

# PROJECT MANUAL

BID # ECPS-030122

## TRACK REFURBISHMENT

### ESSEX HIGH SCHOOL

ESSEX COUNTY PUBLIC SCHOOLS

TAPPAHANNOCK, VIRGINIA

TIMMONS GROUP PROJECT #49566

March 14, 2022

PREPARED BY:

TIMMONS GROUP

1001 BOULDERS PARKWAY, SUITE 300

RICHMOND, VA 23225

804-200-6467

TRACK REFURBISHMENT  
 ESSEX HIGH SCHOOL  
 TAPPAHANNOCK, VIRGINIA  
 APN 49566

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TRACK REFURBISHMENT  
ESSEX HIGH SCHOOL  
TAPPAHANNOCK, VIRGINIA  
APN 49566

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**SECTION 0020**

**ESSEX HIGH SCHOOL  
TRACK REFURBISHMENT  
833 HIGH SCHOOL CIRCLE, TAPPAHANNOCK, VA 22560  
BID # ECPS-030122  
ESSEX COUNTY PUBLIC SCHOOL BOARD (“OWNER”)**

Invitation to Bid

The purpose of this IFB is to establish a firm fixed price, lump sum contract with one qualified Contractor to provide track refurbishment at Essex County High School. This project consists of regrading the existing cinder track, installing storm drain system, pave 3” of asphalt (in 2 - 1.5” lifts), and installation of new rubberized track surface and lines. Includes high jump area, two runways, and two sand pits. All disturbed areas inside the track shall be re-sodded with like grass material. All disturbed areas outside the track shall be seeded and stabilized with straw matting until grass has matured. Below is a list of items that have been revised since the original bid documents dated February 1, 2022.

- Liquidated Damages of \$1,500/day have been eliminated.
- The responsibility of relocating the existing irrigation system has been eliminated.
- The requirement to crack seal and overlay the old high jump area has been eliminated.
- The requirement to remove the existing asphalt areas has been eliminated.
- The requirement to relocate the existing flagpole has been eliminated.
- The chute at the north end of the track has been eliminated.
- The track width has been reduced to 29’ and the stone width has been reduced to 30’.
- The requirement to relocate the existing bleachers has been eliminated.
- The long jump and triple jump takeoff boards have been replaced with painted lines.
- The storm pipe has been reduced in size to 6” ADS perforated, corrugated at 0.3%. The trench starts shallower and has been reduced to 18” width. The outfall pipe has been reduced in size to 12”.
- The drain basins have been changed to 12”x12”.

Sealed Bids, in accordance with the Bid Documents, will be received prior to 2:00 P.M., March 31, 2022 at the location identified below and then publicly opened and read aloud. Bids received after the above time shall not be considered. The time a bid is received shall be determined by the time stamped by the time clock in the Finance Department. Bidders are responsible for ensuring that School Board personnel stamp their bids by the deadline indicated. In the event this time clock is not functioning, the time shall be determined by time displayed on the landline telephone nearest to the time clock. The time on the telephone will be written on the bid by hand, by School Board staff. Should the School Board be officially closed at the time the bid is due or pre-bid conference is scheduled, the bid due date or pre-bid conference date shall automatically be changed to the same time on the next day the School Board is officially open at that time. Bids must be submitted prior to the date and time stated above to:

**Deliver Bids to:**

Ms. Elizabeth Franklin  
P.O. Box 756 or 109 Cross Street  
Tappahannock, VA 22560

The project is generally described as providing all labor, materials, supplies, tools, equipment, transportation and all incidentals required and/or implied for the complete and satisfactory performance necessary for the Track Refurbishment at Essex High School. All work shall be provided in accordance with the Project Manual and associated Contract Drawings.

The School Board shall not be responsible for any conclusions or interpretations made by the Bidder of the information made available by the School Board. By submitting a bid, the Bidder acknowledges that they have investigated and satisfied themselves as to the conditions affecting the work, including, but not restricted to, those bearing upon transportation, disposal, handling and storage of materials, availability of labor, water, and electric power.

Bid Documents consisting of the Contract Drawings and Project Manual may be examined at the following locations:

1. Timmons Group – 1001 Boulders Parkway, Suite 300, Richmond, VA 23225.

In order for the Architect to maintain an accurate list of plan holders (General Contractors only), each General Contractor shall register as a plan holder by sending an email to [steve.raugh@timmons.com](mailto:steve.raugh@timmons.com) with all of the following information:

Project Name: Essex High School Track Refurbishment		Project Location: 833 High School Circle, Tappahannock, VA 22560	
General Contractor Company Name:			
Contact Name:			
Email Address:			
Physical Address:			
Mailing Address:			
Telephone Number:		Fax Number:	

**ADDENDA, COPIES OF PROJECT MANUALS AND DRAWINGS:**

- A. All questions about the meaning or intent of the Bid Documents or Contract Documents shall be submitted to Dr. Harry R. Thomas, III and the Architect in writing. In order to receive consideration, questions should be received by the School Board and Architect prior to 2:00 P.M., March 22, 2022. Any changes made to the written requirements of the Bid Documents shall be made by written addendum only.
- B. Any interpretations of questions so raised, which in the opinion of the Architect require interpretations, will be issued by Addenda mailed or delivered to all parties recorded by Architect as having received the Bid Documents not later than seven (7) days prior to the date fixed for the receipt of Bids. An Addendum extending the date for the receipt of Bids or an Addendum withdrawing the Invitation for Bid may be issued any time prior to the date set for the receipt of Bids. Architect and OWNER will not be responsible for oral interpretations or clarifications that anyone presumes to make on their behalf.
- C. Addenda to the project, if any, will also be posted to the listed website. As a courtesy, the Architect will make all attempts to notify those entities that have registered as plan holders the status of Addenda posting via email; however, irrespective of whether such notice is given, or received, each bidder is responsible for visiting the website and determining if any Addenda have been issued prior to submitting a bid for this project. All Addenda, if any, shall be acknowledged in the designated location on the Bid Form.
- D. The OWNER may issue such additional Addenda as may be necessary to clarify, correct or change the Bid Documents or the Contract Documents. Each Bidder shall be responsible for determining that all Addenda issued for the Invitation for Bid have been received before submitting its Bid for the Work.
- E. Each Bidder shall ascertain prior to submitting its Bid that it has received all Addenda issued and shall acknowledge receipt of each Addendum on the BID FORM. Bidders and Sub-bidders shall promptly notify the A&E of any ambiguity, inconsistency or error which they may discover upon examination of the Bid and Contract Documents or of the site and local conditions.
- F. If the Bidder (or any person bidding to Bidder and/or subsequently in contract with the Bidder, relating to the subject project) knows, or should have known, that an ambiguity, discrepancy, error, omission or conflicting statement exists in the Bid or Contract Documents, said Bidder (or sub-bidder) has an obligation to seek a clarification thereof from the Architect prior to Bid. The OWNER will welcome such a clarification request, and, if deemed necessary, the Architect or OWNER will issue a written Addendum clarifying the matter in question. Should the Bidder fail to seek such a clarification prior to Bid, Bidder thereby waives, and agrees to indemnify and hold the OWNER harmless from, any claim, suit or cause of action arising out of or related to such ambiguity, discrepancy, error, omission or conflicting statement which the Bidder (and any person bidding to Bidder and/or subsequently in contract with Bidder, relating to the subject project) knew or should have known existed at the time of Bid.

**BID MODIFICATION AND/OR WITHDRAWAL:**

- A. A Bid may be modified by the Bidder any time prior to the time and date set for the receipt of Bids. The Bidder shall provide Dr. Harry R. Thomas, III written notice of its intentions at the time of the request to modify the Bid is given.

Modified Bids may be resubmitted up to the date and time set for the receipt of Bids. Telephone or facsimile modification of Bids shall not be accepted.

- B. Any bid in response to this solicitation shall be valid for ninety (90) days. At the end of the ninety (90) days the bid may be withdrawn at the written request of the bidder. If the bid is not withdrawn at that time it remains in effect until an award is made or the solicitation is canceled.
- C. Upon proper request and identification, Bids may be withdrawn at any time prior to the date and time set for the receipt of Bids. After the date and time set for the receipt of Bids, Bids may be withdrawn in accordance with Section 2.2-4330B(1) of the *Code of Virginia*.

**BID SECURITY:**

- A. If the total bid price, including any add alternates and not excluding any deduct alternates, exceeds \$100,000, the Bid shall be accompanied by Bid security in the amount of five (5%) percent of the Bid amount in the form of a Bid Bond from a Surety legally authorized to do business in Virginia, or a cashier's check, or certified check payable to ESSEX COUNTY SCHOOL BOARD; AIA DOCUMENT A310-2021 or latest version may be used for this purpose. The Bid Bond shall be enclosed in the sealed envelope containing the Bid. The Bidder shall require the attorney-in-fact that executed the Bid Bond on behalf of the surety company to affix thereto a certified and current copy of the power of attorney. The Bidder shall pay the cost of providing the Bid security.
- B. The Bid security is a guarantee that if the contract is awarded by the OWNER to the Bidder, the Bidder shall enter into the contract with the OWNER for the Work mentioned in the Bid or forfeit the Bid security to the OWNER, not as a penalty, but as liquidated damages.
- C. Unless it shall become the property of, or payable to, the OWNER, the Bid security shall be returned to the Bidder, upon request, as hereinafter provided. Bid Bonds will be returned to all except the low Bidder within five business days after the OWNER and the Bidder have executed the contract. In the event the contract has not been fully executed within ninety (90) consecutive calendar days after the opening of Bids, the Bid security of any Bidder who has not been notified of the acceptance of its Bid will be returned promptly upon request.

**PERFORMANCE AND PAYMENT BOND:** For any contract awarded exceeding \$100,000 a Performance Bond and Payment Bond (AIA DOCUMENT A312-2017 or latest version), each in an amount equal to one-hundred (100%) percent of the contract amount, is required.

**ESSEX COUNTY PUBLIC SCHOOL BOARD (OWNER)**

**ISSUED BY: Dr. Harry R. Thomas, III**

P.O. Box 756

Tappahannock, VA 22560

**Telephone:** 804-443-4366

**Facsimile:** 804-443-4498

**Email:** hthomas@essex.k12.va.us

**END OF SECTION**

## SECTION 00030

### GENERAL TERMS AND CONDITIONS

- 1.1 eVA BUSINESS-TO-GOVERNMENT VENDOR REGISTRATION: The eVA Internet electronic procurement solution, web site portal [www.eva.virginia.gov](http://www.eva.virginia.gov) streamlines and automates government purchasing activities. All vendors desiring to provide goods and/or services to the County shall participate in the eVA Internet e-procurement solution by completing the free eVA Vendor Registration. All Bidders or Offerors must register in eVA, failure to register may result in the bid/proposal being rejected. The County advertises all competitive solicitations on eVA but does not issue purchase orders through eVA unless required to by the terms and conditions of a state issued contract.
- 1.2 ACCEPTANCE OF GOODS/SERVICES: Goods/services delivered shall remain the property of the Contractor until a physical inspection or actual usage of the goods/services is made and thereafter accepted to the satisfaction of the County. The goods/services must comply with the specifications and terms and conditions of the Request and be of the highest quality. In the event the goods/services supplied to the County are found to be defective or not to conform to specifications, the County reserves the right to cancel the contract upon written notice to the Contractor and return products to Contractor at the Contractor's expense.
- 1.3 ANNOUNCEMENT OF AWARD: Upon the award or the announcement of the decision to award a contract as a result of this solicitation, the County will publicly post such notice on the DGS/DPS eVA VBO website ([www.eva.virginia.gov](http://www.eva.virginia.gov)) for a minimum of 10 days.
- 1.4 ANTI-DISCRIMINATION: By submitting their bids, Bidders certify to the County that they will conform to the provisions of the Federal Civil Rights Act of 1964, as amended, as well as the Virginia Fair Employment Contracting Act of 1975, as amended, where applicable, the Virginians With Disabilities Act, the Americans With Disabilities Act and § 2.2-4311 of the *Virginia Public Procurement Act (VPPA)*. If the award is made to a faith-based organization, the organization shall not discriminate against any recipient of goods, services, or disbursements made pursuant to the contract on the basis of the recipient's religion, religious belief, refusal to participate in a religious practice, or on the basis of race, age, color, gender or national origin and shall be subject to the same rules as other organizations that contract with public bodies to account for the use of the funds provided; however, if the faith-based organization segregates public funds into separate accounts, only the accounts and programs funded with public funds shall be subject to audit by the public body (*Code of Virginia*, § 2.2-4343.1E).

In every contract over \$10,000 the provisions in A and B below apply:

- A. During the performance of this contract, the Contractor agrees as follows:
    1. The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the Contractor. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
    2. The Contractor, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, will state that such Contractor is an equal opportunity employer.
    3. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.
  - B. The Contractor will include the provisions of (A) above in every subcontract or purchase order over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.
- 1.5 APPLICABLE LAWS AND COURTS: This solicitation is governed by the laws of the Commonwealth of Virginia. Any dispute or controversy arising out of or relating to this solicitation or otherwise shall be brought in the Essex County Circuit Court or in the United States District Court for the Eastern District of

Virginia, Richmond Division; provided, however, that prior to the instigation of any such action (other than an action for equitable relief) a meeting shall be held at a mutually agreed upon location, attended by individuals with decision-making authority to attempt in good faith to negotiate a resolution of the dispute.

- 1.6 ASSIGNMENT OF CONTRACT: A contract shall not be assignable by the Contractor in whole or in part without the written consent of the County.
- 1.7 AUDIT: The Contractor shall retain all books, records and other documents relative to this contract for five (5) years after final payment, or until audited by the County, whichever is sooner. The County or its authorized representative shall have full access to and the right to examine any of said materials during said period. The Contractor shall include the provisions above in every subcontract or purchase order, so that the provisions will be binding upon each subcontractor or vendor.
- 1.8 AVAILABILITY OF FUNDS: It is understood and agreed between the parties herein that the County shall be bound hereunder only to the extent of lawfully appropriated funds.
- 1.9 BID PRICE CURRENCY: Unless stated otherwise in this solicitation, Bidders shall state bid prices in US dollars.
- 1.10 BIDDER, OFFEROR AND CONTRACTOR COMPLIANCE: All Bidders, Offerors and Contractors shall comply with the *Virginia Public Procurement Act*, (*Code of Virginia* § 2.2-4300, et seq.), and all applicable County policies, regulations and procedures adopted pursuant thereto.
- 1.11 CONTRACT CHANGES: Any changes to the contract must be approved through issuance of a written contract addendum or change order. The County will not assume responsibility for the cost of any changes made without issuance of a written contract addendum or change order.
- 1.12 CONTRACTOR'S PERFORMANCE:
  - A. The Contractor agrees and covenants that its agents and employees shall comply with all County, State and Federal laws, rules and regulations applicable to the business to be conducted under the Contract.
  - B. The Contractor shall ensure that its employees shall observe and exercise all necessary caution and discretion so as to avoid injury to person or damage to property of any and all kinds.
  - C. The Contractor shall cooperate with County officials in performing the Contract work so that interference with normal operations will be held to a minimum.
- 1.13 CONTRACTUAL CLAIMS: Contractual claims, whether for money or other relief, shall be submitted in writing no later than 60 days after final payment; however, written notice of the Contractor's intention to file such claim shall have been given at the time of the occurrence or beginning of the work upon which the claim is based. Any notice or claim shall be delivered to: Dr. Harry R. Thomas, III and shall include a description of the factual basis for the claim and a statement of the amounts claimed or other relief requested. The County Administrator will render a decision on the claim and will notify the Contractor within 30 days of receipt of the claim. The Contractor may appeal the decision of the County Administrator to the Board of Supervisors by providing written notice to the County Administrator, within 15 days of the date of the decision. The Board of Supervisors shall render a decision on the claim within 60 days of the date of receipt of the appeal notice and such decision shall be final unless the Contractor appeals the decision in accordance with the Virginia Public Procurement Act. Invoices for all services or goods provided by the Contractor shall be delivered to the County no later than 30 days following the conclusion of the work or delivery of the goods.
- 1.14 DEBARMENT STATUS: By submitting their bids, Bidders certify that they are not currently debarred by the County from submitting bids or proposals on contracts for the type of goods and/or services covered by this solicitation, nor are they an agent of any person or entity that is currently so debarred.
- 1.15 DEFAULT: In case of failure to deliver goods or services in accordance with the contract terms and conditions, the County, after due written notice as required by the NOTIFICATION clause, may procure them



from other sources and hold the Contractor responsible for any resulting additional purchase and administrative costs. This remedy shall be in addition to any other remedies which the County may have.

- 1.16 DEFINITION OF COUNTY: The Purchasing Division of the Finance and Management Services Department provides purchasing support for Essex County Government, Essex County School Board, hereinafter referred to as County. Any contract issued as a result of this solicitation shall be available for the use of any or all of these entities unless otherwise stated in the solicitation.
- 1.17 DRUG-FREE WORKPLACE: During the performance of this contract, the Contractor agrees to (i) provide a drug-free workplace for the Contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the Contractor that the Contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor. For the purposes of this section, "drug-free workplace" means a site for the performance of work done in connection with a specific contract awarded to a Contractor, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana during the performance of the contract.
- 1.18 ETHICS IN PUBLIC CONTRACTING: By submitting their bids, Bidders certify that their bids) are made without collusion or fraud and that they have not offered or received any kickbacks or inducements from any other Bidder, supplier, manufacturer or subcontractor in connection with their bid, and that they have not conferred on any public employee having official responsibility for this procurement transaction any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value was exchanged.
- 1.19 FINANCIAL STATEMENTS: All Bidders, by submission of a response to this solicitation, agree to provide the County, within 10 calendar days of the County's request, a copy of its most recent audited financial statement(s), and those of any of its parent companies and/or subsidiaries having material influence on the goods/services provided, or to be provided, under the resultant contract with the County. The financial statement(s) shall be accompanied by a letter signed by, as applicable to the type of business, a corporate officer, partner, or owner, stating that the accompanying financial statement(s) is/are complete and is/are the most recent audited financial statement(s) available. The financial statement(s) shall be provided at no charge to the County, and the County shall be under no obligation to return the financial statement(s).

The Contractor chosen as a result of this solicitation shall include this same provision in the contracts of all subcontractors and any other entity providing goods or services related to the County contract, so as to guarantee the County's rights to obtain financial statements. Should the Contractor fail to ensure the County's rights under this section, the Contractor shall be liable to the County for all reasonable costs and expenses the County may incur in obtaining financial statements which would have otherwise been available under the provisions of this section.

- 1.20 IMMIGRATION REFORM AND CONTROL ACT OF 1986: The Contractor certifies that they do not, and shall not during the performance of the contract, knowingly employ an unauthorized alien as defined in the Federal Immigration Reform and Control Act of 1986.
- 1.21 INDEMNIFICATION: Contractor agrees to indemnify the County, its officers, agents, and employees for any loss, liability, cost (including attorney's fees), or reasonable settlement cost incurred as a result of any claims, damages and actions of any kind or nature, whether at law or in equity, arising from or caused by the use of any materials, goods, or equipment of any kind or nature furnished by the Contractor/any services of any kind or nature furnished by the Contractor, provided that such liability is not attributable to the sole negligence of the County or to failure of the County to use the materials, goods, or equipment in the manner already and permanently described by the Contractor on the materials, goods or equipment delivered. The County will not agree to indemnify the Contractor.

- 1.22 INDEPENDENT CONTRACTOR: The Contractor is an independent Contractor and nothing contained in the contract shall constitute or designate the Contractor or any of its agents or employees as employees of the County.
- 1.23 LICENSES AND PERMITS: The Contractor shall secure and pay for all permits, governmental fees and licenses necessary for the proper execution and completion of the Contractor's work which are legally required prior to and during the work, including software licenses or other intellectual property permissions, unless otherwise specified by the County.
- 1.24 MANDATORY USE OF COUNTY FORM AND TERMS AND CONDITIONS: Failure to submit a bid on the official County form provided for that purpose shall be a cause for rejection of the bid. Modification of or additions to any portion of the Invitation for Bids may be cause for rejection of the bid; however, the County reserves the right to decide, on a case by case basis, in its sole discretion, whether to reject such a bid as nonresponsive. As a precondition to its acceptance, the County may, in its sole discretion, request that the Bidder withdraw or modify nonresponsive portions of a bid which do not affect quality, quantity, price, or delivery. No modification of or addition to the provisions of the contract shall be effective unless reduced to writing and signed by the parties.
- 1.25 NOTIFICATION: Any notice required by the contract shall be effective if given by registered mail, return receipt requested, to the Contractor in the name and at the address given in their bid; provided that change of address shall be effective if given in accordance with this paragraph. Unless otherwise specified, any notice to the County shall be given to: Dr. Harry R. Thomas, III. The Contractor agrees to notify the County immediately of any change of legal status or of address.
- 1.26 PAYMENT:
- A. To Prime Contractor:
1. Invoices for items ordered, delivered and accepted shall be submitted by the Contractor directly to the payment address shown on the purchase order/contract. All invoices shall show the contract number and/or purchase order number; social security number (for individual Contractors) or the federal employer identification number (for proprietorships, partnerships, and corporations).
  2. Any payment terms requiring payment in less than 30 days will be regarded as requiring payment 30 days after invoice or delivery, whichever occurs last. This shall not affect offers of discounts for payment in less than 30 days, however.
  3. In those cases where payment is made by mail, the date of postmark shall be deemed to be the date payment is made (*Code of Virginia, § 2.2-4353*).
  4. Unreasonable Charges. Under certain emergency procurements and for most time and material purchases, final job costs cannot be accurately determined at the time orders are placed. In such cases, Contractors should be put on notice that final payment in full is contingent on a determination of reasonableness with respect to all invoiced charges. Charges which appear to be unreasonable will be researched and challenged, and that portion of the invoice held in abeyance until a settlement can be reached. Upon determining that invoiced charges are not reasonable, the County shall promptly notify the Contractor, in writing, as to those charges which it considers unreasonable and the basis for the determination. A Contractor may not institute legal action unless a settlement cannot be reached within thirty (30) days of notification. The provisions of this section do not relieve the County of its prompt payment obligations with respect to those charges which are not in dispute (*Code of Virginia, § 2.2-4363*).
- B. To Subcontractors:
1. A Contractor awarded a contract under this solicitation is hereby obligated:

- a. To pay the subcontractor(s) within seven (7) days of the Contractor's receipt of payment from the County for the proportionate share of the payment received for work performed by the subcontractor(s) under the contract; or
  - b. To notify the County and the subcontractor(s), in writing, of the Contractor's intention to withhold payment and the reason.
2. The Contractor is obligated to pay the subcontractor(s) interest at the rate of one percent (1%) per month (unless otherwise provided under the terms of the contract) on all amounts owed by the Contractor that remain unpaid seven (7) days following receipt of payment from the County, except for amounts withheld as stated in (b) above. The date of mailing of any payment by U. S. Mail is deemed to be payment to the addressee. These provisions apply to each sub-tier Contractor performing under the primary contract. A Contractor's obligation to pay an interest charge to a subcontractor may not be construed to be an obligation of the County.
- C. The County encourages Contractors to accept electronic and credit card payments.
- 1.27 PRECEDENCE OF TERMS: The following General Terms and Conditions; ANTI-DISCRIMINATION, APPLICABLE LAWS AND COURTS, ETHICS IN PUBLIC CONTRACTING, IMMIGRATION REFORM AND CONTROL ACT OF 1986, DEBARMENT STATUS, MANDATORY USE OF COUNTY FORM AND TERMS AND CONDITIONS, PAYMENT shall apply in all instances. In the event there is a conflict between any of the other General Terms and Conditions and any Special Terms and Conditions in this solicitation, the Special Terms and Conditions shall apply.
- 1.28 QUALIFICATIONS OF BIDDERS: The County may make such reasonable investigations as deemed proper and necessary to determine the ability of the Bidder to perform the services/furnish the goods and the Bidder shall furnish to the County all such information and data for this purpose as may be requested. The County reserves the right to inspect Bidder's physical facilities prior to award to satisfy questions regarding the Bidder's capabilities. The County further reserves the right to reject any bid if the evidence submitted by, or investigations of, such Bidder fails to satisfy the County that such Bidder is properly qualified to carry out the obligations of the contract and to provide the services and/or furnish the goods contemplated therein.
- 1.29 ROYALTY AND LICENSE FEES AND COPYRIGHT, TRADEMARK AND PATENT PROTECTION:
- A. By submitting their bid, Bidders certify that there will be no violation of copyrights or patent rights in manufacturing, producing, or selling the commodities or services to be ordered as a result of this solicitation.
  - B. Unless specified otherwise in the contract, the Contractor shall pay all royalty and license fees relating to the items covered by the contract.
  - C. In the event any third party shall claim that the manufacture, use and sales of these goods offered hereby constitutes an infringement of any copyright, trademark, or patent, the Contractor shall indemnify and hold harmless the County from any cost, expense, damage or loss incurred in any manner by the County on account of such alleged infringement.
- 1.30 SEVERABILITY: Each paragraph and provision of the resultant contract will be severable from the entire agreement and if any provision is declared invalid, the remaining provisions shall remain in effect.
- 1.31 STATE CORPORATION COMMISSION IDENTIFICATION NUMBER: In accordance with *Code of Virginia* § 2.2-4311.2 subsection B, a Bidder organized or authorized to transact business in the Commonwealth pursuant to Title 13.1 or Title 50 is required to include in its bid the identification number issued to it by the State Corporation Commission (SCC). Any Bidder that is not required to be authorized to transact business in the Commonwealth as a foreign business entity under Title 13.1 or Title 50 or as otherwise required by law shall include in its bid a statement describing why the Bidder is not required to be so authorized. Indicate the above information on the SCC Form provided. Contractor agrees that the process by which compliance with Titles 13.1 and 50 is checked during the solicitation stage (including without

limitation the SCC Form provided) is streamlined and not definitive, and the County's use and acceptance of such form, or its acceptance of Contractor's statement describing why the Bidder was not legally required to be authorized to transact business in the Commonwealth, shall not be conclusive of the issue and shall not be relied upon by the Contractor as demonstrating compliance.

- 1.32 TAXES: The County is exempt from Federal Excise and State Sales and Use Tax on all tangible personal property purchased or leased by it for its use or consumption. The Contractor shall pay all County, City, State and Federal taxes required by law enacted at the time proposals are received and resulting from the work or traceable thereto, under whatever name levied. Said taxes shall not be added to the contract price between the County and the Contractor, as the taxes shall be an obligation of the Contractor and not of the County, and the County shall be held harmless for same by the Contractor. Exemption certification will be supplied upon request.
- 1.33 TERMINATION FOR CONVENIENCE: Unless otherwise stated, any resultant contract may be terminated, in whole or in part, whenever the County determines that such a termination is in its best interests. Any such termination shall become effective on the date stated in a written notice of termination to the Contractor sent at least five days prior to the stated termination date. The notice of termination shall state the extent to which performance shall be terminated. The Contractor shall be paid for all goods delivered or services successfully completed prior to the termination date.
- 1.34 TESTING AND INSPECTION: The County reserves the right to conduct any test/inspection it may deem advisable to assure goods and services conform to the specifications.

**END OF SECTION**

## SECTION 0030

### SPECIAL TERMS AND CONDITIONS

1. AWARD OF CONTRACT: An award will be made to the lowest responsive and responsible Bidder provided the Bid has been submitted in accordance with the requirements of the Bid Documents and does not exceed the funds available. The Bidder to whom the contract is awarded shall, within fifteen (15) days after prescribed documents are presented for signature, execute and deliver to the OWNER the Contract Documents and any other forms or bonds required by the Bid. Otherwise, the County may award the Bid to the next lowest responsive and responsible Bidder and keep the Bidders Bid security, if any.
2. NEGOTIATION WITH THE LOWEST BIDDER: It is understood and agreed between the parties herein that the OWNER shall be bound hereunder only to the extent of lawfully appropriated funds. Unless all bids are cancelled or rejected, the County reserves the right granted by § 2.2-4318 of the *Code of Virginia* to negotiate with the lowest responsive, responsible Bidder to obtain a contract price within the funds available to the County whenever such low bid exceeds the County's available funds. For the purpose of determining when such negotiations may take place, the term "available funds" shall mean those funds which were budgeted by the County for this contract prior to the issuance of the written Invitation for Bids. Negotiations with the low Bidder may include both modifications of the bid price and the Scope of Work/Specifications to be performed. The County shall initiate such negotiations by notifying the lowest responsive, responsible Bidder that its bid exceeds the available funds and that the County wishes to negotiate a lower contract price. The times, places, and manner of negotiating shall be agreed to by the County and the Bidder.
3. PREPARATION AND SUBMISSION OF BIDS: Sealed Bids, in accordance with the Bid Documents, will be received on the date and at the time indicated in this Project Manual, unless changed by Addendum.
  - A. Bids shall be submitted on the BID FORM provided in the Bid Documents, or a copy thereof. The OWNER shall not accept any oral Bids or Bids received by telephone or facsimile.
  - B. Each Bid must give the full legal name and business address of the Bidder. If the Bidder is a corporation, the Bid must be submitted in the name of the corporation, not simply the corporation's trade name. The BID FORM must be signed by a person authorized to bind the Bidder in contractual matters in order to be considered. Original signatures, in ink, are required. The name and title of the person signing the Bid shall also be typed or printed as indicated on the BID FORM. The BID FORM, the Bid security, if any, and any other documents required, shall be enclosed in a sealed envelope.
  - C. Discrepancies between amounts shown in words and amounts shown in figures will be resolved in favor of the amounts shown in words. Discrepancies in the multiplication of units of Work and the unit prices will be resolved in favor of the correct multiplication of the unit prices. Discrepancies between the indicated sum of any column of figures and the correct sum thereof will be resolved in favor of the correct sum.
  - D. The envelope containing the Bid should be sealed and marked in the lower left hand corner with the Invitation for Bid number, the goods and services sought, the hour and due date of the Bid, and the Bidders Virginia CONTRACTOR registration number.
  - E. Use of Information and Documents: The OWNER and its officials, employees and agents will copy and use the response of the Bidder and documents included with the response, for various purposes related to analysis, evaluation, and decision to award a contract. Following award, the OWNER may require the CONTRACTOR to allow inspection and copying of documents and may also use the Bidders documents in connection with any resulting contracts with that Bidder. The Bidder is responsible for obtaining any necessary authorizations for all such use of the documents and information, and for assuring that such copying and use is in conformance with laws related to trademarks and copyrights. Any documents or information for which the Bidder has not obtained such authorization, or for which such copying and use is not authorized, shall not be submitted. The undersigned Bidder agrees to indemnify, defend and hold the County, its officials, employees and agents harmless from any claims of any nature, including claims arising from trademark or copyright laws, related to use of information and documents submitted with the Bidders response.

4. **PROPRIETARY INFORMATION:** Trade secrets or proprietary information submitted by a Bidder in connection with this procurement transaction shall not be subject to public disclosure under the Virginia Freedom of Information Act; however, the Bidder must invoke these protections prior to or upon submission of the data or the materials, and must identify the data or other materials to be protected and state the reason why protection is necessary. Section 2.2-4342(F) of the *Code of Virginia*. Bidders shall submit, in a separate section of the bid, any information considered by the Bidder to be trade secrets or proprietary information, shall clearly identify the information as trade secrets or proprietary information and shall state the reason why protection is necessary. Bidders may not declare the entire bid proprietary nor may they declare pricing to be proprietary. References may be made within the body of the bid to proprietary information; however, all information contained within the body of the bid not in the separate section labeled proprietary shall be public information.
5. **SUBCONTRACTING:**
- A. No CONTRACTOR shall be required to employ any Sub-CONTRACTOR, Supplier, other person or organization against whom he has reasonable objection. Each Bidder shall submit to the OWNER, with its Bid, the List of Sub-CONTRACTORS found in this Project Manual, completed with the names of all such Sub-CONTRACTORS, Suppliers, other persons, and organizations proposed for those portions of the Work for which such identification is required. Suppliers and equipment manufacturers who are named in the BID FORM need not be named in the List of Sub-CONTRACTORS. The OWNER will, during the term of this Agreement, have the right of reasonable rejection of staff or sub-CONTRACTORS assigned to the project by the CONTRACTOR. If the OWNER reasonably rejects staff or sub-CONTRACTORS, the CONTRACTOR must provide replacement staff or sub-CONTRACTORS satisfactory to the OWNER in a timely manner and at no additional cost to the OWNER. The day-to-day supervision and control of the CONTRACTOR'S employees shall be solely the responsibility of the CONTRACTOR.
- B. If the apparent Successful Bidder declines to make such a substitution, the OWNER may award the contract to the next lowest Bidder that proposes to use acceptable Sub-CONTRACTORS, Suppliers, and other persons, and organizations. The declining to make requested substitutions will not constitute grounds for sacrificing the Bid security of any Bidder. Any Sub-CONTRACTOR, Supplier, other person, or organization listed and to whom the OWNER or A&E does not make written objection prior to the giving of the Notice of Award will be deemed acceptable to the OWNER and A&E.
- C. By submitting the List of Sub-CONTRACTORS as provided for herein, the Bidder is indicating that the Bidder is confident that each Sub-CONTRACTOR listed has:
1. Sufficient financial capability, physical plant, and personnel to perform its duties under the contract.
  2. Successfully provided similar work on at least three (3) recent occasions.
  3. Stated or attached a list of the names of manufacturers whose products it will supply.
6. **SUBSTITUTE MATERIAL AND EQUIPMENT:** The Contract, if awarded, will be on the basis of material and equipment described in the Drawings or specified in the Specifications without consideration of possible substitute or "or-equal" items. Whenever it is indicated in the Drawings or specified in the Specifications that a substitute or "or-equal" item of material or equipment may be furnished or used by the CONTRACTOR if acceptable to the A&E, the A&E shall not review substitute or "or-equal" items until after the "effective date of the Agreement".

**END OF SECTION**

## VENDOR DATA SHEET

**Note: The following information is required as part of your response to this solicitation. Failure to complete and provide this sheet may result in finding your bid nonresponsive.**

1. Qualification: The vendor must have the capability and capacity in all respects to satisfy fully all of the contractual requirements.

2. Vendor's Primary Contact:

Name: \_\_\_\_\_ Phone: \_\_\_\_\_

Email: \_\_\_\_\_ Fax: \_\_\_\_\_

3. Years in Business: Indicate the length of time you have been in business providing this type of good or service:  
   \_\_\_\_\_Years    \_\_\_\_\_Months

4. Vendor Information: eVA Vendor ID \_\_\_\_\_

5. **Indicate below a listing of at least three (3) recent accounts, either commercial or governmental, that your company has been awarded of similar nature, size, and complexity.**

Company:			Contact:	
Phone:	(    )		Fax:	(    )
Project:				
Dates of Service:			\$ Value:	
Company:				Contact:
Phone:	(    )		Fax:	(    )
Project:				
Dates of Service:			\$ Value:	
Company:				Contact:
Phone:	(    )		Fax:	(    )
Project:				
Dates of Service:			\$ Value:	

**STATE CORPORATION COMMISSION FORM**

**Virginia State Corporation Commission Registration Information - The bidder:**

is a corporation or other business entity with the following SCC identification number: \_\_\_\_\_

**-OR-**

is not a corporation, limited liability company, limited partnership, registered limited liability partnership, or business trust

**-OR-**

is an out-of-state business entity that does not regularly and continuously maintain as part of its ordinary and customary business any employees, agents, offices, facilities, or inventories in Virginia (not counting any employees or agents in Virginia who merely solicit orders that require acceptance outside Virginia before they become contracts, and not counting any incidental presence of the bidder in Virginia that is needed in order to assemble, maintain, and repair goods in accordance with the contracts by which such goods were sold and shipped into Virginia from bidder's out-of-state location)

**-OR-**

is an out-of-state business entity that is including with this bid an opinion of legal counsel which accurately and completely discloses the undersigned bidder's current contacts with Virginia and describes why those contacts do not constitute the transaction of business in Virginia within the meaning of § 13.1-757 or other similar provisions in Titles 13.1 or 50 of the *Code of Virginia*.

**\*\*NOTE\*\*** >> Check the following box if you have not completed any of the foregoing options but currently have pending before the SCC an application for authority to transact business in the Commonwealth of Virginia and wish to be considered for a waiver to allow you to submit the SCC identification number after the due date for bids (the County reserves the right to determine in its sole discretion whether to allow such waiver):



**CONTRACTOR CERTIFICATION RELATING TO BACKGROUND CHECKS**

**ESSEX COUNTY PUBLIC SCHOOLS**

**PURSUANT TO CODE OF VIRGINIA § 22.1-296.1**

I, \_\_\_\_\_, certify to the Essex County School Board that no representative or employee who will provide services under this contract, and who will have direct contact with students on school property during regular school hours or during school-sponsored activities, has been convicted of a violent felony set forth in the definition of barrier crime in subsection A of § 19.2-392.02; any offense involving the sexual molestation or physical or sexual abuse or rape of a child; or any crime of moral turpitude.

I understand that I can be found guilty of a Class 1 misdemeanor for making a materially false statement in this Certification of Contractor and that a conviction for making a materially false statement in this Certification of Contractor shall be grounds for the revocation of my firm or business's contract with the Essex County School Board.

Date		Signature
		Title
		Company Name

**BID FORM**

**TRACK REFURBISHMENT  
ESSEX HIGH SCHOOL  
833 HIGH SCHOOL CIRCLE, TAPPAHANNOCK, VA 22560  
BID # ECPS-030122  
ESSEX COUNTY PUBLIC SCHOOL BOARD (“OWNER”)**

Any notation on the exterior of the envelope purporting to alter, amend, modify or revise the bid contained within the envelope shall be of no effect and shall be disregarded. Complete this Bid Form in blue or black ink or by typewriter. Discrepancies in the multiplications of units of work and the unit prices will be resolved in favor of the correct multiplication of the unit prices. Discrepancies between the indicated sum of any column of figures and the correct sum thereof will be resolved in favor of the correct sum.

**BASE BID PRICE:** The Base Bid Price includes all Work required by and in strict accordance with the Bid Documents for this Project, for the Lump Sum of:

\_\_\_\_\_ Dollars  
(\$ \_\_\_\_\_) (Figures only)

**UNIT PRICE ALLOWANCE:** The unit price allowance includes 200 c.y. for excavation of material, where authorized or directed, below or in addition to the levels required for the Work. Dispose of excavated material in a legal manner off-site. Backfill with imported structural fill material compacted per specifications. Credit or additions to the Contract Price for actual quantities removed and replaced (based on volume of material cut) shall be made per the Unit Prices contained in the Bid Form. Include in the unit price the cost of quantity verification by a Surveyor Licensed in the Commonwealth of Virginia.

200 c.y. @ \_\_\_\_\_ Dollars/c.y. = \_\_\_\_\_ Dollars

**TOTAL BID PRICE:** The Total Bid Price is the sum of the Base Bid Price and Unit Price Allowance:

\_\_\_\_\_ Dollars  
(\$ \_\_\_\_\_) (Figures only)

**Time for Completion:** The anticipated award date for this project is April 29, 2022 after receipt of the Performance and Payment Bonds, signing of contracts, and issuance of Purchase Order. The Notice to Proceed will come from the Owner and A&E firm.

**Anticipated Start Date:** May 2, 2022  
**Substantial Completion Date:** August 18, 2022 or within 108 days after the Notice to Proceed  
**Final Completion Date:** August 25, 2022 or within 115 days after Notice to Proceed

**The Contractor, in preparing and submitting their bid, is required to take into consideration normal weather conditions. The Owner will not pay additional compensation to the Contractor because of adverse weather conditions; however, the Owner will consider an extension of time for abnormal weather as indicated in the A201 2017 Amended General Conditions.**

The Bidder certified that he has not combined, conspired, or agreed to intentionally rig, alter, or otherwise manipulate, or to cause to be rigged, altered, or otherwise manipulated this bid for the purpose of allocating purchases or sales to or among persons, raising, or otherwise fixing the prices of the goods or services, or excluding other persons from dealing

with Essex County. I certify that I am a Registered Contractor in compliance with the Virginia Contractor's Registration Law, Title 54.1, Chapter 11 *Code of Virginia*.

Licensed Class \_\_\_\_\_ Virginia Contractor No. \_\_\_\_\_

Valid until \_\_\_\_\_ (Date) Classifications \_\_\_\_\_

I certify that the firm signing this bid and registered under that name is legally qualified, as determined by the Commonwealth of Virginia, Department of Professional and Occupational Regulation, Virginia Board for Contractors, in granting the registration, to perform the scope of work included in this bid.

Having carefully examined the site, and all of the Bidding and Contract Documents, and in compliance with the "Invitation to Bid," the undersigned proposes to provide all labor, materials, supplies, equipment, services, and perform all Work necessary for the construction of this Project in accordance with the Bid Documents, dated March 14, 2022, prepared by Timmons Group. The bidder hereby certifies that he will comply with all provisions of the Virginia Public Procurement Act and with the laws and regulations of Essex County. My signature certifies that this firm or individual has no business or personal relationships with any other companies or persons that could be considered as a conflict of interest or potential conflict of interest to the County of ESSEX, including the School Board, and that there are no principals, officers, agents, employees, or representatives of this firm that have any business or personal relationships with any other companies or person that could be considered as a conflict of interest or a potential conflict of interest to the County of ESSEX, including the School Board, pertaining to any and all work or services to be performed as a result of this request and any resulting contract with the County of ESSEX or the School Board. The undersigned agrees to bear full cost of maintaining the work until final acceptance of the work is approved as provided by the Contract.

**NAME AND ADDRESS OF FIRM:**

			Date:	
			By:	
			Name:	Signature in Ink
			Title:	Please Print
eVA Vendor ID			Telephone No.	
E-mail Address:			FAX No.	

**RECEIPT OF ADDENDA**

We acknowledge the receipt of the following Addenda:

Addendum No.	_____	dated	_____
Addendum No.	_____	dated	_____
Addendum No.	_____	dated	_____
Addendum No.	_____	dated	_____

**END OF BID FORM**

TRACK REFURBISHMENT  
ESSEX HIGH SCHOOL  
TAPPAHANNOCK COUNTY, VIRGINIA  
APN 49566

PREBID QUESTION FORM

(Use separate form for each question submitted)

DATE: \_\_\_\_\_

PROJECT: Track Refurbishment Essex High School BID # ECPS-030122

The following question concerns Drawing Sheet (number) \_\_\_\_\_:

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The following question concerns Specification Section (number) \_\_\_\_\_, page \_\_\_\_\_,

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All responses to questions will be made by Addendum.

Questions submitted by:

\_\_\_\_\_  
Name

\_\_\_\_\_  
Organization

\_\_\_\_\_  
Telephone No.

\_\_\_\_\_  
Fax Number

Email Form to both:

Steve Raugh  
Timmons Group  
[steve.raugh@timmons.com](mailto:steve.raugh@timmons.com)

Dr. Harry R. Thomas, III  
Essex County Public Schools  
[hthomas@essex.k12.va.us](mailto:hthomas@essex.k12.va.us)



**AIA**<sup>®</sup>

# Document A701™ – 2018

## Instructions to Bidders

for the following Project:

*(Name, location, and detailed description)*

Track Refurbishment, Essex High School  
833 High School Circle  
Tappahannock, VA 22560

### THE OWNER:

*(Name, legal status, address, and other information)*

Essex County School Board  
P.O. Box 756  
106 N. Cross St.  
Tappahannock, VA 22560

### THE ARCHITECT:

*(Name, legal status, address, and other information)*

Timmons Group  
1001 Boulders Parkway  
Suite 300  
North Chesterfield, VA 23225

### TABLE OF ARTICLES

- 1      **DEFINITIONS**
- 2      **BIDDER'S REPRESENTATIONS**
- 3      **BIDDING DOCUMENTS**
- 4      **BIDDING PROCEDURES**
- 5      **CONSIDERATION OF BIDS**
- 6      **POST-BID INFORMATION**
- 7      **PERFORMANCE BOND AND PAYMENT BOND**
- 8      **ENUMERATION OF THE PROPOSED CONTRACT DOCUMENTS**

### 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.

FEDERAL, STATE, AND LOCAL LAWS MAY IMPOSE REQUIREMENTS ON PUBLIC PROCUREMENT CONTRACTS. CONSULT LOCAL AUTHORITIES OR AN ATTORNEY TO VERIFY REQUIREMENTS APPLICABLE TO THIS PROCUREMENT BEFORE COMPLETING THIS FORM.

It is intended that AIA Document G612™–2017, Owner's Instructions to the Architect, Parts A and B will be completed prior to using this document.

## ARTICLE 1 DEFINITIONS

§ 1.1 Bidding Documents include the Bidding Requirements and the Proposed Contract Documents. The Bidding Requirements consist of the advertisement or invitation to bid, Instructions to Bidders, supplementary instructions to bidders, the bid form, and any other bidding forms. The Proposed Contract Documents consist of the unexecuted form of Agreement between the Owner and Contractor and that Agreement's Exhibits, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, all Addenda, and all other documents enumerated in Article 8 of these Instructions.

§ 1.2 Definitions set forth in the General Conditions of the Contract for Construction, or in other Proposed Contract Documents apply to the Bidding Documents but are subject to and governed by definitions under applicable laws and regulations.

§ 1.3 Addenda are written or graphic instruments issued by the Architect, which, by additions, deletions, clarifications, or corrections, modify or interpret the Bidding Documents.

§ 1.4 A Bid is a complete and properly executed proposal to do the Work for the sums stipulated therein, submitted in accordance with the Bidding Documents.

§ 1.5 The Base Bid is the sum stated in the Bid for which the Bidder offers to perform the Work described in the Bidding Documents, to which Work may be added or deleted by sums stated in Alternate Bids.

§ 1.6 An Alternate Bid (or Alternate) is an amount stated in the Bid to be added to or deducted from, or that does not change, the Base Bid if the corresponding change in the Work, as described in the Bidding Documents, is accepted.

§ 1.7 A Unit Price is an amount stated in the Bid as a price per unit of measurement for materials, equipment, or services, or a portion of the Work, as described in the Bidding Documents.

§ 1.8 A Bidder is a person or entity who submits a Bid in conformance with the Bidding Documents.

§ 1.9 A Sub-bidder is a person or entity who submits a bid to a Bidder for materials, equipment, or labor for a portion of the Work.

§ 1.10 A Responsible Bidder means a person or entity that has the capability in all respects, to perform fully the Contract requirements and the moral and business integrity and reliability that will assure good faith performance.

§ 1.11 A Responsive Bidder means a person or entity that has submitted a Bid which conforms in all material respects to the Invitation to Bid and requirements of the Bidding Documents.

§ 1.12 An Informality means a minor defect or variation of a Bid from the exact requirements of the Invitation to Bid and of the Bidding Documents which does not affect the price, quality, quantity or delivery schedules for the goods, services or construction being procured.

## ARTICLE 2 BIDDER'S REPRESENTATIONS

§ 2.1 By submitting a Bid, the Bidder represents that:

- .1 the Bidder has read and understands the Bidding Documents;
- .2 the Bidder understands how the Bidding Documents relate to other portions of the Project, if any, being bid concurrently or presently under construction;
- .3 the Bid complies with the Bidding Documents;
- .4 the Bidder has visited the site, become familiar with local conditions under which the Work is to be performed, and has correlated the Bidder's observations with the requirements of the Proposed Contract Documents;
- .5 the Bid is based upon the materials, equipment, and systems required by the Bidding Documents without exception; and
- .6 the Bidder has read and understands the provisions for liquidated damages, if any, set forth in the form of Agreement between the Owner and Contractor.

.7 The Bidder has carefully reviewed the Bidding Documents and has verified that all of the Bidding Documents received are complete. The Bidder shall notify the Architect immediately if received Bidding Documents are not completed.

.8 The Bidder has familiarized itself with all applicable federal, state and local laws, ordinances, rules and regulations that in any manner may affect cost, progress or performance of the Work; the Bidder has obtained the necessary licenses for bidding, if applicable, and is licensed or certified to perform the work.

.9 The Bidder shall pay all county, city, state and federal taxes required by laws in effect at the time the Bids are received and resulting from the Work or traceable thereto. Said taxes shall not be in addition to the Contract price between the Owner and the Bidder, as the taxes shall be an obligation of the Bidder and not of the Owner, and the Owner shall be held harmless and indemnified for the same by the Bidder.

.10 The failure or omission of any Bidder to receive or examine any form, instrument, addendum or other documents, or to acquaint itself with conditions existing at the site(s), shall in no way relieve any Bidder from any obligations with respect to its Bid or to the Contract.

.11 The Bidder agrees that its Bid shall be based on products and work indicated in the Bidding Documents.

### **ARTICLE 3 BIDDING DOCUMENTS**

#### **§ 3.1 Distribution**

**§ 3.1.1** Bidders shall obtain complete Bidding Documents, as indicated below, from the issuing office designated in the advertisement or invitation to bid, for the deposit sum, if any, stated therein.

*(Indicate how, such as by email, website, host site/platform, paper copy, or other method Bidders shall obtain Bidding Documents.)*

In accordance with the Invitation to Bid – Section 0020 of the Project Manual

**§ 3.1.2** Any required deposit shall be refunded to Bidders who submit a bona fide Bid and return the paper Bidding Documents in good condition within ten days after receipt of Bids. The cost to replace missing or damaged paper documents will be deducted from the deposit. A Bidder receiving a Contract award may retain the paper Bidding Documents, and the Bidder's deposit will be refunded.

*(Paragraph deleted)*

**§ 3.1.2.1** When the Bidding Documents are returned by the Bidders to the Architect or Owner, the shipping or postage shall be prepaid by the Bidder. The Bidder's deposit will not be refunded if the deposit sum is non-refundable as indicated in the Advertisement or Invitation to Bid.

**§ 3.1.4** Bidders shall use complete Bidding Documents in preparing Bids. Neither the Owner nor Architect assumes responsibility for errors or misinterpretations resulting from the use of incomplete Bidding Documents.

**§ 3.1.4.1** Every Bidder is responsible to review all Bidding Documents received to verify that each set contains a complete set of Contract Documents. Any incomplete Bidding Documents shall be immediately returned to the Architect.

**§ 3.1.5** The Bidding Documents will be available for the sole purpose of obtaining Bids on the Work. No license or grant of use is conferred by distribution of the Bidding Documents.

#### **§ 3.2 Modification or Interpretation of Bidding Documents**

**§ 3.2.1** The Bidder shall carefully study the Bidding Documents, shall examine the site and local conditions, and shall notify the Architect of errors, inconsistencies, or ambiguities discovered and request clarification or interpretation pursuant to Section 3.2.2.

**§ 3.2.2** Requests for clarification or interpretation of the Bidding Documents shall be submitted by the Bidder in writing and shall be received by the Architect at least seven days prior to the date for receipt of Bids.

*(Indicate how, such as by email, website, host site/platform, paper copy, or other method Bidders shall submit requests for clarification and interpretation.)*

Submit questions at: [steve.rough@timmons.com](mailto:steve.rough@timmons.com)

§ 3.2.3 Modifications and interpretations of the Bidding Documents shall be made by Addendum. Modifications and interpretations of the Bidding Documents made in any other manner shall not be binding, and Bidders shall not rely upon them.

### § 3.3 Substitutions

§ 3.3.1 The materials, products, and equipment described in the Bidding Documents establish a standard of required function, dimension, appearance, and quality to be met by any proposed substitution.

