# DISTRICT WIDE SAFETY AND SECURITY UPGRADES

MIDLOTHIAN INDEPENDENT SCHOOL DISTRICT 2021\_097





# DISTRICT WIDE SAFETY AND SECURITY UPGRADES

FOR

# MIDLOTHIAN INDEPENDENT SCHOOL DISTRICT

**PROJECT MANUAL** 

06/02/2021

ORCUTT | WINSLOW ARCHITECTURE PLANNING INTERIOR DESIGN

O W #2021\_097

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# ELECTRONIC SAFETY AND SECURITY

### **DIVISION 28**

28 05 00GENERAL ELECTRONIC SAFETY AND SECURITY SYSTEM REQUIREMENTS28 13 27BUILDING ACCESS CONTROL SYSTEM





# **REQUEST FOR COMPETITIVE SEALED PROPOSALS**

Competitive Sealed Proposals for the work identified below in accordance with Proposal Documents and addenda as may be issued prior to date of proposal opening will be received by the Board of Trustees, Midlothian Independent School District, until proposal closing date and time, as identified below. Proposals from Offerors will then be opened in public and read aloud.

OWNER:	Midlothian Independent School District 100 Walter Stephenson Road Midlothian, TX 76065
ARCHITECT:	<b>Orcutt Winslow</b> 222 W. Las Colinas Blvd. Ste. 749E Irving, TX 75039
PROJECT:	<b>CSP 2021-020 Safety and Security</b> <b>Upgrades</b> Midlothian Independent School District Midlothian, Texas
BUDGET:	\$450,000.00

PRE-PROPOSALThursday, June 08, 2021; 10:00 AM at the Midlothian Independent School District<br/>Administration Building, 100 Walter Stephenson Rd, Midlothian, TX 76065.<br/>Representatives of the Architect, Owner and Consulting Engineers will be present at this<br/>meeting. All Offerors are encouraged to attend.

PROPOSAL DATE Proposal Due: Tuesday June 22, 2021, 2:00 PM AND TIME:

LOCATION OF Midlothian Independent School District PROPOSAL Administration Building OPENING: 100 Walter Stephenson Rd Midlothian, TX 76065

Proposal Documents will be available after June 03, 2021. Qualified Offerors (General Contractors) may obtain a free electronic copy of the Drawings and Project Manual.

A link to the digital copies of the drawings and project manual may be obtained from the MISD Website and or Ms. Shana Volentine, e-mail: <u>shana volentine@misd.gs</u> and Brian Harlan from Orcutt | Winslow, email: harlan.b@owp.com.

All proposals must be in the hands of the Owner no later than the time specified above. Please seal all proposals in duplicate in an envelope with the following information on the face of the envelope.

Name of Offeror (General Contractor) CSP 2021-020 Safety and Security Upgrades Midlothian Independent School District

The Owner reserves the right to reject any and all proposals and to waive any irregularities in the Competitive Sealed Proposal process. No proposal shall be withdrawn within 30 days after the proposal opening without the specific consent of the Owner.



#### PROPOSAL BOND: Not Applicable

**PAYMENT BOND AND PERFORMANCE BOND:** A Payment Bond and Performance Bond, each in an amount equal to 100 percent (100%) of the Contract Sum conditioned upon the faithful performance of the Contract will be required. Please note that all bonding companies presented must be acceptable to the Owner.

The prevailing rates of wages are the minimums that must be paid in conformance with all applicable laws of the State of Texas.

All Offerors submitting a proposal are encouraged to attend the proposal opening. Subcontractors and suppliers intending to submit proposals to Construction Offerors are required to prepare their proposals based on a complete set of proposal documents. If after reviewing the complete set of proposal documents, Subcontractors and supplier Offerors desire to purchase individual drawings and specification sections for their proposal convenience, they may do so by ordering the specific drawings and specifications directly from the reproduction company.

All Offerors submitting a proposal are encouraged to visit the site.

END OF DOCUMENT



# **INSTRUCTIONS TO PROPOSERS**

# **EXAMINATION OF DOCUMENTS AND SITE**

- Each proposer, by making his Proposal, represents that he has read and understands the Proposal Documents. Failure to do so may be materially non-responsive and result in non-consideration of the bid.
- Each proposer, by making his Proposal, represents that he has visited the site, performed investigations and verifications as necessary and familiarized himself with the local conditions under which the Work is to be performed and will be responsible for errors in his proposal resulting from his failure to do so.
- Each proposer by making his proposal represents that his proposal is based upon the materials, systems and equipment required by the Proposal Documents without exception.
- Any and all site visits shall be coordinated through:

Rola Fadel Midlothian ISD Director of Architecture & Facilities Email: rola\_fadel@misd.gs

#### QUESTIONS

- Proposers shall submit questions about the Proposal Documents to the MISD Purchasing Department in writing by the date identified in the proposal. Replies will be issued to proposers as an addendum to the Proposal Documents and shall become a part of the Contract. The Architect and Owner will not be responsible for oral clarification.
- Submit all questions to:
   Shana Volentine
   Midlothian ISD
   Purchasing Agent
   Email: <a href="mailto:shana\_volentine@misd.gs">shana\_volentine@misd.gs</a>

#### SUBSTITUTIONS

- Each proposer represents by submitting his proposal that his proposal is based upon the materials and equipment described in the proposal documents

#### STATUTORY PERFORMANCE BOND AND STATUTORY LABOR AND MATERIAL PAYMENT BOND

- A Statutory Performance Bond and a Statutory Labor and Material Payment Bond will be required of the successful proposer and shall be executed by a surety company acceptable to the Owner and authorized to do business in the State of Texas. Each bond shall be in an amount equal to one hundred percent (100%) of the contract price. The Performance Bond and the Labor and Material Payment Bond may be in one or separate instruments in accord with local law and are to be delivered to the Owner no later than the date of execution of the contract. Failure or neglecting to deliver said bonds, as specified, shall be considered as having abandoned the contract and the proposal security will be retained as liquidated damages.
- Bonds shall be executed by a Surety Company that is:
  - Approved by the school district, and duly authorized and admitted to do business in the State of Texas as determined by the State Board of Insurance.
  - Listed by the United States Department of the Treasury in that issue of the "Federal Register" covering the date on which the bond was executed and the date that Surety Company has obtained reinsurance, if applicable, from a reinsurer that is authorized and admitted as a reinsurer in this state and is the holder of a certificate of authority from the United States secretary of the treasury.

#### **CERITIFICATE OF LIABILITY INSURANCE**

- The successful proposer shall provide a Certificate of Liability Insurance in at least the amount of \$1,000,000.00. The Midlothian Independent School District shall be listed as additional insured.

#### MODIFICATION AND WITHDRAWAL

- No proposal may be changed, amended or modified after submittal. Proposers may withdraw proposals prior to proposal opening.
- No right or interest in this contract or delegation of any obligation shall be assigned by the vendor to another vendor. Any attempted assignment or delegation by the vendor shall be wholly void and totally ineffective for all

REQUEST FOR COMPETITIVE SEALED PROPOSALS CSP2021-020 Safety and Security Upgrades Page 3



#### purposes.

## SUBMITTAL

- Submit proposals in accordance with the Request for Proposals.
  - Enclose proposal in an opaque, sealed envelope. Clearly mark on the outside of the proposal envelope: Project name
    - Name of proposer
    - Midlothian Independent School District
- Preparation of Proposals: Proposals shall be submitted on unaltered proposal forms. Fill in all blank spaces. If there are entries (blank spaces) on the proposal form which do not apply to a particular proposer, these entries shall be marked "N.A." (Not Applicable) by the proposer. No proposals will be considered that are amended or are qualified with conditional clauses, alterations, items not called for in the proposal, or irregularities of any kind which, in the Owner's opinion, may disgualify the proposer.
- Proposals meeting the requirements of the CSP shall be considered. Respondents taking exception to the specifications or offering substitutions shall state these exceptions.
- Each proposer shall submit one original, one duplicate copy, and one digital copy saved on a USB Flash Drive of each of the following. All shall be submitted in a single sealed envelope. Electronic signatures are acceptable.:
  - Checklist for CSP 2021-020 (Reference form attached to the end of this Section)
    - Proposer Identification: Contractor shall add a Cover Sheet/Proposer Identification Form that includes the following information:
      - Date
      - Company Name
      - Full Address
      - Phone #
      - Email Address
      - Proposal Form
      - Proposer shall note any contract deviations. Midlothian Independent School District can consider such deviations but is not obligated to accept such deviations
      - CSP Response Form Page 1 and Page 2
      - SB 9 Contractor Certification: Contractor Employees
      - Reference Sheet
      - Felony Conviction Notice (Reference form attached to the end of this Section)
      - 1295 Certificate of Interested Parties This form must be completed online, printed and signed. (Reference form attached to the end of this Section)
      - Conflict-of-interest Questionnaire (Reference form attached to the end of this Section)
      - Non-collusion & Non-Discrimination Form (Reference form attached to the end of this Section) HB 89/SB 252 Certification Form (Reference form attached to the end of this Section)
      - Any other information that responds to the Selection Criteria listed.
      - Each proposer shall submit one original, one duplicate copy, and one digital copy saved on a USB Flash Drive listing the subcontractors to be acquired for this project.
- Proposals received in the District's Business Office after the date and time specified will not be considered. The District is not responsible for lateness or non-delivery of mail carrier, etc., and the date/time stamp in the Business Office shall be the official time of receipt. Proposals <u>MAY NOT</u> be submitted by facsimile or email.
- Pricing submitted on this proposal is firm for a period of **60 Days** from the proposal opening date.
- The person signing the proposal should show the title that gives the authority to bind the firm to a contract.

#### DETERMINATION OF SUCCESSFUL RESPONDENT AND AWARD OF CONTRACT

- In determining the Selected Offeror, the Owner will evaluate the information derived from the Offeror's (Contractor's) Qualification Statement required herein, the information submitted on the Proposal Form, and other selection criteria including the following Selection Criteria:

COST	25 POINTS	The purchase price will be scored mathematically as a ratio of the proposal price ranking to the total number of proposers.
REPUTATION	10 POINTS	The reputation of the Proposer's goods and services. Items

REQUEST FOR COMPETITIVE SEALED PROPOSALS CSP2021-020 Safety and Security Upgrades Page 4



	1	
		considered:
		Proposer's past relationships with and input from provided project
		references regarding
		recommendation of the Proposer, the Proposer's performance as a
		team player and their ability to
		work with the Owner on Change Orders and Contingency Allowances.
QUALITY	10 POINTS	The quality of the Proposer's goods and services. Items considered:
		<ul> <li>Proposer's past performance with input from provided project</li> </ul>
		references regarding the Proposer's guality of craftsmanship
		- All required items submitted
		- Information provided in the proposal is clear
EXPERIENCE		The Proposer's overall experience as well as past record of completing
	131 01110	similar size and scope of projects on time. Items considered:
		- Number of years in business
		<ul> <li>Number of similar size projects within the past five years</li> </ul>
		- Number of similar scope projects within the past five years
		<ul> <li>Number of similar scope projects within the past five years –</li> <li>project scope must include working on an existing, operational</li> </ul>
		compute maintaining full functionality
		Droposor's past performance with input
		- Proposel's past performance with input
WARRANTTWORK	TO POINTS	The Proposel's response to warranty work requests, items considered.
		references reporting the chility to perform werrenty work in a timely
		references regarding the ability to perform warranty work in a timely
		The Democratic meaning of classing out and instrume difference in the second se
PROJECT CLOSEOUT	10 POINTS	The Proposer's record of closing out projects expeditiously. Items
		considered: Proposer's past performance with input from provided
		project references regarding the closeout process duration.
PROJECT TEAM	15 POINTS	Qualifications of the proposed project manager(s) and project
		superintendent (s). Items considered:
		<ul> <li>Time in the construction industry for each individual</li> </ul>
		<ul> <li>Number of K-12 school projects completed by each individual</li> </ul>
		Time with company for each individual
PROJECT SCHEDULE	5 POINTS	The Proposer's anticipated construction schedule. Items considered:
		start date, substantial completion date, final completion date, and total
		construction duration in calendar days.

- The district does not award/purchase on the basis of low bid alone.

The District may choose to conduct interviews with proposers as part of the evaluation and selection process. If interviews are necessary will be held at:

#### Midlothian Independent School District Administration building 100 Walter Stephenson Rd

Midlothian, TX 76065.

- The Selection Committee consisting of Midlothian ISD administrators, architects, consultants and other staff will make an initial evaluation of the proposals. The committee's recommendation will be considered by the Midlothian ISD Board of Trustees ("Board"). The District reserves the right to review the recommendation with others deemed appropriate by the District prior to review by the entire Board. The final decision-making authority on the proposals rests with the full Board.
- The District will make such investigations as it deems necessary to determine the ability of the Offeror to perform the Work, and the Offeror shall furnish all such information and data for this purpose as may be requested. The District reserves the right to reject any proposal if the evidence submitted by, or investigation of, such Offeror fails to satisfy the District that such Offeror is properly qualified to carry out the obligations of the Contract and to complete the Work contemplated therein.
- The District reserves the right to reject any or all proposals and to waive any formalities or irregularities and to make the award of the contract in the best interest of the District. The District also reserves the right as a sole judge of quality and equality.
- A decision regarding determination of the successful Offeror will be made by the District as soon as practical.
- If awarded, the successful vendor(s) will be notified by authorized District personnel.



# EXECUTION OF CONTRACT

- The Owner reserves the right to accept any proposal, to reject any and all proposals, or to negotiate contract terms with the various proposers, when such is deemed by the Owner to be in his best interest.
- Notwithstanding delays in the preparation and execution of the formal contract agreement, each proposer shall be prepared, upon written notice of proposal acceptance, to commence work on or before a date stipulated in an official written order of the Owner to proceed.
- The accepted proposer shall assist and cooperate with the Owner in preparing the formal contract agreement, and within 5 days following its presentation shall execute same and return it to the Owner.
- Form for the contract agreement will be AIA Document A101, Standard Form of Agreement Between Owner and Contractor, Stipulated Sum, 2017 Edition. Or
- The district limits its purchases through the use of properly drawn and authorized purchase orders. Consequently, the District is not responsible for items delivered or picked up and/or services that were not authorized via this method. Therefore, the purchase order number shall appear on ALL itemized invoices and packing slips to ensure payment.
- This contract, once accepted will include the period agreed upon between the District and the vendor(s) to complete the projects listed in the CSP. Any purchase order dated and issued within these dates will be subject to the terms and conditions of this contract.
- If, at any time, the vendor fails to fulfill or abide by the terms, conditions, or specifications of the contract, the District reserves the right upon written notice to the vendor to the following remedies (though not just limited to these): purchase the products/services elsewhere and/or cancel the contract.
- Proposals may not be withdrawn without written approval after a contract has been signed or a purchase order executed or after a partial performance of the proposal agreement has begun.
- The District reserves the right to utilize other District contracts, State of Texas contracts, contracts awarded by other governmental agencies, other school boards, or other cooperative agreements in lieu of any offer received or award made as a result of this proposal, if it is in the District's best interest to do so.

#### PAYMENT

- The title and risk of loss of the goods/services shall not pass to the District until the District actually takes possession of the goods/services at either the point of sale or the point of delivery.
- On purchase order contracts itemized invoices shall be issued for only those items/services received. Payment shall not be due until the invoice(s) are submitted after delivery. Pursuant to Texas Government Code 2251.021, payments will be made within thirty (30) days. Invoices shall be mailed directly to:
   MISD Business Office

100 Walter Stephenson Rd. Midlothian, X 76065 Attn: Accounts Payable Or

Email to: accounts\_payable@misd.gs

# TIME OF COMPLETION AND LIQUIDATED DAMAGES

- The contract date will be established as the number of consecutive calendar days as set out on the proposal form from the "Notice-to-proceed" date issued by the Owner.
- Failure of the Contractor to complete the Work by the contract date will result in damages being sustained by the Owner. Such damages are, and will continue to be, impracticable and extremely difficult to determine. Due consideration will be given to delays as outlined in the Contract.
- The Contractor will pay the Owner the amount indicated on the Proposal Form and in the General Conditions for each calendar day of delay in finishing the Work in excess of time specified for completion, plus authorized time extensions. Execution of the Contract under these specifications shall constitute agreement by the Owner and Contractor that the amount indicated is the minimum value of the costs and actual damage caused by failure of the Contractor to Substantially Complete the Work within the allotted time, that such sum is Liquidated Damages and shall not be construed as a penalty, and that such sum may be deducted from payments due the Contractor if such delay occurs.

#### SALES TAX EXEMPTION

- The Owner qualifies for exemption from State and Local Sales Taxes as set forth in the Supplementary Conditions. Tax exemption certificates will be issued upon request.



# **TERMINATION OF CONTRACT**

- The requirements of Government Code, Chapter 552, Subchapter J Additional Provisions Related to Contracting Information, applies to this contract and the contractor or vendor agrees that the contract can be terminated if the contractor or vendor knowingly or intentionally fails to comply with a requirement of that subchapter.
- Each respondent must give notice to the District if a person, owner or operator of the business has been convicted of a felony. The District determines that the person or business failed to give such notice or misrepresented the conduct resulting in the conviction.
- Respondents shall note any and all relationships that might be a Conflict of Interest and include such information with the Proposal.
- Please note that a gift to a public servant is a Class A misdemeanor offense if the recipient is a government employee who exercises any influence in the purchasing process of the governmental body. This would certainly apply to anyone who helps establish specifications or is involved in product selection or directs a purchase.

## PROHIBITION ON CONTRACTS WITH COMPANIES BOYCOTTING ISRAEL

 Pursuant to Texas Government Code Chapter 2271, if this contract is valued at \$100,000 or more and if Contractor has at least ten (10) full time employees, then Contractor represents and warrants to the Owner that the Contractor does not boycott Israel and will not boycott Israel during the term of this Contract. This section does not apply to a sole proprietorship. On April 25, 2019, the U.S. District Court for the Western District of Texas entered a preliminary injunction enjoining the enforcement of Chapter 2271 as it existed before the amendment in any state contract. In compliance with the Court's order, the Owner will not seek enforcement of the current Chapter 2271 until further order of this or higher court having jurisdiction over the issue.

## ADDITIONAL TERMS AND CONDITIONS

- Delivery of services will be made during normal working hours unless prior approval has been obtained.
- The successful proposer shall possess and maintain criminal background checks for all personnel working on District Property.
- MISD reserves the right to purchase additional services as listed on this proposal subject to the verification of the same or lower prices and conditions as the proposal.
- MISD also reserves the right to waive minor technicalities or formalities considered in the best interest of the district.
- In case of discrepancies within the drawings, within the specifications, or between the drawings and specifications, the better quality and greater quantity, shall be furnished and installed.

END OF DOCUMENT



# BASE PROPOSAL FORM CSP/RFP 2021-020 Safety and Security Upgrades

PROJE	CT:	Safety and Security Upgrades Midlothian Independent School District Midlothian TX		
PROPO	SAL OF:	(Name of Offeror)		(Date)
TO:	President o Midlothian 100 Walter Midlothian,	of the Board of Trustees Independent School District Stephenson Road TX 76065		(200)
Dear Si	/Madam:			
Having I (we) a drawing	examined th gree to furn s in the sum	e drawings, project manual, and related documents and having hish all labor, materials, and to perform all work described in the of:	inspected the site o he specifications ar	f proposed v nd shown o
BASE F	ROPOSAL	L.A. Mills Administration Building		DOLLARS
		_(\$	).	
BASE F	ROPOSAL	Baxter Elementary School		DOLLARS
		(\$	).	
BASE F	ROPOSAL	Longbranch Elementary School		DOLLARS
		(\$	).	
BASE F	ROPOSAL	Miller Elementary School		DOLLARS
		(\$	).	
BASE F	ROPOSAL	Mt. Peak Elementary School		DOLLARS
		_(\$	).	
BASE P	ROPOSAL	Vitovsky Elementary School		DOLLARS
		_(\$	).	
BASE F	ROPOSAL	Frank Seale Middle School		DOLLARS



BASE PROPOSAL: Walnut Grove Middle School		DOLLARS
(\$	).	
BASE PROPOSAL: Midlothian High School		DOLLARS
(\$	).	

NOTE: Amounts shall be shown in both words and figures. In case of discrepancy, the amount shown in words shall govern.

#### SCHEDULE

The overall schedule is critical to the success of this project. Contractor shall bid the time for substantial completion and final acceptance and the additional time for the specified alters in the spaces provided above. The project schedule is as follows:

	Board Approval: Notice to Proceed: Substantial Completion: Project Final Completions:	July 19, 2021 July 20, 2021 November 29, 2021 30 days after Substantial Completion
Respec	tfully Submitted	
Compa	ny / Entity Name	
By:		
Printed	Name	
Title		
Addres	S	
Phone	Number	
Email		

Note: Affix seal and authorization if bidder is a corporation.

In the event an award of a contract to the undersigned, the undersigned will (1) furnish a performance and payment bond for full amount of the contract as specified herein, (2) secure proper compliance with the terms and provisions of the contract, (3) insure and guarantee the work until final completion and acceptance and (4) guarantee payment of all

> REQUEST FOR COMPETITIVE SEALED PROPOSALS CSP2021-020 Safety and Security Upgrades Page 9



lawful claims for labor performed and materials furnished in the fulfillment of the contract.

The work proposed shall be accepted when the District is satisfied that work is fully completed and finished in accordance with the plans and specifications.

The undersigned certifies that the bid prices contained in the proposal have been carefully checked and are submitted as correct and final.

Receipt is hereby acknowledged for the following addenda to bid proposal:

Addendum No. 01	Dated:	Received:	
Addendum No. 02	Dated:	Received:	
Addendum No. 03	Dated:	Received:	
Addendum No. 04	Dated:	Received:	



CSP RESPONSE FORM (Page 1) 2021-020 Safety and Security Upgrades

To: Midlothian ISD Attention: Shana Volentine 100 Walter Stephenson Rd. Midlothian, TX 76065

From:	
	Company Name
	Address
	Citv/State/Zip
	Area Code & Phone Number
	Fax Number
	Email Address

Federal Tax Identification Number

I, the undersigned, as the owner or legally authorized representative of the above named company, by signing the following statement, agree that I have READ and UNDERSTAND all of the Instructions and Specifications contained herein, and that if accepted by the Midlothian Independent School District, all of the provisions are part of a binding contract between the MISD and our company. I also certify that this bid is made without previous understanding, agreement, or connection with any person, firm or cooperation making a proposal for the same contract, and is in all ways fair and without collusion or fraud.

Owner or Legally Authorized Representative

Signature

Title

Date



## CSP RESPONSE FORM (Page 2) 2021-020 Safety and Security Upgrades

Remitta	nce Address (if different):			
Address	;			
City/Sta	te/Zip			
All purc	chases must occur with a district purchase order (if applicable).			
•	Our firm will accept orders using district purchase orders. YES $lacksquare$	NO	3	
•	It is understood that this proposal/bid will be effective July 1, 2021 th with optional two (2) additional one year periods.	rough 、	June 30,	, 2022
•	Our firm holds a HUB certification YES Please provide a copy of your certification with your response.	NO	DIf	Yes,
•	Our firm holds a MWBE/SBE certification. YES Please provide a copy of your certification with your response.	NO	□If	Yes

## ADDITIONAL INFORMATION

If your organization has multiple store locations, please list all store locations that will agree to all the terms and conditions set forth in this proposal/bid document. Please list additional store locations below (attach additional information if needed).



# CSP REFERENCES 2021-020 Safety and Security Upgrades

Please list your references	
Business Name:	
Contact:	
Address:	
Phone Number	
Email:	
Scope of Work/Project:	 
Business Name:	
Contact:	
Address:	
Phone Number	
Email:	
Scope of Work/Project:	
Business Name:	
Contact: _	
Address:	
Phone Number	
Email: _	
Scope of Work/Project:	



## CHECKLIST FOR CSP 2021-020 Safety and Security Upgrades

 Proposal Form
 CSP Response Form (Page 1 & 2)
 Reference Sheet
 SB 9 Contractor Certification: Contractor Employees
 Felony Conviction Notice
 1295 Certificate of Interested Parties
 Conflict-of-Interest Questionnaire
 Non-Collusion & Non-Discrimination Form
 Resident and Non-Resident Form
 Statement of Debarment
HB 89/SB 252 Certification Form

# **<u>SB 9 Contractor Certification: Contractor Employees</u>**

**Background:** Texas Education Code Chapter 22 requires entities that contract with school districts to obtain criminal history records on covered employees. Covered employees with disqualifying criminal histories are prohibited from serving at a school district. Contractors must certify to Midlothian ISD that they have complied and must obtain similar certifications from their subcontractors. *See SB 9 Contractor Certification: Subcontractor attachment.* The law requires each contractor to obtain the criminal histories of its covered employees. For more information or to set up an account, a contractor should contact the Texas Department of Public Safety's Crime Records Service at 512.424.2474.

# **Definitions:**

<u>Covered employees</u>: Employees of a contractor who have or will have continuing duties related to the service to be performed at a school district and have or will have direct contact with students. Midlothian ISD will be the final arbiter of what constitutes *continuing duties* and *direct contact* with students.

<u>Disqualifying criminal history</u>: (1) a conviction or other criminal history information designated by Midlothian ISD; (2) a felony or misdemeanor offense that would prevent a person from being employed under Texas Education Code § 22.085(a), that is: if at the time of the offense, the victim was under 18 or was enrolled in a public school:(a) a felony offense under Title 5, Texas Penal Code; (b) an offense on conviction for which a defendant is required to register as a sex offender under Chapter 62, Texas Code of Criminal Procedure; or (c) an offense under federal law or the laws of another state that is equivalent to (a) or (b).

On behalf of \_\_\_\_\_\_ ("Contractor"), I, the undersigned authorized signatory for Contractor, certify to Midlothian Independent School District ("Midlothian ISD") that [check one]:

- [] None of Contractor's employees are *covered employees*, as defined above. If this box is checked, I further certify that Contractor has taken precautions or imposed conditions to ensure that its employees will not become *covered employees*. Contractor will maintain these precautions or conditions throughout the time the contracted services are provided.
- Or
- [] Some or all of Contractor's employees are *covered employees*. If this box is checked, I further certify that:
  - (1) Contractor has obtained all required criminal history record information regarding its covered employees. None of the covered employees has a disqualifying criminal history.
  - (2) If Contractor receives information that a covered employee subsequently has a reported criminal history, Contractor will immediately remove the covered employee from contract duties and notify Midlothian ISD in writing within 3 business days.
  - (3) Upon request, Contractor will provide Midlothian ISD with the name and any other requested information of covered employees so that Midlothian ISD may obtain criminal history record information on the covered employees.

If Midlothian ISD objects to the assignment of a covered employee on the basis of the covered employee's criminal history record information, Contractor agrees to discontinue using that covered employee to provide services at Midlothian ISD.

I also certify to Midlothian ISD on behalf of Contractor that Contractor has obtained certifications from its subcontractors of compliance with Texas Education Code, Chapter 22. Noncompliance or misrepresentation regarding this certification may be grounds for contract termination.



# Felony Conviction Notice

Statutory citation covering notification of criminal history of contractor is found in the Texas Education Code

#44.034. Following is an example of a felony conviction notice:

# FELONY CONVICTION NOTICE

Senate Bill 1, passed by the State of Texas Legislators, Section 44.034, Notification of Criminal History, Subsection (a) states, "a person or business entity that enters into a contract with a school district must give advance notice to the district if the person or owner or operator of the business entity has been convicted of a felony." The notice must include a general description of the conduct resulting in the conviction of a felony.

Subsection (b) states, "A school district may terminate a contract with a person or business entity if the district determines that the person or business entity failed to give notice as required by Subsection (a) or misrepresented the conduct resulting in the conviction. The district must compensate the person or business entity for services performed before the termination of the contract.

This notice is not required of a publicly held corporation.

I, the undersigned agent for the firm named below certify that the information concerning notification of felony conviction has been reviewed by me and the following furnished information is true to the best of my knowledge.

Vendor'sName:

Authorized Company Official's Name: (please print)

A. My firm is a publiclyheld corporation; therefore, this reporting requirement is not applicable.

Signature of Company Official:

B. My firm is not owned nor operated by anyone who has been convicted of a felony.

Signature of Company Official:

C. My firm is owned or operated by the following individual(s) who has/have been convicted of a felony: Name

ofFelon(s): \_\_\_\_\_

Details ofConviction:

Signature of Company Official:

THIS COMPLETED FORM MUST BE RETURNED WITH PROPOSAL

CERTIFICATE OF INTE	RESTED PARTIES		F	FORM 1295
Complete Nos. 1 - 4 and 6 if there Nos. 1, 2, 3, 5, and 6 if there are n	e are interested parties. Comple to interested parties.	ete	OFFIC	
1 Name of business entity filing form, and entity's place of business.	d the city, state and country of the	business		File
2 Name of governmental entity or state a which the form is being filed.	agency that is a party to the contra	act for	×+'	JSI
3 Provide the identification number used and provide a description of the servi	by the governmental entity or sta ices, goods, or other property to	te agency to track be provided unde	or identify t	the contract, ct.
4	City, State, Country	Natur	e of Interest	(check applicable)
	(place of business)	Cor Cor	ntrolling	Intermediary
	, et l	•		
	nh.			
	- An			
	ð			
	Z			
5 Check only if there is 10 interest	ted Party.			
UNSWORN DECLARATION     My name is	, and	my date of birth is		
My address is(street) I deviate under penalty of perjury that the foreg	going is true and correct.	(city) (stat	e) (zip code	e) (country)
Executed inCounty, S	tate of, on the	day of(mo	, 20, 20, nth) (y	/ear)
	Signature of a	uthorized agent of con (Declarant)	tracting busine	ess entity
ADE	ADDITIONAL PAGES AS	NECESSAR	Y	

Form provided by Texas Ethics Commission

CONFLICT OF INTEREST QUESTIONNAIRE For vendor doing business with local governmental entity	FORM CIQ
This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.	OFFICE USE ONLY
This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a).	Date Received
By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. See Section 176.006(a-1), Local Government Code.	
A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.	
<sup>1</sup> Name of vendor who has a business relationship with local governmental entity.	
<ul> <li>Check this box if you are filing an update to a previously filed questionnaire. (The la completed questionnaire with the appropriate filing authority not later than the 7th busines you became aware that the originally filed questionnaire was incomplete or inaccurate.)</li> <li>Name of local government officer about whem the information is being disclosed.</li> </ul>	w requires that you file an updated s day after the date on which
Name of local government onicer about whom the information is being disclosed.	
Name of Officer	
officer, as described by Section 176.003(a)(2)(A). Also describe any family relationship wit Complete subparts A and B for each employment or business relationship described. Attac CIQ as necessary. A. Is the local government officer or a family member of the officer receiving or like other than investment income, from the vendor?	th the local government officer. The additional pages to this Form
Yes No	
B. Is the vendor receiving or likely to receive taxable income, other than investment of the local government officer or a family member of the officer AND the taxable local governmental entity?	t income, from or at the direction income is not received from the
Yes No	
<ul> <li>Describe each employment or business relationship that the vendor named in Section 1 m other business entity with respect to which the local government officer serves as an o ownership interest of one percent or more.</li> </ul>	naintains with a corporation or officer or director, or holds an
<ul> <li>Check this box if the vendor has given the local government officer or a family member of as described in Section 176.003(a)(2)(B), excluding gifts described in Section 176.00</li> </ul>	of the officer one or more gifts 03(a-1).
Signature of vendor doing business with the governmental entity	Date

# CONFLICT OF INTEREST QUESTIONNAIRE For vendor doing business with local governmental entity

A complete copy of Chapter 176 of the Local Government Code may be found at http://www.statutes.legis.state.tx.us/ Docs/LG/htm/LG.176.htm. For easy reference, below are some of the sections cited on this form.

Local Government Code § 176.001(1-a): "Business relationship" means a connection between two or more parties based on commercial activity of one of the parties. The term does not include a connection based on:

(A) a transaction that is subject to rate or fee regulation by a federal, state, or local governmental entity or an agency of a federal, state, or local governmental entity;

(B) a transaction conducted at a price and subject to terms available to the public; or

(C) a purchase or lease of goods or services from a person that is chartered by a state or federal agency and that is subject to regular examination by, and reporting to, that agency.

# Local Government Code § 176.003(a)(2)(A) and (B):

(a) A local government officer shall file a conflicts disclosure statement with respect to a vendor if:

(2) the vendor:

(A) has an employment or other business relationship with the local government officer or a family member of the officer that results in the officer or family member receiving taxable income, other than investment income, that exceeds \$2,500 during the 12-month period preceding the date that the officer becomes aware that

(i) a contract between the local governmental entity and vendor has been executed; or

(ii) the local governmental entity is considering entering into a contract with the vendor;

(B) has given to the local government officer or a family member of the officer one or more gifts that have an aggregate value of more than \$100 in the 12-month period preceding the date the officer becomes aware that:

- (i) a contract between the local governmental entity and vendor has been executed; or
- (ii) the local governmental entity is considering entering into a contract with the vendor.

# Local Government Code § 176.006(a) and (a-1)

(a) A vendor shall file a completed conflict of interest questionnaire if the vendor has a business relationship with a local governmental entity and:

(1) has an employment or other business relationship with a local government officer of that local governmental entity, or a family member of the officer, described by Section 176.003(a)(2)(A);

(2) has given a local government officer of that local governmental entity, or a family member of the officer, one or more gifts with the aggregate value specified by Section 176.003(a)(2)(B), excluding any gift described by Section 176.003(a-1); or

(3) has a family relationship with a local government officer of that local governmental entity.

(a-1) The completed conflict of interest questionnaire must be filed with the appropriate records administrator not later than the seventh business day after the later of:

(1) the date that the vendor:

(A) begins discussions or negotiations to enter into a contract with the local governmental entity; or

(B) submits to the local governmental entity an application, response to a request for proposals or bids, correspondence, or another writing related to a potential contract with the local governmental entity; or

(2) the date the vendor becomes aware:

(A) of an employment or other business relationship with a local government officer, or a family member of the officer, described by Subsection (a);

(B) that the vendor has given one or more gifts described by Subsection (a); or

(C) of a family relationship with a local government officer.



# STATEMENT OF NON-COLLUSION AND NON-DISCRIMINATION

My signature certifies that the accompanying Proposal:

- Is not the result of, or affected by, an unlawful act of collusion with another person or company engaged in the same line of business or commerce, or any act of fraud punishable under current local, state, and/or federal ordinances, statutes, regulations and/or policies. Furthermore, I understand that fraud and unlawful collusion are crimes under Federal Law, and can result in fines, prison sentences, and civil damage awards.
- 2. During the performance of any contract awarded, the Seller will not discriminate against any employee or applicant for employment because of race, religion, color, sex or national origin, or handicaps, except where religion, sex or national origin is a bona fide occupation qualification reasonably necessary to the normal operations of the Seller, The Seller agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.
- 3. The Seller, in all solicitations or advertisements for employees placed by or on behalf of the Seller, will state that such Seller is an equal opportunity employer.
- 4. 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.
- 5. The Seller shall include the provisions of the foregoing paragraphs 2, 3 and 4 in every subcontract or purchase order over \$10,000.00 so that the provisions will be binding upon each subcontractor or vendor.

I hereby certify that I am authorized to sign as a Representative for the Seller:

NAME OF SELLER:		
ADDRESS:		
CITY & STATE:		
NAME: (Print)		
Signature:		
TITLE:	DATE:	
TELEPHONE:	FAX:	
EMAIL ADDRESS:		

# **RESIDENT/NONRESIDENT CERTIFICATION**

Texas Government Code Chapter 2252 relates to bids by nonresident contractors. The pertinent portions of the Act are as follows:

## Section 2252.001(3)

"Nonresident bidder" means a bidder who is not a resident (of the State of Texas).

## Section 2252.001(4)

"Resident bidder" means a bidder whose principal place of business is in this state, including a contractor whose ultimate parent company or majority owner has its principal place of business in this state.

## Section 2252.002

A governmental entity may not award a governmental contract to a nonresident bidder unless the nonresident underbids the lowest bid submitted by a responsible resident bidder by an amount that is not less than the amount by which a resident bidder would be required to underbid the nonresident bidder to obtain a comparable contract in the state in which the nonresident's principal place of business is located.

I certify that	<u>i</u>	s a
•		

Resident Bidder of Texas as defined in Texas Government Code Section 2252.001(4).

Signature:	
Printed Name:	
certify that	is a
Nonresident Bidder of Texas as defined in Texas Govern	ment Code Section 2252 001(3) and our principal pl

<u>Nonresident Bidder of Texas</u> as defined in Texas Government Code Section 2252.001(3) and our principal place of business is:

City and State:			 
Signature:	 	 	 
Printed Name:			

# If the Bidder is a Nonresident Bidder of Texas, please answer the following:

Does the vendor's ultimate parent company or majority owner employ at least 500 persons in Texas?

Yes\_\_\_\_ No \_\_\_\_

# DEBARMENT OR SUSPENSION CERTIFICATION FORM

Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award (see 2 CFR 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

By submitting this offer and signing this certificate, this Proposer:

(1) Certifies that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

Firm's Name:	
Address:	
City/State/Zip:	
Telephone:	
Authorized Company Official's Name: <i>(Typed or printed)</i>	
Title of Authorized Representative: (Typed or printed)	
Signature of Authorized Company Official:	
Date Signed:	



# **CERTIFICATIONS REOUIRED AS OF SEPTEMBER 1, 2017**

# CERTIFICATION REGARDING TERRORIST ORGANIZATIONS & BOYCOTTING OF ISRAEL [Govt Code 808 (HB89) and Govt Code 2252 (SB252)

Vendor hereby certifies that it is not a company identified on the Texas Comptroller's list of companies known to have contracts with, or provide supplies or services to, a foreign organization designated as a Foreign Terrorist Organization by the U.S. Secretary of State.

Vendor further certifies and verifies that neither Vendor, nor any affiliate, subsidiary, or parent company of Vendor, if any (the "Vendor Companies"), boycotts Israel, and Vendor agrees that Vendor and Vendor Companies will not boycott Israel during the term of this Agreement. For purposes of this Agreement, the term "boycott" shall mean and include terminating business activities or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory.

Initials of Authorized Representative of Vendor

Vendor's Name/Company Name:	
Address, City, State, and Zip Code:	
Phone Number:Fax Number:	
Printed Name and Title of Authorized Representative:	
Email Address:	
Signature of Authorized Representative:	
Date: Federal Tax ID #	
MISD PURCHASING OFFICE (INTERNAL REVIEW): SB 225	2 Certification
Comptroller List was reviewed and The Vendor (IS) (IS)	NOT ) on the lists (Circle one).
Verified by:	

# **SECTION 00 4325**

# SUBSTITUTION REQUEST FORM (PRIOR TO BID)

# PART 1 GENERAL

- 1.1 When a specific product is specified for use in the project, it is to establish a standard of quality and shall not be construed as limiting competition. It is the Architect's and Engineers' intent that "Substitutions Prior to Bid" match the specified product, system, equipment or material criteria including, but not limited to, color, texture, size, weight, utility hook-up requirements, capacity, volume, speeds, power, BTU's, etc.
- 1.2 This project is to include only the products, materials, equipment and systems that are indicated on the Drawings, and are specified or approved prior to the Bid through the "Substitution Prior to Bid" (Prior Approval) process. Requests for "Substitution Prior to Bid" shall contain sufficient information, descriptive brochures, drawings, samples or other data as is necessary to provide direct comparison to the specified materials. When a manufacturer is designated in the Specification as an "Approved Equal" but no specific product is identified, Manufacturer's Representative shall demonstrate to the Architect and Engineer that the proposed product complies in every aspect with the specified product.
- 1.3 Products proposed as "Approved Equals" must be fully compared to the product, material, equipment or system specified. At the time he submits his product literature, the Contractor shall thoroughly review and compare the Specifications for both the specified item and proposed "Substitution Prior to Bid", and clearly identify in writing to the Architect and Engineer, any differences between the items. Differences that are to be identified shall include, but not be limited to, size, weight, utility hook-up requirements, volume, capacity, speeds, power, BTU's, etc. Should the Architect and Engineer deem any differences to be unacceptable, the "Request for Substitution Prior to Bid" shall be rejected.
- 1.4 All requests for substitution prior to bid shall be accompanied by a Request for Substitution Prior to Bid Form, that is a part of this Specification section. Requests not accompanied by the Form will not be reviewed. Requests for Substitution Prior to Bid shall be in the hands of the Architect no later than fourteen (14) calendar days prior to bid date.
- 1.5 Each submittal shall be well marked and identified as to types and kind of the items being submitted for approval. It is the sole responsibility of the Contractor to submit complete descriptive and technical information to the Architect so the Architect can make proper appraisal. Lack of proper information will be sufficient cause for rejection. Reference to catalogs will not be acceptable unless catalog is submitted with Substitution Request Form. All pertinent information shall be clearly marked by the Contractor and shall be specific to the product in question.
- 1.6 It is the Contractor's responsibility to confirm and correlate quantities and dimensions and coordinate with trades whose work may be affected by the requested substitution.
- 1.7 In submitting a Request for Substitution, the Manufacturer/Supplier shall make the following representations:
  - A. The proposed product is equal or superior in all respects to that specified.
  - B. The Substitution carries the same or better Warranty as the specified product, materials, equipment or system.

- C. Installation of the accepted Substitution shall be incorporated into the Work, making such changes as may be required for the Work to be completed in every respect, at no additional cost to the Owner.
- D. Claims for additional costs related to the Substitution that subsequently become apparent shall be waived by all parties.
- 1.8 If, at any time, any differences in the performance or physical characteristics of the proposed substitution are determined to be a liability to the performance, operation or design intent of the building, the Contractor shall be required to replace said product, material, equipment or system with the originally specified product at Contractor's expense, as well as compensate the Owner for any costs associated with the substituted product, material, equipment or system.

# PART 2 MATERIALS - Not Used

# PART 3 EXECUTION – Not Used

# SUBSTITUTION OF MATERIALS PRIOR TO BID REQUEST FORM

<u>NOTE:</u> Requests for substitutions shall be in the hands of the Architect no later than fourteen (14) calendar days, prior to bid date.

