherwise determined by the Paducah Board of Commissioners, commencing April 1, 2025, and on April 1st of each successive year thereafter, all parcel fees set forth in this Article shall be automatically adjusted based on the Urban Consumer Price Index for the South Region as published by the U.S. Department of Labor, Bureau of Labor Statistics, for the prior January.

SECTION 15. The provisions of this Ordinance are declared to be severable. If any section, phrase or provision shall for any reason be declared invalid, such declaration shall not affect the validity of the remainder of this Ordinance.

SECTION 16. This Ordinance shall be read on two separate days and become effective upon summary publication pursuant to KRS Chapter 424.

MAYOR

ATTEST:

City Clerk

Introduced by the Board of Commissioners, _____, 2024

Adopted by the Board of Commissioners, _____, 2024

Recorded by City Clerk, _____, 2024

Published by *The Paducah Sun*, _____, 2024

4859-4231-7447

APPLICATION FOR OCCUPIED RESIDENTIAL RENTAL UNIT REBATE
(Submit one form for each parcel containing one or multiple units)

Name of Property Owner: _____

Address of Property Owner: _____

Telephone Number of Property Owner: _____

Name of Occupied Rental Property (if applicable): _____

Address of Occupied Rental Property: _____

Number of rental units located on this parcel: _____

I hereby certify that the information contained herein is true:

Signature of Property Owner

Date

THIS FORM MUST BE RECEIVED BY THE CITY'S FINANCE DEPARTMENT ON OR
BEFORE MARCH 1, 2025 BY PERSONAL DELIVERY OR MAIL TO:

Paducah City Hall
Finance Department
300 South 5th Street
Paducah, Kentucky 42001

Agenda Action Form

Paducah City Commission

Meeting Date: June 25, 2024

Short Title: Approve Section 8 Housing Choice Voucher Program FY25 Budget - **LASICA McEWEN**

Category: Ordinance

Staff Work
By: Lasica
McEwen
Presentation
By: Lasica
McEwen

Background Information: Pursuant to 24 CFR § 990.315 the Section 8 Housing Choice Voucher Program is required to submit approval of its annual operating budget to the US Department of Housing and Urban Development (HUD). The City Commission is the approving authority for the Section 8 budget. This action approves the annual operation budget for the Section 8 Housing Choice Voucher Program for Fiscal Year 2025 as attached.

Does this Agenda Action Item align with a Commission Priority? No
If yes, please list the Commission Priority:

Communications Plan:

Funds Available: Account Name:
Account Number:

Staff Recommendation: Approval.

Attachments:

1. ORD Section 8 Budget FY 24-25
2. Resolution 892-24 Section 8 (003)

ORDINANCE NO. 2024 - _____ - _____

AN ORDINANCE ADOPTING THE ANNUAL OPERATING BUDGET FOR THE PADUCAH KENTUCKY SECTION 8 HOUSING CHOICE VOUCHER PROGRAM FOR THE FISCAL YEAR JULY 1, 2024, THROUGH JUNE 30, 2025, BY ESTIMATING REVENUES AND RESOURCES AND APPROPRIATING FUNDS FOR THE OPERATION OF SAID PROGRAM

WHEREAS, pursuant to 24 CFR § 990.315 the Section 8 Housing Choice Voucher Program is required to submit approval of its operating budget to the US Department of Housing and Urban Development (hereinafter “HUD”); and,

WHEREAS, said annual operating budget must be approved by the Paducah City Commission.

WHEREAS, the Board of Commissioners has reviewed the proposed Annual Operating Budget for the Paducah Section 8 Housing Choice Voucher Program and desires to adopt it for Fiscal Year 2025.

NOW, THEREFORE, BE IT ORDAINED by the City of Paducah, Kentucky as follows:

Section 1. The Annual Operating Budget for the Fiscal Year beginning July 1, 2024, and ending June 30, 2025, for the Section 8 Housing Choice Voucher Program as set forth in Exhibit A attached hereto is hereby adopted.

Section 2. The provisions of this Ordinance are hereby declared to be severable, and if any section, phrase or provision shall for any reason be declared invalid, such declaration of invalidity shall not affect the validity of the remainder of this Ordinance.

Section 3. All prior Municipal Orders or Ordinances or parts of any Municipal Order or Ordinance in conflict herewith are hereby repealed.

Section 4. This ordinance shall be read on two separate days and will become effective upon publication in full pursuant to KRS Chapter 424.