### § 3.3.2 Substitution Process

§ 3.3.2.1 Written requests for substitutions shall be received by the Architect at least ten days prior to the date for receipt of Bids. Requests shall be submitted in the same manner as that established for submitting clarifications and interpretations in Section 3.2.2.

§ 3.3.2.2 Bidders shall submit substitution requests on a Substitution Request Form provided in the Bidding Documents.

*(Paragraph deleted)*

§ 3.3.3 The burden of proof of the merit of the proposed substitution is upon the proposer. The Architect's decision of approval or disapproval of a proposed substitution shall be final.

§ 3.3.4 If the Architect approves a proposed substitution prior to receipt of Bids, such approval shall be set forth in an Addendum. Approvals made in any other manner shall not be binding, and Bidders shall not rely upon them.

§ 3.3.5 No substitutions will be considered after the Contract award unless specifically provided for in the Contract Documents.

### § 3.4 Addenda

§ 3.4.1 Addenda will be transmitted to Bidders known by the issuing office to have received complete Bidding Documents.

*(Indicate how, such as by email, website, host site/platform, paper copy, or other method Addenda will be transmitted.)*

Copies of Addenda will be posted electronically, and a notice of posting will be sent via facsimile/email to each plan holder of record.

§ 3.4.2 Addenda will be available where Bidding Documents are on file.

§ 3.4.3 Addenda will be issued no later than four days prior to the date for receipt of Bids, except an Addendum withdrawing the request for Bids or one which includes postponement of the date for receipt of Bids.

§ 3.4.4 Prior to submitting a Bid, each Bidder shall ascertain that the Bidder has received all Addenda issued, and the Bidder shall acknowledge their receipt in the Bid.

## ARTICLE 4 BIDDING PROCEDURES

### § 4.1 Preparation of Bids

§ 4.1.1 Bids shall be submitted on the forms included with or identified in the Bidding Documents.

§ 4.1.2 All blanks on the bid form shall be legibly executed. Paper bid forms shall be executed in a non-erasable medium.

§ 4.1.3 Where so indicated by the bid form, all amounts shall be expressed in figures only.

§ 4.1.4 All changes made by the Bidder to the bid form or outside of the envelope shall be signed or initialed by the Bidder. Bids containing any conditions, omissions, erasures, alterations, or items not called for in the Bid, may be rejected by the Owner as being incomplete or nonresponsive.



§ 4.1.5 All requested Alternates shall be bid. If no change in the Base Bid is required, enter "No Change" or as required by the bid form.

§ 4.1.6 Where two or more Bids for designated portions of the Work have been requested, the Bidder may, without forfeiture of the bid security, state the Bidder's refusal to accept award of less than the combination of Bids stipulated by the Bidder. The Bidder shall neither make additional stipulations on the bid form nor qualify the Bid in any other manner.

§ 4.1.7 Each copy of the Bid shall state the legal name and legal status of the Bidder. As part of the documentation submitted with the Bid, the Bidder shall provide evidence of its legal authority to perform the Work in the jurisdiction where the Project is located. Each copy of the Bid shall be signed by the person or persons legally authorized to bind the Bidder to a contract. A Bid by a corporation shall further name the state of incorporation and have the corporate seal affixed. A Bid submitted by an agent shall have a current power of attorney attached, certifying the agent's authority to bind the Bidder.

§ 4.1.8 A Bidder shall incur all costs associated with the preparation of its Bid.

#### § 4.2 Bid Security

§ 4.2.1 Each Bid shall be accompanied by bid security in the form of either a cashier's or certified check or an acceptable Bid Bond in the amount of five percent (5%) of the Bid amount and made payable to Essex County School Board. All bonds shall be executed by a surety company selected by the Bidder which is legally authorized to do business in Essex County, Virginia. The Bidder shall require the attorney-in-fact, who executed the required bond on behalf of the surety company to affix thereto a certified and current copy of the power of attorney. The bond premium shall be paid by the Bidder and the cost shall be included in the Bid.

*(Insert the form and amount of bid security.)*

§ 4.2.2 The Bidder pledges to enter into a Contract with the Owner on the terms stated in the Bid and shall, if required, furnish bonds covering the faithful performance of the Contract and payment of all obligations arising thereunder. Should the Bidder refuse to enter into such Contract or fail to furnish such bonds if required, the amount of the bid security shall be forfeited to the Owner as liquidated damages, not as a penalty. In the event the Owner fails to comply with Section 6.2, the amount of the bid security shall not be forfeited to the Owner.

§ 4.2.3 If a surety bond is required as bid security, it shall be written on AIA Document A310™, Bid Bond, unless otherwise provided in the Bidding Documents. The attorney-in-fact who executes the bond on behalf of the surety shall affix to the bond a certified and current copy of an acceptable power of attorney. The Bidder shall provide surety bonds from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located.

§ 4.2.4 The Owner will have the right to retain the bid security of Bidders to whom an award is being considered until (a) the Contract has been executed and bonds, if required, have been furnished; (b) the specified time has elapsed so that Bids may be withdrawn; or (c) all Bids have been rejected. However, if no Contract has been awarded or a Bidder has not been notified of the acceptance of its Bid, a Bidder may, beginning 90 calendar days after the opening of Bids, withdraw its Bid and request the return of its bid security.

#### § 4.3 Submission of Bids

§ 4.3.1 A Bidder shall submit its Bid as indicated below:

*(Indicate how, such as by website, host site/platform, paper copy, or other method Bidders shall submit their Bid.)*

In accordance with the Invitation to Bid

§ 4.3.2 Paper copies of the Bid, the bid security, and any other documents required to be submitted with the Bid shall be enclosed in a sealed opaque envelope. The envelope shall be addressed to the party receiving the Bids and shall be identified with the Project name, the Bidder's name and address, and, if applicable, the designated portion of the Work for which the Bid is submitted. If the Bid is sent by mail, the sealed envelope shall be enclosed in a separate mailing envelope with the notation "SEALED BID ENCLOSED" on the face thereof.

§ 4.3.2.1 The Bidder shall place on the outside of the envelope containing its Bid the following notation: "Contractor License Number \_\_\_\_\_ and Class of License."

§ 4.3.3 Bids shall be submitted by the date and time and at the place indicated in the invitation to bid. Bids submitted after the date and time for receipt of Bids, or at an incorrect place, will not be accepted.

§ 4.3.4 The Bidder shall assume full responsibility for timely delivery at the location designated for receipt of Bids.

§ 4.3.5 A Bid submitted by any method other than as provided in this Section 4.3 will not be accepted.

§ 4.3.6 In the solicitation or awarding of Contracts, the Owner shall not discriminate because of the race, religion, color, sex, age, disability or national origin, sexual orientation, gender identity, status as a service-disabled veteran, or any other basis prohibited by state law relating to discrimination in employment, of the Bidder. The Owner welcomes and encourages the participation of small businesses and businesses owned by women and minorities in procurement transactions made by the Owner.

#### § 4.4 Modification or Withdrawal of Bid

§ 4.4.1 A Bid may not be modified, withdrawn or canceled by the bidder after the time and date designated for the receipt of Bids and for 90 calendar days thereafter except as provided in the Invitation to Bid.

§ 4.4.2 Withdrawn Bids may be resubmitted up to the date and time designated for the receipt of Bids in the same format as that established in Section 4.3, provided they fully conform with these Instructions to Bidders. Bid security shall be in an amount sufficient for the Bid as resubmitted.

#### § 4.4.3

*(State the terms and conditions, such as Bid rank, for returning or retaining the bid security.)*

### ARTICLE 5 CONSIDERATION OF BIDS

#### § 5.1 Opening of Bids

All Bids received on time in accordance with the Bidding Document requirements shall be opened and publicly read aloud. Any Bidder, upon request shall be afforded the opportunity to inspect Bid records within a reasonable time after the opening of all Bids but prior to award, except in the event that the public body decides not to accept any of the Bids and to reopen the Contract. Otherwise, bid records shall be open to public inspection only after award of the Contract.

#### § 5.2 Rejection of Bids

Unless otherwise prohibited by law, the Owner shall have the right to reject any or all Bids. A Bid not accompanied by a required bid security or other data required by the Bidding Documents, or a Bid which is in any way incomplete or not in conformance with requirements of the Bidding Documents is subject to rejection.

#### § 5.3 Acceptance of Bid (Award)

§ 5.3.1 It is the intent of the Owner to award a Contract to the lowest responsive and responsible Bidder provided the Bid has been submitted in accordance with the requirements of the Bidding Documents and does not exceed the funds available. The Owner shall have the right to waive informalities and irregularities in a Bid received and to accept the Bid which, in the Owner's judgment, is in the Owner's own best interests.

§ 5.3.2 Unless otherwise prohibited by law, the Owner shall have the right to accept Alternates in any order or combination, unless otherwise specifically provided in the Bidding Documents, and to determine the lowest responsive and responsible Bidder on the basis of the sum of the Base Bid and Alternates accepted.

§ 5.3.3 In case of a tie Bid, preference may be given to goods, services, and construction produced in Essex County or the Commonwealth of Virginia or provided by persons, firms or corporations having principal places of business in Essex County or the Commonwealth of Virginia, if such a choice is available; otherwise, the tie shall be decided by lot. An Essex County business may be given preference over a Commonwealth of Virginia business, if such a choice is available.

## ARTICLE 6 POST-BID INFORMATION

### § 6.1 Contractor's Qualification Statement

Bidders to whom award of a Contract is under consideration shall submit to the Architect, upon request and within the timeframe specified by the Architect, a properly executed AIA Document A305™, Contractor's Qualification Statement, unless such a Statement has been previously required and submitted for this Bid.

### § 6.2 Owner's Financial Capability

A Bidder to whom award of a Contract is under consideration may request in writing, fourteen days prior to the expiration of the time for withdrawal of Bids, that the Owner furnish to the Bidder reasonable evidence that financial arrangements have been made to fulfill the Owner's obligations under the Contract. The Owner shall then furnish such reasonable evidence to the Bidder no later than seven days prior to the expiration of the time for withdrawal of Bids. Unless such reasonable evidence is furnished within the allotted time, the Bidder will not be required to execute the Agreement between the Owner and Contractor.

### § 6.3 Submittals

§ 6.3.1 After notification of selection for the award of the Contract, the Bidder shall, as soon as practicable or as stipulated in the Bidding Documents, submit in writing to the Owner through the Architect:

- .1 a designation of the Work to be performed with the Bidder's own forces;
- .2 names of the principal products and systems proposed for the Work and the manufacturers and suppliers of each; and
- .3 names of persons or entities (including those who are to furnish materials or equipment fabricated to a special design) proposed for the principal portions of the Work.

§ 6.3.2 The Bidder will be required to establish to the satisfaction of the Architect and Owner the reliability and responsibility of the persons or entities proposed to furnish and perform the Work described in the Bidding Documents.

§ 6.3.3 Prior to the execution of the Contract, the Architect will notify the Bidder in writing if the Owner, after due investigation, has reasonable objection to a person or entity proposed by the Bidder. If the Owner has reasonable objection to a proposed person or entity, the Bidder may, at the Bidder's option, withdraw the Bid or submit an acceptable substitute person or entity. The Bidder may also submit any required adjustment in the Base Bid or Alternate Bid to account for the difference in cost occasioned by such substitution, provided such adjustment in cost is justifiable and reasonable. The Owner may accept the adjusted bid price or disqualify the Bidder. In the event of either withdrawal or disqualification, bid security will not be forfeited.

§ 6.3.4 Persons and entities proposed by the Bidder and to whom the Owner has made no reasonable objection must be used on the Work for which they were proposed and shall not be changed except with the written consent of the Owner.

## ARTICLE 7 PERFORMANCE BOND AND PAYMENT BOND

### § 7.1 Bond Requirements

§ 7.1.1 The successful Bidder shall furnish a Performance Bond covering the faithful performance of the Contract and a Payment Bond covering the payment of all obligations arising thereunder. Each bond shall be written for the full value of the Contract, including all adjustments as authorized by Change Order.

§ 7.1.2 All bonds shall be written by sureties or insurance companies licensed to do business in the Commonwealth of Virginia.

§ 7.1.3 The bond premiums shall be paid by the successful Bidder and the cost shall be included in the Bid price.

§ 7.1.4 Unless otherwise indicated below, the Penal Sum of the Payment and Performance Bonds shall be the amount of the Contract Sum.

*(If Payment or Performance Bonds are to be in an amount other than 100% of the Contract Sum, indicate the dollar amount or percentage of the Contract Sum.)*

**§ 7.2 Time of Delivery and Form of Bonds**

**§ 7.2.1** The successful Bidder shall deliver the required bonds along with the signed Contract forms and the required Certificate of Insurance to the Owner within fifteen (15) calendar days after the Notice of Award of the Contract.

**§ 7.2.2** The bonds shall be written on AIA Document A312, Performance Bond and Payment Bond. Each bond shall be written for the full amount of the Contract

**§ 7.2.3** The bonds shall be dated on or after the date of the Contract.

**§ 7.2.4** The successful Bidder shall require the attorney-in-fact who executes the required bonds on behalf of the surety or insurance company to affix thereto a certified and current copy of the power of attorney.

**ARTICLE 8 FORM OF AGREEMENT BETWEEN OWNER AND CONTRACTOR**

**§ 8.1** Unless otherwise required in the Bidding Documents, the Contract for the Work will be written on AIA Document A101™–2017, Standard Form of Agreement Between Owner and Contractor where the Basis of Payment is a Stipulated Sum.

**§ 8.2** The Contractor recognizes that time is of the essence and that the Owner will suffer financial loss if the Work is not completed by the Substantial Completion Date required or as may be amended by the Contract Documents. Contractor recognizes the delays, expenses and damages that are involved in proving in a legal proceeding the actual loss that may be suffered by the Owner if the Work is not completed on time. Accordingly, the Owner and the Contractor agree, stipulate and fix as liquidated damages if delayed, but not as a penalty, the sum indicated on the Bid Form that the Contractor, together with the Contractor's surety shall pay the Owner for each calendar day or part thereof that expires after the date required or as may be amended by the Contract Documents for the Substantial Completion of the Work.

*(Table deleted)(Paragraphs deleted)(Paragraphs deleted)*

# **Additions and Deletions Report for** **AIA® Document A701™ – 2018**

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 19:33:27 ET on 01/26/2022.

## **PAGE 1**

Track Refurbishment, Essex High School  
833 High School Circle  
Tappahannock, VA 22560

...

Essex County School Board  
P.O. Box 756  
106 N. Cross St.  
Tappahannock, VA 22560

...

Timmons Group  
1001 Boulders Parkway  
Suite 300  
North Chesterfield, VA 23225

## **PAGE 2**

§ 1.2 Definitions set forth in the General Conditions of the Contract for Construction, or in other Proposed Contract Documents apply to the Bidding Documents. Documents but are subject to and governed by definitions under applicable laws and regulations.

...

§ 1.8 A Bidder is a person or entity who submits a Bid ~~and who meets the requirements set forth in~~ in conformance with the Bidding Documents.

...

§ 1.10 A Responsible Bidder means a person or entity that has the capability in all respects, to perform fully the Contract requirements and the moral and business integrity and reliability that will assure good faith performance.

§ 1.11 A Responsive Bidder means a person or entity that has submitted a Bid which conforms in all material respects to the Invitation to Bid and requirements of the Bidding Documents.

§ 1.12 An Informality means a minor defect or variation of a Bid from the exact requirements of the Invitation to Bid and of the Bidding Documents which does not affect the price, quality, quantity or delivery schedules for the goods, services or construction being procured.

## **PAGE 3**

.7 The Bidder has carefully reviewed the Bidding Documents and has verified that all of the Bidding Documents received are complete. The Bidder shall notify the Architect immediately if received Bidding Documents are not completed.

.8 The Bidder has familiarized itself with all applicable federal, state and local laws, ordinances, rules and regulations that in any manner may affect cost, progress or performance of the Work; the Bidder has obtained the necessary licenses for bidding, if applicable, and is licensed or certified to perform the work.

.9 The Bidder shall pay all county, city, state and federal taxes required by laws in effect at the time the Bids are received and resulting from the Work or traceable thereto. Said taxes shall not be in addition to the Contract price between the Owner and the Bidder, as the taxes shall be an obligation of the Bidder and not of the Owner, and the Owner shall be held harmless and indemnified for the same by the Bidder.

.10 The failure or omission of any Bidder to receive or examine any form, instrument, addendum or other documents, or to acquaint itself with conditions existing at the site(s), shall in no way relieve any Bidder from any obligations with respect to its Bid or to the Contract.

.11 The Bidder agrees that its Bid shall be based on products and work indicated in the Bidding Documents.

...

In accordance with the Invitation to Bid – Section 0020 of the Project Manual

...

~~§ 3.1.3 Bidding Documents will not be issued directly to Sub-bidders unless specifically offered in the advertisement or invitation to bid, or in supplementary instructions to bidders.~~

§ 3.1.2.1 When the Bidding Documents are returned by the Bidders to the Architect or Owner, the shipping or postage shall be prepaid by the Bidder. The Bidder's deposit will not be refunded if the deposit sum is non-refundable as indicated in the Advertisement or Invitation to Bid.

§ 3.1.4.1 Every Bidder is responsible to review all Bidding Documents received to verify that each set contains a complete set of Contract Documents. Any incomplete Bidding Documents shall be immediately returned to the Architect.

**PAGE 4**

Submit questions at: [steve.raugh@timmons.com](mailto:steve.raugh@timmons.com)

...

~~§ 3.3.2.2 Bidders shall submit substitution requests on a Substitution Request Form if one is provided in the Bidding Documents.~~

~~§ 3.3.2.3 If a Substitution Request Form is not provided, requests shall include (1) the name of the material or equipment specified in the Bidding Documents; (2) the reason for the requested substitution; (3) a complete description of the proposed substitution including the name of the material or equipment proposed as the substitute, performance and test data, and relevant drawings; and (4) any other information necessary for an evaluation. The request shall include a statement setting forth changes in other materials, equipment, or other portions of the Work, including changes in the work of other contracts or the impact on any Project Certifications (such as LEED), that will result from incorporation of the proposed substitution.~~

...

Copies of Addenda will be posted electronically, and a notice of posting will be sent via facsimile/email to each plan holder of record.

...

§ 4.1.3 Sums shall be expressed in both words and numbers, unless noted otherwise on the bid form. In case of discrepancy, the amount entered in words shall govern. Where so indicated by the bid form, all amounts shall be expressed in figures only.

§ 4.1.4 Edits to entries made on paper bid forms must be initialed by the signer of the Bid. All changes made by the Bidder to the bid form or outside of the envelope shall be signed or initialed by the Bidder. Bids containing any conditions, omissions, erasures, alterations, or items not called for in the Bid, may be rejected by the Owner as being incomplete or nonresponsive.

**PAGE 5**

§ 4.2.1 Each Bid shall be accompanied by the following bid security: bid security in the form of either a cashier's or certified check or an acceptable Bid Bod in the amount of five percent (5%) of the Bid amount and made payable to Essex County School Board. All bonds shall be executed by a surety company selected by the Bidder which is legally authorized to do business in Essex County, Virginia. The Bidder shall require the attorney-in-fact, who executed the required bond on behalf of the surety company to affix thereto a certified and current copy of the power of attorney. The bond premium shall be paid by the Bidder and the cost shall be included in the Bid.

...

§ 4.2.4 The Owner will have the right to retain the bid security of Bidders to whom an award is being considered until (a) the Contract has been executed and bonds, if required, have been furnished; (b) the specified time has elapsed so that Bids may be withdrawn; or (c) all Bids have been rejected. However, if no Contract has been awarded or a Bidder has not been notified of the acceptance of its Bid, a Bidder may, ~~beginning~~ beginning 90 calendar days after the opening of Bids, withdraw its Bid and request the return of its bid security.

...

In accordance with the Invitation to Bid

**PAGE 6**

§ 4.3.2.1 The Bidder shall place on the outside of the envelope containing its Bid the following notation: "Contractor License Number \_\_\_\_\_ and Class of License."

...

§ 4.3.6 In the solicitation or awarding of Contracts, the Owner shall not discriminate because of the race, religion, color, sex, age, disability or national origin, sexual orientation, gender identity, status as a service-disabled veteran, or any other basis prohibited by state law relating to discrimination in employment, of the Bidder. The Owner welcomes and encourages the participation of small businesses and businesses owned by women and minorities in procurement transactions made by the Owner.

§ 4.4.1 Prior to the date and time designated for receipt of Bids, a Bidder may submit a new Bid to replace a Bid previously submitted, or withdraw its Bid entirely, by notice to the party designated to receive the Bids. Such notice shall be received and duly recorded by the receiving party on or before the date and time set for receipt of Bids. The receiving party shall verify that replaced or withdrawn Bids are removed from the other submitted Bids and not considered. Notice of submission of a replacement Bid or withdrawal of a Bid shall be worded so as not to reveal the amount of the original Bid. A Bid may not be modified, withdrawn or canceled by the bidder after the time and date designated for the receipt of Bids and for 90 calendar days thereafter except as provided in the Invitation to Bid.

...

§ 4.4.3 After the date and time designated for receipt of Bids, a Bidder who discovers that it made a clerical error in its Bid shall notify the Architect of such error within two days, or pursuant to a timeframe specified by the law of the jurisdiction where the Project is located, requesting withdrawal of its Bid. Upon providing evidence of such error to the reasonable satisfaction of the Architect, the Bid shall be withdrawn and not resubmitted. If a Bid is withdrawn pursuant to this Section 4.4.3, the bid security will be attended to as follows:

...

~~If stipulated in an advertisement or invitation to bid, or when otherwise required by law, Bids properly identified and received within the specified time limits will be publicly opened and read aloud. A summary of the Bids may be made available to Bidders. All Bids received on time in accordance with the Bidding Document requirements shall be opened and publicly read aloud. Any Bidder, upon request shall be afforded the opportunity to inspect Bid records within a reasonable time after the opening of all Bids but prior to award, except in the event that the public body decides not to accept any of the Bids and to reopen the Contract. Otherwise, bid records shall be open to public inspection only after award of the Contract.~~

...

Unless otherwise prohibited by law, the Owner shall have the right to reject any or all Bids. A Bid no accompanied by a required bid security or other data required by the Bidding Documents, or a Bid which is in any way incomplete or not in conformance with requirements of the Bidding Documents is subject to rejection.

...

§ 5.3.1 It is the intent of the Owner to award a Contract to the lowest responsive and responsible Bidder, ~~Bidder~~ provided the Bid has been submitted in accordance with the requirements of the Bidding Documents. ~~Unless otherwise prohibited by law, the Documents and does not exceed the funds available.~~ The Owner shall have the right to waive informalities and irregularities in a Bid received and to accept the Bid which, in the Owner's judgment, is in the Owner's own best interests.

...

§ 5.3.3 In case of a tie Bid, preference may be given to goods, services, and construction produced in Essex County or the Commonwealth of Virginia or provided by persons, firms or corporations having principal places of business in Essex County or the Commonwealth of Virginia, if such a choice is available; otherwise, the tie shall be decided by lot. An Essex County business may be given preference over a Commonwealth of Virginia business, if such a choice is available.

## PAGE 7

§ 6.3.3 Prior to the execution of the Contract, the Architect will notify the Bidder ~~if either the Owner or Architect, in writing if the Owner,~~ after due investigation, has reasonable objection to a person or entity proposed by the Bidder. ~~If the Owner or Architect has reasonable objection to a proposed person or entity, the Bidder may, at the Bidder's option, withdraw the Bid or submit an acceptable substitute person or entity. The Bidder may also submit any required adjustment in the Base Bid or Alternate Bid to account for the difference in cost occasioned by such substitution. such substitution, provided such adjustment in cost is justifiable and reasonable.~~ The Owner may accept the adjusted bid price or disqualify the Bidder. In the event of either withdrawal or disqualification, bid security will not be forfeited.

§ 6.3.4 Persons and entities proposed by the Bidder and to whom the Owner ~~and Architect have~~ has made no reasonable objection must be used on the Work for which they were proposed and shall not be changed except with the written consent of the ~~Owner and Architect.~~ Owner.

...

§ 7.1.1 ~~If stipulated in the Bidding Documents, the Bidder shall furnish bonds~~ The successful Bidder shall furnish a Performance Bond covering the faithful performance of the Contract and a Payment Bond covering the payment of all



obligations arising thereunder. Each bond shall be written for the full value of the Contract, including all adjustments as authorized by Change Order.

§ 7.1.2 If the furnishing of such bonds is stipulated in the Bidding Documents, the cost shall be included in the Bid. If the furnishing of such bonds is required after receipt of bids and before execution of the Contract, the cost of such bonds shall be added to the Bid in determining the Contract Sum. All bonds shall be written by sureties or insurance companies licensed to do business in the Commonwealth of Virginia.

§ 7.1.3 The Bidder shall provide surety bonds from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located. bond premiums shall be paid by the successful Bidder and the cost shall be included in the Bid price.

**PAGE 8**

§ 7.2.1 The successful Bidder shall deliver the required bonds to the Owner not later than three days following the date of execution of the Contract. If the Work is to commence sooner in response to a letter of intent, the Bidder shall, prior to commencement of the Work, submit evidence satisfactory to the Owner that such bonds will be furnished and delivered in accordance with this Section 7.2.1 along with the signed Contract forms and the required Certificate of Insurance to the Owner within fifteen (15) calendar days after the Notice of Award of the Contract.

§ 7.2.2 Unless otherwise provided, the The bonds shall be written on AIA Document A312, Performance Bond and Payment Bond. Each bond shall be written for the full amount of the Contract

...

§ 7.2.4 The successful Bidder shall require the attorney-in-fact who executes the required bonds on behalf of the surety or insurance company to affix to the bond thereto a certified and current copy of the power of attorney.

#### **ARTICLE 8 — ENUMERATION OF THE PROPOSED CONTRACT DOCUMENTS**

#### **ARTICLE 8 FORM OF AGREEMENT BETWEEN OWNER AND CONTRACTOR**

§ 8.1 Unless otherwise required in the Bidding Documents, the Contract for the Work will be written on AIA Document A101™-2017, Standard Form of Agreement Between Owner and Contractor where the Basis of Payment is a Stipulated Sum.

§ 8.2 The Contractor recognizes that time is of the essence and that the Owner will suffer financial loss if the Work is not completed by the Substantial Completion Date required or as may be amended by the Contract Documents. Contractor recognizes the delays, expenses and damages that are involved in proving in a legal proceeding the actual loss that may be suffered by the Owner if the Work is not completed on time. Accordingly, the Owner and the Contractor agree, stipulate and fix as liquidated damages if delayed, but not as a penalty, the sum indicated on the Bid Form that the Contractor, together with the Contractor's surety shall pay the Owner for each calendar day or part thereof that expires after the date required or as may be amended by the Contract Documents for the Substantial Completion of the Work.

§ 8.1 Copies of the proposed Contract Documents have been made available to the Bidder and consist of the following documents:

.1 — AIA Document A101™ 2017, Standard Form of Agreement Between Owner and Contractor, unless otherwise stated below.  
(Insert the complete AIA Document number, including year, and Document title.)

.2 — AIA Document A101™ 2017, Exhibit A, Insurance and Bonds, unless otherwise stated below.  
(Insert the complete AIA Document number, including year, and Document title.)

.3 — AIA Document A201™ 2017, General Conditions of the Contract for Construction, unless otherwise stated below:

*(Insert the complete AIA Document number, including year, and Document title.)*

.4 — AIA Document E203™ 2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:

*(Insert the date of the E203-2013.)*

.5 — Drawings

Number	Title	Date
--------	-------	------

.6 — Specifications

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

.7 — Addenda:

Number	Date	Pages
--------	------	-------

.8 — 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.)*

—

— The Sustainability Plan:

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

— Supplementary and other Conditions of the Contract:

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

.9 — Other documents listed below:

*(List here any additional documents that are intended to form part of the Proposed Contract Documents.)*

## **Certification of Document's Authenticity**

**AIA® Document D401™ – 2003**

I, \_\_\_\_\_, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 19:33:27 ET on 01/26/2022 under Order No. 7600041142 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A701™ – 2018, Instructions to Bidders, as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.

\_\_\_\_\_  
*(Signed)*

\_\_\_\_\_  
*(Title)*

\_\_\_\_\_  
*(Dated)*

TRACK REFURBISHMENT  
ESSEX HIGH SCHOOL  
TAPPAHANNOCK COUNTY, VIRGINIA  
APN 49566

SAMPLE FORMS

PART 1 - GENERAL

The Bid Form may be reproduced in exact detail.

The AIA Documents normally required, though not necessarily all-inclusive, are not included in the project manual, but are listed below for your information. These Documents may be reviewed at the Architect's Office; supplies for your use may be obtained through various retail outlets. In all cases, the latest edition of the document will be used.

<u>AIA Doc. No.</u>	<u>Title</u>
A101	Standard Form of Agreement Between Owner and Contractor
A201	General Conditions of the Contract for Construction
A305	Contractor Qualification Statement
A310	Bid Bond
A312	Performance Bond and Labor and Material Payment Bond
A701	Instruction to Bidders
G701	Change Order
G702, G703	Application and Certificate for Payment, and Continuation Sheet(s)
G704	Certificate of Substantial Completion
G706	Contractor's Affidavit of Payment of Debts and Claims
G706A	Contractor's Affidavit of Release of Liens
G707	Consent of Surety to Final Payment
G709	Proposal Request

Establish standard forms acceptable to Architect and Owner for project administrative functions at Pre-Construction Conference.

END OF SAMPLE FORMS

## Bid Bond

**CONTRACTOR:**
*(Name, legal status and address)*
**SURETY:**
*(Name, legal status and principal place of business)*
**OWNER:**
*(Name, legal status and address)*
**BOND AMOUNT:**
**PROJECT:**
*(Name, location or address, and Project number, if any)*

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.

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 \_\_\_\_\_ day of \_\_\_\_\_

_____	_____	_____
<i>(Witness)</i>	<i>(Contractor as Principal)</i>	<i>(Seal)</i>
_____	_____	_____
	<i>(Title)</i>	
_____	_____	_____
<i>(Witness)</i>	<i>(Surety)</i>	<i>(Seal)</i>
	_____	
	<i>(Title)</i>	

**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.**

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# **AIA® Document A201® – 2017**

## **General Conditions of the Contract for Construction**

### **for the following PROJECT:**

*(Name and location or address)*

Track Refurbishment, Essex High School  
833 High School Circle  
Tappahannock, VA 22560

### **THE OWNER:**

*(Name, legal status and address)*

Essex County School Board  
P.O. Box 756  
106 N. Cross St.  
Tappahannock, VA 22560

### **THE ARCHITECT:**

*(Name, legal status and address)*

Timmons Group  
1001 Boulders Parkway  
Suite 300  
North Chesterfield, VA 23225

### **TABLE OF ARTICLES**

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### **ADDITIONS AND DELETIONS:**

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14      **TERMINATION OR SUSPENSION OF THE CONTRACT**

15      **CLAIMS AND DISPUTES**

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#### **Weather Delays**

8.3, 15.1.6.2

#### **Work, Definition of**

### **1.1.3**

#### **Written Consent**

1.5.2, 3.4.2, 3.7.4, 3.12.8, 3.14.2, 4.1.2, 9.3.2, 9.10.3,  
13.2, 13.3.2, 15.4.4.2

#### **Written Interpretations**

4.2.11, 4.2.12

#### **Written Orders**

1.1.1, 2.4, 3.9, 7, 8.2.2, 12.1, 12.2, 13.4.2, 14.3.1

## **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. The Contract Documents shall include the bidding documents, including, but not limited to, the Invitation for Bids and the Bid Form.

#### **§ 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.

§ 1.1.2.1 General Provisions: Nothing in any resulting Contract shall be construed as authority for either party to make commitments which will bind the other party beyond the scope of service contained herein. The Contract and the obligations of the Owner are contingent upon sufficient funding for the Project, and the Owner shall be bound under the Contract only to the extent that there are funds available to perform its obligations under the Contract.

#### **§ 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, including any subcontractor's and sub-subcontractor's work and material suppliers or any other entity for which the Contractor is responsible and whether on or off the site 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, diagrams, and shop drawings.

#### **§ 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 and certify termination of the Agreement under Section 14.2.2. 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.

§ 1.1.9 The term "product" includes materials, systems and equipment.

§ 1.1.10 The term "provide" includes furnishing and installing a product, complete in place, operating, tested and approved.

§ 1.1.11 The term "building code" and the term "code" refer to regulations of governmental agencies having jurisdiction over the Project.

§ 1.1.12 The term "similar" means in its general sense and not necessarily identical.

§ 1.1.13 The terms "shown," "indicated," "detailed," "noted," "scheduled" and terms of similar import refer to requirements contained in the Contract Documents.

## § 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. The Contract Documents shall be signed by the Owner and the Contractor and may be amended or modified only in writing signed by the Owner and the Contractor.

§ 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.

§ 1.2.4 The Drawings are not intended to be rigid in specific details where such details may be in conflict with recommendations of the manufacturer of the equipment actually provided. The Work includes making such modifications in the designs indicated or specified as may be required to cause all Work to conform to such recommendations.

§ 1.2.5 Equipment and materials specified herein shall be furnished complete with all features normally provided with such items, although all features of design and construction may not be specified in complete detail. Such features shall be subject to the approval of Architect and shall include all standard accessories and appurtenances normally provided or which are required for safe operation.

§ 1.2.6 Where references are made throughout the specifications to standards or specifications of trade associations, standards and testing organizations, or to the directions, recommendations or specifications of manufacturers, in all cases the latest approved printed copies of these items shall apply, and all Work shall be done in accordance therewith. Any variations or conflicts in the specifications and referenced standards, directions and specifications must be called to the Architect's attention before beginning the Work.

## § 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.

§ 1.4.1 Whenever in the Contract Documents the words "as approved," "as directed," "as required," "acceptable," "satisfactory," and words of like importance are used with reference to the Work or its performance, and without further qualification, it shall mean as approved, as directed, as required by the Architect and acceptable or satisfactory to the Architect.

§ 1.4.2 Should a conflict be found in the Contract Documents, the Architect shall interpret or construe the Contract Documents so as to secure the most substantial and complete performance of the Work.

§ 1.4.3 The general character of the detailed work is shown on the Drawings, but minor modifications may be made on the Shop Drawings or markups. Any details shall be worked out in relation to their location and their connection to other parts of the Work. Where details or conditions are indicated but started only, such details or conditions shall be continued throughout the courses or parts in which they occur and shall also apply to all other similar parts in the Work unless otherwise indicated or specifically noted.

§ 1.4.4 Portions of the Specifications have been written in the so-called "abbreviated" style of which such phrases as "the Contractor shall" or "shall be," etc., have been omitted, and similarly so with the notes on the drawings. Where the sense of the sentence or statement implies the inclusion of the above phrase, it shall be construed to be so included.

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

§ 1.5.1 The Architect and the Architect's consultants, unless otherwise designated in the contract between the Owner and Architect for this Project, 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.

§ 1.5.1.1 Any reports, studies, photographs, negatives, or other documents prepared by Contractor in the performance of its obligations under any resulting contract shall be remitted to the Owner by the Contractor upon completion, termination or cancellation of this Contract. Contractor shall not use, willingly allow or cause to have such materials used for any purpose other than performance of Contractor's obligations under this Contract without the prior written consent of the Owner. The Owner shall own the intellectual property rights to all materials produced under this Contract.

§ 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. All requests, notices and other communications required or permitted to be given under this Contract shall be in writing and delivery thereof shall be deemed to have been made when such notice shall have been either (a) duly mailed by first-class mail, postage prepaid, return receipt requested, or any comparable or superior postal or air courier service then in effect, or

(b) transmitted by hand delivery, telegram, telex, telecopier or facsimile transmission, to the party entitled to receive the same at the address indicated below or at such other address as such party shall have specified by written notice to the other party. Notices to the Owner shall be sent to:

Dr. Harry Thomas  
Division Superintendent  
Essex County Public Schools  
P.O. Box 756  
109 N. Cross St  
Tappahannock, VA 22560

And

Bradford A. King, Esq.  
School Board Attorney  
Sands Anderson PC  
1111 E. Main Street, Suite 2400  
P.O. Box 1998  
Richmond, Virginia 23218-1998

§ 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.

*(Paragraph deleted)*

#### § 2.2 Evidence of the Owner's Financial Arrangements

*(Paragraph deleted)*

§ 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;

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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, but only as authorized in Article 14 herein, 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 may be extended appropriately and the Contract Sum may be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, but only by written amendment to this Agreement signed by the Owner.

**§ 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 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 Contractor shall be responsible to verify the accuracy of the site's physical characteristics, legal limitations and utility locations and bring to the attention of the Owner and Architect any discrepancies discovered that may affect 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. Failure of the Owner to notify the Contractor of necessary corrections or to stop Work shall not relieve the Contractor of any responsibilities or obligations of the Contract Documents.

**§ 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. Additional sets will be furnished at cost of reproduction, postage and handling.

### **§ 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.

**§ 2.4.1** In case of failure to deliver goods or services in accordance with the Contract terms and conditions, Owner, after due oral or written notice, may procure them from other sources and hold the Contractor responsible for any

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resulting additional purchase and administrative costs. This remedy shall be in addition to any other remedies which Owner may have.

### **§ 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.

### **§ 2.6 Additional Rights**

The rights stated in Article 2 shall be in addition to and not in limitation of any other rights of the Owner granted in the Contract Documents or at law or in equity.

## **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, but such designation shall not prevent the Owner or the Architect from relying on others who have apparent authority to act on behalf of the Contractor.

**§ 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, 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,

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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, unless the Contract Documents give other specific instructions concerning these matters. 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 written 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.

§ 3.4.2.2 No substitution will be considered unless written request for approval has been submitted by the Contractor not later than 14 days after receipt of Notice to Proceed, and has been received by the Architect in accordance with the Contract Documents. Each such request shall include the name of the material or equipment for which it is to be substituted and a complete description of the proposed substitute including drawings, cuts, performance and test data and any other information necessary for an evaluation. A statement setting forth any changes in other materials, equipment or work that incorporation of the substitute would require shall be included. The burden of proof of the merit of the proposed substitute is upon the Contractor. The Owner's decision of approval or disapproval of a proposed substitution shall be final. Contractor assumes financial and other responsibility for all changes in the Work required as a result of a substitution requested by Contractor regardless of when such change is determined to be necessary. The Architect shall determine the necessity for such changes and such decision shall be final.

§ 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 proximately 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.

**§ 3.5.3** Except as otherwise specified for a longer period in the Contract Documents, all Work shall be guaranteed by the Contractor against defects resulting from the use of inferior materials, equipment or workmanship for two years from the date of Substantial Completion of the Work. Within this guarantee period, the Contractor shall further guarantee that all movable or adjustable Work shall remain in perfect working order, including (but not limited to) hardware, weather-strips, doors, windows, apparatus, machinery, electrical equipment and all other mechanical equipment, but the guarantee shall not apply to Work which has been abused or not maintained by the Owner or its successors in interest as instructed by the Contractor. At the end of the 23<sup>rd</sup> month from the commencement of the warranty period, the Contractor shall schedule a walk-through inspection with the Owner and Architect to identify any warranty items to be corrected under such warranty period. Nothing in this section shall relieve the Contractor from correcting defective work that did not comply with the Contract Documents. If any work is determined to be defective, the Contractor will be responsible to correct the work whenever the defect is discovered.

**§ 3.5.4** The guarantee period for any system or systems on which required tests have not been successfully performed as of the Date of substantial completion for the Work, due to seasonal or other limitations, shall begin after the required tests have been successfully performed.

**§ 3.5.5** Any goods or services furnished by the Contractor under the Contract shall be covered by the most favorable warranties provided by the Contractor to any customer; the rights and remedies hereby provided are in addition to any and do not limit those otherwise available to the Owner. The Contractor agrees that if such warranties are in any respect breached, the Contractor will pay to the Owner the full Contract price agreed to by the Owner to be paid for the supplies, materials, equipment or services furnished under the bid or proposal.

### **§ 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.

**§ 3.6.1** The Contractor shall pay all County, City, State and Federal taxes required by law resulting from the Work or traceable thereto, under whatever name levied. Said taxes shall not be in addition to the Contract Price between Owner and Contractor, as the taxes shall be an obligation of the Contractor and not the Owner, and the Owner shall be held harmless for same by the Contractor.

### **§ 3.7 Permits, Fees, Notices and Compliance with Laws**

**§ 3.7.1** The Contractor shall secure and pay for all applicable permits, governmental fees and licenses necessary for the proper execution and completion of the Work, including but not limited to erosion control bonds and land disturbance permits.

**§ 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. If the Contractor performs Work that he knows or should know to be contrary to laws, statutes, ordinances, building codes, and rules and regulations without notice to the Architect and Owner, the Contractor shall assume full responsibility for such Work and shall bear the costs of conforming the Work to such laws, statutes, ordinances, building codes, rules and regulations.

§ 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 furnish in writing 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.

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**§ 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.

**§ 3.10.4** The Contractor's construction schedules shall be submitted by the Contractor to the Architect in a timely manner on a form approved by the Architect for review and approval by the Owner before the Pre-Construction Conference. Such schedules shall be furnished showing completed Work at the end of each month in respect to the entire Project. The form, properly filled out, shall indicate percentage of Work completed each month, and shall be submitted with the monthly Application for Payment to the Architect. In addition to Work completed on the site, the form (or an attached letter) shall indicate the status of work off-site.

**§ 3.10.4.1** The Contractor shall submit to the Owner and the Architect, the Contractor's Construction Schedule in electronic and hard copy form before submission of the first application for payment. The Contractor's Construction Schedule shall be subject to acceptance by the Owner and the Architect as providing an orderly progression of the Work to completion with the specified milestones and the Contract time, but such acceptance shall neither impose on the Owner and the Architect responsibility for the progress or scheduling of the Work, nor relieve the Contractor from full responsibility, therefore. The Contractor's Construction Schedule shall provide an orderly progression of the Work to complete within the specified milestones and the Contract time. The Contractor's Construction Schedule shall be prepared in a critical path method (CPM) network format and shall have the critical path clearly indicated. The Architect or its consultant shall provide the Contractor with the results of the schedule review. The Contractor shall revise as necessary, and resubmit to the Owner and the Architect, the Construction Schedule. No progress payments shall be processed or paid until the Contractor's Construction Schedule has been properly prepared and submitted by the Contractor.

**§ 3.10.4.2** The Work shall be executed at such a rate as will assure meeting the specified Substantial Completion date(s) within the time/dates provided in the specifications. By execution of the Contract, the Contractor represents it has analyzed the Work, the materials and methods involved, the systems of building, availability of qualified labor, restrictions of the site, constraints imposed, workload and capacity to perform the Work, and agrees that the specified times are reasonable considering the existing conditions prevailing in the locality of the Work, including weather conditions, and other factors, with reasonable allowance for variations from average or ideal conditions.

**§ 3.10.4.3** The Substantial Completion date(s) provided are considered essential to the satisfactory performance of this Contract and to the coordination of all Work on the Project. The Owner reserves the right to require the Contractor to prosecute the Work in accordance with the Contractor's Construction Schedule and satisfactorily complete the Work by the Substantial Completion date. The Contractor is responsible to provide the operations, manpower, resources, materials, and all items and work necessary to complete the Work and meet the Substantial Completion and Final Completion dates provided. The Contractor understands and agrees that: the Substantial Completion, Final Completion, actual start and completion dates, rate of progress, and coordination are essential conditions of this Project. It is understood and agreed that **TIME IS OF THE ESSENCE** and the Contractor agrees to diligently follow and adhere to the Schedule with due diligence so as to execute the Work within the Substantial Completion and Final Completion dates and time frames stipulated in the Contract Documents. The Contractor shall, at no additional cost to



the Owner, take all necessary steps, including overtime, double shifts, weekends, and holiday work to complete this Work and meet the Substantial Completion and Final Completion dates stipulated in the Contract Documents.

§ 3.10.5 Should any of the following conditions exist, the Contractor shall, at no extra cost to the Owner, prepare a Short-Term Recovery Schedule to describe in detail how he will regain compliance with the originally approved Contractor's construction schedule:

- a. If the Work is ten days behind the approved Schedule.
- b. If the Contractor proposes a change in the approved Schedule.

Until such Recovery Schedule is approved, the Architect may decline to certify payment in accordance with Article 9.5.1 of the General Conditions

### § 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.

§ 3.12.5.1 All copies of shop drawings submitted for approval shall bear the following statement: "Checked and certified correct for conformance with Contract Documents." This statement shall be dated and signed by the General Contractor and shall appear on each submittal. Any submittal without the aforementioned statement shall be returned with no action taken. One copy of each approved submittal shall be kept at job site at all times.

§ 3.12.5.2 The Contractor shall be responsible for the satisfactory construction of all Work in accordance with the quantities, dimensions, and designs shown in the Contract documents and the furnishing of all materials necessary for the Work and required by the Contract Documents even if not indicated on the submittals that have been approved by the Architect

§ 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, accuracy and completeness 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.

§ 3.13.1 Unless otherwise indicated on the drawings or as directed by the Owner, the property lines shall be the limits of construction and all Work shall be confined therein, including the storage of materials and equipment at the site.

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### **§ 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. Only appropriate, qualified Subcontractors and skilled tradesmen shall do the Work.

**§ 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.

**§ 3.14.3** No alteration of structural members shall be done without the prior approval of the Architect of the specific nature, size and location of such alteration. Approval to alter structural members shall not be construed to affect the Contractor's responsibility for the adequacy of the strength of such members providing such alteration be performed in accordance with the Architect's approval.

**§ 3.14.4** If new or existing structures, facilities, utilities, streets, curbs, walks, or other items that may not be on-site but are part of the Work are damaged or removed through the execution of the Work they shall be repaired, replaced, or made good by the Contractor to the satisfaction of the Owner, the Architect, utility, or authority of the damaged or removed Work. If the utility or authority requires that the repairs or replacement be performed by their own labor and/or with their own materials the Contractor shall pay the utility or authority for such 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 cost thereof shall be charged to the Contractor and may be deducted from funds paid to the Contractor, or the Contractor shall pay the amount due within ten (10) days of the date of any statement of the amounts due.

### **§ 3.16 Access to Work**

The Contractor shall at all times and without limitation 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. If the Contractor has reason to believe that any required design, process or product is an infringement of a patent, the Contractor shall not be responsible for any such loss if such information is promptly furnished to the Architect and the Owner in writing.

### **§ 3.18 Indemnification**

**§ 3.18.1** To the fullest extent permitted by law, the Contractor shall indemnify, defend 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 caused by the negligent acts or omissions of the Contractor, a Subcontractor, materialman, supplier anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, as contemplated by subparagraph 3.3.2, 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. The requirements of this Paragraph shall be incorporated into the Contractor's insurance policies in a manner approved by the Owner.

**§ 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.

**§ 3.18.3** The Contractor shall reimburse the Owner for all costs and expenses, including without limitation, attorney's fees and costs, incurred by the Owner in enforcing any rights of the Owner under the Contract Documents.

### **§ 3.19 Contractor's Representations**

**§ 3.19.1** By entering into this Contract with the Owner, the Contractor represents and warrants the following, together with all other representations and warranties in the Contract Documents:

- .1 That it is experienced in and competent to perform the type of work required and to furnish the plant, materials, supplies or equipment to be so performed or furnished by it;
- .2 That it is financially solvent, able to pay its debts as they mature, and possessed of sufficient working capital to initiate and complete the Work required under the Contract;
- .3 That it is familiar with all federal, state, county, municipal and department laws, ordinances, permits, regulations and resolutions which may in any way affect the Work or those employed therein, including but not limited to any special laws or regulations relating to the Work or any part thereof.
- .4 That such temporary and permanent Work required by the Contract Documents which is to be done by it will be satisfactorily constructed and fit for use for its intended purpose and that such construction will not injure any person, or damage any property;
- .5 That it has carefully examined the Contract Documents and the site of the Work and that from its own investigations, it has satisfied itself and made itself familiar with: (1) the nature and location of the Work; (2) the character, quality and quantity of surface and subsurface materials likely to be encountered, including, but not limited to, all structures and obstructions on or at the Project Site, both natural and man-made; (3) the character of equipment and other facilities needed for the performance of the Work; (4) the general and local conditions including without limitation its climatic conditions, the availability and cost of labor and the availability and cost of labor and the availability and cost of materials, tools and equipment; (5) the quality and quantity of all materials, supplies, tools, equipment, labor and professional services necessary to complete the Work in the manner required by the Contract Documents; and (6) all other matters or things which could in any manner affect the performance of the Work;
- .6 That it will fully comply with all requirements of the Contract Documents;
- .7 That it will perform the Work consistent with good workmanship, sound business practice, and in the most expeditious manner consistent with the best interests of the Owner;
- .8 That it will furnish efficient business administration and experienced superintendence and an adequate supply of workmen, equipment, tools and materials at all times;
- .9 That it has carefully reviewed the Work required and that the Work can be planned and executed in a normal and orderly sequence of work and reasonably scheduled so as to ensure completion of the Project in accordance with the Contract Documents, allowing for normal and reasonably foreseeable weather, labor and other delays, interruptions and disruptions of the Work;

- .10 That it will complete the Work within the Contract Time and all portions thereof within any required Contract deadlines;
- .11 That its Contract price is based upon the labor, materials, systems and equipment required by the Contract Documents, without exception; and
- .12 That it shall comply, and shall cause all subcontractors to comply, with all applicable federal, state, and local statutes, laws, rules, ordinances, orders, directives, permits and regulations, whether now existing or hereafter promulgated, of all governmental agencies, whether federal, state, or local and whether legislative judicial or executive (collectively "Applicable Laws" or "applicable laws") relating to Contract Documents and the performance of the Work, including but not limited to all Commonwealth of Virginia Employment Discrimination and Equal Opportunity laws and regulations and Commonwealth of Virginia Procurement and Hiring laws and regulations.

**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 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 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, except as provided in Section 3.3.1.

**§ 4.2.4 Communications**

Except as otherwise provided in the Contract documents or when direct communications have been specially authorized, the Owner and Contractor shall endeavor to communicate with each other through the Architect about matters arising out or relating to the Contract. 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, subcontractors, and/or material suppliers 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.

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§ 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.

§ 4.2.7.1 ARCHITECT'S DISTRIBUTION AND STAMP: Following the Architect's review of each Sample submission the Architect will return one (1) Sample of each set of Samples to the Contractor with the Architect's stamp and signature affixed thereto. Following the Architect's review of each Shop Drawing submission, the Architect will return the reviewed reproducible print or non-reproducible copies (when reproducibles are not required) to the Contractor with the Architect's stamp and signature affixed thereto, annotated as follows:

"APPROVED" means approved for construction, fabrication and/or manufacture, subject to the provision that the Work shall be in accordance with the requirements of the Contract. Final acceptance of the Work shall be contingent upon such compliance.

"APPROVED AS NOTED" means unless otherwise noted on the submittal, it is approved for construction, fabrication and/or manufacture, subject to the provision that the Work shall be carried out in compliance with all annotations and/or corrections indicated on the submittal and in accordance with the requirements of the Contract. Final acceptance of the Work shall be contingent upon such compliance. If also marked "RESUBMIT" approved as noted is valid, and a corrected submittal is required.