ТО: <u></u>					
PROJECT:BID DATE:				\TE:	
We	submit for your	consideration the followin	g product instead o	f the specified item for the above project:	
Section Page/Sheet No. Paragraph/Line Specified Item		Specified Item			
Prop	oosed Substituti	ion:			
Atta colo optic	ch complete p rs/finishes, and ons, etc.	product description, drav other information necess	vings, photographs ary for evaluation.	, performance and test data, available Identify specific model numbers, finishes,	
A.	Will changes be required to building design or any components or assemblies in order to properly install and operate proposed substitution? Yes No If yes, explain:				
<ul> <li>B. The Manufacturer/Supplier, understands that he will pay for changes to including engineering and drawing costs, caused by requested substitution.</li> </ul>			ay for changes to the building design, ested substitution.		
C.	List description	on of the difference propo	sed for each substit	ution and specified item.	
D.	Does subst	itution affect Drawing clea	arance and/or dimer	nsions? Yes No	
	If yes, expla	ain:			
E.	What effect	does substitution have o	n other trades? Lis	t affected trades.	

F.	Does manufacturer's warranty of proposed substitution differ from that specified? Yes No If yes, explain:
G.	Will substitution affect progress schedule? Yes No If yes, explain:
H.	Will substitution require more license fees or royalties than specified product?         Yes No If yes, explain:
I.	Will maintenance and service parts be locally available for substitution?         Yes No If no, explain:
J.	Will substitution require additional testing, inspection, certification or approvals? Yes No If yes, explain:

In submitting this "REQUEST FOR SUBSTITUTION OF MATERIALS PRIOR TO BID" the Manufacturer/Supplier represents the following:

- 1. The proposed product is equal or superior in all respects to that specified
- 2. The Substitution carries the same or better Warranty as the specified product, materials, equipment or system.
- 3. Installation of the accepted Substitution shall be incorporated into the Work, making such changes as may be required for the Work to be completed in every respect, at no additional cost to the Owner.
- 4. Claims for additional costs related to the Substitution that subsequently become apparent shall be waived by the Manufacturer/Supplier.
- 5. Cost data is complete and includes related costs under the Contract but excludes costs under separate contracts and design consultant's redesign.
- 6. If, at any time, any differences in the performance or physical characteristics of the proposed "Substitutions Prior to Bid" and are determined to be a liability to the performance, operation or design intent of the building, the Manufacturer/Supplier shall be required to replace said product, material, equipment or system with the originally specified product at Manufacturer/Supplier expense, as well as compensate the Owner for any costs associated with the substituted product, material, equipment or system.

Submitted by:

Signature
Firm
Address
Date
Telephone
Fax
Email
For Architect's Use Only:
Accepted Accepted as Noted
Not Accepted Received too Late
Ву
Date
Remarks
For Engineer's Use Only:
Accepted Accepted as Noted
Not Accepted Received too Late
Ву
Date
Remarks

END OF SECTION

## **SECTION 00 6290**

# ELECTRONIC DATA TRANSFER TERMS AND CONDITIONS

By accepting, transmitting, storing, duplicating, disseminating or otherwise utilizing any electronic drawings, models, or data (individually and collectively, "**Electronic Data**") which was originally generated or distributed by THE ORCUTT/WINSLOW LIMITED LIABILITY LIMITED PARTNERSHIP, an Arizona limited partnership, and/or its affiliates, owners, subsidiaries, agents or consultants (collectively, "**Orcutt I Winslow**"), the recipient ("**Receiving Party**") shall be deemed to signify its assent and agreement to be bound by these Electronic Data Transfer Terms and Conditions (these "**Conditions**"), and shall be deemed to agree that all such Electronic Data are instruments of service of Orcutt I Winslow, and that Orcutt I Winslow shall be deemed to be the author and owner of such Electronic Data and shall retain all common law, statutory law and other rights therein, including, without limitation, all related copyrights.

It is the responsibility of the Receiving Party to fully understand the building(s) (or other structural components) in terms of vertical relationships, structural components, and building systems by way of the applicable contract documents provided by Orcutt I Winslow. Any use of, or reliance on the Electronic Data shall be at Receiving Party's sole risk and without liability to Orcutt I Winslow. Any information contained within the Electronic Data provided is complementary to all other documents and as such is therefore inherently incomplete in terms of information provided. Any information provided electronically that is not in conformity with other contract documents provided by Orcutt I Winslow shall be brought to the attention of Orcutt I Winslow for clarification prior to proceeding with design or construction, and Receiving Party's failure to do so shall be deemed to constitute Receiving Party's waiver of its right (if any) to make any claim for compensation due to errors or omissions in said documents.

The Electronic Data is provided for the Receiving Party's convenience and does not constitute a legally binding document or agreement. Receiving Party shall not use the Electronic Data, in whole or in part, for any purpose or project other than the specific project for which it was created. Receiving Party hereby waives all claims against Orcutt I Winslow resulting in any way from or in connection with any unauthorized changes or use of the Electronic Data for any other project or by anyone other than Orcutt I Winslow.

To the fullest extent permitted by law, Receiving Party shall indemnify and hold Orcutt I Winslow harmless for, from and against any damage, liability or cost, including reasonable attorneys' fees and costs of defense, arising from or in connection with any changes to Electronic Data made by anyone other than Orcutt I Winslow or from any reuse of the Electronic Data without prior written consent of Orcutt I Winslow.

Due to varying environmental and storage conditions, integrity of electronic media and data are inherently subject to corruption. Orcutt I Winslow makes no warranties, either express or implied, of merchantability and/or fitness of the Electronic Data for any particular purpose, and hereby expressly disclaims all such warranties.

# **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)

Midlothian Independent School District 100 Walter Stephenson Road Midlothian, TX 76065 Phone: (469) 856-5000

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

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

Midlothian ISD District Wide Safety and Security Upgrades

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

Orcutt Winslow 222 West Las Colinas Blvd. Suite 749e Irving, Texas 75039

Init.

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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.

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### TABLE OF ARTICLES

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

### EXHIBIT A INSURANCE AND BONDS

### ARTICLE 1 THE CONTRACT DOCUMENTS

§ 1.1 The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary, and other Conditions), all sections of the Project Manual and Construction Documents, Drawings, Specifications, Geotechnical Reports, 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. Any reference to Contract Documents or any documents included in the Contract Documents and/or supplemented for this Project, shall refer to the Contract Documents as amended for this Project. (Warning: Make sure that any Supplementary Conditions do not contradict the provisions of the A201.)

"Construction Documents" means: all Drawings, specifications, submittals, transmittals, deliverables, instructions to Contractors, and other documents, including those in electronic form, prepared by the Architect and the Architect's consultants and which set forth in detail the requirements for construction of the Project.

§ 1.2 This Agreement represents the entire and integrated agreement between the Owner and the Contractor and supersedes all prior negotiations, representations or agreements, either written or oral. Any revision, amendment, or modification to the Standard Form of this Agreement shall be valid, binding, and enforceable only if said revision, amendment or modification is made conspicuous by being underlined, lined-through, or highlighted in this Agreement signed by Contractor and the authorized representative of Owner's Board of Trustees. In the event of conflict, terms and conditions contained in the Agreement shall take precedence over terms and conditions contained in the General Conditions and the terms and conditions in the General Conditions shall take precedence over all other terms and conditions contained in the other Contract Documents. If the Request for Proposals and the Proposal are included in the Contract Documents, then the Request for Proposals shall take precedence over the Proposal, unless specifically agreed otherwise herein.

§ 1.3 The Board of Trustees as representative of the Owner, an independent school district, designates the following as the individuals authorized to sign documents on behalf of the Board of Trustees, approve changes in the scope of the Work, to approve and execute a Change Order or Construction Change Directive modifying the Contract Sum, or to agree to an extension to the date of Substantial or Final Completion or to terminate a contract following appropriate Board action: Dr. JoAnn Fey, Superintendent of Schools, or her designee(s).

§ 1.4 The Board designates the authorized representatives identified in Paragraph 8.2 to act on its behalf in other respects.

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### 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. [ ]
- [X] Established as follows: (Insert a date or a means to determine the date of commencement of the Work.)

The commencement date will be the first business day after the Contractor's receipt of the written notice to proceed. The notice to proceed shall not be issued by Architect until the Agreement has been signed by the Contractor, approved by the Owner's Board of Trustees, signed by the Owner's authorized representative, and Owner and Architect have received all required payment and performance bonds and insurance, in compliance with Article 11 of AIA Document A201-2017.

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

### § 3.3 Substantial Completion

§ 3.3.1 Subject to adjustments of the Contract Time as provided in the Contract Documents, the Contractor shall diligently prosecute and achieve Substantial Completion of the entire Work: (Check one of the following boxes and complete the necessary information.)

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

[X] By the following date:

Final Completion shall be 30 calendar days after the date of Substantial Completion, subject to adjustments of the Contract Time as provided in the Contract Documents.

§ 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.

### (Note: Optional Paragraph)

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§ 4.1.1 The Contract Sum contains an Owner's Contingency in the amount of \$ . This contingency is for the sole use of the Owner to be used for changes in the scope of the Work and for the betterment of the Project. Owner's

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authorized representative may approve any expenditure from Owner's Contingency without further Board of Trustees approval. If the Owner's Contingency is not expended or not fully expended, then any unused portion shall belong to the Owner and shall be credited to the Owner in calculating final payment.

### § 4.2 Alternates

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

Item

Price

(Table deleted) (Paragraphs deleted) § 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.)

§ 4.5.1 Substantial Completion. Time is of the essence in all phases of the Work. It is specifically understood and agreed by and between Owner and Contractor that time is of the essence in the Substantial Completion of the Project and Owner shall sustain damages as a result of Contractor's failure, neglect or refusal to achieve said deadlines. Such damages are, and will continue to be, impracticable and extremely difficult to determine. Execution of this Agreement under these specifications shall constitute agreement by Owner and Contractor that the amounts stated below are the minimum value of the costs and damages caused by failure of Contractor to complete the Work within the allotted or agreed extended times of Substantial Completion, that such sums are liquidated damages and shall not be construed as a penalty, and that such sums may be deducted from payments due Contractor if such delay occurs. It is expressly understood that the said sum per day is agreed upon as a fair estimate of the pecuniary damages which will be sustained by the Owner in the event that the Work is not completed within the agreed time, or within the agreed extended time, if any, otherwise provided for herein. Said sum shall be considered as liquidated damages only and in no sense shall be considered a penalty, said damages being caused by, but not limited to, additional compensation for personnel, attorneys fees, architectural fees, engineering fees, program management fees, inspection fees, storage costs, food service costs, transportation costs, utilities costs, costs of temporary facilities, loss of interest on money, and other increased costs, all of which are difficult to exactly ascertain. Failure to complete the Work within the designated or agreed extended dates of Substantial Completion, shall be construed as a breach of this Agreement. It is expressly agreed as a part of the consideration inducing the Owner to execute this Agreement that the Owner may deduct from any Payment made to the Contractor a sum equal to \$1,000.00 per day for each and every additional calendar day beyond the agreed date of Substantial Completion.

§ 4.5.2 Final Completion. In addition, timely Final Completion is an essential condition of this Agreement. Contractor agrees to achieve Final Completion of the Agreement within 30 calendar days of the designated or agreed extended date of Substantial Completion. It is specifically understood and agreed by and between Owner and Contractor that time is of the essence in the Final Completion of the Project and Owner shall sustain additional damages as a result of Contractor's failure, neglect or refusal to achieve said deadline. Such damages are, and will continue to be, impracticable and extremely difficult to determine. Execution of this Agreement under these specifications shall constitute agreement by Owner and Contractor that the amounts stated below are the minimum value of the costs and damages caused by failure of Contractor to complete the Work within the allotted or agreed extended times for Final

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Completion, that such sums are liquidated damages and shall not be construed as a penalty. It is expressly understood that the said sum per day is agreed upon as a fair estimate of the pecuniary damages which will be sustained by the Owner in the event that the Work is not finally completed within the agreed time, or within the agreed extended time, if any, otherwise provided for herein. Said sum shall be considered as liquidated damages only and in no sense shall be considered a penalty, said damages being caused by, but not limited to, additional compensation for the following categories of damages to the Owner: potential hazards to students, staff and visitors, additional architectural, engineering, program management fees (and fees of any other consultants); increased administrative or operational expenses; additional attorney's fees; increased maintenance and custodial costs and additional, utilities, security and clean-up costs, and other increased costs. Failure to complete the Work within the designated or agreed extended dates of Final Completion, shall be construed as a breach of this Agreement. Owner and Contractor agree that should Contractor fail to achieve Final Completion of the Agreement by the deadline. Owner shall continue to be damaged to a greater degree by such delay. Contractor and Owner agree that the amount of liquidated damages for each calendar day Final Completion is delayed beyond the date set for Final Completion shall be the sum of \$500.00 per day. Owner may deduct such liquidated damages from any Payment made to Contractor before or at Final Payment; or, if sufficient funds are not available, then Contractor shall pay Owner, the amounts specified per day for each and every calendar day the breach continues after the deadline for Final Completion of the Work.

§ 4.5.3 Such damages shall be in addition to, and not in lieu of, any other rights or remedies Owner may have against Contractor for failure to timely achieve Final Completion, and damages for failure to achieve Substantial Completion and failure to achieve Final Completion may run concurrently. If the Work is not finally completed by the time stated in the Agreement, or as extended, no payments for Work completed beyond that time shall be made until the Project reaches Final Completion.

### § 4.6 Other:

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

### ARTICLE 5 PAYMENTS

### § 5.1 Progress Payments

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

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

§ 5.1.3 The Contractor shall submit monthly Applications for Payment to the Architect on AIA Form G702 for approval. Continuation sheets shall be submitted on AIA Form G703. If the Architect approves the application, then they shall submit a Certificate for Payment to the Owner. The Architect may require any additional information deemed necessary and appropriate to substantiate the Application for Payment. Materials that are verified to be on the jobsite or other approved location for use in the Project may also be incorporated into the Application for Payment. The Architect shall have seven (7) days from date of receipt from the Contractor of an Application for Payment to approve or reject all or any part of the Application for Payment. The Owner shall pay the undisputed amounts certified by the Architect to the Contractor within forty-five (45) days of receipt of the Certificate for Payment from the Architect unless otherwise provided in the Contract Documents. Undisputed amounts unpaid after the date on which payment is due shall bear interest pursuant to Texas Government Code Section 2251.025. (Note: In Texas, the blank should be filed in with "30" if the Board meets twice a month, and "45" if the Board meets once a month). (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, less any unused Owner's contingency, 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.

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§ 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<sup>™</sup>-2017, General Conditions of the Contract for Construction, and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

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

- That portion of the Contract Sum properly allocable to completed Work as determined by multiplying .1 the percentage completion of each portion of the Work by the share of the Contract Sum allocated to that portion of the Work in the schedule of values;
- That portion of the Contract Sum properly allocable to materials and equipment delivered and suitably .2 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 to the extent approved by the Owner in writing, as provided in Article 7.3.9 of AIA Document A201TM-2017, General Conditions of the Contract for Construction.

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

- The aggregate of any amounts previously paid by the Owner; .1
- .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;
- Any amount for which the Contractor does not intend to pay a Subcontractor or material supplier, .3 unless the Work has been performed by others the Contractor intends to pay;
- For Work performed or defects discovered since the last payment application, any amount for which .4 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 or amounts certified by the Architect and disputed by the Owner: and
- .5 Retainage withheld pursuant to Section 5.1.7.

### § 5.1.7 Retainage

§ 5.1.7.1 For each progress payment made prior to Substantial Completion of the Work, the Owner shall 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%) [If the retainage is over 5%, then the retainage shall be deposited in an interest-bearing account and the interest earned on the retainage shall be paid to the Contractor upon completion of the Project, pursuant to Texas Government Code Section 2252.032]

### (Paragraphs deleted)

§ 5.1.7.1 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.)

### NONE

§ 5.1.7.2 Except as set forth in this Section 5.1.7.3, upon Final 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.

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### (Paragraphs deleted)

§ 5.1.8 Except with the Owner's prior written approval or as otherwise provided in Section 9.3.2 of the AIA Document A201-2017, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

### (Paragraph deleted)

§ 5.1.9 If Owner is entitled to deduct liquidated damages, or any other damages or amounts provided in the Contract Documents, including clean-up fees, then Owner shall be entitled to deduct such liquidated damages, amounts and fees at any time.

§ 5.1.10 If Contractor fails or refuses to complete the Work, or has unsettled claims with Owner, any payment to Contractor shall be subject to deduction for such amounts as the Architect if applicable, shall determine as the cost for completing incomplete Work and the value of unsettled claim.

### § 5.2 Final Payment

§ 5.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum minus disputed sums, authorized deductions and liquidated damages, shall be made by the Owner to the Contractor after

- the Contractor has fully performed the Contract except for the Contractor's responsibility to correct .1 nonconforming Work as provided in Article 12 of AIA Document A201-2017, and to satisfy other requirements, if any, which extend beyond final payment;
- the Contractor has provided all documents required by Sections 3.5 et seq. and 9.10.2 et seq. of AIA .2 Document A201-2017:
- .3 a final Certificate for Payment has been issued by the Architect; and
- .4 Owner's Board of Trustees has voted to accept the Work and approve the Final Payment.

§ 5.2.2 The Owner's final payment of undisputed sums to the Contractor shall be made no later than 30 days after Owner's Board of Trustees' vote approving Final Payment

N/A

## § 5.3 Interest

Payments due and unpaid under the Contract shall bear interest (Paragraphs deleted) pursuant to Texas Government Code Section 2251.025.

### ARTICLE 6 DISPUTE RESOLUTION

## § 6.1 Initial Decision Maker

All disputes relating to this Agreement shall be resolved pursuant to the terms of Article 15 of the AIA Document A201-2007, as amended.

## (Paragraphs deleted)

### TERMINATION OR SUSPENSION ARTICLE 7

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

### (Paragraphs deleted)

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

### ARTICLE 8 MISCELLANEOUS PROVISIONS

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

### § 8.2 The Owner's representative:

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

Dr. JoAnn Fey Superintendent of Schools Midlothian Independent School District 100 Walter Stephenson Road Midlothian, TX 76065 Phone: (469) 856-5000 Fax:

§ 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 A101<sup>TM</sup>-2017, Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum, Exhibit A, Insurance and Bonds, and elsewhere in the Contract Documents.

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

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

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

§ 8.7 Other provisions:

§ 8.7.1 The Agreement shall be governed by the laws of the State of Texas, and any litigation shall be conducted in state district court. Mandatory and exclusive venue shall be in Tarrant County, Texas, or, if no county is specified, then in the county in which the Owner's main administrative office is located.

§ 8.7.2 As a material consideration of the making of this Agreement, the modifications to this Agreement shall not be construed against the maker of said modifications.

§ 8.7.3 Notwithstanding anything to the contrary in this Agreement, or in any document forming a part hereof, there shall be no mandatory arbitration for any dispute arising hereunder.

§ 8.7.4 Section 1.5 of AIA Document A201-2017 shall govern Contractor's use of the Construction Documents.

§ 8.7.5 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. As part of that responsibility, Contractor shall enforce the Owner's alcohol-free, drug-free, tobacco-free, harassment-free and weapon-free policies and zones, which will require compliance with those policies and zones by Contractor's employees, subcontractors, and all other persons carrying out the Contract.

§ 8.7.6 Contractor shall require all construction workers, whether Contractor's own forces or the forces of Contractor's subcontractors, to wear identification tags on the front of their persons during all times that they are on Owner's property. Such identification tags shall contain a current photograph and the worker's full name in a typeface large enough to be seen from a reasonable distance. Contractor's own forces and the forces of Contractor's subcontractors shall obtain identification badges from the Owner's Maintenance Department during its regular business hours. Upon completion of the project(s), all such badges shall be returned to Owner's Maintenance Department.

§ 8.7.7 Contractor shall require all construction workers, whether Contractor's own forces or the forces of Contractor's subcontractors, to park their personal motor vehicles on Owner's property only in the parking places designated by the Owner's campus principal. Any vehicles not parked in the appropriate locations shall be towed at the vehicle owner's sole expense.

§ 8.7.8 Contractor shall follow, and shall require all employees, agents or subcontractors to follow, applicable ordinances of the municipality in which the Project is located. In addition, if not covered by the municipality's tree ordinance, Contractor shall barricade and protect all trees on the Project.

§ 8.7.9 Contractor shall institute a theft deterrence program designed to restrict construction worker access to properties of Owner that are currently in use, to maintain supervision of Contractor's and Contractor's subcontractor's forces, and to reimburse the Owner or those persons suffering a theft loss which results from Contractor's forces or Contractor's subcontractor's forces' actions, omissions, or failure to secure the Work or connecting or adjacent property of Owner.

§ 8.7.10 The Contractor may not assign its responsibilities, duties, obligations and rights under this Agreement, without the express written consent of the Owner. This does not prevent Contractor from engaging subcontractors to perform various phases of the Project, but Contractor shall be fully responsible to Owner for the work, actions and omissions of all such subcontractors.

§ 8.7.11 This Agreement, in its entirety, shall be binding upon all the parties hereto, their respective successors, heirs, executors, administrators or assigns.

§ 8.7.12 Execution of this Agreement shall constitute approval and acceptance of all terms, covenants and conditions as modified and contained in the Contract Documents.

§ 8.7.13 This Agreement is subject to all applicable federal and state laws, rules, and regulations. Invalidity of any portion of this Agreement under the laws of the State of Texas or of the United States shall not affect the validity of the remainder of this Agreement.

§ 8.7.14 By signing this Agreement, the undersigned certifies as follows: Under Section 231.006, Texas Family Code, the vendor or applicant certifies that the individual or business entity named in the contract, bid, or application is not ineligible to receive the specified grant, loan, or payment and acknowledges that this contract may be terminated, and payment may be withheld if this certification is inaccurate.

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§ 8.7.15 Unless otherwise noted, terms in this Agreement shall have the same meaning as those in the edition of AIA Document A201-2007, General Conditions of the Contract for Construction, as amended for the Project.

§ 8.7.16 To the extent that any portion of the Work requires a trench excavation exceeding five (5) feet in depth, in accordance with Texas Health and Safety Code Section 756.023(a), Contractor shall fully comply, and shall require any applicable subcontractor to comply, with:

- .1 The Occupational Safety and Health Administration standards for trench safety in effect for the construction of the Work;
- .2 The special shoring requirements, if any, of the Owner; and
- .3 Any geotechnical information obtained by Owner for use by the Contractor in the design of the trench safety system.
- .4 Trench excavation safety protection shall be a separate pay item, and shall be based on linear feet of trench excavated. Special shoring requirements shall also be a separate pay item, and shall be based on the square feet of shoring used. Said cost shall be included within the Contract Sum.

§ 8.7.17 No delay or omission by Owner in exercising any right or power accruing upon the noncompliance or failure of performance by Contractor of any of the provisions of this Agreement shall impair any such right or power or be construed to be a waiver thereof. A waiver by Owner of any of the covenants, conditions or agreements hereof to be performed by Contractor shall not be construed to be a waiver of any subsequent breach thereof or of any other covenant, condition or agreement herein contained.

§ 8.7.18 Contractor stipulates that Owner is a political subdivision of the State of the Texas, and, as such, enjoys immunities from suit and liability as provided by the constitution and laws of the State of Texas. By entering into this Agreement, Owner does not waive any of its immunities from suit and/or liability, except as otherwise specifically provided herein, and as specifically authorized by law.

§ 8.7.19 By executing this Agreement, Contractor verifies that it does not boycott Israel, and it will not boycott Israel during the terms of this Contract. Pursuant to Texas Government Code, Chapter 2271, as amended, if Contractor is a for-profit organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of those entities or business associations (specifically excluding sole proprietorships) that exists to make a profit which has ten (10) or more full-time employees and the value of the contract with Owner is \$100,000 or more, the Contractor represents and warrants to the Owner that the Contractor does not boycott Israel and will not boycott Israel during the term of this Agreement.

§ 8.7.20 Contractor verifies and affirms that it is not a foreign terrorist organization as identified on the list prepared and maintained by the Texas Comptroller of Public Accounts. If Contractor has misrepresented its inclusion on the Comptroller's list, such omission or misrepresentation will void this Contract.

§ 8.7.21 The Contractor verifies by its signature below that it is not an abortion provider or an affiliate of abortion providers.

### § 8.7.22

.1 By entering into this Contract, pursuant to Texas Government Code 552, Subchapter J, the Contractor agrees to be bound by the following terms if the Contract has a stated expenditure of at least \$1,000,000 for the purchase of goods or services by the District or if the Contract results in the expenditure of at least \$1,000,000 in public funds for the purchase of goods or services by the District in a fiscal year of the District. If the District receives a written request for public information related to this Contract that is in the possession or custody of the Contractor and not in the possession or custody of the District, the District shall send, not later than the third business day after the date the District receives the written request, a written request to the Contractor that Contractor provide that information to the District.

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### .2 The Contractor must:

Preserve all contracting information related to the Contract as provided by the records .1 retention requirements applicable to the District for the duration of the Contract;

.2 Promptly, within four business days, provide to the District any requested contracting information that is in the custody or possession of the Contractor upon request of the District; and,

> .3 On completion of the Contract, either:

Provide to the District at no cost all contracting information related to the .1 Contract that is in the custody or possession of the Contractor; or

2 Preserve the contracting information related to the Contract as provided by the records retention requirements applicable to the District.

The requirements of Subchapter J, Chapter 552, Government Code, may apply to this Contract and .3 the Contractor agrees that the contract can be terminated if the Contractor knowingly or intentionally fails to comply with the requirements of that subchapter.

.4 Further, under Texas Government Code Chapter 552.372(c), the District may not accept a bid for or awarding of a contract to an entity that the District has determined has knowingly or intentionally failed in a previous bid or contract to comply with Subchapter J, unless the District determines and documents that the entity has taken adequate steps to ensure future compliance.

.5 If a Contractor fails to provide to the District the requested information, Texas Government Code Chapter 552.373 requires the District to notify the Contractor in writing of the failure and allow 10 business days to cure the violation. District may terminate the Contract if Contractor fails to remedy the failure, District determines the failure was knowing and intentional, and steps have not been taken to ensure future compliance."

#### ENUMERATION OF CONTRACT DOCUMENTS **ARTICLE 9**

§ 9.1 This Agreement is comprised of the following documents:

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

.3 AIA Document A201<sup>TM</sup>\_2017, General Conditions of the Contract for Construction

(Paragraphs deleted)

Drawings

	Number	Title	Date	
5	Specifications			
	Section	Title	Date	Pages
6	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.

.7 Other Exhibits:

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(Check all boxes that apply and include appropriate information identifying the exhibit where required.)

[] AIA Document E204<sup>TM</sup>-2017, Sustainable Projects Exhibit, dated as indicated below: (Insert the date of the E204-2017 incorporated into this Agreement.)

[	]	The Sustainability Plan			
	Title		Date	Pages	
[]	]	Supplementary and other Conditions of the Contract:			
	Docu	ment	Title	Date	Pages

.8 Other documents, if any, listed below:

(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201<sup>TM</sup>\_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.)

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

MIDLOTHIAN INDEPENDENT SCHOOL DISTRICT

**OWNER** (Signature)

Dr. JoAnn Fey, Superintendent (Printed name and title)

**CONTRACTOR** (Signature)

(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.

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### PAGE 1

Midlothian Independent School District 100 Walter Stephenson Road Midlothian, TX 76065 Phone: (469) 856-5000

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Midlothian ISD District Wide Safety and Security Upgrades

....

Orcutt Winslow 222 West Las Colinas Blvd. Suite 749e Irving, Texas 75039 PAGE 2

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.§ 1.1 The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary, and other Conditions), all sections of the Project Manual and Construction Documents, Drawings, Specifications, Geotechnical Reports, 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. Any reference to Contract Documents or any documents included in the Contract Documents and/or supplemented for this Project, shall refer to the Contract Documents as amended for this Project. (Warning: Make sure that any Supplementary Conditions do not contradict the provisions of the A201.)

"Construction Documents" means: all Drawings, specifications, submittals, transmittals, deliverables, instructions to Contractors, and other documents, including those in electronic form, prepared by the Architect and the Architect's consultants and which set forth in detail the requirements for construction of the Project.

§ 1.2 This Agreement represents the entire and integrated agreement between the Owner and the Contractor and supersedes all prior negotiations, representations or agreements, either written or oral. Any revision, amendment, or modification to the Standard Form of this Agreement shall be valid, binding, and enforceable only if said revision,

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amendment or modification is made conspicuous by being underlined, lined-through, or highlighted in this Agreement signed by Contractor and the authorized representative of Owner's Board of Trustees. In the event of conflict, terms and conditions contained in the Agreement shall take precedence over terms and conditions contained in the General Conditions and the terms and conditions in the General Conditions shall take precedence over all other terms and conditions contained in the other Contract Documents. If the Request for Proposals and the Proposal are included in the Contract Documents, then the Request for Proposals shall take precedence over the Proposal, unless specifically agreed otherwise herein.

§ 1.3 The Board of Trustees as representative of the Owner, an independent school district, designates the following as the individuals authorized to sign documents on behalf of the Board of Trustees, approve changes in the scope of the Work, to approve and execute a Change Order or Construction Change Directive modifying the Contract Sum, or to agree to an extension to the date of Substantial or Final Completion or to terminate a contract following appropriate Board action: Dr. JoAnn Fey, Superintendent of Schools, or her designee(s).

§ 1.4 The Board designates the authorized representatives identified in Paragraph 8.2 to act on its behalf in other respects.

## PAGE 3

[X] Established as follows:

•••

If a date of commencement of the Work is not selected, then the date of commencement shall be the date of this Agreement. The commencement date will be the first business day after the Contractor's receipt of the written notice to proceed. The notice to proceed shall not be issued by Architect until the Agreement has been signed by the Contractor, approved by the Owner's Board of Trustees, signed by the Owner's authorized representative, and Owner and Architect have received all required payment and performance bonds and insurance, in compliance with Article 11 of AIA Document A201-2017.

•••

**§ 3.3.1** Subject to adjustments of the Contract Time as provided in the Contract Documents, the Contractor shall <u>diligently prosecute and</u> achieve Substantial Completion of the entire Work:

...

[X] By the following date:

Final Completion shall be 30 calendar days after the date of Substantial Completion, subject to adjustments of the Contract Time as provided in the Contract Documents.

•••

### (Note: Optional Paragraph)

§ 4.1.1 The Contract Sum contains an Owner's Contingency in the amount of \$\_\_\_\_\_\_. This contingency is for the sole use of the Owner to be used for changes in the scope of the Work and for the betterment of the Project. Owner's authorized representative may approve any expenditure from Owner's Contingency without further Board of Trustees approval. If the Owner's Contingency is not expended or not fully expended, then any unused portion shall belong to the Owner and shall be credited to the Owner in calculating final payment.

### PAGE 4

**§ 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.)* 

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(Insert terms and conditions for liquidated damages, if any.)damages.)

§ 4.5.1 Substantial Completion. Time is of the essence in all phases of the Work. It is specifically understood and agreed by and between Owner and Contractor that time is of the essence in the Substantial Completion of the Project and Owner shall sustain damages as a result of Contractor's failure, neglect or refusal to achieve said deadlines. Such damages are, and will continue to be, impracticable and extremely difficult to determine. Execution of this Agreement under these specifications shall constitute agreement by Owner and Contractor that the amounts stated below are the minimum value of the costs and damages caused by failure of Contractor to complete the Work within the allotted or agreed extended times of Substantial Completion, that such sums are liquidated damages and shall not be construed as a penalty, and that such sums may be deducted from payments due Contractor if such delay occurs. It is expressly understood that the said sum per day is agreed upon as a fair estimate of the pecuniary damages which will be sustained by the Owner in the event that the Work is not completed within the agreed time, or within the agreed extended time, if any, otherwise provided for herein. Said sum shall be considered as liquidated damages only and in no sense shall be considered a penalty, said damages being caused by, but not limited to, additional compensation for personnel, attorneys fees, architectural fees, engineering fees, program management fees, inspection fees, storage costs, food service costs, transportation costs, utilities costs, costs of temporary facilities, loss of interest on money, and other increased costs, all of which are difficult to exactly ascertain. Failure to complete the Work within the designated or agreed extended dates of Substantial Completion, shall be construed as a breach of this Agreement. It is expressly agreed as a part of the consideration inducing the Owner to execute this Agreement that the Owner may deduct from any Payment made to the Contractor a sum equal to \$1,000.00 per day for each and every additional calendar day beyond the agreed date of Substantial Completion.

§ 4.5.2 Final Completion. In addition, timely Final Completion is an essential condition of this Agreement. Contractor agrees to achieve Final Completion of the Agreement within 30 calendar days of the designated or agreed extended date of Substantial Completion. It is specifically understood and agreed by and between Owner and Contractor that time is of the essence in the Final Completion of the Project and Owner shall sustain additional damages as a result of Contractor's failure, neglect or refusal to achieve said deadline. Such damages are, and will continue to be, impracticable and extremely difficult to determine. Execution of this Agreement under these specifications shall constitute agreement by Owner and Contractor that the amounts stated below are the minimum value of the costs and damages caused by failure of Contractor to complete the Work within the allotted or agreed extended times for Final Completion, that such sums are liquidated damages and shall not be construed as a penalty. It is expressly understood that the said sum per day is agreed upon as a fair estimate of the pecuniary damages which will be sustained by the Owner in the event that the Work is not finally completed within the agreed time, or within the agreed extended time, if any, otherwise provided for herein. Said sum shall be considered as liquidated damages only and in no sense shall be considered a penalty, said damages being caused by, but not limited to, additional compensation for the following categories of damages to the Owner: potential hazards to students, staff and visitors, additional architectural, engineering, program management fees (and fees of any other consultants); increased administrative or operational expenses; additional attorney's fees; increased maintenance and custodial costs and additional, utilities, security and clean-up costs, and other increased costs. Failure to complete the Work within the designated or agreed extended dates of Final Completion, shall be construed as a breach of this Agreement. Owner and Contractor agree that should Contractor fail to achieve Final Completion of the Agreement by the deadline, Owner shall continue to be damaged to a greater degree by such delay. Contractor and Owner agree that the amount of liquidated damages for each calendar day Final Completion is delayed beyond the date set for Final Completion shall be the sum of \$500.00 per day. Owner may deduct such liquidated damages from any Payment made to Contractor before or at Final Payment; or, if sufficient funds are not available, then Contractor shall pay Owner, the amounts specified per day for each and every calendar day the breach continues after the deadline for Final Completion of the Work.

§ 4.5.3 Such damages shall be in addition to, and not in lieu of, any other rights or remedies Owner may have against Contractor for failure to timely achieve Final Completion, and damages for failure to achieve Substantial Completion

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and failure to achieve Final Completion may run concurrently. If the Work is not finally completed by the time stated in the Agreement, or as extended, no payments for Work completed beyond that time shall be made until the Project reaches Final Completion.

## PAGE 5

§ 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. The Contractor shall submit monthly Applications for Payment to the Architect on AIA Form G702 for approval. Continuation sheets shall be submitted on AIA Form G703. If the Architect approves the application, then they shall submit a Certificate for Payment to the Owner. The Architect may require any additional information deemed necessary and appropriate to substantiate the Application for Payment. Materials that are verified to be on the jobsite or other approved location for use in the Project may also be incorporated into the Application for Payment to approve or reject all or any part of the Application for Payment. The Owner shall pay the undisputed amounts certified by the Architect to the Contractor within forty-five (45) days of receipt of the Certificate for Payment from the Architect unless otherwise provided in the Contract Documents. Undisputed amounts unpaid after the date on which payment is due shall bear interest pursuant to Texas Government Code Section 2251.025. (*Note: In Texas, the blank should be filed in with "30" if the Board meets twice a month, and "45" if the Board meets once a month*).

•••

§ 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 Sum, less any unused Owner's contingency, 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. **PAGE 6** 

- .1 That portion of the Contract Sum properly allocable to completed Work; Work as determined by multiplying the percentage completion of each portion of the Work by the share of the Contract Sum allocated to that portion of the Work in the schedule of values;
- ...
- .3 That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified.justified to the extent approved by the Owner in writing, as provided in Article 7.3.9 of AIA Document A201<sup>™</sup>-2017, General Conditions of the Contract for Construction.
- •••
- .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 or amounts certified by the Architect and disputed by the Owner; and

....

**§ 5.1.7.1** For each progress payment made prior to Substantial Completion of the Work, the Owner <u>may shall</u> 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.)

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Five Percent (5%) [If the retainage is over 5%, then the retainage shall be deposited in an interest-bearing account and the interest earned on the retainage shall be paid to the Contractor upon completion of the Project, pursuant to Texas Government Code Section 2252.032]

...

§ 5.1.7.1.1 The following items are not subject to retainage: (Insert any items not subject to the withholding of retainage, such as general conditions, insurance, etc.)

§ 5.1.7.1 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.)

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.) Except as set forth in this Section 5.1.7.3, upon Final 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.

§ 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. Except with the Owner's prior written approval or as otherwise provided in Section 9.3.2 of the AIA Document A201-2017, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

§ 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.

§ 5.1.9 If Owner is entitled to deduct liquidated damages, or any other damages or amounts provided in the Contract Documents, including clean-up fees, then Owner shall be entitled to deduct such liquidated damages, amounts and fees at any time.

§ 5.1.10 If Contractor fails or refuses to complete the Work, or has unsettled claims with Owner, any payment to Contractor shall be subject to deduction for such amounts as the Architect if applicable, shall determine as the cost for completing incomplete Work and the value of unsettled claim.

§ 5.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, Sum minus disputed sums, authorized deductions and liquidated damages, shall be made by the Owner to the Contractor whenafter

.1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct <u>nonconforming</u> Work as provided in Article 12 of AIA Document A201–2017, and to satisfy other requirements, if any, which extend beyond final payment;

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- .2 the Contractor has provided all documents required by Sections 3.5 et seq. and 9.10.2 et seq. of AIA Document A201-2017;
- .4 Owner's Board of Trustees has voted to accept the Work and approve the Final Payment.

§ 5.2.2 The Owner's final payment of undisputed sums 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: Owner's Board of Trustees' vote approving Final Payment

### <u>N/A</u> PAGE 7

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.)* 

-%-pursuant to Texas Government Code Section 2251.025.

...

The Architect will serve as the Initial Decision Maker pursuant to Article 15 of AIA Document A201–2017, unless the parties appoint below another individual, not a party to this Agreement, to serve as the Initial Decision Maker.<u>All</u> disputes relating to this Agreement shall be resolved pursuant to the terms of Article 15 of the AIA Document A201-2007, as amended.

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

...

### § 6.2 Binding Dispute Resolution

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

[-] Arbitration pursuant to Section 15.4 of AIA Document A201 2017

[-] Litigation in a court of competent jurisdiction

[-] Other (Specify)

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

### PAGE 8

§ 7.1.1 If the Contract is terminated for the Owner's convenience in accordance with Article 14 of AIA Document A201–2017, then the Owner shall pay the Contractor a termination fee as follows: (Insert the amount of, or method for determining, the fee, if any, payable to the Contractor following a termination for the Owner's convenience.)

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Dr. JoAnn Fey Superintendent of Schools Midlothian Independent School District 100 Walter Stephenson Road Midlothian, TX 76065 Phone: (469) 856-5000 Fax:

...

§ 8.7.1 The Agreement shall be governed by the laws of the State of Texas, and any litigation shall be conducted in state district court. Mandatory and exclusive venue shall be in Tarrant County, Texas, or, if no county is specified, then in the county in which the Owner's main administrative office is located.

§ 8.7.2 As a material consideration of the making of this Agreement, the modifications to this Agreement shall not be construed against the maker of said modifications.

§ 8.7.3 Notwithstanding anything to the contrary in this Agreement, or in any document forming a part hereof, there shall be no mandatory arbitration for any dispute arising hereunder.

§ 8.7.4 Section 1.5 of AIA Document A201-2017 shall govern Contractor's use of the Construction Documents.

§ 8.7.5 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. As part of that responsibility, Contractor shall enforce the Owner's alcohol-free, drug-free, tobacco-free, harassment-free and weapon-free policies and zones, which will require compliance with those policies and zones by Contractor's employees, subcontractors, and all other persons carrying out the Contract.

**§ 8.7.6** Contractor shall require all construction workers, whether Contractor's own forces or the forces of Contractor's subcontractors, to wear identification tags on the front of their persons during all times that they are on Owner's property. Such identification tags shall contain a current photograph and the worker's full name in a typeface large enough to be seen from a reasonable distance. Contractor's own forces and the forces of Contractor's subcontractors shall obtain identification badges from the Owner's Maintenance Department during its regular business hours. Upon completion of the project(s), all such badges shall be returned to Owner's Maintenance Department.

§ 8.7.7 Contractor shall require all construction workers, whether Contractor's own forces or the forces of Contractor's subcontractors, to park their personal motor vehicles on Owner's property only in the parking places designated by the Owner's campus principal. Any vehicles not parked in the appropriate locations shall be towed at the vehicle owner's sole expense.

§ 8.7.8 Contractor shall follow, and shall require all employees, agents or subcontractors to follow, applicable ordinances of the municipality in which the Project is located. In addition, if not covered by the municipality's tree ordinance, Contractor shall barricade and protect all trees on the Project.

§ 8.7.9 Contractor shall institute a theft deterrence program designed to restrict construction worker access to properties of Owner that are currently in use, to maintain supervision of Contractor's and Contractor's subcontractor's forces, and to reimburse the Owner or those persons suffering a theft loss which results from Contractor's forces or Contractor's forces' actions, omissions, or failure to secure the Work or connecting or adjacent property of Owner.

§ 8.7.10 The Contractor may not assign its responsibilities, duties, obligations and rights under this Agreement, without the express written consent of the Owner. This does not prevent Contractor from engaging subcontractors to perform

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various phases of the Project, but Contractor shall be fully responsible to Owner for the work, actions and omissions of all such subcontractors.

§ 8.7.11 This Agreement, in its entirety, shall be binding upon all the parties hereto, their respective successors, heirs, executors, administrators or assigns.

§ 8.7.12 Execution of this Agreement shall constitute approval and acceptance of all terms, covenants and conditions as modified and contained in the Contract Documents.

§ 8.7.13 This Agreement is subject to all applicable federal and state laws, rules, and regulations. Invalidity of any portion of this Agreement under the laws of the State of Texas or of the United States shall not affect the validity of the remainder of this Agreement.

§ 8.7.14 By signing this Agreement, the undersigned certifies as follows: Under Section 231.006, Texas Family Code, the vendor or applicant certifies that the individual or business entity named in the contract, bid, or application is not ineligible to receive the specified grant, loan, or payment and acknowledges that this contract may be terminated, and payment may be withheld if this certification is inaccurate.