George Bray, Mayor

ATTEST:

Lindsay Parish, City Clerk

Introduced by the Board of Commissioners, _____

Adopted by the Board of Commissioners, _____

Recorded by Claudia S. Meeks, Assistant City Clerk, _____

Published by *The Paducah Sun*, _____

ORD/FIN/Budget Section 8 FY24-25

Exhibit A

Budget Section 8

Start Date 07/01/2024 TO 06/30/2025

Beginning Balance Estimate \$ 298,875.00

YR end
Balance

ACCOUNT NAME	ACCOUNT #	Budget	12 MONTH EXPENSE	ENDING BALANCE
NON-TECH Salaries	4110	\$ 125,000.00		\$ 125,000.00
Legal Fees	4130	\$ 1,500.00		\$ 1,500.00
Staff Training	4140	\$ 5,000.00		\$ 5,000.00
Travel Reimbursement Paid to staff	4150	\$ 650.00		\$ 650.00
Travel in Town	4150.1	\$ 200.00		\$ 200.00
Purchase New Vehicle	4150.4	\$ -		\$ -
Accounting Fees	4170	\$ 7,800.00		\$ 7,800.00
Audit Fees	4171	\$ 5,000.00		\$ 5,000.00
Employee Benefits	4182	\$ 64,000.00		\$ 64,000.00
Office Supplies	4190.01	\$ 3,650.00		\$ 3,650.00
Postage	4190.03	\$ 2,500.00		\$ 2,500.00
Printing	4190.07	\$ 1,250.00		\$ 1,250.00
Advertising	4190.08	\$ 525.00		\$ 525.00
Inspection Services	4190.09	\$ 22,500.00		\$ 22,500.00
Membership Dues/Fees	4190.12	\$ 1,800.00		\$ 1,800.00
Telephone	4190.13	\$ 3,000.00		\$ 3,000.00
Forms & Office Supplies	4190.17	\$ 350.00		\$ 350.00
Misc/Fees/Late Pymts/Pics	4190.18	\$ 200.00		\$ 200.00
Administrative Contracts/Wilson copy	4190.19	\$ 8,500.00		\$ 8,500.00
Sundry Computer under \$2500	4190.21	\$ 100.00		\$ 100.00
Outside Management Fees	4195	\$ 25,000.00		\$ 25,000.00

Maintenance & Operation	4400	\$ 925.00		\$ 925.00
Automobile Insurance	4510.03	\$ 925.00		\$ 925.00
Extraordinary Maintenance	4610	\$ 3,500.00		\$ 3,500.00
TempsPlus	4195	\$ 15,000.00		\$ 15,000.00
Total		\$ 298,875.00	\$ -	\$ 298,875.00

RESOLUTION TO ADOPT FY 2025 OPERATING BUDGET/ SECTION 8

July 1, 2024 - June 30, 2025

BACKGROUND:

HUD requires that the Board of Commissioners adopt an annual operating budget. This year we anticipate that Operating Subsidy will be funded at 95%. It is difficult to project revenue and expenses when dealing with developments that are 65+ years old and the uncertainty of Federal Funding and tenant rents. We have tried closely to match budgeted amounts with actual expenditures from the previous fiscal years and adjusted as we deemed prudent.

ISSUE:

We will continue to monitor the operating expenses and income closely throughout the year by meeting regularly with management personnel to review income and expenses. We do not propose reducing any existing staff salaries or benefits.

RECOMMENDATION:

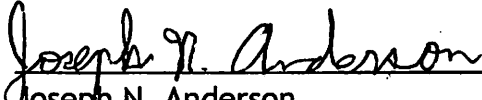
Approve the FY 2025 Operating Budget beginning July 1, 2024, and ending June 30, 2025. It is understood that this our best estimate and is subject to change based on our actual expenses and income.

RESOLUTION NO. 892-24

BE IT RESOLVED THE BOARD OF COMMISSIONERS ACCEPTS THE OPERATING BUDGET FOR FISCAL YEAR ENDING June 30, 2025 AS SUBMITTED.

CERTIFICATE OF RECORDING OFFICER

The undersigned, being the secretary to the Board of Commissioners of the Housing Authority of Paducah, does hereby certify that the foregoing resolution was approved and adopted by the Board of Commissioners at its special called meeting on June 11, 2024.



Joseph N. Anderson
Executive Director