"DISAPPROVED / NOT APPROVED" means that major deviations from the requirements of the Contract exist in the submittal. No Work based on such submittal shall be constructed, fabricated, or manufactured. The Contractor shall revise the submittal in compliance with the Architect's annotations and pursuant to all requirements of the Contract and shall resubmit it to the Architect.

§ 4.2.7.2 The Architect, following his review and with both the Contractor's and Architect's stamp and signature affixed, shall promptly send one (1) Sample of each set of Samples and two (2) copies of all other submissions to the Owner.

§ 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, 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 in writing to 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 or Owner to provide notice within the 14-day period shall constitute notice of no reasonable objection. The Contractor understands and agrees that it alone is responsible to the Owner for all of the Work under this Contract and that any review of Subcontractors or suppliers will not in any way make the Owner responsible to, or for, the actions or failures of any Subcontractor or supplier. The Contractor and any of its Subcontractors or suppliers shall not contract with any proposed Subcontractor or supplier against which reasonable objection has been made under the provisions of this paragraph.

§ 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 the Contract Time shall be allowed for such change unless (i) it is initiated as a result of the Owner's or Architect's objections, (ii) the Contractor has acted promptly and responsively in submitting names as required and (iii) the Contractor relied on a quotation from such person or entity to whom the Owner or Architect has objected in preparing

its response to the Owner's Invitation to Bid and in establishing the Contract Sum and the Contract Time. Also, no increase in the Contract Sum shall be allowed unless the Owner has approved the increased contract amount of the subcontract with the replacement Subcontractor prior to the Contractor's contracting with the replacement Subcontractor.

§ 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.

§ 5.3.1 The Contractor will not be released from any part of his liabilities or obligations under its Contract should any Subcontractor fail to perform in a satisfactory manner the work undertaken by it.

§ 5.3.2 **Nothing** contained in the Contract shall be construed as creating any contractual relationship between any Subcontractor and Owner. The sections of the specifications do not control the Contractor in dividing the work among Subcontractors, or to limit the work performed by any trade.

§ 5.3.3 **The** Contractor shall be responsible to the Owner for acts and omissions of his own employees, and of Subcontractors and their employees. He shall also be responsible for the coordination of the work of the trades, Subcontractors and suppliers.

§ 5.3.4 **The** Architect will not undertake to settle any differences between or among the Contractor and his Subcontractors or suppliers.

§ 5.3.5 The Contractor shall, without additional expense to the Owner, employ specialty Subcontractors where required by the specifications. "Specialty Subcontractor," when specified as a requirement, means a Subcontractor regularly engaged in the manufacture or installation of the contract items. The specialty Subcontractor shall select and combine the materials involved and maintain and have available for the purpose workmen skilled in the specified work. The specialty Subcontractor shall be the manufacturer, be licensed by the manufacturer as an installer, or work under direct supervision of the manufacturer.

§ 5.3.6 All Work shall be performed by mechanics skilled in the trade.

§ 5.3.7 Pursuant to Section 2.2-4354 of the Virginia Code, the Contractor shall take one of the two following actions within seven (7) days after receipt of the amounts paid to the Contractor by the Owner for work performed by a Subcontractor under this Contract:

1. Pay the Subcontractor(s) for the proportionate share of the payment received for Work performed by the Subcontractor(s) under the Contract; or
2. Notify the Owner and the Subcontractor(s), in writing, of the Contractor's intention to withhold payment and the reason.

The Contractor is obligated to pay the Subcontractor(s) interest at the rate of one percent per month (unless otherwise provided under the terms of the Contract) on all amounts owed by the Contractor that remain unpaid seven (7) days following receipt of payment from the Owner, except for amounts withheld as stated above. The date of



mailing of any payment by U.S. Mail is deemed to be payment to the addressee. These provisions apply to each sub tier contractor performing under the primary Contract. The Contractor's obligation to pay an interest charge to a Subcontractor may not be construed to be obligation of the Owner.

§ 5.3.8 The Contractor shall include in each of its subcontracts a provision requiring each Subcontractor to include or otherwise be subject to the same payment and interest requirements with respect to each lower-tier Subcontractor

§ 5.3.9 A Contract shall not be assignable by the Contractor in whole or in part without the written consent of the Owner.

#### § 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 in writing; 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, provided, however, that the Owner shall not be liable for any breach or default of the Contractor under such subcontract agreement, and the Contractor shall remain solely liable for any such breach or default.

*(Paragraph deleted)*

§ 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 be released automatically from 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 to award separate contracts in connection with other portions of the Project or other construction or operations on the site under Conditions of the Contract identical or substantially similar to these including those portions related to insurance and waiver of subrogation. If the Contractor claims that delay or additional cost is involved because of such action by the Owner, the Contractor shall make such Claim as provided in Article 15.

§ 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.

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## § 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.

*(Paragraph deleted)*

§ 6.2.6 If any other Contractor or its subcontractors or their material suppliers shall suffer loss or damage through acts of omissions on the part of the Contractor, any Subcontractor, and Sub-subcontractor or any material man of any of the foregoing, the Contractor agrees to reimburse such other Contractor or his Subcontractor or material supplier to the extent that they may be entitled to reimbursement. If such other Contractor or Subcontractor or his material supplier shall assert any claim against the Owner on account of any damage alleged to have been sustained, the Owner shall notify the Contractor and the Contractor shall indemnify and save the Owner harmless from and against loss, liability, claim, damage, fee, expense, including reasonable attorney's fees of any kind whatsoever arising out of or in any way connected with any such claim and Contractor shall defend at its own expense, with attorneys chosen by the Owner, any suit in connection with any such claim, and if a judgment shall be rendered against the Owner in connection with any such claim, Contractor shall pay or satisfy any such judgment or claim and shall pay all costs, fees, expenses, disbursements and liabilities of whatsoever kind in connection therewith.

## § 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.

§ 7.1.4 Pursuant to Va. Code § 2.2-4309, the Contract Price for this Contract cannot be increased by more than twenty-five percent (25%) of the amount of the Contract or Fifty Thousand Dollars (\$50,000), whichever is less, without the advance written approval of the Owner.

## § 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.

§ 7.2.2 All Change Order proposed pricing shall be valid for a minimum of thirty (30) days.

## § 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, and may adjust the Contract Sum and Contract Time.

§ 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 Additional 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 as the Owner shall issue 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 NOT request payment for Work completed under the Construction Change Directive in Applications for Payment. The Contractor may only include the amounts of fully executed Change Orders in the Applications for Payment.

§ 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. As to all acts or failures to act occurring prior to the relevant Date of Substantial Completion, any applicable statute of limitations shall commence to run and any alleged cause of action shall be deemed to have accrued in any and all events as of such Date of Substantial Completion; as to all acts or failures to act occurring subsequent to the relevant Date of Substantial Completion, any applicable statute of limitations shall be deemed to have accrued in any and all events as of the date of issuance of the final Certificate for Payment.

§ 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 and the Contractor is capable of properly completing the Work within the Contract Time.

§ 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; or (4) by other causes that the Contractor asserts, and the Architect determines, justify delay, then the Contract Time shall be extended by a change order for such reasonable time as the Architect may determine. Notwithstanding any other provisions to the contrary, any delay occasioned by the Contractor, Subcontractors, or Sub-subcontractors of the employees or agents of the same, shall not warrant an extension of the Contract Time.

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

*(Paragraph deleted)*

§ 8.3.4 Any claim for extension of time based on delays caused by abnormal weather shall be substantiated by the following:

- a. Record of "normal weather conditions" established from historical weather data determined from climatological data sheets obtained from U.S. Department of Commerce National Weather Service Station for the locality closest to the Project site for a five-year period preceding the date of the Contract. The Contractor shall provide the Monthly NOAA data sheets for such locality, which indicate daily weather data; the annual summary data sheets, which do not include daily weather data, are not sufficient.
- b. Weather data from National Weather Service for the time period cited in the claim for extension.
- c. Copy of Superintendent's daily report for the time period cited in the claim for extension.
- d. Copy of the Contractor's construction schedule indicating critical major sequences of work.
- e. Documentation by the Contractor that abnormal weather conditions actually caused delay in Project completion. Precipitation level must be more than a "trace" for consideration as a basis of delay.

## 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 in a proposed Change Order or Construction Change Directive so that application of such unit prices to quantities of Work proposed will cause 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.

§ 9.2.1 The Schedule of Values shall be submitted by the Contractor to the Architect in a timely manner for review and approval by the Owner prior to the Pre-Construction Conference.

### § 9.3 Applications for Payment

§ 9.3.1 At least fifteen (15) days before the date established for each progress payment, the Contractor shall submit to the Architect an Application for payment on AIA Document G702, Application and Certificate for Payment, complete including the Contractor's notarized signature and prepared for the Architect's signature. The Schedule of Values as specified in 9.2 shall be attached thereto with every column and total completed. The Contractor shall submit such supporting data substantiating the Contractor's right to payment as the Owner and Architect may require. There shall

be a regularly scheduled meeting on site to review the Application for Payment at the end of each month. Five days prior to the meeting scheduled to review the Application for Payment, the Contractor shall transmit a DRAFT Application for Payment to the Architect, Engineer and the Owner. The Architect, Engineer and the Owner will review payment to the Contractor for work performed during the period from the 25th day of the preceding month to the 25th day of the present month, including materials for the Project suitably stored at the site of the Project. The review shall occur during the first site meeting after the 30th of the month. During the review of the Application for Payment the Owner and the Architect will discuss with the Contractor the suggested revisions to the Application for Payment. The Contractor shall incorporate the suggested revisions and submit the signed and notarized AIA Document G702 and G703 to the Architect for approval. Thirty (30) days after approval of the Application for Payment the Owner will make partial payment to the Contractor on the basis of the approved payment request for Work performed. The Owner will retain 5% of the amount of each such estimate until final completion and acceptance of all Work covered by this Contract.

§ 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.

§ 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 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. Notwithstanding any other language to the contrary contained in the Contract Documents, title to work completed passes by incorporation of the Work in the construction or by payment, whichever occurs first.

#### § 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 in writing by the Architect. The issuance of a Certificate for Payment will further constitute a representation that the Contractor is entitled to payment in the amount certified and that sufficient funds remain unpaid from the Contract Sum to complete the Work for which the Contractor or its Subcontractors have responsibility under the Contract Documents. 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 shall not certify payment and shall withhold a Certificate for Payment in whole or in part to the extent necessary to protect the Owner. 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.

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§ 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 Payment otherwise due hereunder to the Contractor or any Subcontractor shall be withheld until the Contractor has furnished its federal employer identification number to the Owner and the Subcontractors have furnished their federal employer identification numbers to the Contractor and the Contractor has furnished the same to the Owner.

§ 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

§ 9.7.1 **Funding:** All funds for payments for Work under this Contract are subject to the availability of Essex County School Board appropriations for this purpose. Payments during subsequent fiscal periods are dependent upon the same action. The Contract and the obligations of the Owner are contingent upon sufficient funding of the Project, and the Owner shall be bound under the Contract only to the extent that there are funds available to perform its obligations under the Contract. In the event of non-appropriation of funds to the Essex County School Board for the Work under this Contract, the Essex County School Board will terminate this Contract. Written notice will be provided to the Contractor as soon as possible after Essex County School Board action is completed.

§ 9.7.2 If the Owner is entitled to reimbursement or payment from the Contractor under or pursuant to the Contract Documents, such payment shall be made promptly upon demand by the Owner. Notwithstanding anything contained in the Contract Documents to the contrary, if the Contractor fails to promptly make any payment due the Owner, or if the Owner incurs any costs and expenses to cure any default of the Contractor or to correct defective Work, the Owner shall have an absolute right to offset such amount against the Contract Sum and may, in the Owner's sole discretion, elect either to (i) deduct an amount equal to that which the Owner is entitled from any payment then or thereafter due the Contractor from the Owner, or (ii) issue written notice to the Contractor reducing the Contract Sum by an amount equal to that which the Owner is entitled.

### § 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

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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. Nothing herein shall authorize the Architect to extend the date for Final Completion of the Work except as authorized in Article 7.

**§ 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. The payment shall not exceed an amount sufficient to increase the total payments to no more than 95% of the Contract Sum and shall be as recommended by the Architect and agreed to by the Owner and less such amounts as the Architect and Owner shall determine for all incomplete work and unsettled claims. The Contractor shall provide a letter from its bonding company consenting to any reduction in the retainage prior to approval of the payment.

### **§ 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 written 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 and will not be canceled or allowed to expire until at least 30 days' prior written notice has been given to the Owner, (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.

*(Paragraph deleted)*

**§ 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;
- .4 audits performed by the Owner, if permitted by the Contract Documents, after final payment; or
- .5 claims arising from facts or circumstances unknown to the Owner at the time final payment is made, such as (by way of example and not in limitation) premature failure of any of the Work as a result of defective materials or labor supplied by, or through, the Contractor.

**§ 9.10.5** Acceptance of final payment by the Contractor or Subcontractor or material supplier shall constitute a waiver and release of all Claims by that payee except those previously made in writing and pursued by the payee as required by the terms of the Contract Documents. Such Claims previously made must be identified by the payee as unsettled at the time of final application for payment.

**§ 9.10.6** Contractor's obligation to perform the Work and complete the Project in accordance with the Contract Documents shall be absolute. Neither approval of any progress or final payment nor the issuance of a certificate of Substantial Completion, nor any payment by Owner to Contractor under the Contract Documents, nor any use or occupancy of the Project or any part thereof by Owner, nor any act of acceptance by Owner, nor any failure to do so, nor the failure of Owner to file a Claim as set forth in the Contract Documents, nor any correction of defective Work by Owner, shall constitute an acceptance of Work not in accordance with the Contract Documents nor shall the same relieve the Contractor of responsibility for faulty materials or workmanship or operate to release the Contractor or his surety from any obligation under the Contract, the performance bond or the payment bond.

## **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.

**§ 10.1.1** All machinery, appliances, and equipment furnished under the Contract shall be protected by adequate safety procedures and devices as required by the rules and regulations governing safety, as adopted by the Safety Codes Commission of the Commonwealth of Virginia, issued by the Department of Labor and Industry under Title 40.1 of the **Code of Virginia**, 1950, as amended, and other applicable law, rules and regulations.

### **§ 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;
- .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; and
4. the Contractor's materials, tools, machinery, equipment, appliances, shoring, sheds and personal property of the Contractor's employees.

**§ 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.

§ 10.2.2.1 The Contractor agrees in order that Work be executed with the greater degree of safety:

- .1 to comply with all laws, ordinances, and regulations regarding safety;
- .2 to comply as applicable with the "Rules and Regulations Governing Construction Demolition and All Excavations" as adopted by the Safety Codes Commission of the Commonwealth of Virginia;
- .3 to conform to all applicable provisions of the "Manual of Accident Prevention in Construction" published by the Association of General Contractor of America, Inc., latest edition; and
- .4 to comply with all applicable provisions of the "Occupational Safety and Health Act of 1970," as amended.

§ 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. The Contractor shall at all times protect the construction site from damage caused by rainwater, ground water, and all other water. He shall provide enclosures and other equipment required to provide this protection. The Contractor shall provide all shoring, bracing, and sheathing required for safety and proper execution of the Work and shall have the same removed when Work is complete. All shoring, bracing, and sheathing shall be constructed in accordance with accepted engineering procedures and shall meet the requirements of all applicable federal, state and local regulations.

§ 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.

§ 10.2.4.1 When the use or storage of explosives or other hazardous materials or equipment or unusual methods are necessary, the Contractor shall give the Owner and Architect reasonable advance notice.

§ 10.2.5 The Contractor shall promptly remedy damage and loss 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.

*(Paragraphs deleted)*

### § 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 in writing.

§ 10.3.2 The Owner shall verify the presence or absence of the material or substances reported by the Contractor and, in the event such material or substance is found to be present, verify that it has been rendered harmless. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of

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the Owner and Contractor. The Contract Time shall be extended appropriately, and the Contract Sum shall be increased in the amount of the Contractor's reasonable additional costs of shut-down, delay and start-up in accordance with Article 7.

**§ 10.3.3** Only to the 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.

*(Paragraph deleted)*

#### **§ 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 and which carry an A.M. Best's Rating of A (financial strength) and VII (size) or higher or otherwise acceptable to the Owner, such insurance as will protect the Contractor and the Owner from claims set for below which may arise out of or result from the Contractor's operations and completed operations under the Contract and for which the Contractor may be legally liable, whether such operations be by the Contractor or by a subcontractor or anyone directly or indirectly employed by any of them, or by anyone whose acts any of them may be liable:

- .1 Claims under workers' compensation, disability benefit and other similar employee benefit acts that are applicable to the Work to be performed.
- .2 Claims for damages because of bodily injury, occupational sickness or disease, or death of the Contractor's employees.
- .3 Claims for damages because of bodily injury, sickness or disease, or death of any person other than the Contractor's employees.
- .4 Claims for damages insured by usual personal injury liability coverage;
- .5 Claims for damages because of injury to or destruction of tangible property, including loss of use resulting therefrom;
- .6 Claims for damages because of bodily injury, death of a person or property damage arising out of ownership, maintenance or use of a motor vehicle;
- .7 Claims for bodily injury or property damage arising out of completed operations;
- .8 Claims involving contractual liability insurance applicable to the Contractor's obligations under Section 3.18;

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- .9 All General Liability insurance certificates and policies shall designate the Owner as an additional (named – to be removed) insured; all insurance policies shall be communicated to the Owner via electronic transmission (email or on a disk) with paper ACORD Certificates of Insurance provided to and accepted by the Owner prior to the start of any work and renewed in accordance with the insurance companies rules and guidelines with replacement policies and ACORD Certificates of insurance given to the Owner at least 30-days prior to the renewal date; all insurance policies shall have a 45-day notice of cancellation or non-renewal; and
- .10 The Contractor shall indemnify and hold harmless the Owner from any and all damages arising out of any failure to perform any part of the Work, including payment for all labor and materials purchased by the Contractor in fulfilling this Contract, by procuring bonds each in the amount of at least one hundred percent (100%) of the Contract Sum, with a surety company both authorized to transact business in the State of Virginia and satisfactory to the Owner. The surety company shall have an A.M. Best's rating minimum of A and VII.

Bonds shall be in the form of AIA Document A312-1984 which includes both a Performance Bond and a Payment Bond. The Performance and Payment Bonds shall each be in an amount at least equal to the Contract Sum as security for the faithful performance and payment of all Contractor's obligations under the Contract Documents. The bonds shall remain in full force during the Contract term and the Performance Bond shall remain in effect at least until two years after the date when final payment becomes due, except as provided otherwise by Laws or Regulations or by the Contract Documents.

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 insurance required by Section 11.1.1 shall be written for not less than limits of liability specified in the Contract Documents or required by law, whichever coverage is greater. Coverages, whether written on an occurrence or claims-made basis, shall be maintained without interruption from the date of commencement of the Work until the date of final payment and termination of any coverage required to be maintained after final payment, and, with respect to the Contractor's completed operations coverage, until the expiration of the period for correction of Work or for such other period for maintenance of completed operations coverage as specified in the Contract Documents. 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.

**§ 11.1.5** In accordance with the requirement of Section 11.1.1, Contractor shall provide Owner with proof of liability insurance with limits as follows, before beginning the Work:

- (A) Worker's Compensation
  - (1) Virginia Statutory Limits
  - (2) Employer's Liability \$500/500/500,000 per accident.

- (B) Commercial General Liability (including Riggers coverage), having limits of no less than \$1,000,000 Combined Single limit per occurrence and \$2,000,000 aggregate per project.
- (C) Business Auto Liability (including owned, non-owned and hired vehicle, uninsured and underinsured motorist) \$1,000,000 Combined Single Limit per occurrence.
- (D) Contractor's Pollution Liability, if applicable per the Owner, covering claims from third-party injury and property damage as a result of pollution conditions arising out of Contractor's operations and completed operations. Completed operations coverage shall remain in effect for no less than two (2) years after final completion.

\$1,000,000 Each Occurrence  
 \$2,000,000 Aggregate

- (E) Excess Liability insurance Umbrella form policy with minimum limits of \$1,000,000 each occurrence and \$5,000,000 aggregate per policy year.
- (F) The General Liability insurance issued shall designate the "School Board of Essex County, Virginia and its agents and representatives" as an additional insured for the Project only. ACORD form 25 with additional insured endorsements will be acceptable.
- (G) The Contractor shall either (1) require each of its subcontractors to procure and maintain, during the life of its subcontract, subcontractor's Liability Insurance of the same type and in the same amounts as specified in this Article or (2) insure the activities of its subcontractors in its own policy.

**§ 11.1.6 The Commercial General Liability Policies.** The Commercial General Liability policies required by Section 11.1.5(B) shall be specifically endorsed to include Explosion, Collapse and Underground Damage coverage and Broad Form Property Damage coverage, including Completed Operations coverage.

**§ 11.1.7** Immediately upon obtaining the policies, the Contractor shall notify the Owner in writing that it has done so and shall provide the Owner with certificates of insurance, in a form acceptable to the Owner, giving the numbers of the policies and the limits thereon.

**§ 11.1.8** The Contractor shall maintain the policies for the duration of the Contract and shall maintain Completed Operations coverage for a period of two (2) years after completion of the Contract.

11.1.8.1 If the liability insurance purchased by the Contractor has been issued on a "claims made" basis, the Contractor must comply with the following additional conditions. The limits of liability and the extensions to be included as described previously in these provisions, remain the same.

The Contractor must either:

1. Agree to provide certificates of insurance evidencing the above coverage for a period of two (2) years after final payment for the Agreement for all policies. This certificate shall evidence a "retroactive date" no later than the beginning of the Contractor's work under this Agreement, or
2. Purchase the extended reporting period endorsement for the policy or policies in force during the term of this Agreement and evidence the purchase of this extended reporting period endorsement by means of a certificate of insurance or a copy of the endorsement itself.

**§ 11.1.9** Performance and Payment Bonds shall be delivered simultaneously with delivery of the executed Agreement.

**§ 11.1.10** The Builders Risk policy shall have a 45-day notice of cancellation or nonrenewal. Copies of the Builders Risk policy shall be communicated to the Owner via electronic transmission (email or on a disk) with paper ACORD Certificates of Insurance provided to and accepted by the Owner prior to the start of any work and renewed in accordance with the insurance companies rules and guidelines with replacement policies and ACORD Certificates of Insurance given to the Owner at least 30-days prior to the renewal date; all insurance policies shall have a 45-day notice of cancellation or nonrenewal; and

The "School Board of Essex County, Virginia and its agents and representatives" shall be included as an Additional Insured and the policy shall be so endorsed; and

The Contractor waives all rights against the Owner, its agents and employees for damages caused by fire and other direct damage perils, whether or not covered by insurance obtained pursuant to this Article 11 or any other Property Insurance applicable to the Work, except such rights as the Contractor may have to the proceeds of such insurance held by the Owner as Trustee. The Contractor shall require the Architect, separate contractors, subcontractors and sub-subcontractors to execute similar waivers in favor of the Owner.

§ 11.1.11 The Owner and Contractor intend that any policies provided in response to the property insurance provisions shall protect all of the parties insured and provided primary coverage for all losses and damages caused by the perils covered thereby. Accordingly, all such policies shall contain provisions to the effect that, in the event of payment of any loss or damage, the insurer shall have no rights of recovery against any of the parties named as insureds or additional insureds.

§ 11.1.12 Certificates of insurance acceptable to the Owner shall be filed with the Owner prior to commencement of the Work and thereafter upon renewal or replacement of each required policy of insurance. These certificates and the insurance policies required by this Section 11.1 shall contain a provision that coverages afforded under the policies will not be canceled or allowed to expire until at least 45 days' prior written notice has been given to the Owner. An additional certificate evidencing continuation of liability coverage, including coverage for completed operations, shall be submitted with the final Application for Payment as required by Section 9.10.2 and thereafter upon renewal or replacement of such coverage until the expiration of the time required by Section 11.1.2. Information concerning reduction of coverage on account of revised limits or claims paid under the General Aggregate, or both, shall be furnished by the Contractor with reasonable promptness.

§ 11.1.13 The Contractor shall cause the commercial liability coverage required by the Contract Documents to include (1) the Owner, the Architect and the Architect's consultants as additional insureds for claims caused in whole or in part by the Contractor's negligent acts or omissions during the Contractor's operations; and (2) the Owner as an additional insured for claims caused in whole or in part by the Contractor's negligent acts or omissions during the Contractor's completed operations.

## § 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.

*(Paragraphs deleted)*

## §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

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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. This provision shall also apply to surveys and tests as well as examinations of completed Work. In any case, costs shall include the cost of professional advice and services necessary to complete examinations, surveys, and texts.

### **§ 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, whether 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.

**§ 12.2.1.1** The guarantee period of any system or systems on which required tests have not been successfully completed on the date of acceptance of the Project by the Owner due to seasonal limitations, shall begin on the date of first use by the Owner, provided that the required tests are successfully performed during the guarantee period. Otherwise, the guarantee period shall begin when the required tests have been successfully completed.

#### **§ 12.2.2 After Substantial Completion**

**§ 12.2.2.1** In addition to the Contractor's obligations under Section 3.5, if, within two years 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 two-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 two-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 Documents and the relationship created thereby shall be subject to and governed by the law of the Commonwealth of Virginia, without regard to Virginia's conflicts of laws provisions.

§ 13.1.1 Employment discrimination by the Contractor is prohibited during the performance of this Contract as described in Section 2.2-4311, Chapter 7, Code of Virginia and subparagraph 3.7.2.1 of these Supplementary Conditions.

§ 13.1.2 Any failure of the Owner to demand rigid adherence to one or more of this Contract's provisions, on one or more occasions, shall not be construed as a waiver nor deprive the Owner of the right to insist upon strict compliance with the terms of this Contract. Any waiver of a term of this Contract, in whole or in part, must be in writing and signed by the party granting the waiver to be effective.

§ 13.1.3 The parties hereby submit to the personal jurisdiction and venue of any state or federal court located within the Commonwealth of Virginia for resolution of any and all claims, causes of action or disputes arising out of or related to this Contract and agree that service by registered mail to the addresses set forth shall constitute sufficient service of process for any such action. The parties further agree that any claims, causes of action or disputes arising out of, relating to or concerning this Contract shall have jurisdiction and venue only in the Circuit Court of Essex County, Virginia.

§ 13.1.5 If any provision of this Contract is held to be illegal, invalid, or unenforceable, or is found to be against public policy for any reasons, such provision shall be fully severable and this Contract shall be construed and enforced as if such illegal, invalid, or unenforceable provision had never been part of this Contract, and the remaining provisions of this Contract shall remain in full force and effect and shall not be affected by the illegal, invalid, or unenforceable provision, or by its severance from this Contract.

#### § 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.

§ 13.4.7 Notices given to the Architect as required in paragraph 13.4.1 and 13.4.2 shall be given at least three (3) days in advance of the date of such tests and shall be confirmed to the Architect in writing.

§ 13.4.8 Owner's Right to Operate Equipment: When the required test of a system or systems has not been successfully completed at the time the Work under the Contract has otherwise been finally completed, the Contractor shall operate these services when required until the tests have been successfully completed or it shall have given the Owner the right to operate them.

#### § 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.

#### 13.6 Certifications The Contractor certifies that:

The bid or offer (1) was made without prior participation, understanding, agreement, or connection with any corporation, firm or person submitting a bid/offer for the same materials, supplies, equipment, or services with respect to the allocation of the business afforded by or resulting from the acceptance of the bid or proposal, (2) is in all respects fair and without collusion or fraud, and (3) is or is intended to be competitive and free from any collusion with any person, firm or corporation;

The Contractor has not offered or received any kickback from any other bidder or Contractor, supplier, manufacturer, or Subcontractor in connection with the bid/offer on this solicitation. A kickback is defined as an inducement for the award of a contract, subcontracts or order, in the form of any payment, loan, subscription, advance, deposit of money, services or anything, present or promised, unless consideration of substantially equal or greater value is exchanged. Further, no person shall demand or receive any payment, loan, subscription, advance, and deposit of money, services or anything of value in return for an agreement not to compete on a public contract;

The Contractor is not a party to nor has it participated in nor is obligated or otherwise bound by agreement, arrangement or other understanding with any person, firm or corporation relating to the exchange of information concerning bids, prices, terms or condition upon which the Contract resulting from the acceptance of his bid proposal is to be performed;

The Contractor understands that collusive bidding is a violation of the Virginia Governmental Frauds Act and federal Law, and can result in fines, prison sentences, and civil damage awards and agrees to abide by all conditions of this proposal; and

The Contractor or Subcontractor has not and will not confer on any public employee having official responsibility for a procurement transaction any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is exchanged.

### 13.7 AUDIT

Contractor's records shall be open to inspection and subject to audit and/or reproduction, during normal working hours, by the Owner to the extent necessary to adequately permit evaluation and verification of any invoices, payments or claims submitted by Contractor or any of its payees pursuant to execution of the Contract. Such records subject to examination shall also include, but not be limited to, those records necessary to evaluate and verify direct and indirect costs (including overhead allocations) as they may apply to costs associated with this Contract.

For the purpose of such audits, inspections, examinations and evaluations, the Owner shall have access to said records from the effective date of this Contract, for the duration of the Work, and until five (5) years after the date of final payment by Owner to Contractor pursuant to this Contract.

Owner shall have access to Contractor's facilities, shall have access to all necessary records, and shall be provided adequate and appropriate workspace, in order to conduct audits in compliance with this article. Owner shall give Contractor reasonable advance notice of intended audits.

Contractor shall require all Subcontractors, insurance agents, and materials suppliers (payees) to comply with the provision of this article, by insertion of the requirements hereof in a written contract between Contractor and payee. Failure to obtain such written contracts which include such provisions shall be reason to exclude some or all of the related payees' costs from the amount payable to Contractor pursuant to this Contract.

## 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 under direct or indirect contact with the Contractor, 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; or
- .2 An act of government, such as a declaration of national emergency, that requires all Work to be stopped.

*(Paragraphs deleted)*

### § 14.2 Termination by the Owner for Cause

§ 14.2.1 The Owner may terminate the Contract if the Contractor:

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- .1 shall institute proceedings or consent to proceedings requesting relief or arrangement under the Federal Bankruptcy Code or any similar or applicable federal or state law; or if a petition under any federal or state bankruptcy or insolvency law is filed against the Contractor and such petition is not dismissed within sixty (60) days from the date of said filing; or if the Contractor admits in writing, his inability to pay his debts generally as they become due, or if it makes a general assignment for the benefit of his creditors, or if a receiver, liquidator, trustee or assignee is appointed on account of his bankruptcy or insolvency; or if a receiver of all or any substantial portion of the Contractor's properties is appointed;
- .2 abandons the Work; or if he fails, except in cases for which an extension of time is provided, to prosecute promptly and diligently the Work or to supply enough properly skilled workmen or proper materials for the Work;
- .3 submits an Application for Payment, sworn statement, affidavit or document of any nature whatsoever which is intentionally falsified;
- .4 fails to make prompt payment to Subcontractors or for materials or labor or otherwise breaches its obligations under any subcontract with a Subcontractor; or if a materialman's lien or notice of lien is filed against any party of the Work or the site of the Project and not promptly bonded or insured over by the Contractor in a manner satisfactory to the Owner;
- .5 disregards any laws, statutes, ordinances, rules, regulations or orders of any governmental body or public or quasi-public authority having jurisdiction of the Work or the site of the Project;
- .6 otherwise violates any provision of the Contract Documents;

then the Owner, upon the occurrence of the events described in clauses .1 through .6 above, without prejudice to any right or remedy available to the Owner under the Contract Documents or at law or in equity may, after giving the Contractor and his surety under the Performance Bond and under the Labor and Material Payment Bond, if any, seven (7) days' written notice, terminate the employment of the Contractor and, in accordance with the Uniform Commercial Code, may enforce a Security Agreement by taking possession of and using all or any part of the Contractor's materials, equipment, supplies and other property of every kind used by the Contractor in the performance of the Work in the completion of the Work. If requested by the Owner, the Contractor shall remove any part or all of its equipment, machinery and supplies from the site of the Project within seven (7) days from the date of such request, and in the event of the Contractor's failure to do so, the Owner shall have the right to remove or store such equipment, machinery and supplies at the Contractor's expense. In case of such termination, the Contractor shall not be entitled to receive any further payment for Work performed pursuant to the Contract through the date of termination. The Owner's right to terminate the Contract pursuant to this Subparagraph 14.2.1 shall be in addition to and not in limitation of any rights or remedies existing hereunder or pursuant hereto or at law or in equity.

**§ 14.2.2** When any of the reasons described in Section 14.2.1 exist, 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 all costs to the Owner of completing the Work, then the Contractor shall be paid for all Work performed by the Contractor to the date of termination. If such costs to the Owner of completing the Work exceed such unpaid balance, the Contractor shall pay the difference to the Owner upon the Owner's demand. The costs to the Owner of completing the Work shall include, but not be limited to, the cost of any additional architectural, managerial and administrative services required thereby, any costs incurred in retaining another contractor or other subcontractors, any additional interest or fees which the Owner must pay by reason of a delay in completion of the Work, attorneys' fees and expenses and any other damage, costs and expenses the Owner may incur by reason of completing the Work. The amount, if any, to be paid to the Contractor shall be determined by

the Architect upon application, in the manner provided in Paragraph 9.4, and this obligation for payment shall survive the 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.

*(Paragraphs deleted)*

**§ 14.4 Termination by the Owner for Convenience**

**§ 14.4.1** Upon written notice to the Contractor and the Architect, the Owner may, without cause and without prejudice to any other right or remedy, elect to abandon the Work and terminate the Contract for its convenience. In such case, the Contractor shall be paid for all Work satisfactorily executed and any expense sustained in performing the Work prior to the effective date of termination, plus reasonable out of pocket termination expenses.

**§ 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.

*(Paragraph deleted)*

**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. The Architect will prepare Change Orders and issue Certificates for Payment in accordance with the decisions of the Initial Decision Maker. The Contractor shall continue to prosecute the Work and adhere to the approved Construction Schedule during all disputes or disagreements. No Work shall be delayed or postponed pending resolution of any disputes or disagreements.

§ 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.

*(Paragraphs deleted)*

**§ 15.2 Initial Decision**

§ 15.2.1 Decision of the Owner. 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, unless otherwise indicated in the Agreement. Except for those Claims excluded by this Section 15.2.1, a final decision by the Owner shall be required as a condition precedent to litigation of all Claims between the Contractor and the Owner. 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. Any claim by the Contractor for extension of time shall be evaluated only if the Contractor presents to the Architect and the Owner such claim within ten (10) days of the occurrence of the events on which the Contractor makes such claim. The Contractor's failure to present such claim within the stated time period shall be deemed a waiver of any such claim for extension of time based on those events.

§ 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. If there is a surety and there appears to be a possibility of a Contractor's default, the Initial Decision Maker may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

§ 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 but subject to litigation.

*(Paragraphs deleted)*

§ 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.

*(Paragraph deleted)*

### § 15.3 Mediation

§ 15.3.1 The parties may agree in writing to handle 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 through non-binding mediation in advance of pursuing legal remedies as outlined in Section 15.4.

§ 15.3.2 If the parties endeavor to resolve their Claims by mediation, they shall select a mediator mutually acceptable to both parties.

*(Paragraph deleted)*

§ 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 and Litigation.

§ 15.4.1 Binding arbitration shall not be an acceptable means of resolving claims, disputes and other matters and questions related to the Project. Any suit or legal action between Owner and Contractor related in any way to the Project shall be instituted and maintained in only the Circuit Court of Essex County, Virginia. Enforcement of the forum selection provision may be by any legal means necessary to secure compliance, including but not limited to injunctive relief. Should any suit or action be instituted and maintained other than in the Circuit Court of Essex County, Virginia, the breaching party shall pay all costs, expenses and damages, including attorneys' fees and professional fees, related to such breach.

*(Paragraphs deleted)*

## ARTICLE 16: CERTIFICATIONS

### § 16.1 Asbestos Free Certification

The Contractor shall provide an affidavit certifying that the building materials, equipment, or any other component used in this Project does not contain asbestos.

### § 16.2 Lead Free Certification

All new construction shall be free from lead-containing plumbing materials. The Contractor shall submit certification at the completion of the job that no lead-containing materials have been used in the plumbing in this Project.

## ARTICLE 17: WORKPLACE POLICIES

### § 17.1 Dress Code Policy

The Contractor shall ensure that attire is appropriate and does not interfere with the educational process or violate accepted safety standards.

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### **§ 17.2 Tobacco-Free Policy**

The Contractor shall ensure that no tobacco products are used in Owner buildings or on Owner grounds by at any time. Any Contractors or Subcontractors which do not enforce this tobacco-free policy may be declared in default of their contract.

### **§ 17.3 Drug-Free Workplace**

During the performance of this Contract, the Contractor agrees to (i) provide a drug-free workplace for the Contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the Contractor that the Contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order over \$10,000, so that the provisions will be binding upon each Subcontractor or vendor. "Drug-free workplace" means a site for the performance of work done in connection with a specific contract awarded to a contractor in accordance with the Virginia Public Procurement Act, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract.

### **§ 17.4 Sexual Harassment/Sexual Violence Policy**

The Contractor shall not engage in, permit or suffer sexual harassment/sexual violence on County grounds. The Contractor agrees that sexual harassment/sexual violence is a form of sex discrimination which violates Section 703 of Title VII of the Civil Rights Act of 1964, as amended.

The Contractor agrees that sexual harassment/sexual violence may include but is not limited to written and/or verbal harassment or abuse, indecent propositions, subtle pressure for sexual favors, unwelcome touching or sexual advances, indecent exposure, or inappropriate physical contact of a sexual nature which conduct substantially interferes with an employee's performance or creates an intimidating, hostile or offensive work environment.

### **§ 17.5 Identification Policy**

Contractor's and Subcontractor's employees shall wear identification badges at all times when on Owner property. The Contractor shall be responsible for ensuring that all employees are provided ID badges prior to entering site. The identification badges will include the employees' name and company they are employed with. If workers are from a Temporary Agency the company that requested the Temporary Agency employee will provide the identification badge.

### **§ 17.6 Contractor's Organizational Status**

To the extent the Contractor is organized as a stock or nonstock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership, the Contractor shall be authorized to transact business in the Commonwealth as a domestic or foreign business entity if so required by Title 13.1 or Title 50 of the Code of Virginia, 1950, as amended (the "Code"), or as otherwise required by law, and in which case the Contractor shall provide to the Owner the Contractor's identification number issued to it by the Virginia State Corporation Commission.

In any competitive sealed bidding or competitive negotiation in which the Contractor assists the Owner with the solicitation, the Contractor shall include in the solicitation a provision that requires a bidder or offeror organized or authorized to transact business in the Commonwealth pursuant to Title 13.1 or Title 50 of the Code to include in its bid or proposal the identification number issued to it by the Virginia State Corporation Commission, and that requires any bidder or offeror that is not required to be authorized to transact business in the Commonwealth as a foreign business entity under Title 13.1 or Title 50 of the Code or as otherwise required by law to include in its bid or proposal a statement describing why the bidder or offeror is not required to be so authorized.

Any bidder or offeror described in subsection 2 that fails to provide the required information shall not receive an award unless a waiver of this requirement and the administrative policies and procedures established to implement this section is granted by the Director of Virginia's Department of General Services or such Director's designee or by the chief executive of a local governing body.



The Contractor shall not allow its existence to lapse or its certificate of authority or registration to transact business in the Commonwealth, if so required under Title 13.1 or Title 50 of the Code, to be revoked or cancelled at any time during the term of the Contract.

The Owner may void this Contract and any other contract with the Contractor if the Contractor is a business entity and the Contractor fails to remain in compliance with the provisions of this section.

#### **§ 17.7 No Crimes Against Children Certification**

**§ 17.7.1** The Contractor acknowledges that the implementation of the Contract may present situations where the Contractor, the Contractor's employees and other persons providing services under this Contract may have direct contact with the Essex County Public Schools students. Therefore, the Contractor hereby certifies that the Contractor, the Contractor's employees and other persons that are providing services under this Contract who may have direct contact with students on school property during regular school hours or during school-sponsored activities have not been convicted of a violent felony set forth in the definition of barrier crime in subsection A of § 19.2-392.03 of the Code of Virginia; any offense involving the sexual molestation or physical or sexual abuse or rape of a child; or any crime of moral turpitude.

**§ 17.7.2** The Contractor understands that pursuant to Code of Virginia § 22.1-296.1 making a materially false statement regarding offenses which are required to be included in the certification referenced above is a Class 1 misdemeanor and upon conviction, the fact of such conviction shall be grounds for the revocation of the contract to provide such services and when relevant the revocation of any license required to provide such services. The Essex County Public Schools shall not be liable for materially false statements regarding the certifications required under this Contract. The Contractor shall execute and deliver to the Owner upon execution of the Contract Agreement the CERTIFICATION OF NO CRIMES AGAINST CHILDREN attached hereto as Exhibit 1.

# Additions and Deletions Report for AIA® Document A201® – 2017

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 19:33:17 ET on 01/26/2022.

## PAGE 1

Track Refurbishment, Essex High School  
833 High School Circle  
Tappahannock, VA 22560

...

*(Name, legal status and address)*

Essex County School Board  
P.O. Box 756  
106 N. Cross St.  
Tappahannock, VA 22560

...

Timmons Group  
1001 Boulders Parkway  
Suite 300  
North Chesterfield, VA 23225

## PAGE 10

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.~~ The Contract Documents shall include the bidding documents, including, but not limited to, the Invitation for Bids and the Bid Form.

...

§ 1.1.2.1 General Provisions: Nothing in any resulting Contract shall be construed as authority for either party to make commitments which will bind the other party beyond the scope of service contained herein. The Contract and the obligations of the Owner are contingent upon sufficient funding for the Project, and the Owner shall be bound under the Contract only to the extent that there are funds available to perform its obligations under the Contract.

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 obligations, including any subcontractor's and sub-subcontractor's work and material suppliers or any other entity for which the Contractor is responsible and whether on or off the site of the Project.

...

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, diagrams, and shop drawings.

...

The Initial Decision Maker is the person identified in the Agreement to render initial decisions on Claims in accordance with ~~Section 15.2~~ Section 15.2 and certify termination of the Agreement under Section 14.2.2. 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.

§ 1.1.9 The term "product" includes materials, systems and equipment.

§ 1.1.10 The term "provide" includes furnishing and installing a product, complete in place, operating, tested and approved.

§ 1.1.11 The term "building code" and the term "code" refer to regulations of governmental agencies having jurisdiction over the Project.

§ 1.1.12 The term "similar" means in its general sense and not necessarily identical.

§ 1.1.13 The terms "shown," "indicated," "detailed," "noted," "scheduled" and terms of similar import refer to requirements contained in the Contract Documents.

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§ 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.all. The Contract Documents shall be signed by the Owner and the Contractor and may be amended or modified only in writing signed by the Owner and the Contractor.

...

§ 1.2.4 The Drawings are not intended to be rigid in specific details where such details may be in conflict with recommendations of the manufacturer of the equipment actually provided. The Work includes making such modifications in the designs indicated or specified as may be required to cause all Work to conform to such recommendations.

§ 1.2.5 Equipment and materials specified herein shall be furnished complete with all features normally provided with such items, although all features of design and construction may not be specified in complete detail. Such features shall be subject to the approval of Architect and shall include all standard accessories and appurtenances normally provided or which are required for safe operation.

§ 1.2.6 Where references are made throughout the specifications to standards or specifications of trade associations, standards and testing organizations, or to the directions, recommendations or specifications of manufacturers, in all cases the latest approved printed copies of these items shall apply, and all Work shall be done in accordance therewith. Any variations or conflicts in the specifications and referenced standards, directions and specifications must be called to the Architect's attention before beginning the Work.

§ 1.4.1 Whenever in the Contract Documents the words "as approved," "as directed," "as required," "acceptable," "satisfactory," and words of like importance are used with reference to the Work or its performance, and without further qualification, it shall mean as approved, as directed, as required by the Architect and acceptable or satisfactory to the Architect.

§ 1.4.2 Should a conflict be found in the Contract Documents, the Architect shall interpret or construe the Contract Documents so as to secure the most substantial and complete performance of the Work.

§ 1.4.3 The general character of the detailed work is shown on the Drawings, but minor modifications may be made on the Shop Drawings or markups. Any details shall be worked out in relation to their location and their connection to other parts of the Work. Where details or conditions are indicated but started only, such details or conditions shall be continued throughout the courses or parts in which they occur and shall also apply to all other similar parts in the Work unless otherwise indicated or specifically noted.

§ 1.4.4 Portions of the Specifications have been written in the so-called "abbreviated" style of which such phrases as "the Contractor shall" or "shall be," etc., have been omitted, and similarly so with the notes on the drawings. Where the sense of the sentence or statement implies the inclusion of the above phrase, it shall be construed to be so included.

§ 1.5.1 The Architect and the Architect's consultants-consultants, unless otherwise designated in the contract between the Owner and Architect for this Project, 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.

§ 1.5.1.1 Any reports, studies, photographs, negatives, or other documents prepared by Contractor in the performance of its obligations under any resulting contract shall be remitted to the Owner by the Contractor upon completion, termination or cancellation of this Contract. Contractor shall not use, willingly allow or cause to have such materials used for any purpose other than performance of Contractor's obligations under this Contract without the prior written consent of the Owner. The Owner shall own the intellectual property rights to all materials produced under this Contract.

...

§ 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. All requests, notices and other communications required or permitted to be given under this Contract shall be in writing and delivery thereof shall be deemed to have been made when such notice shall have been either (a) duly mailed by first-class mail, postage prepaid, return receipt requested, or any comparable or superior postal or air courier service then in effect, or (b) transmitted by hand delivery, telegram, telex, telecopier or facsimile transmission, to the party entitled to receive the same at the address indicated below or at such other address as such party shall have specified by written notice to the other party. Notices to the Owner shall be sent to:

\_\_\_\_\_  
Dr. Harry Thomas  
\_\_\_\_\_  
Division Superintendent  
\_\_\_\_\_  
Essex County Public Schools  
\_\_\_\_\_  
P.O. Box 756  
\_\_\_\_\_  
109 N. Cross St  
\_\_\_\_\_  
Tappahannock, VA 22560

\_\_\_\_\_  
And  
\_\_\_\_\_  
Bradford A. King, Esq.  
\_\_\_\_\_  
School Board Attorney  
\_\_\_\_\_  
Sands Anderson PC  
\_\_\_\_\_  
1111 E. Main Street, Suite 2400  
\_\_\_\_\_  
P.O. Box 1998  
\_\_\_\_\_  
Richmond, Virginia 23218-1998

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~~§ 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.~~

~~§ 2.2.1 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~~ Work, but only as authorized in Article 14 herein, 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~~ may be extended appropriately and the Contract Sum ~~shall~~ may 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.~~ but only by written amendment to this Agreement signed by the Owner.

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§ 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)~~ 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.

...

~~§ 2.3.4 The Owner shall furnish surveys describing Contractor shall be responsible to verify the accuracy of the site's 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 and bring to the attention of the Owner and Architect any discrepancies discovered that may affect 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. Failure of the Owner to notify the Contractor of necessary corrections or to stop Work shall not relieve the Contractor of any responsibilities or obligations of the Contract Documents.

**§ 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. Additional sets will be furnished at cost of reproduction, postage and handling.

...

**§ 2.4.1** In case of failure to deliver goods or services in accordance with the Contract terms and conditions, Owner, after due oral or written notice, may procure them from other sources and hold the Contractor responsible for any resulting additional purchase and administrative costs. This remedy shall be in addition to any other remedies which Owner may have.

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### **§ 2.6 Additional Rights**

The rights stated in Article 2 shall be in addition to and not in limitation of any other rights of the Owner granted in the Contract Documents or at law or in equity.

...

**§ 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. representative, but such designation shall not prevent the Owner or the Architect from relying on others who have apparent authority to act on behalf of the Contractor.

...

**§ 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.

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**§ 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~~ Contract, unless the Contract Documents give other specific instructions concerning these matters. 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 written 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.

...

§ 3.4.2.2 No substitution will be considered unless written request for approval has been submitted by the Contractor not later than 14 days after receipt of Notice to Proceed, and has been received by the Architect in accordance with the Contract Documents. Each such request shall include the name of the material or equipment for which it is to be substituted and a complete description of the proposed substitute including drawings, cuts, performance and test data and any other information necessary for an evaluation. A statement setting forth any changes in other materials, equipment or work that incorporation of the substitute would require shall be included. The burden of proof of the merit of the proposed substitute is upon the Contractor. The Owner's decision of approval or disapproval of a proposed substitution shall be final. Contractor assumes financial and other responsibility for all changes in the Work required as a result of a substitution requested by Contractor regardless of when such change is determined to be necessary. The Architect shall determine the necessity for such changes and such decision shall be final.

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§ 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 proximately 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.

...

§ 3.5.3 Except as otherwise specified for a longer period in the Contract Documents, all Work shall be guaranteed by the Contractor against defects resulting from the use of inferior materials, equipment or workmanship for two years from the date of Substantial Completion of the Work. Within this guarantee period, the Contractor shall further guarantee that all movable or adjustable Work shall remain in perfect working order, including (but not limited to) hardware, weather-strips, doors, windows, apparatus, machinery, electrical equipment and all other mechanical equipment, but the guarantee shall not apply to Work which has been abused or not maintained by the Owner or its successors in interest as instructed by the Contractor. At the end of the 23<sup>rd</sup> month from the commencement of the warranty period, the Contractor shall schedule a walk-through inspection with the Owner and Architect to identify any warranty items to be corrected under such warranty period. Nothing in this section shall relieve the Contractor from correcting defective work that did not comply with the Contract Documents. If any work is determined to be defective, the Contractor will be responsible to correct the work whenever the defect is discovered.

§ 3.5.4 The guarantee period for any system or systems on which required tests have not been successfully performed as of the Date of substantial completion for the Work, due to seasonal or other limitations, shall begin after the required tests have been successfully performed.

§ 3.5.5 Any goods or services furnished by the Contractor under the Contract shall be covered by the most favorable warranties provided by the Contractor to any customer; the rights and remedies hereby provided are in addition to any and do not limit those otherwise available to the Owner. The Contractor agrees that if such warranties are in any respect breached, the Contractor will pay to the Owner the full Contract price agreed to by the Owner to be paid for the supplies, materials, equipment or services furnished under the bid or proposal.

...

§ 3.6.1 The Contractor shall pay all County, City, State and Federal taxes required by law resulting from the Work or traceable thereto, under whatever name levied. Said taxes shall not be in addition to the Contract Price between Owner and Contractor, as the taxes shall be an obligation of the Contractor and not the Owner, and the Owner shall be held harmless for same by the Contractor.

~~§ 3.7.1 Unless otherwise provided in the Contract Documents, the~~ 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 all applicable permits, governmental fees and licenses necessary for the 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. Work, including but not limited to erosion control bonds and land disturbance permits.

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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. If the Contractor performs Work that he knows or should know to be contrary to laws, statutes, ordinances, building codes, and rules and regulations without notice to the Architect and Owner, the Contractor shall assume full responsibility for such Work and shall bear the costs of conforming the Work to such laws, statutes, ordinances, building codes, rules and regulations.

...

- .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;~~discounts.

...

**§ 3.9.2** The Contractor, as soon as practicable after award of the Contract, shall ~~notify~~ furnish in writing 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.