§ 8.7.15 Unless otherwise noted, terms in this Agreement shall have the same meaning as those in the edition of AIA Document A201-2007, General Conditions of the Contract for Construction, as amended for the Project.

§ 8.7.16 To the extent that any portion of the Work requires a trench excavation exceeding five (5) feet in depth, in accordance with Texas Health and Safety Code Section 756.023(a), Contractor shall fully comply, and shall require any applicable subcontractor to comply, with:

- .1 The Occupational Safety and Health Administration standards for trench safety in effect for the construction of the Work;
- .2 The special shoring requirements, if any, of the Owner; and
- .3 Any geotechnical information obtained by Owner for use by the Contractor in the design of the trench safety system.
  - .4 Trench excavation safety protection shall be a separate pay item, and shall be based on linear feet of trench excavated. Special shoring requirements shall also be a separate pay item, and shall be based on the square feet of shoring used. Said cost shall be included within the Contract Sum.

§ 8.7.17 No delay or omission by Owner in exercising any right or power accruing upon the noncompliance or failure of performance by Contractor of any of the provisions of this Agreement shall impair any such right or power or be construed to be a waiver thereof. A waiver by Owner of any of the covenants, conditions or agreements hereof to be performed by Contractor shall not be construed to be a waiver of any subsequent breach thereof or of any other covenant, condition or agreement herein contained.

§ 8.7.18 Contractor stipulates that Owner is a political subdivision of the State of the Texas, and, as such, enjoys immunities from suit and liability as provided by the constitution and laws of the State of Texas. By entering into this Agreement, Owner does not waive any of its immunities from suit and/or liability, except as otherwise specifically provided herein, and as specifically authorized by law.

§ 8.7.19 By executing this Agreement, Contractor verifies that it does not boycott Israel, and it will not boycott Israel during the terms of this Contract. Pursuant to Texas Government Code, Chapter 2271, as amended, if Contractor is a for-profit organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of those entities or business associations (specifically excluding sole proprietorships) that exists to make a profit which has ten (10) or more full-time employees and the value of the contract with Owner is \$100,000 or more, the Contractor represents and warrants to the Owner that the Contractor does not boycott Israel and will not boycott Israel during the term of this Agreement.

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§ 8.7.20 Contractor verifies and affirms that it is not a foreign terrorist organization as identified on the list prepared and maintained by the Texas Comptroller of Public Accounts. If Contractor has misrepresented its inclusion on the Comptroller's list, such omission or misrepresentation will void this Contract.

§ 8.7.21 The Contractor verifies by its signature below that it is not an abortion provider or an affiliate of abortion providers.

### § 8.7.22

<u>1</u> By entering into this Contract, pursuant to Texas Government Code 552, Subchapter J, the Contractor agrees to be bound by the following terms if the Contract has a stated expenditure of at least \$1,000,000 for the purchase of goods or services by the District or if the Contract results in the expenditure of at least \$1,000,000 in public funds for the purchase of goods or services by the District in a fiscal year of the District. If the District receives a written request for public information related to this Contract that is in the possession or custody of the Contractor and not in the possession or custody of the District, the District shall send, not later than the third business day after the date the District receives the written request, a written request to the Contractor that Contractor provide that information to the District.

.2 The Contractor must:

.1 Preserve all contracting information related to the Contract as provided by the records retention requirements applicable to the District for the duration of the Contract;

.2 Promptly, within four business days, provide to the District any requested contracting information that is in the custody or possession of the Contractor upon request of the District; and,

3 On completion of the Contract, either:

.1 Provide to the District at no cost all contracting information related to the Contract that is in the custody or possession of the Contractor; or

.2 Preserve the contracting information related to the Contract as provided by the records retention requirements applicable to the District.

.3 The requirements of Subchapter J, Chapter 552, Government Code, may apply to this Contract and the Contractor agrees that the contract can be terminated if the Contractor knowingly or intentionally fails to comply with the requirements of that subchapter.

.4 Further, under Texas Government Code Chapter 552.372(c), the District may not accept a bid for or awarding of a contract to an entity that the District has determined has knowingly or intentionally failed in a previous bid or contract to comply with Subchapter J, unless the District determines and documents that the entity has taken adequate steps to ensure future compliance.

.5 If a Contractor fails to provide to the District the requested information, Texas Government Code Chapter 552.373 requires the District to notify the Contractor in writing of the failure and allow 10 business days to cure the violation. District may terminate the Contract if Contractor fails to remedy the failure, District determines the failure was knowing and intentional, and steps have not been taken to ensure future compliance."

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

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

.5

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.4 Drawings

.6 .5 Specifications

.7. .6 Addenda, if any:

...

....

....

-.7 Other Exhibits: -8 PAGE 12

.9 \_\_\_\_.8 Other documents, if any, listed below:

...

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

MIDLOTHIAN INDEPENDENT SCHOOL DISTRICT

...

Dr. JoAnn Fey, Superintendent

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(Signed)

(Title)

(Dated)

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# ATA Document A201° – 2017

# General Conditions of the Contract for Construction

## for the following PROJECT:

(Name and location or address)

Midlothian ISD District Wide Safety and Security Upgrades

THE OWNER: (Name, legal status and address)

Midlothian Independent School District 100 Walter Stephenson Road Midlothian, TX 76065 Phone: (469) 856-5000

THE ARCHITECT: (Name, legal status and address)

Orcutt Winslow 222 West Las Colinas Blvd. Suite 749e Irving, Texas 75039

THE CONTRACTOR: (Name, legal status and address)

### ADDITIONS AND DELETIONS:

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

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

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

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### ARTICLE 1 **GENERAL PROVISIONS** § 1.1 Basic Definitions

### § 1.1.1 The Contract Documents

The Contract Documents are enumerated in the Agreement between the Owner and Contractor (hereinafter the Agreement) and consist of the Agreement, Conditions of the Contract (General, Supplementary and other Conditions), all sections of the Project Manual and Construction Documents (as defined in §1.1.3 below) including 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, Any reference to Contract Documents herein shall include the Construction Documents, and any other documents included in the Contract Documents, as amended and/or supplemented for this Project.

§ 1.1.1.1 The Agreement, represents the entire and integrated agreement between the Owner and the Contractor and supersedes all prior negotiations, representations or agreements, either written or oral. Any revision, amendment, or modification to the Standard Form of the Agreement shall be valid, binding, and enforceable only if said revision, amendment or modification is made conspicuous by being underlined, lined-through, or highlighted in this Agreement signed by Contractor and the authorized representative of Owner's Board of Trustees. In the event of conflict, terms and conditions contained in the Agreement, shall take precedence over terms and conditions contained in the General Conditions, and the terms and conditions in the General Conditions, shall take precedence over all other terms and conditions contained in the other Contract Documents. If the Request for Proposals and the Proposal are included in the Contract Documents, then the Request for Proposals shall take precedence over the Proposal, unless specifically agreed otherwise herein.

### § 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 written Modification signed by Contractor, approved by Owner's Board of Trustees, and signed by the representative of the Owner's Board of Trustees who is authorized to sign contracts. As a material consideration for the making of the Contract, modifications to the Contract shall not be construed against the maker of said modifications. 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.

§ 1.1.2.1 To be effective, all Contract Documents requiring signatures must be signed first by the Contractor and then by the Owner's authorized representative, after approval by Owner's Board of Trustees. If an approved Contract Document requiring Contractor's signature has not been signed, then the missing signature shall be provided within a reasonable period of time. Failure of Contractor to sign an approved Contract Document after notice and a reasonable opportunity to sign shall be considered a material breach of the Contract by Contractor.

### (Paragraphs deleted)

### § 1.1.3 The Work; Construction Documents

The term "Work" means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment, and services provided or to be provided by the Contractor to fulfill the Contractor's obligations. The Work may constitute the whole or a part of the Project. The Work includes all of Contractor's responsibilities as to all labor, parts, supplies, skill, supervision, transportation services, storage requirements, and other facilities and things necessary, proper or incidental to the carrying out and completion of the terms of the Contract Documents and the Construction Documents and all other items of cost or value needed to produce, construct and fully complete the public Work identified by the Contract Documents and the Construction Documents. "Construction Documents" means: all Drawings, Specifications, geotechnical reports, Addenda, submittals, transmittals, deliverables, instructions to Contractors, and other documents, including those in electronic form, prepared by the Architect and the Architect's consultants and which set forth in detail the requirements for construction of the Project. The Construction Documents shall include Drawings and Specifications that establish in detail the quality levels of materials and systems required for the Project. The Construction Documents shall reflect all agreements between Owner and Architect concerning Owner's budgetary constraints, programmatic needs and expectations as to quality, functionality of systems, maintenance costs, and usable life of

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equipment and facilities. Said Construction Documents shall reflect the Owner's educational program and educational specifications, the State educational adequacy standards in 19 TAC Section 61,1036 and the standards set forth in Section 3.1.4 of AIA Document B101-2017. The Architect shall provide Construction Documents which are sufficient for Owner to complete construction of the Project, are free from material defects or omissions, and which shall comply with all applicable laws, ordinances, codes, rules, and regulations, as of the date of issuance of Construction Documents.

### § 1.1.4 The Project

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

### § 1.1.5 The Drawings

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

### § 1.1.6 The Specifications

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

### (Paragraphs deleted)

### § 1.1.7 Construction Documents

Construction Documents include 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 Addenda.

Addenda are written or graphic instruments issued prior to the execution of the Contract, which modify or interpret the bidding or proposal documents, including Drawings and Specifications, by additions, deletions, clarifications, or corrections. Addenda will become part of the Contract Documents and Construction Documents when the Agreement is executed. The Contractor and subcontractors shall include all addenda items on their copies of the Drawings and Specifications.

§ 1.1.9 All references to "Contractor" shall include "Construction Manager at Risk" as appropriate.

§ 1.1.10 The Owner may retain Program Manager(s) to carry out some of the functions of the administration of the Owner's construction program. The Contractor, Architect, and Program Manager (when applicable) shall cooperate with each other in the performance of their respective functions. The management and reporting systems used by the Owner and/or Program Manager, including the assignment of the Program Manager, may be changed by Owner during the Project.

§1.1.11 Approved, Approved Equal, Approved Equivalents, Or Equal The terms "Approved" and "Approved Equal" relate to the substitution of materials, equipment, or procedure in writing by the Architect prior to receipt of bids.

### § 1.1.12 Abbreviations

AIA:	American Institute of Architects. (All references to AIA documents refer to AIA's trademarked documents. Each reference to a specific document shall refer to the document as amended for this
	Project.)
AIEE:	American Institute of Electrical Engineers
ACI:	American Concrete Institute
AHERA:	Asbestos Hazardous Emergency Response Act
AISI:	American Iron and Steel Institute
AISC:	American Institute of Steel Construction
ANSI:	American National Standards Institute
ASA:	American Standards Association
ASTM:	American Society of Testing Materials

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AWSC:	American Welding Society Code
CERCLA:	Comprehensive Environmental Response, Compensation, and Liability Act
EPA:	Environmental Protection Agency
FS:	Federal Specification
NEC:	National Electrical Code
OSHA:	Occupational Safety and Health Administration
SPR:	Simplified Practice Recommendation
TAS:	Texas Accessibility Standards
UL:	Underwriters Laboratories, Inc.

§ 1.1.13 Bids or Bidding The terms "Bids" or "Bidding" shall include any kind of competitive purchasing under Texas Government Code Chapter 2269.

### § 1.1.14 Miscellaneous Other Words

### § 1.1.14.1 Business Day

The term "business day" is a day the Owner's Administration Building is scheduled to be open for normal business purposes, unless closed by the Owner's Superintendent of Schools for inclement weather or other reason. Days on which the Administration Building is normally closed are Thanksgiving Break, Winter Break, Spring Break, and Summer Break, as well as other federal, state or local days specified in the calendar approved by the Owner's Board of Trustees on an annual basis. A business day does not include a day on which the Owner's Administration Building is open only for the purposes of conducting candidate filing, early voting, elections, or other special events.

### §1.1.14.2 Calendar Day

A calendar day is a day on the Gregorian Calendar. The Contract Time is established in calendar days. Extensions of time granted, if any, will be converted to calendar days.

### §1.1.14.3 Holidays

Owner-approved holidays for Contractor's Work are limited to New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day.

### § 1.1.14.4 Work Day

Work days are all calendar days except Holidays.

### § 1.1.14.5 Anticipated Weather Days

An allowance of regular Work Days, established as anticipated Work Days lost due to weather delays; said allowance shall be included in Contractor's proposed completion time. Only lost weather days in excess of Anticipated Weather Days shall be considered by Owner for time extensions based upon weather. Section 15.1.5.3 lists required Anticipated Weather Days.

### § 1.1.15 Contract Sum

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"Contract Sum" shall have the same meaning as in Section 5.1 of the Agreement (A133-2009), for the Project when the Project is a Construction Manager at Risk Project, and the same meaning as in Article 4 of the Agreement (A101-2017) for the Project.

### § 1.2 Correlation and Intent of the Contract Documents

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

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

§ 1.2.1.2 During the course of the Work, should any conflict be found in or between the Contract Documents, the Contractor shall be deemed to have estimated the Work on the basis of the greater quantity or better quality, or the most stringent requirement, unless he shall have obtained an interpretation in writing from the Architect as to what shall govern before the submission of his Proposal. The Architect, in case of such conflict, may interpret or construe the documents so as to obtain the most substantial and complete performance of the Work consistent with the Contract Documents and reasonably inferable therefrom, in the best interest of Owner, and the Architect's interpretation shall be final. The terms and conditions of this clause shall not relieve any party of any other obligation under the Contract Documents.

§ 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 Relation Of Specifications And Drawings

General Requirements in the Specifications govern the execution of all Specifications. Summary paragraphs present a brief indication of the Work, but do not limit the Work as later detailed. The Drawings and Specifications are correlative and have equal authority and priority. Should the Drawings and Specifications have internal inconsistencies, then the Contractor shall base the bids and construction on the more expensive combination of quality and quantity of work indicated. For purposes of construction, the Architect shall determine the appropriate Work, after the Contractor brings the inconsistency to the Architect's attention. Failure to report an inconsistency shall be evidence that Contractor has elected to proceed in the more expensive manner.

### § 1.2.5 Materials, Equipment And Processes

Exact location and arrangement of the various pieces of equipment specified shall be determined with the approval of the Architect after equipment has been selected and/or as the Work progresses. All equipment shall, insofar as possible, be installed in such a manner as will not interfere with architectural or structural portions of the building. Should changes become necessary because of a failure of the Contractor to comply with the Contract Documents which results in equipment requiring more area then shown on the Contract Documents, the Contractor shall be fully responsible for completing any required modifications or eliminating any interferences. Where in the Drawings and Specifications, certain products, manufacturer's trade names, or catalog numbers are specified, it is done for the express purpose of establishing a standard of function, dimension, appearance, and quality of design in harmony with the Work, and is not intended for the purpose of limiting competition. Materials or equipment shall not be substituted unless the Architect has specifically accepted such substitution for use on this Project. When more than one material, process, or brand is specified for a particular item of Work, the choice shall be the Contractor's. The final selection of color and pattern will be made by the Owner from the range available within the option selected by the Contractor, unless the item is specified to match a specific color or sample furnished. Where particular items are specified, products of those named manufacturers are required unless Contractor submits for consideration proposed substitutions of materials, equipment or processes from those set out in the Contract Documents. Submittals of proposed substitutions should contain sufficient information to allow the Architect and Owner to determine if the proposed substitution is in fact equal to or better than the requirements in the Contract Documents. The Architect shall review and respond to proposed substitutions within fifteen (15) days of receipt. Contractor shall bear all risk caused by submitting substitutions, including all costs. The Owner may approve substitutions only when the substitution is clearly provided by the Contract to be equal in performance characteristics to the requirements of the Contract Documents, equally compatible with the existing installations and complementary to the architectural design for the Work. Certain specified construction and equipment details may not be regularly included as part of the named manufacturer's standard catalog equipment, but shall be obtained by the Contractor from the manufacturer as required for the proper evaluation and/or functioning of the equipment. Reasonable minor variations in equipment are expected and will be acceptable, if approved by the Architect and Owner, however, indicated and specified performance and material requirements are the minimum. The Owner and the Architect reserve the right to determine the equality of equipment and materials that deviate from any of the indicated and specified requirements.

### § 1.2.6 Standards And Requirements

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When the Contract Documents refer to standards, building codes, manufacturers' instructions, or other documents, unless otherwise specified, then the current edition as of the date of execution of the Agreement by the last party to

execute said Agreement shall apply. It shall be the responsibility of the Architect to address revisions or amendments to applicable codes or standards which arise after the date of execution of the Agreement and until Final Completion, pursuant to the terms of the Agreement between Owner and Architect. Requirements of public authorities apply as minimum requirements only and do not supersede more stringent specified requirements.

### § 1.3 Capitalization

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

### § 1.4 Interpretation

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

### § 1.5 Ownership and Use of Drawings, Specifications, and Other Construction Documents

§ 1.5.1 All ownership rights, whether common law, statutory, or other reserved rights, including copyright ownership of the Construction Documents, are controlled by the Agreement between the Owner and the Architect. The Contractor, Subcontractors, Sub-subcontractors, and suppliers shall not own or claim a copyright in the Construction Documents. 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 any reserved rights.

§ 1.5.2 The Contractor, Subcontractors, Sub-subcontractors, and suppliers are granted a limited license to use and reproduce the Construction Documents provided to them, subject to any protocols established pursuant to Section 1.7, solely and exclusively for execution of the Work. All copies made under this authorization shall bear the copyright notice, if any, shown on the Construction Documents. The Contractor, Subcontractors, Sub-subcontractors, and suppliers may not use the Construction Documents 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. All copies of the Construction Documents, except the Contractor's record set, shall be returned or suitably accounted for to the copyright holder upon completion of the Work.

### § 1.6 Notice

§ 1.6.1 Written notice shall be deemed to have been duly served if delivered in person to the individual, to a member of the firm or entity, or to an officer of the corporation for which it was intended; if delivered at, or sent by registered or certified mail or by courier service providing proof of delivery to, the last business address known to the party giving notice, or if sent by electronic facsimile transmission, to the last business number known to the party giving notice, with electronic confirmation of receipt; or, if sent by electronic mail, to the email address of the Owner's or Contractor's designated representative, with electronic confirmation of receipt.

### (Paragraph deleted)

### § 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 E203TM-2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

### (Paragraphs deleted) OWNER ARTICLE 2 § 2.1 General

§ 2.1.1 The Owner is the independent school district identified in the Contract Documents. The Board of Trustees, by majority vote, is the only representative of the Owner, an independent school district, having the power to: enter into a contract; amend a contract, including but not limited to AIA Document A-101-2017; approve changes in the scope of Work; approve and execute a Change Order or Construction Change Directive modifying the Contract Sum or Guaranteed Maximum Price; agree to an extension to the date of Substantial or Final Completion; or terminate a contract. The Board will act as soon as reasonably possible to avoid undue delays. The Board designates authorized representatives to act on its behalf for day-to-day operations under the Contract. Unless otherwise designated in the Contract Documents, Owner's authorized representative shall be the Superintendent of Schools, who may delegate

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responsibilities as appropriate. Owner's Board of Trustees hereby delegates to the Superintendent of Schools or designee the authority to approve changes to the Work where such changes are within the Owner's contingency or the Contractor's contingency, or will not increase the dates for Substantial or Final Completion by more than five (5) days. Any such change shall be confirmed in writing between the Contractor and Owner's Superintendent or designee, and notice of such approved changes shall be given to the Board at its next regular meeting. Except as otherwise provided in the Contract Documents, the Architect does not have such authority. Neither Architect nor Contractor may rely upon the direction of any employee of Owner who has not been designated in writing by the Superintendent or Board of Trustees; Owner shall not be financially responsible for actions taken by the Architect or Contractor in reliance upon direction from unauthorized persons.

§ 2.1.2 It shall be distinctly understood that by virtue of this Contract, no mechanic, contractor, material person, artisan, or laborer, skilled or unskilled, shall ever in any manner have, claim, or acquire any lien upon the buildings or any of the improvements of whatsoever nature or kind so erected or to be erected by virtue of this Contract or upon any of the land on which said buildings or any of the improvements are so erected, built, or situated, such property belonging to a political subdivision of the State of Texas. It shall be further understood that this Contract is not written for the benefit of third parties.

§ 2.1.3 The Owner shall require the Contractor and the Architect to meet periodically at mutually-agreed-upon intervals, for the purpose of establishing procedures to facilitate cooperation, communication, and timely responses among the participants. By participating in this arrangement, the parties do not intend to create additional contractual obligations or modify the legal relationships which may otherwise exist.

§ 2.1.4 The Owner may require that the Contractor use and/or respond to certain Owner-furnished forms or inquiries during the course of the Project. From time to time, there may be future revisions, changes, additions or deletions to these forms. The fact that the Owner modifies and increases reasonable reporting requirements shall not serve as the basis for a claim for additional time or compensation by the Contractor.

§ 2.1.5 The Contractor stipulates and agrees that the Owner has no duty to discover any design errors or omissions in the Drawings, Plans, Specifications and other Construction Documents, and has no duty to notify Contractor of same. By entering into the Contract Documents or any Agreement with any Architect, Owner does not warrant the adequacy and accuracy of any Drawings, Plans, Specifications or other Construction Documents.

# § 2.2 Owner's Financial Arrangements

§ 2.2.1 The Owner, being a public body under the laws of the State of Texas, must have adequate funds and/or financing as provided by law prior to award and execution of the Contract Documents.

#### (Paragraphs deleted)

# § 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 whose status under the Contract Documents shall be that of the Architect. Owner shall notify Contractor if a successor architect has been employed by Owner.

§ 2.3.4 The Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site. Other than the metes and bounds noted in the survey, if any, Owner does not guarantee or warrant the accuracy of surveys provided, including the locations of utility lines, cables, pipes or pipelines, or the presence or absence of easements.

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§ 2.3.5 The Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness after receiving the Contractor's written request for such information or services. Absent such timely notification, any Claim based upon lack of such information or services shall be waived.

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

#### § 2.4 Owner's Right to Stop the Work

If the Contractor fails to correct defective Work, fails to correct Work that is not in accordance with the requirements of the Contract Documents or the Construction 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. The authorized Owner's representative having the legal right to stop the Work shall be limited to the Owner's Superintendent of Schools.

#### § 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 written 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. The Architect shall, 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 and other consultants additional services, if any, made necessary by such default, neglect, or failure. If current and future payments are not sufficient to cover such amounts then, 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 then, the Contractor may file a Claim pursuant to Article 15.

# ARTICLE 3 CONTRACTOR

# § 3.1 General

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§ 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, and includes the Construction Manager at Risk, if applicable.

§ 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, activities of the Owner (or Owner's Program Manager, if applicable), or by tests, inspections or approvals required or performed by persons or entities other than the Contractor.

§ 3.1.4 The Contractor represents and warrants the following to the Owner (in addition to the other representations and warranties contained in the Contract Documents), as an inducement to the Owner to execute this Contract, which representations and warranties shall survive the execution and delivery of the Contract and the Final Completion of the Work:

- .1 that it is financially solvent, able to pay its debts as they mature, and possessed of sufficient working capital to complete the Work and perform its obligations under the Contract Documents;
- .2 that it is able to furnish the tools, materials, supplies, equipment and labor required to timely complete the Work and perform its obligations hereunder and has sufficient experience and competence to do so;

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- .3 that it is authorized to do business in the State where the Project is located and properly licensed by all necessary governmental, public, and quasi-public authorities having jurisdiction over it, the Work, or the site of the Project; and
- 4 that the execution of the Contract and its performance thereof are within its duly-authorized powers.

#### § 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. The Contractor represents and warrants by submission of a Proposal that he has carefully examined the Contract Documents, any soil test reports, drainage studies, geotechnical or other reports, and the site of the Work, and that, from his own investigations, he has satisfied himself as to the nature and location of the Work, the character, quality and quantity of surface and subsurface materials likely to be encountered, the character of equipment and other facilities needed for the performance of the Work, the general and local conditions and all other materials which may in any way affect the Work or its performance. Should the Contractor find discrepancies, omissions or conflicts within the Contract Documents, or be in doubt as to their meaning, the Contractor shall at once notify in writing the Architect and Owner, and Architect will issue a written addendum to all parties that is consistent with the Owner's Scope of the Work. The Contractor shall not be entitled to any additional time or compensation for Contractor's failure to visit the site, or for any additional Work caused by the Contractor's fault, by improper construction, or by Contractor's failure to visit the site or to carefully study and compare the Contract Documents prior to execution of the Work.

§ 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 for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; 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. Contractor shall not perform any Work involving an error, inconsistency, or omission without further instructions to Contractor or revised Construction Documents from the Architect.

§ 3.2.3 Neither the Owner nor the Contractor is 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 has knowledge that any of the products or systems specified will perform in a manner that will limit the Contractor's ability to satisfactorily perform the Work or to honor his warranty, or will result in a limitation of or interference with the Owner's intended use, then the Contractor shall promptly notify the Architect and Owner in writing, providing substantiation for his position. Any necessary changes, including substitution of materials, shall be accomplished by appropriate Modification. If the Contractor believes that additional cost or time is involved because of clarifications or instructions the Architect issues in response to the Contractor's notices or requests for information pursuant to Sections 3.2.2 or 3.2.3, the Contractor shall submit Claims as provided in Article 15. If the Contractor fails to perform the obligations of Sections 3.2.2 or 3.2.3, the Contractor shall pay such costs and damages to the Owner, subject to Section 15.1.7, as would have been avoided if the Contractor had performed such obligations. Contractor shall take field measurements, verify field conditions, and shall carefully compare them to the Construction Documents. The Contractor shall 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 when the Contractor recognized or should have recognized such error, inconsistency, omission or difference and failed to report it to the Architect. Contractor shall not be entitled to additional compensation for additional Work caused by Contractor's failure to carefully study and compare the Construction Documents prior to the execution of the Work.

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§ 3.2.5 Prior to performing any Work, and only if applicable, Contractor shall locate all utility lines as shown and located on the plans and specifications, including telephone company lines and cables, sewer lines, water pipes, gas lines, electrical lines, including, but not limited to, all buried pipelines and buried telephone cables, and shall perform any Work in such a manner so as to avoid damaging any such lines, cables, pipes, and pipelines. In addition, Contractor shall independently determine the location of same. Contractor shall be responsible for any damage done to such utility lines, cables, pipes and pipelines during its Work, and shall be responsible for any loss, damage, or extra expense resulting from such damage. Repairs shall be made immediately to restore all service. Any delay for such break shall be attributable to Contractor. In addition, and only if applicable, Contractor shall review the appropriate AHERA and hazardous materials surveys for the particular campuses involved in the Project, and shall notify all Subcontractors and Sub-subcontractors of the necessity to review said surveys. Contractor shall perform any Work in such a manner as to avoid damaging, exposing, or dislodging any asbestos-containing materials that are clearly identified and located in AHERA and other hazardous material surveys. Before performing any portion of the Work, the Contractor shall fully investigate all physical aspects of the Project Site and verify all dimensions, measurements, property lines, grades and elevations, existing improvements, and general suitability of existing conditions at the Project site. If applicable, Contractor shall comply with U.S. Environmental Protection Agency rules concerning renovating, repairing, or painting work in schools built prior to 1978 involving lead-based paint.

§ 3.2.6 The Owner shall be entitled to deduct from the Contract Sum amounts paid to the Architect for the Architect to evaluate and respond to the Contractor's requests for information, where such information was available to the Contractor from a careful study and comparison of the Contract Documents, field conditions, Owner-provided information, Contractor-prepared coordination drawings, or prior Project correspondence or documentation. If, in the reasonable opinion of the Architect, the Contractor does not make reasonable effort to comply with any of the above requirements of the Contract Documents and this causes the Architect or his Consultants to expend an unreasonable amount of time in the discharge of the duties imposed by the Contract Documents, then the Contractor shall bear the cost of compensation for the Architect's additional services made necessary by such failure.

§ 3.2.7 The Contractor shall arrange meetings prior to commencement of the Work of all major Subcontractors to allow the Subcontractors to demonstrate an understanding of the Construction and Contract Documents to the Architect and to allow the Subcontractors to ask for interpretations, when necessary. The Contractor and each Subcontractor shall evaluate and satisfy themselves as to the conditions and limitations under which the Work is to be performed, including:

- .1 The location, condition, layout, drainage and nature of the Project site and surrounding areas;
- .2 Generally prevailing climatic conditions;
- Anticipated labor supply and costs;
- .4 Availability and cost of materials, tools and equipment; and
- .5 Other similar issues.

#### § 3.3 Supervision and Construction Procedures

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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. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences, or procedures, the Contractor shall evaluate the jobsite safety thereof and shall be solely responsible for the jobsite safety of such means, methods, techniques, sequences, or procedures. If the Contractor determines that such means, methods, techniques, sequences or procedures may not be safe, the Contractor shall give timely notice to the Owner and Architect, and shall propose alternative means, methods, techniques, sequences, or procedures with the design intent for the completed construction. Unless the Architect objects in writing to the Contractor's proposed alternative, the Contractor shall perform the Work using its alternative means, methods, techniques, sequences.

§ 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. As part of that responsibility, Contractor shall enforce the Owner's alcohol-free, drug-free, tobacco-free, harassment-free and weapon-free policies and zones, which will require compliance with those policies and zones by Contractor's employees, subcontractors, and all other persons carrying out the Contract. Contractor shall require all construction workers, whether Contractor's own forces or the forces of Contractor's subcontractors, while on Owner's property, to refrain from committing any criminal conduct, using tobacco products, possessing or drinking alcoholic beverages, possessing or using illegal drugs or any controlled substance, carrying or possessing weapons, speaking profane and/or offensive language, or engaging in any inappropriate interactions of any nature whatsoever with students and employees, including talking, touching, staring or otherwise contributing to a hostile or offensive environment for Owner's students and employees. All areas of campus, other than the defined construction area, shall be off limits to Contractor's forces, unless their work assignment specifies otherwise. Contractor shall also require adequate and appropriate dress and identification of Contractor's employees, subcontractors, and all other persons carrying out the Work. Contractor shall require all construction workers, whether Contractor's own forces or the forces of Contractor's subcontractors, to wear identification tags on the front of their persons during all times that they are on Owner's property. Such identification tags shall contain a current photograph and the worker's full name in a typeface large enough to be seen from a reasonable distance.

The Contractor shall further ensure that no on-site fraternization shall occur between personnel under the Contractor's and Subcontractor's direct or indirect supervision and Owner's students or employees and the general public. Failure of an individual to adhere to these standards of conduct shall result in the immediate removal of the offending employee from all construction on any of Owner's property. Repeated removal of Contractor's or Contractor's subcontractor's forces, or one serious infraction, shall constitute a substantial breach of the Agreement justifying the immediate termination by Owner pursuant to Article 14. Contractor shall require all construction workers, whether Contractor's own forces or the forces of Contractor's subcontractors, to park their personal motor vehicles on Owner's property only in the parking places designated by the Owner's campus principal. Any vehicles not parked in the appropriate locations shall be towed at the vehicle owner's sole expense. Contractor shall follow, and shall require all employees, agents or subcontractors to follow, the tree ordinance of the municipality in which the Project is located. In addition, if not covered by the municipal tree ordinance, Contractor shall barricade and protect all trees on the Project, which shall be included in the Cost of the Work. Contractor shall institute a theft deterrence program designed to restrict construction worker access to properties of Owner that are currently in use, to maintain supervision of Contractor's and Contractor's subcontractor's forces, and to reimburse the Owner or those persons suffering a theft loss which results from Contractor's forces or Contractor's subcontractor's forces' actions, or failure to secure the Work or connecting or adjacent property of Owner.

§ 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.

§ 3.3.4 The Contractor shall properly and efficiently coordinate the timing, scheduling and routing of all Work performed by all sub-contractors and sub-sub-contractors.

§ 3.3.5 To the extent that any portion of the Work requires a trench excavation exceeding five (5) feet in depth, in accordance with Texas Health and Safety Code Section 756.023(a), Contractor shall fully comply, and shall require any applicable subcontractor to comply, with:

- .1 The Occupational Safety and Health Administration standards for trench safety in effect for the Construction of the Work;
- .2 The special shoring requirements, if any, of the Owner; and

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- .3 Any geotechnical information obtained by Owner for use by the Contractor in the design of the trench safety system.
- .4 Trench excavation safety protection shall be a separate pay item, and shall be based on linear feet of trench excavated. Special shoring requirements shall also be a separate pay item, and shall be based on the square feet of shoring used.

§ 3.3.6 The Contractor shall review Subcontractor safety programs, procedures, and precautions in connection with performance of the Work. However, the Contractor's duties shall not relieve any Subcontractor(s) or any other person or entity (e.g., a supplier), including any person or entity with whom the Contractor does not have a contractual relationship, of their responsibility or liability relative to compliance with all applicable federal, state, and local laws, rules, regulations, and ordinances which shall include the obligation to provide for the safety of their employees, persons, and property and their requirements to maintain a work environment free of recognized hazards. The foregoing notwithstanding, the requirements of this Paragraph are not intended to impose upon the Contractor any additional obligations that the Contractor would not have under any applicable state or federal laws, including, but not limited to, any rules, regulations, or statutes pertaining to the Occupational Safety and Health Administration.

§ 3.3.7 It is understood and agreed that the relationship of Contractor to Owner shall be that of an independent contractor. Nothing contained in this Agreement or inferable from this Agreement shall be deemed or construed to: 1) make Contractor the agent, servant or employee of the Owner; or 2) create any partnership, joint venture, or other association between Owner and Contractor. Any direction or instruction by Owner or any of its authorized representatives in respect of the Work shall relate to the results the Owner desires to obtain from the Work, and shall in no way affect Contractor's independent contractor status.

§ 3.3.8 Pursuant to Texas Labor Code Sec. 214.008, the Contractor and any subcontractor on the Project shall properly classify, as an employee or an independent contractor, in accordance with Texas Labor Code Chapter 201, any individual the Contractor or subcontractor directly retains and compensates for services performed in connection with this Agreement. Any Contractor or subcontractor who fails to properly classify such an individual may be subject to the penalties of Texas Labor Code Sec. 214.008(c).

#### § 3.4 Labor and Materials

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§ 3.4.1 These Contract Documents shall not be construed to deny or diminish the right of any person to work because of the person's membership or other relationship status with respect to any organization. Texas Government Code § 2269.054. Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for qualified, careful, and efficient workers and labor eligible to work in accordance with state and federal law. Contractor shall appropriately classify all workers in accordance with the Fair Labor Standards Act, its implementing regulations, and Texas Labor Code Section 214.008. In addition, unless otherwise provided in the Contract documents, the Contractor shall provide and pay for, 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. Before ordering any material or doing any Work, Contractor shall verify all dimensions and check all conditions in order to assure Contractor that they are the same as those in the Drawings, Specifications, and other Construction Documents. Any inconsistency shall be brought to the attention of the Architect. In the event that discrepancies occur between ordered material and actual conditions and Architect was not notified beforehand, then costs to correct such discrepancies shall be brone by Contractor.

§ 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 prior written consent of the Owner, after evaluation by the Architect and in accordance with a Change Order or Construction Change Directive.

§ 3.4.2.1 After evaluation by the Architect, substitutions and alternates may be rejected by the Architect without explanation and will be considered only under one or more of the following conditions: (i) the proposal is required for compliance with interpretation of code requirements or insurance regulations then existing; (ii) specified products are unavailable through no fault of the Contractor; (iii) and when, in the judgment of the Architect, a substitution would be substantially in the Owner's best interests, in terms of cost, time, or other considerations.

§ 3.4.2.2 The Contractor must submit to the Architect: (i) a full explanation of the proposed substitution and submittals of all supporting data, including technical information, catalog cuts, warranties, test results, installation instructions, operating procedures, and other like information necessary for a complete evaluation for the substitution; (ii) a written explanation of the reasons the substitution should be considered, including the benefits to the Owner and the Work in the event the substitution is acceptable; (iii) the adjustment, if any, in the Contract Sum; (iv) the adjustment, if any, in the time of completion of the Contract and the construction schedule; and (v) an affidavit stating (a) the proposed substitution conforms to and meets all requirements of the pertinent Specifications and the requirements shown on the Drawings, and (b) the Contractor accepts the warranty and will coordinate the Work to be complete in all respects, as if originally specified by the Architect. Proposals for substitutions shall be submitted in writing to the Architect in sufficient time to allow the Architect no less than fifteen (15) working days for review. No substitutions will be considered or allowed without the Contractor's submittals of complete substantiating data and information.

§ 3.4.2.3 Whether or not the Architect accepts any proposed substitution, the Contractor shall reimburse the Owner for any fees charged by the Architect or other consultants for evaluating each proposed substitution.

§ 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. THE CONTRACTOR RELEASES, INDEMNIFIES AND HOLDS HARMLESS THE OWNER FOR CONTRACTOR'S FORCES' NON-COMPLIANCE WITH OWNER'S DRUG-FREE, ALCOHOL-FREE, WEAPON-FREE, HARASSMENT-FREE, AND TOBACCO-FREE ZONES, CONTRACTOR'S FORCES' NON-COMPLIANCE WITH CRIMINAL LAW, OR CONTRACTOR'S OR CONTRACTOR'S FORCES' NON-COMPLIANCE WITH IMMIGRATION LAW OR REGULATIONS. Any individual found by Owner to have violated these restrictions is subject to permanent removal from the Project, at Owner's request. Contractor shall place similar language in its subcontract agreements, requiring its Subcontractors and Sub-subcontractors to be responsible for their own forces and Contractor shall cooperate with the Owner to ensure Subcontractor and Sub-subcontractor compliance.

§ 3.4.4. Including, but not limited to, the specific requirements of Article 10, Contractor, its subcontractors and vendors shall bear responsibility for compliance with all federal, state and local laws, regulations, guidelines, and ordinances pertaining to worker safety and applicable to the Work. Contractor further recognizes that the Owner and Architect do not owe the Contractor any duty to supervise or direct his work so as to protect the Contractor from the consequences of his own conduct.

§ 3.4.5 Pursuant to Texas Education Code Section 44.034, Contractor must give advance written notice to the Owner if the Contractor or an owner or operator of the Contractor has been convicted of a felony. The Owner may terminate this Agreement if the Owner determines that the Contractor failed to give such notice or misrepresented the conduct resulting in the conviction. This paragraph requiring advance notice does not apply to a publicly-held corporation.

# § 3.4.6 CRIMINAL HISTORY CHECKS

§ 3.4.6.1 shall Contractor shall obtain all criminal history information required by Texas Education Code Chapter 22 regarding its "covered employees", as defined below. If Contractor is required by Chapter 22 to obtain the information from the Fingerprint-based Applicant Clearinghouse of Texas, then Contractor will also subscribe to that person's criminal history record information. Before beginning any Work on the Project, Contractor will provide written certification to the District that Contractor has complied with the statutory requirements as of that date. Upon request by Owner, Contractor will provide, in writing: updated certifications and the names and any other requested information regarding covered employees, so that the Owner may obtain criminal history record information on the covered employees. Contractor shall assume all expenses associated with obtaining criminal history record information.

§ 3.4.6.2 Contractor will not assign any "covered employee" with a "disqualifying criminal history", as those terms are defined below, to work on the Project. If Contractor receives information that a covered employee has a reported disqualifying criminal history, then Contractor will immediately remove the covered employee from the Project and notify the Owner in writing within three business days. If the Owner objects to the assignment of any covered employee on the basis of the covered employee's criminal history record information, then Contractor agrees to discontinue using that covered employee to provide services on Owner's Project. If Contractor has taken precautions or imposed conditions to ensure that the employees of Contractor and any subcontractor will not become covered employees, Contractor will ensure that these precautions or conditions continue throughout the time the contracted services are provided.

§ 3.4.6.3 For the purposes of this Section, "covered employees" means employees, agents or applicants of Contractor who has or will have continuing duties related to the services to be performed on Owner's Project and has or will have direct contact with Owner's students. The Owner will decide what constitutes direct contact with Owner's students. "Disqualifying criminal history" means: any conviction or other criminal history information designated by the Owner; any felony or misdemeanor conviction that would disqualify a person from obtaining educator certification

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under Texas Education Code Section 21.060 and 19 Texas Administrative Code §249.16; or one of the following offenses, if at the time of the offense, the victim was under 18 years of age or enrolled in a public school: a felony offense under Texas Penal Code Title 5 Offenses Against Persons; an offense for which a defendant is required to register as a sex offender under Texas Code of Criminal Procedure Chapter 62; or an equivalent offense under federal law or the laws of another state.

§ 3.4.6.4 Subcontractors or any subcontractor entity, as defined by Texas Education Code § 22.08341(a)(3), shall be required by the terms of their contract with Contractor or any other contracting entity (as defined in Texas Education Code §22.08341(a)(1)), and by Texas law, to obtain the required criminal history record information on their employees, agents, or applicants, to give required certifications to Owner and the contracting entities, and to obtain required certifications from the subcontracting entity's subcontractors.

§ 3.4.6.5 On request of Owner, Contractor shall provide all necessary identifying information to allow Owner to obtain criminal history record information for covered employees of the Contractor and all subcontractors. Contractor shall update this list on Owner's request.

# § 3.4.7 OWNER'S ADDITIONAL REQUIREMENTS RELATED TO CRIMINAL HISTORIES

In addition, Contractor will at least annually obtain criminal history record information that relates to any employee, agent, or applicant of the Contractor, if the person has or will have duties related to the Project, and the duties are or will be performed on Owner's Project, or at another location where students are likely to be present. Contractor shall assume all expenses associated with the background checks and shall immediately remove any employee, agent or subcontractor who was convicted of a felony or a misdemeanor involving moral turpitude from Owner's property, or other location where students are likely to be present. Owner shall determine what constitutes "moral turpitude" or a "location where students are likely to be present."

#### § 3.4.8 PREVAILING WAGE RATES

§ 3.4.8.1 Contractor, Contractor's Subcontractors and Sub-subcontractors shall pay all workers not less than the general prevailing rate of per diem wages for work of a similar character where the Project is located, as detailed in the "Minimum Wage Schedule" attached to this Agreement. Wages listed are minimum rates only. However, no claims for additional compensation above the Contract Sum shall be considered by the Owner because of payments of wage rates in excess of the applicable rate provided herein. Texas Government Code Section 2258.001 et seq.

§ 3.4.8.2 Contractor shall forfeit, as a penalty to the Owner, \$60 for each laborer, worker or mechanic employed for each calendar day or part of the day that the worker is paid less than the wage rates stipulated in the Contract Documents.

§ 3.4.8.3 Owner reserves the right to receive and review payroll records, payment records, and earning statements of employees of Contractor, and of Contractor's Subcontractors and Sub-subcontractors.

§ 3.4.8.4 In executing the Work under the Contract Documents, Contractor shall comply with all applicable state and federal laws, including but not limited to, laws concerned with labor, equal employment opportunity, safety and minimum wages.

§ 3.4.8.5 If no schedule is attached, then the parties shall use the wage rate determined by the US Department of Labor in accordance with the Davis-Bacon Act, 40 USC Section 276a, which can be accessed on the internet at www.gpo.gov/davisbacon/.

# § 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. The Contractor further warrants that Contractor shall perform the Work in a good and workmanlike manner, continuously and diligently in accordance with generally accepted standards of construction practice for construction of projects similar to the Project, except to the extent the Contract Documents expressly specify a higher degree of finish or workmanship, in which case the standard shall be the higher standard. All material shall be installed in a true and straight alignment, level and plumb; patterns shall be uniform; and jointing of materials shall be flush and level, unless otherwise directed

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in writing by the Architect. Work, materials, or equipment not conforming to these requirements may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Contractor, improper or insufficient maintenance (unless such maintenance is Contractor's responsibility), improper operation, or normal wear and tear and normal usage but such exclusions shall only apply after Owner has taken occupancy of the damaged or defective point of the Project. If required by the Architect, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment. Notwithstanding anything in the Contract Documents to the contrary, Owner and Contractor expressly agree that the warranties stated herein shall mean the individual warranties associated with each particular Work within the Project, and each such individual warranty shall run from the applicable Work's Final Completion date (unless otherwise expressly provided in the applicable Contract Documents for that particular Work). Contractor's express warranty is in addition to, and not in lieu of, Owner's other available remedies. All required warranties on equipment, machinery, materials, or components shall be submitted to the Architect on the manufacturer's or supplier's approved forms for delivery to the Owner. The warranties set out in this Subparagraph are not exclusive of any other warranties or guarantees set out in other places in the Contract Documents or expressed or implied under applicable law.

§ 3.5.2 Contractor shall certify that the Project has been constructed in general conformance with the Architect's or Engineer's plans, specifications, and Construction Documents, as modified from time to time pursuant to the terms of the Contract Documents. Contractor shall fully complete a "Certification of Project Completion" as required by 19 Texas Administrative Code Section 61.1036.

§ 3.5.3 In the event of failure of materials, products, or workmanship, either during construction or the warranty period, the Contractor shall take appropriate measures to ensure correction of defective Work or replacement of the defective items, without cost to the Owner. Such warranty shall be maintained notwithstanding that certain systems may be activated prior to Substantial Completion as required for the satisfactory completion of the Project. Upon written notice from the Owner or Architect, the Contractor shall promptly remedy defects as covered by Contractor's warranty. If Contractor does not respond to the written notice, either by beginning corrective work or notifying Owner in writing regarding when corrective work will begin, within ten days of Contractor's receipt of the written notice, then the Owner may take measures to correct the Work and Contractor will be obligated to reimburse Owner's costs. The provisions of this subparagraph shall be in addition to, and not in lieu of, any other rights and remedies available to the Owner.

§ 3.5.4 When deemed necessary by the Owner and prior to installation of any item specifically made subject to a performance standard or regulatory agency standard under any provision of the Contract Documents, Contractor shall furnish proof of conformance to the Architect. Proof of conformance shall be in the form of:

- .1 an affidavit from the manufacturer certifying that the item is in conformance with the applicable standards; or
- .2 an affidavit from a testing laboratory certifying that the product has been tested within the past year and is in conformance with the applicable standards; or
- .3 such further reasonable proof as is required by the Architect.

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§ 3.5.5 The Contractor agrees to issue in the name of the owner, or assign to the Owner at Final Completion of the Work, such assignment to be effective no later than Final Completion, any and all material, equipment, fixtures and furniture (if supplied or installed by Contractor or its subcontractors), other special warranties, and manufacturers' warranties relating to materials and labor used in the Work. Contractor further agrees to perform the Work in such manner so as to preserve any and all manufacturers' warranties. All forms will be required to be submitted prior to Final Payment.

§ 3.5.6 The warranties of Contractor provided in Subparagraphs 3.5.1, 3.5.2, and 3.5.3 shall in no way limit or abridge the warranties of the suppliers of equipment and systems which are to comprise a portion of the Work and all such warranties shall be in form and substance as required by the Contract Documents. Contractor shall take no action or fail to act in any way which results in the termination or expiration of such third party warranties or which otherwise results in prejudice to the rights of Owner under such warranties. Contractor agrees to provide all notices required for the effectiveness of such warranties and shall include provisions in the contracts with the providers and manufacturers

of such systems and equipment whereby Owner shall have a direct right, but not a duty, of enforcement of such warranty obligations.

§ 3.5.7 Contractor shall maintain a complete and accurate schedule of the date(s) of Substantial Completion, the date(s) of Final Completion, and the dates upon which the warranty under Section 12.2 herein on each phase or building will expire. Contractor shall provide a copy of such schedules to Owner and Architect. Prior to termination of the warranty period under Section 12.2 herein, Contractor shall accompany Owner and Architect on re-inspection of each Work in the Project and Contractor shall be responsible for correcting any warranty items which are observed or reported during the warranty period under Section 12.2 herein. Contractor shall prosecute such warranty work under Section 12.2 herein without interruption until accepted by Owner and Architect, even though such work should extend beyond the warranty period under Section 12.2 herein. If Contractor fails to provide the schedules to Owner and Architect, Contractor's warranty obligation described herein shall continue until such inspection is conducted and deficiencies are corrected.

§ 3.5.8 Prior to receipt of Final Payment, Contractor shall:

- .1 Obtain duplicate original warranties, executed by all subcontractors, making the dates of beginning of the warranties the Date of Final Completion; and the warranties of suppliers and manufacturers, making the dates of beginning of the warranties no later than the Date of Final Completion;
- .2 Verify that the documents are in proper form and contain full information;
- .3 Co-sign warranties when required;
- .4 Bind all warranties in commercial quality 8-1/2 X 11 inch three-ring binder, with hardback, cleanable, plastic covers;
- .5 Label the cover of each binder with a typed or printed title labeled "WARRANTIES", along with the title of the Project; name, address and telephone number of Contractor; and name of its responsible principal;
- .6 Include a Table of Contents, with each item identified by the number and title of the specification section under which the product is specified; and
- .7 Separate each warranty with index tab sheets keyed to the Table of Contents listing.
- .8 Deliver warranties and bonds in the form described above, to the Architect who will review same prior to submission to the Owner.

# § 3.6 Taxes

§ 3.6 Owner is an exempt entity under the tax laws of the State of Texas. Texas Tax Code § 151.309; 34 TAC § 3.322. The Owner represents that this Project is eligible for exemption from the State Sales Tax on tangible personal property and material incorporated in the Project, provided that the Contractor fulfills the requirements of the Texas Tax Code § 151.309, § 151.310, § 151.311 and 34 TAC § 3.291; 3.287. For the purpose of establishing exemption, it is understood and agreed that the Contractor may be required to segregate materials and labor costs at the time a Contract is awarded. Contractor will accept a Certificate of Exemption from the Owner, pursuant to Texas Tax Code § 151.054(e); § 151.155; and 34 TAC § 3.287. Contractor shall obtain Certificates of Resale from Contractor's suppliers. Texas Tax Code § 151.154, 34 TAC § 3.285. Failure of Contractor or any Sub-Contractor to obtain Certificates of Resale from their suppliers shall make the Contractor or Sub-Contractor responsible for absorbing the tax, without compensation from Owner. Contractor shall pay all necessary local, county and state taxes, income tax, compensation tax, social security and withholding payments as required by law. CONTRACTOR HEREBY RELEASES, INDEMNIFIES, AND HOLDS HARMLESS OWNER FROM ANY AND ALL CLAIMS AND DEMANDS MADE AS A RESULT OF THE FAILURE OF CONTRACTOR OR ANY SUBCONTRACTOR TO COMPLY WITH THE PROVISIONS OF ANY OR ALL SUCH LAWS AND REGULATIONS.

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

§ 3.7.1 After Architect has filed the plans and specifications with the Texas Department of Licensing and Regulation, Architect shall notify Contractor that Contractor may make and submit the applications for the building permit. The Owner shall pay the municipality directly for the building permit and all other development "impact" fees, if any. The Contractor shall continue to be responsible for payment of other permits, governmental fees, licenses, and inspections necessary for proper execution of the Contract and which are legally required when bids or proposals are received. Such fees and expenses shall only be reimbursable to Contractor if expressly agreed to herein.

§ 3.7.1.1 The Owner shall pay directly to the governing authority the cost of all permanent property utility assessments and similar connection charges.

§ 3.7.1.2 The Contractor shall pay directly all temporary utility charges, tap charges, and water meter charges, without reimbursement from Owner. After consultation with the Owner, the Contractor shall also obtain all permits and approvals, and pay all fees and expenses, if any, associated with National Pollutant Discharge Elimination System (NPDES) regulations administered by the Environmental Protection Agency (EPA) and local authorities, if applicable, that require completion of documentation and/or acquisition of a "Land Disturbing Activities Permit" for the Project. Also after consultation with the Owner, the Contractor shall obtain all permits and approvals, and pay all fees and expenses, if any, associated with Storm Water Pollution Prevention and Pollution Control Plan (SWPPP) regulations administered by the Texas Commission on Environmental Quality (TCEQ) and local authorities. Contractor's obligations under this Section may or may not require it to obtain or perform engineering services during the pre-construction phase to prepare proper drainage for the construction sites. Any drainage alterations made by Contractor during the construction process, which require the issuance of a permit, shall be at Contractor's sole cost. Reimbursable expenses shall not include any fines or penalties assessed against the Contractor, Contractor's subcontractors, the Project, or the Owner.

§ 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. In addition, Contractor shall authorize posting of any notices concerning the Workers Compensation insurance carried by other parties involved in the Project, including without limitation, Architect, at the same location where Contractor posts notices regarding Workers Compensation. If applicable, the Contractor shall procure and obtain all bonds required of the Owner or the Contractor by the municipality in which the Project is located or by any other public or private body with jurisdiction over the Project. In connection with such bonds, the Contractor shall prepare all applications, supply all necessary back-up material and furnish the surety with any required personal undertakings. The Contractor shall also obtain and pay all charges for all approvals for street closings, traffic control, parking meter removal and other similar matters as may be necessary or appropriate from time to time for the performance of the Work.

§ 3.7.3 If the Contractor performs Work when Contractor knows or reasonably should have known it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, the Contract Documents 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 three (3) business days after first observance of the conditions. Contractor agrees that this is a reasonable notice requirement. The Architect will promptly investigate such conditions and, if the Architect determines that they differ materially, report findings and a recommended resolution in writing to Owner and Contractor. If Owner's Board of Trustees and Contractor cannot agree on an equitable adjustment to the Contract Sum or Contract time, then either party may pursue alternative dispute resolution as provided for in Article 15 within ninety (90) days of the Architect's recommendation. If such conditions will cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, Architect will recommend that an equitable adjustment be made in the Contract Sum or Contract Time, or both.

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§ 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 in writing. 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.

§ 3.7.6 The Contractor shall be responsible for timely notification to and coordination with all utility companies regarding the provision of services to the Project. The Contractor shall inform the Architect at once when the Owner's participation is required, and the Architect shall immediately notify the Owner. Connections for temporary and permanent utilities and payment for temporary utilities services required for the Work, whether the Work is new construction or renovation of an existing facility, are the responsibility of the Contractor unless otherwise agreed. If the Work is new construction, then payment for temporary and/or permanent utility services shall be the responsibility of the Contractor until Substantial Completion.

# § 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, unless required to do so by the terms of the Construction Documents.

§ 3.8.2 Unless otherwise provided in the Contract Documents.

- allowances shall cover the cost to the Contractor of materials and equipment delivered at the site, less .1 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, unless required to do so by the terms of the Construction Documents shall be adjusted accordingly. The amount of the adjustment 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.

§ 3.8.4 When performing Work under allowances, Contractor shall solicit and receive not less than three written proposals and shall provide the Work as directed by the Architect, upon Owner's written approval, on the basis of the best value to the District.

#### § 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. In addition, the Contractor may employ a project manager and necessary assistants who may supervise several Project sites. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor. Important communications shall be similarly confirmed in writing. Other communications shall be similarly confirmed on written request in each case. Questions about plan interpretation or directions shall be submitted to the Architect in the form of a written request for information and the Architect shall respond to such request for information in a reasonable and timely fashion. Contractor's selection of project manager or superintendent(s) shall be approved by Owner, and Contractor shall not replace the project manager or superintendent(s) without Owner's consent or until a replacement project manager or superintendent(s) has been selected in accordance with this Section. The Owner may reject or require removal of any job superintendent, project manager or employee of the Contractor, Subcontractor or Sub-Subcontractor involved in the Project. Contractor shall provide an adequate staff for the proper coordination and expedition of the Work. Owner reserves the right to require Contractor to dismiss from the Work any employee or employees that Owner may deem incompetent, careless, insubordinate, or in violation of any provision in these Contract Documents. This provision is applicable to Subcontractors, Sub-Subcontractors and their employees.

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§ 3.9.2 Contractor's superintendent shall be present full-time on the site as soon as possible after commencement of the Work, and shall remain assigned to this Work, and present on the site during performance of the Work, throughout the course of the Work until items requiring completion or correction, identified at Substantial Completion pursuant to Section 9.8, have been completed or corrected. From Substantial Completion until Final Completion, the superintendent shall be on the site as necessary to ensure that Final Completion occurs within 30 days of Substantial Completion.

§ 3.9.3 Owner shall be notified not less than 24 hours before any time that superintendent will not be present at the site for any reason except periodic illness. If the reason is due to illness, then Owner shall be notified at the beginning of that day. Owner shall be notified of the identity of the acting superintendent. In the event the superintendent is absent from the site and notice has not been provided nor has an acting superintendent been assigned to the Work, then an amount equal to the superintendent's daily rate shall be deducted from the amount owed to the Contractor under general conditions for such day.

#### (Paragraph deleted)

## § 3.10 Contractor's Construction and Submittal Schedules

§ 3.10.1 The Contractor, promptly after being awarded the Contract, shall prepare and 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. The schedule shall not interfere with the operation of Owner's existing facilities and operations without Owner's prior written approval.

§ 3.10.2 The Contractor, promptly after being awarded the Contract and thereafter as necessary to maintain a current submittal schedule, shall prepare and 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 accordance with the most recent schedules submitted to the Owner and Architect.

§ 3.10.4 The Contractor shall hold weekly progress meetings at the Project Site, or at such other time and frequency as are acceptable to the Owner. Progress of the work shall be reported at said meetings with reference to Contractor's construction schedule. The Contractor shall submit to the Architect with each monthly application for payment a copy of the progress schedule showing all modifications required, and shall take whatever corrective action is necessary to assure that the project completion schedule is met at no additional cost to Owner, except as allowed herein. In the event that Contractor shall fall behind schedule at any time, Contractor shall develop and deliver a recovery plan to the Owner with a recovery schedule and a program describing the additional manpower, overtime, material expediting, resequencing of the Work and other steps Contractor shall take to meet the requirements of the Contract. Contractor shall not be entitled to compensation from the Owner or any increase in the Contract Sum for the schedule recovery efforts. No approval or consent by the Owner of any plan for resequencing or acceleration of the Work submitted by Contractor shall constitute a waiver by Owner of any damages or losses which Owner may suffer by reason of such resequencing or the failure of Contractor to meet the Substantial Completion Date or the Final Completion Date.

#### § 3.11 Documents and Samples at the Site

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The Contractor shall maintain and make available at all times, at the Project site, the Construction Documents, including Change Orders, Construction Change Directives, field test records (including environmental inspection and test records), inspection certificates or records, manufacturers' certificates, 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 at all times, and delivered to the Architect for submittal to the Owner upon completion of the Work as a record of the Work as constructed. § 3.11.1 In addition to any other requirement in the Contract Documents and prior to installation, Contractor shall furnish or cause a subcontractor to furnish, for the Owner's and Architect's written approval, a physical sample of each specified item, product, fixture, or device which is visible by the general public and/or attached to an architecturally-finished surface. Samples shall be suitably labeled, adequately protected, and properly stored at the site. Samples which are approved and undamaged will be considered to be suitable for incorporation into the Work.

#### § 3.12 Shop Drawings, Product Data and Samples

Init.

§ 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 Contract Documents for those portions of the Work for which the Contract Documents require submittals. Review by the Architect is subject to the limitations of Section 4.2.7. Informational submittals upon which the Architect is not expected to take responsive action may be so identified in the Contract Documents. Submittals that are not required by the Contract Documents may be returned by the Architect without action.

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

§ 3.12.6 By submitting Shop Drawings, Product Data, Samples, and similar submittals, the Contractor represents to the Owner and Architect that the Contractor has (1) reviewed and approved them, (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so, and (3) checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents. Specific dimensions, quantities, installation and performance of equipment and systems in compliance with the Construction Documents and the Contract Documents remain the Contractor's responsibility.

§ 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 in writing 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 written 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 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 completeness, and accuracy of the services, certifications, and approvals performed or provided by such design professionals. 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. A registered architect must prepare plans and specifications for all the Work, as governed by the Texas Occupations Code Chapter 1051; and a registered engineer must prepare plans, specifications and estimates for all Work governed by Texas Occupations Code Chapter 1001. In the event that Contractor retains a licensed design professional under the terms of this paragraph, Contractor shall require that the licensed design professional carry commercial general liability and errors and omissions insurance coverage in the same amounts and forms as required of the Architect on this Project. In the event that the licensed design professional retained by the Contractor will be conducting on-site services or observations, the licensed design professional shall also carry worker's compensation insurance and comprehensive automobile liability in the same amounts and forms as required of the Architect on this Project.

§ 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.

§ 3.12.11 The Contractor shall submit complete drawings, data and samples to the Architect at least fifteen (15) days prior to the date the Contractor needs the reviewed submittals and samples returned. The Contractor shall be prepared to submit color samples on any key items (such as quarry tile, vinyl wall covering, etc.) within fifteen (15) days of the award of Subcontract(s). All color samples required for the Work shall be received within sixty (60) days of the date of the approval of the Contract Sum if the Project is an A101 project, or Guaranteed Maximum Price if the Project is an A133 project. Once samples of all key items are received, the Architect will finalize color selections.

§ 3.12.12 The Contractor shall submit the number of copies of product data and samples which the Contractor and subcontractors need for their use, plus two additional sets for the Architect, one additional set for the Owner and one additional set for each of the Architect's consultants involved with the particular section of Work. Where shop drawings are involved, the Contractor shall submit one high quality reproducible transparency and one opaque print of the shop drawing for the Architect, plus one additional opaque print for each of the Architect's consultants involved with the particular section of Work. The reproducible transparency will be marked by the Architect and/or his consultants. After final review and correction of the submittal, the Contractor shall send one corrected set to the Architect and each of the Architect's consultants involved with the particular section of Work.

§ 3.12.13 The Architect's review of Contractor's submittals shall be limited to examination of an initial submittal and one (1) re-submittal. The Architect's review of additional submittals will be made only with the consent of the Owner after notification by the Architect. The Owner shall be entitled to reimbursement from the Contractor of amounts paid to the Architect for evaluation of such additional re-submittals.

§ 3.12.14 The Contractor represents and warrants that all shop drawings shall be prepared by persons and entities possessing expertise and experience in the trade for which the shop drawings are prepared and, if required by the Architect or applicable law, by a licensed engineer.

# § 3.13 Use of Site

§ 3.13.1 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.

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§ 3.13.2 Only materials and equipment which are to be used directly in the Work shall be brought to and stored on the Project site by the Contractor. After equipment is no longer required for the Work, it shall be promptly removed from the Project site. Protection of construction material and equipment stored at the Project site from weather, theft, damage and all other adversity is solely the responsibility of the Contractor.

§ 3.13.3 The Contractor and its subcontractors shall not erect any sign on the Project site without the prior written consent of the Owner.

§ 3.13.4 Contractor shall ensure that the Work, at all times, is performed in a manner that affords Owner reasonable access, both vehicular and pedestrian, to the site of the Work and all adjacent areas. The Work shall be performed in such a manner that public areas adjacent to the Site of the Work shall be free from all debris, building material and equipment likely to cause hazardous conditions. Without limitation of any other provision of the Construction Documents, Contractor shall use its best efforts to minimize any interference with the occupancy or beneficial use of any area or building adjacent to the site of the Work, or the building, in the event of partial occupancy.

§ 3.13.5 Without prior approval of the Owner, the Contractor shall not permit any workers to use any existing facilities at the Project site, including, without limitation, lavatories, toilets, entrance and parking areas other than those designated by the Owner. The Contractor shall comply with all rules and regulations promulgated by the Owner in connection with the use and occupancy of the Project site and the Building.

# § 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, provided, however, that any such cutting, fitting or patching can only be performed if the cutting, fitting or patching results in Work that is in accordance with the Construction Documents and Contract Documents. All areas requiring cutting, fitting, or patching shall be restored to the condition existing prior to the cutting, fitting, or patching, unless otherwise required by the Contract Documents.

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

§ 3.14.3 No cutting of structural elements will be permitted unless specifically approved in writing by Architect. Fitting and patching shall only be done with new products, and shall only performed by those skilled in performing the original Work.

# § 3.15 Cleaning Up

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§ 3.15.1 The Contractor shall, on a daily basis keep the premises and surrounding area free from accumulation of waste materials and rubbish caused by operations under the Contract. Contractor shall provide on-site containers for the collection of waste materials, debris and rubbish, and shall periodically remove waste materials, debris and rubbish from the Work and dispose of all such materials at legal disposal areas away from the site. All cleaning operations shall be scheduled so as to ensure that contaminants resulting from the cleaning process will not fall on newly-coated or newly-painted surfaces. Immediately after unpacking materials, all packing case lumber or other packing materials, wrapping or other like flammable waste shall be collected and removed from the building and premises. 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. Care shall be taken by all workers not to mark, soil, or otherwise deface any finish. In the event that any finish becomes defaced in any way by mechanics or workers, the Contractor or any of his Subcontractors shall clean and restore such surfaces to their original condition.

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

§ 3.15.3 The Contractor shall be responsible for the protection of the Work. Prior to the Architect's inspection for Substantial Completion, the Contractor shall clean exterior and interior surfaces exposed to view; remove temporary labels, stains, putty, soil, paint and foreign substances from all surfaces, including glass and painted surfaces; polish

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transparent and glossy surfaces; clean equipment and fixtures to a sanitary condition; replace air filters in mechanical equipment; clean roofs, gutters, and downspouts; remove obstructions and flush debris from drainage systems; clean site; sweep paved areas and rake clean other surfaces; remove trash and surplus materials from the site; clean and polish all floors; clean and polish all hardware; and repair all Work damaged during cleaning.

§ 3.15.4 After construction is complete, Contractor shall: (1) employ skilled workers for final cleaning; (2) remove grease, mastic adhesive, dust, dirt, stains, fingerprints, labels and other foreign materials from all sight-exposed interior and exterior surfaces; (3) wash and shine glazing and mirrors; (4) polish glossy surfaces to a clear shine; (5) vacuum clean carpeted and similar soft surfaces; (6) clean (damp mop with clean mop and water) resilient and hard surface floors repeating as necessary until no visible residue remains on floors; (7) clean plumbing fixtures to a sanitary condition; (8) clean surfaces of all equipment and remove excess lubrication; (9) clean permanent filters and replace disposable filters in ventilating systems if units were operated during construction and clean ducts, blowers and coils; (10) clean light fixtures; (11) remove waste, foreign matter and debris from roofs, gutters, area ways and drainage ways; (12) remove waste, debris and surplus materials from the site; (13) remove stains, spills and foreign substances from paved areas; and (14) broom clean exterior concrete and paved surfaces and rake clean the grounds.

# § 3.16 Access to Work

The Contractor shall provide the Owner and Architect and their designated representatives with access to the Work in preparation and progress wherever located. The presence of the Owner, Architect or their representatives does not constitute acceptance or approval of the Work.

# § 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, SHALL WAIVE AND RELEASE CLAIMS AGAINST THE OWNER AND ARCHITECT, AND SHALL INDEMNIFY AND HOLD HARMLESS THE OWNER AND ARCHITECT FROM LOSS ON ACCOUNT THEREOF, PROVIDED, HOWEVER, CONTRACTOR SHALL NOT BE RESPONSIBLE TO ARCHITECT FOR SUCH 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 ARCHITECT, AND SHALL NOT BE RESPONSIBLE TO OWNER IF OWNER REQUIRES A PARTICULAR DESIGN, PROCESS OR PRODUCT THAT CONSTITUTES A COPYRIGHT VIOLATION. However, if the Contractor has reason to believe that the required design, process or product is an infringement of a copyright or a patent, the Contractor shall be responsible for such loss unless such information is promptly furnished to the Owner and Architect in writing.

#### § 3.18 Indemnification

Init.

§ 3.18.1 TO THE FULLEST EXTENT PERMITTED BY LAW, THE CONTRACTOR SHALL WAIVE AND RELEASE CLAIMS AGAINST AND SHALL INDEMNIFY AND HOLD HARMLESS THE OWNER, ARCHITECT, OWNER'S TRUSTEES, ARCHITECT'S CONSULTANTS, OWNER'S CONSULTANTS AND OFFICERS, AGENTS AND EMPLOYEES OF ANY OF THEM, FROM AND AGAINST CLAIMS, DAMAGES, LOSSES, CAUSES OF ACTION, SUITS, JUDGMENTS 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 (INCLUDING THE WORK ITSELF) INCLUDING LOSS OF USE RESULTING THEREFROM, BUT ONLY TO THE EXTENT CAUSED IN WHOLE OR IN PART BY WILLFUL OR NEGLIGENT ACTS OR OMISSIONS OF THE CONTRACTOR, A SUB-CONTRACTOR, ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY THEM, ANYONE THEY CONTROL OR EXERCISE CONTROL OVER, OR ANYONE FOR WHOSE ACTS THEY MAY BE LIABLE, REGARDLESS OF WHETHER OR NOT SUCH CLAIM, DAMAGE, LOSS OR EXPENSE IS CAUSED IN PART BY ANY WILLFUL OR NEGLIGENT ACTS OR OMISSIONS OF OWNER OR OWNER'S CONSULTANTS OR OTHER INDEMNIFIED PARTIES. 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. ALL COSTS AND EXPENSES SO INCURRED BY ANY OF THE INDEMNIFIED PARTIES IN THAT EVENT SHALL BE REIMBURSED BY CONTRACTOR TO THE INDEMNIFIED PARTIES, AND ANY COST AND EXPENSES SO INCURRED BY INDEMNIFIED PARTIES SHALL BEAR INTEREST UNTIL REIMBURSED

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BY CONTRACTOR, AT THE RATE OF INTEREST PROVIDED TO BE PAID BY THE JUDGMENT UNDER THE LAWS OF THE STATE OF TEXAS.

§ 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 INSURANCE POLICIES WORKERS' COMPENSATION ACTS, DISABILITY BENEFIT ACTS, OR OTHER EMPLOYEE BENEFIT ACTS.

§ 3.18.3 THE OBLIGATIONS OF THE CONTRACTOR UNDER THIS SECTION 3.18 SHALL NOT EXTEND TO THE LIABILITY OF THE ARCHITECT, THE ARCHITECT'S CONSULTANTS, AND AGENTS AND EMPLOYEES OF ANY OF THEM, CAUSED BY OR RESULTING FROM: (1) DEFECTS IN PLANS, DESIGNS, OR SPECIFICATIONS PREPARED, APPROVED, OR USED BY THE ARCHITECT OR ENGINEER; OR (2) NEGLIGENCE OF THE ARCHITECT OR ENGINEER IN THE RENDITION OR CONDUCT OF PROFESSIONAL DUTIES CALLED FOR OR ARISING OUT OF THE CONSTRUCTION CONTRACT AND THE PLANS, DESIGNS, OR SPECIFICATIONS THAT ARE A PART OF THE CONSTRUCTION CONTRACT; AND (3) ARISING FROM : (A) PERSONAL INJURY OR DEATH; (B) PROPERTY DAMAGE; OR (C) ANY OTHER EXPENSE THAT ARISES FROM PERSONAL INJURY, DEATH, OR PROPERTY DAMAGE, OR AS OTHERWISE LIMITED BY TEXAS CIVIL PRACTICE & REMEDIES CODE SECTION 130.001 ET SEQ.

§ 3.18.4 THE OWNER MAY CAUSE ANY OTHER CONTRACTOR WHO MAY HAVE A CONTRACT WITH THE OWNER TO PERFORM CONSTRUCTION OR INSTALLATION WORK IN THE AREAS WHERE WORK WILL BE PERFORMED UNDER THIS AGREEMENT, TO AGREE TO INDEMNIFY AND TO HOLD THE OWNER AND THE CONTRACTOR HARMLESS FROM ALL CLAIMS FOR BODILY INJURY AND PROPERTY DAMAGE TO THE SAME EXTENT AS IS PROVIDED IN SECTION 3.18.1 ABOVE. LIKEWISE, CONTRACTOR AGREES TO INDEMNIFY AND TO HOLD THE OWNER'S OTHER CONTRACTORS HARMLESS FROM ALL CLAIMS FOR BODILY INJURY AND PROPERTY DAMAGE TO THE SAME EXTENT AS PROVIDED IN SECTION 3.18.1 ABOVE.

§ 3.18.5 THE PROVISIONS OF SECTION 3.18 IN ITS ENTIRETY SHALL SURVIVE THE COMPLETION. TERMINATION OR EXPIRATION OF THIS CONTRACT.

§ 3.18.6 It is agreed with respect to any legal limitations now or hereafter in effect and affecting the validity or enforceability of the indemnification obligations under Paragraph 3.18, such legal limitations are made a part of the indemnification obligation and shall operate to amend the indemnification obligation to the minimum extent necessary to bring the provision into conformity with the requirements of such limitations, and as so modified, the indemnification obligations shall continue in full force and effect

§ 3.18.7 It is understood and agreed that Subparagraph 3.18.1 above is subject to, and expressly limited by, the terms and conditions of Texas Civ. Prac. & Rem. Code Ann. Sec. 130.001 to 130.005, as amended.

§ 3.18.8 THE OWNER MAY CAUSE ANY OTHER CONTRACTOR WHO MAY HAVE A CONTRACT WITH THE OWNER TO PERFORM CONSTRUCTION OR INSTALLATION WORK IN THE AREAS WHERE WORK WILL BE PERFORMED UNDER THIS AGREEMENT, TO AGREE TO INDEMNIFY AND TO HOLD THE OWNER AND THE CONTRACTOR HARMLESS FROM ALL CLAIMS ATTRIBUTABLE TO BODILY INJURY, SICKNESS, DISEASE OR DEATH OR TO INJURY TO OR DESTRUCTION OF TANGIBLE PROPERTY {INCLUDING THE WORK ITSELF) INCLUDING LOSS OF USE, TO THE SAME EXTENT AS PROVIDED IN SUBPARAGRAPH 3.18.1 ABOVE.

§ 3.19 ANTITRUST VIOLATION. To permit the Owner to recover damages suffered in antitrust violations, Contractor hereby assigns to Owner any and all claims for overcharges associated with this Contract which violate the antitrust laws of the United States, 15 U.S.C.A. Section 1 et seq. The Contractor shall include this provision in its agreements with each subcontractor and supplier. Each subcontractor shall include such provisions in agreements with sub-subcontractors and suppliers.

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# 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.

§ 4.1.3 Except as expressly provided herein, the Contractor shall not be relieved of Contractor's obligation to perform the Work in strict accordance with the Construction Documents and the Contract Documents by the duties, responsibilities, or activities of the Architect.

#### § 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 final payment is due, and, with the Owner's concurrence, from time to time during the one-year period for correction of Work described in Section 12.2.2.. The Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents, or as they may be amended in the future.

§ 4.2.2 Architect shall visit the site at least twice per week (or more per week when deemed necessary by the Owner's Superintendent or when necessary to protect Owner's interests) and at other intervals appropriate to the stage of construction, to inspect the progress, quantity and quality of the work completed, to reject any observed nonconforming Work, and to determine if the Work is being performed in a manner indicating that the Work, when completed, will be in accordance with the Construction Documents and the Contract Documents and on time. Furthermore, a minimum of two job site meetings per month from commencement of construction through Final Completion will be initiated by the Architect and attended by the Contractor. Attendees will include the Owner, the Contractor's project manager and/or superintendent, Architect's project representative, and Architect. The Architect, Owner and their representatives shall at all times have access to the Work. Architect or its structural consultant will provide on-site observations prior to and during all concrete pours that contribute to the structural integrity of the building, including all pours of concrete piers, footings, grade beams, floor slabs, and concrete superstructure components, if applicable. In addition, Architect or its structural consultant will provide on-site observations prior to covering up or closing up of portions of the construction which, if covered, would conceal problems with the structural integrity of the Project. Contractor shall not close or cover said Work until said observations have occurred. Contractor or Architect will advise Owner of the need for any third-party laboratory or testing services to assist the Architect and Owner. On the basis of the on-site observations by Architect, Architect shall keep Owner and Contractor informed of the progress and quality of the Work, through Architect's field reports, and shall guard Owner against defects and deficiencies in the Work. Architect shall promptly notify Owner and Contractor orally regarding any defect or nonconforming Work, which shall be followed by notice in writing of defects or nonconforming Work noted and corrective actions taken or recommended. The Architect, however, shall not have control over or responsibility for the Contractor's construction means, methods, techniques, sequences, procedures, or safety programs, but this does not relieve Architect of Architect's responsibilities under this Agreement. Any services by Contractor made necessary by Contractor's construction defect or nonconforming Work shall be performed at no additional cost to Owner.

§ 4.2.3 The Contractor shall reimburse the Owner for compensation paid to the Architect for additional site visits made necessary by the fault, neglect, or request of the Contractor. The Architect will not be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect will not have control over or charge of, and will not be responsible for acts or omissions of, the Contractor, Subcontractors, or their agents or employees, or any other persons or entities performing portions of the Work.

#### § 4.2.4 Communications

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 of or relating to the Contract. However, Owner reserves the right to communicate directly with the Contractor and Subcontractors. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with Subcontractors and suppliers shall be through the Contractor. Communications by and with Separate Contractors shall be through the Owner.

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§ 4.2.5 As further provided in the Contract Documents, based on the Architect's evaluations of the Contractor's Applications for Payment, the Architect will review and certify the amounts due the Contractor and will issue Certificates for Payment in such amounts.

§ 4.2.6 The Architect shall reject Work that does not conform to the Construction Documents and the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect will recommend to Owner additional inspection or testing of the Work in accordance with the provisions of the Contract Documents, 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 or the Owner to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work. Architect and/or Contractor shall promptly notify, orally and in writing, the other party and Owner of any fault or defect in the Project or nonconformance with Construction Documents or the Contract Documents they may respectively discover and each, upon discovery of the defect or nonconformance, shall be responsible for notifying the other party and Owner of those corrective actions they respectively take; provided, however, Contractor shall have no duty to notify Owner of discoveries made or actions taken by Architect. Testing or inspections required by this subparagraph shall be conducted subject to the requirements of Chapter 2269 of the Texas Government Code.

§ 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 Construction Documents and the Contract Documents. The Architect's action will be taken with such reasonable promptness as to cause no delay in the Work or in the activities of the Owner, Contractor, or Separate Contractors 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 of equipment or systems, remain the responsibility of the Contractor as required by the Construction Documents and 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, unless otherwise specifically stated by the Architect 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. If any submittal does not comply with the requirements of the Construction Documents or the Contract Documents, then Architect shall require Contractor to come into compliance. The Architect shall promptly report in writing to the Contractor and Owner any errors, inconsistencies and omissions discovered by the Architect in the Shop Drawings, Product Data and Samples.

§ 4.2.8 The Architect shall review, prepare and make recommendations to Owner regarding all Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Construction Documents and the Contract Documents, accompanied by all supporting documentation. The Architect may authorize minor changes in the Work not involving an adjustment in Contract Sum or Guaranteed Maximum Price, or an extension of the Contract Time which are consistent with the intent of the Contract Documents. If necessary, the Architect shall prepare, reproduce and distribute Drawings and Specifications to describe Work to be added, deleted or modified, as provided in Section 7.4. The Architect shall accept requests by the Owner, and shall review properly prepared, timely requests by the Contractor for changes in the Work, including adjustments to the Contract Sum or Guaranteed Maximum Price, or Contract Time. A properly prepared request for a change in the Work by the Contractor shall be accompanied by sufficient supporting data and information to permit the Architect to make a reasonable determination without extensive investigation or preparation of additional drawings or specifications. If the Architect determines that requested changes in the Work are not materially different from the requirements of the Construction Documents or the Contract Documents, and do not change the Contract Sum or Guaranteed Maximum Price, or Contract Time, then the Architect may issue an order for a minor change in the Work with prior written notice to the Owner or recommend to the Owner that the requested change be denied. The Architect is not authorized to approve changes involving major systems such as: Heating, Ventilation and Air Conditioning ("HVAC"); roof; foundation; outward appearance; color schemes; floor plans; building materials; drainage or mechanical equipment without Owner's prior written consent.

§ 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

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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 make recommendations 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 or recommendations 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 recommendations, 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, will not show partiality to either, and will not be liable for results of interpretations or decisions rendered in good faith.

§ 4.2.13 The Owner's decisions on matters relating to aesthetic effect shall be final.

§ 4.2.14 The Architect will review and respond to requests for information about the Construction Documents and 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, at no additional cost to the Owner.

# ARTICLE 5 SUBCONTRACTORS

# § 5.1 Definitions

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

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

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

§ 5.2.1 Unless otherwise stated in the Contract Documents, the Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect in writing 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 shall notify in writing the Contractor whether the Owner or the Architect (1) has reasonable objection to any such proposed person or entity or (2) requires additional time for review. Failure of the Architect to provide notice within the 14-day period shall constitute notice of no reasonable objection. All subcontractors shall be procured in accordance with Texas Education Code Chapter 44, Subchapter B, and Texas Government Code Chapter 2269, as applicable. A notice of no reasonable objection shall in no way relieve the Contractor from full responsibility for performance and completion of the Work and its obligations under the Contract Documents. The Contractor shall be fully responsible for the performance of its subcontractors, including those recommended or approved by the Owner.

§ 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. When the parties agree on a proposed substitute Subcontractor then the Contract Sum and Contract Time may be increased or decreased by the difference, if any, occasioned by such change, and an appropriate Change Order shall be issued before

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commencement of the substitute Subcontractor's Work. However, no increase in the Contract Sum or Contract Time shall be allowed for such change unless the Contractor has acted promptly and responsively in submitting names as required.

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

§ 5.2.5 Each Contractor or subcontractor shall be required to completely familiarize itself with the plans and specifications, to visit the Work site to completely familiarize itself with existing conditions, and to conduct any other appropriate investigations, inspections or inquiries prior to submission of a bid or proposal. No increases in Contract Sums or Guaranteed Maximum Price shall be allowed for failure to so inspect or investigate.

# § 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. The terms and conditions of the Contract Documents shall be incorporated by reference into each subcontract agreement, included as provided below. 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. Each subcontractor shall provide proof of insurance to Contractor consistent with the Contractor's insurance to Owner and in an amount commensurate with the Work to be performed by the Subcontractor.

§ 5.3.2 Neither the Owner nor the Architect shall be obligated to pay or to insure the payment of any monies to subcontractors due to any non-payment to the Contractor or non-payment of subcontractors by the Contractor.

§ 5.3.3 The Contractor shall require any potential subcontractor to disclose to the Contractor any ownership interest or familial relationship between the Contractor, the Architect or the Owner and the potential subcontractor prior to entering into a subcontract. Contractor shall report to Owner all such disclosures and the Owner shall have the right, in its sole discretion, to reject any such affiliated subcontractor.

## § 5.4 Contingent Assignment of Subcontracts

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§ 5.4.1 Each subcontract agreement for any unperformed 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 or convenience pursuant to Article 14 or abandonment of the Project by the Contractor; 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 and obligations of the surety, if any, obligated under bond relating to the Contract; and
- .3 The Subcontractor provides bonds as required by law or prime contractors and by Owner.

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

§ 5.4.2 Such assignment shall not constitute a waiver by Owner of its rights against Contractor, including, but not limited to, claims for defaults, delays or defects for which a subcontractor or material vendor may also be liable. § 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. Owner shall only be responsible for compensating subcontractors for Work performed or materials furnished from and after the date on which the Owner gives written notice of its acceptance of the subcontract agreement. Owner shall not be responsible for any Work performed or materials furnished by subcontractors prior to the date of Owner's written notice of acceptance.

# § 5.5 NOTICE OF SUBCONTRACTOR DEFAULT

Contractor shall promptly notify Owner and Architect of any material defaults by any Subcontractor or Sub-subcontractor. Notwithstanding any provision contained in Article 5 to the contrary, it is hereby acknowledged and agreed that Owner has in no way agreed, expressly or implicitly, nor will Owner agree, to allow any Subcontractor, Sub-subcontractor or other materialman or worker employed by Contractor the right to obtain a personal judgment or to create a mechanic's or materialman's lien against Owner for the amount due from the Owner or the Contractor.

#### ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

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

§ 6.1.1 The term "Separate Contractor(s)" shall mean other contractors retained by the Owner under separate agreements. The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and with Separate Contractors retained under Conditions of the Contract substantially similar to those of this Contract, including those provisions of the Conditions of the Contract related to insurance and waiver of subrogation. The Owner reserves the right to perform other non-Project-related construction work, maintenance and repair work, and school program operations at the site and near the site during the time period of the Work.

§ 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 Contractor shall coordinate the activities of the Owner's own forces and of each Separate Contractor with the Work of the Contractor, to ensure that the Work remains on schedule.. 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 between the Owner and Contractor.