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**§ 3.10.4** The Contractor's construction schedules shall be submitted by the Contractor to the Architect in a timely manner on a form approved by the Architect for review and approval by the Owner before the Pre-Construction Conference. Such schedules shall be furnished showing completed Work at the end of each month in respect to the entire Project. The form, properly filled out, shall indicate percentage of Work completed each month, and shall be submitted with the monthly Application for Payment to the Architect. In addition to Work completed on the site, the form (or an attached letter) shall indicate the status of work off-site.

**§ 3.10.4.1** The Contractor shall submit to the Owner and the Architect, the Contractor's Construction Schedule in electronic and hard copy form before submission of the first application for payment. The Contractor's Construction Schedule shall be subject to acceptance by the Owner and the Architect as providing an orderly progression of the Work to completion with the specified milestones and the Contract time, but such acceptance shall neither impose on the Owner and the Architect responsibility for the progress or scheduling of the Work, nor relieve the Contractor from full responsibility, therefore. The Contractor's Construction Schedule shall provide an orderly progression of the Work to complete within the specified milestones and the Contract time. The Contractor's Construction Schedule shall be prepared in a critical path method (CPM) network format and shall have the critical path clearly indicated. The Architect or its consultant shall provide the Contractor with the results of the schedule review. The Contractor shall revise as necessary, and resubmit to the Owner and the Architect, the Construction Schedule. No progress payments shall be processed or paid until the Contractor's Construction Schedule has been properly prepared and submitted by the Contractor.



§ 3.10.4.2 The Work shall be executed at such a rate as will assure meeting the specified Substantial Completion date(s) within the time/dates provided in the specifications. By execution of the Contract, the Contractor represents it has analyzed the Work, the materials and methods involved, the systems of building, availability of qualified labor, restrictions of the site, constraints imposed, workload and capacity to perform the Work, and agrees that the specified times are reasonable considering the existing conditions prevailing in the locality of the Work, including weather conditions, and other factors, with reasonable allowance for variations from average or ideal conditions.

§ 3.10.4.3 The Substantial Completion date(s) provided are considered essential to the satisfactory performance of this Contract and to the coordination of all Work on the Project. The Owner reserves the right to require the Contractor to prosecute the Work in accordance with the Contractor's Construction Schedule and satisfactorily complete the Work by the Substantial Completion date. The Contractor is responsible to provide the operations, manpower, resources, materials, and all items and work necessary to complete the Work and meet the Substantial Completion and Final Completion dates provided. The Contractor understands and agrees that: the Substantial Completion, Final Completion, actual start and completion dates, rate of progress, and coordination are essential conditions of this Project. It is understood and agreed that **TIME IS OF THE ESSENCE** and the Contractor agrees to diligently follow and adhere to the Schedule with due diligence so as to execute the Work within the Substantial Completion and Final Completion dates and time frames stipulated in the Contract Documents. The Contractor shall, at no additional cost to the Owner, take all necessary steps, including overtime, double shifts, weekends, and holiday work to complete this Work and meet the Substantial Completion and Final Completion dates stipulated in the Contract Documents.

§ 3.10.5 Should any of the following conditions exist, the Contractor shall, at no extra cost to the Owner, prepare a Short-Term Recovery Schedule to describe in detail how he will regain compliance with the originally approved Contractor's construction schedule:

- a. If the Work is ten days behind the approved Schedule.
- b. If the Contractor proposes a change in the approved Schedule.

Until such Recovery Schedule is approved, the Architect may decline to certify payment in accordance with Article 9.5.1 of the General Conditions

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§ 3.12.5.1 All copies of shop drawings submitted for approval shall bear the following statement: "Checked and certified correct for conformance with Contract Documents." This statement shall be dated and signed by the General Contractor and shall appear on each submittal. Any submittal without the aforementioned statement shall be returned with no action taken. One copy of each approved submittal shall be kept at job site at all times.

§ 3.12.5.2 The Contractor shall be responsible for the satisfactory construction of all Work in accordance with the quantities, dimensions, and designs shown in the Contract documents and the furnishing of all materials necessary for the Work and required by the Contract Documents even if not indicated on the submittals that have been approved by the Architect

#### PAGE 21

§ 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~~ adequacy, accuracy and completeness 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.

...

§ 3.13.1 Unless otherwise indicated on the drawings or as directed by the Owner, the property lines shall be the limits of construction and all Work shall be confined therein, including the storage of materials and equipment at the site.

§ 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. Only appropriate, qualified Subcontractors and skilled tradesmen shall do the Work.

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§ 3.14.3 No alteration of structural members shall be done without the prior approval of the Architect of the specific nature, size and location of such alteration. Approval to alter structural members shall not be construed to affect the Contractor's responsibility for the adequacy of the strength of such members providing such alteration be performed in accordance with the Architect's approval.

§ 3.14.4 If new or existing structures, facilities, utilities, streets, curbs, walks, or other items that may not be on-site but are part of the Work are damaged or removed through the execution of the Work they shall be repaired, replaced, or made good by the Contractor to the satisfaction of the Owner, the Architect, utility, or authority of the damaged or removed Work. If the utility or authority requires that the repairs or replacement be performed by their own labor and/or with their own materials the Contractor shall pay the utility or authority for such Work.

...

§ 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, cost thereof shall be charged to the Contractor and may be deducted from funds paid to the Contractor, or the Contractor shall pay the amount due within ten (10) days of the date of any statement of the amounts due.

...

The Contractor shall at all times and without limitation provide the Owner and Architect with access to the Work in preparation and progress wherever located.

...

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 thereof. If the Contractor has reason to believe that any required design, process or product is an infringement of a patent, the Contractor shall not be responsible for any such loss if such information is promptly furnished to the Architect and the Owner in writing.~~

...

§ 3.18.1 To the fullest extent permitted by law, the Contractor shall indemnify, defend 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, materialman, supplier anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, as contemplated by subparagraph 3.3.2, 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. The requirements of this Paragraph shall be incorporated into the Contractor's insurance policies in a manner approved by the Owner.

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§ 3.18.3 The Contractor shall reimburse the Owner for all costs and expenses, including without limitation, attorney's fees and costs, incurred by the Owner in enforcing any rights of the Owner under the Contract Documents.

### § 3.19 Contractor's Representations

§ 3.19.1 By entering into this Contract with the Owner, the Contractor represents and warrants the following, together with all other representations and warranties in the Contract Documents:

- .1 That it is experienced in and competent to perform the type of work required and to furnish the plant, materials, supplies or equipment to be so performed or furnished by it;
- .2 That it is financially solvent, able to pay its debts as they mature, and possessed of sufficient working capital to initiate and complete the Work required under the Contract;
- .3 That it is familiar with all federal, state, county, municipal and department laws, ordinances, permits, regulations and resolutions which may in any way affect the Work or those employed therein, including but not limited to any special laws or regulations relating to the Work or any part thereof.
- .4 That such temporary and permanent Work required by the Contract Documents which is to be done by it will be satisfactorily constructed and fit for use for its intended purpose and that such construction will not injure any person, or damage any property;
- .5 That it has carefully examined the Contract Documents and the site of the Work and that from its own investigations, it has satisfied itself and made itself familiar with: (1) the nature and location of the Work; (2) the character, quality and quantity of surface and subsurface materials likely to be encountered, including, but not limited to, all structures and obstructions on or at the Project Site, both natural and man-made; (3) the character of equipment and other facilities needed for the performance of the Work; (4) the general and local conditions including without limitation its climatic conditions, the availability and cost of labor and the availability and cost of labor and the availability and cost of materials, tools and equipment; (5) the quality and quantity of all materials, supplies, tools, equipment, labor and professional services necessary to complete the Work in the manner required by the Contract Documents; and (6) all other matters or things which could in any manner affect the performance of the Work;
- .6 That it will fully comply with all requirements of the Contract Documents;
- .7 That it will perform the Work consistent with good workmanship, sound business practice, and in the most expeditious manner consistent with the best interests of the Owner;
- .8 That it will furnish efficient business administration and experienced superintendence and an adequate supply of workmen, equipment, tools and materials at all times;
- .9 That it has carefully reviewed the Work required and that the Work can be planned and executed in a normal and orderly sequence of work and reasonably scheduled so as to ensure completion of the

Project in accordance with the Contract Documents, allowing for normal and reasonably foreseeable weather, labor and other delays, interruptions and disruptions of the Work;

.10 That it will complete the Work within the Contract Time and all portions thereof within any required Contract deadlines;

.11 That its Contract price is based upon the labor, materials, systems and equipment required by the Contract Documents, without exception; and

.12 That it shall comply, and shall cause all subcontractors to comply, with all applicable federal, state, and local statutes, laws, rules, ordinances, orders, directives, permits and regulations, whether now existing or hereafter promulgated, of all governmental agencies, whether federal, state, or local and whether legislative judicial or executive (collectively "Applicable Laws" or "applicable laws") relating to Contract Documents and the performance of the Work, including but not limited to all Commonwealth of Virginia Employment Discrimination and Equal Opportunity laws and regulations and Commonwealth of Virginia Procurement and Hiring laws and regulations.

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§ 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, Owner~~ and Architect. Consent shall not be unreasonably withheld.

...

§ 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~~ Work, except as provided in Section 3.3.1.

...

~~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 Except as otherwise provided in the Contract documents or when direct communications have been specially authorized, the Owner and Contractor shall endeavor to communicate with each other through the Architect about matters arising out or relating to the Contract. 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-Contractors, subcontractors, and/or material suppliers shall be through the Owner. The Contract Documents may specify other communication protocols.~~

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**§ 4.2.7.1 ARCHITECT'S DISTRIBUTION AND STAMP:** Following the Architect's review of each Sample submission the Architect will return one (1) Sample of each set of Samples to the Contractor with the Architect's stamp and signature affixed thereto. Following the Architect's review of each Shop Drawing submission, the Architect will return the reviewed reproducible print or non-reproducible copies (when reproducibles are not required) to the Contractor with the Architect's stamp and signature affixed thereto, annotated as follows:

"APPROVED" means approved for construction, fabrication and/or manufacture, subject to the provision that the Work shall be in accordance with the requirements of the Contract. Final acceptance of the Work shall be contingent upon such compliance.

"APPROVED AS NOTED" means unless otherwise noted on the submittal, it is approved for construction, fabrication and/or manufacture, subject to the provision that the Work shall be carried out in compliance with all annotations and/or corrections indicated on the submittal and in accordance with the requirements of the Contract. Final acceptance of the Work shall be contingent upon such compliance. If also marked "RESUBMIT" approved as noted is valid, and a corrected submittal is required.

"DISAPPROVED / NOT APPROVED" means that major deviations from the requirements of the Contract exist in the submittal. No Work based on such submittal shall be constructed, fabricated, or manufactured. The Contractor shall revise the submittal in compliance with the Architect's annotations and pursuant to all requirements of the Contract and shall resubmit it to the Architect.

**§ 4.2.7.2** The Architect, following his review and with both the Contractor's and Architect's stamp and signature affixed, shall promptly send one (1) Sample of each set of Samples and two (2) copies of all other submissions to the Owner.

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**§ 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.

...

**§ 5.2.1** Unless otherwise stated in the Contract Documents, the Contractor, as soon as practicable after award of the Contract, shall notify in writing to 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 or Owner to provide notice within the 14-day period shall constitute notice of no reasonable objection. The Contractor understands and agrees that it alone is responsible to the Owner for all of the Work under this Contract and that any review of Subcontractors or suppliers will not in any way make the Owner responsible to, or for, the actions or failures of any Subcontractor or supplier. The Contractor and any of its Subcontractors or suppliers shall not contract with any proposed Subcontractor or supplier against which reasonable objection has been made under the provisions of this paragraph.

...

**§ 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 the Contract Time shall be allowed for such change unless (i) it is initiated as a result of the Owner's or Architect's objections, (ii) the Contractor has acted promptly and responsively in submitting names as required-required and (iii) the Contractor relied on a quotation from such person or entity to whom the Owner or Architect has objected in preparing its response to the Owner's Invitation to Bid and in establishing the Contract Sum and the Contract Time.

Also, no increase in the Contract Sum shall be allowed unless the Owner has approved the increased contract amount of the subcontract with the replacement Subcontractor prior to the Contractor's contracting with the replacement Subcontractor.

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§ 5.3.1 The Contractor will not be released from any part of his liabilities or obligations under its Contract should any Subcontractor fail to perform in a satisfactory manner the work undertaken by it.

§ 5.3.2 Nothing contained in the Contract shall be construed as creating any contractual relationship between any Subcontractor and Owner. The sections of the specifications do not control the Contractor in dividing the work among Subcontractors, or to limit the work performed by any trade.

§ 5.3.3 The Contractor shall be responsible to the Owner for acts and omissions of his own employees, and of Subcontractors and their employees. He shall also be responsible for the coordination of the work of the trades, Subcontractors and suppliers.

§ 5.3.4 The Architect will not undertake to settle any differences between or among the Contractor and his Subcontractors or suppliers.

§ 5.3.5 The Contractor shall, without additional expense to the Owner, employ specialty Subcontractors where required by the specifications. "Specialty Subcontractor," when specified as a requirement, means a Subcontractor regularly engaged in the manufacture or installation of the contract items. The specialty Subcontractor shall select and combine the materials involved and maintain and have available for the purpose workmen skilled in the specified work. The specialty Subcontractor shall be the manufacturer, be licensed by the manufacturer as an installer, or work under direct supervision of the manufacturer.

§ 5.3.6 All Work shall be performed by mechanics skilled in the trade.

§ 5.3.7 Pursuant to Section 2.2-4354 of the Virginia Code, the Contractor shall take one of the two following actions within seven (7) days after receipt of the amounts paid to the Contractor by the Owner for work performed by a Subcontractor under this Contract:

1. Pay the Subcontractor(s) for the proportionate share of the payment received for Work performed by the Subcontractor(s) under the Contract; or
2. Notify the Owner and the Subcontractor(s), in writing, of the Contractor's intention to withhold payment and the reason.

The Contractor is obligated to pay the Subcontractor(s) interest at the rate of one percent per month (unless otherwise provided under the terms of the Contract) on all amounts owed by the Contractor that remain unpaid seven (7) days following receipt of payment from the Owner, except for amounts withheld as stated above. The date of mailing of any payment by U.S. Mail is deemed to be payment to the addressee. These provisions apply to each sub tier contractor performing under the primary Contract. The Contractor's obligation to pay an interest charge to a Subcontractor may not be construed to be obligation of the Owner.

§ 5.3.8 The Contractor shall include in each of its subcontracts a provision requiring each Subcontractor to include or otherwise be subject to the same payment and interest requirements with respect to each lower-tier Subcontractor

§ 5.3.9 A Contract shall not be assignable by the Contractor in whole or in part without the written consent of the Owner.

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- .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~~; Contractor in writing; and

...

When the Owner accepts the assignment of a subcontract agreement, the Owner assumes the Contractor's rights and obligations ~~under the subcontract, under the subcontract, provided, however, that the Owner shall not be liable for any breach or default of the Contractor under such subcontract agreement, and the Contractor shall remain solely liable for any such breach or default.~~

~~§ 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~~ be released automatically from all of the successor contractor's obligations under the subcontract.

...

§ 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 to award separate contracts in connection with other portions of the Project or other construction or operations on the site under Conditions of the Contract identical or substantially similar to these including those portions related to insurance and waiver of subrogation. If the Contractor claims that delay or additional cost is involved because of such action by the Owner, the Contractor shall make such Claim as provided in Article 15.~~

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~~§ 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.~~

~~§ 6.2.6 If any other Contractor or its subcontractors or their material suppliers shall suffer loss or damage through acts of omissions on the part of the Contractor, any Subcontractor, and Sub-subcontractor or any material man of any of the foregoing, the Contractor agrees to reimburse such other Contractor or his Subcontractor or material supplier to the extent that they may be entitled to reimbursement. If such other Contractor or Subcontractor or his material supplier shall assert any claim against the Owner on account of any damage alleged to have been sustained, the Owner shall notify the Contractor and the Contractor shall indemnify and save the Owner harmless from and against loss, liability, claim, damage, fee, expense, including reasonable attorney's fees of any kind whatsoever arising out of or in any way connected with any such claim and Contractor shall defend at its own expense, with attorneys chosen by the Owner, any suit in connection with any such claim, and if a judgment shall be rendered against the Owner in connection with any such claim, Contractor shall pay or satisfy any such judgment or claim and shall pay all costs, fees, expenses, disbursements and liabilities of whatsoever kind in connection therewith.~~

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~~§ 7.1.4 Pursuant to Va. Code § 2.2-4309, the Contract Price for this Contract cannot be increased by more than twenty-five percent (25%) of the amount of the Contract or Fifty Thousand Dollars (\$50,000), whichever is less, without the advance written approval of the Owner.~~

...

~~§ 7.2.2 All Change Order proposed pricing shall be valid for a minimum of thirty (30) days.~~

§ 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, and may adjust the Contract Sum and Contract Time being adjusted accordingly.~~Time.~~

...

.5 ~~Costs~~ Additional costs of supervision and field office personnel directly attributable to the change.

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§ 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~~ as the Owner shall issue a Change Order.

...

§ 7.3.9 Pending final determination of the total cost of a Construction Change Directive to the Owner, the Contractor may NOT 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.~~ Contractor may only include the amounts of fully executed Change Orders in the Applications for Payment.

...

§ 8.1.3 The date of Substantial Completion is the date certified by the Architect in accordance with Section 9.8. As to all acts or failures to act occurring prior to the relevant Date of Substantial Completion, any applicable statute of limitations shall commence to run and any alleged cause of action shall be deemed to have accrued in any and all events as of such Date of Substantial Completion; as to all acts of failures to act occurring subsequent to the relevant Date of Substantial Completion, any applicable statute of limitations shall be deemed to have accrued in any and all events as of the date of issuance of the final Certificate for Payment.

...

§ 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.~~ Work and the Contractor is capable of properly completing the Work within the Contract Time.

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§ 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) or (4)~~ by other causes that the Contractor asserts, and the Architect determines, justify delay, then the Contract Time shall be extended by a change order for such reasonable time as the Architect may determine. Notwithstanding any other provisions to the contrary, any delay occasioned by the Contractor, Subcontractors, or Sub-subcontractors of the employees or agents of the same, shall not warrant an extension of the Contract Time.

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

~~§ 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.~~

§ 8.3.4 Any claim for extension of time based on delays caused by abnormal weather shall be substantiated by the following:

a. Record of "normal weather conditions" established from historical weather data determined from climatological data sheets obtained from U.S. Department of Commerce National Weather Service Station for the locality closest to the Project site for a five-year period preceding the date of the Contract. The



Contractor shall provide the Monthly NOAA data sheets for such locality, which indicate daily weather data; the annual summary data sheets, which do not include daily weather data, are not sufficient.  
b. Weather data from National Weather Service for the time period cited in the claim for extension.  
c. Copy of Superintendent's daily report for the time period cited in the claim for extension.  
d. Copy of the Contractor's construction schedule indicating critical major sequences of work.  
e. Documentation by the Contractor that abnormal weather conditions actually caused delay in Project completion. Precipitation level must be more than a "trace" for consideration as a basis of delay.

...

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

...

**§ 9.2.1** The Schedule of Values shall be submitted by the Contractor to the Architect in a timely manner for review and approval by the Owner prior to the Pre-Construction Conference.

**§ 9.3.1** At least ten fifteen (15) 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 Application for payment on AIA Document G702, Application and Certificate for Payment, complete including the Contractor's notarized signature and prepared for the Architect's signature. The Schedule of Values as specified in 9.2 shall be attached thereto with every column and total completed. The Contractor shall submit such supporting 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 as the Owner and Architect may require. There shall be a regularly scheduled meeting on site to review the Application for Payment at the end of each month. Five days prior to the meeting scheduled to review the Application for Payment, the Contractor shall transmit a DRAFT Application for Payment to the Architect, Engineer and the Owner. The Architect, Engineer and the Owner will review payment to the Contractor for work performed during the period from the 25th day of the preceding month to the 25th day of the present month, including materials for the Project suitably stored at the site of the Project. The review shall occur during the first site meeting after the 30th of the month. During the review of the Application for Payment the Owner and the Architect will discuss with the Contractor the suggested revisions to the Application for Payment. The Contractor shall incorporate the suggested revisions and submit the signed and notarized AIA Document G702 and G703 to the Architect for approval. Thirty (30) days after approval of the Application for Payment the Owner will make partial payment to the Contractor on the basis of the approved payment request for Work performed. The Owner will retain 5% of the amount of each such estimate until final completion and acceptance of all Work covered by this Contract.

**§ 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. Directives.

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**§ 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, shall 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. Notwithstanding any other language to the contrary contained in the Contract Documents, title to work completed passes by incorporation of the Work in the construction or by payment, whichever occurs first.

...

**§ 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 in writing by the Architect. The issuance of a Certificate for Payment will further constitute a representation that the Contractor is entitled to payment in the amount certified and that sufficient funds remain unpaid from the Contract Sum to complete the Work for which the Contractor or its Subcontractors have responsibility under the Contract Documents. 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.

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**§ 9.5.1** ~~The Architect may shall not certify payment and shall 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. part to the extent necessary to protect the Owner.~~ 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

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**§ 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. Payment otherwise due hereunder to the Contractor or any Subcontractor shall be withheld until the Contractor has furnished its federal employer identification number to the Owner and the Subcontractors have furnished their federal employer identification numbers to the Contractor and the Contractor has furnished the same to the Owner.~~

...

~~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.~~

**§ 9.7.1 Funding:** All funds for payments for Work under this Contract are subject to the availability of Essex County School Board appropriations for this purpose. Payments during subsequent fiscal periods are dependent upon the same action. The Contract and the obligations of the Owner are contingent upon sufficient funding of the Project, and the Owner shall be bound under the Contract only to the extent that there are funds available to perform its

obligations under the Contract. In the event of non-appropriation of funds to the Essex County School Board for the Work under this Contract, the Essex County School Board will terminate this Contract. Written notice will be provided to the Contractor as soon as possible after Essex County School Board action is completed.

§ 9.7.2 If the Owner is entitled to reimbursement or payment from the Contractor under or pursuant to the Contract Documents, such payment shall be made promptly upon demand by the Owner. Notwithstanding anything contained in the Contract Documents to the contrary, if the Contractor fails to promptly make any payment due the Owner, or if the Owner incurs any costs and expenses to cure any default of the Contractor or to correct defective Work, the Owner shall have an absolute right to offset such amount against the Contract Sum and may, in the Owner's sole discretion, elect either to (i) deduct an amount equal to that which the Owner is entitled from any payment then or thereafter due the Contractor from the Owner, or (ii) issue written notice to the Contractor reducing the Contract Sum by an amount equal to that which the Owner is entitled.

...

§ 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. Nothing herein shall authorize the Architect to extend the date for Final Completion of the Work except as authorized in Article 7.

§ 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. The payment shall not exceed an amount sufficient to increase the total payments to no more than 95% of the Contract Sum and shall be as recommended by the Architect and agreed to by the Owner and less such amounts as the Architect and Owner shall determine for all incomplete work and unsettled claims. The Contractor shall provide a letter from its bonding company consenting to any reduction in the retainage prior to approval of the payment.

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§ 9.10.1 Upon receipt of the Contractor's written 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~~, effect and will not be canceled or allowed to expire until at least 30 days' prior written notice has been given to the Owner, (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.~~

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- ~~.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; payment;~~  
~~or~~
- ~~.5 claims arising from facts or circumstances unknown to the Owner at the time final payment is made, such as (by way of example and not in limitation) premature failure of any of the Work as a result of defective materials or labor supplied by, or through, the Contractor.~~

~~§ 9.10.5 Acceptance of final payment by the Contractor, a Subcontractor, or a supplier, shall constitute a waiver of claims Contractor or Subcontractor or material supplier shall constitute a waiver and release of all Claims by that payee except those previously made in writing and identified by that pursued by the payee as required by the terms of the Contract Documents. Such Claims previously made must be identified by the payee as unsettled at the time of final Application for Payment. application for payment.~~

~~§ 9.10.6 Contractor's obligation to perform the Work and complete the Project in accordance with the Contract Documents shall be absolute. Neither approval of any progress or final payment nor the issuance of a certificate of Substantial Completion, nor any payment by Owner to Contractor under the Contract Documents, nor any use or occupancy of the Project or any part thereof by Owner, nor any act of acceptance by Owner, nor any failure to do so, nor the failure of Owner to file a Claim as set forth in the Contract Documents, nor any correction of defective Work by Owner, shall constitute an acceptance of Work not in accordance with the Contract Documents nor shall the same relieve the Contractor of responsibility for faulty materials or workmanship or operate to release the Contractor or his surety from any obligation under the Contract, the performance bond or the payment bond.~~

...

~~§ 10.1.1 All machinery, appliances, and equipment furnished under the Contract shall be protected by adequate safety procedures and devices as required by the rules and regulations governing safety, as adopted by the Safety Codes Commission of the Commonwealth of Virginia, issued by the Department of Labor and Industry under Title 40.1 of the Code of Virginia, 1950, as amended, and other applicable law, rules and regulations.~~

...

- ~~.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 of construction; and~~
- ~~.4 the Contractor's materials, tools, machinery, equipment, appliances, shoring, sheds and personal property of the Contractor's employees.~~

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**§ 10.2.2.1** The Contractor agrees in order that Work be executed with the greater degree of safety:

- .1 to comply with all laws, ordinances, and regulations regarding safety;
- .2 to comply as applicable with the "Rules and Regulations Governing Construction Demolition and All Excavations" as adopted by the Safety Codes Commission of the Commonwealth of Virginia;
- .3 to conform to all applicable provisions of the "Manual of Accident Prevention in Construction" published by the Association of General Contractor of America, Inc., latest edition; and
- .4 to comply with all applicable provisions of the "Occupational Safety and Health Act of 1970," as amended.

**§ 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. The Contractor shall at all times protect the construction site from damage caused by rainwater, ground water, and all other water. He shall provide enclosures and other equipment required to provide this protection. The Contractor shall provide all shoring, bracing, and sheathing required for safety and proper execution of the Work and shall have the same removed when Work is complete. All shoring, bracing, and sheathing shall be constructed in accordance with accepted engineering procedures and shall meet the requirements of all applicable federal, state and local regulations.

...

**§ 10.2.4.1** When the use or storage of explosives or other hazardous materials or equipment or unusual methods are necessary, the Contractor shall give the Owner and Architect reasonable advance notice.

**§ 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.

...

**~~§ 10.2.8 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.~~

**§ 10.3.1** 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~~condition in writing.

**§ 10.3.2** ~~Upon receipt of the Contractor's notice, the Owner shall obtain the services of a licensed laboratory to~~The Owner shall verify the presence or absence of the material or substance~~substances 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. ~~verify that it has been rendered harmless.~~ 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~~ The Contract Time shall be extended appropriately, and the Contract Sum shall be increased ~~by~~ in the amount of the Contractor's reasonable additional costs of ~~shutdown, delay, and start-up~~ shut-down, delay and start-up in accordance with Article 7.

**§ 10.3.3** ~~To the fullest~~ Only to the 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.

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~~§ 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.~~

...

**§ 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~~ located and which carry an A.M. Best's Rating of A (financial strength) and VII (size) or higher or otherwise acceptable to the Owner, such insurance as will protect the Contractor and the Owner from claims set for below which may arise out of or result from the Contractor's operations and completed operations under the Contract and for which the Contractor may be legally liable, whether such operations be by the Contractor or by a subcontractor or anyone directly or indirectly employed by any of them, or by anyone whose acts any of them may be liable:

- .1 Claims under workers' compensation, disability benefit and other similar employee benefit acts that are applicable to the Work to be performed.
- .2 Claims for damages because of bodily injury, occupational sickness or disease, or death of the Contractor's employees.
- .3 Claims for damages because of bodily injury, sickness or disease, or death of any person other than the Contractor's employees.
- .4 Claims for damages insured by usual personal injury liability coverage;
- .5 Claims for damages because of injury to or destruction of tangible property, including loss of use resulting therefrom;
- .6 Claims for damages because of bodily injury, death of a person or property damage arising out of ownership, maintenance or use of a motor vehicle;
- .7 Claims for bodily injury or property damage arising out of completed operations;
- .8 Claims involving contractual liability insurance applicable to the Contractor's obligations under Section 3.18;
- .9 All General Liability insurance certificates and policies shall designate the Owner as an additional (named – to be removed) insured; all insurance policies shall be communicated to the Owner via electronic transmission (email or on a disk) with paper ACORD Certificates of Insurance provided to and accepted by the Owner prior to the start of any work and renewed in accordance with the

insurance companies rules and guidelines with replacement policies and ACORD Certificates of insurance given to the Owner at least 30-days prior to the renewal date; all insurance policies shall have a 45-day notice of cancellation or non-renewal; and

- .10 The Contractor shall indemnify and hold harmless the Owner from any and all damages arising out of any failure to perform any part of the Work, including payment for all labor and materials purchased by the Contractor in fulfilling this Contract, by procuring bonds each in the amount of at least one hundred percent (100%) of the Contract Sum, with a surety company both authorized to transact business in the State of Virginia and satisfactory to the Owner. The surety company shall have an A.M. Best's rating minimum of A and VII.

Bonds shall be in the form of AIA Document A312-1984 which includes both a Performance Bond and a Payment Bond. The Performance and Payment Bonds shall each be in an amount at least equal to the Contract Sum as security for the faithful performance and payment of all Contractor's obligations under the Contract Documents. The bonds shall remain in full force during the Contract term and the Performance Bond shall remain in effect at least until two years after the date when final payment becomes due, except as provided otherwise by Laws or Regulations or by the Contract Documents.

§ 11.1.2 The insurance required by Section 11.1.1 shall be written for not less than limits of liability specified in the Contract Documents or required by law, whichever coverage is greater. Coverages, whether written on an occurrence or claims-made basis, shall be maintained without interruption from the date of commencement of the Work until the date of final payment and termination of any coverage required to be maintained after final payment, and, with respect to the Contractor's completed operations coverage, until the expiration of the period for correction of Work or for such other period for maintenance of completed operations coverage as specified in the Contract Documents. 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.

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§ 11.1.5 In accordance with the requirement of Section 11.1.1, Contractor shall provide Owner with proof of liability insurance with limits as follows, before beginning the Work:

(A) Worker's Compensation

(1) Virginia Statutory Limits

(2) Employer's Liability \$500/500/500,000 per accident.

(B) Commercial General Liability (including Riggers coverage), having limits of no less than \$1,000,000 Combined Single limit per occurrence and \$2,000,000 aggregate per project.

(C) Business Auto Liability (including owned, non-owned and hired vehicle, uninsured and underinsured motorist) \$1,000,000 Combined Single Limit per occurrence.

(D) Contractor's Pollution Liability, if applicable per the Owner, covering claims from third-party injury and property damage as a result of pollution conditions arising out of Contractor's operations and completed operations. Completed operations coverage shall remain in effect for no less than two (2) years after final completion.

\$1,000,000 Each Occurrence

\$2,000,000 Aggregate

(E) Excess Liability insurance Umbrella form policy with minimum limits of \$1,000,000 each occurrence and \$5,000,000 aggregate per policy year.

(F) The General Liability insurance issued shall designate the "School Board of Essex County, Virginia and its agents and representatives" as an additional insured for the Project only. ACORD form 25 with additional insured endorsements will be acceptable.

(G) The Contractor shall either (1) require each of its subcontractors to procure and maintain, during the life of its subcontract, subcontractor's Liability Insurance of the same type and in the same amounts as specified in this Article or (2) insure the activities of its subcontractors in its own policy.

**§ 11.1.6 The Commercial General Liability Policies.** The Commercial General Liability policies required by Section 11.1.5(B) shall be specifically endorsed to include Explosion, Collapse and Underground Damage coverage and Broad Form Property Damage coverage, including Completed Operations coverage.

**§ 11.1.7** Immediately upon obtaining the policies, the Contractor shall notify the Owner in writing that it has done so and shall provide the Owner with certificates of insurance, in a form acceptable to the Owner, giving the numbers of the policies and the limits thereon.

**§ 11.1.8** The Contractor shall maintain the policies for the duration of the Contract and shall maintain Completed Operations coverage for a period of two (2) years after completion of the Contract.

11.1.8.1 If the liability insurance purchased by the Contractor has been issued on a "claims made" basis, the Contractor must comply with the following additional conditions. The limits of liability and the extensions to be included as described previously in these provisions, remain the same.

The Contractor must either:

1. Agree to provide certificates of insurance evidencing the above coverage for a period of two (2) years after final payment for the Agreement for all policies. This certificate shall evidence a "retroactive date" no later than the beginning of the Contractor's work under this Agreement, or
2. Purchase the extended reporting period endorsement for the policy or policies in force during the term of this Agreement and evidence the purchase of this extended reporting period endorsement by means of a certificate of insurance or a copy of the endorsement itself.

**§ 11.1.9** Performance and Payment Bonds shall be delivered simultaneously with delivery of the executed Agreement.

**§ 11.1.10** The Builders Risk policy shall have a 45-day notice of cancellation or nonrenewal. Copies of the Builders Risk policy shall be communicated to the Owner via electronic transmission (email or on a disk) with paper ACORD Certificates of Insurance provided to and accepted by the Owner prior to the start of any work and renewed in accordance with the insurance companies rules and guidelines with replacement policies and ACORD Certificates of Insurance given to the Owner at least 30-days prior to the renewal date; all insurance policies shall have a 45-day notice of cancellation or nonrenewal; and

The "School Board of Essex County, Virginia and its agents and representatives" shall be included as an Additional Insured and the policy shall be so endorsed; and

The Contractor waives all rights against the Owner, its agents and employees for damages caused by fire and other direct damage perils, whether or not covered by insurance obtained pursuant to this Article 11 or any other Property Insurance applicable to the Work, except such rights as the Contractor may have to the proceeds of such insurance held by the Owner as Trustee. The Contractor shall require the Architect, separate contractors, subcontractors and sub-subcontractors to execute similar waivers in favor of the Owner.

**§ 11.1.11** The Owner and Contractor intend that any policies provided in response to the property insurance provisions shall protect all of the parties insured and provided primary coverage for all losses and damages caused by the perils covered thereby. Accordingly, all such policies shall contain provisions to the effect that, in the event of payment of any loss or damage, the insurer shall have no rights of recovery against any of the parties named as insureds or additional insureds.



§ 11.1.12 Certificates of insurance acceptable to the Owner shall be filed with the Owner prior to commencement of the Work and thereafter upon renewal or replacement of each required policy of insurance. These certificates and the insurance policies required by this Section 11.1 shall contain a provision that coverages afforded under the policies will not be canceled or allowed to expire until at least 45 days' prior written notice has been given to the Owner. An additional certificate evidencing continuation of liability coverage, including coverage for completed operations, shall be submitted with the final Application for Payment as required by Section 9.10.2 and thereafter upon renewal or replacement of such coverage until the expiration of the time required by Section 11.1.2. Information concerning reduction of coverage on account of revised limits or claims paid under the General Aggregate, or both, shall be furnished by the Contractor with reasonable promptness.

§ 11.1.13 The Contractor shall cause the commercial liability coverage required by the Contract Documents to include (1) the Owner, the Architect and the Architect's consultants as additional insureds for claims caused in whole or in part by the Contractor's negligent acts or omissions during the Contractor's operations; and (2) the Owner as an additional insured for claims caused in whole or in part by the Contractor's negligent acts or omissions during the Contractor's completed operations.

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**§ 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.~~

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§ 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. This provision shall also apply to surveys and tests as well as examinations of completed Work. In any case, costs shall include the cost of professional advice and services necessary to complete examinations, surveys, and texts.

...

The Contractor shall promptly correct Work rejected by the Architect or failing to conform to the requirements of the Contract Documents, whether 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.

§ 12.2.1.1 The guarantee period of any system or systems on which required tests have not been successfully completed on the date of acceptance of the Project by the Owner due to seasonal limitations, shall begin on the date of first use by the Owner, provided that the required tests are successfully performed during the guarantee period. Otherwise, the guarantee period shall begin when the required tests have been successfully completed.

...

§ 12.2.2.1 In addition to the Contractor's obligations under Section 3.5, if, within ~~one year~~ two years 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~~ two-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~~ two-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.

The Contract Documents and the relationship created thereby shall be subject to and 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, Commonwealth of Virginia, without regard to Virginia's conflicts of laws provisions.

§ 13.1.1 Employment discrimination by the Contractor is prohibited during the performance of this Contract as described in Section 2.2-4311, Chapter 7, Code of Virginia and subparagraph 3.7.2.1 of these Supplementary Conditions.

§ 13.1.2 Any failure of the Owner to demand rigid adherence to one or more of this Contract's provisions, on one or more occasions, shall not be construed as a waiver nor deprive the Owner of the right to insist upon strict compliance with the terms of this Contract. Any waiver of a term of this Contract, in whole or in part, must be in writing and signed by the party granting the waiver to be effective.

§ 13.1.3 The parties hereby submit to the personal jurisdiction and venue of any state or federal court located within the Commonwealth of Virginia for resolution of any and all claims, causes of action or disputes arising out of or related to this Contract and agree that service by registered mail to the addresses set forth shall constitute sufficient service of process for any such action. The parties further agree that any claims, causes of action or disputes arising out of, relating to or concerning this Contract shall have jurisdiction and venue only in the Circuit Court of Essex County, Virginia.

§ 13.1.5 If any provision of this Contract is held to be illegal, invalid, or unenforceable, or is found to be against public policy for any reasons, such provision shall be fully severable and this Contract shall be construed and enforced as if such illegal, invalid, or unenforceable provision had never been part of this Contract, and the remaining provisions of this Contract shall remain in full force and effect and shall not be affected by the illegal, invalid, or unenforceable provision, or by its severance from this Contract.

§ 13.4.7 Notices given to the Architect as required in paragraph 13.4.1 and 13.4.2 shall be given at least three (3) days in advance of the date of such tests and shall be confirmed to the Architect in writing.

§ 13.4.8 Owner's Right to Operate Equipment: When the required test of a system or systems has not been successfully completed at the time the Work under the Contract has otherwise been finally completed, the Contractor shall operate these services when required until the tests have been successfully completed or it shall have given the Owner the right to operate them.

...

**13.6 Certifications** The Contractor certifies that:

The bid or offer (1) was made without prior participation, understanding, agreement, or connection with any corporation, firm or person submitting a bid/offer for the same materials, supplies, equipment, or services with respect to the allocation of the business afforded by or resulting from the acceptance of the bid or proposal, (2) is in all respects fair and without collusion or fraud, and (3) is or is intended to be competitive and free from any collusion with any person, firm or corporation;

The Contractor has not offered or received any kickback from any other bidder or Contractor, supplier, manufacturer, or Subcontractor in connection with the bid/offer on this solicitation. A kickback is defined as an inducement for the award of a contract, subcontracts or order, in the form of any payment, loan, subscription, advance, deposit of money, services or anything, present or promised, unless consideration of substantially equal or greater value is exchanged. Further, no person shall demand or receive any payment, loan, subscription, advance, and deposit of money, services or anything of value in return for an agreement not to compete on a public contract;

The Contractor is not a party to nor has it participated in nor is obligated or otherwise bound by agreement, arrangement or other understanding with any person, firm or corporation relating to the exchange of information concerning bids, prices, terms or condition upon which the Contract resulting from the acceptance of his bid proposal is to be performed;

The Contractor understands that collusive bidding is a violation of the Virginia Governmental Frauds Act and federal Law, and can result in fines, prison sentences, and civil damage awards and agrees to abide by all conditions of this proposal; and

The Contractor or Subcontractor has not and will not confer on any public employee having official responsibility for a procurement transaction any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is exchanged.

### **13.7 AUDIT**

Contractor's records shall be open to inspection and subject to audit and/or reproduction, during normal working hours, by the Owner to the extent necessary to adequately permit evaluation and verification of any invoices, payments or claims submitted by Contractor or any of its payees pursuant to execution of the Contract. Such records subject to examination shall also include, but not be limited to, those records necessary to evaluate and verify direct and indirect costs (including overhead allocations) as they may apply to costs associated with this Contract.

For the purpose of such audits, inspections, examinations and evaluations, the Owner shall have access to said records from the effective date of this Contract, for the duration of the Work, and until five (5) years after the date of final payment by Owner to Contractor pursuant to this Contract.

Owner shall have access to Contractor's facilities, shall have access to all necessary records, and shall be provided adequate and appropriate workspace, in order to conduct audits in compliance with this article. Owner shall give Contractor reasonable advance notice of intended audits.

Contractor shall require all Subcontractors, insurance agents, and materials suppliers (payees) to comply with the provision of this article, by insertion of the requirements hereof in a written contract between Contractor and payee. Failure to obtain such written contracts which include such provisions shall be reason to exclude some or all of the related payees' costs from the amount payable to Contractor pursuant to this Contract.

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**§ 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, Work~~ under direct or indirect contact with the Contractor, 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; or
- .2 An act of government, such as a declaration of national emergency, that requires all Work to be ~~stopped;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.~~

§ 14.2.1 The Owner may terminate the Contract if the Contractor:

~~.1 shall institute proceedings or consent to proceedings requesting relief or arrangement under the Federal Bankruptcy Code or any similar or applicable federal or state law; or if a petition under any federal or state bankruptcy or insolvency law is filed against the Contractor and such petition is not dismissed within sixty (60) days from the date of said filing; or if the Contractor admits in writing, his inability to pay his debts generally as they become due, or if it makes a general assignment for the benefit of his creditors, or if a receiver, liquidator, trustee or assignee is appointed on account of his bankruptcy or insolvency; or if a receiver of all or any substantial portion of the Contractor's properties is appointed;~~

~~.1 repeatedly refuses or fails to supply enough properly skilled workers or proper materials; .2 abandons the Work; or if he fails, except in cases for which an extension of time is provided, to prosecute promptly and diligently the Work or to supply enough properly skilled workmen or proper materials for the Work;~~

~~.3 submits an Application for Payment, sworn statement, affidavit or document of any nature whatsoever which is intentionally falsified;~~

~~.2 fails to make payment to Subcontractors or suppliers in accordance with the respective agreements between the Contractor and the Subcontractors or suppliers; .4 fails to make prompt payment to Subcontractors or for materials or labor or otherwise breaches its obligations under any subcontract with a Subcontractor; or if a materialman's lien or notice of lien is filed against any party of the Work or the site of the Project and not promptly bonded or insured over by the Contractor in a manner satisfactory to the Owner;~~

~~.3 repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or .5 disregards any laws, statutes, ordinances, rules, regulations or orders of any governmental body or public or quasi-public authority having jurisdiction of the Work or the site of the Project;~~

~~.4 otherwise is guilty of substantial breach of a provision of the Contract Documents. .6 otherwise violates any provision of the Contract Documents;~~

~~then the Owner, upon the occurrence of the events described in clauses .1 through .6 above, without prejudice to any right or remedy available to the Owner under the Contract Documents or at law or in equity may, after giving the Contractor and his surety under the Performance Bond and under the Labor and Material Payment Bond, if any, seven (7) days' written notice, terminate the employment of the Contractor and, in accordance with the Uniform Commercial Code, may enforce a Security Agreement by taking possession of and using all or any part of the Contractor's materials, equipment, supplies and other property of every kind used by the Contractor in the performance of the Work in the completion of the Work. If requested by the Owner, the Contractor shall remove any part or all of its equipment, machinery and supplies from the site of the Project within seven (7) days from the date of such request, and in the event of the Contractor's failure to do so, the Owner shall have the right to remove or store such equipment, machinery and supplies at the Contractor's expense. In case of such termination, the Contractor shall not be entitled to receive any further payment for Work performed pursuant to the Contract through the date of termination. The Owner's right to terminate the Contract pursuant to this Subparagraph 14.2.1 shall be in addition to and not in limitation of any rights or remedies existing hereunder or pursuant hereto or at law or in equity.~~

§ 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:

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~~§ 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 all costs to the Owner of completing the Work, then the Contractor shall be paid for all Work performed by the Contractor to the date of termination. If such costs to the Owner of completing the Work exceed such unpaid balance, the Contractor shall pay the difference to the Owner. The amount to the Owner upon the Owner's demand. The costs to the Owner of completing the Work shall include, but not be limited to, the cost of any additional architectural, managerial and administrative services required thereby, any costs incurred in retaining another contractor or other subcontractors, any additional interest or fees which the Owner must pay by reason of a delay in completion of the Work, attorneys' fees and expenses and any other damage, costs and expenses the Owner may incur by reason of completing the Work. The amount, if any, to be paid to the Contractor or Owner, as the case may be, shall be certified by the Initial Decision Maker, upon application, shall be determined by the Architect upon application, in the manner provided in Paragraph 9.4, and this obligation for payment shall survive the termination of the Contract.~~

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~~§ 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.~~

~~§ 14.4.1~~ The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause. Upon written notice to the Contractor and the Architect, the Owner may, without cause and without prejudice to any other right or remedy, elect to abandon the Work and terminate the Contract for its convenience. In such case, the Contractor shall be paid for all Work satisfactorily executed and any expense sustained in performing the Work prior to the effective date of termination, plus reasonable out of pocket termination expenses.

...

~~§ 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.

...

~~§ 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. The Architect will prepare Change Orders and issue Certificates for Payment in accordance with the decisions of the Initial Decision Maker. The Contractor shall continue to prosecute the Work and adhere to the approved Construction Schedule during all disputes or disagreements. No Work shall be delayed or postponed pending resolution of any disputes or disagreements.

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#### ~~§ 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.

**§ 15.2.1 Decision of the Owner.** 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, decision,~~ unless otherwise indicated in the Agreement. Except for those Claims excluded by this Section 15.2.1, ~~an initial decision a final decision by the Owner 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.~~ litigation of all Claims between the Contractor and the Owner. 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. Any claim by the Contractor for extension of time shall be evaluated only if the Contractor presents to the Architect and the Owner such claim within ten (10) days of the occurrence of the events on which the Contractor makes such claim. The Contractor's failure to present such claim within the stated time period shall be deemed a waiver of any such claim for extension of time based on those events.

...

**§ 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. If there is a surety and there appears to be a possibility of a Contractor's default, the Initial Decision Maker may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

**§ 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 but subject to litigation.~~

**§ 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.

~~§ 15.2.8~~ 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.

~~§ 15.3.1~~ Claims. The parties may agree in writing to handle claims, disputes, or other matters in controversy arising out of or related to the Contract, ~~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. ~~15.1.7~~ through non-binding mediation in advance of pursuing legal remedies as outlined in Section 15.4.

~~§ 15.3.2~~ The parties shall If the parties 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. mediation, they shall select a mediator mutually acceptable to both parties.

~~§ 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.

#### § 15.4 Arbitration and Litigation.

~~§ 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. Binding arbitration shall not be an acceptable means of resolving claims, disputes and other matters and questions related to the Project. Any suit or legal action between Owner and Contractor related in any way to the Project shall be instituted and maintained in only the Circuit Court of Essex County, Virginia. Enforcement of the forum selection provision may be by any legal means necessary to secure compliance, including but not limited to injunctive relief. Should any suit or action be instituted and maintained other than in the Circuit Court of Essex County, Virginia, the breaching party shall pay all costs, expenses and damages, including attorneys' fees and professional fees, related to such breach.

~~§ 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.

**ARTICLE 16: CERTIFICATIONS**

**§ 16.1 Asbestos Free Certification**

The Contractor shall provide an affidavit certifying that the building materials, equipment, or any other component used in this Project does not contain asbestos.

**§ 16.2 Lead Free Certification**

All new construction shall be free from lead-containing plumbing materials. The Contractor shall submit certification at the completion of the job that no lead-containing materials have been used in the plumbing in this Project.

**ARTICLE 17: WORKPLACE POLICIES**

**§ 17.1 Dress Code Policy**

The Contractor shall ensure that attire is appropriate and does not interfere with the educational process or violate accepted safety standards.

**§ 17.2 Tobacco-Free Policy**

The Contractor shall ensure that no tobacco products are used in Owner buildings or on Owner grounds by at any time. Any Contractors or Subcontractors which do not enforce this tobacco-free policy may be declared in default of their contract.

**§ 17.3 Drug-Free Workplace**

During the performance of this Contract, the Contractor agrees to (i) provide a drug-free workplace for the Contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the Contractor that the Contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order over \$10,000, so that the provisions will be binding upon each Subcontractor or vendor. "Drug-free workplace" means a site for the performance of work done in connection with a specific contract awarded to a contractor in accordance with the Virginia Public Procurement Act, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract.

**§ 17.4 Sexual Harassment/Sexual Violence Policy**

The Contractor shall not engage in, permit or suffer sexual harassment/sexual violence on County grounds. The Contractor agrees that sexual harassment/sexual violence is a form of sex discrimination which violates Section 703 of Title VII of the Civil Rights Act of 1964, as amended.

The Contractor agrees that sexual harassment/sexual violence may include but is not limited to written and/or verbal harassment or abuse, indecent propositions, subtle pressure for sexual favors, unwelcome touching or sexual advances, indecent exposure, or inappropriate physical contact of a sexual nature which conduct substantially interferes with an employee's performance or creates an intimidating, hostile or offensive work environment.

#### **§ 17.5 Identification Policy**

Contractor's and Subcontractor's employees shall wear identification badges at all times when on Owner property. The Contractor shall be responsible for ensuring that all employees are provided ID badges prior to entering site. The identification badges will include the employees' name and company they are employed with. If workers are from a Temporary Agency the company that requested the Temporary Agency employee will provide the identification badge.

#### **§ 17.6 Contractor's Organizational Status**

To the extent the Contractor is organized as a stock or nonstock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership, the Contractor shall be authorized to transact business in the Commonwealth as a domestic or foreign business entity if so required by Title 13.1 or Title 50 of the Code of Virginia, 1950, as amended (the "Code"), or as otherwise required by law, and in which case the Contractor shall provide to the Owner the Contractor's identification number issued to it by the Virginia State Corporation Commission.

In any competitive sealed bidding or competitive negotiation in which the Contractor assists the Owner with the solicitation, the Contractor shall include in the solicitation a provision that requires a bidder or offeror organized or authorized to transact business in the Commonwealth pursuant to Title 13.1 or Title 50 of the Code to include in its bid or proposal the identification number issued to it by the Virginia State Corporation Commission, and that requires any bidder or offeror that is not required to be authorized to transact business in the Commonwealth as a foreign business entity under Title 13.1 or Title 50 of the Code or as otherwise required by law to include in its bid or proposal a statement describing why the bidder or offeror is not required to be so authorized.

Any bidder or offeror described in subsection 2 that fails to provide the required information shall not receive an award unless a waiver of this requirement and the administrative policies and procedures established to implement this section is granted by the Director of Virginia's Department of General Services or such Director's designee or by the chief executive of a local governing body.

The Contractor shall not allow its existence to lapse or its certificate of authority or registration to transact business in the Commonwealth, if so required under Title 13.1 or Title 50 of the Code, to be revoked or cancelled at any time during the term of the Contract.

The Owner may void this Contract and any other contract with the Contractor if the Contractor is a business entity and the Contractor fails to remain in compliance with the provisions of this section.