#### (Paragraph deleted)

#### § 6.2 Contractor's Responsibility

§ 6.2.1 It shall be the responsibility of the Contractor to assist, review, and coordinate the scheduling of work performed by any of the Owner's Separate Contractors. In addition, the Contractor shall be responsible for coordinating and providing all construction administration necessary for the Work and the work of any of Owner's Separate Contractors. The Contractor shall afford the Owner and Separate Contractors reasonable opportunity for site access and introduction and storage or staging 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. Contractor shall be responsible for coordination between Contractor's subcontractors and Owner's Separate Contractors. Contractor shall review Owner's contract with Owner's Separate Contractors and become familiar with the requirements and scope of services contained therein.

§ 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 in writing the Architect and Owner 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, and shall promptly report in writing to the Architect and Owner if Owner's Separate Contractors fail in any way to timely perform their services or negatively impact Contractor's schedule or ability to perform the Work. Failure of the Contractor to notify in writing the Architect and Owner 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 , and is performed in a timely manner to receive the Contractor's Work. The Contractor shall not be responsible for latent discrepancies or defects in the construction or operations by the Owner or Separate Contractor.

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§ 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.

§ 6.2.3.1 If the Architect is required to provide additional services as provided in the Agreement between the Owner and the Architect, specifically relating to additional compensation for the Architect for evaluating an excessive number of claims submitted by the Contractor or others in connection with the Work in accordance with the Owner's Agreement with the Architect, then such services shall be paid for by the Contractor through the Owner, unless the additional services result from negligence of or an omission by the Architect.

§ 6.2.3.2 If the Architect provides services in connection with a legal proceeding, except when the Architect is a party thereto, and the Owner requests the Architect in writing to provide such services, then the cost of such services shall be paid for by the party whose act or omission was a proximate cause of the problem that led to the requirement to provide such services. Such services shall be paid for by such party through the Owner, who upon receipt of same shall reimburse the Architect.

§ 6.2.3.3 All construction costs resulting from the Contractor's negligence, lack of oversight, inattention to detail, failure to investigate, or failure to follow the Construction Documents or Contract Documents, will be borne by the Contractor.

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

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

#### § 6.3 Owner's Right to Clean Up

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

# ARTICLE 7 CHANGES IN THE WORK

#### § 7.1 General

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§ 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. A properly prepared written request for a change in the Work by Contractor shall be accompanied by sufficient supporting data and information to permit the Architect to make a recommendation to Owner.

§ 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 or Construction 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. Contractor shall not make any claim for an adjustment to time, Contract Sum or Guaranteed Maximum Price due to: a change in the materials used; a change in the specified manner of constructing and/or installing the Work; or additional labor, services, or materials, beyond that actually required by the terms of the Construction Documents or the Contract Documents, unless made pursuant to a written order or directive from Owner authorizing Contractor to proceed with a change in the Work. No claim for an adjustment to time, Contract Sum or Guaranteed Maximum Price shall be valid unless so ordered or directed.

§7.1.4 The total Contractor mark-up for overhead, profit, or fee for work performed by the Contractor's own forces shall not exceed 10% of the cost of the change in the Work. The total Contractor mark-up for overhead, profit or fee for supervision of work performed by subcontractors' forces shall not exceed 4% of the cost of the change in the Work. The total subcontractor mark-up for overhead, profit or fee for work performed by the subcontractor's forces shall not exceed 10% of the cost of the change in the Work. In no event shall total mark-up for overhead, profit or fee in any work which involves a subcontractor or one or more sub-subcontractors, regardless of who performs the work, exceed 14% of the total cost of the change in the Work.

§7.1.5 Allowance balances may be used to fund changes in the Work. The Contractor will not be allowed an overhead, profit, or fee mark-up when changes in the Work are funded by one of the Allowances.

§7.1.6 If the Contract Sum is \$1,000,000.00 or more, or if the Contract Sum is less than \$1,000,000.00, and any Change Order, Construction Change Directives, or other Changes in the Work would increase the Contract Sum to \$1,000,000.00 or more, the total of all Change Orders, Construction Change Directives, or other Changes in the Work may not increase the Contract Sum by more than 25% of the original Contract Sum. Any Change Order, Construction Change Directive, or other Change in the Work that would exceed that limit is void and of no effect. Texas Education Code § 44.0411.

# § 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 Or Guaranteed Maximum Price; and
- .3 The extent of the adjustment, if any, in the Contract Time.

§ 7.2.2 Methods used in determining adjustments to the Contract Sum or Guaranteed Maximum Price may include those listed in Section 7.3.3.

§ 7.2.3 Contractor stipulates that acceptance of a Change Order by the Contractor constitutes full accord and satisfaction for any and all Claims, whether direct or indirect, arising from the subject matter of the Change Order.

§ 7.2.4 In no event shall a single change, or the aggregate of all changes, result in the total costs, reimbursements and fees exceeding the Contract Sum or the Guaranteed Maximum Price, unless agreed to in writing by Owner prior to the commencement of such modified or changed Work.

# § 7.3 Construction Change Directives

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§ 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 Guaranteed Maximum Price, or Contract Time, or both. The Owner may by Construction Change Directive, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions, or other revisions, the Contract Sum or Guaranteed Maximum Price, and Contract Time being adjusted accordingly.

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

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

- 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 (additional mark-ups for overhead, profit, and fees will not be allowed);
- .3 Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee, subject to the limitations of subparagraph 7.4.1; or
- .4 As provided in Section 7.3.4, subject to the limitations of subparagraph 7.1.4.

§ 7.3.4 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum or Guaranteed Maximum Price, then Architect shall determine the adjustment on the basis of the amount by which the Contractor's direct costs have actually been increased over the direct cost of performing the Work without the Change in the Work. Direct costs shall be limited to the following:

- .1 Actual costs of labor, including applicable payroll taxes, and, workers' compensation insurance;
- .2 Actual costs of materials, supplies, and equipment, including cost of transportation, used in performing the Change in the Work;

- .3 Actual rental costs of machinery and equipment rented from third parties, exclusive of hand tools;
- Actual costs of premiums for all bonds and insurance, and permit fees, directly related to the change; and

The Contractor shall keep and present, in such form as the Architect or Owner may prescribe, an itemized accounting of the items listed above, together with appropriate supporting documentation.

§ 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 Guaranteed Maximum Price, 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 or Guaranteed Maximum Price, and Contract Time or the method for determining them. Such agreement shall be effective immediately and shall be recorded as a Change Order.

§ 7.3.8 The amount of credit to be allowed by the Contractor to the Owner for a deletion or change that results in a net decrease in the Contract Sum shall be actual net cost plus the Contractor's allocated percent of profit and overhead, all as confirmed by the Architect.

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

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

# § 7.4 Minor Changes in the Work

With prior written notice to the Owner's representative, the Architect may order minor changes in the Work that are consistent with the Contract Documents or Construction Documents and do not involve an adjustment in the Contract Sum or Guaranteed Maximum Price, 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 Guaranteed Maximum Price, 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 Guaranteed Maximum Price, or Contract Time, the Contractor shall carry out such written orders promptly. Minor changes in the Work shall not include changes that involve the outward appearance of the structure, color schemes, floor plans, building materials, landscaping, or mechanical equipment.

# ARTICLE 8 TIME

# § 8.1 Definitions

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

§ 8.1.2 The date of commencement of the Work is the first business day after Contractor's receipt of the written Notice to Proceed. The Notice to Proceed shall not be issued by Architect until the Agreement (or Amendment, if Contractor is a Construction Manager at Risk) has been signed by the Contractor, approved by Owner's Board of Trustees, signed

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§ 8.1.3 The date of Substantial Completion is the date certified by the Architect in accordance with Section 9.8. The date of Final Completion is the date certified by the Architect in accordance with Paragraph 9.10. Unless otherwise agreed in writing by Owner, Contractor agrees that Final Completion shall occur not more than 30 days after the date of Substantial Completion.

§ 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 stipulates that the Contract Time is a reasonable period for performing the Work.

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

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

§ 8.2.4 The Contractor is subject to liquidated damages, as specified in the Agreement, if the Work is not completed by the date of Substantial Completion or the date of Final Completion.

#### § 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 fire, governmental actions, or adverse weather conditions documented in accordance with Section 15.1.6.2; (4) by delay authorized in writing by the Owner; or (5) by other causes that the Contractor asserts, and the Architect and Owner determine, may justify delay, then the Contract Time may be extended for such reasonable time as the Architect and Owner may determine.

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

§ 8.3.3 This Agreement does not permit the recovery of damages, including, without limitation, extended home office overhead expenses, general conditions, or other consequential damages, by the Contractor for delay or disruption or for extensions of time due to bad weather or acts of God. Contractor agrees that the only possible compensation for any delay is an extension of time.

#### 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. In the event that the Project is a Construction Management at Risk Project, the Contract Sum shall not exceed the Guaranteed Maximum Price.

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

#### § 9.2 Schedule of Values

#### § 9.2.1

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 or in the case of a Guaranteed Maximum Price, within 15 days after establishing the Guaranteed Maximum Price, to the various portions of the Work. The schedule of values shall be prepared in the form, and supported by the data to

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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. The schedule of values shall be prepared in such a manner that each major item of work, whether done by Contractor's own forces or subcontracted, is shown as a single line item on AIA Documents G702 and G703, Application and Certificate for Payment and Continuation Sheet. If the Contractor is a Construction Manager at Risk, then the Contractor's fee and general conditions shall be specifically shown, and AIA Documents G702CMa and G703 shall be used.

§ 9.2.2 If the project is a Construction Manager at Risk project, in order to facilitate the review of Applications for Payment, the Schedule of Values shall be submitted on AIA Documents G702 and G703, and shall include the following:

.1 Contractor's cost for Contractor's fee (if applicable) bonds and insurance, mobilization, or general conditions, etc. shall be listed as individual line items.

.2 Contractor's costs for various construction items shall be detailed. For example, concrete work shall be subdivided into footings, grade beams, floor slabs, or paving, etc.

.3 On major subcontracts, such as mechanical, electrical and plumbing, the schedule shall indicate line items and amounts in detail (for example: underground, major equipment, fixtures, installation fixtures, or start-up, etc.).

.4 Costs for subcontract work shall be listed without any additional mark-up of Contractor's costs for overhead, profit, or supervision.

.5 If payment for stored materials is requested prior to installation, then material and labor shall be listed as separate line items.

.6 Contractor shall provide a report of actual versus projected reimbursable expenses (general conditions), updated monthly.

#### § 9.3 Applications for Payment

§ 9.3.1 At least ten days before the date established for each progress payment, the Contractor shall submit to the Architect an itemized Application for Payment prepared in accordance with the schedule of values, if required under Section 9.2, for completed portions of the Work. The application shall be notarized, if required, and supported by all data substantiating the Contractor's right to payment that the Owner or Architect require, such as copies of requisitions, and releases and waivers of liens from Subcontractors and suppliers, and shall reflect retainage.
§ 9.3.1.1 Contractor agrees that, for purposes of Texas Government Code Sections 2251.021 and 2251.042, receipt of the Application for Payment by the Architect shall not be construed as receipt of an invoice by the Owner. Contractor further agrees that Owner's receipt of the Certificate for Payment shall be construed as receipt of an invoice by the Owner, for purposes of Texas Government Code Sections 2251.042.

§ 9.3.1.2 Applications for Payment shall not include requests for payment for portions of the Work for which the Contractor has not been invoiced by a Subcontractor or supplier, unless Contractor has self-performed the Work...

§ 9.3.1.3 Until Final Completion of the Work, the Owner shall withhold retainage as provided in the Contract Documents, except that Owner shall not pay amounts for which the Architect refuses to certify payment, or the Owner refuses to pay, as provided herein in Section 9.4.3 or 9.5, as amended. The retainage shall be paid with the Final Payment. (Note: if more than 5% is retained, under Texas law, then the retainage must be placed in an interest-bearing account, and the contractor must be paid the interest earned on the retainage upon completion of the Work. Texas Government Code Section 2252.032).

§ 9.3.2

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- .1 The location must be agreed to, in writing, by the Owner and Surety.
- .2 The location must be a bonded warehouse.
- .3 The Contractor's Surety must agree, in writing, to the amounts included in each Application for Payment.
- .4 The Contractor must bear the cost of the Owner's and Architect's expenses related to visiting the off-site storage area and reviewing the stored contents. Contractor acknowledges that Architect's time may be an Additional Service and shall compensate Architect directly for same upon request.
- .5 Payment shall not include any charges for overhead or profit on stored materials.

.6 Payments for materials or equipment stored on or off the site shall be conditioned upon submission by the Contractor of bills of sale or such other documentation satisfactory to the Owner to establish the Owner's title to such materials or equipment or otherwise protect the Owner's interest, including applicable insurance (naming the Owner as insured and naming the specific materials or equipment stored and their location) and proof of delivery to the site for those materials and equipment stored off the site. Under no circumstances will the Owner reimburse the Contractor for down payments, deposits, or other advance payments for materials or equipment until the materials or equipment are delivered to Owner's site or the agreed-upon off-site storage. Failure to follow these procedures shall result in nonpayment for storage of or insurance on stored materials and equipment. Failure to follow these procedures shall also result in nonpayment of materials and equipment until said materials and equipment are incorporated into the Work.

§ 9.3.3 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information, and belief, be free and clear of liens, claims, security interests, or encumbrances, in favor of the Contractor, Subcontractors, suppliers, or other persons or entities that provided labor, materials, and equipment relating to the Work. Neither Contractor nor any of its materialmen, laborers or Subcontractors of the Contractor shall have any enforceable rights against the Owner on this Contract. Materialmen. Laborers and Subcontractors of the Contractor may have rights under any Payment Bond provided by the Contractor, but cannot look to the Owner for any help in enforcement of those rights. CONTRACTOR SHALL WAIVE, RELEASE, INDEMNIFY, AND HOLD OWNER HARMLESS FROM ANY LIENS, CLAIMS, SECURITY INTERESTS OR ENCUMBRANCES FILED BY THE CONTRACTOR, SUBCONTRACTORS, OR ANYONE CLAIMING BY, THROUGH, OR UNDER THE CONTRACTOR OR SUBCONTRACTOR FOR ITEMS COVERED BY PAYMENTS MADE BY THE OWNER TO CONTRACTOR.

§ 9.3.4 Contractor shall submit Applications for Payment in quadruplicate using AIA Documents G702 and G703 Application and Certificate of Payment (or G702CMa, if applicable) and Continuation Sheet. All blanks in the form must be completed and signatures of Contactor and Notary Public must be original on each form. Incomplete or inaccurate Applications for Payment shall be returned to the Contractor by the Architect for completion and/or correction. Owner shall have no responsibility for payment of same if the Application for Payment is incomplete or inaccurate.

§ 9.3.5 By signing each Application for Payment, the Contractor stipulates and certifies to the following: that the information presented is true, correct, accurate and complete; that the Contractor has made the necessary detailed examinations, audits, and arithmetic verifications; that the submitted Work has been completed to the extent represented in the Applications for Payment; that the materials and supplies identified in the Applications for Payment have been purchased, paid for, and received; that the subcontractors have been paid as identified in the Applications for Payment or that Contractor has been invoiced for same; that Contractor has made the necessary on-site inspections to confirm the accuracy of the Applications for Payment; that there are no known mechanics' or materialmens' liens

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outstanding at the date of the Application for Payment; that all due and payable bills with respect to the Work have been paid to date or are included in the amount requested in the current Payment Application; that, except for such bills not paid but so included, there is no known basis for the filing of any mechanics' or materialmens' liens on the Work; that the Payment Application includes only Work self-performed by Contractor or for which Contractor has been invoiced; and that releases from all Subcontractors and materialmen have been obtained in such form as to constitute an effective release of lien under the laws of the State of Texas covering all Work performed and for which payment has been made by the Owner to the Contractor. Contractor understands that documents submitted to Owner become government documents under the laws of the State of Texas. Contractor further understands that falsification of Contractor's Application for Payment may constitute a violation of the penal laws of the State of Texas, including, but not limited to, Texas Penal Code Sections 32.46, 37.09, and 37.10, and may justify termination of Contractor's Contractor further understands and agrees that falsification of documents may entitle Owner to restitution as permitted by Texas law and these Contract Documents.

# § 9.4 Certificates for Payment

§ 9.4.1 The Architect will, within seven days after receipt of the Contractor's Application for Payment carefully evaluate and review the Application for Payment and, when appropriate, return the Application for Payment to the Contractor as provided in Section 9.3.4. If the Application for Payment is complete, then the Architect shall sign and, either (1) certify and 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) certify and issue to the Owner a Certificate for Payment in writing 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 in writing of the Architect's reasons for whole as provided in Section 9.5.1. Architect's written reasons for withholding certification shall be construed as the notice required by Texas Government Code Section 2251.042 et seq.

§ 9.4.2 The issuance of a Certificate for Payment will constitute a representation by the Architect to the Owner, that, the Architect has observed the progress of the Work and determined that, in the Architect's professional opinion, and the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents. Further, the issuance of the Certificate for Payment will constitute a representation by the Architect to the Owner that the Architect has, carefully evaluated and certified that the amounts requested in the Application for Payment are valid and correct and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion, and to specific qualifications expressed by the Architect in writing to the Owner. 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 unless 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. Examinations, audits, and verifications, if required by the Owner, will be performed by the Owner's accountants or other representatives of the Owner acting in the sole interest of the Owner.

§ 9.4.3 The issuance of a Certificate for Payment shall constitute a recommendation to the Owner regarding the amount to be paid. This recommendation is not binding on the Owner if Owner knows of other reasons under the Contract Documents why payment should be withheld.

#### § 9.5 Decisions to Withhold Certification

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

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;
- .7 repeated failure to carry out the Work in accordance with the Contract Documents; or

.8 failure to submit a written plan indicating action by the Contractor to regain the time schedule for completion of Work within the Contract time.

§ 9.5.2 When the Contractor disputes the Architect's decision regarding a Certificate for Payment under Section 9.5.1, in whole or in part, the Contractor 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 Notwithstanding any provision contained within this Article, if the Work has not attained Substantial Completion or Final Completion by the required dates, subject to extensions of time allowed under the Contract Documents, then Architect may withhold any further Certificate for Payment from Contractor to the extent necessary to preserve sufficient funds to complete the construction of the Project and to cover liquidated damages. The Owner shall not be deemed in default by reason of withholding payment as provided for in Sections 9.3.4, 9.4.3, 9.5.1, or this Section.

# § 9.6 Progress Payments

§ 9.6.1 After the Architect has issued a Certificate for Payment, the Owner shall make payment for undisputed amounts in the manner and within the time provided in the Contract Documents, and shall so notify the Architect. Owner shall notify Contractor within 21 days if Owner disputes the Architect's Certificate for Payment pursuant to Texas Government Code Section 2251.042 et seq., listing the specific reasons for nonpayment. Payments to the Contractor shall not be construed as releasing the Contractor or his Surety from any obligations under the Contract Documents.

§ 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. In compliance with Texas Government Code Section 2251.022, the Contractor shall, within ten (10) days following receipt of payment from the Owner, pay all bills for labor and materials performed and furnished by others in connection with the Work, and shall, if requested, provide the Owner with evidence of such payment. Contractor shall include a provision in each of its subcontracts imposing the same payment obligations on its Subcontractors as are applicable to the Contractor hereunder, and if the Owner so requests, shall provide to the Owner copies of such Subcontractors or for materials or labor used in the Work for which the Owner has made payment to the Contractor, then the Owner shall be entitled to withhold payment to the Contractor in part or in whole to the extent necessary to protect the Owner. This Section is subject to the provisions of Texas Business and Commerce Code Chapter 56.

§ 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. Any action taken by the Owner to require the Contractor to pay a Subcontractor shall not impose any liability on Owner to the Subcontractor or supplier.

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§ 9.6.5 The Contractor's payments to suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.

§ 9.6.6 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Contract Documents.

§ 9.6.7 Unless the Contractor provides the Owner with a payment bond in the full penal sum of the Contract Sum, payments received by the Contractor for Work properly performed by Subcontractors or provided by suppliers shall be held by the Contractor for those Subcontractors or suppliers who performed Work or furnished materials, or both, under contract with the Contractor for which payment was made by the Owner. Nothing contained herein shall require money to be placed in a separate account and not commingled with money of the Contractor, create any fiduciary liability or tort liability on the part of the Contractor for breach of trust, or entitle any person or entity to an award of punitive damages against the Contractor for breach of the requirements of this provision. Payments received by the Contractor from the Owner for Work properly performed by Subcontractors, or materials properly provided by suppliers, shall be held in trust by the Contractor for the benefit of those Subcontractors or suppliers who performed Work or furnished materials, or both, under contract with the Contractor, for the benefit of those Subcontractors or suppliers who performed by Subcontractors or suppliers who performed work or furnished materials, or both, under contract with the Contractor. Texas Property Code § 162.001.

§ 9.6.8 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.

§ 9.6.9 Contractor shall not withhold as a retainage a greater percentage from Subcontractors or materialmen than the percentage that Owner withheld as retainage from payments to Contractor.

#### § 9.7 Failure of Payment

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§ 9.7.1 Pursuant to Texas Government Code Section 2251.051, if the Owner does not pay the Contractor any payment certified by the Architect, which is undisputed, due, and owing after the date the payment is due under the Contract Documents, then the Contractor, upon ten (10) additional days' written notice to the Owner and Architect that payment has not been made and the Contractor intends to suspend performance for nonpayment, may stop the Work until payment of the undisputed amount owing has been received. If the Owner provides written notice to the Contractor that: 1) payment has been made; or 2) a bona fide dispute for payment exists, listing the specific reasons for nonpayment, then Contractor shall be liable for damages resulting from suspension of the Work. If a reason specified is that labor, services, or materials provided by the Contractor are not provided in compliance with the Contract Documents, then the Contractor shall be provided a reasonable opportunity to cure the noncompliance or to compensate Owner for any failure to cure the noncompliance. No amount shall be added to the Contractor's favor.

§ 9.7.2 If the Architect does not issue a Certificate for Payment within seven days after receipt of the Contractor's Application for Payment, through no fault of the Contractor, then the Contractor shall provide written notice to the Owner, and the Owner shall have fourteen (14) business days after receipt of such notice to provide or obtain a Certificate for Payment. If Owner fails to provide or obtain the Certificate for Payment, then the Contractor may, upon fourteen (14) additional business days' written notice to the Owner and Architect, stop the Work until payment of the undisputed amount owing has been received.

§ 9.7.3 If the Owner is entitled to reimbursement or payment from the Contractor under or pursuant to the Contract Documents, then 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 to Owner, pursuant to the Contract, or if the Owner incurs any costs and expenses to cure any default of the Contractor or to correct defective Work, then the Owner shall have an absolute right to offset such amount against the Contract Sum and, in the Owner's sole discretion and without waiving any other remedies, may elect either to:

.1 deduct an amount equal to that which the Owner is entitled from any payment then or thereafter due to Contractor from the Owner, or .2 issue a 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; all Project systems included in the Work or designated portion thereof have been successfully tested and are fully operational; all required governmental inspections and certifications required of the Work have been made, approved and posted; designated initial instruction of Owner's personnel in the operation of Project systems has been completed; and all the required finishes set out in the Construction Documents are in place. The only remaining Work shall be minor in nature so that the Owner can occupy the Work or the applicable portion of the Work for all of its intended purposes on that date; and the completion of the Work by the Contractor will not materially interfere with or hamper Owner's normal school operations or other intended use. As a further condition of a determination of Substantial Completion, the Contractor shall certify that all remaining Work shall be completed within 30 days. Contractor shall complete Owner's Substantial Completion Certificate.

§ 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, then the Architect shall so notify the Contractor and Owner in writing, and 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. Except with the consent of the Owner, the Architect shall perform no more than five inspections to determine whether the Work or a designated portion thereof has attained Substantial Completion in accordance with the Contract Documents. The Owner shall be entitled to reimbursement from the Contractor for amounts paid to the Architect for any additional inspections.

§ 9.8.4 When the Work or designated portion thereof is substantially complete, the Architect will prepare, sign and issue Owner's 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 Final Completion of the Work or designated portion.

§ 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.

#### § 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 agreed to by the Owner and the Contractor in writing, 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 that 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 resulting from such occupancy, use or installation, and property and liability insurance. 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. Contractor agrees that the Owner may place and install as much equipment and furnishings as is possible before completion or partial completion of portions of the Work.

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§ 9.9.3 Unless otherwise agreed upon in writing, partial occupancy or use of a portion or portions of the Work or installation of furnishings and equipment shall not constitute acceptance of Work not complying with the requirements of the Contract Documents, nor shall it constitute evidence of Substantial Completion or Final Completion.

§ 9.9.4 In the event that Owner takes partial occupancy or installs furnishings and equipment prior to Substantial Completion of the Project, Contractor shall obtain an endorsement to Contractor's Builder's Risk Policy to provide extended coverage for partial occupancy if Contractor's Builder's Risk Coverage required by Article 11 would not otherwise provide such coverage.

# § 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 prepare, sign, and issue Owner's Certificate of Final Completion and a final Certificate for Payment certifying to the Owner that, 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, including all retainages 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. Final payments shall be made by the Owner in accordance with Owner's regular schedule for payments.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect (1) using AIA Document G706, 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) evidence satisfactory to Owner that insurance required by the Contract Documents to remain in force after final payment is currently in effect, (3) a written statement that the Contractor knows of no reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) using AIA Document G707, consent of surety, if any, to final payment, (5) documentation of any special warranties, such as manufacturers' warranties or specific Subcontractor warranties, and (6) except for amounts previously withheld by the Owner, other data establishing payment or satisfaction of obligations, such as AIA Document G706A, notarized subcontractor's lien releases, 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. In addition, the following items must be completed and received by the Owner before Final Payment will be due:

- Written certifications required by Sections 10.5, 10.6, and 10.7; .1
- .2 Final list of subcontractors (AIA Document G705);
- .3 Contractor's certification in Texas Education Agency's Certification of Project Compliance, located at: www.tea.state.tx.us/school.finance/facilities/cert\_2004. pdf;
- Contractor's warranties, organized as required elsewhere in the Contract Documents; .4
- .5 Maintenance and Instruction Manuals;
- .6 Owner's Final Completion Certificate; and
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.7 "As-constructed record drawings". At the completion of the Project, the Contractor shall submit one complete set of "as-constructed" record drawings, with all changes made during construction, including concealed mechanical, electrical, and plumbing items. The Contractor shall submit these as electronic, sepia, or other acceptable medium, in the discretion of the Owner. The "as-constructed" record drawings shall delete the seal of the Architect and/or the Engineer and any reference to those firms providing professional services to the Owner, except for historical or reference purposes.

Documents identified as affidavits must be notarized. All manuals will contain an index listing the information submitted. The index section will be divided and identified by tabbing each section as listed in the index. Upon request, the Architect will furnish the Contractor with blank copies of the forms listed above. Final payment shall be paid by the Owner to the Contractor within thirty (30) days after Owner's Board of Trustees has voted to accept Final Payment.

§ 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, and it shall not constitute a waiver of Claims.

§ 9.10.4 The making of final payment shall (Paragraphs deleted) not constitute a waiver of any Claims by the Owner.

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§ 9.10.5 Acceptance of final payment by the Contractor, a Subcontractor, or a supplier, shall constitute a waiver of claims by that payee except those previously asserted pursuant to Article 15 and identified by that payee as unsettled at the time of final Application for Payment.

# ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY § 10.1 Safety Precautions and Programs

The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract and shall conform to all provisions of the "Manual of Accident Prevention in Construction", published by the Associated General Contractors of America, Inc., latest edition, and the Contractor further agrees to fully comply with all safety standards required by the Occupational Safety and Health Administration ("OSHA") 29 USC Section 651 et seq., and all amendments thereto. However, the Contractor's duties herein shall not relieve any Subcontractor or any other person or entity, including any person or entity required to comply with all applicable federal, state and local laws, rules, regulations, and ordinances, from the obligation to provide for the safety of their employees, persons, and property and their requirements to maintain a work environment free of recognized hazards. Contractor shall provide reasonable fall protection safeguards and provide approved fall protection safety equipment for use by all exposed Contractor employees.

§ 10.1.2 Contractor's employees, agents, Subcontractors, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, shall not perform any service for Owner while under the influence of any amount of alcohol or any illegal controlled substance; or use, possess, distribute, or sell alcoholic beverages while on Owner's premises. No person shall: use, possess, distribute, or sell illegal or nonprescribed controlled drugs or drug paraphernalia; misuse legitimate prescription or over-the-counter drugs; or act in contravention of warnings on medications while performing the Work or while on Owner's premises. Contractor's employees, agents, Subcontractors, or anyone directly or indirectly employed by any of them, shall not distribute or sell alcohol or drugs of any kind to Owner's students or staff, regardless of the location of the distribution or sale.

§ 10.1.3 Contractor will comply with all applicable federal, state, and local drug and alcohol-related laws and regulations (e.g., Department of Transportation regulations, Drug-Free Workplace Act). Contractor has adopted or will adopt its own policy to assure a drug-free and alcohol-free workplace while on Owner's premises or performing the Work. Contractor will remove any of its employees, agents, subcontractors, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, from performing the Work any time there is suspicion of alcohol and/or drug use, possession, or impairment involving such person, and at any time an incident occurs where drug or alcohol use could have been a contributing factor. Owner has the right to require Contractor to remove any person from performing the Work any time cause exists to suspect alcohol or drug use. In such cases, the person so removed may only be considered for return to work after the Contractor certifies, as a result of a for-cause test, conducted immediately following removal, that said person was in compliance with this Contract. Contractor will not use any person to perform the Work who fails or refuses to take, or tests positive on, any for-cause alcohol or drug test.

§ 10.1.4 Owner has also banned the presence of all weapons on the Project site, whether or not the owner thereof has a permit for a weapon, and Contractor agrees that Contractor's representatives, employees, agents, and subcontractors will abide by same. Weapons may only be permitted in Owner's parking lots if weapons are locked in personal vehicles in Owner's parking lot.

# § 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

- employees on the Work, school personnel, students, and other persons on Owner's premises, and other .1 persons who may be affected thereby, including the installation of fencing between the Work site and any connecting or adjacent property of Owner, when required by Texas Education Code Section 22.08341;
- .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
- other property at the site or adjacent thereto, such as other buildings, and other contents, fencing, trees, .3 shrubs, lawns, walks, athletic fields, facilities, and tracks, pavements, roadways, structures, and utilities not designated for removal, relocation, or replacement in the course of construction.

§ 10.2.2 The Contractor shall comply with, and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, bearing on safety of persons or property or their protection from damage, injury, or loss.

§ 10.2.3 The Contractor shall implement, erect, and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including installing fencing, 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 also be responsible, at the Contractor's sole cost and expense, for all measures necessary to protect any personal or real property adjacent to the Project and improvements therein. Any damage to such property or improvements shall be promptly repaired by the Contractor.

§ 10.2.4 When use or storage of 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 and shall only conduct such activities after giving reasonable advance written notice of the presence or use of such materials, equipment, or methods to Owner and Architect. The storage of explosives on Owner's property is prohibited. The use of explosive materials on Owner's property is prohibited unless expressly approved in advance in writing by Owner and Architect.

§ 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 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 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.

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§ 10.2.7 The Contractor shall not load or permit any part of the construction or site to be loaded so as to cause damage or create an unsafe condition.

§ 10.2.8 The Contractor shall do all things reasonably necessary to protect the Owner's premises and all persons from damage and injury when all or a portion of the Work is suspended for any reason.

§ 10.2.9 The Contractor shall promptly report in writing to the Owner and Architect all accidents arising out of or in connection with the Work which cause death, bodily injury, or property damage, giving full details and statements of any witnesses. In addition, if death, serious bodily injuries, or serious property damages are caused, then the accident shall be reported immediately by any means necessary to give actual notice to the Owner's representative and the Architect.

§ 10.2.10 Contractor's obligations under Section 10.2 as to each portion of the Project shall continue until Owner takes possession of and occupies that portion of the Project.

#### (Paragraphs deleted)

#### § 10.2.11 Injury or Damage to Person or Property

If either party to the Contract 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, written 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. Contractor understands and acknowledges that, under Texas law, Owner has sovereign and/or governmental immunity as to all torts except as to the Owner's permitted use or operation of Owner's motor vehicles, subject to any defenses under law.

#### § 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 in writing the Owner and Architect of the condition. In the event the Contractor encounters polychlorinated biphenyl (PCB), and the specifications require the PCB's removal, the Contractor shall remove the PCB and store it in marked containers at the jobsite provided by the Owner. If PCBs are found which are leaking, then Contractor shall stop work on the affected fixture and shall contact Owner for removal and disposal of the leaking PCBs.

§ 10.3.2 Upon receipt of the Contractor's written notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Contract Documents, the Owner shall furnish in writing to the Contractor and Architect the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of the material or substance or who are to perform the task of removal or safe containment of the material or substance. The Contractor and the Architect will promptly reply to the Owner in writing stating whether or not either has reasonable objection to the persons or entities proposed by the Owner. If either the Contractor or Architect has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Contractor and the Architect have no reasonable objection. The Contractor may be entitled to an equitable adjustment regarding the Date of Substantial Completion and/or Final Completion.

§ 10.3.3 IF CONTRACTOR IMPORTS HAZARDOUS MATERIALS ONTO THE PROJECT SITE, THEN CONTRACTOR HEREBY INDEMNIFIES AND HOLDS HARMLESS THE OWNER, ITS CONSULTANTS, TRUSTEES, OFFICERS, AGENTS AND EMPLOYEES, AGAINST ANY CLAIMS ARISING OUT OF OR RELATED TO SUCH IMPORTATION, INCLUDING BUT NOT LIMITED TO COSTS AND EXPENSES THE OWNER INCURS FOR REMEDIATION OF A MATERIAL OR SUBSTANCE THE CONTRACTOR BRINGS TO THE SITE, AS PROVIDED FOR IN SUBPARAGRAPH 3.18.

§ 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.

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### (Paragraphs deleted)

#### § 10.4 Emergencies

§ 10.4.1 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.

§ 10.4.2 The performance of the foregoing services by the Contractor shall not relieve the subcontractors of their responsibility for the safety of persons and property and for compliance with all federal, state and local statutes, rules, regulations and orders of any governmental authority applicable to the conduct of the Work.

#### § 10.5 ASBESTOS OR ASBESTOS-CONTAINING MATERIALS

§ 10.5.1 Contractor shall submit to the Architect a written certification addressed to the Owner that all materials used in the construction of this Project contain less than 0.10% by weight of asbestos and for which it can be demonstrated that, under reasonably foreseeable job site conditions, will not release asbestos fibers in excess of 0.1 fibers per cubic centimeter. The written certification shall further state that, should asbestos fibers be found at this Project in concentrations greater than 0.1 fibers per cubic centimeter, then Contractor shall be responsible for determining which materials contain asbestos fibers and shall take all necessary corrective action to remove those materials from the Project, at no additional cost to the Owner. The written certification shall be dated, shall reference this specific Project and shall be signed by not less than two (2) officers of the Contractor.

§ 10.5.2 Final Payment shall not be made until this written certification has been received.

#### § 10.6 LEAD-FREE MATERIAL IN POTABLE WATER SYSTEM

§ 10.6.1 Prior to payment of retainage and final payment, the Contractor and each subcontractor involved with the potable water system shall furnish a written certification that the potable water system is "lead-free".

§ 10.6.2 The written certification shall further state that should lead be found in the potable water system built under this Project, then Contractor shall be responsible for determining which materials contain lead and shall take all necessary corrective action to remove lead from the Project, at no additional cost to the Owner. The written certification shall be dated, shall reference this specific Project and shall be signed by not less than two (2) officers of the Contractor.

#### § 10.7 HAZARDOUS MATERIALS CERTIFICATION

The Contractor shall provide written certification that no materials used in the Work contain lead or asbestos materials in them in excess of amounts allowed by federal, state or local standards, laws, codes, rules and regulations; the Federal Environmental Protection Agency (EPA) standards; and/or the Federal Occupational Safety and Health Administration (OSHA) standards, whichever is most restrictive. The Contractor shall provide this written certification as part of submittals under the Section in the Project Manual related to Contract Closeout.

#### ARTICLE 11 INSURANCE AND BONDS

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§ 11.0.1 No Work will be commenced, and no equipment or materials can be shipped, until all requirements of this Article have been satisfied, satisfactory evidence of insurance has been provided, and all insurance is in full force and effect. Contractor shall notify Owner and Architect in writing of any proposed nonconformity with these requirements, and shall notify Owner and Architect in writing of any proposed nonconformity with these requirements, and shall notify Owner and Architect in writing of any insurance changes which occur during the terms required under the Contract Documents. Any deviation from these requirements can only be approved by Owner's Board of Trustees. Any nonconformity may be grounds for termination or modification of the Contract. To the extent that Contractor is unable to procure the insurance designated herein because the insurance is not reasonably available or is cost-prohibitive, then Contractor shall provide written notice to Owner's Board of Trustees. Said lack of insurance may then be grounds for termination or this Agreement.

§ 11.0.2 Satisfactory evidence of insurance required by this Article shall be provided to Owner and Architect not later than five business days after execution of the Contract by Owner. Satisfactory evidence shall include copies of all required insurance policies, declarations, and endorsements themselves. In addition, Contractor shall also provide a duly-executed ACORD Form 25 Certificate of Liability Insurance naming Owner as a certificate holder and additional insured (except as noted in Section 11.0.4) and attaching all endorsements required herein. The Contractor shall furnish Owner all insurance amendments, renewals, notices, cancellations, and additional endorsements, as they are provided to Contractor. § 11.0.3 All insurance required herein shall be obtained from a company licensed to do business in the State of Texas by the Texas Department of Insurance, and shall be underwritten by a company rated not less than "A-" X in A.M. Best's Key Rating Guide, Property-Casualty, according to the latest posted ratings available on A.M. Best's website, www.ambest.com, and that permits waivers of subrogation.

§ 11.0.4 All insurance required herein shall name the Owner, its officers, employees, representatives, or agents, as an additional insured, except Contractor's Worker's Compensation insurance.

§ 11.0.5 All insurance required herein shall, by endorsement, be primary and non-contributory insurance with respect to the Owner, its officers, employees, representatives, or agents. All insurance shall be written on an occurrence basis, if available, and shall contain a waiver of subrogation in favor of Owner as provided for in Section 11.3.

§ 11.0.6 Any failure of Contractor to comply with the reporting provisions of the policies shall not affect the coverage provided to the Owner, its officers, employees, representatives, or agents.

§ 11.0.7 All workers on the Project must be covered by the required insurance policies of the Contractor or a Subcontractor.

§ 11.0.8 Nothing contained in this Article shall limit or waive Contractor's legal or contractual responsibilities to Owner or others.

## § 11.1 Contractor's Insurance and Bonds

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§ 11.1.1 The Contractor and the Contractor's Subcontractors shall purchase and maintain such insurance as will protect them and the Owner from claims that may arise out of, or result from, the Contractor's operations under the Contract, whether such operations be by Contractor or by any Subcontractor, or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable, at a minimum, of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in this Section 11.1 in the Agreement, or elsewhere in the Contract Documents. Such insurance shall include the following:

- .1 Claims under workers' compensation, disability benefit, and other similar employee benefit acts that are applicable to the Work to be performed, including private entities performing work at the site, and exempt from the coverage on account of number of employees or occupation, which entities shall maintain voluntary compensation coverage at the same limits specified for mandatory coverage for the duration of the Project (see Exhibit A);
- .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, other than to the Work itself, 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 the Contract Documents, including under Section 3.18; and
- .9 Claims for damages to the Work itself, through builder's risk insurance, pursuant to AIA 101-2017, Exhibit A.

§ 11.1.2.1 The Contractor shall furnish separate payment and performance bonds covering faithful performance of the Contract and payment of obligations arising thereunder, each bond to be in a total amount equal to 100% of the Contract Sum or Guaranteed Maximum Price, if the Project is a Construction Manager at Risk project, whichever is applicable. Provided, however, no limitation herein shall limit Contractor's liability under the Contract Documents. Except as provided below, such bond shall be furnished to Owner before any work begins and not later than five business days after execution of the Contract by Owner. (If the Guaranteed Maximum Price is not known at the time that a Construction Manager at Risk contract is awarded, then the sum of the payment and performance bonds must each be in an amount equal to the Project budget. The Construction Manager at Risk shall deliver the bonds not later than the tenth day after the date the Construction Manager at Risk executes the Contract, unless the Construction Manager at Risk furnished a bid bond or other financial security acceptable to the Owner to the District to ensure that the Construction Manager will furnish the required payment and performance bonds when the Guaranteed Maximum Price is established.) All bonds shall be issued by a surety company licensed, listed and authorized to issue bonds in the State of Texas by the Texas Department of Insurance, and shall fully comply with Texas Insurance Code Section 3503.001 et seq. and Texas Government Code Chapter 2253, or their successors. The surety company shall have a rating of not less than "A-"X according to the latest posted ratings on the A.M. Best website, www.ambest.com. The surety company shall provide, if requested, information on bonding capacity and other projects under coverage and shall provide proof to establish adequate financial capacity for this Project. Should the bond amount be in excess of ten percent (10%) of the surety company's capital and surplus, then the surety company issuing the bond shall certify that the surety company has acquired reinsurance, in a form and amount acceptable to the Owner, to reinsure the portion of the risk that exceeds ten percent (10%) of the surety company's capital and surplus with one or more reinsurers who are duly authorized and admitted to do business in Texas and that amount reinsured by a reinsurer does not exceed ten percent (10%) of the reinsurer's capital and surplus. Contractor shall immediately notify the Owner and Architect in writing if there is any change in: the rating; insolvency or receivership in any State; bankruptcy; right to do business in the State; or status of Contractor's sureties at any time until Final Completion.

§ 11.1.2.2 The Contractor shall deliver copies of the required bonds to the Owner and Architect not later than five business days after execution of the Contract by Owner. All bonds will be reviewed by the Architect for compliance with the Contract Documents. In the event that the Architect has any questions concerning the sufficiency of the bonds, the bonds will be referred to the Owner or the Owner's Representative with Architect's recommendation.

§ 11.1.2.3 All bonds shall be originals. The Contractor shall require the attorney-in-fact who executes the required Bonds on behalf of the Surety to affix thereto a certified and current copy of the power-of-attorney. The name, address, and telephone number of a contact person for the bonding company shall be provided.