#### **§ 17.7 No Crimes Against Children Certification**

§ 17.7.1 The Contractor acknowledges that the implementation of the Contract may present situations where the Contractor, the Contractor's employees and other persons providing services under this Contract may have direct contact with the Essex County Public Schools students. Therefore, the Contractor hereby certifies that the Contractor, the Contractor's employees and other persons that are providing services under this Contract who may have direct contact with students on school property during regular school hours or during school-sponsored activities have not been convicted of a violent felony set forth in the definition of barrier crime in subsection A of § 19.2-392.03 of the Code of Virginia; any offense involving the sexual molestation or physical or sexual abuse or rape of a child; or any crime of moral turpitude.

§ 17.7.2 The Contractor understands that pursuant to Code of Virginia § 22.1-296.1 making a materially false statement regarding offenses which are required to be included in the certification referenced above is a Class 1 misdemeanor and upon conviction, the fact of such conviction shall be grounds for the revocation of the contract to provide such services and when relevant the revocation of any license required to provide such services. The Essex County Public Schools shall not be liable for materially false statements regarding the certifications required under

~~this Contract. The Contractor shall execute and deliver to the Owner upon execution of the Contract Agreement the CERTIFICATION OF NO CRIMES AGAINST CHILDREN attached hereto as Exhibit 1. § 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.~~

# 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    day of    in the year  
*(In words, indicate day, month and year.)*

**BETWEEN** the Owner:  
*(Name, legal status, address and other information)*

Essex County School Board  
P.O. Box 756  
109 N. Cross St.  
Tappahannock, VA 22560

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

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

Essex High School Track Refurbishment  
833 High School Circle  
Tappahannock, VA 22560

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

Timmons Group  
1001 Boulders Parkway  
Suite 300  
Richmond, VA 23225

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.

**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 TIME IS OF THE ESSENCE.** 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.)*

Init.

[ ] Not later than ( ) calendar days from the date of commencement of the Work.

[X] By the following date: July 22, 2022

§ 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 (\$ ), 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
------	-------

§ 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
------	-------	---------------------------

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

Item	Price
------	-------

§ 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.)

The Contractor, in preparing and submitting their bid, is required to take into consideration normal weather conditions. The Owner will not pay additional compensation to the Contractor because of adverse weather conditions; however, the Owner will consider an extension of time for abnormal weather as indicated in the A201 2017 Amended General Conditions.

The Contractor recognizes that time is of the essence and that the Owner will suffer financial loss if the Work is not completed by the Substantial Completion date required or as may be amended by the Contract Documents. Contractor recognizes the delays, expenses and damages that are involved in proving in a legal proceeding the actual loss that may be suffered by the Owner if the Work is not completed on time. Accordingly, the Owner and the Contractor agree, stipulate and fix as liquidated damages if delayed, but not as a penalty, the sum of \$1500.00 for each calendar day of

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delay, that the Contractor, together with the Contractor's surety shall pay the Owner for each calendar day or part thereof that expires after the date required or as may be amended by the Contract Documents for the Substantial Completion of the work.

**§ 4.6 Other:**

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

n/a

**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 day of a month, the Owner shall make payment of the amount certified to the Contractor not later than the day of the 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 ( ) 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, as amended for this Project, 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, as amended for this Project;
- .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, as amended for this project; and

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.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.)*

Five percent (5%)

**§ 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.)*

none

**§ 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.)*

Only per Owner approval in writing

**§ 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, as amended for this Project.

**§ 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, as amended for this Project, and to satisfy other requirements, if any, which extend beyond final payment;
- .2 a final Certificate for Payment has been issued by the Architect; and
3. all other terms of the Conditions of the Contract have been met.

**§ 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:

INDEBTEDNESS: Before final payment is made, the Contractor must submit evidence in the form of a final waiver of lien or claim to the Owner that all payrolls, materials bills, subcontracts and outstanding indebtedness in connection with the Work have been paid or what arrangements have been made for their payment.

Payment will be made without unnecessary delay and after receipt of such evidence as required above and final acceptance of the Work by the Owner

**§ 5.3 Interest**

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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.)

1 %

## 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, as amended for this Project 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.)*

Should disputes arise respecting the value of any work done, or any work omitted, or of any extra work which Contractor may be required to perform, or respecting any other elements involved in this Contract, the dispute shall be brought to the attention of the Owner, and Owner's decision shall be final and conclusive

### § 6.2 Binding Dispute Resolution

For any Claim subject to, but not resolved by, mediation pursuant to Article 15 of AIA Document A201–2017, as amended for this Project 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, refer to Article 15.4 of the AIA Document A201-2017, as amended for this Project.
- Other *(Specify)*

## 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, as amended for this Project.

§ 7.1.1 § 7.1.1 If the Contract is terminated for the Owner's convenience in accordance with Article 14 of AIA Document A201-2017, as amended for this Project, then the Owner shall pay the Contractor for all Work satisfactorily executed and any expense sustained in performing the Work prior to the effective date of termination, plus reasonable out of pocket termination expenses.

*(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, as amended for this Project.

## 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, including without limited, all amendments to the A201-2017 included in the Bidding Documents.

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§ 8.2 The Owner's representative:  
(Name, address, email address, and other information)

§ 8.3 The Contractor's representative:  
(Name, address, email address, and other information)

§ 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 A201-2017, as amended.

§ 8.5.2 The Contractor shall provide bonds as set forth in AIA Document A201-2017, as amended, 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.)*

§ 8.6.1 The Contractor shall provide prompt written notice to the Owner and Architect if the Contractor becomes aware of any defect(s) or suspected defect(s) in the Architect's professional services or Instruments of Service, so that the Architect may be afforded the opportunity to address such alleged defect(s). The Contractor shall include in any Sub-Contractor Agreements a similar notification requirement on the part of the Sub-Contractor. Failure by the Contractor to promptly notify the Owner and Architect in writing of the discovery or suspicion of such defect(s) of which the Contractor is aware shall relieve the Owner and Architect of liability for any damages caused by the defect(s) in excess of the damages that would have been incurred if the Contractor had given prompt notification to the Owner and Architect when such defect(s) were first discovered or suspected by the Contractor and the Architect had promptly corrected such defects.

§ 8.7 Other provisions:

Not applicable

**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

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- .3 AIA Document A201™–2017, General Conditions of the Contract for Construction, as amended for the Project

*(Insert the date of the E203-2013 incorporated into this Agreement.)*

- .5 Drawings

Number	Title	Date
--------	-------	------

- .6 Specifications

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

- .7 Addenda, if any:

Number	Date	Pages
--------	------	-------

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.

- .8 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.)*

NONE

- The Sustainability Plan:

Title	Date	Pages
NONE		

- 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.)*

IFB, dated February 1, 2022, inclusive of all forms noted in the IFB; Contractor’s Bid dated [date to be completed]

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

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**OWNER** *(Signature)*

---

**CONTRACTOR** *(Signature)*

---

*(Printed name and title)*

---

*(Printed name and title)*

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# Additions and Deletions Report for AIA® Document A101® – 2017

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 08:53:13 ET on 01/27/2022.

## PAGE 1

Essex County School Board  
P.O. Box 756  
109 N. Cross St.  
Tappahannock, VA 22560

...

Essex High School Track Refurbishment  
833 High School Circle  
Tappahannock, VA 22560

...

Timmons Group  
1001 Boulders Parkway  
Suite 300  
Richmond, VA 23225

## PAGE 2

A date set forth in a notice to proceed issued by the Owner.

...

**§ 3.3.1 TIME IS OF THE ESSENCE.** Subject to adjustments of the Contract Time as provided in the Contract Documents, the Contractor shall achieve Substantial Completion of the entire Work:

## PAGE 3

By the following date: July 22, 2022

...

The Contractor, in preparing and submitting their bid, is required to take into consideration normal weather conditions. The Owner will not pay additional compensation to the Contractor because of adverse weather conditions; however, the Owner will consider an extension of time for abnormal weather as indicated in the A201 2017 Amended General Conditions.

The Contractor recognizes that time is of the essence and that the Owner will suffer financial loss if the Work is not completed by the Substantial Completion date required or as may be amended by the Contract Documents. Contractor recognizes the delays, expenses and damages that are involved in proving in a legal proceeding the actual loss that may be suffered by the Owner if the Work is not completed on time. Accordingly, the Owner and the Contractor agree, stipulate and fix as liquidated damages if delayed, but not as a penalty, the sum of \$1500.00 for each calendar day of delay, that the Contractor, together with the Contractor's surety shall pay the Owner for each calendar day or part

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thereof that expires after the date required or as may be amended by the Contract Documents for the Substantial Completion of the work.

PAGE 4

n/a

...

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

...

- .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~~; A201–2017, as amended for this Project;

...

- .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~~; A201–2017, as amended for this project; and

PAGE 5

Five percent (5%)

...

none

...

Only per Owner approval in writing

...

§ 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~~; A201–2017, as amended for this Project.

...

- .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, as amended for this Project, 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~~; Architect; and
- .3 all other terms of the Conditions of the Contract have been met.

...

INDEBTEDNESS: Before final payment is made, the Contractor must submit evidence in the form of a final waiver of lien or claim to the Owner that all payrolls, materials bills, subcontracts and outstanding indebtedness in connection with the Work have been paid or what arrangements have been made for their payment.

Payment will be made without unnecessary delay and after receipt of such evidence as required above and final acceptance of the Work by the Owner

PAGE 6

1 %

...

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

...

Should disputes arise respecting the value of any work done, or any work omitted, or of any extra work which Contractor may be required to perform, or respecting any other elements involved in this Contract, the dispute shall be brought to the attention of the Owner, and Owner’s decision shall be final and conclusive

...

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

...

Litigation in a court of competent ~~jurisdiction~~jurisdiction, refer to Article 15.4 of the AIA Document A201-2017, as amended for this Project.

...

~~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.~~

...

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

~~§ 7.1.1~~ ~~§ 7.1.1~~ If the Contract is terminated for the Owner's convenience in accordance with Article 14 of AIA Document ~~A201–2017.~~A201–2017, as amended for this Project, then the Owner shall pay the Contractor a termination fee as follows: for all Work satisfactorily executed and any expense sustained in performing the Work prior to the effective date of termination, plus reasonable out of pocket termination expenses.

...

~~§ 7.2~~ The Work may be suspended by the Owner as provided in Article 14 of AIA Document ~~A201–2017.~~A201–2017, as amended for this Project.

...

~~§ 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, including without limited, all amendments to the A201-2017 included in the Bidding Documents.

PAGE 7

~~§ 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.~~A201–2017, as amended.

§ 8.5.2 The Contractor shall provide bonds as set forth in AIA Document A101™-2017 Exhibit A, A201-2017, as amended, and elsewhere in the Contract Documents.

...

§ 8.6.1 The Contractor shall provide prompt written notice to the Owner and Architect if the Contractor becomes aware of any defect(s) or suspected defect(s) in the Architect's professional services or Instruments of Service, so that the Architect may be afforded the opportunity to address such alleged defect(s). The Contractor shall include in any Sub-Contractor Agreements a similar notification requirement on the part of the Sub-Contractor. Failure by the Contractor to promptly notify the Owner and Architect in writing of the discovery or suspicion of such defect(s) of which the Contractor is aware shall relieve the Owner and Architect of liability for any damages caused by the defect(s) in excess of the damages that would have been incurred if the Contractor had given prompt notification to the Owner and Architect when such defect(s) were first discovered or suspected by the Contractor and the Architect had promptly corrected such defects.

...

Not applicable

...

- ~~.2~~ AIA Document A101™-2017, Exhibit A, Insurance and Bonds
- ~~.3~~ AIA Document A201™-2017, General Conditions of the Contract ~~for Construction~~ for Construction, as amended for the Project
- ~~.4~~ AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:

PAGE 8

NONE

...

NONE

...

IFB, dated February 1, 2022, inclusive of all forms noted in the IFB; Contractor's Bid dated [date to be completed]



 **AIA**® Document A312™ – 2010

**Performance Bond**

**CONTRACTOR:**  
*(Name, legal status and address)*

**SURETY:**  
*(Name, legal status and principal place of business)*

**OWNER:**  
*(Name, legal status and address)*

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.

**CONSTRUCTION CONTRACT**  
Date:

Amount:

Description:  
*(Name and location)*

**BOND**  
Date:  
*(Not earlier than Construction Contract Date)*

Amount:

Modifications to this Bond:  None  See Section 16

**CONTRACTOR AS PRINCIPAL**  
Company: *(Corporate Seal)*

**SURETY**  
Company: *(Corporate Seal)*

Signature: \_\_\_\_\_ Signature: \_\_\_\_\_  
Name Name  
and Title: and Title:  
*(Any additional signatures appear on the last page of this Performance Bond.)*

*(FOR INFORMATION ONLY — Name, address and telephone)*

**AGENT or BROKER:**

**OWNER'S REPRESENTATIVE:**  
*(Architect, Engineer or other party:)*

**§ 1** The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Owner for the performance of the Construction Contract, which is incorporated herein by reference.

**§ 2** If the Contractor performs the Construction Contract, the Surety and the Contractor shall have no obligation under this Bond, except when applicable to participate in a conference as provided in Section 3.

**§ 3** If there is no Owner Default under the Construction Contract, the Surety's obligation under this Bond shall arise after

- .1 the Owner first provides notice to the Contractor and the Surety that the Owner is considering declaring a Contractor Default. Such notice shall indicate whether the Owner is requesting a conference among the Owner, Contractor and Surety to discuss the Contractor's performance. If the Owner does not request a conference, the Surety may, within five (5) business days after receipt of the Owner's notice, request such a conference. If the Surety timely requests a conference, the Owner shall attend. Unless the Owner agrees otherwise, any conference requested under this Section 3.1 shall be held within ten (10) business days of the Surety's receipt of the Owner's notice. If the Owner, the Contractor and the Surety agree, the Contractor shall be allowed a reasonable time to perform the Construction Contract, but such an agreement shall not waive the Owner's right, if any, subsequently to declare a Contractor Default;
- .2 the Owner declares a Contractor Default, terminates the Construction Contract and notifies the Surety; and
- .3 the Owner has agreed to pay the Balance of the Contract Price in accordance with the terms of the Construction Contract to the Surety or to a contractor selected to perform the Construction Contract.

**§ 4** Failure on the part of the Owner to comply with the notice requirement in Section 3.1 shall not constitute a failure to comply with a condition precedent to the Surety's obligations, or release the Surety from its obligations, except to the extent the Surety demonstrates actual prejudice.

**§ 5** When the Owner has satisfied the conditions of Section 3, the Surety shall promptly and at the Surety's expense take one of the following actions:

**§ 5.1** Arrange for the Contractor, with the consent of the Owner, to perform and complete the Construction Contract;

**§ 5.2** Undertake to perform and complete the Construction Contract itself, through its agents or independent contractors;

**§ 5.3** Obtain bids or negotiated proposals from qualified contractors acceptable to the Owner for a contract for performance and completion of the Construction Contract, arrange for a contract to be prepared for execution by the Owner and a contractor selected with the Owner's concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Construction Contract, and pay to the Owner the amount of damages as described in Section 7 in excess of the Balance of the Contract Price incurred by the Owner as a result of the Contractor Default; or

**§ 5.4** Waive its right to perform and complete, arrange for completion, or obtain a new contractor and with reasonable promptness under the circumstances:

- .1 After investigation, determine the amount for which it may be liable to the Owner and, as soon as practicable after the amount is determined, make payment to the Owner; or
- .2 Deny liability in whole or in part and notify the Owner, citing the reasons for denial.

**§ 6** If the Surety does not proceed as provided in Section 5 with reasonable promptness, the Surety shall be deemed to be in default on this Bond seven days after receipt of an additional written notice from the Owner to the Surety demanding that the Surety perform its obligations under this Bond, and the Owner shall be entitled to enforce any remedy available to the Owner. If the Surety proceeds as provided in Section 5.4, and the Owner refuses the payment or the Surety has denied liability, in whole or in part, without further notice the Owner shall be entitled to enforce any remedy available to the Owner.

§ 7 If the Surety elects to act under Section 5.1, 5.2 or 5.3, then the responsibilities of the Surety to the Owner shall not be greater than those of the Contractor under the Construction Contract, and the responsibilities of the Owner to the Surety shall not be greater than those of the Owner under the Construction Contract. Subject to the commitment by the Owner to pay the Balance of the Contract Price, the Surety is obligated, without duplication, for

- .1 the responsibilities of the Contractor for correction of defective work and completion of the Construction Contract;
- .2 additional legal, design professional and delay costs resulting from the Contractor's Default, and resulting from the actions or failure to act of the Surety under Section 5; and
- .3 liquidated damages, or if no liquidated damages are specified in the Construction Contract, actual damages caused by delayed performance or non-performance of the Contractor.

§ 8 If the Surety elects to act under Section 5.1, 5.3 or 5.4, the Surety's liability is limited to the amount of this Bond.

§ 9 The Surety shall not be liable to the Owner or others for obligations of the Contractor that are unrelated to the Construction Contract, and the Balance of the Contract Price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than the Owner or its heirs, executors, administrators, successors and assigns.

§ 10 The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders and other obligations.

§ 11 Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the work or part of the work is located and shall be instituted within two years after a declaration of Contractor Default or within two years after the Contractor ceased working or within two years after the Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

§ 12 Notice to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears.

§ 13 When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, 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.

#### § 14 Definitions

§ 14.1 **Balance of the Contract Price.** The total amount payable by the Owner to the Contractor under the Construction Contract after all proper adjustments have been made, including allowance to the Contractor of any amounts received or to be received by the Owner in settlement of insurance or other claims for damages to which the Contractor is entitled, reduced by all valid and proper payments made to or on behalf of the Contractor under the Construction Contract.

§ 14.2 **Construction Contract.** The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and changes made to the agreement and the Contract Documents.

§ 14.3 **Contractor Default.** Failure of the Contractor, which has not been remedied or waived, to perform or otherwise to comply with a material term of the Construction Contract.

§ 14.4 **Owner Default.** Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.

§ 14.5 **Contract Documents.** All the documents that comprise the agreement between the Owner and Contractor.

§ 15 If this Bond is issued for an agreement between a Contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

§ 16 Modifications to this bond are as follows:

Sample

*(Space is provided below for additional signatures of added parties, other than those appearing on the cover page.)*

**CONTRACTOR AS PRINCIPAL**

**SURETY**

Company:

*(Corporate Seal)*

Company:

*(Corporate Seal)*

Signature: \_\_\_\_\_

Name and Title:

Address

Signature: \_\_\_\_\_

Name and Title:

Address

Init.

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**Payment Bond**

**CONTRACTOR:**  
*(Name, legal status and address)*

**SURETY:**  
*(Name, legal status and principal place of business)*

**OWNER:**  
*(Name, legal status and address)*

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.

**CONSTRUCTION CONTRACT**  
Date:

Amount:

Description:  
*(Name and location)*

**BOND**  
Date:  
*(Not earlier than Construction Contract Date)*

Amount:

Modifications to this Bond:  None  See Section 18

**CONTRACTOR AS PRINCIPAL**  
Company: *(Corporate Seal)*

**SURETY**  
Company: *(Corporate Seal)*

Signature: \_\_\_\_\_  
Name and Title:  
*(Any additional signatures appear on the last page of this Payment Bond.)*

Signature: \_\_\_\_\_  
Name and Title:

*(FOR INFORMATION ONLY — Name, address and telephone)*

**AGENT or BROKER:**

**OWNER'S REPRESENTATIVE:**  
*(Architect, Engineer or other party:)*

§ 1 The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Owner to pay for labor, materials and equipment furnished for use in the performance of the Construction Contract, which is incorporated herein by reference, subject to the following terms.

§ 2 If the Contractor promptly makes payment of all sums due to Claimants, and defends, indemnifies and holds harmless the Owner from claims, demands, liens or suits by any person or entity seeking payment for labor, materials or equipment furnished for use in the performance of the Construction Contract, then the Surety and the Contractor shall have no obligation under this Bond.

§ 3 If there is no Owner Default under the Construction Contract, the Surety's obligation to the Owner under this Bond shall arise after the Owner has promptly notified the Contractor and the Surety (at the address described in Section 13) of claims, demands, liens or suits against the Owner or the Owner's property by any person or entity seeking payment for labor, materials or equipment furnished for use in the performance of the Construction Contract and tendered defense of such claims, demands, liens or suits to the Contractor and the Surety.

§ 4 When the Owner has satisfied the conditions in Section 3, the Surety shall promptly and at the Surety's expense defend, indemnify and hold harmless the Owner against a duly tendered claim, demand, lien or suit.

§ 5 The Surety's obligations to a Claimant under this Bond shall arise after the following:

§ 5.1 Claimants, who do not have a direct contract with the Contractor,

- .1 have furnished a written notice of non-payment to the Contractor, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were, or equipment was, furnished or supplied or for whom the labor was done or performed, within ninety (90) days after having last performed labor or last furnished materials or equipment included in the Claim; and
- .2 have sent a Claim to the Surety (at the address described in Section 13).

§ 5.2 Claimants, who are employed by or have a direct contract with the Contractor, have sent a Claim to the Surety (at the address described in Section 13).

§ 6 If a notice of non-payment required by Section 5.1.1 is given by the Owner to the Contractor, that is sufficient to satisfy a Claimant's obligation to furnish a written notice of non-payment under Section 5.1.1.

§ 7 When a Claimant has satisfied the conditions of Sections 5.1 or 5.2, whichever is applicable, the Surety shall promptly and at the Surety's expense take the following actions:

§ 7.1 Send an answer to the Claimant, with a copy to the Owner, within sixty (60) days after receipt of the Claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed; and

§ 7.2 Pay or arrange for payment of any undisputed amounts.

§ 7.3 The Surety's failure to discharge its obligations under Section 7.1 or Section 7.2 shall not be deemed to constitute a waiver of defenses the Surety or Contractor may have or acquire as to a Claim, except as to undisputed amounts for which the Surety and Claimant have reached agreement. If, however, the Surety fails to discharge its obligations under Section 7.1 or Section 7.2, the Surety shall indemnify the Claimant for the reasonable attorney's fees the Claimant incurs thereafter to recover any sums found to be due and owing to the Claimant.

§ 8 The Surety's total obligation shall not exceed the amount of this Bond, plus the amount of reasonable attorney's fees provided under Section 7.3, and the amount of this Bond shall be credited for any payments made in good faith by the Surety.

§ 9 Amounts owed by the Owner to the Contractor under the Construction Contract shall be used for the performance of the Construction Contract and to satisfy claims, if any, under any construction performance bond. By the Contractor furnishing and the Owner accepting this Bond, they agree that all funds earned by the Contractor in the performance of the Construction Contract are dedicated to satisfy obligations of the Contractor and Surety under this Bond, subject to the Owner's priority to use the funds for the completion of the work.

§ 10 The Surety shall not be liable to the Owner, Claimants or others for obligations of the Contractor that are unrelated to the Construction Contract. The Owner shall not be liable for the payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligation to make payments to, or give notice on behalf of, Claimants or otherwise have any obligations to Claimants under this Bond.

§ 11 The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders and other obligations.

§ 12 No suit or action shall be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the state in which the project that is the subject of the Construction Contract is located or after the expiration of one year from the date (1) on which the Claimant sent a Claim to the Surety pursuant to Section 5.1.2 or 5.2, or (2) on which the last labor or service was performed by anyone or the last materials or equipment were furnished by anyone under the Construction Contract, whichever of (1) or (2) first occurs. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

§ 13 Notice and Claims to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears. Actual receipt of notice or Claims, however accomplished, shall be sufficient compliance as of the date received.

§ 14 When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, 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.

§ 15 Upon request by any person or entity appearing to be a potential beneficiary of this Bond, the Contractor and Owner shall promptly furnish a copy of this Bond or shall permit a copy to be made.

#### § 16 Definitions

§ 16.1 Claim. A written statement by the Claimant including at a minimum:

- .1 the name of the Claimant;
- .2 the name of the person for whom the labor was done, or materials or equipment furnished;
- .3 a copy of the agreement or purchase order pursuant to which labor, materials or equipment was furnished for use in the performance of the Construction Contract;
- .4 a brief description of the labor, materials or equipment furnished;
- .5 the date on which the Claimant last performed labor or last furnished materials or equipment for use in the performance of the Construction Contract;
- .6 the total amount earned by the Claimant for labor, materials or equipment furnished as of the date of the Claim;
- .7 the total amount of previous payments received by the Claimant; and
- .8 the total amount due and unpaid to the Claimant for labor, materials or equipment furnished as of the date of the Claim.

§ 16.2 Claimant. An individual or entity having a direct contract with the Contractor or with a subcontractor of the Contractor to furnish labor, materials or equipment for use in the performance of the Construction Contract. The term Claimant also includes any individual or entity that has rightfully asserted a claim under an applicable mechanic's lien or similar statute against the real property upon which the Project is located. The intent of this Bond shall be to include without limitation in the terms "labor, materials or equipment" that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental equipment used in the Construction Contract, architectural and engineering services required for performance of the work of the Contractor and the Contractor's subcontractors, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials or equipment were furnished.

§ 16.3 Construction Contract. The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and all changes made to the agreement and the Contract Documents.

§ 16.4 **Owner Default.** Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.

§ 16.5 **Contract Documents.** All the documents that comprise the agreement between the Owner and Contractor.

§ 17 If this Bond is issued for an agreement between a Contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

§ 18 Modifications to this bond are as follows:

Sample

*(Space is provided below for additional signatures of added parties, other than those appearing on the cover page.)*

**CONTRACTOR AS PRINCIPAL**

**SURETY**

Company:

*(Corporate Seal)*

Company:

*(Corporate Seal)*

Signature: \_\_\_\_\_

Name and Title: \_\_\_\_\_

Address \_\_\_\_\_

Signature: \_\_\_\_\_

Name and Title: \_\_\_\_\_

Address \_\_\_\_\_

Init.



Name and address of Contractor

Subcontractor and Material Supplier  
Affidavit for Partial Payment

Whereas, \_\_\_\_\_, Subcontractor, did enter into a contract with \_\_\_\_\_ (Name of Contractor), to make certain improvements and/or supply certain materials to the project described herein, and whereas, the undersigned has deposed under oath, and said he/she is an authorized representative of the Subcontractor and that Subcontractor has performed its contract through \_\_\_\_\_ (date of work) and that the following is true and correct.

Check Date: \_\_\_\_\_

The undersigned acknowledges having received payment of \$\_\_\_\_\_ (amount of Payment) from \_\_\_\_\_ (name of contractor) in payment (less retainage) of work performed for Materials, Equipment and/or Labor by the undersigned, delivered or furnished to or performed at \_\_\_\_\_ (name of Project).

The undersigned further says that all lienors contracting directly or indirectly employed by the Subcontractor on or in connection with said improvements, or under or in connection with said contract have been paid in full for all labor, materials and/or equipment on the project for which the Subcontractor has been previously paid by \_\_\_\_\_ (Name of contractor), including the payments received preceding the current request for payment. It is understood by the undersigned that this is a Waiver and Release of Lien, which the undersigned has against the property, premises and project described herein, to the extent of payment received to date.



\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Subcontractor

\_\_\_\_\_

By \_\_\_\_\_

\_\_\_\_\_  
Title

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SECTION 010200 — GENERAL SITEWORK REQUIREMENTS

PART 1 – GENERAL

1.1 RELATED DOCUMENTS

- A. The provisions of the Contract Documents apply to the work of this Section.

1.2 TRAFFIC

- A. Construction access shall be limited to one route as defined by Owner.

1.3 SUBMITTALS

- A. Site photographs of all existing features to be impacted by construction, including, but not limited to, curbing, sidewalks, lawn areas, light poles. Photographs shall be taken prior to the commencement of construction and shall represent the existing site conditions.
- B. For those submittals, close-out documents and O&M manuals requiring review by the Architect's consultants, Contractor shall ship such documents directly to the consultant, while sending a copy of the transmittal to the Architect.

1.4 CORRELATION OF CONSTRUCTION DOCUMENTS

- A. Review construction documents thoroughly prior to the start of construction.
- B. Report any conflict or discrepancy discovered in the Construction Documents to the Architect prior to the start of construction.
- C. Report any conflict or discrepancy discovered between the Construction Documents and state and local governmental regulations to the Architect prior to the start of construction.

1.5 PROJECT CONDITIONS

- A. The conditions existing at the time of inspection for bidding purposes will be maintained by the Owner to the extent practical. However, minor variations may occur due to the natural occurrences prior to the start of work.
- B. Call "Miss Utility" prior to the start of demolition work requiring excavation for assistance in the location of existing underground utilities.

PART 2 – PRODUCTS (Not Used)

PART 3 – EXECUTION

3.1 PROJECT CLEANUP

- A. Clean site as construction progresses. Do not allow trash or other waste materials to accumulate.
- B. Prior to requesting the punch-list inspection, clean the site to the following requirements:

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1. Power wash all walks and pavements.
2. The remainder of the site shall be broom clean.
3. Remove all trash and debris.

3.2 EXISTING FACILITIES

- A. Preserve existing signs, markers, guardrails and fences in their original condition unless written permission is obtained for their removal and replacement.
- B. Replace damaged items at no additional cost to the Contract.

END OF SECTION 010200

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SECTION 011000 — SUMMARY

PART 1 – GENERAL

1.1 RELATED DOCUMENTS

- A. Drawings and general provisions of the Contract, including General and Supplementary Conditions and other Division I Specification Sections, apply to this Section.

1.2 SUMMARY

- A. This Section includes the following:
  - 1. Work covered by the Contract Documents.
  - 2. Type of the Contract.
  - 3. Project Completion Schedule.
  - 4. Use of premises.
  - 5. Owner’s occupancy requirements.
  - 6. Work restrictions.

1.3 WORK COVERED BY CONTRACT DOCUMENTS

- A. Project Identification: Track Refurbishment —Essex High School, Architect’s Project Number 49566.
  - 1. Project Locations: 833 High School Circle, Tappahannock, VA 22560.
  - 2. Owner: Essex County Public Schools; Representative: Dr. Harry R. Thomas III
- B. Civil Engineer: Timmons Group of Richmond, Virginia; Steve Raugh
- C. This project consists of regrading the existing cinder track, installing storm drain system, pave 3” of asphalt (in 2 - 1.5” lifts), and installation of new rubberized track surface and lines. Includes high jump area, two runways, and two sand pits. All disturbed areas inside the track shall be re-sodded with like grass material. All disturbed areas outside the track shall be seeded and stabilized with straw matting until grass has matured.
- D. During the construction period, the Contractor will be responsible for the maintenance and proper operation of facilities which the Contractor alters, connects to, or damages as a result of project work.
- E. Use of Professional Seals on Bidding, Procurement, and Contract Documents: for the purposes of this paragraph, the term “Regulant” refers to the individual who signs and seals parts of the Contract Documents (e.g. the Drawings and Specifications). Certain information has been excerpted verbatim from a source or sources (e.g., UL Assemblies, SMACNA details, IBC code text) which was considered or used by Regulant in preparing parts of the Contract Documents, as follows:
  - 1. The excerpted information was neither prepared under the direct control nor personal

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supervision nor created by the Regulant, as it was prepared by the source and owner of the excerpted information.

2. For purposes of bidding, procuring, and performance of the Work, and in any event of conflicts or ambiguities between the excerpted information in the Contract Documents and the requirements of applicable codes and standards, provide the better quality or greater quantity of Work which, at a minimum, complies with the requirements of the applicable codes and standards.
3. Advise Architect immediately upon becoming aware of requirements of the Work which are not consistent with the requirements of the excerpted information.
4. Attribution is acknowledged for information obtained and included herein verbatim from other source or sources.
5. Regulant has taken into consideration and used certain excerpted information from other sources which are applicable to the Contract Documents, and the Regulant indicates by its seal that it is assuming responsibility for its services in use and application of the excerpted information to the requirements of Work, but not for the excerpted information itself which was prepared by others. Regulant does not indicate by its seal that it is responsible for use or application of other information in such source or sources which was not included herein.

1.4 TYPE OF CONTRACT

- A. This project will be constructed under a single prime contract.

1.5 PROJECT COMPLETION SCHEDULE AND WORK SEQUENCE

- A. Contractor shall provide the Owner with a schedule of work prior to commencing any construction.
- B. The Contractor shall not interfere with the operation of equipment and services in those areas of the facility where work is not scheduled and where the Owner, students, employees and others occupy the facility, facilities and/or site.
- C. Notice to Proceed will be issued by Owner on or before May 2, 2022. Construction activities cannot begin until this date.
- D. Construction Contract Project Substantial Completion and a Certificate of Occupancy shall be obtained by August 18, 2022.
- E. Final Complete shall be obtained by August 25, 2022.
- F. Contractor shall submit Certificates of Insurance to the Owner within 2 weeks of Notice of Award. Failure to submit Certificates of Insurance within this 2-week period will not be considered for extensions of Contract Time.

1.6 USE OF PREMISES

- A. Contractor Use of Premises and Partial Owner Occupancy: Contractor shall have limited use of the premises for construction operations. Owner will occupy the premises during entire construction period, with the exception of areas under construction. Cooperate with Owner during

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construction operations to minimize conflicts and facilitate Owner usage. Perform the Work so as not to interfere with Owner's operations.

1. Maintain access to existing walkways, corridors, and other adjacent occupied or used facilities.
2. Do not close or obstruct walkways, corridors, or other occupied or used facilities without written permission from Owner and authorities having jurisdiction.
3. Provide not less than 72 hours' notice to Owner of activities that will affect Owner's operations.

B. Use of cranes in vicinity of occupied school areas is not permitted during school hours.

1.7 OWNER'S OCCUPANCY REQUIREMENTS

- A. The Owner will occupy the site and all facilities located at the site during the entire period of construction. The Contractor shall cooperate fully with the Owner and any of his representatives during construction operations to minimize conflicts and to facilitate the Owner's usage of the facilities. The Contractor shall perform the work so as not to interfere with the Owner's usage, class schedules, and any other facility operations.

1.8 WORK RESTRICTIONS

- A. On-Site Work Hours are unrestricted.

1.9 EXAMINATION OF SITE

- A. Bidders are required to visit the site, compare the Drawings and specifications with existing conditions and inform themselves of all conditions. Failure to visit the site and examine the existing conditions in relation to the Work to be performed will in no way relieve the Contractor from necessity of furnishing any materials or performing any Work that may be required to complete Work in accordance with Drawings and specifications without any additional cost to the Owner. The Contractor will be responsible for demolition of all existing utilities and site elements necessary to provide finished product as indicated by the Contract Documents.
- B. The Contractor shall be responsible for locating, determining, and clearly identifying (marking) all existing underground utilities. The Contractor shall contact "Miss Utility" at 1-800-532-7001 prior to any digging work to identify and mark any underground utilities. The Contractor shall commission an independent utility locator to determine the exact location of all utilities before commencing Work and agree to be fully responsible for any and all damages which might be occasioned by the Contractor's failure to fully and exactly locate and preserve any and all underground utilities.
- C. Any relocations of existing utilities for the convenience of the Contractor shall be at no additional cost to the Owner.
- D. The Contractor shall not damage utilities. Damage caused to utilities by the Contractor shall be repaired and the facilities restored to their original conditions at no additional cost to the Owner.
- E. The Contractor shall be responsible for filing all requests with public utility corporations, jurisdictional agencies, or other Owners to make all adjustments to public utility fixtures.

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1.10 MISCELLANEOUS PROVISIONS

- A. Use, consumption, and/or possession of any controlled substance, substances consider to be illegal, and alcohol are strictly prohibited on school property.
- B. The entire school site, including construction areas, are no tobacco zones. Use of tobacco products and/or cigarette smoking are strictly prohibited on school property.
- C. Use or possession of weapons, firearms, or archery equipment of any types, including those intended for hunting, are strictly prohibited on school property.
- D. Use of vulgar, suggestive, or abusive language and/or gestures are strictly prohibited on school property.
- E. Contractor shall provide identity badges that must be visibly worn at all times by each construction worker while on school property.
- F. Contractor and construction workers shall not consult with school personnel regarding any issue of a construction nature, except in emergency situations and as necessary for safely scheduling school activities.
- G. Fraternalization between Contractor or construction workers and school staff or students is strictly prohibited on school property.
- H. Use of school restrooms is strictly prohibited.
- I. Use of, eating from, or dining in school cafeterias are strictly prohibited in an occupied school facility.
- J. Use of school dumpsters for construction debris and trash is strictly prohibited.
- K. Use of radios, stereos, compact disc players, and/or other noise producing equipment may be deemed unacceptable in occupied school facilities if they are disruptive to the educational environment.

1.11 ACBM MATERIALS AND CERTIFICATION

- A. All new materials provided by this Contract shall be free from all new asbestos-containing building materials. The Contractor shall submit certification at the completion of the Project that no asbestos-containing materials have been used in the construction.

1.12 LEAD-BASED PAINT MATERIALS AND CERTIFICATION

- A. The Work shall be free from all new lead-containing building materials. Contractor shall submit certification at the completion of the Project that the Project is free from all new lead-containing building materials.

PART 2 – PRODUCTS (Not Used)

PART 3 – EXECUTION (Not Used)

END OF SECTION 011000

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SECTION 01 2110 – SITEWORK ALLOWANCES

PART 1 - GENERAL

1.1 RELATED DOCUMENTS

- A. The provisions of the Contract Documents apply to the work of this Section.

1.2 SUMMARY

- A. This Section specifies administrative and procedural requirements regarding allowances associated with sitework.
- B. This Section includes the following unit price allowances:
  - 1. Additional Excavation

PART 2 – PRODUCTS (Not Applicable)

PART 3 - EXECUTION

3.1 SCHEDULE OF UNIT PRICE ALLOWANCES

- A. Additional Excavation
  - 1. Provide in the Base Bid an allowance of 200 c.y. for excavation of material, where authorized or directed, below or in addition to the levels required for the Work. Dispose of excavated material in a legal manner off-site. Backfill with imported structural fill material compacted per specifications. Credit or additions to the Contract Price for actual quantities removed and replaced (based on volume of material cut) shall be made per the Unit Prices contained in the Bid Form. Include in the unit price the cost of quantity verification by a Surveyor Licensed in the Commonwealth of Virginia.

3.2 ADMINISTRATION OF SITEWORK UNIT PRICE ALLOWANCES

- A. Unit Prices for each allowance shall be given on the Bid Form.
  - 1. The Owner reserves the right to negotiate said Unit Prices prior to the award of Contract.
- B. Allowances required by this Section shall be included in the Base Bid amount.
- C. Allowances required by this Section shall be indicated on the Schedule of Values and shall be determined by multiplying the quantity indicated by the unit price given on the Bid Form.
- D. Submit invoices or surveyor's certificate, as required, with pay requests that involve the Unit Price Allowances.



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E. Credit unused amount of Unit Price Allowance (if any) to Owner by Change Order at Project Closeout.

END OF SECTION 01 2110

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SECTION 012500 – SUBSTITUTION PROCEDURES

PART 1 – GENERAL

1.1 RELATED DOCUMENT

- A. Drawings and general provisions of the Contract, including General and Supplementary Conditions and other Division 1 Specification Sections, apply to this section.

1.2 DEFINITIONS

- A. Substitutions: Changes in products, materials, equipment, and methods of construction from those required by the Contract Documents and proposed by Contractor.
  - 1. Substitutions for Cause: Changes proposed by Contractor that are required due to changed Project conditions, such as unavailability of product, regulatory changes, or unavailability of required warranty terms.
  - 2. Substitutions for Convenience: Changes proposed by Contractor or Owner that are not required in order to meet other Project requirements but may offer advantage to Contractor or Owner.

1.3 SUBMITTALS

- A. Substitution Requests: Contractor shall use the PRE-BID QUESTION FORM for all substitutions to be considered. Requests shall be made in writing no later than 2:00 PM March 22, 2022 and responses will be provided by March 24, 2022. Requests shall be submitted to Owner and the A&E in writing.
  - 1. Failure to submit the form, or a fully completed form, shall result in the rejection of the proposed substitution; and the form shall also include:
    - a. Coordination information, including a list of changes or modifications needed to other parts of the Work and to construction performed by Owner and separate contractors, which will be necessary to accommodate proposed substitution.
    - b. Detailed comparison of significant qualities of proposed substitution with those of the Work specified. Include annotated copy of applicable specification section. Significant qualities may include attributes such as performance, weight, size, durability, visual effect, sustainable design characteristics, warranties, and specific features and requirements indicated. Indicate deviations, if any, from the work specified.
    - c. Product Data, including drawings and descriptions of products and fabrication and installation procedures.
    - d. Samples, where applicable or requested.
    - e. Certificates and qualification data, where applicable or requested.
    - f. List of similar installations for completed projects with project names and addresses and names and addresses of architects and owners.

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- g. Material test reports from a qualified testing agency indicating and interpreting test results for compliance with requirements indicated.
  - h. Detailed comparison of Contractor's construction schedule using proposed substitution with products specified for the Work, including effect on the overall Contract Time. If specified product or method of construction cannot be provided within the Contract Time, include letter from manufacturer, on manufacturer's letterhead, stating date of receipt of purchase order, lack of availability, or delays in delivery.
  - i. Cost information, including a proposal of change, if any, in the Contract Sum.
  - j. Contractor's certification that proposed substitution complies with requirements in the Contract Documents except as indicated in substitution request, is compatible with related materials, and is appropriate for applications indicated.
  - k. Contractor's waiver of rights to additional payment or time that may subsequently become necessary because of failure of proposed substitution to produce indicated results.
2. If the proposed substitution is found to be acceptable to the Architect, the request will be forwarded to the Owner for its approval.

#### 1.4 QUALITY ASSURANCE

- A. Compatibility of Substitutions: Investigate and document compatibility of proposed substitution with related products and materials. Engage qualified testing agency to perform compatibility tests recommended by manufacturers.

#### 1.5 PROCEDURES

- A. Coordination: Modify or adjust affected work as necessary to integrate work of the approved substitutions.

### PART 2 – PRODUCTS

#### 2.1 SUBSTITUTIONS

- A. Substitutions for Cause: Submit requests within the time period described above.
  - 1. Conditions: Architect will consider Contractor's request for substitution when all of the following conditions are satisfied. If all of the following conditions are not satisfied, Architect will return requests without action, except to record noncompliance with these requirements:
    - a. Requested substitution is consistent with the Contract Documents and will produce indicated results.
    - b. Substitution request is fully documented and properly submitted.
    - c. Requested substitution will not adversely affect Contractor's construction schedule.
    - d. Requested substitution has received necessary approvals of authorities having jurisdiction.

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- e. Requested substitution is compatible with other portions of the Work.
  - f. Requested substitution has been coordinated with other portions of the Work.
  - g. Requested substitution provides specified warranty.
  - h. If requested substitution involves more than one contractor, requested substitution has been coordinated with other portions of the Work, is uniform and consistent, is compatible with other products, and is acceptable to all contractors involved.
- B. Substitutions for Convenience: Submit requests within the time period described above.
- 1. Conditions: Architect will consider Contractor's requests for substitution when all of the following conditions are satisfied. If all of the following conditions are not satisfied, Architect will return requests without action, except to record noncompliance with these requirements:
    - a. Requested substitution offers Owner a substantial advantage in cost, time, energy conservation, or other considerations, after deducting additional responsibilities Owner must assume.
      - 1) Owners additional responsibilities may include compensation to Architect for redesign and evaluation services, increased cost of other construction by Owner, and similar considerations.
    - b. Requested substitution does not require extensive revisions to the Contract Documents.
    - c. Requested substitution is consistent with the Contract Documents and will produce indicated results.
    - d. Substitution request is fully documented and properly submitted.
    - e. Requested substitution will not adversely affect Contractor's construction schedule.
    - f. Requested substitution has received necessary approvals of authorities having jurisdiction.
    - g. Requested substitution is compatible with other portions of the Work.
    - h. Requested substitution has been coordinated with other portions of the Work.
    - i. Requested substitution provides specified warranty.
    - j. If requested substitution involves more than one contractor, requested substitution has been coordinated with other portions of the Work, is uniform and consistent, is compatible with other products, and is acceptable to all contractors involved.

PART 3 – EXECUTION (Not Used)

END OF SECTION 012500

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SECTION 012900 – PAYMENT PROCEDURES

PART 1 – GENERAL

1.1 RELATED DOCUMENTS

- A. Drawings and general provisions of the Contract, including General and Supplementary Conditions and other Division I Specification Sections, apply to this Section.

1.2 SUMMARY

- A. This Section specifies administrative and procedural requirements necessary to prepare and process Applications for Payment.
- B. Related Sections:
  - 1. Division 01 Section “Construction Progress Documentation” for administrative requirements governing preparation and submittal of Contractor’s construction schedule.
  - 2. Division 01 Section “Submittal Procedures” for administrative requirements governing the preparation and submittal of the submittal schedule.

1.3 SCHEDULE OF VALUES

- A. Coordination: Coordinate preparation of the values with preparation of Contractor’s construction schedule.
- B. Submit the schedule of values to Architect at earliest possible date but no later than seven days before the date scheduled for submittal of initial Applications for Payment.
- C. Format and Content: Use the Project Manual table of contents as a guide to establish line items for the schedule of values. Provide at least one line item for each Specification Section.
  - 1. Identification: Include the following Project identification on the schedule of values:
    - a. Project name and location.
    - b. Name of Architect.
    - c. Architect’s project number.
    - d. Contractor’s name and address.
    - e. Date of submittal.
  - 2. Arrange the schedule of values in tabular form with separate columns to indicate the following for each item listed:
    - a. Related Specification Section or Division.
    - b. Description of the Work.
    - c. Name of subcontractor.

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- d. Name of manufacturer or fabricator.
- e. Name of supplier.
- f. Change Orders (numbers) that affect value.
- g. Dollar value of the following, as a percentage of the Contract Sum to nearest one-hundredth percent, adjusted to total 100 percent.
  - 1) Labor.
  - 2) Materials.
  - 3) Equipment.
3. Provide a breakdown of the Contract Sum in enough detail to facilitate continued evaluation of Applications for Payment and progress reports. Coordinate with the Project Manual table of contents. Provide multiple line items for principal subcontract amounts in excess of five percent of Contract Sum or as appropriate.
4. Round amounts to nearest whole dollar; total shall equal the Contract Sum.
5. Provide separate line items in the schedule of values for initial cost of materials, for each subsequent stage of completion, and for total installed value of that part of the Work.
6. Each item in the schedule of values and Applications for Payment shall be complete. Include total cost and proportionate share of general overhead and profit for each item.
  - a. Temporary facilities and other major cost items that are not direct cost of actual work-in-place may be shown either as separate line items in the schedule of values or distributed as general overhead expense, at Contractor's option.
7. Schedule Updating: Update and resubmit the schedule of values before the next Applications for Payment when Change Orders or Construction Change Directives result in a change in the Contract Sum.

#### 1.4 APPLICATIONS FOR PAYMENT

- A. Each Application for Payment shall be consistent with previous applications and payments as certified by Architect and paid for by Owner.
- B. Payment Application Times: Contractor shall submit application for payment at regularly scheduled pay meetings as established at the Pre-Construction Conference. The period covered by each Application for Payment shall be clarified at the Pre-Construction Conference.
- C. Application for Payment Forms: Use AIA Document G702 and AIA Document G703 as form for Applications for Payment.
- D. Application Preparation: Complete every entry on form. Notarize and execute by a person authorized to sign legal documents on behalf of Contractor. Architect will return incomplete applications without action.
  1. Entries shall match data on the schedule of values and Contractor's construction schedule. Use updated schedules if revisions were made.
  2. Include amounts for work completed following previous Application for Payment, whether

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- or not payment has been received. Include only amounts for work completed at time of Application for Payment.
3. Include amounts of Change Orders and Construction Change Directives issued before last day of construction period covered by application.
  4. Indicate separate amounts for work being carried out under Owner-requested project acceleration.
- E. Stored Materials: No payment will be made for materials stored off-site.
- F. Transmittal: Submit three signed and notarized original copies of each Application for Payment to Architect by a method ensuring receipt within 24 hours. One copy shall include waivers of lien and similar attachments if required.
- G. Initial Application for Payment: Administrative actions and submittals that must precede or coincide with submittal of first Application for Payment include the following:
1. List of subcontractors.
  2. Schedule of values.
  3. Contractor's construction schedule (preliminary, if not final).
  4. Products list (preliminary, if not final).
  5. Submittal schedule (preliminary, if not final).
  6. List of Contractor's staff assignments.
  7. List of Contractor's principal consultants.
  8. Copies of authorizations and licenses from authorities having jurisdiction for performance of the Work.
  9. Initial progress report.
  10. Report of pre-construction conference.
  11. Certificates of insurance and insurance policies.
  12. Performance and payment bonds.
  13. Data needed to acquire Owner's insurance.
- H. Application for Payment at Substantial Completion: After issuing the Certificate of Substantial Completion, submit an Application for Payment showing 100 percent completion for portion of the Work claimed as substantially complete.
1. Include documentation supporting claim that the Work is substantially complete and a statement showing an accounting of the changes to the Contract Sum.
  2. This application shall reflect Certificates of Partial Substantial Completion issued previously for Owner occupancy of designated portions of the Work.
- I. Final Payment Application: Submit final Application for Payment with releases and supporting documentation not previously submitted and accepted, including, but not limited to, the following:

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1. Evidence of completion of Project closeout requirements.
2. Insurance certificates for products and completed operations where required and proof that taxes, fees, and similar obligations were paid.
3. Updated final statement, accounting for final changes to the Contract Sum.
4. AIA Document G706, "Contractor's Affidavit of Payment of Debts and Claims".
5. AIA Document G707, "Consent of Surety to Final Payment".
6. Evidence that claims have been settled.

PART 2 – PRODUCTS (Not Used)

PART 3 – EXECUTION (Not Used).

END OF SECTION 012900



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SECTION 013100 — PROJECT MANAGEMENT AND COORDINATION

PART 1 – GENERAL

1.1 RELATED DOCUMENTS

- A. Drawings and general provisions of the Contract, including General and Supplementary Conditions and other Division I Specification Sections, apply to this Section.

1.2 SUMMARY

- A. Section includes administrative provisions for coordinating construction operations on Project including, but not limited to, the following:
  - 1. General coordination procedures.
  - 2. Requests for Information (RFIs).
  - 3. Project meetings.
- B. Related Requirements:
  - 1. Section 013200 “Construction Progress Documentation” for preparing and submitting Contractor’s construction schedule.
  - 2. Section 017300 “Execution” for procedures for coordinating general installation and field-engineering services, including establishment of benchmarks and control points.
  - 3. Section 017700 “Closeout Procedures” for coordinating closeout of the Contract.

1.3 DEFINITIONS

- A. RFI: Request from Owner, Architect, or Contractor seeking information required by or clarifications of the Contract Documents.

1.4 INFORMATIONAL SUBMITTALS

- A. Subcontract List: Prepare a written summary identifying individuals or firms proposed for each portion of the Work, including those who are to furnish products or equipment fabricated to a special design. Include the following information in tabular form:
  - 1. Name, address, and telephone number of entity performing subcontract or supplying products.
  - 2. Number and title of related Specification Section(s) covered by subcontract.
  - 3. Drawing number and detail references, as appropriate, covered by subcontract.
- B. Key Personnel Names: Within 10 days of starting construction operations, submit a list of key personnel assignments, including superintendent and other personnel in attendance at Project site. Identify individuals and their duties and responsibilities; list addresses and telephone numbers, including home, office, and cellular telephone numbers and email addresses. Provide names, addresses, and telephone numbers of individuals assigned as alternates in the absence of

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individuals assigned to Project.