§ 11.1.2.4 Bonds shall guarantee the faithful performance of all of the covenants, stipulations, and agreements of the Contract. Bonds shall be signed by an agent, resident in the State of Texas. If at any time during the continuance of the Contract, the Owner determines that the Contractor is unable to complete the Work in accordance with the Contract Documents, any of the Contractor's bonds become insufficient, the surety becomes insolvent, or the surety's rating drops below the required level, then the Owner shall have the right to require from the Contractor additional and sufficient sureties or other security acceptable to the Owner, which the Contractor shall furnish to the satisfaction of the Owner within ten (10) days after notice to do so. These contractual remedies are in addition to all remedies available by law. In default thereof, all payment or money due to the Contractor may be withheld until the Contractor provides additional surety or security.

#### (Paragraph deleted)

§ 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 knows or should know of an impending or actual cancellation of any insurance required by the Contract Documents, the Contractor shall provide written notice to the Owner of such impending or actual cancellation. Upon receipt of written 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 written notice by the Contractor shall not relieve the Contractor of any contractual obligation to provide any required coverage. At least 30 calendar days prior

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# impending expiration.

to the date of expiration of any policy required by Section 11.1, Contractor shall provide Owner written notice of the

# § 11.2 Owner's Insurance

§ 11.2.0 Wher's Insurance § 11.2.1 The Owner shall be responsible for purchasing and maintaining property and casualty insurance no later than the date of Substantial be responsible for purchasing and maintaining property and casualty insurance no later than the date of Substantial Completion and such date of Owner responsibility shall be documented in the Certificate of Substantial Completion and such date of Owner responsibility shall be documented in the Certificate of Substantial Completed portion of the Work at any Substantial Completion and such date of Owner responsibility shall be documented in the Certificate of Substantial Completion. If Owner occupies or uses any completed or partially-completed portion of the Work at any stage, then such a such a stage of the burthe insurer and authorized by public authorities having stage, then such occupancy or use must be consented to by the insurer and authorized by public authorities having jurisdiction over the upancy or use must be consented to by the insurer and authorized by public authorities having

jurisdiction over the Work. To the extent of overlap between Owner's property insurance and Contractor's builder's risk insurance if risk insurance, if any, Contactor's builder's risk shall be primary and non-contributory.

§ 11.2.2 Partial occupancy or use shall not commence until the insurance company providing this insurance has consented in writing providing the state of the st consented in writing, by endorsement or otherwise. Owner and Contractor shall take reasonable steps to obtain such consent and shall take consent and shall take no action without written mutual consent that would cause cancellation, lapse, or reduction of

## (Paragraphs deleted) § 11.3 Waivers of Subrogation

§ 11.3.1 All insurance required herein shall contain a waiver of subrogation in favor of Owner on all claims arising out of the Project. The neuronal claims arising out a subrogation by endorsement or otherwise. The Contractor of the Project. The policies shall provide such waivers of subrogation by endorsement or otherwise. The Contractor shall require similar policies shall provide such waivers of subrogation by endorsement or otherwise. The Contractor from the subcontractors and sub-subcontractors. The shall require similar written waivers in favor of the Owner, from the subcontractors and sub-subcontractors. The policies of insurance written waivers in favor of the Owner, from the subcontractors and sub-subcontractors. The policies of insurance purchased and maintained by Contractor pursuant to this section 11.3.1 shall not prohibit this waiver of subrogation

§ 11.3.2 The Owner, as fiduciary, shall have power to adjust and settle any loss arising out of the Work with insurers, regardless of the puret. The Contractor upon receipt of proceeds shall, as a fiduciary, pay regardless of the purchaser of the insurance policy. The Contractor upon receipt of proceeds shall, as a fiduciary, pay all subcontractors their all subcontractors their just shares of insurance proceeds received by the Contractor, and by appropriate agreements shall require subcontractors. The Owner shall deposit shall require subcontractors their just shares of insurance proceeds received by the Contractor, and by appropriate agreement as the in a separate account actors to make payment to their sub-subcontractors in similar manner. The Owner shall deposit in a separate account actors to make payment to the Owner shall distribute in accordance with such agreement as the in a separate account proceeds so received, which the Owner shall distribute in accordance with such agreement as the parties in interest matter proceeds so received, which the Owner shall distribute in accordance with such agreement as the parties in interest may reach. If after such loss no other special agreement is made and unless the Owner terminates the Contract for convenience. If after such loss no other special agreement is made and unless the Contractor with the insurance Contract for convenience, replacement of damaged property shall be performed by the Contractor with the insurance proceeds upon issuance of a Notice to Proceed from the Owner. § 11.3.3 Partial occupancy or use shall not commence until the insurance company providing this insurance has consented in writing by consented in writing, by endorsement or otherwise. Owner and Contractor shall take reasonable steps to obtain such consent and shall take and

consent and shall take no action without written mutual consent that would cause cancellation, lapse, or reduction of

## (Paragraphs deleted)

§ 11.4 Loss of Use and Business Interruption

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The Owner, at the Owner's option, may purchase and maintain insurance that will protect the Owner against loss of use of the Owner's property option, may purchase and maintain insurance that will protect the Owner against loss of the Owner's property option, may purchase and maintain insurance that will protect the Owner against loss of the Owner's property option, may purchase and maintain insurance that will protect the Owner against loss of the Owner's property option. use of the Owner's option, may purchase and maintain insurance that will protect the Owner against use of the Owner's property, or the inability to conduct normal operations, due to fire or other causes of loss. \$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 of the property insurance required by the insureds, as their interests may appear, subject to fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear, subject to requirements of Section 11, to the Owner as fiduciary the Architect and Contractor their just shares of insurance requirements of Section 11.5.2. The Owner shall pay the Architect and Contractor their just shares of insurance proceeds received by the Contractor shall make payments the Architect and Contractor shall make payments 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 and Architect of the terms of the proposed settlement as well proposed settlement of an insured loss, the Owner shall notify the Contractor and Architect of the terms of shall have 14 days from the proposed allocation of the insurance proceeds. The Contractor and the Architect shall have 14 days from receipt of notice to object to the proposed settlement or allocation of the proceeds. If the Contractor and/or the A robit Contractor and/or the Architect do not object, the Owner shall settle the loss and the Contractor and Architect shall be bound by the settlement and architect do not object, the Owner shall deposit the insurance proceeds in a separate bound by the settlement and allocation. Upon receipt, the Owner shall settle the loss and the Contractor and Architect shall account and make the approximation. 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 Ala Document A201\* 2017. Copyright © 1911, 1915, 1918, 1925, 1937, 1951, 1958, 1961, 1963, 1966, 1970, 1976, 1987, 1997, 2007 and 2017 by The registered trademarks and many All rights reserved. The "American Institute of Architects." "AlA" the AlA Long. "A201" and "AlA Contract Documents" are No. 1936672280...... 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 and/or Architect timely object to either the terms of the proposed settlement or the allocation of the proceeds, the Owner may proceed to settle the insured loss, and any dispute between the Owner and Contractor arising out of the settlement or allocation of the proceeds shall be resolved pursuant to Article 15. Pending resolution of any dispute, the Owner may issue a Construction Change Directive for the reconstruction of the damaged or destroyed Work.

#### ARTICLE 12 UNCOVERING AND CORRECTION OF WORK

## § 12.1 Uncovering of Work

§ 12.1.1 If a portion of the Work is covered contrary to the Architect's or Owner's request or to requirements specifically expressed in the Contract Documents, it must, if requested in writing by the Architect, or Owner 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 or Owner 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 may be entitled to an equitable adjustment to the Contract Sum and Contract Time as may be appropriate. If such Work is not in accordance with the Contract Documents, the costs of uncovering the Work, and the cost of correction, shall be at the Contractor's expense.

#### § 12.2 Correction of Work

#### § 12.2.1 Before Substantial Completion

The Contractor shall promptly correct Work rejected by the Architect or Work failing to conform to the requirements of the Contract Documents, discovered before Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Architect's services and expenses made necessary thereby, shall be at the Contractor's expense.

§ 12.2.1.1 The Owner may make emergency repairs to the Work or take such other measures necessary under the circumstances, if the Contractor does not promptly respond to a notice of defect or nonconforming Work. Contractor shall be responsible to Owner for this cost if the reason for the repairs is attributable to the Contractor. If payments then or thereafter due to the Contractor are not sufficient to cover such costs, then the Contractor shall pay the difference to the Owner on demand.

### § 12.2.2 After Substantial Completion

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§ 12.2.2.1 In addition to the Contractor's obligations under Section 3.5, if, within one year after the date of Substantial Completion of the Work or designated portion thereof, or 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 written 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 written notice promptly after discovery of the condition. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of written notice from the Owner or Architect, the Owner may correct the Work as provided in 12.2.2.1.1. Nothing contained in this Section 12.2 is intended to limit or modify any obligations under the law or under the Contract Documents, including any warranty obligations, expressed or implied

§ 12.2.2.1.1 If the Contractor fails to perform the corrective Work, then Owner may perform corrective Work, at Contractor's cost. If Owner performs corrective Work, then Owner may also remove nonconforming Work and store the salvageable materials or equipment at Contractor's expense. If the Contractor does not pay all costs incurred by Owner within ten (10) days after written notice, then Owner may, upon ten (10) additional days' written notice, sell the removed materials and equipment in accordance with Owner's policies, and shall account for the proceeds thereof, after deducting costs and damages that should have been borne by the Contractor, including compensation for the Architect's services and expenses made necessary thereby. If such proceeds of sale do not cover costs which the Contractor should have borne, then the Contractor shall pay the difference to the Owner.

§ 12.2.2.2 The one-year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual completion of that portion of the Work

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§ 12.2.2.3 The one-year period for correction of Work shall be extended by corrective Work performed by the Contractor pursuant to this Section 12.2, but only as to the corrected Work..

§ 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 by 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.

§ 12.2.6 Contractor shall replace, repair, or restore any parts of the Project or furniture, fixtures, equipment, or other items placed therein (whether by Owner or any other party) that are destroyed or damaged by any such parts of the Work that do not conform to the requirements of the Contract Documents or by defects in the Work.

§ 12.2.7 The provisions of this Section 12.2 apply to Work done by Subcontractors of the Contractor as well as Work done directly by employees of the Contractor. The provision for this Section 12.2.7 shall not apply to corrective work attributable solely to the acts or omissions of any separate contractor of Owner (unless Contractor is acting in such capacities). The cost to Contractor of performing any of its obligations under this Section 12.2.7 to the extent not covered by insurance shall be borne by Contractor.

§ 12.2.8 If, however, Owner and Contractor deem it inexpedient to require the correction of Work damaged or not done in accordance with the Contract Documents, then an equitable deduction from the Contract Sum shall be made by written agreement between Contractor and Owner. Until such settlement, Owner may withhold such sums as Owner deems just and reasonable from moneys, if any, due Contractor. The settlement shall not be unreasonably delayed by the Owner and the amount of money withheld shall be based on estimated actual cost of the correction to Owner.

#### § 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

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The Contract shall be governed by the laws of the State of Texas, and any litigation shall be conducted in state district court. Mandatory and exclusive venue for any disputes shall be in the county in which the Project is located.

#### § 13.2 Successors and Assigns

§ 13.2.1 The Owner and Contractor respectively bind themselves, their partners, successors, assigns, and legal representatives the other party hereto and to partners, successors, assigns and legal representatives of such other party in respect to covenants, agreements, and obligations contained in the Contract Documents. Neither party to the Contract shall assign the Contract, in whole or in part 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 invalidity of any part or provision of the Contract Documents shall not impair or affect in any manner whatsoever the validity, enforceability, or effect of the remainder of the Contact Documents.

#### § 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 or Architect 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 at appropriate times as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules, and regulations or lawful orders of public authorities having jurisdiction. 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 which shall be included in the Cost of the Work. Provided, however, per Texas Government Code Chapter 2269, Owner shall bear all costs of construction materials engineering, testing and inspection services, and the verification testing services necessary for acceptance of the facility by the Owner. The Contractor shall give the Architect timely written 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.

§ 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 Owner shall provide or contract for such additional testing, inspection, or approval. Such costs, except as provided in Section 13.4.3, shall be at the Owner's expense. Architect, Owner and Contractor shall cooperate for the timely scheduling of such tests and inspections.

§ 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, but not limited to, 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, with a copy to the Owner.

§ 13.4.5 If the Architect is to observe tests, inspections, or approvals required by the Contract Documents, the Architect will do so promptly and, where practicable, at the normal place of testing.

§ 13.4.6 Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

#### § 13.5 Interest

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Undisputed payments over due and unpaid under the Contract Documents shall bear interest from the date payment is due at the rate as provided by Texas Government Code Section 2251.025. Any such payment shall be deemed overdue on the thirty-first day after Owner received Architect's invoice or Contractor's completed Application for Payment for the Architect, whichever is later, if Owner's Board of Trustees meets more than once per month. Any such payment shall be deemed overdue on the forty-sixth day after Owner receives Architect's invoice or Contractor's Certificate for Payment from the Architect, if Owner's Board of Trustees meets once a month or less frequently. No interest shall be due on sums properly retained by Owner, except as provided by law, or on disputed sums unpaid by Owner.

#### § 13.6 EQUAL OPPORTUNITY IN EMPLOYMENT

§ 13.6.1 The Contractor and the Contractor's Subcontractors shall not discriminate against any employee or applicant for employment because of race, religion, age, disability, sex, or national origin, or any class otherwise protected by District policy or law. The Contractor agrees to post in conspicuous places, available to employees and applicants, notices setting forth the Contractor's nondiscrimination policies. § 13.6.2 The Contractor and the Contractor's Subcontractors shall, in all solicitations or advertisements for employees placed by them or on their behalf, state that all qualified applicants will receive consideration for employment without regard to race, religion, age, disability, sex, national origin, or any class otherwise protected by District policy or law.

#### § 13.7 RECORDS

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§ 13.7.1 Contractor shall at all times through the date of Final Completion, maintain Job Records, including, but not limited to, invoices, Construction Documents, payment records, payroll records, daily reports, diaries, logs, instructions, drawings, receipts, subcontracts, purchase orders, vouchers, memoranda, other financial data and job meeting minutes applicable to the Project, in a manner which maintains the integrity of the documents. Job Records must be retained by Contractor for at least twelve (12) years after the date of Final Completion of the Project. Within 10 days of Owner's request, Contractor shall make such Job Records available for inspection, copying and auditing by the Owner, Architect or their respective representatives, at Owner's central office.

§ 13.7.2 If Contractor is a Construction Manager at Risk, then Contractor shall also maintain, in accordance with the provisions of Section 13.7.1, the following: subcontract files, including proposals of successful and unsuccessful bidders, bid recaps and subcontractor payments; original estimates; estimating work sheets; general ledger entries detailing cash and trade discounts received; insurance rebates and dividends; and any other supporting evidence deemed necessary by the Owner to substantiate charges related to the Contract.

§ 13.7.3 Contractor shall keep a full and detailed financial accounting system and shall exercise such controls as may be necessary for proper financial management under this Contract; the accounting and control systems shall be satisfactory to the Owner and shall be subject to the provisions of Section 13.7.1.

§ 13.7.4 Contractor shall keep all Contract Documents related to the Project, subject to the provisions of Section 13.79.1, provided, however, Contractor shall not destroy said documents until Contractor has confirmed with Owner in writing that Owner has obtained a copy of all as-built drawings.

§ 13.7.5 In the event that an audit by the Owner reveals any errors/overpayments by the Owner, then the Contractor shall refund to the Owner the full amount of such overpayments within thirty (30) days of such audit findings, or the Owner, at its option, reserves the right to deduct such amounts owed to the Owner from any payments due to the Contractor.

#### § 13.8 PROPRIETARY INTERESTS AND CONFIDENTIAL INFORMATION

§ 13.8.1 Neither Architect nor Contractor shall use the image or likeness of Owner's Project or Owner's official logo or emblem and any other trademark, service mark, or copyrighted or otherwise protected information of Owner, without Owner's prior written consent. Contractor and Architect shall not have any authority to advertise or claim that Owner endorses Architect or Contractor's services, without Owner's prior written consent.

§ 13.8.2 Neither Architect nor Contractor shall disclose any confidential information of Owner which comes into the possession of Architect or Contractor at any time during the Project, including but not limited to: pending real estate purchases, exchange, lease, or value; information related to litigation; the location and deployment of security devices; security access codes; student likenesses; student record information; employee information; or any other information deemed confidential by law.

§ 13.8.3 The parties acknowledge that, as a public entity in the State of Texas, Owner is subject to, and must comply with, the provisions of the Texas Public Information Act, Texas Government Code Section 552.001, et seq., and the Texas Open Meetings Act, Texas Government Code, Section 551.001, et seq.

### 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 ninety (90) consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, for any of the following reasons:

 Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;

- .2 An act of government, such as a declaration of national emergency, that requires all Work to be stopped; or
- .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 of undisputed sums due on an approved Certificate for Payment within the time stated in the Contract Documents.

§ 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 then, after the applicable time period, the Contractor may, upon ten (10) days' written notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work executed, and for proven unrecoverable loss with respect to materials, equipment, tools, and construction equipment and machinery incurred to the date of termination.

§ 14.1.4 If the Work is stopped for a period of ninety (90) 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 twenty (20) additional days' written notice to the Owner and the Architect, terminate the Contract and recover from the Owner as provided in Section 14.1.3.

#### § 14.2 Termination by the Owner for Cause

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- § 14.2.1 The Owner may terminate the Contract if the Contractor
  - .1 repeatedly refuses or fails to supply enough properly skilled workers or proper materials;
  - .2 fails to make payment to Subcontractors or Suppliers in accordance with the respective agreements between the Contractor and the Subcontractors or Suppliers;
  - repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful
    orders of a public authority;
  - .4 otherwise is guilty of substantial breach of a provision of the Contract Documents;
  - .5 fails to furnish the Owner, upon written request, with assurances satisfactory to the Owner, evidencing the Contractor's ability to complete the Work in compliance with all the requirements of the Contract Documents;
  - .6 engages in serious or repeated worker misconduct in violation of Article 3.3.2;
  - .7 engages in conduct that would constitute a violation of state or federal criminal law, including but not limited to, the laws prohibiting certain gifts to public servants, or engages in conduct that would constitute a violation of the Owner's ethics or conflict of interest policies; or
  - .8 fails to proceed continuously and diligently with the construction and completion of the Work, except as permitted under the Contract Documents.

§ 14.2.2 When any of the reasons described in Section 14.2.1 exist, subject to any prior rights of the surety, 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. Any further payment shall be limited to amounts earned to the date of termination. § 14.2.4 If the costs of finishing the Work, including compensation for the Architects' services and expenses made necessary thereby, and other damages incurred by the Owner and not expressly waived, exceed the unpaid balance of the Contract Sum or Guaranteed Maximum Price, (if the Project is a Construction Manager at Risk project), then the Contractor and/or its Surety shall pay the difference to the Owner. The amount to be paid to the Owner shall be certified by Architect upon application. The obligation for payment shall survive termination of the Contract.

§ 14.2.5 The parties hereby agree that: 1) if an order for relief is entered on behalf of the Contractor, pursuant to Chapter 11 of the U.S. Bankruptcy Code; 2) if any other similar order is entered under any debtor relief laws; 3) if Contractor makes an assignment for the benefit of one or more of its creditors; 4) if a receiver is appointed for the benefit of its creditors; or 5) if a receiver is appointed on account of its insolvency, any such event could impair or frustrate Contractor's performance of the Contract Documents. Accordingly, it is agreed that upon occurrence of any such event, Owner shall be entitled to request of Contractor or its successor in interest adequate assurance of future performance in accordance with the terms and conditions of the Contract Documents. Failure to comply with such request within ten (10) days of delivery of the request shall entitle Owner to terminate the Contract and to the accompanying rights set forth in Subparagraphs 14.2.1 through 14.2.6. In all events, pending receipt of adequate assurance of performance and actual performance in accordance with the Contract Documents, Owner shall be entitled to proceed with the Work with Owner's own forces or with other Contractors on a time and material or other appropriate basis, the cost of which will be charged against the Contract Sum.

§ 14.2.6 As required by Texas Government Code Chapter 2253, if a Performance Bond has been furnished and the Contractor is declared by the Owner to be in default under the Contract, then the Surety shall promptly perform the Work, in full accordance with the plans, specifications and Contract Documents. Unless otherwise agreed in writing between the Surety and the Owner, the Surety shall complete the Work by the Surety entering into a Contract acceptable to Owner, with a Contractor acceptable to Owner, and shall obtain new Payment and Performance Bonds as required by law.

#### § 14.3 Suspension by the Owner for Convenience

§ 14.3.1 The Owner may, without cause, order the Contractor in writing to suspend, delay or interrupt the Work, in whole or in part for such period of time as the Owner may determine.

§ 14.3.2 The Contract Sum, Guaranteed Maximum Price, and Contract Time may be adjusted, by mutual written agreement, for increases in the cost and time caused by suspension, delay, or interruption under Section 14.3.1. No adjustment shall be made to the extent

- .1 that performance is, was, or would have been, so suspended, delayed, or interrupted, by another cause for which the Contractor is responsible; or
- .2 that an equitable adjustment is made or denied under another provision of the Contract.

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

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§ 14.4.1 The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause. Furthermore, if this Contract is a multi-year contract funded through Owner's current general funds that are not bond funds, then the Owner's Board of Trustees has the right to not appropriate adequate monies for the next fiscal year and to terminate this Contract at the end of each fiscal year during the term of the Contract, without the Owner incurring any further liability to Contractor as a result of such termination.

§ 14.4.2 Upon receipt of written notice from the Owner of such termination for the Owner's convenience, the Contractor shall

- .1 cease operations as directed by the Owner in the notice;
- .2 take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and
- .3 except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.

§ 14.4.3 In case of such termination for the Owner's convenience, the Owner shall pay the Contractor for Work properly executed and for proven unrecoverable loss with respect to materials, equipment, tools, and construction equipment and machinery incurred to the date of termination. Such payment shall not cause the Contract Sum, or Guaranteed Maximum Price, if the Project is a Construction Manager at Risk Project, to be exceeded. Such payment shall not include overhead and profit for Work not executed.

§ 14.4.4 Upon determination by a Court of competent jurisdiction that termination of the Contractor pursuant to Section 14.2 was wrongful, such termination will be deemed converted to a termination for convenience pursuant to Section 14.4, and Contractor's remedy for wrongful termination shall be limited to the recovery of the payments permitted for termination for convenience as set forth in Section 14.4.

#### ARTICLE 15 CLAIMS AND DISPUTES OF CONTRACTOR

#### § 15.1 Claims

#### § 15.1.1 Definition

A Claim is a demand or assertion by the Contractor seeking, as a matter of right, payment of additional compensation under the Contract Documents, interpretation of the Contract Document terms, a change in the Contract Time, or other relief with respect to the terms of the Contract. The responsibility to substantiate Claims shall rest with the Contractor. 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.

#### (Paragraphs deleted)

### § 15.1.2 Time Limits on Litigation

The Owner and Contractor shall commence all litigation, whether in contract, tort, breach of warranty or otherwise, in accordance with the requirements of the dispute resolution method selected in the Agreement and within the period specified by applicable law, but in the case of the Owner not more than twelve (12) years after the date of Final Completion of the Work. The Owner and Contractor waive all 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 the 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 written notice to the Owner party and to the Architect. Claims by Contractor under this Section 15.1.3.1 must be initiated within 21 calendar days after occurrence of the event giving rise to such Claim or within 21 calendar days after the Contractor first knew or should have known the condition giving rise to the Claim, whichever is earlier. Claims must be initiated by written notice titled "Notice of Claim" ("Notice") and sent to the Architect and Owner's designated representatives. The Notice shall clearly set out the specific matter of complaint, and the impact which may occur or have occurred as a result thereof, to the extent that the impact can be assessed at the time of the Notice. If the impact cannot be assessed as of the date of the Notice then the Notice shall be amended at the earliest date that is reasonably possible. It is imperative that Owner receive timely specific Notice of any potential problem identified by Contractor in order that the problem can be mitigated or resolved promptly.

§ 15.1.3.2 Claims by the 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 written notice to the other party. In such event, no decision by the Initial Decision Maker is required.

### § 15.1.4 Continuing Contract Performance

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§ 15.1.4.1 Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7, as amended, and Article 14, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make undisputed payments for Work performed in accordance with the Contract Documents.

§ 15.1.4.2 The Contract Sum and Contract Time shall be adjusted in accordance with the Initial Decision Maker's decision, subject to the right of either party to proceed in accordance with this Article 15. The Architect will issue Certificates for Payment in accordance with the decision of the Initial Decision Maker.

### § 15.1.5 Claims for Additional Cost or an Increase in the Contract Sum or Guaranteed Maximum Price

If the Contractor wishes to make a Claim for additional cost or an increase in the Contract Sum, or Guaranteed Maximum Price, written notice as provided in Section 15.1.3 shall be given to Owner and Architect. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4. The Architect will promptly investigate such Claim and report findings and a recommended resolution in writing to the Owner and Contractor. If the Claim is approved by Owner's Board of Trustees, or Owner's representative if provided for herein, then Contractor shall proceed with the execution of the Work that is the subject matter of the Claim. If the Claim is rejected by the Owner, then Contractor may pursue alternative dispute resolution as provided for in the Contract Documents.

#### § 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 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 prevented the execution of major items of work on normal working days. "Adverse weather conditions" means unusually severe weather which is beyond the normal weather recorded and expected for the locality and/or the season or seasons of the year..

§ 15.1.6.3 The Contractor shall anticipate and include in the construction schedule rain days due to adverse weather conditions in accordance with the rainfall table below. A rain day is defined as a day when rainfall exceeds one-half (.5) inch during a 24-hour period. The number of rain days expected for each month is as follows:

Note: Prior to the execution of the Contract, Owner shall fill in the blanks below:

January	[] calendar days	July	[] calendar days
February	[] calendar days	August	[] calendar days
March	[] calendar days	September	[] calendar days
April	[] calendar days	October	[] calendar days
May	[] calendar days	November	[] calendar days
June	[] calendar days	December	[] calendar days

§ 15.1.6.4 Time extensions may be granted for rain days in any month when the cumulative number of rain days during that month exceeds the number scheduled, provided that the rainfall prevented the execution of major items of work on normal working days. No day will be counted as a rain day when substantial Contractor forces are able to perform Work on the Project for more than fifty percent (50%) of the usual workday or when the stage of the Work on the Project is not adversely impacted. The number of rain days shown in the above schedule for the first and last months of the Contract will be prorated in determining the total number of rain days expected during the period of the Contract.

§ 15.1.6.5 No extension of time shall be made to the Contractor because of hindrances or delays from any cause which is the fault of Contractor or Contractor's Subcontractors or under Contractor's control. Claims for extension of time may only be considered because of rain delays, or because of hindrances or delays which are the fault of Owner and/or under Owner's control, but only to the extent that Substantial Completion of the Project is adjusted beyond the original Substantial Completion date. Only claims for extension of time shall be considered because of hindrances or delays not the fault of either Contractor or Owner, but only to the extent that Substantial Completion of the Project exceeds the Substantial Completion date established for the Work. Board approval shall be required for any extension of time. No damages shall be paid for delays. Contractor shall only be entitled to time extensions per the terms of the Contract Documents.

§ 15.1.6.6 Requests for time extension shall be submitted on a monthly basis and shall specify the time delay, the cause of the delay, and the responsible party for the delay, whether Contractor, Owner, rain day, or other. No claims for damages for delay shall be made by Contractor. Any claim not submitted under the terms of this Section shall be waived.

### § 15.1.7 Waiver of Claims for Consequential Damages

The Contractor waives all Claims against Owner other for consequential damages arising out of or relating to this (Paragraphs deleted)

Contract, including, but not limited to, any amount owed as compensation for the increased cost to perform the Work as a direct result of Owner-caused delays or acceleration. 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.

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#### § 15.2 Resolution of Claims and Disputes

§ 15.2.1 Claims by the Contractor against the Owner, including those alleging an error or omission by the Architect, shall be referred initially to the Architect for written recommendation. An initial recommendation by the Architect shall be required as a condition precedent to mediation or litigation of all Claims by the Contractor arising prior to the date final payment is due, unless 30 days have passed after the Claim has been referred to the Architect with no recommendation having been rendered by the Architect.

§ 15.2.2 The Architect shall review Claims and within ten days of the receipt of the Claim take one of the following actions: (1) request additional supporting data from the Contractor, or (2) make a written recommendation to the Owner, with a copy to the Contractor.

§ 15.2.3 In evaluating Claims, the Architect 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 Architect in making a written recommendation.

§ 15.2.4 If the Architect 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 provide a response on the requested supporting data, advise the Architect when the response or supporting data will be furnished, or advise the Architect that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Initial Decision Maker will either reject or approve the Claim in whole or in part.

§ 15.2.5 Following receipt of the Architect's written recommendation regarding a Claim, the Owner and Contractor shall attempt to reach agreement as to any adjustment to the Contract Sum or Guaranteed Maximum Price and/or Contract Time. If no agreement can be reached, then either party may request mediation of the dispute pursuant to Section 15.3.

§ 15.2.6 Upon receipt of a Claim against the Contractor or at any time thereafter, the Architect or 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 Architect or the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

#### (Paragraphs deleted)

#### § 15.3 Alternative Dispute Resolution

§ 15.3.1 Any Claim arising out of or related to the Contract, except Claims relating to aesthetic effect and except those waived under the terms of the Contract Documents, shall, after written recommendation by the Architect or 30 days after submission of the Claim to the Architect, be subject to mediation at the request of either party. Owner and Contractor expressly agree that mediation shall be a condition precedent to the initiation of any litigation arising out of such Claims. Claims for injunctive relief shall not be subject to this Section.

§ 15.3.2 The parties shall endeavor to resolve their Claims by mediation. Requests for mediation shall be filed in writing with the other party to the Contract. Mediation shall be subject to and in accordance with Chapter 154 of the Texas Civil Practice & Remedies Code. Mediation shall be conducted by a mutually-agreed-upon mediator. In the event that the parties are unable to agree on a mediator, then the parties shall jointly request the appointment of a neutral mediator by a District Judge in the county in which the Project is located.

§ 15.3.3 The parties shall share the mediator's fee equally and, if any filing fee is required, shall share said fee equally. Mediation shall be held within the county where the Owner's main administrative office is located, unless another location is mutually agreed upon by the parties. Agreements reached in mediation shall be reduced to writing, considered for approval by the Owner's Board of Trustees, signed by the parties if approved by the Board of Trustees, and, if signed, shall thereafter be enforceable as provided by the laws of the State of Texas.

§ 15.3.4 Any claim not resolved in mediation shall be subject to litigation pursuant to Section 13.1.

#### (Paragraph deleted)

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#### § 15.4 No Arbitration

§ 15.4.1 Notwithstanding anything to the contrary in the Contract Documents or in any document forming a part hereof, there shall be no mandatory arbitration for any dispute arising hereunder.

§ 15.5 Contractor stipulates that Owner is a political subdivision of the State of Texas, and, as such, enjoys immunities from suit and liability provided by the Constitution and laws of the State of Texas. By entering into this Agreement, Owner does not waive any of its immunities from suit and/or liability, except as otherwise specifically provided herein and as specifically authorized by law.

§ 15.6 In any adjudication under this Agreement, reasonable and necessary attorneys' fees may be awarded to the prevailing party.

EXECUTED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

OWNER:

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CONTRACTOR:

Dr. JoAnn Fey, Superintendent Midlothian Independent School District

## 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.

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### PAGE 1

Midlothian ISD District Wide Safety and Security Upgrades

...

(Name, legal status and address)

Midlothian Independent School District 100 Walter Stephenson Road Midlothian, TX 76065 Phone: (469) 856-5000

...

THE ARCHITECT: (Name, legal status and address)

Orcutt Winslow 222 West Las Colinas Blvd. Suite 749e Irving, Texas 75039 THE CONTRACTOR: 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), all sections of the Project Manual and Construction Documents (as defined in §1.1.3 below) including 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 Contract Documents herein shall include the <u>Construction Documents</u>. Any reference to Contract Documents herein shall include the <u>Construction Documents</u>, and any other documents included in the Contract Documents, as amended and/or supplemented for this Project.

§ 1.1.1 The Agreement, represents the entire and integrated agreement between the Owner and the Contractor and supersedes all prior negotiations, representations or agreements, either written or oral. Any revision, amendment, or modification to the Standard Form of the Agreement shall be valid, binding, and enforceable only if said revision, amendment or modification is made conspicuous by being underlined, lined-through, or highlighted in this Agreement signed by Contractor and the authorized representative of Owner's Board of Trustees. In the event of conflict, terms

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and conditions contained in the Agreement, shall take precedence over terms and conditions contained in the General Conditions, and the terms and conditions in the General Conditions, shall take precedence over all other terms and conditions contained in the other Contract Documents. If the Request for Proposals and the Proposal are included in the Contract Documents, then the Request for Proposals shall take precedence over the Proposal, unless specifically agreed otherwise herein.

...

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.written Modification signed by Contractor, approved by Owner's Board of Trustees, and signed by the representative of the Owner's Board of Trustees who is authorized to sign contracts. As a material consideration for the making of the Contract, modifications to the Contract shall not be construed against the maker of said modifications. 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 To be effective, all Contract Documents requiring signatures must be signed first by the Contractor and then by the Owner's authorized representative, after approval by Owner's Board of Trustees. If an approved Contract Document requiring Contractor's signature has not been signed, then the missing signature shall be provided within a reasonable period of time. Failure of Contractor to sign an approved Contract Document after notice and a reasonable opportunity to sign shall be considered a material breach of the Contract by Contractor.

## § 1.1.3 The Work

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

#### § 1.1.3 The Work; Construction Documents

The term "Work" means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment, and services provided or to be provided by the Contractor to fulfill the Contractor's obligations. The Work may constitute the whole or a part of the Project. The Work includes all of Contractor's responsibilities as to all labor, parts, supplies, skill, supervision, transportation services, storage requirements, and other facilities and things necessary, proper or incidental to the carrying out and completion of the terms of the Contract Documents and the Construction Documents and all other items of cost or value needed to produce, construct and fully complete the public Work identified by the Contract Documents and the Construction Documents. "Construction Documents" means: all Drawings, Specifications, geotechnical reports, Addenda, submittals, transmittals, deliverables, instructions to Contractors, and other documents, including those in electronic form, prepared by the Architect and the Architect's consultants and which set forth in detail the requirements for construction of the Project. The Construction Documents shall include Drawings and Specifications that establish in detail the quality levels of materials and systems required for the Project. The Construction Documents shall reflect all agreements between Owner and Architect concerning Owner's budgetary constraints, programmatic needs and expectations as to quality, functionality of systems, maintenance costs, and usable life of equipment and facilities. Said Construction Documents shall reflect the Owner's educational program and educational specifications, the State educational adequacy standards in 19 TAC Section 61.1036 and the standards set forth in Section 3.1.4 of AIA Document B101-2017. The Architect shall provide Construction Documents which are sufficient for Owner to complete construction of the Project, are free from material defects or omissions, and which shall comply with all applicable laws, ordinances, codes, rules, and regulations, as of the date of issuance of Construction Documents.

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#### § 1.1.7 Instruments of Service

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

#### § 1.1.8 Initial Decision Maker

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

#### § 1.1.7 Construction Documents

Construction Documents include 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 Addenda.

Addenda are written or graphic instruments issued prior to the execution of the Contract, which modify or interpret the bidding or proposal documents, including Drawings and Specifications, by additions, deletions, clarifications, or corrections. Addenda will become part of the Contract Documents and Construction Documents when the Agreement is executed. The Contractor and subcontractors shall include all addenda items on their copies of the Drawings and Specifications.

§ 1.1.9 All references to "Contractor" shall include "Construction Manager at Risk" as appropriate.

§ 1.1.10 The Owner may retain Program Manager(s) to carry out some of the functions of the administration of the Owner's construction program. The Contractor, Architect, and Program Manager (when applicable) shall cooperate with each other in the performance of their respective functions. The management and reporting systems used by the Owner and/or Program Manager, including the assignment of the Program Manager, may be changed by Owner during the Project.

§1.1.11 Approved, Approved Equal, Approved Equivalents, Or Equal The terms "Approved" and "Approved Equal" relate to the substitution of materials, equipment, or procedure in writing by the Architect prior to receipt of bids.

#### § 1.1.12 Abbreviations

AIA:	American Institute of Architects. (All references to AIA documents refer to AIA's trademarked		
1	documents. Each reference to a specific document shall refer to the document as amended for this		
	Project.)		
AIEE:	American Institute of Electrical Engineers		
ACI:	American Concrete Institute		
AHERA:	Asbestos Hazardous Emergency Response Act		
AISI:	American Iron and Steel Institute		
AISC:	American Institute of Steel Construction		
ANSI:	American National Standards Institute		
ASA:	American Standards Association		
ASTM:	American Society of Testing Materials		
AWSC:	American Welding Society Code		
CERCLA:	Comprehensive Environmental Response, Compensation, and Liability Act		
EPA:	Environmental Protection Agency		
FS:	Federal Specification		
NEC:	National Electrical Code		
OSHA:	Occupational Safety and Health Administration		
SPR:	Simplified Practice Recommendation		
TAS:	Texas Accessibility Standards		
UL:	Underwriters Laboratories, Inc.		

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#### §1.1.13 Bids or Bidding The terms "Bids" or "Bidding" shall include any kind of competitive purchasing under Texas Government Code Chapter 2269.

#### § 1.1.14 Miscellaneous Other Words

#### § 1.1.14.1 Business Day

The term "business day" is a day the Owner's Administration Building is scheduled to be open for normal business purposes, unless closed by the Owner's Superintendent of Schools for inclement weather or other reason. Days on which the Administration Building is normally closed are Thanksgiving Break, Winter Break, Spring Break, and Summer Break, as well as other federal, state or local days specified in the calendar approved by the Owner's Board of Trustees on an annual basis. A business day does not include a day on which the Owner's Administration Building is open only for the purposes of conducting candidate filing, early voting, elections, or other special events.

#### § 1.1.14.2 Calendar Day

A calendar day is a day on the Gregorian Calendar. The Contract Time is established in calendar days. Extensions of time granted, if any, will be converted to calendar days.

#### § 1.1.14.3 Holidays

Owner-approved holidays for Contractor's Work are limited to New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day.

## § 1.1.14.4 Work Day

Work days are all calendar days except Holidays.

#### § 1.1.14.5 Anticipated Weather Days

An allowance of regular Work Days, established as anticipated Work Days lost due to weather delays; said allowance shall be included in Contractor's proposed completion time. Only lost weather days in excess of Anticipated Weather Days shall be considered by Owner for time extensions based upon weather. Section 15.1.5.3 lists required Anticipated Weather Days.

#### § 1.1.15 Contract Sum

"Contract Sum" shall have the same meaning as in Section 5.1 of the Agreement (A133-2009), for the Project when the Project is a Construction Manager at Risk Project, and the same meaning as in Article 4 of the Agreement (A101-2017) for the Project.

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§ 1.2.1.2 During the course of the Work, should any conflict be found in or between the Contract Documents, the Contractor shall be deemed to have estimated the Work on the basis of the greater quantity or better quality, or the most stringent requirement, unless he shall have obtained an interpretation in writing from the Architect as to what shall govern before the submission of his Proposal. The Architect, in case of such conflict, may interpret or construe the documents so as to obtain the most substantial and complete performance of the Work consistent with the Contract Documents and reasonably inferable therefrom, in the best interest of Owner, and the Architect's interpretation shall be final. The terms and conditions of this clause shall not relieve any party of any other obligation under the Contract Documents.

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#### § 1.2.4 Relation Of Specifications And Drawings

General Requirements in the Specifications govern the execution of all Specifications. Summary paragraphs present a brief indication of the Work, but do not limit the Work as later detailed. The Drawings and Specifications are correlative and have equal authority and priority. Should the Drawings and Specifications have internal inconsistencies, then the Contractor shall base the bids and construction on the more expensive combination of quality and quantity of work indicated. For purposes of construction, the Architect shall determine the appropriate Work, after

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the Contractor brings the inconsistency to the Architect's attention. Failure to report an inconsistency shall be evidence that Contractor has elected to proceed in the more expensive manner.

#### § 1.2.5 Materials, Equipment And Processes

Exact location and arrangement of the various pieces of equipment specified shall be determined with the approval of the Architect after equipment has been selected and/or as the Work progresses. All equipment shall, insofar as possible, be installed in such a manner as will not interfere with architectural or structural portions of the building. Should changes become necessary because of a failure of the Contractor to comply with the Contract Documents which results in equipment requiring more area then shown on the Contract Documents, the Contractor shall be fully responsible for completing any required modifications or eliminating any interferences. Where in the Drawings and Specifications, certain products, manufacturer's trade names, or catalog numbers are specified, it is done for the express purpose of establishing a standard of function, dimension, appearance, and quality of design in harmony with the Work, and is not intended for the purpose of limiting competition. Materials or equipment shall not be substituted unless the Architect has specifically accepted such substitution for use on this Project. When more than one material, process, or brand is specified for a particular item of Work, the choice shall be the Contractor's. The final selection of color and pattern will be made by the Owner from the range available within the option selected by the Contractor, unless the item is specified to match a specific color or sample furnished. Where particular items are specified, products of those named manufacturers are required unless Contractor submits for consideration proposed substitutions of materials, equipment or processes from those set out in the Contract Documents, Submittals of proposed substitutions should contain sufficient information to allow the Architect and Owner to determine if the proposed substitution is in fact equal to or better than the requirements in the Contract Documents. The Architect shall review and respond to proposed substitutions within fifteen (15) days of receipt. Contractor shall bear all risk caused by submitting substitutions, including all costs. The Owner may approve substitutions only when the substitution is clearly provided by the Contract to be equal in performance characteristics to the requirements of the Contract Documents, equally compatible with the existing installations and complementary to the architectural design for the Work. Certain specified construction and equipment details may not be regularly included as part of the named manufacturer's standard catalog equipment, but shall be obtained by the Contractor from the manufacturer as required for the proper evaluation and/or functioning of the equipment. Reasonable minor variations in equipment are expected and will be acceptable, if approved by the Architect and Owner, however, indicated and specified performance and material requirements are the minimum. The Owner and the Architect reserve the right to determine the equality of equipment and materials that deviate from any of the indicated and specified requirements.

### § 1.2.6 Standards And Requirements

When the Contract Documents refer to standards, building codes, manufacturers' instructions, or other documents, unless otherwise specified, then the current edition as of the date of execution of the Agreement by the last party to execute said Agreement shall apply. It shall be the responsibility of the Architect to address revisions or amendments to applicable codes or standards which arise after the date of execution of the Agreement and until Final Completion, pursuant to the terms of the Agreement between Owner and Architect. Requirements of public authorities apply as minimum requirements only and do not supersede more stringent specified requirements.