1.5 REQUESTS FOR INFORMATION (RFIs):

- A. General: Immediately on discovery of the need for additional information or interpretation of the Contract Documents, Contractor shall prepare and submit an RFI in the form specified.
1. Architect will return RFIs submitted to Architect by other entities controlled by Contractor with no response.
  2. Coordinate and submit RFIs in a prompt manner so as to avoid delays in Contractor's work or work of subcontractors.
- B. Content of the RFI: Include a detailed, legible description of item needing information or interpretation and the following:
1. Project name.
  2. Project number.
  3. Date.
  4. Name of Contractor.
  5. Name of Architect.
  6. RFI number, numbered sequentially.
  7. RFI subject.
  8. Specification Section number and title and related paragraphs, as appropriate.
  9. Drawing number and detail references, as appropriate.
  10. Field dimensions and conditions, as appropriate.
  11. Contractor's suggested resolution. If Contractor's suggested resolution impacts the Contract Time or the Contract Sum, Contractor shall state impact in the RFI.
  12. Contractor's signature.
  13. Attachments: Include sketches, descriptions, measurements, photos, Product Data, Shop Drawings, coordination drawings, and other information necessary to fully describe items needing interpretation.
    - a. Include dimensions, thicknesses, structural grid references, and details of affected materials, assemblies, and attachments on attached sketches.
  14. RFI forms: Software-generated form with substantially the same content as indicated above, acceptable to Architect.
  15. Attachments shall be electronic files in Adobe Acrobat PDF format.
- C. Architect's Action: Architect will review each RFI, determine action required, and respond. Allow seven working days for Architect's response for each RFI. RFI's received by Architect after 1:00 p.m. will be considered as received the following working day.
1. The following Contractor-generated RFI's will be returned without action:

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- a. Requests for approval of submittals.
  - b. Requests for approval of substitutions.
  - c. Requests for approval of Contractor's means and methods.
  - d. Requests for coordination information already indicated in the Contract Documents.
  - e. Requests for adjustments in the Contract Time or the Contract Sum.
  - f. Requests for interpretation of Architect's actions on submittals.
  - g. Incomplete RFIs or inaccurately prepared RFIs.
2. Architect's action may include a request for additional information, in which case Architect's time for response will date from time of receipt of additional information.
  3. Architect's action on RFIs that may result in a change to the Contract Time or the Contract Sum may be eligible for Contractor to submit Change Proposal according to conditions of the Contract.
    - a. If Contractor believes the RFI response warrants change in the Contract Time or the Contract Sum, notify Architect in writing within 10 days of receipt of the RFI response.
- D. RFI log: Prepare, maintain, and submit a tabular log of RFI organized by the RFI number. Submit log at intervals as established. Include the following:
1. Project name.
  2. Name and address of Contractor.
  3. Name and address of Architect.
  4. RFI number including RFIs that were returned without action or withdrawn.
  5. RFI description.
  6. Date the RFI was submitted.
  7. Date Architect's response was received.
- E. On receipt of Architect's action, update the RFI log and immediately distribute the RFI response to affected parties. Review response and notify Architect within seven days if Contractor disagrees with response.
1. Identification of related Minor Change in the Work, Construction Change Directive, and Proposal Request, as appropriate.
- 1.6 PROJECT MEETINGS
- A. General: Schedule and conduct meetings and conferences at Project site unless otherwise indicated.
1. Attendees: Inform participants and others involved, and individuals whose presence is required, of date and time of each meeting. Notify Owner and Architect of scheduled meeting dates and times.
  2. Agenda: The Architect will prepare the meeting agenda and distribute it to all invited

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attendees.

3. Minutes: The Architect will record significant discussions and agreements achieved. Within 7 days of the meeting the Architect will distribute the meeting minutes to the Owner, the Architect's consultants, and to the Contractor for distribution to his personnel and attending major subcontractors, manufacturers, suppliers and other concerned parties.
- B. Pre-construction Conference: Schedule a pre-construction conference before starting construction, at a time convenient to Owner and Architect, but no later than 15 days after execution of the Agreement. Hold the conference at Project site or another convenient location. The Architect shall conduct the meeting to review responsibilities and personnel assignments.
1. Conduct the conference to review responsibilities and personnel assignments.
  2. Attendees: Authorized representatives of Owner Architect, and their consultants; Contractor and its superintendent; major subcontractors; suppliers; and other concerned parties shall attend the conference. Participants at the conference shall be familiar with Project and authorized to conclude matters relating to the Work.
  3. Agenda: Discuss items of significance that could affect progress, including the following:
    - a. Tentative construction schedules.
    - b. Phasing.
    - c. Critical work sequencing and long-lead items.
    - d. Designation of key personnel and their duties.
    - e. Lines of communications.
    - f. Procedures for processing field decisions and Change Orders.
    - g. Procedures for RFIs.
    - h. Procedures for testing and inspecting.
    - i. Procedures for processing Applications for Payment.
    - j. Distribution of the Contract Documents.
    - k. Submittal procedures.
    - l. Preparation of record documents.
    - m. Use of the premises and existing building.
    - n. Work restrictions.
    - o. Working hours.
    - p. Owner's occupancy requirements.
    - q. Responsibility for temporary facilities and controls.
    - r. Procedures for disruption and shutdowns.
    - s. Construction waste management.
    - t. Parking availability.

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- u. Office, work, and storage areas.
  - v. Equipment deliveries and priorities.
  - w. First aid.
  - x. Security.
  - y. Progress cleaning.
4. Minutes: Architect will record and Contractor will distribute meeting minutes, as noted.

PART 2 – PRODUCTS (Not Used)

PART 3 – EXECUTION (Not Used)

END OF SECTION 013100

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SECTION 013200 — CONSTRUCTION PROGRESS DOCUMENTATION

PART 1 – GENERAL

1.1 RELATED DOCUMENTS

- A. Provisions of the Contract apply to this Section.

1.2 SUBMITTALS (for information only; no action will be taken by the Architect)

- A. Submittal Schedule: Submit three copies of schedule. Arrange the following information in a tabular format:
  - 1. Scheduled date for each submittal.
  - 2. Specification Section number and title.
  - 3. Submittal category (action or informational).
  - 4. Name of subcontractor.
  - 5. Description of the Work covered.
  - 6. Scheduled date for Architect's final release or approval.
- B. Contractor's Construction Schedule: Submit two opaque copies of initial schedule, large enough to show entire schedule for entire construction period.
- C. Daily Construction Reports: Submit two copies at monthly intervals.
- D. Field Condition Reports: Submit two copies at time of discovery of differing conditions.
- E. Special Reports: Submit two copies at time of unusual event.

1.3 COORDINATION

- A. Coordinate preparation and processing of schedules and reports with performance of construction activities and with scheduling and reporting of separate contractors.
- B. Coordinate Contractor's Construction Schedule with the Submittals Schedule, and other required schedules and reports.
  - 1. Secure time commitments for performing critical elements of the Work from parties involved.
  - 2. Coordinate each construction activity with other activities and schedule them in proper sequence.

PART 2 – PRODUCTS

2.1 SUBMITTAL SCHEDULE

- A. Preparation: Submit a schedule of submittals, arranged in chronological order by dates required by Contractor's Construction Schedule. Include time required for review, resubmittal, ordering,

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manufacturing, fabrication, and delivery when establishing dates.

1. Coordinate Submittals Schedule with Contractor's Construction Schedule.

2.2 CONTRACTOR'S CONSTRUCTION SCHEDULE (BAR CHART SCHEDULE)

- A. Submit a comprehensive, bar chart Contractor's Construction Schedule within 15 days of date established for Commencement of the Work, the Notice of Award. Base schedule on the startup construction schedule and additional information received since the start of Project.
- B. Preparation: Indicate each significant construction activity separately. Identify first workday of each week with a continuous vertical line.
  1. Use "one workday" as the unit of time. Include list of nonworking days and holidays incorporated into the schedule.
- C. Activities: Comply with the following:
  1. Activity Duration: Define activities so no activity is longer than 20 days, unless specifically allowed by Architect.
  2. Procurement Activities: Include procurement process activities for long lead items and major items, requiring a cycle of more than 60 days, as separate activities in schedule. Procurement cycle activities include, but are not limited to, submittals, approvals, purchasing, fabrications, and delivery.
  3. Submittal Review Time: Include reasonable review periods and adequate time for resubmittals in the schedule. Coordinate submittal review times in Contractor's Construction Schedule with Submittals Schedule.
  4. Substantial Completion: Indicate completion of work activities in advance of the date established for Substantial Completion and include separate activities for Architect's administrative procedures necessary for certification of Substantial Completion.
- D. Schedule Preparation and Constraints: Prepare a list of all activities required to complete the Work. Include constraints and work restrictions indicated in the Contract Documents and as follows in schedule and show how the sequence of the Work is affected.
  1. Activities and Work Restrictions: Indicate estimated time duration, sequence requirements, and relationship of each activity in relation to other activities.
- E. Milestones: Include milestones indicated in the Contract Documents in schedule, including but not limited to, the Notice to Proceed (Commencement of the Work), Substantial Completion, and Final Completion.
- F. Submittal of the Final Construction Schedule by the Contractor certifies that the work will be prosecuted in accordance with the Schedule, subject to any change therein which is implemented in accordance with the Contract Documents.

2.3 RECOVERY SCHEDULE

- A. Should the updated Construction Schedule show at any time during Contractor's performance, in the sole opinion of the Owner, that the Contractor is fourteen (14) or more days behind schedule for any Specific Date, or should Contractor be required to undertake actions under the General Conditions hereof, the Contractor shall prepare a Recovery Schedule at no additional cost to the

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Owner explaining and displaying how Contractor intends to reschedule the Work in order to regain compliance with the Construction Schedule during the immediate subsequent pay period.

B. Recovery Schedule Requirements:

1. The Contractor shall prepare and submit to the Owner a one-month maximum duration Recovery Schedule, which demonstrates how the progress of the Work will return to the approved Construction Schedule at the earliest possible time. Prepare the Recovery Schedule to same level of detail as the Construction Schedule.
2. Contractor shall advise the Owner of the effectiveness of the Recovery Schedule during the scheduled recovery time period. At the conclusion of the one-month schedule recovery period, the Owner will direct the Contractor as follows:
  - a. If Owner determines the Contractor is still behind schedule, Owner will direct the Contractor to prepare a Schedule Revision and comply with all of the requirements of a Schedule Revision as stated herein and the other requirements of the Contract Documents; provided, however, that nothing herein shall limit in any way the rights and remedies of the Owner as provided elsewhere in the Contract Documents.
  - b. If the Owner determines the Contractor has successfully complied with provisions of the Recovery Schedule, the Owner will direct the Contractor to return to the use of the approved Construction Schedule.

2.4 SCHEDULE REVISIONS

- A. Should Contractor desire to or be required under the Contract Documents to make modifications or changes in his method of operation, his sequence of Work or the durations of activities in the Construction Schedule, the Contractor shall do so in accordance with requirements of Contract Documents. Revisions to the improved Construction Schedule shall be identified by Contractor in writing and approved in writing by Owner prior to incorporation into the approved schedule.
- B. Revisions to Contractor's Construction Schedule required under terms of this Section shall not modify the Contract Time or any Milestone Date and shall not modify or limit the Contractor's obligations under this Contract.
- C. Submittal of any proposed schedule revisions by the Contractor certifies that he will prosecute the Work in accordance with the Schedule Revision, subject to any change therein which is implemented in accordance with the Contract Documents.

2.5 REPORTS

- A. Daily Construction Reports: Prepare a daily construction report recording, at a minimum, the following information concerning events at Project site:
  1. List of subcontractors at Project site.
  2. Approximate count of personnel at Project site.
  3. Equipment at Project site.
  4. Materials deliveries.
  5. High and low temperatures and general weather conditions.



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6. Meetings and significant decisions.
7. Unusual events (refer to special reports).
8. Stoppages, delays, shortages, and losses.
9. Orders and requests of authorities having jurisdiction.
10. Change Orders received and implemented.
11. Construction Change Directives received and implemented.
12. Services connected and disconnected.
13. Substantial Completions authorized.

- B. Field Condition Reports: Immediately on discovery of a difference between field conditions and the Contract Documents, prepare and submit a detailed report with a request for interpretation on CSI Form 13.2A or alternate form acceptable to Architect. Include a detailed description of the differing conditions, together with recommendations for changing the Contract Documents.

## 2.6 SPECIAL REPORTS

- A. General: Submit special reports directly to Owner within one day of an occurrence. Distribute copies of report to parties affected by the occurrence.
- B. Reporting Unusual Events: When an event of an unusual and significant nature occurs at Project site, whether or not related directly to the Work, prepare and submit a special report. List chain of events, persons participating, response by Contractor's personnel, evaluation of results or effects, and similar pertinent information. Advise Owner in advance when these events are known or predictable.

## PART 3 – EXECUTION

### 3.1 CONTRACTOR'S CONSTRUCTION SCHEDULE

- A. Contractor's Construction Schedule Updating: At monthly intervals, update schedule to reflect actual construction progress and activities. Issue schedule one week in advance of the regularly scheduled monthly meeting designated for the review of the project schedule by the Architect.
1. Revise schedule after each meeting or other activity where revisions have been recognized or made. Issue updated schedule concurrently with the report of each such meeting.
  2. As the Work progresses, indicate Actual Start Dates, Actual Finish Dates and an accurate Completion Percentage for each activity.
- B. Distribution: Distribute copies of approved schedule to Architect, Owner, and additional parties determined by the Contractor.

END OF SECTION 013200

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SECTION 013300 — SUBMITTAL PROCEDURES

PART 1 – GENERAL

1.1 RELATED DOCUMENTS

- A. Drawings and general provisions of the Contract, including General and Supplementary Conditions and other Division 1 Specifications Sections, apply to this Section.

1.2 SUMMARY

- A. This Section includes requirements for submittal schedule and administrative and procedural requirements for submitting Shop Drawings, Product Data, Samples and other submittals.
- B. Related Sections:
  - 1. Division 1 Section “Payment Procedures” for submitting Applications for Payment and the schedule of values.
  - 2. Division 1 Section “Construction Progress Documentation” for submitting schedules and reports, including Contractor’s construction schedule.
  - 3. Division 1 Section “Closeout Procedures” for submitting warranties, record documents, operation and maintenance manuals.

1.3 DEFINITIONS

- A. Action Submittals: Written and graphic information and physical samples that require Architect’s responsive action. Submittals may be rejected for not complying with requirements.
- B. Informational Submittals: Written and graphic information and physical samples that do not require Architect’s responsive action.
- C. Portable Document Format (PDF): An open standard file format licensed by Adobe Systems used for representing documents in a device-independent and display resolution-independent fixed-layout document format.

1.4 ACTION SUBMITTALS

- A. Submittal Schedule: Submit a schedule of submittals, arranged in chronological order by dates required by construction schedule. Include time required for review, ordering, manufacturing, fabrication, and delivery when establishing dates. Include additional time required for making corrections or modifications to submittals noted by the Architect and additional time for handling and reviewing submittals required by those corrections.
  - 1. Coordinate submittal schedule with list of subcontracts, the schedule of values, and Contractor’s construction schedule.
  - 2. Initial Submittal: Submit concurrently with start-up construction schedule. Include submittals required during the first 10 days of construction. List those submittals required to maintain orderly progress of the Work and those required early because of long lead time for manufacture or fabrication.

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3. Final Submittal: Submit concurrently with the first complete submittal of Contractor's construction schedule.
  - a. Submit revised submittal schedule to reflect changes in current status and timing for submittals.

1.5 SUBMITTAL ADMINISTRATION REQUIREMENTS

- A. Completeness: Submittals shall be complete in every respect. Each Submittal shall be clearly marked to show each item, component and optional feature proposed to be incorporated into the Project.
  1. Incomplete submittals may be returned without action. Incomplete submittal packages returned without action or for additional information are not subject to delay claims.
- B. Coordination: Coordinate preparation and processing of submittals with performance of construction activities.
  1. Coordinate each submittal with fabrication, purchasing, testing, delivery, other submittals, and related activities that require sequential activity.
  2. Submit all submittal items required for each Specification Section concurrently unless partial submittals for portions of the Work are indicated on approved submittal schedule.
  3. Submit action submittals and informational submittals required by the same Specification Section as separate packages under separate transmittals.
  4. Coordinate transmittal of different types of submittals for related parts of the Work so processing will not be delayed because of need to review submittals concurrently for coordination.
    - a. Architect reserves the right to withhold action on a submittal requiring coordination with other submittals until related submittals are received.
- C. Processing Time: Allow enough time for submittal review, including time for resubmittals, in accordance with General Conditions and as follows. No extension of the Contract Time will be authorized because of failure to transmit submittals sufficiently in advance of the Work to permit processing, including resubmittals.
  1. Initial Review: Allow sufficient time days for initial review of each submittal. Allow additional time if coordination with subsequent submittals is required. Architect will advise Contractor when a submittal being processed must be delayed for coordination.
  2. Intermediate Review: If intermediate submittal is necessary, process it in same manner as initial submittal.
  3. Resubmittal Review: Allow sufficient time days for review of each resubmittal.
  4. No extension of the Contract Time will be authorized because of failure to transmit submittals sufficiently in advance of the Work to permit processing or to allow for a resubmittal, if necessary.
- D. Identification and Information: Identify and incorporate information in each electronic submittal file as follows:

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1. Assemble complete submittal package into a single indexed file with links enabling navigation to each item.
  2. Name file with submittal number or other unique identifier, including revision identifier.
  3. Provide means for insertion to permanently record Contractor's review and approval markings and action taken by Architect.
  4. Include the following information on an inserted cover sheet:
    - a. Project name.
    - b. Date.
    - c. Name and address of Architect.
    - d. Name of Contractor.
    - e. Name of firm or entity that prepared submittal.
    - f. Name of subcontractor.
    - g. Name of supplier.
    - h. Name of manufacturer.
    - i. Number and title of appropriate Specification Section.
    - j. Drawing number and detail references, as appropriate.
    - k. Location(s) where product is to be installed, as appropriate.
    - l. Related physical samples submitted directly.
    - m. Other necessary identification.
  5. Include the following information as keywords in the electronic file metadata:
    - a. Project name.
    - b. Number and title of appropriate Specification Section.
    - c. Manufacturer name.
    - d. Product name.
- E. Options: Identify options requiring selection by the Architect.
- F. Deviations: Identify deviations from the Contract Documents on submittals.
- G. Transmittal: Assemble each submittal individually and appropriately for transmittal and handling. Transmit each submittal using a transmittal form. Architect will return submittals, without review, received from sources other than Contractor.
1. Transmittal Form: Use AIA Document G810, or other approved form.
  2. On an attached separate sheet, prepared on Contractor's letterhead, record relevant information, requests for data, revisions other than those requested by Architect on previous submittals, and deviations from requirements in the Contract Documents, including minor variations and limitations. Include same identification information as related submittal.

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- H. Resubmittals: Make resubmittals in same form and number of copies as initial submittal.
  - 1. Note date and content of previous submittal.
  - 2. Note date and content of revision in label or title block and clearly indicate extent of revision.
  - 3. Resubmit submittals until they are marked with approval notation from Architect's action stamp.
- I. Distribution: Furnish copies of final submittals to manufacturers, subcontractors, suppliers, fabricators, installers, authorities having jurisdiction, and others as necessary for performance of construction activities. Show distribution on transmittal forms.
- J. Use for Construction: Use only final submittals that are marked with approval notation from Architect's action stamp.

## PART 2 – PRODUCTS

### 2.1 SUBMITTAL PROCEDURES

- A. General Submittal Procedure Requirements: Prepare and submit submittals required by individual Specification Sections. Types of submittals are indicated in individual Specification Sections.
  - 1. Electronic submittals are acceptable on this project. Prior to construction, the Contractor and Architect shall discuss the method for exchanging files. Use of the Architect's Newforma InfoExchange website and procedures can be used at no charge. If the Contractor chooses to use a different platform and methodology:
    - a. The Architect may reject the methodology or platform proposed and,
      - 1) Use the Architect's Newforma InfoExchange website, or
      - 2) The project team will revert to traditional hard-copy exchange.
    - b. Any electronic submittals larger than 8 1/2" x 11" format shall be submitted to the Owner as full-sized hard copies.
  - 2. Closeout Submittals and Maintenance Material Submittals: Comply with requirements specified in Division 1 Section "Closeout Procedures".
  - 3. Certificates and Certifications Submittals: Provide a statement that includes signature of entity responsible for preparing certification. Certificates and certifications shall be signed by an officer or other individual authorized to sign documents on behalf of that entity. Provide by either of the following methods.
    - a. Provide a digital signature with digital certificate on electronically-submitted certificates and certifications where indicated.
    - b. Provide a notarized statement on original paper copy certificates and certifications where indicated.
  - 4. Test and Inspection Reports Submittals: Comply with requirements specified in Division 1 Section "Quality Requirements".

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- B. Product Data: Collect information into a single submittal for each element of construction and type of product or equipment.
1. If information must be specially prepared for submittal because standard published data are not suitable for use, submit as Shop Drawings, not as Product Data.
  2. Mark each copy of each submittal to show which products and options are applicable.
  3. Include the following information, as applicable:
    - a. Manufacturer's catalog cuts.
    - b. Manufacturer's product specifications.
    - c. Standard color charts.
    - d. Statement of compliance with specified referenced standards.
    - e. Testing by recognized testing agency.
    - f. Application of testing agency labels and seals.
    - g. Notation of coordination requirements.
    - h. Availability and delivery time information.
  4. Submit Product Data before or concurrent with Samples.
  5. Submit Product Data as PDF electronic file.
- C. Shop Drawings: Prepare Project-specific information, drawn accurately to scale. Do not base Shop Drawings on reproductions of the Contract Documents or standard printed data, unless submittal based upon Architect's digital data drawing files is otherwise permitted.
1. Preparation: Fully illustrate requirements in the Contract Documents. Include the following information, as applicable:
    - a. Identification of products.
    - b. Schedules.
    - c. Compliance with specified standards.
    - d. Notation of coordination requirements.
    - e. Notation of dimensions established by field measurement.
    - f. Relationship and attachment to adjoining construction clearly indicated.
    - g. Seal and signature of professional engineer if specified.
  2. Sheet size: Except for templates, patterns, and similar full-size drawings, submit Shop Drawings on sheets at least 8 1/2 by 11 inches but no larger than 30 by 42 inches.
  3. Submit Shop Drawings as PDF electronic files.
- D. Samples: Submit Samples for review of kind, color, pattern, and texture for a check of these characteristics with other elements and for a comparison of these characteristics between submittal and actual component as delivered and installed.
1. Transmit Samples that contain multiple, related components such as accessories together

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in one submittal package.

2. Identification: Attach label on unexposed side of Samples that includes the following:
    - a. Generic description of Sample.
    - b. Product name and name of manufacturer.
    - c. Sample source.
    - d. Number and title of applicable Specification Section.
  3. Disposition: Maintain sets of approved Samples at Project site, available for quality-control comparisons throughout the course of construction activity. Sample sets may be used to determine final acceptance of construction associated with each set.
    - a. Samples that may be incorporated into the Work are indicated in individual Specification Sections. Such Samples must be in an undamaged condition at time of use.
    - b. Samples not incorporated into the Work, or otherwise designated as Owner's property, are the property of Contractor.
  4. Samples for Initial Selection: Submit manufacturer's color charts consisting of units or sections of units showing the full range of colors, textures, and patterns available.
- E. Contractor's Construction Schedule: Comply with requirements specified in Division 1 Section "Construction Progress Documentation".
- F. Application for Payment: Comply with requirements specified in Division 1 Section "Payment Procedures".
- G. Schedule of Values: Comply with requirements specified in Division 1 Section "Payment Procedures".
- H. Subcontract List: Prepare a written summary identifying individuals or firms proposed for each portion of the Work, including those who are to furnish products or equipment fabricated to a special design. Include the following information in tabular form:
1. Name, address, and telephone number of entity performing subcontract or supplying products.
  2. Number and title of related Specification Section(s) covered by subcontract.
  3. Drawing number and detail references, as appropriate, covered by subcontract.
  4. Submit subcontract list as PDF electronic file.
- I. Qualification Data: Prepare written information that demonstrates capabilities and experience of firm or person. Include lists of completed projects with project names and addresses, contact information of architects and owners, and other information specified.
- J. Installer Certificates: Submit written statements on manufacturer's letterhead certifying that Installer complies with requirements in the Contract Documents and, where required, is authorized by manufacturer for this specific Project.
- K. Manufacturer Certificates: Submit written statements on manufacturer's letterhead certifying that

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manufacturer complies with requirements in the Contract Documents. Include evidence of manufacturing experience where required.

- L. Product Certificates: Submit written statements on manufacturer's letterhead certifying that product complies with requirements in the Contract Documents.
- M. Material Certificates: Submit written statements on manufacturer's letterhead certifying that material complies with requirements in the Contract Documents.
- N. Material Test Reports: Submit reports written by a qualified testing agency, on testing agency's standard form, indicating and interpreting test results of material for compliance with requirements in the Contract Documents.
- O. Product Test Reports: Submit written reports indicating current product produced by manufacturer complies with requirements in the Contract Documents. Base reports on evaluation of tests performed by manufacturer and witnessed by a qualified testing agency, or on comprehensive tests performed by a qualified testing agency.
- P. Research Reports: Submit written evidence, from a model code organization acceptable to authorities having jurisdiction, that product complies with building code in effect for Project. Include the following information:
  - 1. Name of evaluation organization.
  - 2. Date of evaluation.
  - 3. Time period when report is in effect.
  - 4. Product and manufacturer's names.
  - 5. Description of product.
  - 6. Test procedures and results.
  - 7. Limitations of use.
- Q. Preconstruction Test Reports: Submit reports written by a qualified testing agency, on testing agency's standard form, indicating and interpreting results of tests performed before installation of product, for compliance with performance requirements in the Contract Documents.
- R. Compatibility Test Reports: Submit reports written by a qualified testing agency, on testing agency's standard form, indicating and interpreting results of compatibility tests performed before installation of product. Include written recommendations for primers and substrate preparation needed for adhesion.
- S. Field Test Reports: Submit reports indicating and interpreting results of field tests performed either during installation of product or after product is installed in its final location, for compliance with requirements in the Contract Documents.
- T. Maintenance Data: Comply with requirements specified in Division 1 Section "Operation and Maintenance Data".
- U. Design Data: Prepare and submit written and graphic information, including, but not limited to, performance and design criteria, list of applicable codes and regulations, and calculations. Include list of assumptions and other performance and design criteria and a summary of loads. Include load diagrams if applicable. Provide name and version of software, if any, used for calculations.



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Include page numbers.

PART 3 – EXECUTION

3.1 CONTRACTOR’S REVIEW

- A. Action and Informational Submittals: Review each submittal and check for coordination with other Work of the Contract and for compliance with the Contract Documents. Note corrections and field dimensions. Mark with approval stamp before submitting to Architect.
- B. Project Closeout and Maintenance/Material Submittals: Refer to requirements in Division 1 Section “Closeout Procedures”.
- C. Approval Stamp: Stamp each submittal with a uniform, approval stamp. Include Project name and location, submittal number, Specification Section title and number, name of reviewer, date of Contractor’s approval, and statement certifying that submittal has been reviewed, checked, and approved for compliance with the Contract Document.

3.2 ARCHITECT’S ACTION

- A. General: Architect will not review submittals that do not bear Contractor’s approval stamp and will return them without action.
- B. Action Submittals: Architect will review each submittal, make marks to indicate corrections or modifications required, and return it. The Architect will attach a comment sheet that will indicate what “action” the Contractor shall take. “Actions” and review procedure will be clarified at the Preconstruction Conference.
- C. Informational Submittals: Architect will review each submittal and will not return it, or will return it if it does not comply with requirements. Architect will forward each submittal to appropriate party.
- D. Partial submittals prepared for a portion of the Work will be reviewed when use of partial submittals has received prior approval from Architect.
- E. Incomplete submittals are not acceptable, will be considered nonresponsive, and will be returned without review.
- F. Submittals not required by the Contract Documents may not be reviewed and may be discarded.

END OF SECTION 013300

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SECTION 014000 — QUALITY REQUIREMENTS

PART 1 – GENERAL

1.1 RELATED DOCUMENTS

- A. Drawings and general provisions of the Contract, including General and Supplementary Conditions and other Division 1 Specifications Sections, apply to this Section.

1.2 SUMMARY

- A. This Section includes administrative and procedural requirements for quality assurance and quality control.
- B. Testing and inspecting services may be required to verify compliance with requirements specified or indicated. These services do not relieve Contractor of responsibility for compliance with the Contract Document requirements.
  - 1. Specific quality-assurance and -control requirements for individual construction activities are specified in the Sections that specify those activities. Requirements in those Sections may also cover production of standard products.
  - 2. Specified test, inspections, and related actions do not limit Contractor's other quality-assurance and -control procedures that facilitate compliance with the Contract Document requirements.
  - 3. Requirements for Contractor to provide quality-assurance and -control services required by Architect, Owner, or authorities having jurisdiction are not limited by provisions of this Section.
- C. Related Sections:
  - 1. Division 1 Section "Construction Progress Documentation" for developing a schedule of required tests and inspections.
  - 2. Divisions 2 through 49 Sections for specific test and inspection requirements.

1.3 DEFINITIONS

- A. Quality-Assurance Services: Activities, actions, and procedures performed before and during execution of the Work to guard against defects and deficiencies and substantiate that proposed construction will comply with requirements.
- B. Quality-Control Services: Tests, inspections, procedures, and related actions during and after execution of the Work to evaluate that actual products incorporated into the Work and completed construction comply with requirements. Services do not include contract enforcement activities performed by Architect.
- C. Preconstruction Testing: Tests and inspections performed specifically for the Project before products and materials are incorporated into the Work to verify performance or compliance with specified criteria.

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- D. Source Quality-Control Testing: Tests and inspections that are performed at the source, i.e., plant, mill, factory, or shop.
- E. Field Quality-Control Testing: Tests and inspections that are performed on-site for installation of the Work and for completed Work.
- F. Testing Agency: An entity engaged to perform specific tests, inspections, or both. Testing laboratory shall mean the same as testing agency.
- G. Installer/Applicator/Erector: Contractor or another entity engaged by Contractor as an employee, Subcontractor, or Sub-subcontractor, to perform a particular construction operation, including installation, erection, application, and similar operations.
  - 1. Use of trade-specific terminology in referring to a trade or entity does not require that certain construction activities be performed by accredited or unionized individuals, or that requirements specified apply exclusively to specific trade or trades.
- H. Experienced: When used with an entity or individual, “experienced” means having successfully completed a minimum of five previous projects similar in nature, size, and extent to this Project; being familiar with special requirements indicated; and having complied with requirements of authorities having jurisdiction.

#### 1.4 CONFLICTING REQUIREMENTS

- A. Referenced Standards: If compliance with two or more standards is specified and the standards establish different or conflicting requirements for minimum quantities or quality levels, comply with the most stringent requirement. Refer conflicting requirements that are different, but apparently equal, to Architect for a decision before proceeding.
- B. Minimum Quantity or Quality Levels: The quantity or quality level shown or specified shall be the minimum provided or performed. The actual installation may comply exactly with the minimum quantity or quality specified, or it may exceed the minimum within reasonable limits. To comply with these requirements, indicated numeric values are minimum or maximum, as appropriate, for the context of requirements. Refer uncertainties to Architect for a decision before proceeding.

#### 1.5 INFORMATION SUBMITTALS

- A. Contractor’s Quality-Control Plan: For quality-assurance and quality-control activities and responsibilities.
- B. Testing Agency Qualifications: For testing agencies specified in “Quality Assurance” Article to demonstrate their capabilities and experience. Include proof of qualifications in the form of a recent report on the inspection of the testing agency by a recognized authority.
- C. Schedule of Tests and Inspections: Prepare in tabular form and include the following:
  - 1. Specification Section number and title.
  - 2. Entity responsible for performing tests and inspections.
  - 3. Description of test and inspection.
  - 4. Identification of applicable standards.

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5. Identification of test and inspection methods.
6. Number of tests and inspections required.
7. Time schedule or time span for tests and inspections.
8. Requirements for obtaining samples.
9. Unique characteristics of each quality-control service.

1.6 CONTRACTOR'S QUALITY-CONTROL PLAN

- A. Quality-Control Plan, General: Submit quality-control plan within 10 days of Notice to Proceed, and not less than five days prior to preconstruction conference. Submit in format acceptable to Architect. Identify personnel, procedures, controls, instructions, tests, records, and forms to be used to carry out Contractor's quality-assurance and quality-control responsibilities. Coordinate with Contractor's construction schedule.
- B. Quality-Control Personnel Qualifications: Engage qualified full-time personnel trained and experienced in managing and executing quality-assurance and quality-control procedures similar in nature and extent to those required for Project.
- C. Submittal Procedure: Describe procedures for ensuring compliance with requirements through review and management of submittal process. Indicate qualifications of personnel responsible for submittal review.
- D. Testing and Inspection: Include in quality-control plan a comprehensive schedule of Work requiring testing or inspection, including the following:
  1. Contractor-performed tests and inspections including subcontractor-performed tests and inspections. Include required tests and inspections and Contractor-elected tests and inspections.
  2. Special inspections required by authorities having jurisdiction and indicated on the "Statement of Special Inspections".
  3. Owner-performed tests and inspections indicated in the Contract Documents.
- E. Continuous Inspection of Workmanship: Describe process for continuous inspection during construction to identify and correct deficiencies in workmanship in addition to testing and inspection specified. Indicate types of corrective actions to be required to bring work into compliance with standards of workmanship established by Contractor requirements and approved mockups.
- F. Monitoring and Documentation: Maintain testing and inspection reports including log of approved and rejected results. Include work Architect has indicated as nonconforming or defective. Indicate corrective actions taken to bring nonconforming work into compliance with requirements. Comply with requirements of authorities having jurisdiction.

1.7 REPORTS AND DOCUMENTS

- A. Test and Inspection Reports: Prepare and submit certified written reports specified in other Sections. Include the following:
  1. Date of issue.

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2. Project title and number.
  3. Name, address, and telephone number of testing agency.
  4. Dates and locations of samples and tests or inspections.
  5. Names of individuals making tests and inspections.
  6. Description of the Work and test and inspection method.
  7. Identification of product and Specification Section.
  8. Complete test or inspection data.
  9. Test and inspection results and an interpretation of test results.
  10. Record of temperature and weather conditions at time of sample taking and testing and inspecting.
  11. Comments or professional opinion on whether tested or inspected Work complies with the Contract Document requirements.
  12. Name and signature of laboratory inspector.
  13. Recommendations on retesting and reinspecting.
- B. Permits, Licenses, and Certificates: For Owner's records, submit copies of permits, licenses, certifications, inspection reports, releases, jurisdictional settlements, notices, receipts for fee payments, judgements, correspondence, records, and similar documents, established for compliance with standards and regulations bearing on performance of the Work.

1.8 QUALITY ASSURANCE

- A. General: Qualifications paragraphs in this Article establish the minimum qualification levels required; individual Specification Sections specify additional requirements.
- B. Manufacturer Qualifications: A firm experienced in manufacturing products or systems similar to those indicated for this Project and with a record of successful in-service performance, as well as sufficient production capacity to produce required units.
- C. Fabricator Qualifications: A firm experienced in producing products similar to those indicated for this Project and with a record of successful in-service performance, as well as sufficient production capacity to produce required units.
- D. Installer Qualifications: A firm or individual experienced in installing, erecting, or assembling work similar in material, design, an extent to that indicated for this Project, whose work has resulted in construction with a record of successful in-service performance.
- E. Professional Engineer Qualifications: A professional engineer who is legally qualified to practice in jurisdiction where Project is located and who is experienced in providing engineering services of the kind indicated. Engineering services are defined as those performed for installations of the system, assembly, or products that are similar to those indicated for this Project in material, design, an extent.
- F. Specialists: Certain Specification Sections require that specific construction activities shall be performed by entities who are recognized experts in those operations. Specialists shall satisfy

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qualification requirements indicated and shall be engaged for the activities indicated.

1. Requirements of authorities having jurisdiction shall supersede requirements for specialists.

G. Testing Agency Qualifications: An NRTL, an NVLAP, or an independent agency with the experience and capability to conduct testing and inspecting indicated, as documented according to ASTM E 329; and with additional qualifications specified in individual Sections; and where required by authorities having jurisdiction, that is acceptable to authorities.

1. NRTL: A nationally recognized testing laboratory according to 29 CFR 1910.7.

2. NVLAP: A testing agency accredited according to NIST's National Voluntary Laboratory Accreditation Program.

H. Manufacturer's Technical Representative Qualifications: An authorized representative of manufacturer who is trained and approved by manufacturer to observe and inspect installation of manufacturer's products that are similar in material, design, and extent to those indicated for this Project.

I. Preconstruction Testing: Where testing agency is indicated to perform preconstruction testing for compliance with specified requirements for performance and test methods, comply with the following:

1. Contractor responsibilities include the following:

a. Provide test specimens representative of proposed products and construction.

b. Submit specimens in a timely manner with sufficient time for testing and analyzing results to prevent delaying the Work.

c. When testing is complete, remove test specimens, assemblies, mockups; do not reuse products on Project.

2. Testing Agency Responsibilities: Submit a certified written report of each test, inspection, and similar quality-assurance service to Architect, with a copy to Contractor. Interpret tests and inspections and state in each report whether tested and inspected work complies with or deviates from the Contract Documents.

## 1.9 QUALITY CONTROL

A. Owner Responsibilities: Where quality-control services are indicated as Owner's responsibility, Owner will engage a qualified testing agency to perform these services.

1. Owner will furnish Contractor with names, addresses, and telephone numbers of testing agencies engaged and a description of types of testing and inspecting they are engaged to perform.

2. Payment for these services will be made from testing and inspecting allowances, as authorized by Change Orders.

3. Costs for retesting and reinspecting construction that replaces or is necessitated by work that failed to comply with the Contract Documents will be charged to Contractor.

B. Contractor Responsibilities: Tests and inspections not explicitly assigned to Owner are

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Contractor's responsibility. Perform additional quality-control activities required to verify that the Work complies with requirements, whether specified or not.

1. Unless otherwise indicated, provide quality-control services specified and those required by authorities having jurisdiction. Perform quality-control services required of Contractor by authorities having jurisdiction, whether specified or not.
  2. Where services are indicated as Contractor's responsibility, engage a qualified testing agency to perform these quality-control services.
    - a. Contractor shall not employ same entity engaged by Owner, unless agreed to in writing by Owner.
  3. Notify testing agencies at least 24 hours in advance of time when Work that requires testing or inspecting will be performed.
  4. Where quality-control services are indicated as Contractor's responsibility, submit a certified written report, in duplicate, of each quality-control service.
  5. Testing and inspecting requested by Contractor and not required by the Contract Documents are Contractor's responsibility.
  6. Submit additional copies of each written report directly to authorities having jurisdiction, when they so direct.
- C. Retesting/Reinspection: Regardless of whether original tests or inspections were Contractor's responsibility, provide quality-control services, including retesting and reinspecting, for construction that replaced Work that failed to comply with the Contract Documents.
- D. Testing Agency Responsibilities: Cooperate with Architect and Contractor in performance of duties. Provide qualified personnel to perform required tests and inspections.
1. Notify Architect and Contractor promptly of irregularities or deficiencies observed in the Work during performance of its services.
  2. Determine the location from which test samples will be taken and in which in-situ tests are conducted.
  3. Conduct and interpret tests and inspections and state in each report whether tested and inspected work complies with or deviates from requirements.
  4. Submit a certified written report, in duplicate, of each test, inspection, and similar quality-control service through Contractor.
  5. Do not release, revoke, alter, or increase the Contract Document requirements or approve or accept any portion of the Work.
  6. Do not perform any duties of Contractor.
- E. Associated Services: Cooperate with agencies performing required tests, inspections, and similar quality-control services, and provide reasonable auxiliary services as requested. Notify agency sufficiently in advance of operations to permit assignment of personnel. Provide the following:
1. Access to the Work.
  2. Incidental labor and facilities necessary to facilitate test and inspections.

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3. Adequate quantities of representative samples of materials that require testing and inspecting. Assist agency in obtaining samples.
  4. Facilities for storage and field curing of test samples.
  5. Delivery of samples to testing agencies.
  6. Preliminary design mix proposed for use for material mixes that require control by testing agency.
  7. Security and protection for samples and for testing and inspecting equipment at Project site.
- F. Coordination: Coordinate sequence of activities to accommodate required quality-assurance and -control services with a minimum of delay and to avoid necessity of removing and replacing construction to accommodate testing and inspecting.
1. Schedule times for tests, inspections, obtaining samples, and similar activities.
- G. Schedule of Tests and Inspections: Prepare a schedule of tests, inspections, and similar quality-control services required by the Contract Documents as a component of the Contractor's quality-control plan. Coordinate and submit concurrently with Contractor's construction schedule. Update as the Work progresses.
1. Distribution: Distribute schedule to Owner, Architect, testing agencies, and each party involved in performance of portions of the Work where tests and inspections are required.

PART 2 – PRODUCTS (Not Used)

PART 3 – EXECUTION

3.1 TEST AND INSPECTION LOG

- A. Prepare a record of tests and inspections. Include the following:
1. Date test or inspection was conducted.
  2. Description of the Work tested or inspected.
  3. Date test or inspection results were transmitted to Architect.
  4. Identification of testing agency or special inspector conducting test or inspection.
- B. Maintain log at Project site. Post changes and modifications as they occur. Provide access to test and inspection log for Architect's reference during normal working hours.

3.2 REPAIR AND PROTECTION

- A. General: On completion of testing, inspecting, sample taking, and similar services, repair damaged construction and restore substrates and finishes.
1. Provide materials and comply with installation requirements specified in other Specification Sections or matching existing substrates and finishes. Restore patched areas and extend restoration into adjoining areas with durable seams that are as invisible as



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possible. Comply with the Contract Document requirements cutting and patching in Division 1 Section "Execution".

- B. Protect construction exposed by or for quality-control service activities.
- C. Repair and protection are Contractor's responsibility, regardless of the assignment of responsibility for quality-control services.

END OF SECTION 014000

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SECTION 014200 - REFERENCES

PART 1 – GENERAL

1.1 RELATED DOCUMENTS

- A. Drawings and general provisions of the Contract, including General and Supplementary Conditions and other Division I Specification Sections, apply to this Section.

1.2 DEFINITIONS

- A. General: Basic Contract definitions are included in the Conditions of the Contract.
- B. “Approved”: The term “approved”, when used in conjunction with Architect’s action on Contractor’s submittals, applications, and requests, is limited to Architect’s duties and responsibilities as stated in the Conditions of the Contract.
- C. “Directed”: Terms such as “directed”, “requested”, “authorized”, “selected”, “approved”, “required”, and “permitted” mean directed by Architect, requested by Architect, and similar phrases.
- D. “Indicated”: The term “indicated” refers to graphic representations, notes, or schedules on Drawings; or to other paragraphs or schedules in Specifications and similar requirements in the Contract Documents. Terms such as “shown”, “noted”, “scheduled”, and “specified” are used to help the user locate the reference.
- E. “Regulations”: The term “regulations” include laws, ordinances, statutes, and lawful orders issued by authorities having jurisdiction, as well as rules, conventions, and agreements within the construction industry that control performance of the Work.
- F. “Furnish”: The term “furnish” means to supply and deliver to Project site, ready for unloading, unpacking, assembly, installation, and similar operations.
- G. “Install”: The term “install” describes operations at Project site including unloading, temporary storage, unpacking, assembling, erecting, placing, anchoring, applying, working to dimension, finishing, curing, protecting, cleaning, and similar operations.
- H. “Provide”: The term “provide” means to furnish and install, complete and ready for intended use.
- I. “Installer”: An installer is Contractor or another entity engaged by Contractor, as an employee, subcontractor, or contractor of lower tier, to perform a particular construction operation, including installation, erection, application, and similar operations.
  - 1. Using a term such as “carpentry” does not imply that certain construction activities must be performed by accredited or unionized individuals of a corresponding generic name, such as “carpenter”. It also does not imply that requirements specified apply exclusively to tradespeople of the corresponding generic name.
- J. The term “experienced”, when used with term “installer”, means having successfully completed a minimum of five previous projects similar in size and scope to this Project; being familiar with the special requirements indicated; and having complied with requirements of authorities having jurisdiction.

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- K. “Replace”: The term “replace” means to provide an acceptable like product or material in the place of a missing or unacceptable (rejected) product or materials. To “replace” an unacceptable product or material includes its removal and disposal. (The term “reinstall” shall be used to indicate reuse of the original.)
- L. “Punch List” (AIA A201): A “punch list” is a listing of work items required by the Contract Documents which are incomplete or non-conforming. The list of observed deficiencies is compiled in the course of review to determine if the Contractor has attained Substantial Completion. It does not constitute a definitive list of remaining work items, and does not limit, amend or supersede requirements of the Contract Documents. Completion of punch list items is a requirement to achieve Substantial Completion, in accordance with the General Conditions.
- M. “Project site” is the space available for performing construction activities, either exclusively or in conjunction with others performing other work as part of Project. The extent of Project site is shown on the Drawings and may or may not be identical with the description of the land on which Project is to be built.

1.3 INDUSTRY STANDARDS

- A. Applicability of Standards: Unless the Contract Documents include more stringent requirements, applicable construction industry standards have the same force and effect as if bound or copied directly into the Contract Documents to the extent referenced. Such standards are made a part of the Contract Documents by reference.
- B. Publication Dates: Comply with standards in effect as of the date of the Contract Documents, unless otherwise indicated.
- C. Copies of Standards: Each entity engaged in construction on Project must be familiar with industry standards applicable to its construction activity. Copies of applicable standards are not bound with the Contract Documents.
  - 1. Where copies of standards are needed to perform a required construction activity, obtain copies directly from the publication source and make them available upon request.
- D. Abbreviations and Names: Abbreviations and acronyms are frequently used in the Specifications and other Contract Documents to represent the name of a trade association, standards developing organization, authorities having jurisdiction, or other entity in the context of referencing a standard or publication. Where abbreviations and acronyms are used in the Specifications or other Contract Documents, they mean the recognized name of these entities. Refer to Gale Research’s “Encyclopedia of Associations” or Columbia Books’ “National Trade & Professional Associations of the U.S.”, which are available in most libraries.

PART 2 – PRODUCTS (Not Used)

PART 3 – EXECUTION (Not Used)

END OF SECTION 014200

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SECTION 015000 — TEMPORARY FACILITIES AND CONTROLS

PART 1 – GENERAL

1.1 RELATED DOCUMENTS

- A. Drawings and general provisions of the Contract, including General and Supplementary Conditions and other Division 1 Specification Sections, apply to this Section.

1.2 SUMMARY

- A. This Section includes requirements for temporary facilities, support facilities, and security and protection facilities.
- B. Related Sections include the following:
  - 1. Division 1 Section “Submittal Procedures” for procedures for submitting copies of implementation and termination schedule and utility reports.

1.3 USE CHARGES

- A. General: Cost of use charges for temporary facilities shall be included in the Contract Sum. Allow other entities to use temporary services and facilities without cost, including, but not limited to, Owner’s construction forces, Architect, testing agencies, and authorities having jurisdiction.
- B. Water Service: Contractor may tie into the existing building and/or site water system. Contractor shall be responsible for all temporary connections and removal of such connections at the end of the project. Owner does not warrant that existing system can handle the Contractor’s requirements.
- C. Electric Power Service from Existing System: Electric power from Owner’s existing system is available for use without metering and without payment of use charges. Provide connections and extensions of services as required for construction operations.

1.4 QUALITY ASSURANCE

- A. Electric Service: Comply with NECA, NEMA, and UL standards and regulations for temporary electric service. Install service to comply with NFPA 70.
- B. Tests and Inspections: Arrange for authorities having jurisdiction to test and inspect each temporary utility before use. Obtain required certifications and permits.

1.5 PROJECT CONDITIONS

- A. Temporary Use of Permanent Facilities: Installer of each permanent service shall assume responsibility for operation, maintenance, and protection of each permanent service during its use as a construction facility before Owner’s acceptance, regardless of previously assigned responsibilities.

PART 2 – PRODUCTS

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2.1 TEMPORARY FACILITIES

- A. Owner's Field Office: Not required.
- B. Storage Sheds: If required, provide sheds sized, furnished, and equipped to accommodate materials and equipment for construction operations.
  - 1. Store combustible materials away from existing building.

2.2 EQUIPMENT

- A. Fire Extinguishers: Portable, UL rated; with class and extinguishing agent as required by locations and classes of fire exposures.

PART 3 – EXECUTION

3.1 INSTALLATION, GENERAL

- A. Locate facilities where they will serve Project adequately and result in minimum interference with performance of the Work. Relocate and modify facilities as required by progress of the Work.

3.2 TEMPORARY UTILITY INSTALLATION

- A. General: Install temporary service or connect to existing service.
  - 1. Arrange with utility company, Owner, and existing users for time when service can be interrupted, if necessary, to make connections for temporary services.
- B. Sanitary Facilities: Provide temporary toilets, wash facilities, and drinking water for use of construction personnel. Comply with authorities having jurisdiction for type, number, location, operation, and maintenance of fixtures and facilities.
  - 1. Toilets: Use of Owner's existing toilet facilities will not be permitted.
- C. Telephone Service:
  - 1. Provide cellular telephone or portable two-way radio for use by superintendent.

3.3 SUPPORT FACILITIES INSTALLATION

- A. General: Comply with the following:
  - 1. Provide incombustible construction for offices, shops, and sheds located within construction area or within 30 feet of building lines. Comply with NFPA 241.
  - 2. Maintain support facilities until near Substantial Completion. Remove before Substantial Completion.
  - 3. Traffic Controls: Comply with requirements of authorities having jurisdiction.
  - 4. Protect existing site improvements to remain including curbs, pavement, and utilities.
  - 5. Maintain access for fire-fighting equipment and access to fire hydrants.
- B. Parking: Provide temporary parking areas for construction personnel at areas designated by Owner at Pre-construction Conference.

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- C. Temporary Signs: Provide signs as required to direct construction traffic on site. Install signs to inform public and individuals seeking entrance to Project. Unauthorized signs are not permitted.
  - 1. Provide temporary, directional signs for construction personnel and visitors.
  - 2. Maintain and touchup signs so they are legible at all times.
- D. Waste Disposal Facilities: Provide waste-collection containers in sizes adequate to handle waste from construction operations. Comply with requirements of authorities having jurisdiction. Comply with Division 1 Section "Execution Requirements" for progress cleaning requirements.

3.4 SECURITY AND PROTECTION FACILITIES INSTALLATION

- A. Environmental Protection: Provide protection, operate temporary facilities, and conduct construction in ways and by methods that comply with environmental regulations and that minimize possible air, waterway, and subsoil contamination or pollution or other undesirable effects.
  - 1. Comply with work restrictions specified in Division 1 Section "Summary".
  - 2. Barricades, Warning Signs, and Lights: Comply with requirements of authorities having jurisdiction for erecting structurally adequate barricades, including warning signs and lighting.

3.5 OPERATION, TERMINATION, AND REMOVAL

- A. Supervision: Enforce strict discipline in use of temporary facilities. To minimize waste and abuse, limit availability of temporary facilities to essential and intended uses.
- B. Maintenance: Maintain facilities in good operating condition until removal.
- C. Termination and Removal: Remove each temporary facility when need for its service has ended, or no later than Substantial Completion. Repair damaged Work, clean exposed surfaces, and replace construction that cannot be satisfactorily repaired.
- D. Materials and facilities that constitute temporary facilities are property of Contractor.