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§ 1.5 Ownership and Use of Drawings, Specifications, and Other Instruments of ServiceConstruction Documents

§ 1.5.1 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and retain all common law, statutory, and other reserved rights in their Instruments of Service, including copyrights. All ownership rights, whether common law, statutory, or other reserved rights, including copyright ownership of the Construction Documents, are controlled by the Agreement between the Owner and the Architect. The Contractor, Subcontractors, Sub-subcontractors, and suppliers shall not own or claim a copyright in the Instruments of Service. Construction Documents. 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' any reserved rights.

§ 1.5.2 The Contractor, Subcontractors, Sub-subcontractors, and suppliers are authorized-granted a limited license to use and reproduce the Instruments of Service-Construction Documents provided to them, subject to any protocols established pursuant to Sections 1.7 and 1.8, Section 1.7, 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. Construction Documents. The Contractor, Subcontractors, Sub-subcontractors, and suppliers may not use the

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Instruments of Service-Construction Documents 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. All copies of the Construction Documents, except the Contractor's record set, shall be returned or suitably accounted for to the copyright holder upon completion of the Work.

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§ 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 Written notice 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 Written notice shall be deemed to have been duly served if delivered in person to the individual, to a member of the firm or entity, or to an officer of the corporation for which it was intended; if delivered at, or sent by registered or certified mail or by courier service providing proof of delivery to, the last business address known to the party giving notice, or if sent by electronic facsimile transmission, to the last business number known to the party giving notice, with electronic confirmation of receipt; or, if sent by electronic mail, to the email address of the Owner's or Contractor's designated representative, with electronic confirmation of receipt.

§ 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.

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#### § 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<sup>TM</sup> 2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202<sup>TM</sup> 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.

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§ 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, independent school district identified in the Contract Documents. The Board of Trustees, by majority vote, is the only representative of the Owner, an independent school district, having the power to: enter into a contract; amend a contract, including but not limited to AIA Document A-101-2017; approve changes in the scope of Work; approve and execute a Change Order or Construction Change Directive modifying the Contract Sum or Guaranteed Maximum Price; agree to an extension to the date of Substantial or Final Completion; or terminate a contract. The Board will act as soon as reasonably possible to avoid undue delays. The Board designates authorized representatives to act on its behalf for day-to-day operations under the Contract. Unless otherwise designated in the Contract Documents, Owner's authorized representative shall be the Superintendent of Schools, who may delegate responsibilities as appropriate. Owner's Board of Trustees hereby delegates to the Superintendent of Schools or designee the authority to approve changes to the Work where such changes are within the Owner's contingency or the Contractor's contingency, or will not increase the dates for Substantial or Final Completion by more than five (5) days. Any such change shall be confirmed in writing between the Contractor and Owner's Superintendent or designee, and notice of such approved changes shall be given to the Board at its next regular meeting. Except as otherwise provided in the Contract Documents, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative. Neither Architect nor Contractor may rely upon the direction of any employee of Owner who has not been designated in writing by the Superintendent or Board of Trustees; Owner shall not be

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financially responsible for actions taken by the Architect or Contractor in reliance upon direction from unauthorized persons.

§ 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. It shall be distinctly understood that by virtue of this Contract, no mechanic, contractor, material person, artisan, or laborer, skilled or unskilled, shall ever in any manner have, claim, or acquire any lien upon the buildings or any of the improvements of whatsoever nature or kind so erected or to be erected by virtue of this Contract or upon any of the land on which said buildings or any of the improvements are so erected, built, or situated, such property belonging to a political subdivision of the State of Texas. It shall be further understood that this Contract is not written for the benefit of third parties.

§ 2.1.3 The Owner shall require the Contractor and the Architect to meet periodically at mutually-agreed-upon intervals, for the purpose of establishing procedures to facilitate cooperation, communication, and timely responses among the participants. By participating in this arrangement, the parties do not intend to create additional contractual obligations or modify the legal relationships which may otherwise exist.

§ 2.1.4 The Owner may require that the Contractor use and/or respond to certain Owner-furnished forms or inquiries during the course of the Project. From time to time, there may be future revisions, changes, additions or deletions to these forms. The fact that the Owner modifies and increases reasonable reporting requirements shall not serve as the basis for a claim for additional time or compensation by the Contractor.

§ 2.1.5 The Contractor stipulates and agrees that the Owner has no duty to discover any design errors or omissions in the Drawings, Plans, Specifications and other Construction Documents, and has no duty to notify Contractor of same. By entering into the Contract Documents or any Agreement with any Architect, Owner does not warrant the adequacy and accuracy of any Drawings, Plans, Specifications or other Construction Documents.

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

§ 2.2.1 Prior to commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. The Contractor shall have no obligation to commence the Work until the Owner provides such evidence. If commencement of the Work is delayed under this Section 2.2.1, the Contract Time shall be extended appropriately. The Owner, being a public body under the laws of the State of Texas, must have adequate funds and/or financing as provided by law prior to award and execution of the Contract Documents.

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

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

§ 2.2.4 Where the Owner has designated information furnished under this Section 2.2 as "confidential," the Contractor shall keep the information confidential and shall not disclose it to any other person. However, the Contractor may disclose "confidential" information, after seven (7) days' notice to the Owner, where disclosure is required by law, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or by court or arbitrator(s) order. The Contractor may also disclose "confidential" information to its employees, consultants,

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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.

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§ 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. <u>Owner shall</u> notify Contractor if a successor architect has been employed by Owner.

§ 2.3.4 The Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site. The Contractor shall be entitled to rely on the accuracy of information furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work Other than the metes and bounds noted in the survey, if any, Owner does not guarantee or warrant the accuracy of surveys provided, including the locations of utility lines, cables, pipes or pipelines, or the presence or absence of easements.

§ 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. <u>Absent such timely notification</u>, any Claim based upon lack of such information or services shall be waived.

§ 2.3.6 Unless otherwise provided in the Contract Documents, the Owner shall furnish to the Contractor one-copy of the Contract Documents-at least one copy of the Construction Documents, as provided for in the Project Manual, for purposes of making reproductions pursuant to Section 1.5.2.
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If the Contractor fails to correct <u>defective Work, fails to correct</u> Work that is not in accordance with the requirements of the Contract <u>Documents or the Construction</u> Documents as required by <u>Section 12.2. Section 12.2.</u> 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. <u>The authorized</u> <u>Owner's representative having the legal right to stop the Work shall be limited to the Owner's Superintendent of</u> <u>Schools</u>.

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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 <u>written</u> 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, The Architect shall, 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 and other consultants additional services, if any, made necessary by such default, neglect, or failure. If current and future payments are not sufficient to cover such amounts, amounts then, 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 <del>Owner, <u>Owner then</u>, the Contractor may file a Claim pursuant to Article 15.</del>

...

§ 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

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Contractor or the Contractor's authorized representative-representative, and includes the Construction Manager at Risk, if applicable.

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§ 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, <u>activities of</u> the Owner (or Owner's Program Manager, if applicable), or by tests, inspections or approvals required or performed by persons or entities other than the Contractor.

§ 3.1.4 The Contractor represents and warrants the following to the Owner (in addition to the other representations and warranties contained in the Contract Documents), as an inducement to the Owner to execute this Contract, which representations and warranties shall survive the execution and delivery of the Contract and the Final Completion of the Work:

.1	that it is financially solvent, able to pay its debts as they mature, and possessed of sufficient working
	capital to complete the Work and perform its obligations under the Contract Documents;

- .2 that it is able to furnish the tools, materials, supplies, equipment and labor required to timely complete the Work and perform its obligations hereunder and has sufficient experience and competence to do so;
- .3 that it is authorized to do business in the State where the Project is located and properly licensed by all necessary governmental, public, and quasi-public authorities having jurisdiction over it, the Work, or the site of the Project; and
- .4 that the execution of the Contract and its performance thereof are within its duly-authorized powers.
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§ 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. The Contractor represents and warrants by submission of a Proposal that he has carefully examined the Contract Documents, any soil test reports, drainage studies, geotechnical or other reports, and the site of the Work, and that, from his own investigations, he has satisfied himself as to the nature and location of the Work, the character, quality and quantity of surface and subsurface materials likely to be encountered, the character of equipment and other facilities needed for the performance of the Work, the general and local conditions and all other materials which may in any way affect the Work or its performance. Should the Contractor find discrepancies, omissions or conflicts within the Contract Documents, or be in doubt as to their meaning, the Contractor shall at once notify in writing the Architect and Owner, and Architect will issue a written addendum to all parties that is consistent with the Owner's Scope of the Work. The Contractor shall not be entitled to any additional time or compensation for Contractor's failure to visit the site, or for any additional Work caused by the Contractor's fault, by improper construction, or by Contractor's failure to visit the site or to carefully study and compare the Contract Documents prior to execution of the Work.

§ 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 Contract Documents. Contractor and not as a licensed design professional, unless otherwise specifically provided in the Contract Documents. Contractor shall not perform any Work involving an error, inconsistency, or omission without further instructions to Contractor or revised Construction Documents from the Architect.

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§ 3.2.3 The Contractor is not Neither the Owner nor the Contractor is 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 has knowledge that any of the products or systems specified will perform in a manner that will limit the Contractor's ability to satisfactorily perform the Work or to honor his warranty, or will result in a limitation of or interference with the Owner's intended use, then the Contractor shall promptly notify the Architect and Owner in writing, providing substantiation for his position. Any necessary changes, including substitution of materials, shall be accomplished by appropriate Modification. If the Contractor believes that additional cost or time is involved because of clarifications or instructions the Architect issues in response to the Contractor's notices or requests for information pursuant to Sections 3.2.2 or 3.2.3, the Contractor shall submit Claims as provided in Article 15. If the Contractor fails to perform the obligations of Sections 3.2.2 or 3.2.3, the Contractor shall pay such costs and damages to the Owner, subject to Section 15.1.7, as would have been avoided if the Contractor had performed such obligations. If the Contractor performs those obligations, the Contractor shall not Contractor shall take field measurements, verify field conditions, and shall carefully compare them to the Construction Documents. The Contractor shall 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 authorities when the Contractor recognized or should have recognized such error, inconsistency, omission or difference and failed to report it to the Architect. Contractor shall not be entitled to additional compensation for additional Work caused by Contractor's failure to carefully study and compare the Construction Documents prior to the execution of the Work.

§ 3.2.5 Prior to performing any Work, and only if applicable, Contractor shall locate all utility lines as shown and located on the plans and specifications, including telephone company lines and cables, sewer lines, water pipes, gas lines, electrical lines, including, but not limited to, all buried pipelines and buried telephone cables, and shall perform any Work in such a manner so as to avoid damaging any such lines, cables, pipes, and pipelines. In addition, Contractor shall independently determine the location of same. Contractor shall be responsible for any damage done to such utility lines, cables, pipes and pipelines during its Work, and shall be responsible for any loss, damage, or extra expense resulting from such damage. Repairs shall be made immediately to restore all service. Any delay for such break shall be attributable to Contractor. In addition, and only if applicable, Contractor shall review the appropriate AHERA and hazardous materials surveys for the particular campuses involved in the Project, and shall notify all Subcontractors and Sub-subcontractors of the necessity to review said surveys. Contractor shall perform any Work in such a manner as to avoid damaging, exposing, or dislodging any asbestos-containing materials that are clearly identified and located in AHERA and other hazardous material surveys. Before performing any portion of the Work, the Contractor shall fully investigate all physical aspects of the Project Site and verify all dimensions, measurements, property lines, grades and elevations, existing improvements, and general suitability of existing conditions at the Project site. If applicable, Contractor shall comply with U.S. Environmental Protection Agency rules concerning renovating, repairing, or painting work in schools built prior to 1978 involving lead-based paint.

§ 3.2.6 The Owner shall be entitled to deduct from the Contract Sum amounts paid to the Architect for the Architect to evaluate and respond to the Contractor's requests for information, where such information was available to the Contractor from a careful study and comparison of the Contract Documents, field conditions, Owner-provided information, Contractor-prepared coordination drawings, or prior Project correspondence or documentation. If, in the reasonable opinion of the Architect, the Contractor does not make reasonable effort to comply with any of the above requirements of the Contract Documents and this causes the Architect or his Consultants to expend an unreasonable amount of time in the discharge of the duties imposed by the Contract Documents, then the Contractor shall bear the cost of compensation for the Architect's additional services made necessary by such failure.

§ 3.2.7 The Contractor shall arrange meetings prior to commencement of the Work of all major Subcontractors to allow the Subcontractors to demonstrate an understanding of the Construction and Contract Documents to the Architect and to allow the Subcontractors to ask for interpretations, when necessary. The Contractor and each Subcontractor shall evaluate and satisfy themselves as to the conditions and limitations under which the Work is to be performed, including:

.1 The location, condition, layout, drainage and nature of the Project site and surrounding areas;

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#### .2 Generally prevailing climatic conditions;

Anticipated labor supply and costs;

Availability and cost of materials, tools and equipment; and

.5 Other similar issues.

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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. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences, or procedures, the Contractor shall evaluate the jobsite safety thereof and shall be solely responsible for the jobsite safety of such means, methods, techniques, sequences, or procedures. If the Contractor determines that such means, methods, techniques, sequences or procedures may not be safe, the Contractor shall give timely notice to the Owner and Architect, and shall propose alternative means, methods, techniques, sequences, or procedures. The Architect shall evaluate the proposed alternative solely for conformance with the design intent for the completed construction. Unless the Architect objects in writing 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. As part of that responsibility, Contractor shall enforce the Owner's alcohol-free, drug-free, tobacco-free, harassment-free and weapon-free policies and zones, which will require compliance with those policies and zones by Contractor's employees, subcontractors, and all other persons carrying out the Contract. Contractor shall require all construction workers, whether Contractor's own forces or the forces of Contractor's subcontractors, while on Owner's property, to refrain from committing any criminal conduct, using tobacco products, possessing or drinking alcoholic beverages, possessing or using illegal drugs or any controlled substance, carrying or possessing weapons, speaking profane and/or offensive language, or engaging in any inappropriate interactions of any nature whatsoever with students and employees, including talking, touching, staring or otherwise contributing to a hostile or offensive environment for Owner's students and employees. All areas of campus, other than the defined construction area, shall be off limits to Contractor's forces, unless their work assignment specifies otherwise. Contractor shall also require adequate and appropriate dress and identification of Contractor's employees, subcontractors, and all other persons carrying out the Work. Contractor shall require all construction workers, whether Contractor's own forces or the forces of Contractor's subcontractors, to wear identification tags on the front of their persons during all times that they are on Owner's property. Such identification tags shall contain a current photograph and the worker's full name in a typeface large enough to be seen from a reasonable distance.

The Contractor shall further ensure that no on-site fraternization shall occur between personnel under the Contractor's and Subcontractor's direct or indirect supervision and Owner's students or employees and the general public. Failure of an individual to adhere to these standards of conduct shall result in the immediate removal of the offending employee from all construction on any of Owner's property. Repeated removal of Contractor's or Contractor's subcontractor's forces, or one serious infraction, shall constitute a substantial breach of the Agreement justifying the immediate termination by Owner pursuant to Article 14. Contractor shall require all construction workers, whether Contractor's own forces or the forces of Contractor's subcontractors, to park their personal motor vehicles on Owner's property only in the parking places designated by the Owner's campus principal. Any vehicles not parked in the appropriate locations shall be towed at the vehicle owner's sole expense. Contractor shall follow, and shall require all employees, agents or subcontractors to follow, the tree ordinance of the municipality in which the Project is located. In addition, if not covered by the municipal tree ordinance, Contractor shall barricade and protect all trees on the Project, which shall be included in the Cost of the Work. Contractor shall institute a theft deterrence program designed to restrict construction worker access to properties of Owner that are currently in use, to maintain supervision of Contractor's and Contractor's subcontractor's forces, and to reimburse the Owner or those persons suffering a theft loss which results from Contractor's forces or Contractor's subcontractor's forces' actions, omissions, or failure to secure the Work or connecting or adjacent property of Owner.

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§ 3.3.4 The Contractor shall properly and efficiently coordinate the timing, scheduling and routing of all Work performed by all sub-contractors and sub-sub-contractors.

§ 3.3.5 To the extent that any portion of the Work requires a trench excavation exceeding five (5) feet in depth, in accordance with Texas Health and Safety Code Section 756.023(a), Contractor shall fully comply, and shall require any applicable subcontractor to comply, with:

- .1 The Occupational Safety and Health Administration standards for trench safety in effect for the Construction of the Work;
- .2 The special shoring requirements, if any, of the Owner; and
  - .3 Any geotechnical information obtained by Owner for use by the Contractor in the design of the trench safety system.
    - .4 Trench excavation safety protection shall be a separate pay item, and shall be based on linear feet of trench excavated. Special shoring requirements shall also be a separate pay item, and shall be based on the square feet of shoring used.

§ 3.3.6 The Contractor shall review Subcontractor safety programs, procedures, and precautions in connection with performance of the Work. However, the Contractor's duties shall not relieve any Subcontractor(s) or any other person or entity (e.g., a supplier), including any person or entity with whom the Contractor does not have a contractual relationship, of their responsibility or liability relative to compliance with all applicable federal, state, and local laws, rules, regulations, and ordinances which shall include the obligation to provide for the safety of their employees, persons, and property and their requirements to maintain a work environment free of recognized hazards. The foregoing notwithstanding, the requirements of this Paragraph are not intended to impose upon the Contractor any additional obligations that the Contractor would not have under any applicable state or federal laws, including, but not limited to, any rules, regulations, or statutes pertaining to the Occupational Safety and Health Administration.

§ 3.3.7 It is understood and agreed that the relationship of Contractor to Owner shall be that of an independent contractor. Nothing contained in this Agreement or inferable from this Agreement shall be deemed or construed to: 1) make Contractor the agent, servant or employee of the Owner; or 2) create any partnership, joint venture, or other association between Owner and Contractor. Any direction or instruction by Owner or any of its authorized representatives in respect of the Work shall relate to the results the Owner desires to obtain from the Work, and shall in no way affect Contractor's independent contractor status.

§ 3.3.8 Pursuant to Texas Labor Code Sec. 214.008, the Contractor and any subcontractor on the Project shall properly classify, as an employee or an independent contractor, in accordance with Texas Labor Code Chapter 201, any individual the Contractor or subcontractor directly retains and compensates for services performed in connection with this Agreement. Any Contractor or subcontractor who fails to properly classify such an individual may be subject to the penalties of Texas Labor Code Sec. 214.008(c).

§ 3.4.1 These Contract Documents shall not be construed to deny or diminish the right of any person to work because of the person's membership or other relationship status with respect to any organization. Texas Government Code § 2269.054. Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, qualified, careful, and efficient workers and labor eligible to work in accordance with state and federal law. Contractor shall appropriately classify all workers in accordance with the Fair Labor Standards Act, its implementing regulations, and Texas Labor Code Section 214.008. In addition, unless otherwise provided in the Contract documents, the Contractor shall provide and pay for, 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. Before ordering any material or doing any Work, Contractor shall verify all dimensions and check all conditions in order to assure Contractor that they are the same as those in the Drawings, Specifications, and other Construction Documents. Any inconsistency shall be brought to the attention of the Architect. In the event that discrepancies occur between ordered

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material and actual conditions and Architect was not notified beforehand, then costs to correct such discrepancies shall be borne by Contractor.

§ 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 prior written consent of the Owner, after evaluation by the Architect and in accordance with a Change Order or Construction Change Directive.

§ 3.4.2.1 After evaluation by the Architect, substitutions and alternates may be rejected by the Architect without explanation and will be considered only under one or more of the following conditions: (i) the proposal is required for compliance with interpretation of code requirements or insurance regulations then existing; (ii) specified products are unavailable through no fault of the Contractor; (iii) and when, in the judgment of the Architect, a substitution would be substantially in the Owner's best interests, in terms of cost, time, or other considerations.

§ 3.4.2.2 The Contractor must submit to the Architect: (i) a full explanation of the proposed substitution and submittals of all supporting data, including technical information, catalog cuts, warranties, test results, installation instructions, operating procedures, and other like information necessary for a complete evaluation for the substitution; (ii) a written explanation of the reasons the substitution should be considered, including the benefits to the Owner and the Work in the event the substitution is acceptable; (iii) the adjustment, if any, in the Contract Sum; (iv) the adjustment, if any, in the time of completion of the Contract and the construction schedule; and (v) an affidavit stating (a) the proposed substitution conforms to and meets all requirements of the pertinent Specifications and the requirements shown on the Drawings, and (b) the Contractor accepts the warranty and will coordinate the Work to be complete in all respects, as if originally specified by the Architect. Proposals for substitutions shall be submitted in writing to the Architect in sufficient time to allow the Architect no less than fifteen (15) working days for review. No substitutions will be considered or allowed without the Contractor's submittals of complete substantiating data and information.

§ 3.4.2.3 Whether or not the Architect accepts any proposed substitution, the Contractor shall reimburse the Owner for any fees charged by the Architect or other consultants for evaluating each proposed substitution.

§ 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. <u>THE CONTRACTOR RELEASES</u>, INDEMNIFIES AND HOLDS HARMLESS <u>THE OWNER FOR CONTRACTOR'S FORCES' NON-COMPLIANCE WITH OWNER'S DRUG-FREE</u>, <u>ALCOHOL-FREE</u>, WEAPON-FREE, HARASSMENT-FREE, AND TOBACCO-FREE ZONES, <u>CONTRACTOR'S FORCES' NON-COMPLIANCE WITH CRIMINAL LAW, OR CONTRACTOR'S OR</u> <u>CONTRACTOR'S FORCES' NON-COMPLIANCE WITH IMMIGRATION LAW OR REGULATIONS. Any</u> individual found by Owner to have violated these restrictions is subject to permanent removal from the Project, at <u>Owner's request. Contractor shall place similar language in its subcontract agreements, requiring its Subcontractors</u> and Sub-subcontractors to be responsible for their own forces and Contractor shall cooperate with the Owner to ensure <u>Subcontractor and Sub-subcontractor compliance</u>.

§ 3.4.4. Including, but not limited to, the specific requirements of Article 10, Contractor, its subcontractors and vendors shall bear responsibility for compliance with all federal, state and local laws, regulations, guidelines, and ordinances pertaining to worker safety and applicable to the Work. Contractor further recognizes that the Owner and Architect do not owe the Contractor any duty to supervise or direct his work so as to protect the Contractor from the consequences of his own conduct.

§ 3.4.5 Pursuant to Texas Education Code Section 44.034, Contractor must give advance written notice to the Owner if the Contractor or an owner or operator of the Contractor has been convicted of a felony. The Owner may terminate this Agreement if the Owner determines that the Contractor failed to give such notice or misrepresented the conduct resulting in the conviction. This paragraph requiring advance notice does not apply to a publicly-held corporation.

### § 3.4.6 CRIMINAL HISTORY CHECKS

§ 3.4.6.1 shall Contractor shall obtain all criminal history information required by Texas Education Code Chapter 22 regarding its "covered employees", as defined below. If Contractor is required by Chapter 22 to obtain the information from the Fingerprint-based Applicant Clearinghouse of Texas, then Contractor will also subscribe to that person's criminal history record information. Before beginning any Work on the Project, Contractor will provide written

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certification to the District that Contractor has complied with the statutory requirements as of that date. Upon request by Owner, Contractor will provide, in writing: updated certifications and the names and any other requested information regarding covered employees, so that the Owner may obtain criminal history record information on the covered employees. Contractor shall assume all expenses associated with obtaining criminal history record information.

§ 3.4.6.2 Contractor will not assign any "covered employee" with a "disqualifying criminal history", as those terms are defined below, to work on the Project. If Contractor receives information that a covered employee has a reported disqualifying criminal history, then Contractor will immediately remove the covered employee from the Project and notify the Owner in writing within three business days. If the Owner objects to the assignment of any covered employee on the basis of the covered employee's criminal history record information, then Contractor agrees to discontinue using that covered employee to provide services on Owner's Project. If Contractor has taken precautions or imposed conditions to ensure that the employees of Contractor and any subcontractor will not become covered employees, Contractor will ensure that these precautions or conditions continue throughout the time the contracted services are provided.

§ 3.4.6.3 For the purposes of this Section, "covered employees" means employees, agents or applicants of Contractor who has or will have continuing duties related to the services to be performed on Owner's Project and has or will have direct contact with Owner's students. The Owner will decide what constitutes direct contact with Owner's students. "Disqualifying criminal history" means: any conviction or other criminal history information designated by the Owner; any felony or misdemeanor conviction that would disqualify a person from obtaining educator certification under Texas Education Code Section 21.060 and 19 Texas Administrative Code §249.16; or one of the following offenses, if at the time of the offense, the victim was under 18 years of age or enrolled in a public school: a felony offense under Texas Penal Code Title 5 Offenses Against Persons; an offense for which a defendant is required to register as a sex offender under Texas Code of Criminal Procedure Chapter 62; or an equivalent offense under federal law or the laws of another state.

§ 3.4.6.4 Subcontractors or any subcontractor entity, as defined by Texas Education Code § 22.08341(a)(3), shall be required by the terms of their contract with Contractor or any other contracting entity (as defined in Texas Education Code §22.08341(a)(1)), and by Texas law, to obtain the required criminal history record information on their employees, agents, or applicants, to give required certifications to Owner and the contracting entities, and to obtain required certifications from the subcontracting entity's subcontractors.

§ 3.4.6.5 On request of Owner, Contractor shall provide all necessary identifying information to allow Owner to obtain criminal history record information for covered employees of the Contractor and all subcontractors. Contractor shall update this list on Owner's request.

### § 3.4.7 OWNER'S ADDITIONAL REQUIREMENTS RELATED TO CRIMINAL HISTORIES

In addition, Contractor will at least annually obtain criminal history record information that relates to any employee, agent, or applicant of the Contractor, if the person has or will have duties related to the Project, and the duties are or will be performed on Owner's Project, or at another location where students are likely to be present. Contractor shall assume all expenses associated with the background checks and shall immediately remove any employee, agent or subcontractor who was convicted of a felony or a misdemeanor involving moral turpitude from Owner's property, or other location where students are likely to be present. Owner shall determine what constitutes "moral turpitude" or a "location where students are likely to be present."

## § 3.4.8 PREVAILING WAGE RATES

§ 3.4.8.1 Contractor, Contractor's Subcontractors and Sub-subcontractors shall pay all workers not less than the general prevailing rate of per diem wages for work of a similar character where the Project is located, as detailed in the "Minimum Wage Schedule" attached to this Agreement. Wages listed are minimum rates only. However, no claims for additional compensation above the Contract Sum shall be considered by the Owner because of payments of wage rates in excess of the applicable rate provided herein. Texas Government Code Section 2258.001 et seq.

§ 3.4.8.2 Contractor shall forfeit, as a penalty to the Owner, \$60 for each laborer, worker or mechanic employed for each calendar day or part of the day that the worker is paid less than the wage rates stipulated in the Contract Documents.

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§ 3.4.8.3 Owner reserves the right to receive and review payroll records, payment records, and earning statements of employees of Contractor, and of Contractor's Subcontractors and Sub-subcontractors.

§ 3.4.8.4 In executing the Work under the Contract Documents, Contractor shall comply with all applicable state and federal laws, including but not limited to, laws concerned with labor, equal employment opportunity, safety and minimum wages.

§ 3.4.8.5 If no schedule is attached, then the parties shall use the wage rate determined by the US Department of Labor in accordance with the Davis-Bacon Act, 40 USC Section 276a, which can be accessed on the internet at www.gpo.gov/davisbacon/.

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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. The Contractor further warrants that Contractor shall perform the Work in a good and workmanlike manner, continuously and diligently in accordance with generally accepted standards of construction practice for construction of projects similar to the Project, except to the extent the Contract Documents expressly specify a higher degree of finish or workmanship, in which case the standard shall be the higher standard. All material shall be installed in a true and straight alignment, level and plumb; patterns shall be uniform; and jointing of materials shall be flush and level, unless otherwise directed in writing by the Architect. Work, materials, or equipment not conforming to these requirements may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Contractor, improper or insufficient maintenance, maintenance (unless such maintenance is Contractor's responsibility), improper operation, or normal wear and tear and normal usage-usage but such exclusions shall only apply after Owner has taken occupancy of the damaged or defective point of the Project. If required by the Architect, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment. Notwithstanding anything in the Contract Documents to the contrary, Owner and Contractor expressly agree that the warranties stated herein shall mean the individual warranties associated with each particular Work within the Project, and each such individual warranty shall run from the applicable Work's Final Completion date (unless otherwise expressly provided in the applicable Contract Documents for that particular Work). Contractor's express warranty is in addition to, and not in lieu of, Owner's other available remedies. All required warranties on equipment, machinery, materials, or components shall be submitted to the Architect on the manufacturer's or supplier's approved forms for delivery to the Owner. The warranties set out in this Subparagraph are not exclusive of any other warranties or guarantees set out in other places in the Contract Documents or expressed or implied under applicable law.

§ 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.Contractor shall certify that the Project has been constructed in general conformance with the Architect's or Engineer's plans, specifications, and Construction Documents, as modified from time to time pursuant to the terms of the Contract Documents. Contractor shall fully complete a "Certification of Project Completion" as required by 19 Texas Administrative Code Section 61.1036.

§ 3.5.3 In the event of failure of materials, products, or workmanship, either during construction or the warranty period, the Contractor shall take appropriate measures to ensure correction of defective Work or replacement of the defective items, without cost to the Owner. Such warranty shall be maintained notwithstanding that certain systems may be activated prior to Substantial Completion as required for the satisfactory completion of the Project. Upon written notice from the Owner or Architect, the Contractor shall promptly remedy defects as covered by Contractor's warranty. If Contractor does not respond to the written notice, either by beginning corrective work or notifying Owner in writing regarding when corrective work will begin, within ten days of Contractor's receipt of the written notice, then the Owner may take measures to correct the Work and Contractor will be obligated to reimburse Owner's costs. The provisions of this subparagraph shall be in addition to, and not in lieu of, any other rights and remedies available to the Owner.

§ 3.5.4 When deemed necessary by the Owner and prior to installation of any item specifically made subject to a performance standard or regulatory agency standard under any provision of the Contract Documents, Contractor shall furnish proof of conformance to the Architect. Proof of conformance shall be in the form of:

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- .1 an affidavit from the manufacturer certifying that the item is in conformance with the applicable standards; or
- .2 an affidavit from a testing laboratory certifying that the product has been tested within the past year and is in conformance with the applicable standards; or
- .3 such further reasonable proof as is required by the Architect.

§ 3.5.5 The Contractor agrees to issue in the name of the owner, or assign to the Owner at Final Completion of the Work, such assignment to be effective no later than Final Completion, any and all material, equipment, fixtures and furniture (if supplied or installed by Contractor or its subcontractors), other special warranties, and manufacturers' warranties relating to materials and labor used in the Work. Contractor further agrees to perform the Work in such manner so as to preserve any and all manufacturers' warranties. All forms will be required to be submitted prior to Final Payment.

§ 3.5.6 The warranties of Contractor provided in Subparagraphs 3.5.1, 3.5.2, and 3.5.3 shall in no way limit or abridge the warranties of the suppliers of equipment and systems which are to comprise a portion of the Work and all such warranties shall be in form and substance as required by the Contract Documents. Contractor shall take no action or fail to act in any way which results in the termination or expiration of such third party warranties or which otherwise results in prejudice to the rights of Owner under such warranties. Contractor agrees to provide all notices required for the effectiveness of such warranties and shall include provisions in the contracts with the providers and manufacturers of such systems and equipment whereby Owner shall have a direct right, but not a duty, of enforcement of such warranty obligations.

§ 3.5.7 Contractor shall maintain a complete and accurate schedule of the date(s) of Substantial Completion, the date(s) of Final Completion, and the dates upon which the warranty under Section 12.2 herein on each phase or building will expire. Contractor shall provide a copy of such schedules to Owner and Architect. Prior to termination of the warranty period under Section 12.2 herein, Contractor shall accompany Owner and Architect on re-inspection of each Work in the Project and Contractor shall be responsible for correcting any warranty items which are observed or reported during the warranty period under Section 12.2 herein. Contractor shall prosecute such warranty work under Section 12.2 herein without interruption until accepted by Owner and Architect, even though such work should extend beyond the warranty period under Section 12.2 herein. If Contractor fails to provide the schedules to Owner and Architect, conducted and deficiencies are corrected.

§ 3.5.8 Prior to receipt of Final Payment, Contractor shall:

- .1 Obtain duplicate original warranties, executed by all subcontractors, making the dates of beginning of the warranties the Date of Final Completion; and the warranties of suppliers and manufacturers, making the dates of beginning of the warranties no later than the Date of Final Completion;
- .2 Verify that the documents are in proper form and contain full information;
  - .3 Co-sign warranties when required;
    - .4 Bind all warranties in commercial quality 8-1/2 X 11 inch three-ring binder, with hardback, cleanable, plastic covers;
    - .5 Label the cover of each binder with a typed or printed title labeled "WARRANTIES", along with the title of the Project; name, address and telephone number of Contractor; and name of its responsible principal;
  - .6 Include a Table of Contents, with each item identified by the number and title of the specification section under which the product is specified; and
  - .7 Separate each warranty with index tab sheets keyed to the Table of Contents listing.

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.8 Deliver warranties and bonds in the form described above, to the Architect who will review same prior to submission to the Owner.

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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 Owner is an exempt entity under the tax laws of the State of Texas. Texas Tax Code § 151.309; 34 TAC § 3.322. The Owner represents that this Project is eligible for exemption from the State Sales Tax on tangible personal property and material incorporated in the Project, provided that the Contractor fulfills the requirements of the Texas Tax Code § 151.309, § 151.310, § 151.311 and 34 TAC § 3.291; 3.287. For the purpose of establishing exemption, it is understood and agreed that the Contractor may be required to segregate materials and labor costs at the time a Contract is awarded. Contractor will accept a Certificate of Exemption from the Owner, pursuant to Texas Tax Code § 151.054(e); § 151.155; and 34 TAC § 3.287. Contractor shall obtain Certificates of Resale from Contractor's suppliers. Texas Tax Code § 151.154, 34 TAC § 3.285. Failure of Contractor or any Sub-Contractor to obtain Certificates of Resale from their suppliers shall make the Contractor or Sub-Contractor responsible for absorbing the tax, without compensation from Owner. Contractor shall pay all necessary local, county and state taxes, income tax, compensation tax, social security and withholding payments as required by law, CONTRACTOR HEREBY RELEASES, INDEMNIFIES, AND HOLDS HARMLESS OWNER FROM ANY AND ALL CLAIMS AND DEMANDS MADE AS A RESULT OF THE FAILURE OF CONTRACTOR OR ANY SUBCONTRACTOR TO COMPLY WITH THE PROVISIONS OF ANY OR ALL SUCH LAWS AND REGULATIONS. PAGE 25

§ 3.7.1 Unless otherwise provided in the Contract Documents, the Contractor shall secure and pay for the building permit as well as for other permits, fees, licenses, and inspections by government agencies necessary for proper execution and completion of the Work that are customarily secured after execution of the Contract and legally required at the time bids are received or negotiations concluded. After Architect has filed the plans and specifications with the Texas Department of Licensing and Regulation, Architect shall notify Contractor that Contractor may make and submit the applications for the building permit. The Owner shall pay the municipality directly for the building permit and all other development "impact" fees, if any. The Contractor shall continue to be responsible for payment of other permits, governmental fees, licenses, and inspections necessary for proper execution of the Contract and which are legally required when bids or proposals are received. Such fees and expenses shall only be reimbursable to Contractor if expressly agreed to herein.

§ 3.7.1.1 The Owner shall pay directly to the governing authority the cost of all permanent property utility assessments and similar connection charges.

§ 3.7.1.2 The Contractor shall pay directly all temporary utility charges, tap charges, and water meter charges, without reimbursement from Owner. After consultation with the Owner, the Contractor shall also obtain all permits and approvals, and pay all fees and expenses, if any, associated with National Pollutant Discharge Elimination System (NPDES) regulations administered by the Environmental Protection Agency (EPA) and local authorities, if applicable, that require completion of documentation and/or acquisition of a "Land Disturbing Activities Permit" for the Project. Also after consultation with the Owner, the Contractor shall obtain all permits and approvals, and pay all fees and expenses, if any, associated with Storm Water Pollution Prevention and Pollution Control Plan (SWPPP) regulations administered by the Texas Commission on Environmental Quality (TCEQ) and local authorities. Contractor's obligations under this Section may or may not require it to obtain or perform engineering services during the pre-construction phase to prepare proper drainage for the construction sites. Any drainage alterations made by Contractor during the construction process, which require the issuance of a permit, shall be at Contractor's sole cost. Reimbursable expenses shall not include any fines or penalties assessed against the Contractor, Contractor's subcontractors, the Project, or the Owner.

§ 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. In addition, Contractor shall authorize posting of any notices concerning the Workers Compensation insurance carried by other parties involved in the Project, including without limitation, Architect, at the same location where Contractor posts notices regarding Workers Compensation. If applicable, the Contractor shall procure and obtain all bonds required of the Owner or the Contractor by the municipality in which the Project is located or by any other public or private body.

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with jurisdiction over the Project. In connection with such bonds, the Contractor shall prepare all applications, supply all necessary back-up material and furnish the surety with any required personal undertakings. The Contractor shall also obtain and pay all charges for all approvals for street closings, traffic control, parking meter removal and other similar matters as may be necessary or appropriate from time to time for the performance of the Work.

§ 3.7.3 If the Contractor performs Work <u>knowing when Contractor knows or reasonably should have known</u> it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, <u>the Contract Documents</u> or lawful orders of public authorities, the Contractor shall assume appropriate responsibility for such Work and shall bear the costs attributable to correction.

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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-three (3) business days after first observance of the conditions. Contractor agrees that this is a reasonable notice requirement. The Architect will promptly investigate such conditions and, if the Architect determines that they differ materially and materially, report findings and a recommended resolution in writing to Owner and Contractor. If Owner's Board of Trustees and Contractor cannot agree on an equitable adjustment to the Contract Sum or Contract time, then either party may pursue alternative dispute resolution as provided for in Article 15 within ninety (90) days of the Architect's recommendation. If such conditions will cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, Architect 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 Architeet shall promotly notify the Owner and Contractor, stating the reasons. If either party disputes the Architeet's determination or recommendation, that party may submit a Claim as provided in Article 15.

§ 3.7.5 If, in the course of the Work, the Contractor encounters human remains or recognizes the existence of burial markers, archaeological sites or wetlands not indicated in the Contract Documents, the Contractor shall immediately suspend any operations that would affect them and shall notify the Owner and Architeet. Architect in writing. 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.

§ 3.7.6 The Contractor shall be responsible for timely notification to and coordination with all utility companies regarding the provision of services to the Project. The Contractor shall inform the Architect at once when the Owner's participation is required, and the Architect shall immediately notify the Owner. Connections for temporary and permanent utilities and payment for temporary utilities services required for the Work, whether the Work is new construction of an existing facility, are the responsibility of the Contractor unless otherwise agreed. If the Work is new construction, then payment for temporary and/or permanent utility services shall be the responsibility of the Contractor until Substantial Completion.

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§ 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.objection, unless required to do so by the terms of the Construction Documents.

 allowances shall cover the cost to the Contractor of materials and equipment delivered at the site and all required taxes, site, less applicable trade discounts;

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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 Sum, unless required to do so by the terms of the Construction Documents shall be adjusted accordingly. The amount of the adjustment 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.

§ 3.8.4 When performing Work under allowances, Contractor shall solicit and receive not less than three written proposals and shall provide the Work as directed by the Architect, upon Owner's written approval, on the basis of the best value to the District.

§ 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. In addition, the Contractor may employ a project manager and necessary assistants who may supervise several Project sites. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor. Important communications shall be similarly confirmed in writing. Other communications shall be similarly confirmed on written request in each case. Questions about plan interpretation or directions shall be submitted to the Architect in the form of a written request for information and the Architect shall respond to such request for information in a reasonable and timely fashion. Contractor's selection of project manager or superintendent(s) shall be approved by Owner, and Contractor shall not replace the project manager or superintendent(s) without Owner's consent or until a replacement project manager or superintendent, project manager or employee of the Contractor, Subcontractor or Sub-Subcontractor involved in the Project. Contractor shall provide an adequate staff for the proper coordination and expedition of the Work. Owner reserves the right to require Contractor to dismiss from the Work any employee or employees that Owner may deem incompetent, careless, insubordinate, or in violation of any provision in these Contract Documents. This provision is applicable to Subcontractors, Sub-Subcontractors and their employees.

§ 3.9.2 The Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect of the name and qualifications of a proposed superintendent. Within 14 days of receipt of the information, the Architect may notify the Contractor, stating whether the Owner or the Architect (1) has reasonable objection to the proposed superintendent or (2) requires additional time for review. Failure of the Architect to provide notice within the 14 day period shall constitute notice of no reasonable objection. Contractor's superintendent shall be present full-time on the site as soon as possible after commencement of the Work, and shall remain assigned to this Work, and present on the site during performance of the Work, throughout the course of the Work until items requiring completion or correction, identified at Substantial Completion pursuant to Section 9.8, have been completed or corrected. From Substantial Completion until Final Completion, the superintendent shall be on the site as necessary to ensure that Final Completion occurs within 30 days of Substantial Completion.

§ 3.9.3 Owner shall be notified not less than 24 hours before any time that superintendent will not be present at the site for any reason except periodic illness. If the reason is due to illness, then Owner shall be notified at the beginning of that day. Owner shall be notified of the identity of the acting superintendent. In the event the superintendent is absent from the site and notice has not been provided nor has an acting superintendent been assigned to the Work, then an amount equal to the superintendent's daily rate shall be deducted from the amount owed to the Contractor under general conditions for such day.

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

§ 3.10.1 The Contractor, promptly after being awarded the Contract, shall prepare and 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

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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. The schedule shall not interfere with the operation of Owner's existing facilities and operations without Owner's prior written approval.