END OF SECTION 015000

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SECTION 016000 — PRODUCT REQUIREMENTS

PART 1 – GENERAL

1.1 RELATED DOCUMENTS

- A. Drawings and general provisions of the Contract, including General and Supplementary Conditions and other Division 1 Specification Sections, apply to this Section.

1.2 SUMMARY

- A. This Section includes administrative and procedural requirements for selection of products for use in Project; product delivery, storage, and handling; manufacturers' standard warranties on products; special warranties; and comparable products.
- B. Related Sections:
  - 1. Division 1 Section "Submittal Procedures" for requests for substitutions.
  - 2. Division 1 Section "References" for applicable industry standards for products specified.

1.3 DEFINITIONS

- A. Products: Items obtained for incorporating into the Work, whether purchased for Project or taken from previously purchased stock. The term "product" includes the terms "material", "equipment", "system", and terms of similar intent.
  - 1. Named Products: Items identified by manufacturer's product name, including make or model number or other designation shown or listed in manufacturer's published product literature, that is current as of date of the Contract Documents.
  - 2. New Products: Items that have not previously been incorporated into another project or facility. Products salvaged or recycled from other projects are not considered new products.
  - 3. Comparable Product: Product that is demonstrated and approved through submittal process to have the indicated qualities related to type, function, dimension, in-service performance, physical properties, appearance, and other characteristics that equal or exceed those of specified product.
- B. Basis-of-Design Product Specification: A specification in which a specific manufacturer's product is named and accompanied by the words "basis-of-design product", including make or model number or other designation, to establish the significant qualities related to type, function, dimensions, in-service performance, physical properties, appearance, and other characteristics for purposes of evaluating comparable products of additional manufacturers named in the specifications.

1.4 ACTION SUBMITTALS

- A. Comparable Product Requests: Submit request for consideration of each comparable product. Identify product or fabrication or installation method to be replaced. Include Specification Section number and title and Drawing numbers and titles.

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1. Include data to indicate compliance with the requirements specified in “Comparable Products” Article.
2. Architect’s Action: If necessary, Architect will request additional information or documentation for evaluation within one week of receipt of a comparable product request. Architect will notify Contractor of approval or rejection of proposed comparable product request.
  - a. Form of Approval: As specified in Division 1 Section “Submittal Procedures”.
  - b. Use product specified if Architect does not issue a decision on use of a comparable product request within time allocated.
- B. Basis-of-Design Product Specification Submittal: Comply with requirements in Division 1 Section “Submittal Procedures”. Show compliance with requirements.

1.5 QUALITY ASSURANCE

- A. Compatibility of Options: If Contractor is given option of selecting between two or more products for use on Project, select product compatible with products previously selected, even if previously selected products were also options.

1.6 PRODUCT DELIVERY, STORAGE, AND HANDLING

- A. Deliver, store, and handle products using means and methods that will prevent damage, deterioration, and loss, including theft and vandalism. Comply with manufacturer’s written instructions.
- B. Delivery and Handling:
  1. Schedule delivery to minimize long-term storage at Project site and to prevent overcrowding of construction spaces.
  2. Coordinate delivery with installation time to ensure minimum holding time for items that are flammable, hazardous, easily damaged, or sensitive to deterioration, theft, and other losses.
  3. Deliver products to Project site in a nondamaged condition in manufacturer’s original sealed container or other packaging system, complete with labels and instructions for handling, storing, unpacking, protecting, and installing.
  4. Inspect products on delivery to determine compliance with the Contract Documents and to determine that products are undamaged and properly protected.
- C. Storage:
  1. Store products to allow for inspection and measurement of quantity or counting of units.
  2. Store products that are subject to damage by the elements, under cover in a weathertight enclosure above ground, with ventilation adequate to prevent condensation.
  3. Protect stored products from damage.

1.7 PRODUCT WARRANTIES

- A. Warranties specified in other Sections shall be in addition to, and run concurrent with, other



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warranties required by the Contract Documents. Manufacturer's disclaimers and limitations on product warranties do not relieve Contractor of obligations under requirements of the Contract Documents.

1. Manufacturer's Warranty: Written warranty furnished by individual manufacturer for a particular product and specifically endorsed by manufacturer to Owner.
  2. Special Warranty: Written warranty required by the Contract Documents to provide specific rights for Owner.
- B. Special Warranties: Prepare a written document that contains appropriate terms and identification, ready for execution.
1. Manufacturer's Standard Form: Modified to include Project-specific information and properly executed.
  2. Specified Form: When specified forms are included with the Specifications, prepare a written document using indicated form properly executed.
  3. Refer to Divisions 2 through 49. Sections for specific content requirements and particular requirements for submitting special warranties.
- C. Submittal Time: Comply with requirements in Division 1 Section "Closeout Procedures".

## PART 2 – PRODUCTS

### 2.1 PRODUCT SELECTION PROCEDURES

- A. General Product Requirements: Provide products that comply with the Contract Documents, are undamaged and, unless otherwise indicated, are new at time of installation.
1. Provide products complete with accessories, trim, finish, fasteners, and other items needed for a complete installation and indicated use and effect.
  2. Standard Products: If available, and unless custom products or nonstandard options are specified, provide standard products of types that have been produced and used successfully in similar situations on other projects.
  3. Owner reserves the right to limit selection to products with warranties not in conflict with requirements of the Contract Documents.
  4. Where products are accompanied by the term "as selected", Architect will make selection.
  5. Descriptive, performance, and reference standard requirements in the Specifications establish salient characteristics of products.
- B. Product Selection Procedures:
1. Product: Where Specifications name a single manufacturer and product, provide the named product that complies with requirements. Comparable products or substitutions for Contractor's convenience will not be considered.
  2. Manufacturer/Source: Where Specifications name a single manufacturer or source, provide a product by the named manufacturer or source that complies with requirements. Comparable products or substitutions for Contractor's convenience will not be considered.

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3. Products:
    - a. Restricted List: Where Specifications include a list of names of both manufacturers and products, provide one of the products listed that complies with requirements. Comparable products or substitutions for Contractor's convenience will not be considered.
    - b. Nonrestricted List: Where Specifications include a list of names of both available manufacturers and products, provide one of the products listed, or an unnamed product, that complies with requirements. Reply with requirements in "Comparable Products" Article for consideration of an unknown product.
  4. Manufacturers:
    - a. Restricted List: Where Specifications include a list of manufacturers' names, provide a product by one of the manufacturers listed that complies with requirements. Comparable products or substitutions for Contractor's convenience will not be considered.
    - b. Nonrestricted List: Where Specifications include a list of available manufacturers, provide a product by one of the manufacturers listed, or a product by an unnamed manufacturer, that complies with requirements. Comply with requirements in "Comparable Products" Article for consideration of an unnamed manufacturer's product.
  5. Basis-of-Design Product: Where Specifications name a product, or refer to a product indicated on Drawings, and include a list of manufacturers, provide the specified or indicated product or a comparable product by one of the other named manufacturers. Drawings and Specifications indicate sizes, profiles, dimensions, and other characteristics that are based on the product named. Comply with requirements in "Comparable Products" Article for consideration of an unnamed product by one of the other named manufacturers.
- C. Visual Selection Specification: Where Specifications include the phrase "as selected by Architect from manufacturer's full range" or similar phrase, select a product that complies with requirements. Architect will select color, gloss, pattern, density, or texture from manufacturer's product line that includes both standard and premium items.

## 2.2 COMPARABLE PRODUCTS

- A. Conditions for Consideration: Architect will consider Contractor's request for comparable product when the following conditions are satisfied. If the following conditions are not satisfied, Architect may return requests without action, except to record noncompliance with these requirements:
1. Evidence that the proposed product does not require revisions to the Contract Documents, that it is consistent with the Contract Documents and will produce the indicated results, and that it is compatible with other portions of the Work.
  2. Detailed comparison of significant qualities of proposed product with those named in the Specifications. Significant qualities include attributes such as performance, weight, size, durability, visual effect, and specific features and requirements indicated.
  3. Evidence that proposed product provides specified warranty.

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PART 3 – EXECUTION (Not Used)

END OF SECTION 016000

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SECTION 017300 — EXECUTION

PART 1 – GENERAL

1.1 RELATED DOCUMENTS

- A. Drawings and general provisions of the Contract, including General and Supplementary Conditions and other Division I Specification Sections, apply to this Section.

1.2 SUMMARY

- A. This Section includes administrative and procedural requirements governing execution of the Work including, but not limited to, the following:
  - 1. Construction layout.
  - 2. Field engineering and surveying.
  - 3. Installation of the Work.
  - 4. Cutting and patching.
  - 5. Progress cleaning.
  - 6. Protection of installed construction.
  - 7. Correction of the Work.

1.3 DEFINITIONS

- A. Cutting: Removal of in-place construction necessary to permit installation or performance of other work.
- B. Patching: Fitting and repair work required to restore construction to original conditions after installation of other work.

1.4 INFORMATIONAL SUBMITTALS

- A. Qualification Data: For land surveyor.
- B. Certificates: Submit certificate signed by land surveyor certifying that location and elevation of improvements comply with requirements.

1.5 QUALITY ASSURANCE

- A. Land Surveyor Qualifications: A professional land surveyor who is legally qualified to practice in jurisdiction where Project is located and who is experienced in providing land-surveying services of the kind indicated.
- B. Cutting and Patching: Comply with requirements for and limitations on cutting and patching of construction elements.
  - 1. Other Construction Elements: Do not cut and patch other construction elements or components in a manner that could result in increased maintenance or decreased

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operational life or safety.

2. Visual Elements: Do not cut and patch construction in a manner that results in visual evidence of cutting and patching. Remove and replace construction that has been cut and patched in a visually unsatisfactory manner.

## PART 2 – PRODUCTS

### 2.1 MATERIALS

- A. General: Comply with requirements specified in other Sections.
- B. In-Place Materials: Use materials for patching identical to in-place materials. For exposed surfaces, use materials that visually match in-place adjacent surfaces to the fullest extent possible.
  1. If identical materials are unavailable or cannot be used, use materials that, when installed, will provide a match acceptable to the Architect for the visual and functional performance of in-place materials.

## PART 3 – EXECUTION

### 3.1 EXAMINATION

- A. Examination and Acceptance of Conditions: Before proceeding with each component of the Work, examine substrates, areas, and conditions, with Installer or Applicator present where indicated, for compliance with requirements for installation tolerances and other conditions affecting performance. Record observations.
  1. Verify compatibility with and suitability of substrates, including compatibility with existing finishes or primers.
  2. Proceed with installation only after unsatisfactory conditions have been corrected. Proceeding with the Work indicates acceptance of surfaces and conditions.

### 3.2 PREPARATION

- A. Field Measurements: Take field measurements as required to fit the Work properly. Recheck measurements before installing each product. Where portions of the Work are indicated to fit other construction, verify dimensions of other construction by field measurements before fabrication. Coordinate fabrication schedule with construction progress to avoid delaying the Work.
- B. Review of Contract Documents and Field Conditions: Immediately on discovery of the need for clarification of the Contract Documents caused by differing field conditions outside the control of the Contractor, submit a request for information to Architect according to requirements in Division 1 Section “Project Management and Coordination”.

### 3.3 CONSTRUCTION LAYOUT

- A. Verification: Before proceeding to lay out the Work, verify layout information shown on Drawings, in relation to the property survey and existing benchmarks. If discrepancies are

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discovered, notify Architect promptly.

- B. General: Engage a land surveyor to lay out the Work using accepted surveying practices.
  - 1. Establish benchmarks and control points to set lines and levels at each story of construction and elsewhere as needed to locate each element of Project.
  - 2. Establish dimensions within tolerances indicated. Do not scale Drawings to obtain requirement dimensions.
  - 3. Inform installers of lines and levels to which they must comply.
  - 4. Check the location, level and plumb, of every major element as the Work progresses.
  - 5. Notify Architect when deviations from required lines and levels exceed allowable tolerances.
  - 6. Close site surveys with an error of closure equal to or less than the standard established by authorities having jurisdiction.
- C. Record Log: Maintain a log of layout control work. Record deviations from required lines and levels. Include beginning and ending dates and times of surveys, weather conditions, name and duty of each survey party member, and types of instruments and tapes used. Make the log available for reference by Architect.

### 3.4 INSTALLATION

- A. General: Locate the Work and components of the Work accurately, in correct alignment and elevation, as indicated.
- B. Comply with manufacturer's written instructions and recommendations for installing products in applications indicated.
- C. Install products at the time and under conditions that will ensure the best possible results. Maintain conditions required for product performance until Substantial Completion.
- D. Conduct construction operations so no part of the Work is subjected to damaging operations or loading in excess of that expected during normal conditions of occupancy.
- E. Tools and Equipment: Do not use tools or equipment that produce harmful noise levels.
- F. Templates: Obtain and distribute to the parties involved templates for work specified to be factory prepared and field installed.
- G. Joints: Make joints of uniform width. Where joint locations in exposed work are not indicated, arrange joints for the best visual effect. Fit exposed connections together to firm hairline joints.
- H. Hazardous Materials: Use products, cleaners, and installation materials that are not considered hazardous.

### 3.5 CUTTING AND PATCHING

- A. Cutting and Patching, General: Employ skilled workers to perform cutting and patching. Proceed with cutting and patching at the earliest feasible time, and complete without delay.
  - 1. Cut in-place construction to provide for installation of other components or performance of other construction, and subsequently patch as required to restore surfaces to their

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original condition.

- B. Protection: Protect in-place construction during cutting and patching to prevent damage.
- C. Cutting: Cut in-place construction by sawing, drilling, breaking, chipping, grinding, and similar operations, including excavation, using methods least likely to damage elements retained or adjoining construction. If possible, review procedures with original Installer; comply with original Installer's written recommendations.
  - 1. In general, use hand or small power tools designed for sawing and grinding, not hammering and chopping. Cut holes and slots neatly to minimum size required, and with minimum disturbance of adjacent surfaces. Temporarily cover openings when not in use.
  - 2. Proceed with patching after construction operations requiring cutting are complete.
- D. Patching: Patch construction by filling, repairing, refinishing, closing up, and similar operations following performance of other work. Patch with durable seams that are as invisible as practicable. Provide material and comply with installation requirements specified in other Sections, where applicable.
  - 1. Inspection: Where feasible, test and inspect patched areas after completion to demonstrate physical integrity of installation.
  - 2. Exposed Finishes: Restore exposed finishes of patched areas and extend finish restoration into retained adjoining construction in a manner that will minimize evidence of patching and refinishing.
- E. Cleaning: Clean areas and spaces where cutting and patching are performed. Remove paint, mortar, oils, putty, and similar materials from adjacent finished surfaces.

### 3.6 PROGRESS CLEANING

- A. General: Clean Project site and work areas daily. Enforce requirements strictly. Dispose of materials lawfully.
  - 1. Comply with requirements of NFPA 241 for removal of combustible waste materials and debris.
  - 2. Do not hold waste materials more than seven days during normal weather or three days if the temperature is expected to rise above 80 degrees F.
  - 3. Containerize hazardous and unsanitary waste materials separately from other waste. Mark containers appropriately and dispose of legally, according to regulations.
    - a. Utilize containers intended for holding waste materials of type to be stored.
- B. Site: Maintain Project site free of waste materials and debris.
- C. Waste Disposal: Do not bury or burn waste materials on-site. Do not wash waste materials down sewers or into waterways. Comply with waste disposal requirements in Division 1 Section "Construction Waste Management and Disposal".
- D. During handling and installation, clean and protect construction in progress and adjoining materials already in place. Apply protective covering where required to ensure protection from damage or deterioration at Substantial Completion.

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- E. Clean and provide maintenance on completed construction as frequently as necessary through the remainder of the construction period.

3.7 CORRECTION OF THE WORK

- A. Repair or remove and replace defective construction. Restore damaged substrates and finishes.
  - 1. Repairing includes replacing defective parts, refinishing damaged surfaces, touching up with matching materials, and properly adjusting operating equipment.
- B. Remove and replace damaged surfaces that are exposed to view if surfaces cannot be repaired without visible evidence of repair.

END OF SECTION 017300



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SECTION 017419 – CONSTRUCTION WASTE MANAGEMENT AND DISPOSAL

PART 1 – GENERAL

1.1 RELATED DOCUMENTS

- A. Drawings and general provisions of the Contract, including General and Supplementary Conditions and other Division 1 Specification Sections, apply to this Section.

1.2 SUMMARY

- A. This Section includes administrative and procedural requirements for the following:
  - 1. Disposing of non-hazardous demolition and construction waste.

1.3 DEFINITIONS

- A. Construction Waste: Site improvement materials and other solid waste resulting from construction, renovation, or repair operations. Construction waste including packaging.
- B. Demolition Waste: Site improvement materials resulting from demolition or selective demolition operations.
- C. Disposal: Removal off-site of all demolition and construction waste.

1.4 SUBMITTALS

- A. Waste Management Plan: Submit **3** copies of a fully complete plan within **30** days of date established for commencement of the Work.

1.5 QUALITY ASSURANCE

- A. Regulatory Requirements: Comply with hauling and disposal regulations of authorities having jurisdiction.

PART 2 – PRODUCTS (Not Used)

PART 3 – EXECUTION

3.1 PLAN IMPLEMENTATION

- A. Comply with Division 1 Section “Temporary Facilities and Controls” for operation, termination, and removal requirements.
- B. Site Access and Temporary Controls: Conduct waste management operations to ensure minimum interference with roads, streets, walks, walkways, and other adjacent occupied and used facilities.

3.2 DISPOSAL OF WASTE

- A. General: Remove waste materials from Project site and legally dispose of them in a landfill.

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1. Except as otherwise specified, do not allow waste materials that are to be disposed of to accumulate on-site.
  2. Remove and transport debris in a manner that will prevent spillage on adjacent surfaces and areas.
- B. Burning: Do not burn waste materials.
- C. Disposal: Transport waste materials off Owner's property and legally dispose of them.

END OF SECTION 017419

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SECTION 017700 - CLOSEOUT PROCEDURES

PART 1 – GENERAL

1.1 RELATED DOCUMENTS

- A. The provisions of the Contract Documents apply to the work of this Section.

1.2 SUMMARY

- A. This Section includes administrative and procedural requirements for Contract closeout, including, but not limited to, the following:
1. Inspection procedures.
  2. Project Record Documents.
  3. Operation and maintenance manuals.
  4. Warranties.
  5. Instruction of Owner’s personnel.
  6. Final cleaning.
- B. Related Sections include the following:
1. The Contractor will be required to comply fully with all requirements in Section 017700 “Closeout Procedures” for the Work of project prior to acceptance by the Owner.
  2. Division 1 Section “Payment Procedures” for requirements for Applications for Payment for Substantial and Final Completion.
  3. Divisions 2 through 33 Sections for specific closeout and special cleaning requirements for products of those Sections.

1.3 SUBMITTAL COMPLETION

- A. Preliminary Procedures: Before requesting inspection for determining date of Substantial Completion, complete the following. List items below that are incomplete in request.
1. Prepare a list of items to be completed and corrected (punch list), the value of items on the list, and reasons why the Work is not complete.
  2. Advise Owner of pending insurance change over requirements.
  3. Submit specific warranties, workmanship bonds, maintenance service agreements, final certifications, and similar documents.
  4. Obtain and submit releases permitting Owner unrestricted use of the Work and access to services and utilities.
  5. Prepare and submit Project Record Documents, maintenance manuals, damage or settlement surveys, and similar final record information.

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6. Deliver extra materials, and similar items to location designated by Owner. Label with manufacturer's name and model number where applicable.
  7. Terminate and remove temporary facilities from Project site, along with construction tools, and similar elements.
  8. Submit change over information related to Owner's occupancy, use, operation, and maintenance period
  9. Complete final cleaning requirements, including touch up painting.
  10. Touch up and otherwise repair and restore marred exposed finishes to eliminate visual defects.
- B. Inspection: Submit a written request for inspection for Substantial Completion. On receipt of request, Architect will either proceed with inspection or notify Contractor of unfulfilled requirements. Architect will prepare the Certificate of Substantial Completion after inspection or will notify Contractor of items, either on Contractor's list or additional items identified by Architect, that must be completed or corrected before certificate will be issued.
1. Reinspection: Request reinspection when the Work identified in previous inspections as incomplete is completed or corrected.
  2. If the project has not been substantially completed by the Contract Substantial Completion dates for the respective portions of the Work, the Contractor shall also pay \$130 **per hour** for each inspection by the Architect after the first inspection after Contract Substantial Completion dates until the Architect has certified the project substantially complete. The Architect will determine the times of inspection.
  3. Results of completed inspection will form basis of requirements for Final Completion.

1.4 FINAL COMPLETION

- A. Preliminary Procedures: Before requesting final inspection for determining date of Final Completion, complete the following:
1. Submit a final Application for Payment according to Division 1 Section "Payment Procedures".
  2. Submit Project Record Documents (As-Builts), and all warranties, complete with date of Substantial Completion indicated on all warranties.
  3. Submit certified copy of Architect's Substantial Completion inspection list of items to be completed or corrected (punch list), endorsed and dated by Architect. The certified copy of the list shall state that each item has been completed or otherwise resolved for acceptance.
  4. Submit evidence of final, continuing insurance coverage complying with insurance requirements.
  5. Instruct Owner's personnel in maintenance of products.
- B. Inspection: Submit a written request for final inspection for acceptance. On receipt of request, Architect will either proceed with inspection or notify Contractor of unfulfilled requirements. Architect will prepare a final Certificate for Payment after inspection or will notify Contractor of

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construction that must be completed or corrected before certificate will be issued.

1. Reinspection: Request reinspection when the Work identified in previous inspections as incomplete is completed or corrected.
2. Reinspection Fee: If the Architect is required to make subsequent final inspection visits due to incomplete work, the Contractor shall pay the Owner \$130 **per hour** for Architect's time, including travel, for each inspection until the Architect has certified the project. This inspection fee is in addition to liquidated damages that may exist in the Contract.

1.5 LIST OF INCOMPLETE ITEMS (PUNCH LIST)

- A. Preparation: Submit three copies of list. Include name and identification of each area affected by construction operations for incomplete items and items needing correction including, if necessary, areas disturbed by Contractor that are outside the limits of construction.
  1. Include the following information at the top of each page:
    - a. Project name.
    - b. Date.
    - c. Name of Architect.
    - d. Name of Contractor.
    - e. Page number.

1.6 PROJECT RECORD DOCUMENTS

- A. General: do not use Project Record Documents for construction purposes. Protect Project Record Documents from deterioration and loss. Provide access to Project Record Documents for Architect's reference during normal working hours.
- B. Record Drawings: Maintain and submit one set of prints of Contract Project Manual.
  1. Note Field Clarifications, RFIs, PCO's, Construction Change Directive numbers, Change Order numbers, alternate numbers, and similar identification where applicable.
- C. Record Product Data: Submit one copy of each Product Data submittal. Mark one set to indicate the actual product installation where installation varies substantially from that indicated in Product Data.
  1. Give particular attention to information on concealed products and installations that cannot be readily identified and recorded later.
  2. Include significant changes in the product delivered to Project site and changes in manufacturer's written instructions for installation.
  3. Note related Change Orders and Record Drawings, where applicable.

1.7 MAINTENANCE MANUALS

- A. Assemble a complete set of maintenance data indicating maintenance of each system.
  1. Maintenance Data:

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- a. Manufacturer's information, including list of spare parts.
  - b. Name, address, and telephone number of Installer or supplier.
  - c. Maintenance procedures.
  - d. Maintenance and service schedules for preventative and routine maintenance.
  - e. Sources of spare parts and maintenance materials.
  - f. Copies of warranties and bonds.
2. Approved Submittal: For each Division 21 through Division 28 item of equipment information, provide legible copy of the final approved submittal.
- B. Recommended Procedure: Prepare maintenance manuals immediately following final submittal acceptance and submit to the Architect/Engineer for review. Incorporate comments, if any, and resubmit to Architect/Engineer. Provide triplicate sets (once approvals have been obtained) to the Owner.
- 1.8 WARRANTIES
- A. Submittal Time: Warranties are to commence on the date of Final Completion. The costs of bridging measures to address the non-traditional commencement date for warranties are included in the Contract Sum.
  - B. Provide additional copies of each warranty to include in maintenance manuals.

## PART 2 – PRODUCTS

### 2.1 MATERIALS

- A. Cleaning Agents: Use cleaning materials and agents recommended by manufacturer or fabricator of the surface to be cleaned. Do not use cleaning agents that are potentially hazardous to health or property or that might damage finished surfaces.

## PART 3 – EXECUTION

### 3.1 DEMONSTRATION AND TRAINING

- A. Instruction: Instruct Owner's personnel to maintain systems.

### 3.2 FINAL CLEANING

- A. General: Provide final cleaning. Conduct cleaning and waste-removal operations to comply with local laws and ordinances and Federal and local environmental and anti-pollution regulations.
- B. Cleaning: Employ experienced workers or professional cleaners for final cleaning. Comply with manufacturer's written instructions.
  1. Complete the following cleaning operations before requesting inspection for certification of Substantial Completion for entire Project or for a portion of Project:

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- a. Clean Project site, yard, and grounds, in areas disturbed by construction activities, including landscaped areas, of rubbish, waste material, litter, and other foreign substances.
  - b. Broom clean paved areas. Remove petrochemical spills, stains, and other foreign deposits.
  - c. Rake grounds that are neither planted nor paved to a smooth, even-textured surface.
  - d. Remove tools, construction equipment, machinery, and surplus material from Project site.
  - e. Touch up and otherwise repair and restore marred, exposed finishes and services. Replace finishes and surfaces that cannot be satisfactorily repaired or restored or that already show evidence of repair or restoration.
  - f. Leave Project clean and ready for occupancy.
- C. Comply with safety standards for cleaning. Do not burn waste materials. Do not bury debris or excess materials on Owner's property. Do not discharge volatile, harmful, or dangerous materials into drainage systems. Remove waste materials from Project site and dispose of lawfully.

END OF SECTION 017700

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SECTION 31 1000 - SITE CLEARING

PART 1 - GENERAL

1.1 RELATED DOCUMENTS

- A. The provisions of the Contract Documents apply to the work of this Section.

1.2 SUMMARY

- A. This Section includes the following:
  - 1. Protection of existing trees.
  - 2. Clearing and grubbing.
  - 3. Removal of trees and other vegetation.
  - 4. Topsoil stripping.

1.3 DEFINITIONS

- A. Remove: Remove and legally dispose of items indicated. Removal includes digging out and off-site disposing of stumps and roots.
- B. Tree Protection Zone: The area surrounding individual trees or groups of trees to be protected during construction, and defined by the drip line of individual trees or the perimeter drip line of groups of trees, unless otherwise indicated.
- C. Topsoil: Friable, clay loam surface soil, found in varying depths.

1.4 MATERIALS OWNERSHIP

- A. Except for stripped topsoil or other materials indicated to remain Owner's property, cleared materials shall become Contractor's property and shall be removed from Project site.

1.5 SUBMITTALS

- A. Photographs or videotape, sufficiently detailed, of existing conditions of trees, plantings and other improvements adjoining the construction that might be misconstrued as damage caused by the Work.

1.6 PROJECT CONDITIONS

- A. Traffic: Conduct site clearing operations to ensure minimum interference with roads, streets, walks, and other adjacent occupied or used facilities. Do not close or obstruct streets, walks or other occupied or used facilities without permission from authorities having jurisdiction.
- B. Protection of Existing Improvements: Provide protections necessary to prevent damage to existing improvements indicated to remain in place.
  - 1. Protect existing improvements on adjoining properties and on Owner's property.



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2. Restore existing improvements damaged by clearing operations to their original condition.
- C. The conditions existing at the time of inspection for bidding purposes will be maintained by the Owner to the extent practical. However, minor variations may occur due to natural occurrences prior to the start of clearing work.
- D. Do not commence site-clearing operations until erosion and sedimentation control measures are in place.

## PART 2 - PRODUCTS

### 2.1 TREE PROTECTION FENCING

- A. Tree protection fencing shall conform to standard and specification 3.38-2 (plastic fence) of the Virginia Erosion and Sediment Control Handbook.

## PART 3 – EXECUTION

### 3.1 PROTECTION OF EXISTING TREES AND VEGETATION

- A. Install tree protection fencing as indicated. Erect and maintain a temporary fence around the drip line of individual trees or around the perimeter drip line of groups of trees to remain.
  1. Do not store construction materials, debris, topsoil or other excavated material within the tree protection zone.
  2. Do not permit vehicles or other equipment within the tree protection zone.
  3. Maintain tree protection zones free of weeds and trash.
- B. Protect existing trees and other vegetation indicated to remain in place, against unnecessary cutting, breaking or skinning of roots, skinning or bruising of bark, smothering of trees by stockpiling construction materials or excavated materials within drip line, excess foot or vehicular traffic, or parking of vehicles within drip line.
- C. Provide protection for roots over 1-1/2 inch diameter that are cut during construction operations. Coat cut faces with emulsified asphalt, or other acceptable coating, formulated for use on damaged plant tissues. Temporarily cover exposed roots with wet burlap to prevent roots from drying out; cover with earth as soon as possible.
- D. Repair or replace trees and vegetation indicated to remain which are damaged by construction operations, in a manner acceptable to Architect.

### 3.2 SITE CLEARING

- A. General: Remove trees, shrubs, grass and other vegetation as required to permit installation of the Work. Cut minor roots and branches of trees indicated to remain in a clean and careful manner, where such roots and branches obstruct installation of the Work.
- B. Clearing and Grubbing: Clear site of trees, shrubs and other vegetation within the clearing limits indicated.
  1. Completely remove stumps, roots, and other debris.
  2. Use only hand methods for grubbing inside drip line of trees indicated to remain.

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3. Fill depressions caused by clearing and grubbing operations with satisfactory soil material, unless further excavation or earthwork is indicated. Place fill material in horizontal layers not exceeding 6 inches loose depth, and thoroughly compact to a density equal to adjacent original ground.
- C. Selective Clearing: Clear areas designated as "Selective Clearing" of all ground covers, underbrush and trees less than 6-inches in diameter at breast height. Coordinate extent of material removed with Architect.
  1. Remove trees that appear to be dying or weakening for any reason and at any point during construction up to and including Substantial Completion at the Architect's direction.

### 3.3 TOPSOIL STRIPPING

- A. Remove heavy growths of grass from areas before stripping.
- B. Strip topsoil to whatever depths are encountered, but to a minimum of at least 4 inches.
- C. Strip topsoil in a manner to prevent intermingling with underlying subsoil or other material.
  1. Remove subsoil and nonsoil materials from topsoil, including trash, debris, weeds, roots, and other waste materials.
- D. Where existing trees are indicated to remain, leave existing topsoil in place within drip lines to prevent damage to root system.
- E. Temporarily stockpile topsoil in storage piles in areas indicated or directed. Construct storage piles to provide free drainage of surface water. Cover storage piles, if required, to prevent wind erosion.
  1. Do not stockpile topsoil within tree protection zones.
- F. Dispose of unsuitable or excess topsoil in a legal manner off-site.

### 3.4 DISPOSAL OF WASTE MATERIALS

- A. Removal from Owner's Property: Remove waste materials generated by clearing operations from Owner's property and dispose of in a legal manner off-site.
  1. Remove waste materials and debris from the site in a manner to prevent spillage. Pavements and the area adjacent to the site shall remain free from mud, dirt and debris at all times.
  2. Clean up debris resulting from site clearing operations continuously with the progress of the work.

END OF SECTION 31 1000

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SECTION 31 2000 - EARTHWORK

PART 1 - GENERAL

1.1 RELATED DOCUMENTS

- A. The provisions of the Contract Documents apply to the work of this Section.
- B. Refer to Section 01 2110 and the Bid Form for information concerning required allowances and unit prices.
- C. Refer to Section 31 1000 for topsoil stripping and Section 32 9200 for topsoil placement.

1.2 SUMMARY

- A. This Section includes the following:
  - 1. Excavation, filling, backfilling, and grading indicated and necessary for proper completion of the work.
  - 2. Preparing of subgrade for walks and pavements.
  - 3. Excavating and backfilling of trenches.

1.3 SUBMITTALS

- A. VDOT approved Job Mix for stone.
- B. Imported fill (if required): Submit location of borrow pit and a sample of the soil for approval to the Owner's Geotechnical Engineer a minimum of fourteen (14) working days prior to use

1.4 DEFINITIONS

- A. Excavation: Removal of all material (except for rock) encountered to design subgrade elevations indicated for cut areas and to subsoil elevations in fill areas. Excavation also includes subsequent respreading, moisture conditioning, compaction, and grading of satisfactory materials removed.
- B. Unauthorized Excavation: Removal of materials beyond the limits indicated in the definition of "Excavation" without specific direction of Architect.
- C. Additional Excavation: Removal, disposal and replacement of materials beyond the limits indicated in the definition of "Excavation" at the direction of the Architect. Refer to Part 3 of this Section for requirements of Additional Excavation.
- D. Subgrade: The undisturbed earth (in cut) or the compacted soil layer (in fill) immediately below granular subbase, drainage fill, or topsoil materials.
- E. Subsoil: The undisturbed earth immediately below the existing topsoil layer.

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- F. Structures: The area extending a minimum of ten (10) feet beyond the edge of foundations, slabs, curbs, underground tanks, piping or other man-made stationary features occurring above or below ground surface.
- G. Pavements: The area extending 10 feet beyond the exterior limits of paved areas and down to undisturbed soils at a one horizontal to one vertical slope. The area extending 3 feet beyond the exterior limits of walks and down to undisturbed soils at a one horizontal to one vertical slope
- H. Subbase Material: Artificially graded mixture of crushed gravel or crushed stone meeting VDOT specifications. Material type is indicated on the drawings.
- I. Drainage/Porous Fill: Washed, evenly graded mixture of crushed stone, or crushed or uncrushed gravel meeting the requirements of VDOT No. 57 Stone.
- J. Rock: Hard bed rock, boulders or similar material requiring the use of rock drills and/or explosives for removal. The criteria for classification of general excavation as rock is any material which cannot be dislodged by a Caterpillar D-8 Tractor, or equivalent, equipped with a single tooth hydraulically operated power ripper. The criteria for trench rock shall be that a Caterpillar 345 Backhoe, or equivalent, with a proper width bucket cannot remove the material.

#### 1.5 ADDITIONAL WORK

- A. Paragraph 4.3.4 of General Conditions refers to certain conditions that may require additional excavation work. This paragraph is further defined herein and, where there are conflicts, is superseded by this section.
- B. Claims for concealed, unknown, or unanticipated subsurface conditions are limited to those circumstances where:
  - 1. Additional excavation work is required below the contract limits indicated to provide acceptable bearing for pavements.
  - 2. Additional excavation work below the utility trench design elevations as required to provide acceptable bearing for the utility.
  - 3. Rock is encountered between existing grade and design subgrade.
- C. The risks of concealed, unknown, or unanticipated subsurface conditions (except for rock) from existing ground surface to the design subgrade elevations in cut areas and to subsoil elevations in fill areas shall be included in the Contract Amount and shall not be considered as grounds for additional costs to the Contract. The risks of concealed, unknown, or unanticipated subsurface conditions below the elevations stated above shall be considered as Additional Excavation.
- D. During construction, if concealed, unknown, or unanticipated subsurface conditions are encountered which require that additional depth of utility trench excavation below the design subgrade or subsoil elevations is required, immediately notify the Architect upon discovery of such condition prior to disturbing the material encountered.
- E. Payment for additional Work
  - 1. Additional excavation shall be counted toward the unit price allowances established in the Bid Form. *The Owner reserves the right to negotiate said unit price allowances prior to the Award of Contract.*

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2. No payment will be made for unauthorized excavation.

#### 1.6 EARTHWORK BALANCE ADJUSTMENTS

- A. Adjustments of grades may be allowed with prior written approval of the Architect in order to accommodate shortfall or surplus of material that may occur. Should adjustments be allowed, maintenance of designed drainage patterns and required adjustments to drainage structures shall be a Contract responsibility. **No additional payment will be made for these adjustments.**

#### 1.7 QUALITY ASSURANCE

- A. Codes and Standards: Perform excavation work in compliance with applicable requirements of authorities having jurisdiction.
- B. Environmental Compliance:
  1. Comply with the requirements of the latest edition of the Virginia Erosion and Sediment Control Handbook for erosion control during earthwork operations.
  2. Comply with the permit conditions for all work performed within wetlands.
- C. Testing and Inspection Service: Owner will employ and pay for an independent Geotechnical testing and inspection laboratory to perform soil testing and inspection service during earthwork operations. Cooperate with Owner's Geotechnical Engineer as required for testing and inspection of work. These services do not relieve the responsibility for compliance with Contract Document requirements.

#### 1.8 PROJECT CONDITIONS

- A. Bidders and interested parties (prior to receipt of bids) are encouraged to conduct their own soil and subsurface investigations, examinations, tests, and exploratory borings to determine the nature of the soil conditions underlying the project site. Contact the Owner's office to make an appointment to enter the site for the purpose of conducting your own investigation prior to bid.
- B. Existing Utilities: Do not interrupt existing utilities serving facilities occupied by the Owner of others except when permitted under the following conditions and then only after arranging to provide acceptable temporary utility services.
  1. Notify Architect not less than 48 hours in advance of proposed utility interruptions.
  2. Do not proceed with utility interruptions without receiving Architect's written permission.
  3. Existing utilities across or along the line of work are indicated only in an approximate location. Locate all underground lines and structures. Call "Miss Utility" at 1-800-552-7001 prior to construction. If utilities are marked that are not shown on the plans, locate utility vertically and horizontally and provide information to architect. Repair and correct any damage to underground lines and structures.

#### 1.9 SAFETY

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- A. Protection of Persons and Property: Barricade open excavations occurring as part of this work and post with warning lights.
  - 1. Operate warning lights as recommended by authorities having jurisdiction and governing regulations and standards.
  - 2. Protect structures, utilities, sidewalks, pavements, and other facilities from damage caused by settlement, lateral movement, undermining, washout, and other hazards created by earthwork operations.
- B. Work within the road right-of-way shall meet all requirements of the latest edition of the Virginia Department of Transportation Work Area Protection Manual.

## PART 2 - PRODUCTS

### 2.1 SOIL MATERIALS

- A. Satisfactory soil materials are defined as those complying with ASTM D2487 soil classification groups CL, GC, SC, GW, GP, GM, SM, SW, and SP.
- B. Unsatisfactory soil materials are defined as those complying with ASTM D2487 soil classification groups CH, OL, OH, MH, ML and PT.
- C. Backfill and Fill Materials: Satisfactory soil materials free of clay, rock or gravel larger than 4 inches in any dimension (2 inches for material used in trench backfill), debris, waste, frozen materials, organics, vegetation and other deleterious matter.
- D. Imported material for structural fill shall comply with ASTM D2487 soil classification groups CL, ML, SC, SM, SP, SW, GC, GM, GP, or GW.
- E. Imported material for open space fill shall comply with topsoil requirements of Lawns and Grasses specification 32 9200.

### 2.2 ACCESSORIES

- A. Non-woven Geotextile Fabric (for drainage): Mirafi 140N, or equivalent.
- B. Woven Geotextile Fabric (for reinforcement): PROPEX 2002, or equivalent.

## PART 3 – EXECUTION

### 3.1 PREPARATION

- A. Protect structures, utilities, sidewalks, pavements, and other facilities from damage caused by settlement, lateral movement, undermining, washout, and other hazards created by earthwork operations.

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- B. Preparation of subgrade for earthwork operations including removal of vegetation, topsoil, debris, obstructions, and deleterious materials from ground surface is specified in Section 311000 "Site Clearing."
- C. Protect and maintain erosion and sedimentation controls during earthwork operations.

### 3.2 DEWATERING

- A. Prevent surface water and subsurface or groundwater from flowing into excavations and from flooding project site and surrounding area.
  - 1. Do not allow water to accumulate in excavations. Remove water to prevent softening of foundation bottoms, undercutting footings, and soil changes detrimental to stability of subgrade and foundations. Provide and maintain pumps, well points, sumps, suction and discharge lines, and other dewatering system components necessary to convey water away from excavations.
  - 2. Establish and maintain temporary drainage ditches and other diversions outside excavation limits to convey rain water and water removed from excavations to collecting or runoff areas. Do not use utility trench excavations as temporary drainage ditches.
- B. Should any springs or running water be encountered in the excavation, notify the Architect and provide discharge by trenches (or other acceptable means) and drain to an appropriate point of disposal. Provide temporary drainage facilities to minimize the flow of rainwater onto adjacent property. Repair any damage to property or to subgrade as a result of construction and/or dewatering (or lack thereof) operations at no additional cost to the Contract. If permanent provision must be made for disposal of water other than as indicated, the Contract price shall be adjusted.

### 3.3 EXCAVATION

- A. Excavation consists of removal, placement and disposal of material encountered when establishing required subgrade or finish grade elevations.
  - 1. Excavation includes removal and disposal of pavements and other obstructions visible on ground surface; underground structures, utilities and other items indicated to be demolished and removed; together with earth and other materials encountered that are not classified as rock or unauthorized excavation.
- B. Rock Excavation: If Rock is encountered the Owner's Geotechnical Engineer will verify that the material qualifies for classification as rock excavation.
  - 1. If rock is encountered in grading, remove to depths as follows:
    - a) Under surfaced areas, to 6" under the respective subgrade for such areas.
    - b) Under grass and planted areas - 12" below finished grade.
    - c) Under trenches – 6" below bottom of trench.
  - 2. The above are considered pay limits.
  - 3. Contractor shall employ a surveyor licensed in the Commonwealth of Virginia to calculate the quantity of material removed as Rock Excavation. The quantity of rock calculated shall not

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exceed the volume determined by the payment limits. The Owner's Project Representative shall review the quantity calculated within 48 hours of receiving the survey notes.

### 3.4 EXCAVATION FOR WALKS AND PAVEMENTS

- A. Cut surface under pavements to comply with cross-sections, elevations and grades as indicated.

### 3.5 EXCAVATION FOR UTILITY TRENCHES

- A. Excavate trenches to uniform width, sufficiently wide to provide ample working room and a minimum of 6 to 9 inches of clearance on both sides of pipe or conduit.
- B. Excavate trenches to depth indicated or required to establish indicated slope and invert elevations and to support bottom of pipe or conduit on undisturbed soil. Excavate trenches to allow installation of top of pipe below frost line.
  - 1. Where rock is encountered, carry excavation to required elevations and backfill with VDOT #57 crushed stone prior to installation of pipe.
  - 2. For pipes or conduit less than 6 inches in nominal size, and for flat-bottomed, multiple-duct conduit units, do not excavate beyond indicated depths. Hand-excavate bottom cut to accurate elevations and support pipe or conduit on undisturbed soil.
  - 3. For pipes and equipment 6 inches or larger in nominal size, shape bottom of trench to fit bottom of pipe for 90 degrees (bottom 1/4 of the circumference). Fill depressions with tamped sand backfill. At each pipe joint, dig bell holes to relieve pipe bell of loads ensure continuous bearing of pipe barrel on bearing surface.

### 3.6 EXCAVATION STABILITY

- A. General: Comply with local codes, ordinances, and requirements of agencies having jurisdiction.
- B. Slope sides of excavations to comply with local codes, ordinances, and requirements of agencies having jurisdiction. Shore and brace where sloping is not possible because of space restrictions or stability of material excavated. Maintain sides and slopes of excavations in safe condition until completion of backfilling.
- C. Shoring and Bracing: Provide materials for shoring and bracing, such as sheet piling, uprights, stringers, and cross braces, in good serviceable condition. Maintain shoring and bracing in excavations regardless of time period excavations will be open. Extend shoring and bracing as excavation progresses.

### 3.7 SUBGRADE INSPECTION

- A. Notify Architect when mass, trench and footing excavations have reached required subgrade. The Architect will arrange for an inspection of conditions by the Owner's Geotechnical Engineer. *Alternative procedures for arranging this review may be implemented at the Owner's written option.*



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- B. If the Owner's Geotechnical Engineer determines that the subgrade bearing conditions are unacceptable, the Architect will authorize additional excavation until suitable bearing conditions are encountered.
- C. Proof-roll subgrade **below pavements** with heavy pneumatic-tired equipment to identify soft pockets and areas of excess yielding. Do not proof-roll wet or saturated subgrades.
  - 1. Completely proof-roll subgrade in one direction, **repeating proof-rolling in direction perpendicular to first direction**. Limit vehicle speed to 3 mph (5 km/h).
  - 2. Proof-roll with a loaded 10-wheel, tandem-axle dump truck weighing not less than 15 tons (13.6 tonnes).
  - 3. Excavate soft spots, unsatisfactory soils, and areas of excessive pumping or rutting, as determined by Architect, and replace with compacted backfill or fill as directed.
- D. Under supervision of the Owner's Geotechnical Engineer, proofroll subgrade in cut areas below pavement(s) with a loaded dump truck or other approved pneumatic tired vehicle. Should any unstable sub-soil be encountered below pavement or structures, break up the top eight inches of ground surface, pulverize, moisture-condition to optimum moisture content, and compact to percentage of maximum density as stated in Percentage of Maximum Density Requirements. Perform this work at no additional cost and/or time to the Contract.
- E. Reconstruct subgrades damaged by freezing temperatures, frost, rain, accumulated water, or construction activities, as directed by Architect, without additional compensation.

### 3.8 ADDITIONAL EXCAVATION

- A. Additional Excavation (Mass): Remove excavated materials and dispose of off-site in a legal manner. Replace this excavated material with satisfactory/imported material placed and compacted according to the requirements of the "Placement and Compaction" section.
- B. The quantity of material removed as Additional Excavation shall be calculated (on an in-situ basis) by a surveyor licensed in the Commonwealth of Virginia and employed by the Contractor. The Owner's Project Representative shall review the quantity calculated within 48 hours of receiving the survey notes.
- C. Protect the subgrade during construction. During wet conditions, the subgrade soils may become saturated and soften, possibly resulting in damage to the subgrade if disturbed by equipment. Correct subgrade damaged in this manner. **No additional payment will be made to correct subgrade damaged in this manner.**

### 3.9 UNAUTHORIZED EXCAVATION

- A. Correct Unauthorized Excavation as follows:
  - 1. Under footings, foundation bases, or retaining walls, fill unauthorized excavation by extending indicated bottom elevation of footing or base to excavation bottom without altering required top elevation. Lean concrete fill may be used to bring elevations to proper position when acceptable to Architect.

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2. Elsewhere, backfill and compact unauthorized excavations as indicated for authorized excavations of same classification unless otherwise directed by Architect.

3.10 STORAGE OF EXCAVATED MATERIALS

- A. Temporarily stockpile excavated materials acceptable for use as backfill and fill. Place, grade, and shape stockpiles for proper drainage. Cover to prevent windblown dust.
  1. Stockpile excavated materials away from edge of excavations. Do not store within the drip line of trees to remain.

3.11 BACKFILL AND FILL

- A. Backfill excavations as promptly as work permits, but not until completion of the following:
  1. Acceptance by local authority having jurisdiction of construction below finished grade, including perimeter insulation.
  2. Review, approval, and recording of the locations of underground utilities.
  3. Removal of concrete formwork.
  4. Removal of shoring and bracing (including backfilling of voids with satisfactory materials).
  5. Removal of trash and debris from excavation.
  6. Permanent or temporary horizontal bracing is in place on horizontally supported walls.
- B. Place backfill on subgrades free of mud, frost, snow or ice.
- C. Ground Surface Preparation: Remove vegetation, debris, obstructions, and deleterious materials from ground surface prior to placement of fills.
- D. Bench sloped surfaces steeper than 1 vertical to 4 horizontal so fill material will bond with existing material. Plow, scarify, bench or break up sloped surfaces flatter than 1 vertical to 4 horizontal so fill material will bond with existing material.
- E. Place soil material in layers to required subgrade elevations, for each area classification listed below, using materials indicated in Part 2 of this Section.
  1. Under grassed areas, use satisfactory excavated or borrow material.
  2. Under walks, curbs, and pavements, use satisfactory excavated or borrow material.

3.12 UTILITY TRENCH BACKFILL

- A. Place backfill on subgrades free of mud, frost, snow, or ice.
- B. Place and compact bedding course on trench bottoms and where indicated. Shape bedding course to provide continuous support for bells, joints, and barrels of pipes and for joints, fittings, and bodies of conduits.

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- C. Backfill trenches with concrete where trench excavations pass within 18 inches of column or wall footings and that are carried below bottom of such footings or that pass under wall footings. Place concrete to level of bottom of adjacent footing.
- D. Provide 4-inch- (100-mm-) thick, concrete-base slab support for piping or conduit less than 30 inches (750 mm) below surface of roadways. After installing and testing, completely encase piping or conduit in a minimum of 4 inches (100 mm) of concrete before backfilling or placing roadway subbase.
- E. Place and compact initial backfill of **satisfactory soil**, free of particles larger than 1 inch (25 mm) in any dimension, to a height of 12 inches (300 mm) over the utility pipe or conduit.
  - 1. Carefully compact initial backfill under pipe haunches and compact evenly up on both sides and along the full length of utility piping or conduit to avoid damage or displacement of piping or conduit. Coordinate backfilling with utilities testing.
- F. Controlled Low-Strength Material: Place initial backfill of controlled low-strength material to a height of 12 inches (300 mm) over the utility pipe or conduit.
- G. Backfill voids with satisfactory soil while installing and removing shoring and bracing.
- H. Place and compact final backfill of satisfactory soil to final subgrade elevation.
- I. Controlled Low-Strength Material: Place final backfill of controlled low-strength material to final subgrade elevation.
- J. Install warning tape directly above utilities, 12 inches (300 mm) below finished grade, except 6 inches (150 mm) below subgrade under pavements and slabs.
- K. Do not backfill trenches until any required testing and inspections have been completed and Architect authorizes backfilling. Backfill carefully to avoid damage or displacement of pipe systems.
- L. Under piping and conduit and equipment, use crushed stone where required over rock bearing surface and for correction of unauthorized excavation. Shape excavation bottom to fit bottom 90 degrees of cylinder.
- M. Place backfill and fill materials evenly adjacent to structures, piping, or conduit to required elevations. Prevent wedging action of backfill against structures or displacement of piping or conduit by carrying material uniformly around structure, piping, or conduit to approximately same elevation in each lift.

### 3.13 SOIL MOISTURE CONTROL

- A. Uniformly moisten or aerate subgrade and each subsequent fill or backfill soil layer before compaction to within 2 percentage points of optimum moisture content.
  - 1. Do not place backfill or fill soil material on surfaces that are muddy, frozen, or contain frost or ice.
  - 2. Remove and replace or scarify and air dry otherwise satisfactory soil material that exceeds optimum moisture content by 2 percentage points and is too wet to compact to specified dry unit weight.

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- B. Moisture Control: Where subgrade or layer of soil material must be moisture conditioned before compaction, uniformly apply water to surface of subgrade or layer of soil material. Apply water in minimum quantity as necessary to prevent free water from appearing on surface during or subsequent to compaction operations. Maintain the moisture content of the structural fill materials to within 2 percentage points of the optimum moisture content until permanently covered.
- C. Remove and replace, or scarify and air dry, soil material that is too wet to permit compaction to required density.
  - 1. Stockpile or spread soil material that has been removed because it is too wet to permit compaction. Assist drying by discing, harrowing, or pulverizing until moisture content is reduced to a satisfactory value.
  - 2. Work wet materials as directed by the Owner's Geotechnical Engineer. Base bids on working material daily for a maximum of five days of acceptable weather.
  - 3. No additional payment will be made for these operations.

3.14 COMPACTION OF SOIL BACKFILL AND FILLS

- A. Place backfill and fill materials in layers not more than 8 inches in loose depth for material compacted by heavy compaction equipment, and not more than 4 inches in loose depth for material compacted by hand-operated tampers.
- B. Before compaction, moisten or aerate each layer as necessary to provide optimum moisture content. Compact each layer to required percentage of maximum dry density or relative dry density for each area classification. Do not place backfill or fill material on surfaces that are muddy, frozen, or contain frost or ice.
- C. Control soil and fill compaction, providing minimum percentage of density indicated for each area classification indicated below. Correct improperly compacted areas or lifts as directed by Architect if soil density tests indicate inadequate compaction.
- D. Percentage of Maximum Density Requirements: Compact soil to not less than the following percentages of maximum density at a moisture content within 2 percentage points of optimum in accordance with ASTM D698:
  - 1. Under pavements, compact each layer of backfill or fill material at 95 percent maximum density. This includes ground under future expansion areas.
  - 2. Under grass or unpaved areas, compact each layer of backfill or fill material at 90 percent maximum density.
- E. Seal all fill areas at the end of each working day, utilizing a smooth drum roller.

3.15 GRADING

- A. General: Rough grading of areas within the Project, including cut and fill sections and adjacent transition areas, shall be reasonably smooth, compacted and free from irregular surface changes. The degree of finish shall be that ordinarily obtainable from either blade-grader or motor patrol except as otherwise indicated. The finished subgrade surface from the grassed areas generally shall

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be not more than 0.2 feet above or below the final grade or approved cross section, with due allowance for topsoil.

- B. The tolerance for walks and all areas to be paved shall not exceed 0.10 feet above or below the established subgrade. Finish all ditches, swales and gutters to drain readily. Provide rounding at top and bottom of cut and fill slopes and at other breaks in grade.
- C. Protection of Graded Areas: Protect newly graded areas and areas of cut, fill and design/subgrade elevations from the actions of the elements and from deterioration as a result of construction operations and weather conditions (frost, rains, snow, sleet, hail, etc.). Repair any settlement or washing that occurs prior to or after acceptance of the work. Fill to required subgrade levels any areas where settlement occurs. Protect trees to remain, and, at all areas of the Site where construction operations are in progress, provide protection for the safety of occupants of the existing facilities.
- D. General: Uniformly grade areas to a smooth surface, free of irregular surface changes. Comply with compaction requirements and grade to cross sections, lines, and elevations indicated.
  - 1. Provide a smooth transition between adjacent existing grades and new grades.
  - 2. Cut out soft spots, fill low spots, and trim high spots to comply with required surface tolerances.
- E. Site Grading: Finish subgrades to required elevations within the following tolerances:
  - 1. Lawn or Unpaved Areas: Plus or minus **1 inch (25 mm)**.
  - 2. Walks: Plus or minus **1 inch (25 mm)**.
  - 3. Pavements: Plus or minus **1/2 inch (13 mm)**.

3.16 PAVEMENT SUBBASE COURSE:

- A. General: Place subbase material, in layers of indicated thickness, over subgrade surface to support a pavement base course.
- B. Grade Control: During construction, maintain lines and grades including crown and cross-slope of subbase course.
- C. Shoulders: Place shoulders along edges of subbase course to prevent lateral movement. Construct shoulders of acceptable soil materials, placed in such quantity to compact to thickness of each subbase course layer. Compact and roll at least at 12" width of shoulder simultaneously with compacting and rolling each layer of subbase course.
- D. Placing: Place subbase course material on prepared subgrade in layers of uniform thickness, conforming to indicated cross-section and thickness. Maintain optimum moisture content for compacting subbase material during placement operations.
- E. When a compacted subbase course is 6" thick or less, place material in a single layer. When more than 6" thick, place material in equal layers, except no single layer more than 6" or less than 3" in thickness when compacted.
- F. Place subbase **and base** course on subgrades free of mud, frost, snow, or ice.
- G. On prepared subgrade, place subbase **and base** course under pavements and walks as follows:

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1. Place base course material over subbase course under hot-mix asphalt pavement.
  2. Shape subbase **and base** course to required crown elevations and cross-slope grades.
  3. Place subbase **and base** course 6 inches (150 mm) or less in compacted thickness in a single layer.
  4. Place subbase **and base** course that exceeds 6 inches (150 mm) in compacted thickness in layers of equal thickness, with no compacted layer more than 6 inches (150 mm) thick or less than 3 inches (75 mm) thick.
  5. Compact subbase **and base** course at optimum moisture content to required grades, lines, cross sections, and thickness to not less than **95** percent of maximum dry unit weight according to **ASTM D 698**.
- H. Pavement Shoulders: Place shoulders along edges of subbase and base course to prevent lateral movement. Construct shoulders, at least 12 inches (300 mm) wide, of satisfactory soil materials and compact simultaneously with each subbase and base layer to not less than **95** percent of maximum dry unit weight according to **ASTM D 698**.

### 3.17 FIELD QUALITY CONTROL

- A. Quality Control Testing During Construction: Allow testing service to inspect and approve each subgrade and fill layer before further backfill or construction work is performed.
  1. If in the opinion of the Architect, based on testing service reports and inspection, subgrade or fills have been placed that are below required density, perform additional compaction and testing until required density is obtained.
- B. The Owner will engage, and pay for, the services of a Geotechnical Engineer whose function shall be to afford complete engineering control by testing the placement of all structural fills under pavement areas and all compaction where required, and to observe the proof rolling of the pavement areas.
- C. The Owner's Geotechnical Engineer will be present as deemed necessary during all phases of the Work requiring filling, compaction operations or testing. The Geotechnical Engineer will provide the Architect with written certification that fill and compaction was completed with accepted materials in accordance with the Documents, and give a professional opinion regarding shrinkage or settlement of fill and safe load bearing capacity of fill.
- D. Site Preparation and Proofrolling: The Owner's Geotechnical Engineer will determine if any additional excavation or in-place densification is necessary to prepare a subgrade for fill placement for pavement support.
- E. Fill Placement and Compaction: The Owner's Geotechnical Engineer will witness all fill operations and take sufficient in-place density tests to verify that the indicated degree of fill compaction is achieved. The Owner's Geotechnical Engineer will observe and approve borrow materials used and shall determine if their existing moisture contents are suitable/acceptable.
- F. The Owner's Geotechnical Engineer will submit two (2) copies each of his reports, recommendations and/or opinions to the Architect/Engineer and the Owner. Pertinent information will be provided to the Contractor as required.

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3.18 EROSION CONTROL:

- A. Provide erosion control methods in accordance with requirements of authorities having jurisdiction, the Virginia Erosion and Sediment Control Handbook, and as indicated in the Contract Documents.

3.19 PROTECTION

- A. Repair and reestablish grades in settled, eroded, and rutted areas to indicated tolerances.
- B. Reconditioning Compacted Areas: Where subsequent construction operations or adverse weather disturbs completed compacted areas, scarify surface, reshape, and compact to required density prior to further construction.
- C. Settling: Where settling is measurable or observable at excavated areas during general project warranty period, remove surface (pavement, lawn, or other finish), add backfill material, compact, and replace surface treatment. Restore appearance, quality, and condition of surface or finish to match adjacent work, and eliminate evidence of restoration to greatest extent possible.
- D. Protect excavation bottoms against freezing when atmospheric temperature is less than 35 degrees F.

3.20 DISPOSAL OF WASTE MATERIALS

- A. Removal from Owner's Property: Remove excess and/or waste materials, including trash and debris, and dispose of it off Owner's property in a legal manner.
- B. Dispose of excess material and materials not acceptable for use as backfill or fill legally offsite.
- C. Do not remove topsoil from site until it has been demonstrated to the Owner's satisfaction that it is excess.

END OF SECTION 31 2000

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SECTION 31 2500 - EROSION CONTROL

PART 1 - GENERAL

1.1 RELATED DOCUMENTS:

- A. The provisions of the Contract Documents apply to the work of this Section.
- B. The Virginia Erosion and Sediment Control Handbook, latest edition.

1.2 SUMMARY

- A. This Section includes the installation, maintenance and removal of erosion control measures required for prevention of sediment leaving the project site.

1.3 SUBMITTALS

- A. Copies of the weekly Erosion Control Measure inspection reports
- B. Silt Fence

1.4 PAYMENT PROCEDURES FOR EROSION CONTROL MEASURES

- A. Establish a line item in the Schedule of Values for Erosion Control Maintenance. This line item shall represent a minimum of thirty percent (30%) of the total value of the erosion control for the project.
- B. Erosion control maintenance will be paid on a monthly basis, following the satisfactory installation and maintenance of the erosion control measures.

PART 2 - PRODUCTS

2.1 EROSION CONTROL PRODUCTS:

- A. Silt Fence
  - 1. Synthetic filter fabric, complying with the requirements of Standard and Specification 3.05 of the Virginia Erosion and Sediment Control Handbook.
  - 2. Wooden stakes shall be 2" oak, a minimum length of five feet.
- B. Storm Drain Inlet Protection
  - 1. Block and Gravel Drop Inlet Sediment Filter, complying with the requirements of Standard and Specification 3.07 of the Virginia Erosion and Sediment Control Handbook.
- C. Temporary Seeding



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1. Temporary vegetative cover for disturbed areas, complying with the requirements of Standard and Specification 3.31 of the Virginia Erosion and Sediment Control Handbook.
- D. Permanent Seeding
1. Refer to Section “Lawns and Grasses” for permanent seeding requirements.
- E. Soil Stabilization Blanket
1. Biodegradable stabilization blanket, complying with the requirements of Standard and Specification 3.36 of the Virginia Erosion and Sediment Control Handbook.
  2. In lieu of plastic netting use East Coast Erosion Blankets (biodegradable single straw) or approved equal.

### PART 3 - EXECUTION

#### 3.1 INSTALLATION OF EROSION CONTROL MEASURES

- A. Install all erosion and sediment control measures per the requirements of the Virginia Erosion and Sediment Control Handbook.
- B. Protect all points of construction ingress and egress to the site to prevent tracking of mud onto public streets. Provide temporary construction entrances at all points of access to the site.
- C. Clear only those areas necessary for installation of the perimeter erosion control measures. The balance of the site shall not be cleared or otherwise disturbed until the perimeter erosion control measures are installed, and functional.
- D. Install additional measures as necessary to prevent sediment from leaving the project site.

#### 3.2 MAINTENANCE OF EROSION CONTROL MEASURES

- A. Maintain all erosion and sediment control measures per the requirements of the Virginia Erosion and Sediment Control Handbook.
- B. At a minimum, the following maintenance is required:
  1. Silt Fence
    - a) Inspect immediately following each rainfall and at least daily during prolonged rainfall.
    - b) Make any required repairs immediately. Give special attention to damage resulting from end-runs and undercutting.
    - c) Replace fabric that is decomposing or is otherwise ineffective.
    - d) Clean out accumulated sediment following every storm event. Do not allow sediment to accumulate higher than one-half the height of the barrier.
  2. Storm Drain Inlet Protection
    - a) Inspect immediately following each rainfall and at least daily during prolonged rainfall.
    - b) Remove and clean or replace stone filters that have been clogged with sediment. Make

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any required repairs immediately

- c) Remove accumulated sediment as required. Do not allow sediment to accumulate higher than one-half the height of the measure.
3. Temporary Seeding
- a) Re-seed and mulch areas where cover is inadequate to protect against erosion until adequate cover is obtained.
- C. Remove accumulated sediment as required and at appropriate intervals to maintain the effective function of all erosion control measures.
- D. Inspect, repair and remove accumulated sediment from erosion control measures following significant (greater than 1/2") rainfall events.
- E. If erosion control measures become clogged, causing the impoundment of water, restore the measures immediately. Pounded water poses a potential drowning hazard and shall be relieved immediately by either pumping (through an approved dewatering structure) or by removal of the blockage.

### 3.3 REMOVAL OF EROSION CONTROL MEASURES

- A. Remove all temporary erosion control measures following the stabilization of the site.
- B. Topsoil, permanently seed and stabilize areas occupied by erosion control measures.

END OF SECTION 31 2500

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SECTION 32 1216 - ASPHALT PAVEMENT

PART 1 - GENERAL

1.1 RELATED DOCUMENTS

- A. The provisions of the Contract Documents apply to the work of this Section.

1.2 SUMMARY

- A. This Section includes the following:
  - 1. Hot-mix asphalt paving over prepared subbase.
  - 2. Hot –mix asphalt patching.
  - 3. Hot-mix asphalt overlays.

1.3 SUBMITTALS

- A. Job-Mix Designs: Certification, by authorities having jurisdiction, of approval of each job mix proposed for the Work.
- B. Material Certification: Certification signed by Contractor certifying that each material complies with requirements.

1.4 QUALITY ASSURANCE

- A. Installer Qualifications: Engage an experienced installer who has completed hot-mix asphalt paving similar in material, design, and extent to that indicated for this Project and with a record of successful in-service performance.
- B. Asphalt paving materials and installation shall conform to the requirements of the latest edition of the Virginia Department of Transportation (VDOT) Road and Bridge Specifications and Road and Bridge Standards.

1.5 PROJECT CONDITIONS

- A. Environmental Limitations: Do not apply asphalt materials if substrate is wet or excessively damp or if the following conditions are not met:
  - 1. Prime and Tack Coats: Minimum ambient temperature of 50 deg F (10 deg C), and when temperature has not been below 35 deg F (1 deg C) for 12 hours immediately prior to application.
  - 2. Asphalt Base Course: Minimum surface temperature of 40 deg F (4 deg C) and rising at time of placement.
  - 3. Asphalt Surface Course: Minimum surface temperature of 40 deg F (4 deg C) and rising at time of placement.

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1.6 TESTING AND INSPECTION

- A. The Owner's testing agency will observe the asphalt placement.
- B. Testing to be performed by the Owner's third-party testing firm.

PART 2 - PRODUCTS

2.1 ASPHALT-AGGREGATE MIXTURE

- A. General: Provide plant-mixed, hot-laid asphalt-aggregate mixture complying with the requirements of the VDOT Road and Bridge Specifications and as recommended by local paving authorities to suit project conditions.

2.2 ASPHALT MATERIALS

- A. Tack Coat: ASTM D 977, emulsified asphalt or ASTM D 2397, cationic emulsified asphalt, slow setting, factory diluted in water, of suitable grade and consistency for application.
- B. Prime Coat: Asphalt emulsion prime conforming to VDOT requirements.

2.3 AUXILIARY MATERIALS

- A. Paving Geotextile: Nonwoven polypropylene, specifically designed for paving applications, resistant to chemical attack, rot, and mildew.

PART 3 - EXECUTION

3.1 EXAMINATION

- A. Verify that subgrade is dry and in suitable condition to support paving and imposed loads.
- B. Proof-roll subbase using heavy, pneumatic-tired rollers to locate areas that are unstable or that require further compaction.
- C. Notify Architect in writing of any unsatisfactory conditions. Do not begin paving installation until these conditions have been satisfactorily corrected.

3.2 PATCHING AND REPAIRS

- A. Patching: Saw cut perimeter of patch and excavate existing pavement section to sound base. Recompact new subgrade. Excavate rectangular or trapezoidal patches, extending 12 inches (300 mm) into adjacent sound pavement, unless otherwise indicated. Cut excavation faces vertically.
  - 1. Tack coat faces of excavation and allow to cure before paving.

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2. Fill excavation with dense-graded, hot-mix asphalt base mix and, while still hot, compact flush with adjacent surface.
- B. Leveling Course: Install and compact leveling course consisting of dense-graded, hot-mix asphalt surface course to level sags and fill depressions deeper than 1 inch (25 mm) in existing pavements.
  1. Install leveling wedges in compacted lifts not exceeding 3 inches (75 mm) thick.
- C. Crack and Joint Filling: Remove existing filler material from cracks or joints to a depth of 1/4 inch (6 mm). Refill with asphalt joint-filling material to restore watertight condition. Remove excess filler that has accumulated near cracks or joints.
- D. Tack Coat: Apply uniformly to existing surfaces of previously constructed asphalt or Portland cement concrete paving and to surfaces abutting or projecting into new, hot-mix asphalt pavement. Apply at a uniform rate of 0.05 to 0.15 gal./sq. yd. (0.2 to 0.7 L/sq. m) of surface.
  1. Allow tack coat to cure undisturbed before paving.
  2. Avoid smearing or staining adjoining surfaces, appurtenances, and surroundings. Remove spillage and clean affected surfaces.

### 3.3 SURFACE PREPARATION

- A. General: Immediately before placing asphalt materials, remove loose and deleterious material from substrate surfaces. Ensure that prepared subgrade is ready to receive paving.
- B. Sweep loose granular particles from surface of unbound-aggregate base course. Do not dislodge or disturb aggregate embedded in compacted surface of base course.
- C. Prime Coat: For asphalt sections less than 4" thick, apply uniformly over surface of compacted-aggregate base at a rate of 0.15 to 0.50 gal./sq. yd. (0.7 to 2.3 L/sq. m). Apply enough material to penetrate and seal, but not flood, surface. Allow prime coat to cure for 24 hours minimum.
  1. If prime coat is not entirely absorbed within 24 hours after application, spread sand over surface to blot excess asphalt. Use just enough sand to prevent pickup under traffic. Remove loose sand by sweeping before pavement is placed and after volatiles have evaporated.
  2. Protect primed substrate from damage until ready to receive paving.
- D. Tack Coat: Required for existing asphalt surfaces and new asphalt that has been in place longer than 5 days.

### 3.4 HOT-MIX ASPHALT PLACING

- A. Machine place hot-mix asphalt mix on prepared surface, spread uniformly, and strike off. Place asphalt mix by hand to areas inaccessible to equipment in a manner that prevents segregation of mix. Place each course to required grade, cross section, and thickness, when compacted.
  1. Place hot-mix asphalt base course in number of lifts and thickness indicated.
  2. Spread mix at minimum temperature of 225 deg F (107 deg C).
- B. Place paving in consecutive strips not less than 10 feet (3 m) wide, except where infill edge strips of a lesser width are required.

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1. After first strip has been placed and rolled, place succeeding strips and extend rolling to overlap previous strips. Complete asphalt base course for a section before placing intermediate or surface courses.
- C. Promptly correct surface irregularities in paving course behind paver. Use suitable hand tools to remove excess material forming high spots. Fill depressions with hot-mix asphalt to prevent segregation of mix; use suitable hand tools to smooth surface.

### 3.5 JOINTS

- A. Construct joints between old and new pavement, or between successive days work, to ensure continuous bond between adjoining paving sections. Construct joints free of depressions with same texture and smoothness as other sections of hot-mix asphalt course.
  1. Clean contact surfaces and apply tack coat.
  2. Offset longitudinal joints in successive courses a minimum of 6 inches (150 mm).
  3. Offset transverse joints in successive courses a minimum of 24 inches (600 mm).
  4. Construct transverse joints as required by the VDOT Road and Bridge Specifications.
  5. Compact joints as soon as hot-mix asphalt will bear roller weight without excessive displacement.

### 3.6 COMPACTION

- A. General: Begin compaction as soon as placed hot-mix paving will bear roller weight without excessive displacement. Compact hot-mix paving with hot, hand tampers or vibratory-plate compactors in areas inaccessible to rollers.
  1. Complete compaction before mix temperature cools to 185 deg F (85 deg C).
- B. Breakdown Rolling: Accomplish breakdown or initial rolling immediately after rolling joints and outside edge. Examine surface immediately after breakdown rolling for indicated crown, grade, and smoothness. Repair surfaces by loosening displaced material, filling with hot-mix asphalt, and rerolling to required elevations.
- C. Intermediate Rolling: Begin intermediate rolling immediately after breakdown rolling, while hot-mix asphalt is still hot enough to achieve indicated density. Continue rolling until hot-mix asphalt course has been uniformly compacted to the following density:
  1. Average Density: 95 percent of reference laboratory density according to ASTM D 1559.
- D. Finish Rolling: Finish roll paved surfaces to remove roller marks while hot-mix asphalt is still warm. Surface course average density shall be 95 percent of reference laboratory density.
- E. Edge Shaping: While surface is being compacted and finished, trim edges of pavement to proper alignment. Bevel edges while still hot, with back of rake or smooth iron. Compact thoroughly using tamper or other satisfactory method. Edges adjacent to curbs and curb and gutter sections shall be flush with the edge of concrete.
- F. Repairs: Remove paved areas that are defective or contaminated with foreign materials. Remove paving course over area affected and replace with fresh, hot-mix asphalt. Compact by rolling to specified density and surface smoothness.

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- G. Protection: After final rolling, do not permit vehicular traffic on pavement until it has cooled and hardened.
- H. Erect barricades to protect paving from traffic until mixture has cooled enough not to become marked.

### 3.7 INSTALLATION TOLERANCES

- A. Thickness: Compact each course to produce the thickness indicated within the following tolerances:
  - 1. Base Course: Plus or minus 1/2 inch (13 mm).
  - 2. Surface Course: Plus 1/4 inch (6 mm), no minus.
- B. Surface Smoothness: Compact each course to produce a surface smoothness within the following tolerances as determined by using a 10-foot (3-m) straightedge applied transversely or longitudinally to paved areas:
  - 1. Base Course: 1/4 inch (6 mm).
  - 2. Surface Course: 3/16 inch (3 mm).
  - 3. Crowned Surfaces: Test with crowned template centered and at right angle to crown. Maximum allowable variance from template is 1/4 inch (6 mm).
- C. Check surface areas at intervals as directed by Architect.

### 3.8 FIELD QUALITY CONTROL

- A. Testing Agency: Owner will engage a qualified independent testing agency to perform field inspections and tests and to prepare test reports.
  - 1. Testing agency will conduct and interpret tests and state in each report whether tested Work complies with or deviates from requirements.
- B. Additional testing, at Contractor's expense, will be performed to determine compliance of corrected Work with requirements.
- C. Remove and replace or install additional hot-mix asphalt where test results or measurements indicate that it does not comply with requirements.

END OF SECTION 32 1216

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SECTION 32 1823.33 – TRACK AND FIELD SURFACE

PART 1 – GENERAL

1.1 RELATED DOCUMENTS

- A. The provisions of the Contract Documents apply to the work in this Section.

1.2 DESCRIPTION OF WORK

- A. Provide a mixture of uniformly graded rubber particles bound together with formulated styrene butadiene resin, providing a durable, resilient surface for the running track and designated field event areas. No asphalt material shall be incorporated into this system.
- B. The following surfaces shall receive the surface system:
  - 1. Track oval (8-lane, 400 meter)
  - 2. Runways for long jump; triple jump
  - 3. High jump area.
- C. Provide line markings in accordance with the most current National Federation of State High School Association (NFHS) standards.

1.3 SUBMITTALS

- A. Product data in the form of manufacturer's technical data, specifications and construction.
- B. Shop drawings showing line striping (with dimensions). Certification by an ASBA Certified Track Builder (CTB) that line striping meets current NFHS standards.

1.4 QUALITY ASSURANCE

- A. Surfacing Installer Requirements: Contractor must be in good standing with the American Sport Builders Association (ASBA) and must have an ASBA Certified Track Builder on staff. Over the last five years, the Contractor must have installed at least 20 running track surfaces that utilize similar material as specified herein. Contractor must be a licensed general contractor in the Commonwealth of Virginia.
- B. Weather Conditions: The quality of the installation is dependent upon proper weather conditions. No installation shall be made when rain is imminent or when ambient temperatures are below 60° F. It is best to install the system in full sun, and dry weather with daytime temperatures of at least 60° F and rising for five (5) hours. When nighttime temperatures fall below 45° F, the system should not be installed.



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1.5 WARRANTY

- A. Warrant surface against defects in workmanship and materials for TWO (2) YEARS from date of Substantial Completion. The contractor shall repair or replace defective surface at no cost to the owner. Excluded from the warranty are defects caused by faulty design, acts of God, improper maintenance, abuse, and uses other than those set forth above. The owner is required to maintain the facility in accordance with the maintenance instructions which are provided with the warranty.

1.6 PROJECT CONDITIONS

- A. **Drainage:** Areas adjacent to the asphalt substrate upon which the MAXFLEX BL 3/8" TRACK SURFACE is installed shall be graded to drain away from the track surface. Subsurface design shall provide for a free flow of subsurface moisture away from the track and field events.
- B. **Asphalt Substrate:** The asphalt upon which the MAXFLEX BL 3/8" TRACK SURFACE is installed shall be clean, free-draining, and shall exhibit the planarity and tolerances set forth in running Track and Field Event Base Course Construction as published by Precision Sports Surfaces, Inc.
- C. **Finish Grading, Landscaping and Other Vegetation:** Sod or other landscaping materials shall not impede the flow of surface water from the track and field event surfaces. Project phasing shall be arranged so that during the track surface installation, straw and other mulching materials, leaves, and other foreign materials shall not be allowed to blow onto the track surface. The same materials shall be prevented from accumulating on the track and field event surfaces after installation.

PART 2 – PRODUCTS

2.1 BASIS FOR SPECIFICATION

- A. The design basis for this specification is the MAXFLEX BL 3/8" system as manufactured and installed by Precision Athletics, Richmond, VA (804-585-3015). Alternative equivalent systems may be submitted for approval as set forth below.

2.2 MATERIALS

- A. FORTIFIED SBR LATEX BINDER A - carboxilated styrene butadiene latex polymer (45/55 Styrene Butadiene Ratio) containing a minimum of 50% resin solids content. Latex shall be manufactured for Maxflex system or an approved equal. Latex shall have the following properties when tested in accordance with ASTM D412. Films shall be 15 ml wet film at 24-hour air dry; 2 minutes at 95 degrees Centigrade.
  - 1. Tensile (average in psi) 179
  - 2. Elongation (%) 1375
- B. FORTIFIED SBR LATEX BINDER B - carboxilated styrene butadiene latex polymer (65/35 Styrene Butadiene Ratio) containing a minimum of 50% resin solids content. Latex shall be manufactured for Maxflex system or an approved equal. Latex shall have the following

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properties when tested in accordance with ASTM D412. Films shall be 15 ml wet film at 24-hour air dry; 2 minutes at 95 degrees Centigrade.

1. Tensile (average in psi) 1786
  2. Elongation (%) 497
- C. BASE LAYER RUBBER GRANULES - Black SBR rubber granules ranging in size from 3 mm to 7 mm.
- D. SURFACE LAYER RUBBER PARTICLES – Black SBR rubber buffings equal to #58438 rubber as manufactured by Sparton Enterprises, Inc. Granules are not acceptable.
- E. LINE MARKING PAINT – Acrylic latex line marking paint approved by the manufacturer of the track surface.
- F. The following materials shall be delivered and installed (based upon an area of 5,207 square yards). All materials shall be delivered to the site, checked and approved by the owner prior to the commencement of installation.
- 1) LATEX BINDER: 13 ea. 275-gallon totes of SBR Binder
  - 2) BLACK SBR RUBBER: 52,070# SBR BLACK RUBBER PARTICULATE

All latex binder quantities are prior to dilution with water. Owner shall verify amounts of materials shipped to the site. All unused materials shall become the property of the owner.

### 2.3 SUBSTITUTIONS

- A. With any request for substitution, provide the following information in addition to the source of the proposed material:
1. Latex: Tensile strength and elasticity; glass transition temperature; styrene butadiene ratio
  2. SBR Rubber: Compound content and sieve analysis
  3. List of five installations within 100 miles radius of this project that have had the same system installed within at least the last two years.

## PART 3 – EXECUTION

### 3.1 SCHEDULING

- A. Inform the owner’s representative 48 hours prior to material placement. Any material placed when owner’s representative has not been given 48 hours notice may be required to be removed and replaced.

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### 3.2 PREPARATION

- A. New asphalt shall be allowed to cure for a minimum of 14 days prior to the installation of any surfacing material. Thoroughly clean the new asphalt substrate and check for deviations of planarity exceeding 3/16" when measured with a ten-foot straight-edge. Correct deviations exceeding this tolerance using asphalt. Minimum cross slope on the asphalt shall be 1%.

### 3.3 CONSTRUCTION

- A. Priming: Spray prime all areas to receive the track surface with a solution of Binder A diluted with an equal part of potable water. Apply at a rate of .05 gallons per square yard of surface area.
- B. Rubber/Latex Application: Construct the track surface by applying successive layers of rubber granulate using a metering machine (areas inaccessible to the metering machinery shall be spread with a lute). Saturate each layer of rubber with latex binder at a rate of approximately .065 gallons per pound of dry rubber. The final application of latex binder shall contain an ultraviolet stabilized black oxide pigment.

1. Apply the rubber in the following layers:

- |   |                          |
|---|--------------------------|
| a) Base <b>Layer One</b> (5mm/7mm rubber)           | 2.6 lbs. per square yard |
| b) Base <b>Layer Two and Three</b> (3mm/6mm rubber) | 2.7 lbs. per square yard |
| c) Surface <b>Layer Four</b> (1/3mm mix buffings)   | 2.6 lbs. per square yard |
| d) Surface <b>Layer Five</b> (SBR buffings)         | 1.6 lbs. per square yard |

2. Saturation is to be done by using a high-pressure, multi-tip spray bar and not a hand wand method. Each saturation with latex solution shall be allowed to dry. Each layer shall be thoroughly bonded prior to proceeding with the installation of the next layer. The finished system shall be resistant to scuffing and shredding of granules.

- C. Physical Properties

1. Thickness: 3/8" minimum
2. Color: Black
3. Spikes: Yes, 3/16" maximum.
4. The completed rubber mat shall be dense and thoroughly bonded.

### 3.4 LINE MARKING

- A. Provide markings per the latest standards of the National Federation of State High Schools Association for the track and associated field events.
- B. Utilize precise calculations and pinpoint accuracy in layout and execution of the line markings.
- C. Painting of Lane Line and Event Markings: Lane lines shall be straight lines and true curves and shall be 2" wide. Lines and event markings may be spray-applied or may be taped and hand-painted. Exchange zones shall be designated by large triangles. A minimum of four sets of 3' high (or taller) lane number shall be installed. Event identification markings shall be painted directly on the track in at least one location per event. Hurdle tics shall be painted for every hurdle location.

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SECTION 32 9200 - LAWNS AND GRASSES

PART 1 - GENERAL

1.1 RELATED DOCUMENTS

- A. The provisions of the Contract Documents apply to the work of this Section.

1.2 SUMMARY

- A. This Section includes the following:
  - 1. Fine grading and preparing lawn areas
  - 2. Topsoil Placement
  - 3. Soil amendments
  - 4. Fertilizers
  - 5. Lawn Seeding
  - 6. Lawn Sodding
  - 7. Lawn Restoration

1.3 DEFINITIONS

- A. Finish Grade: Elevation of finished surface of planting soil.
- B. Lawns: All areas disturbed by construction and not otherwise covered by paving, buildings or other structures.

1.4 SUBMITTALS

- A. Certification by product manufacturer that the following products supplied comply with requirements:
  - 1. Grass Seed
    - a) Certification of grass seed from seed vendor for each grass-seed mixture stating the botanical and common name and percentage by weight of each species and variety, and percentage of purity, germination, and weed seed. Include the year of production and date of packaging.
    - b) Certification letter from supplier that the seed is Blue Tag Certified.
- B. Sod
  - 1. Certification letter from the supplier that the seed is Gold Tag Certified.
- C. Topsoil Amendment Plan.

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1. Provide copy of topsoil testing report.
2. List of amendments proposed for topsoil, including application rates.

#### 1.5 QUALITY ASSURANCE

- A. Installer Qualifications: Engage an experienced installer, who has successfully completed lawn establishment projects similar in size and complexity to this project. The installer's primary business (defined as a minimum of 60% of total billings) shall be establishment of lawns.

#### 1.6 DELIVERY, STORAGE, AND HANDLING

- A. Seed: Deliver seed in original sealed, labeled, and undamaged containers.

#### 1.7 LIMITS OF SODDING

- A. Sod all areas inside the track that are disturbed during construction. Match the existing species.

#### 1.8 LIMITS OF LAWN RENOVATION

- A. All existing lawn areas disturbed by construction activities.

#### 1.9 PAYMENT PROCEDURES FOR LAWNS AND GRASSES

- A. Establish a line item in the Schedule of Values for Lawn Maintenance. This line item shall represent a minimum of thirty percent (30%) of the total value of the seeding for the project.
- B. Lawn maintenance will be paid on a monthly basis, following the satisfactory maintenance of the lawns.

### PART 2 – PRODUCTS

#### 2.1 TOPSOIL

- A. Topsoil: ASTM D 5268, pH range of 5.5 to 7, a minimum of 4 percent organic material content; free of stones 1” or larger in any dimension and other extraneous materials harmful to plant growth.
  1. Topsoil Source: Reuse surface soil stockpiled on-site. Verify suitability of stockpiled surface soil to produce topsoil. Clean surface soil of roots, plants, sod, stones, clay lumps, and other extraneous materials harmful to plant growth.
    - a) Supplement with imported or manufactured topsoil from off-site sources when quantities are insufficient. Obtain topsoil displaced from naturally well-drained construction or mining sites where topsoil occurs at least 4 inches deep; do not obtain from agricultural land, bogs or marshes.

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- B. Have topsoil tested by a certified soil testing laboratory to determine the type and quantity of soil amendments necessary. Add amendments to topsoil as necessary to meet these requirements.

## 2.2 INORGANIC SOIL AMENDMENTS

- A. If the topsoil analysis indicates the need for inorganic soil amendments, the following standards apply:
- B. Lime: ASTM C 602, agricultural limestone containing a minimum 80 percent calcium carbonate equivalent and as follows:
  - 1. Class: Class O, with a minimum 95 percent passing through No. 8 (2.36-mm) sieve and a minimum 55 percent passing through No. 60 (0.25-mm) sieve.
  - 2. Provide lime in form of dolomitic limestone.
- C. Sulfur: Granular, biodegradable, containing a minimum of 90 percent sulfur, with a minimum 99 percent passing through No. 6 (3.35-mm) sieve and a maximum 10 percent passing through No. 40 (0.425-mm) sieve.
- D. Iron Sulfate: Granulated ferrous sulfate containing a minimum of 20 percent iron and 10 percent sulfur.
- E. Aluminum Sulfate: Commercial grade, unadulterated.
- F. Perlite: Horticultural perlite, soil amendment grade.
- G. Agricultural Gypsum: Finely ground, containing a minimum of 90 percent calcium sulfate.
- H. Sand: Clean, washed, natural or manufactured, free of toxic materials.
- I. Diatomaceous Earth: Calcined, diatomaceous earth, 90 percent silica, with approximately 140 percent water absorption capacity by weight.
- J. Zeolites: Mineral clinoptilolite with at least 60 percent water absorption by weight.

## 2.3 ORGANIC SOIL AMENDMENTS

- A. If the topsoil analysis indicates the need for organic soil amendments, the following standards apply:
- B. Compost: Well-composted, stable, and weed-free organic matter, pH range of 5.5 to 8; moisture content 35 to 55 percent by weight; 100 percent passing through 3/4-inch (19-mm) sieve; soluble salt content of 5 to 10 decisiemens/m; not exceeding 0.5 percent inert contaminants and free of substances toxic to plantings; and as follows:
  - 1. Organic Matter Content: 50 percent of dry weight.
  - 2. Feedstock: Agricultural, food, or industrial residuals; biosolids; yard trimmings; or source-separated or compostable mixed solid waste.
  - 3. Peat: Finely divided or granular texture, with a pH range of 6 to 7.5, containing partially decomposed moss peat, native peat, or reed-sedge peat and having a water-absorbing capacity of 1100 to 2000 percent.

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4. Wood Derivatives: Decomposed, nitrogen-treated sawdust, ground bark, or wood waste; of uniform texture, free of chips, stones, sticks, soil, or toxic materials.
5. Manure: Well-rotted, unleached, stable or cattle manure containing not more than 25 percent by volume of straw, sawdust, or other bedding materials; free of toxic substances, stones, sticks, soil, weed seed, and material harmful to plant growth.

2.4 FERTILIZER

- A. Bonemeal: Commercial, raw or steamed, finely ground; a minimum of 4 percent nitrogen and 20 percent phosphoric acid.
- B. Superphosphate: Commercial, phosphate mixture, soluble; a minimum of 20 percent available phosphoric acid.
- C. Commercial Fertilizer: Commercial-grade complete fertilizer of neutral character, consisting of fast- and slow-release nitrogen, 50 percent derived from natural organic sources of urea formaldehyde, phosphorous, and potassium in the following composition:
  1. Composition: Nitrogen, phosphorous, and potassium in amounts recommended in topsoil analysis reports from a qualified soil-testing agency.
  2. Minimum Composition: No less than 1 lb/1000 sq. ft. (0.45 kg/92.9 sq. m) of actual nitrogen, 4 percent phosphorous, and 2 percent potassium, by weight.

2.5 LAWN SEED

- A. All grass seed must be fresh, clean, and dry.
- B. Seed Species

Proportion by Weight	Grass Species	Min. % Germination	Min. % Pure Seed	Max. % Weed Seed
10%	Kentucky bluegrass ( <u>Poa pratensis</u> ).	80	85	0.50
90%	Tall Fescue ( <u>Festuca arundinacea</u> ).	85	98	0.50

- A. Varieties shall be selected from the most recent list of recommended turfgrass varieties, published by Virginia Tech.
- B. All seed shall be Blue Tag certified by the Oregon State Seed Laboratory. Tags must be attached to each bag delivered on site.

2.6 SOD

- A. Sod: Certified sod, complying with TPI’s “Specifications for Turfgrass Sod Materials” in its “Guideline Specifications to Turfgrass Sodding”. Comply with ASPA specification for machine



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cut thickness, size, strength, moisture content and mowed height, and free of weeds and undesirable native grasses. Provide viable sod of uniform density, color and texture, strongly rooted, and capable of vigorous growth and development when planted provide the following turfgrass species.

1. 90 Percent Tall Fescue (*festuca arundinacea*). 10 Percent Kentucky Bluegrass (*Poa pratensis*) mix.

B. All sod shall be Gold Tag certified by the Virginia Crop Improvement Association.

## 2.7 MULCHES

- A. Straw Mulch: Provide air-dry, clean, mildew- and seed-free, salt hay or threshed straw of wheat, rye, oats, or barley.
- B. Peat Mulch: Finely divided or granular texture, with a pH range of 6 to 7.5, containing partially decomposed moss peat, native peat, or reed-sedge peat and having a water-absorbing capacity of 1100 to 2000 percent.
- C. Compost Mulch: Well-composted, stable, and weed-free organic matter, pH range of 5.5 to 8; moisture content 35 to 55 percent by weight; 100 percent passing through 1-inch (25-mm) sieve; soluble salt content of 5 to 10 decisiemens/m; not exceeding 0.5 percent inert contaminants and free of substances toxic to plantings; and as follows:
  1. Organic Matter Content: 50 percent of dry weight.
- D. Fiber Mulch: Biodegradable, dyed-wood, cellulose-fiber mulch; nontoxic; free of plant-growth or germination inhibitors; with maximum moisture content of 15 percent and a pH range of 4.5 to 6.5.

## 2.8 EROSION-CONTROL MATERIALS

- A. Erosion-Control Fiber Mesh: Biodegradable twisted jute or spun-coir mesh, a minimum of 0.92 lb/sq. yd. with 50 to 65 percent open area. Include manufacturer's recommended steel wire staples, 6 inches long.

## PART 3 - EXECUTION

### 3.2 EXAMINATION

- A. Examine areas to receive lawns and grass for compliance with requirements and for conditions affecting performance of the Work. Do not proceed with installation until unsatisfactory conditions have been corrected.

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### 3.3 PREPARATION

- A. Protect structures, utilities, sidewalks, pavements, and other facilities, trees, shrubs, and plantings from damage caused by planting operations.
- B. Provide erosion-control measures to prevent erosion or displacement of soils and discharge of soil-bearing water runoff or airborne dust to adjacent properties and walkways.
- C. Protect adjacent and adjoining areas from hydroseed overspraying.

### 3.4 TOPSOIL PLACEMENT FOR LAWNS

- A. Limit subgrade preparation to areas that will be planted in the immediate future.
- B. Loosen subgrade to a minimum depth of 4 inches. Remove stones, sticks and roots larger than 2 inches in any dimension from subgrade. Completely remove trash and other extraneous debris from subgrade.
- C. Have topsoil tested by a certified soil testing laboratory to determine the type and quantity of soil amendments necessary.
- D. Sift topsoil to remove stones and other objects larger than 1" in any dimension. Maximum object size for topsoil shall be achieved by sifting not by hand removal or raking following placement of topsoil.
- E. Mix soil amendments and fertilizers with topsoil at rates required by soil testing. Delay mixing fertilizer if planting does not follow placing of planting soil within 4 days. Either mix soil before spreading or apply soil amendments on surface of spread topsoil and mix thoroughly into top 4 inches of topsoil before planting.
- F. Mix lime with dry soil prior to mixing fertilizer.
- G. Spread topsoil to a minimum depth of six inches (6").

### 3.5 SEEDING LAWNS

- A. Sow seed with a spreader or a seeding machine. Do not broadcast or drop seed when wind velocity exceeds 5 mph. Evenly distribute seed by sowing equal quantities in 2 directions at right angles to each other.
- B. Do not use wet seed or seed that is moldy or otherwise damaged in transit or storage.
- C. Sow seed at the following rates:
  - 1. Seeding Rate: 200 lbs./acre.
- D. Rake seed lightly into top 1/4 inch of topsoil, roll lightly, and water with fine spray.
- E. Hydroseed all slopes 3:1 or steeper.
- F. Protect seeded areas 3:1 slope/grade or steeper against erosion by providing erosion-control blankets installed and stapled according to manufacturer's recommendations.
- G. Protect seeded areas less than 3:1 slope/grade against erosion by spreading straw mulch after completion of seeding operations. Spread uniformly at a minimum rate of 2 tons per acre to form

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a continuous blanket 1-1/2 inches (38 mm) loose depth over seeded areas. Spread by hand, blower, or other suitable equipment.

1. Anchor straw mulch by crimping into topsoil by suitable mechanical equipment.

### 3.6 LAWN RENOVATION

- A. Renovate existing lawn damaged by Contractor's operations, such as storage of materials or equipment and movement of vehicles.
  1. Reestablish lawn where settlement or washouts occur or where minor regrading is required.
- B. Remove sod and vegetation from diseased or unsatisfactory lawn areas; do not bury in soil.
- C. Remove topsoil containing foreign materials resulting from Contractor's operations, including oil drippings, fuel spills, stone, gravel, and other construction materials, and replace with new topsoil.
- D. Remove weeds before seeding. Where weeds are extensive, apply selective herbicides as required. Do not use pre-emergence herbicides.
- E. Remove waste and foreign materials, including weeds, soil cores, grass, vegetation, and turf, and legally dispose of them off Owner's property.
- F. Till stripped, bare, and compacted areas thoroughly to a soil depth of 6 inches.
- G. Apply soil amendments and initial fertilizers required for establishing new lawns and mix thoroughly into top 4 inches of existing soil. Provide new planting soil to fill low spots and meet finish grades.
- H. Apply seed and protect with straw mulch as required for new lawns.
- I. Water newly planted areas and keep moist until new lawn is established.

### 3.7 MAINTENANCE OF NEW LAWNS

- A. Begin maintenance of lawns immediately after each area is planted and continue until acceptable lawn is established. Maintain seeded lawns until Substantial Completion. Maintain all grassed areas as necessary to ensure a satisfactory lawn is achieved at Substantial Completion.
- B. Maintain and establish lawns by watering, fertilizing, weeding, mowing, trimming, replanting, and other operations. Roll, regrade, and replant bare or eroded areas and remulch to produce a uniformly smooth lawn.
  1. Replant bare areas with same materials as for lawns.
  2. Replace disturbed mulch.
- C. Watering: Provide and maintain temporary hoses, and lawn-watering equipment to convey water from a water source to keep lawns uniformly moist to a depth of 4 inches.
  1. Provide a source of water for irrigation. Utilize temporary irrigation meters, a well or water trucks as necessary for the water source.

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2. Water seeded areas as necessary to promote vigorous growth of grass but at the minimum rate of 1 inch per week.
- D. Mow lawns as soon as there is enough top growth to cut with mower set at indicated height. Repeat mowing as required to maintain indicated height without cutting more than 40 percent of the grass height (minimum of 3 mowings). Remove no more than 40 percent of grass-leaf growth in initial or subsequent mowings. Do not delay mowing until grass blades bend over and become matted. Do not mow when grass is wet. Schedule initial and subsequent mowings to maintain following grass height:
  1. Mow grass to a finished height of 2 to 3 inches high.
- E. Apply pre-emergent herbicide to lawns areas. Apply 60 – 90 days after planting.

### 3.8 SATISFACTORY LAWN

- A. Seeded lawns shall be considered satisfactory/acceptable provided requirements, including maintenance, have been met and a healthy, uniform, close stand of grass is established, free of weeds, bare spots exceeding 5 by 5 inches and surface irregularities.
- B. Replant lawns that do not meet requirements and continue maintenance until lawns are satisfactory/acceptable.
- C. Substantial Completion of the project may be achieved (pending prior Architect and Owner approval) before achieving a satisfactory/acceptable lawn. Continue to replant and maintain unsatisfactory/unacceptable lawn areas until acceptance is obtained.

### 3.9 CLEANUP AND PROTECTION

- A. Promptly remove soil and debris created by lawn work from sidewalks and paved areas. Clean wheels of vehicles before leaving site to avoid tracking soil onto surface of roads, walks, or other paved areas.
- B. Erect barricades and warning signs as required to protect newly planted areas from traffic. Maintain barricades throughout maintenance period until lawn is established.

END OF SECTION 32 9200

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SECTION 33 4100 - STORM DRAINAGE

PART 1 - GENERAL

1.1 RELATED DOCUMENTS:

- A. The provisions of the Contract Documents apply to the work of this Section.

1.2 SUMMARY:

- A. This Section includes the storm sewerage system piping and appurtenances related to the track refurbishment and connecting to the existing downstream system.

1.3 SUBMITTALS

- A. Product data for:
  - 1. Polyethylene pipe
  - 2. Frames and covers.
  - 3. Grates
  - 4. Couplings for connection into concrete pipe.
- B. Certification, signed by material producer and contractor, that standard precast and cast in place concrete storm drainage manholes and Drop Inlets comply with VDOT standards and specifications.
- C. VDOT approved job mix for bedding stone.
- D. Shop drawings for:
  - 1. Non-standard precast or cast-in-place concrete storm drainage manholes and Drop Inlets.
  - 2. Underdrains
- E. Record drawings of installed storm drainage system.

1.4 QUALITY ASSURANCE

- A. Environmental Compliance: Comply with applicable portions of local environmental agency regulations pertaining to storm sewerage systems.
- B. Utility Compliance: Comply with state and local regulations and standards pertaining to storm sewerage systems.
- C. All materials shall be new and free of defects (i.e. pipe shall not have chipped spigots or bells).

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## 1.5 PROJECT CONDITIONS

- A. Site Information: Perform site surveys, research public utility records, and verify existing utility locations. Verify that storm sewerage system piping may be installed in compliance with original design and referenced standards.
- B. Locate existing structures and piping to be closed and abandoned.
- C. Existing Utilities: Do not interrupt existing storm sewer serving facilities occupied by the Owner of others except when permitted under the following conditions and then only after arranging to provide acceptable temporary storm sewer services.
  - 1. Notify Architect not less than 48 hours in advance of proposed storm sewer interruptions.
  - 2. Do not proceed with storm sewer interruptions without receiving Architect's written permission.
- D. Existing utilities across or along the line of work are indicated only in an approximate location. Locate all underground lines and structures. Call "Miss Utility" prior to construction. If utilities are marked that are not shown on the plans, locate utility vertically and horizontally and provide information to architect.

## 1.6 SEQUENCING AND SCHEDULING

- A. Coordinate with other utility work.

## PART 2 - PRODUCTS

### 2.1 GENERAL

- A. All materials used for construction of the storm sewerage system shall comply with the requirements of the latest edition of the Virginia Department of Transportation Road and Bridge Standards and Road and Bridge Specifications.

### 2.2 PIPE AND FITTINGS

- A. Provide pipe and pipe fitting materials compatible with each other. Pipe materials are indicated on the drawings.

### 2.3 DROP INLETS

- A. Plastic Drain Basins: ADS or approved equal.

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PART 3 - EXECUTION

3.1 GENERAL

- A. Install the storm sewerage system in accordance with the latest edition of the Virginia Department of Transportation's Road and Bridge Standards and Road and Bridge Specifications.

3.2 PREPARATION OF FOUNDATION FOR BURIED STORM SEWERAGE SYSTEMS

- A. Grade trench bottom to provide a smooth, firm, stable, and rock-free foundation, throughout the length of the pipe.
- B. Remove unstable, soft, and unsuitable materials at the surface upon which pipes are to be laid and backfill with clean sand or pea gravel to indicated level.
- C. Install pipe bedding conforming to the requirements of the latest edition of the Virginia Department of Transportation's Road and Bridge Standards and Road and Bridge Specifications.

3.3 PIPE INSTALLATION

- A. Install piping beginning at low point of systems, true to grades and alignment indicated with unbroken continuity of invert. Place bell ends of piping facing upstream. Install gaskets, seals, sleeves, and couplings in accordance with manufacturer's recommendations for use of lubricants, cements, and other installation requirements. Maintain swab or drag in line and pull past each joint as it is completed.
- B. Use proper size increasers, reducers, and couplings, where different size or material of pipes and fittings are connected. Reduction of the size of piping in the direction of flow is prohibited.
- C. Extend storm sewerage system piping to connect to building storm drains, of sizes and in locations indicated.
- D. Join and install PE pipe and fittings per manufacturer's recommendations.
- E. Join different types of pipe with standard manufactured couplings and fittings intended for that purpose.

3.4 DROP INLETS

- A. Construct drop inlets to sizes and shapes indicated.
- B. Set frames and grates to elevations indicated.

3.5 INLET SHAPING

- A. Construct inlet shaping conforming to VDOT Standard IS-1 at all drop inlets and manholes.
- B. Sumps in Nyloplast structures to be filled with grout to the invert out.

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3.6 FIELD QUALITY CONTROL

- A. Cleaning: Clear interior of piping and structures of dirt and other superfluous material as work progresses. Maintain swab or drag in piping and pull past each joint as it is completed.
  - 1. In large, accessible piping, brushes and brooms may be used for cleaning.
  - 2. Place plugs in ends of uncompleted pipe at end of day or whenever work stops.
  - 3. Flush piping between manholes and drop inlets to remove collected debris. Flush pipes through an approved erosion and sediment control measure.
- B. Interior Inspection: Inspect piping to determine whether line displacement or other damage has occurred.
  - 1. Make inspections after pipe between manholes and manhole locations has been installed and approximately 2 feet of backfill is in place, and again at completion of project.
  - 2. If inspection indicates poor alignment, debris, displaced pipe, infiltration, or other defects correct such defects and reinspect.

END OF SECTION 33 4100