§ 3.10.2 The Contractor, promptly after being awarded the Contract and thereafter as necessary to maintain a current submittal schedule, shall prepare and 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 shall hold weekly progress meetings at the Project Site, or at such other time and frequency as are acceptable to the Owner. Progress of the work shall be reported at said meetings with reference to Contractor's construction schedule. The Contractor shall submit to the Architect with each monthly application for payment a copy of the progress schedule showing all modifications required, and shall take whatever corrective action is necessary to assure that the project completion schedule is met at no additional cost to Owner, except as allowed herein. In the event that Contractor shall fall behind schedule at any time, Contractor shall develop and deliver a recovery plan to the Owner with a recovery schedule and a program describing the additional manpower, overtime, material expediting, resequencing of the Work and other steps Contractor shall take to meet the requirements of the Contract. Contractor shall not be entitled to compensation from the Owner or any increase in the Contract Sum for the schedule recovery efforts. No approval or consent by the Owner of any plan for resequencing or acceleration of the Work submitted by Contractor shall constitute a waiver by Owner of any damages or losses which Owner may suffer by reason of such resequencing or the failure of Contractor to meet the Substantial Completion Date or the Final Completion Date.

The Contractor shall make available, maintain and make available at all times, at the Project site, the Contract <u>Construction</u> Documents, including Change Orders, Construction Change Directives, <u>field test records (including</u> <u>environmental inspection</u> and test records), inspection certificates or records, manufacturers' certificates, 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 <del>Owner, <u>Owner</u> at all times,</del> and delivered to the Architect for submittal to the Owner upon completion of the Work as a record of the Work as constructed.

§ 3.11.1 In addition to any other requirement in the Contract Documents and prior to installation, Contractor shall furnish or cause a subcontractor to furnish, for the Owner's and Architect's written approval, a physical sample of each specified item, product, fixture, or device which is visible by the general public and/or attached to an architecturally-finished surface. Samples shall be suitably labeled, adequately protected, and properly stored at the site. Samples which are approved and undamaged will be considered to be suitable for incorporation into the Work. PAGE 28

§ 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.

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§ 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

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coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents. Specific dimensions, quantities, installation and performance of equipment and systems in compliance with the Construction Documents and the Contract Documents remain the Contractor's responsibility.

§ 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 in writing 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 written notice, the Architect's approval of a resubmission shall not apply to such revisions. PAGE 29

§ 3.12.10.1 If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of the Contractor by the Contract Documents, the Owner and the Architect will specify all performance and design criteria that such services must satisfy. The Contractor shall be entitled to rely upon the adequacy and accuracy of the performance and design criteria provided in the Contract Documents. The Contractor shall-cause such services or certifications to be provided by an appropriately licensed design professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings, and other submittals prepared by such professional. Shop Drawings, and other submittals related to the Work, designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to the Architect. The Owner and the Architect shall be entitled to rely upon the adequacy completeness, 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. professionals, 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. A registered architect must prepare plans and specifications for all the Work, as governed by the Texas Occupations Code Chapter 1051; and a registered engineer must prepare plans, specifications and estimates for all Work governed by Texas Occupations Code Chapter 1001. In the event that Contractor retains a licensed design professional under the terms of this paragraph, Contractor shall require that the licensed design professional carry commercial general liability and errors and omissions insurance coverage in the same amounts and forms as required of the Architect on this Project. In the event that the licensed design professional retained by the Contractor will be conducting on-site services or observations, the licensed design professional shall also carry worker's compensation insurance and comprehensive automobile liability in the same amounts and forms as required of the Architect on this Project.

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§ 3.12.11 The Contractor shall submit complete drawings, data and samples to the Architect at least fifteen (15) days prior to the date the Contractor needs the reviewed submittals and samples returned. The Contractor shall be prepared to submit color samples on any key items (such as quarry tile, vinyl wall covering, etc.) within fifteen (15) days of the award of Subcontract(s). All color samples required for the Work shall be received within sixty (60) days of the date of the approval of the Contract Sum if the Project is an A101 project, or Guaranteed Maximum Price if the Project is an A133 project. Once samples of all key items are received, the Architect will finalize color selections.

§ 3.12.12 The Contractor shall submit the number of copies of product data and samples which the Contractor and subcontractors need for their use, plus two additional sets for the Architect, one additional set for the Owner and one additional set for each of the Architect's consultants involved with the particular section of Work. Where shop drawings are involved, the Contractor shall submit one high quality reproducible transparency and one opaque print of the shop drawing for the Architect, plus one additional opaque print for each of the Architect's consultants involved with the particular section of Work. The reproducible transparency will be marked by the Architect and/or his

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consultants. After final review and correction of the submittal, the Contractor shall send one corrected set to the Architect and each of the Architect's consultants involved with the particular section of Work.

§ 3.12.13 The Architect's review of Contractor's submittals shall be limited to examination of an initial submittal and one (1) re-submittal. The Architect's review of additional submittals will be made only with the consent of the Owner after notification by the Architect. The Owner shall be entitled to reimbursement from the Contractor of amounts paid to the Architect for evaluation of such additional re-submittals.

§ 3.12.14 The Contractor represents and warrants that all shop drawings shall be prepared by persons and entities possessing expertise and experience in the trade for which the shop drawings are prepared and, if required by the Architect or applicable law, by a licensed engineer.

§ 3.13.1 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.

§ 3.13.2 Only materials and equipment which are to be used directly in the Work shall be brought to and stored on the Project site by the Contractor. After equipment is no longer required for the Work, it shall be promptly removed from the Project site. Protection of construction material and equipment stored at the Project site from weather, theft, damage and all other adversity is solely the responsibility of the Contractor.

§ 3.13.3 The Contractor and its subcontractors shall not erect any sign on the Project site without the prior written consent of the Owner.

§ 3.13.4 Contractor shall ensure that the Work, at all times, is performed in a manner that affords Owner reasonable access, both vehicular and pedestrian, to the site of the Work and all adjacent areas. The Work shall be performed in such a manner that public areas adjacent to the Site of the Work shall be free from all debris, building material and equipment likely to cause hazardous conditions. Without limitation of any other provision of the Construction Documents, Contractor shall use its best efforts to minimize any interference with the occupancy or beneficial use of any area or building adjacent to the site of the Work, or the building, in the event of partial occupancy.

§ 3.13.5 Without prior approval of the Owner, the Contractor shall not permit any workers to use any existing facilities at the Project site, including, without limitation, lavatories, toilets, entrance and parking areas other than those designated by the Owner. The Contractor shall comply with all rules and regulations promulgated by the Owner in connection with the use and occupancy of the Project site and the Building. PAGE 30

§ 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. provided, however, that any such cutting, fitting or patching can only be performed if the cutting, fitting or patching results in Work that is in accordance with the Construction Documents and <u>Contract Documents</u>. 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.

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§ 3.14.3 No cutting of structural elements will be permitted unless specifically approved in writing by Architect. Fitting and patching shall only be done with new products, and shall only performed by those skilled in performing the original Work.

§ 3.15.1 The Contractor shall-shall, on a daily basis keep the premises and surrounding area free from accumulation of waste materials and rubbish caused by operations under the Contract. <u>Contractor shall provide on-site containers for</u> the collection of waste materials, debris and rubbish, and shall periodically remove waste materials, debris and rubbish from the Work and dispose of all such materials at legal disposal areas away from the site. All cleaning operations shall be scheduled so as to ensure that contaminants resulting from the cleaning process will not fall on newly-coated or newly-painted surfaces. Immediately after unpacking materials, all packing case lumber or other packing materials, wrapping or other like flammable waste shall be collected and removed from the building and premises. At completion of the Work, the Contractor shall remove waste materials, rubbish, the Contractor's tools, construction equipment,

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machinery, and surplus materials from and about the Project. Care shall be taken by all workers not to mark, soil, or otherwise deface any finish. In the event that any finish becomes defaced in any way by mechanics or workers, the Contractor or any of his Subcontractors shall clean and restore such surfaces to their original condition.

§ 3.15.3 The Contractor shall be responsible for the protection of the Work. Prior to the Architect's inspection for Substantial Completion, the Contractor shall clean exterior and interior surfaces exposed to view; remove temporary labels, stains, putty, soil, paint and foreign substances from all surfaces, including glass and painted surfaces; polish transparent and glossy surfaces; clean equipment and fixtures to a sanitary condition; replace air filters in mechanical equipment; clean roofs, gutters, and downspouts; remove obstructions and flush debris from drainage systems; clean site; sweep paved areas and rake clean other surfaces; remove trash and surplus materials from the site; clean and polish all floors; clean and polish all hardware; and repair all Work damaged during cleaning.

§ 3.15.4 After construction is complete, Contractor shall: (1) employ skilled workers for final cleaning; (2) remove grease, mastic adhesive, dust, dirt, stains, fingerprints, labels and other foreign materials from all sight-exposed interior and exterior surfaces; (3) wash and shine glazing and mirrors; (4) polish glossy surfaces to a clear shine; (5) vacuum clean carpeted and similar soft surfaces; (6) clean (damp mop with clean mop and water) resilient and hard surface floors repeating as necessary until no visible residue remains on floors; (7) clean plumbing fixtures to a sanitary condition; (8) clean surfaces of all equipment and remove excess lubrication; (9) clean permanent filters and replace disposable filters in ventilating systems if units were operated during construction and clean ducts, blowers and coils; (10) clean light fixtures; (11) remove waste, foreign matter and debris from roofs, gutters, area ways and drainage ways; (12) remove waste, debris and surplus materials from the site; (13) remove stains, spills and foreign substances from paved areas; and (14) broom clean exterior concrete and paved surfaces and rake clean the grounds.

The Contractor shall provide the Owner and Architect and their designated representatives with access to the Work in preparation and progress wherever located. The presence of the Owner, Architect or their representatives does not constitute acceptance or approval of the Work. PAGE 31

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 THE CONTRACTOR SHALL DEFEND SUITS OR CLAIMS FOR INFRINGEMENT OF COPYRIGHTS AND PATENT RIGHTS, SHALL WAIVE AND RELEASE CLAIMS AGAINST THE OWNER AND ARCHITECT, AND SHALL INDEMNIFY AND HOLD HARMLESS THE OWNER AND ARCHITECT FROM LOSS ON ACCOUNT THEREOF, PROVIDED, HOWEVER, CONTRACTOR SHALL NOT BE RESPONSIBLE TO ARCHITECT FOR SUCH 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 ARCHITECT, AND SHALL NOT BE RESPONSIBLE TO OWNER IF OWNER REQUIRES A PARTICULAR DESIGN, PROCESS OR PRODUCT THAT CONSTITUTES A COPYRIGHT VIOLATION. However, if the Contractor has reason to believe that the required design, process or product is an infringement of a copyright or patent is discovered by, or made known to, the Contractor, a patent, the Contractor shall be responsible for the such loss unless the such information is promptly furnished to the Architect.Owner and Architect in writing.

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§ 3.18.1 To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Owner, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for

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whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described in this Section 3.18. TO THE FULLEST EXTENT PERMITTED BY LAW, THE CONTRACTOR SHALL WAIVE AND RELEASE CLAIMS AGAINST AND SHALL INDEMNIFY AND HOLD HARMLESS THE OWNER, ARCHITECT, OWNER'S TRUSTEES, ARCHITECT'S CONSULTANTS, OWNER'S CONSULTANTS AND OFFICERS, AGENTS AND EMPLOYEES OF ANY OF THEM, FROM AND AGAINST CLAIMS, DAMAGES, LOSSES, CAUSES OF ACTION, SUITS, JUDGMENTS 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 (INCLUDING THE WORK ITSELF) INCLUDING LOSS OF USE RESULTING THEREFROM, BUT ONLY TO THE EXTENT CAUSED IN WHOLE OR IN PART BY WILLFUL OR NEGLIGENT ACTS OR OMISSIONS OF THE CONTRACTOR, A SUB-CONTRACTOR, ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY THEM, ANYONE THEY CONTROL OR EXERCISE CONTROL OVER, OR ANYONE FOR WHOSE ACTS THEY MAY BE LIABLE. REGARDLESS OF WHETHER OR NOT SUCH CLAIM, DAMAGE, LOSS OR EXPENSE IS CAUSED IN PART BY ANY WILLFUL OR NEGLIGENT ACTS OR OMISSIONS OF OWNER OR OWNER'S CONSULTANTS OR OTHER INDEMNIFIED PARTIES, 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. ALL COSTS AND EXPENSES SO INCURRED BY ANY OF THE INDEMNIFIED PARTIES IN THAT EVENT SHALL BE REIMBURSED BY CONTRACTOR TO THE INDEMNIFIED PARTIES, AND ANY COST AND EXPENSES SO INCURRED BY INDEMNIFIED PARTIES SHALL BEAR INTEREST UNTIL REIMBURSED BY CONTRACTOR, AT THE RATE OF INTEREST PROVIDED TO BE PAID BY THE JUDGMENT UNDER THE LAWS OF THE STATE OF TEXAS.

§ 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. 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 INSURANCE POLICIES WORKERS' COMPENSATION ACTS, DISABILITY BENEFIT ACTS, OR OTHER EMPLOYEE BENEFIT ACTS.

§ 3.18.3 THE OBLIGATIONS OF THE CONTRACTOR UNDER THIS SECTION 3.18 SHALL NOT EXTEND TO THE LIABILITY OF THE ARCHITECT, THE ARCHITECT'S CONSULTANTS, AND AGENTS AND EMPLOYEES OF ANY OF THEM, CAUSED BY OR RESULTING FROM: (1) DEFECTS IN PLANS, DESIGNS, OR SPECIFICATIONS PREPARED, APPROVED, OR USED BY THE ARCHITECT OR ENGINEER; OR (2) NEGLIGENCE OF THE ARCHITECT OR ENGINEER IN THE RENDITION OR CONDUCT OF PROFESSIONAL DUTIES CALLED FOR OR ARISING OUT OF THE CONSTRUCTION CONTRACT AND THE PLANS, DESIGNS, OR SPECIFICATIONS THAT ARE A PART OF THE CONSTRUCTION CONTRACT; AND (3) ARISING FROM : (A) PERSONAL INJURY OR DEATH; (B) PROPERTY DAMAGE; OR (C) ANY OTHER EXPENSE THAT ARISES FROM PERSONAL INJURY, DEATH, OR PROPERTY DAMAGE, OR AS OTHERWISE LIMITED BY TEXAS CIVIL PRACTICE & REMEDIES CODE SECTION 130.001 ET SEQ.

§ 3.18.4 THE OWNER MAY CAUSE ANY OTHER CONTRACTOR WHO MAY HAVE A CONTRACT WITH THE OWNER TO PERFORM CONSTRUCTION OR INSTALLATION WORK IN THE AREAS WHERE WORK WILL BE PERFORMED UNDER THIS AGREEMENT, TO AGREE TO INDEMNIFY AND TO HOLD THE OWNER AND THE CONTRACTOR HARMLESS FROM ALL CLAIMS FOR BODILY INJURY AND PROPERTY DAMAGE TO THE SAME EXTENT AS IS PROVIDED IN SECTION 3.18.1 ABOVE. LIKEWISE, CONTRACTOR AGREES TO INDEMNIFY AND TO HOLD THE OWNER'S OTHER CONTRACTORS

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HARMLESS FROM ALL CLAIMS FOR BODILY INJURY AND PROPERTY DAMAGE TO THE SAME EXTENT AS PROVIDED IN SECTION 3.18.1 ABOVE.

# § 3.18.5 THE PROVISIONS OF SECTION 3.18 IN ITS ENTIRETY SHALL SURVIVE THE COMPLETION, TERMINATION OR EXPIRATION OF THIS CONTRACT.

§ 3.18.6 It is agreed with respect to any legal limitations now or hereafter in effect and affecting the validity or enforceability of the indemnification obligations under Paragraph 3.18, such legal limitations are made a part of the indemnification obligation and shall operate to amend the indemnification obligation to the minimum extent necessary to bring the provision into conformity with the requirements of such limitations, and as so modified, the indemnification obligations shall continue in full force and effect

§ 3.18.7 It is understood and agreed that Subparagraph 3.18.1 above is subject to, and expressly limited by, the terms and conditions of Texas Civ. Prac. & Rem. Code Ann. Sec. 130.001 to 130.005, as amended.

§ 3.18.8 THE OWNER MAY CAUSE ANY OTHER CONTRACTOR WHO MAY HAVE A CONTRACT WITH THE OWNER TO PERFORM CONSTRUCTION OR INSTALLATION WORK IN THE AREAS WHERE WORK WILL BE PERFORMED UNDER THIS AGREEMENT, TO AGREE TO INDEMNIFY AND TO HOLD THE OWNER AND THE CONTRACTOR HARMLESS FROM ALL CLAIMS ATTRIBUTABLE TO BODILY INJURY, SICKNESS, DISEASE OR DEATH OR TO INJURY TO OR DESTRUCTION OF TANGIBLE PROPERTY {INCLUDING THE WORK ITSELF} INCLUDING LOSS OF USE, TO THE SAME EXTENT AS PROVIDED IN SUBPARAGRAPH 3.18.1 ABOVE.

§ 3.19 ANTITRUST VIOLATION. To permit the Owner to recover damages suffered in antitrust violations, Contractor hereby assigns to Owner any and all claims for overcharges associated with this Contract which violate the antitrust laws of the United States, 15 U.S.C.A. Section 1 et seq. The Contractor shall include this provision in its agreements with each subcontractor and supplier. Each subcontractor shall include such provisions in agreements with sub-subcontractors and suppliers. PAGE 33

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

§ 4.1.3 Except as expressly provided herein, the Contractor shall not be relieved of Contractor's obligation to perform the Work in strict accordance with the Construction Documents and the Contract Documents by the duties, responsibilities, or activities of the Architect.

...

§ 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. construction, until final payment is due, and, with the Owner's concurrence, from time to time during the one-year period for correction of Work described in Section 12.2.2.. The Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents.Documents, or as they may be amended in the future.

§ 4.2.2 The Architect will visit the site at Architect shall visit the site at least twice per week (or more per week when deemed necessary by the Owner's Superintendent or when necessary to protect Owner's interests) and at other 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 to inspect the progress, quantity and quality of the work completed, to reject any observed nonconforming Work, and to determine if the Work is being performed in a manner indicating that the Work, when fully-completed, will be in accordance with the Contract Documents. However, the Architeet 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 Contract Documents and on time. Furthermore, a minimum of two job site meetings per month from commencement of construction through Final

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Completion will be initiated by the Architect and attended by the Contractor. Attendees will include the Owner, the Contractor's project manager and/or superintendent, Architect's project representative, and Architect. The Architect, Owner and their representatives shall at all times have access to the Work. Architect or its structural consultant will provide on-site observations prior to and during all concrete pours that contribute to the structural integrity of the building, including all pours of concrete piers, footings, grade beams, floor slabs, and concrete superstructure components, if applicable. In addition, Architect or its structural consultant will provide on-site observations prior to covering up or closing up of portions of the construction which, if covered, would conceal problems with the structural integrity of the Project. Contractor shall not close or cover said Work until said observations have occurred. Contractor or Architect will advise Owner of the need for any third-party laboratory or testing services to assist the Architect and Owner. On the basis of the on-site observations by Architect, Architect shall keep Owner and Contractor informed of the progress and quality of the Work, through Architect's field reports, and shall guard Owner against defects and deficiencies in the Work. Architect shall promptly notify Owner and Contractor orally regarding any defect or nonconforming Work, which shall be followed by notice in writing of defects or nonconforming Work noted and corrective actions taken or recommended. The Architect, however, shall not have control over or responsibility for the Contractor's construction means, methods, techniques, sequences, procedures, or safety programs, but this does not relieve Architect of Architect's responsibilities under this Agreement. Any services by Contractor made necessary by Contractor's construction defect or nonconforming Work shall be performed at no additional cost to Owner.

§ 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 Contractor shall reimburse the Owner for compensation paid to the Architect for additional site visits made necessary by the fault, neglect, or request of the Contractor. The Architect will not be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contractor, Subcontractors, or their agents or employees, or any other persons or entities performing portions of the Work.

...

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 of or relating to the Contract. However, Owner reserves the right to communicate directly with the Contractor and Subcontractors. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with Subcontractors and suppliers shall be through the Contractor. Communications by and with Separate Contractors shall be through the Owner. The Contract Documents may specify other communication protocols.

§ 4.2.5 Based-As further provided in the Contract Documents, based on the Architect's evaluations of the Contractor's Applications for Payment, the Architect will review and certify the amounts due the Contractor and will issue Certificates for Payment in such amounts.

§ 4.2.6 The Architect has authority to shall reject Work that does not conform to the Construction Documents and the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect will have authority to require recommend to Owner additional inspection or testing of the Work in accordance with Sections 13.4.2 and 13.4.3, the provisions of the Contract Documents, 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 or the Owner to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work. Architect and/or Contractor shall promptly notify, orally and in writing, the other party and Owner of any fault or defect in the Project or nonconformance with Construction Documents or the Contract Documents they may respectively discover and each, upon discovery of the defect or nonconformance, shall be responsible for notifying the other party and Owner of those corrective actions they respectively take; provided, however, Contractor shall have no

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duty to notify Owner of discoveries made or actions taken by Architect. Testing or inspections required by this subparagraph shall be conducted subject to the requirements of Chapter 2269 of the Texas Government Code.

§ 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 Construction Documents and 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 with such reasonable promptness as to cause no delay in the Work or in the activities of the Owner, Contractor, or Separate Contractors 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 Construction Documents and 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 precautions, unless otherwise specifically stated by the Architect 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. If any submittal does not comply with the requirements of the Construction Documents or the Contract Documents, then Architect shall require Contractor to come into compliance. The Architect shall promptly report in writing to the Contractor and Owner any errors, inconsistencies and omissions discovered by the Architect in the Shop Drawings, Product Data and Samples.

§ 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.shall review, prepare and make recommendations to Owner regarding all Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Construction Documents and the Contract Documents, accompanied by all supporting documentation. The Architect may authorize minor changes in the Work not involving an adjustment in Contract Sum or Guaranteed Maximum Price, or an extension of the Contract Time which are consistent with the intent of the Contract Documents. If necessary, the Architect shall prepare, reproduce and distribute Drawings and Specifications to describe Work to be added, deleted or modified, as provided in Section 7.4. The Architect shall accept requests by the Owner, and shall review properly prepared, timely requests by the Contractor for changes in the Work, including adjustments to the Contract Sum or Guaranteed Maximum Price, or Contract Time. A properly prepared request for a change in the Work by the Contractor shall be accompanied by sufficient supporting data and information to permit the Architect to make a reasonable determination without extensive investigation or preparation of additional drawings or specifications. If the Architect determines that requested changes in the Work are not materially different from the requirements of the Construction Documents or the Contract Documents, and do not change the Contract Sum or Guaranteed Maximum Price, or Contract Time, then the Architect may issue an order for a minor change in the Work with prior written notice to the Owner or recommend to the Owner that the requested change be denied. The Architect is not authorized to approve changes involving major systems such as: Heating, Ventilation and Air Conditioning ("HVAC"); roof; foundation; outward appearance; color schemes; floor plans; building materials; drainage or mechanical equipment without Owner's prior written consent. PAGE 35

§ 4.2.11 The Architect will interpret and decide matters-make recommendations 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-or recommendations 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, recommendations, 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, will not show partiality to either, and will not be liable for results of interpretations or decisions rendered in good faith.

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

§ 4.2.14 The Architect will review and respond to requests for information about the <u>Construction Documents and</u> 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.information, at no additional cost to the <u>Owner</u>.

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§ 5.2.1 Unless otherwise stated in the Contract Documents, the Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect in writing 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 shall notify in writing the Contractor whether the Owner or the Architect (1) has reasonable objection to any such proposed person or entity or (2) requires additional time for review. Failure of the Architect to provide notice within the 14-day period shall constitute notice of no reasonable objection. All subcontractors shall be procured in accordance with Texas Education Code Chapter 44, Subchapter B, and Texas Government Code Chapter 2269, as applicable. A notice of no reasonable objection shall in no way relieve the Contractor from full responsibility for performance and completion of the Work and its obligations under the Contract Documents. The Contractor shall be fully responsible for the performance of its subcontractors, including those recommended or approved by the Owner.

....

§ 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 When the parties agree on a proposed substitute Subcontractor then the Contract Sum and Contract Time may be increased or decreased by the difference, if any, occasioned by such change, and an appropriate Change Order shall be issued before commencement of the substitute Subcontractor's Work. However, no increase in the Contract Sum or Contract Time shall be allowed for such change unless the Contractor has acted promptly and responsively in submitting names as required.

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§ 5.2.5 Each Contractor or subcontractor shall be required to completely familiarize itself with the plans and specifications, to visit the Work site to completely familiarize itself with existing conditions, and to conduct any other appropriate investigations, inspections or inquiries prior to submission of a bid or proposal. No increases in Contract Sums or Guaranteed Maximum Price shall be allowed for failure to so inspect or investigate.

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. The terms and conditions of the Contract Documents shall be incorporated by reference into each subcontract agreement, included as provided below. 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. Each subcontractor shall provide proof of insurance to Contractor consistent with the

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Contractor's insurance to Owner and in an amount commensurate with the Work to be performed by the Subcontractor.

§ 5.3.2 Neither the Owner nor the Architect shall be obligated to pay or to insure the payment of any monies to subcontractors due to any non-payment to the Contractor or non-payment of subcontractors by the Contractor.

§ 5.3.3 The Contractor shall require any potential subcontractor to disclose to the Contractor any ownership interest or familial relationship between the Contractor, the Architect or the Owner and the potential subcontractor prior to entering into a subcontract. Contractor shall report to Owner all such disclosures and the Owner shall have the right, in its sole discretion, to reject any such affiliated subcontractor.

...

§ 5.4.1 Each subcontract agreement for any unperformed 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 or convenience pursuant to Article 14 or abandonment of the Project by the Contractor; and only for those subcontract agreements that the Owner accepts by notifying the Subcontractor and Contractor; Contractor in writing; and
- .2 assignment is subject to the prior rights and obligations of the surety, if any, obligated under bond relating to the Contract; and
- .3 The Subcontractor provides bonds as required by law or prime contractors and by Owner.

...

§ 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. Such assignment shall not constitute a waiver by Owner of its rights against Contractor, including, but not limited to, claims for defaults, delays or defects for which a subcontractor or material vendor may also be liable.

§ 5.4.3 Upon assignment to the Owner under this Section 5.4, the Owner may further assign the subcontract to a successor contractor or other entity. If the Owner assigns the subcontract to a successor contractor or other entity, the Owner shall nevertheless remain legally responsible for all of the successor contractor's obligations under the subcontract. Owner shall only be responsible for compensating subcontractors for Work performed or materials furnished from and after the date on which the Owner gives written notice of its acceptance of the subcontractors prior to the date of Owner's written notice of acceptance.

# § 5.5 NOTICE OF SUBCONTRACTOR DEFAULT

Contractor shall promptly notify Owner and Architect of any material defaults by any Subcontractor or Sub-subcontractor. Notwithstanding any provision contained in Article 5 to the contrary, it is hereby acknowledged and agreed that Owner has in no way agreed, expressly or implicitly, nor will Owner agree, to allow any Subcontractor, Sub-subcontractor or other materialman or worker employed by Contractor the right to obtain a personal judgment or to create a mechanic's or materialman's lien against Owner for the amount due from the Owner or the Contractor.

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§ 6.1.1 The term "Separate Contractor(s)" shall mean other contractors retained by the Owner under separate agreements. The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and with Separate Contractors retained under Conditions of the Contract substantially similar to those of this Contract, including those provisions of the Conditions of the Contract related to insurance and waiver of subrogation. The Owner reserves the right to perform other non-Project-related construction work, maintenance and repair work, and school program operations at the site and near the site during the time period of the Work.

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§ 6.1.3 The Owner-shall provide for coordination of Contractor shall coordinate the activities of the Owner's own forces and of each Separate Contractor with the Work of the Contractor, who shall ecooperate with them. The Contractor shall participate with any Separate Contractors and the Owner in reviewing their construction schedules. to ensure that the Work remains on schedule.. 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 revised between the Owner and Contractor.

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

### § 6.2 Mutual Contractor's Responsibility

§ 6.2.1 It shall be the responsibility of the Contractor to assist, review, and coordinate the scheduling of work performed by any of the Owner's Separate Contractors. In addition, the Contractor shall be responsible for coordinating and providing all construction administration necessary for the Work and the work of any of Owner's Separate Contractors. The Contractor shall afford the Owner and Separate Contractors reasonable opportunity for site access and introduction and storage or staging 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. Contractor shall be responsible for coordination between Contractor's subcontractors and Owner's Separate Contractors. Contractor shall review Owner's contract with Owner's Separate Contractors and become familiar with the requirements and scope of services contained therein.

§ 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 in writing the Architect and Owner 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, and shall promptly report in writing to the Architect and Owner if Owner's Separate Contractors fail in any way to timely perform their services or negatively impact Contractor's schedule or ability to perform the Work. Failure of the Contractor to notify in writing the Architect and Owner 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, and is performed in a timely manner to receive the Contractor's Work. The Contractor shall not be responsible for latent discrepancies or defects in the construction or operations by the Owner or Separate Contractor that are not apparent. Contractor.

§ 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.

§ 6.2.3.1 If the Architect is required to provide additional services as provided in the Agreement between the Owner and the Architect, specifically relating to additional compensation for the Architect for evaluating an excessive number of claims submitted by the Contractor or others in connection with the Work in accordance with the Owner's Agreement with the Architect, then such services shall be paid for by the Contractor through the Owner, unless the additional services result from negligence of or an omission by the Architect.

§ 6.2.3.2 If the Architect provides services in connection with a legal proceeding, except when the Architect is a party thereto, and the Owner requests the Architect in writing to provide such services, then the cost of such services shall be paid for by the party whose act or omission was a proximate cause of the problem that led to the requirement to provide such services. Such services shall be paid for by such party through the Owner, who upon receipt of same shall reimburse the Architect.

§ 6.2.3.3 All construction costs resulting from the Contractor's negligence, lack of oversight, inattention to detail, failure to investigate, or failure to follow the Construction Documents or Contract Documents, will be borne by the Contractor.

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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 Arehiteet-Owner will allocate the cost among those responsible.

§ 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. <u>A properly prepared written request for a change in the Work by Contractor shall be accompanied by sufficient supporting data and information to permit the Architect to make a recommendation to Owner.</u>

....

§ 7.1.3 Changes in the Work shall be performed under applicable provisions of the Contract Documents or Construction 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. Contractor shall not make any claim for an adjustment to time, Contract Sum or Guaranteed Maximum Price due to: a change in the materials used; a change in the specified manner of constructing and/or installing the Work; or additional labor, services, or materials, beyond that actually required by the terms of the Construction Documents or the Contract Documents, unless made pursuant to a written order or directive from Owner authorizing Contractor to proceed with a change in the Work. No claim for an adjustment to time, Contract Sum or Guaranteed Maximum Price shall be valid unless so ordered or directed.

§ 7.1.4 The total Contractor mark-up for overhead, profit, or fee for work performed by the Contractor's own forces shall not exceed 10% of the cost of the change in the Work. The total Contractor mark-up for overhead, profit or fee for supervision of work performed by subcontractors' forces shall not exceed 4% of the cost of the change in the Work. The total subcontractor mark-up for overhead, profit or fee for work performed by the subcontractor's forces shall not exceed 4% of the cost of the change in the Work. The total subcontractor mark-up for overhead, profit or fee for work performed by the subcontractor's forces shall not exceed 10% of the cost of the change in the Work. In no event shall total mark-up for overhead, profit or fee in any work which involves a subcontractor or one or more sub-subcontractors, regardless of who performs the work, exceed 14% of the total cost of the change in the Work.

§7.1.5 Allowance balances may be used to fund changes in the Work. The Contractor will not be allowed an overhead, profit, or fee mark-up when changes in the Work are funded by one of the Allowances.

§ 7.1.6 If the Contract Sum is \$1,000,000.00 or more, or if the Contract Sum is less than \$1,000,000.00, and any Change Order, Construction Change Directives, or other Changes in the Work would increase the Contract Sum to \$1,000,000.00 or more, the total of all Change Orders, Construction Change Directives, or other Changes in the Work may not increase the Contract Sum by more than 25% of the original Contract Sum. Any Change Order, Construction Change Directive, or other Change in the Work that would exceed that limit is void and of no effect. Texas Education Code § 44.0411.

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- .2 The amount of the adjustment, if any, in the Contract Sumy-Sum Or Guaranteed Maximum Price; and
- .3 The extent of the adjustment, if any, in the Contract Time.

§ 7.2.2 Methods used in determining adjustments to the Contract Sum or Guaranteed Maximum Price may include those listed in Section 7.3.3.

§ 7.2.3 Contractor stipulates that acceptance of a Change Order by the Contractor constitutes full accord and satisfaction for any and all Claims, whether direct or indirect, arising from the subject matter of the Change Order.

§ 7.2.4 In no event shall a single change, or the aggregate of all changes, result in the total costs, reimbursements and fees exceeding the Contract Sum or the Guaranteed Maximum Price, unless agreed to in writing by Owner prior to the commencement of such modified or changed Work.

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§ 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 <u>Guaranteed</u> <u>Maximum Price</u>, or Contract Time, or both. The Owner may by Construction Change Directive, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions, or other revisions, the Contract Sum <u>or Guaranteed Maximum Price</u>, and Contract Time being adjusted accordingly.

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

...

- Unit prices stated in the Contract Documents or subsequently agreed upon;upon (additional mark-ups for overhead, profit, and fees will not be allowed);
- .3 Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage feet-fee, subject to the limitations of subparagraph 7.4.1; or
- .4 As provided in Section 7.3.4. Section 7.3.4, subject to the limitations of subparagraph 7.1.4.

§ 7.3.4 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Sum or Guaranteed Maximum Price, then 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 the amount by which the Contractor's direct costs have actually been increased over the direct cost of performing the Work without the Change in the Work. Direct costs shall be limited to the following:

- .1 Costs-Actual 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;and, workers' compensation insurance;
- .2 Costs-Actual costs of materials, supplies, and equipment, including cost of transportation, whether incorporated or consumed; used in performing the Change in the Work;
- .3 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others; Actual rental costs of machinery and equipment rented from third parties, exclusive of hand tools;
- .4 Costs-Actual costs of premiums for all bonds and insurance, permit fees, and sales, use, or similar taxes, and permit fees, directly related to the change; and

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

The Contractor shall keep and present, in such form as the Architect or Owner may prescribe, an itemized accounting of the items listed above, together with appropriate supporting documentation. PAGE 40

§ 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 <u>Guaranteed Maximum Price, or</u> Contract Time.

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

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

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on the basis of net increase, if any, with respect to that change.plus the Contractor's allocated percent of profit and overhead, all as confirmed by the Architect.

...

The-With prior written notice to the Owner's representative, the Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents or Construction Documents and do not involve an adjustment in the Contract Sum or Guaranteed Maximum Price, 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 Guaranteed Maximum Price, 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 Guaranteed Maximum Price, or Contract Time, the Contractor waives any adjustment to the Contract Sum or Guaranteed Maximum Price, or extension of the Contract Time. The Contractor shall carry out such written orders promptly. Minor changes in the Work shall not include changes that involve the outward appearance of the structure, color schemes, floor plans, building materials, landscaping, or mechanical equipment.

...

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

§ 8.1.2 The date of commencement of the Work is the date established in the Agreement first business day after Contractor's receipt of the written Notice to Proceed. The Notice to Proceed shall not be issued by Architect until the Agreement (or Amendment, if Contractor is a Construction Manager at Risk) has been signed by the Contractor, approved by Owner's Board of Trustees, signed by the Owner's authorized representative, and Owner and Architect have received, and approved as to form, all required payment and performance bonds and insurance, in compliance with Article 11. Issuance of the Notice to Proceed shall not relieve the Contractor of its responsibility to comply with Article 11..

§ 8.1.3 The date of Substantial Completion is the date certified by the Architect in accordance with Section 9.8. The date of Final Completion is the date certified by the Architect in accordance with Paragraph 9.10. Unless otherwise agreed in writing by Owner, Contractor agrees that Final Completion shall occur not more than 30 days after the date of Substantial Completion.

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

....

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

§ 8.2.4 The Contractor is subject to liquidated damages, as specified in the Agreement, if the Work is not completed by the date of Substantial Completion or the date of Final Completion.

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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, fire, governmental actions, or 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;-15.1.6.2; (4) by delay authorized in writing by the Owner; or (5) by other causes that the Contractor asserts, and the Architect determines, and Owner determine, may justify delay, then the Contract Time shall-may be extended for such reasonable time as the Architect and Owner may determine.

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§ 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. Agreement does not permit the recovery of damages, including, without limitation, extended home office overhead expenses, general conditions, or other consequential damages, by the Contractor for delay or disruption or for extensions of time due to bad weather or acts of God. Contractor agrees that the only possible compensation for any delay is an extension of time.

§ 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. In the event that the Project is a Construction Management at Risk Project, the Contract Sum shall not exceed the Guaranteed Maximum Price.

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

#### ....

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### § 9.2.1

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 or in the case of a Guaranteed Maximum Price, within 15 days after establishing the Guaranteed Maximum Price, 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, shall be used as a basis for reviewing the Contractor, shall be used as a basis for reviewing the Contract, shall be used as a basis for reviewing the Contractor 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. The schedule of values shall be prepared in such a manner that each major item of work, whether done by Contractor's own forces or subcontracted, is shown as a single line item on AIA Documents G702 and G703, Application and Certificate for Payment and Continuation Sheet. If the Contractor is a Construction Manager at Risk, then the Contractor's fee and general conditions shall be specifically shown, and AIA Documents G702CMa and G703 shall be used.

§ 9.2.2 If the project is a Construction Manager at Risk project, in order to facilitate the review of Applications for Payment, the Schedule of Values shall be submitted on AIA Documents G702 and G703, and shall include the following:

.1 Contractor's cost for Contractor's fee (if applicable) bonds and insurance, mobilization, or general conditions, etc. shall be listed as individual line items.

.2 Contractor's costs for various construction items shall be detailed. For example, concrete work shall be subdivided into footings, grade beams, floor slabs, or paving, etc.

.3 On major subcontracts, such as mechanical, electrical and plumbing, the schedule shall indicate line items and amounts in detail (for example: underground, major equipment, fixtures, installation fixtures, or start-up, etc.).

.4 Costs for subcontract work shall be listed without any additional mark-up of Contractor's costs for overhead, profit, or supervision.

.5 If payment for stored materials is requested prior to installation, then material and labor shall be listed as separate line items.

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Contractor shall provide a report of actual versus projected reimbursable expenses (general conditions), .6 updated monthly.

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

retainage.

§ 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 vet included in Change Orders, Contractor agrees that, for purposes of Texas Government Code Sections 2251.021 and 2251.042, receipt of the Application for Payment by the Architect shall not be construed as receipt of an invoice by the Owner, Contractor further agrees that Owner's receipt of the Certificate for Payment shall be construed as receipt of an invoice by the Owner, for purposes of Texas Government Code Sections 2251.021 and 2251.042.

§ 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-has not been invoiced by a Subcontractor or supplier, unless Contractor has self-performed the Work ...

§ 9.3.1.3 Until Final Completion of the Work, the Owner shall withhold retainage as provided in the Contract Documents, except that Owner shall not pay amounts for which the Architect refuses to certify payment, or the Owner refuses to pay, as provided herein in Section 9.4.3 or 9.5, as amended. The retainage shall be paid with the Final Payment. (Note: if more than 5% is retained, under Texas law, then the retainage must be placed in an interest-bearing account, and the contractor must be paid the interest earned on the retainage upon completion of the Work. Texas Government Code Section 2252.032).

§ 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

Payments will be made on the basis of invoices for specific materials or equipment incorporated in the Work and specific materials or equipment (1) suitably stored at the site or (2) suitably stored at some off-site location, provided the following conditions are met for off-site storage:

- The location must be agreed to, in writing, by the Owner and Surety.
- The location must be a bonded warehouse.
  - The Contractor's Surety must agree, in writing, to the amounts included in each Application for Payment.
  - The Contractor must bear the cost of the Owner's and Architect's expenses related to visiting the off-site storage area and reviewing the stored contents. Contractor acknowledges that Architect's time may be an Additional Service and shall compensate Architect directly for same upon request.
  - .5 Payment shall not include any charges for overhead or profit on stored materials.

Payments for materials or equipment stored on or off the site shall be conditioned upon compliance .6 by the Contractor with procedures submission by the Contractor of bills of sale or such other documentation satisfactory to the Owner to establish the Owner's title to such materials and or equipment or otherwise protect the Owner's interest, and shall include the costs of applicable insurance, storage, and transportation to the site, for such

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including applicable insurance (naming the Owner as insured and naming the specific materials or equipment stored and their location) and proof of delivery to the site for those materials and equipment stored off the site. Under no circumstances will the Owner reimburse the Contractor for down payments, deposits, or other advance payments for materials or equipment until the materials or equipment are delivered to Owner's site or the agreed-upon off-site storage. Failure to follow these procedures shall result in nonpayment for storage of or insurance on stored materials and equipment. Failure to follow these procedures shall also result in nonpayment of materials and equipment until said materials and equipment are incorporated into the Work.

§ 9.3.3 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information, and belief, be free and clear of liens, claims, security interests, or encumbrances, in favor of the Contractor, Subcontractors, suppliers, or other persons or entities that provided labor, materials, and equipment relating to the Work. Neither Contractor nor any of its materialmen, laborers or Subcontractors of the Contractor shall have any enforceable rights against the Owner on this Contract. Materialmen. Laborers and Subcontractors of the Contractor may have rights under any Payment Bond provided by the Contractor, but cannot look to the Owner for any help in enforcement of those rights. CONTRACTOR SHALL WAIVE, RELEASE, INDEMNIFY, AND HOLD OWNER HARMLESS FROM ANY LIENS, CLAIMS, SECURITY INTERESTS OR ENCUMBRANCES FILED BY THE CONTRACTOR, SUBCONTRACTOR, OR ANYONE CLAIMING BY, THROUGH, OR UNDER THE CONTRACTOR OR SUBCONTRACTOR FOR ITEMS COVERED BY PAYMENTS MADE BY THE OWNER TO CONTRACTOR.

§ 9.3.4 Contractor shall submit Applications for Payment in quadruplicate using AIA Documents G702 and G703 Application and Certificate of Payment (or G702CMa, if applicable) and Continuation Sheet. All blanks in the form must be completed and signatures of Contactor and Notary Public must be original on each form. Incomplete or inaccurate Applications for Payment shall be returned to the Contractor by the Architect for completion and/or correction. Owner shall have no responsibility for payment of same if the Application for Payment is incomplete or inaccurate.

§ 9.3.5 By signing each Application for Payment, the Contractor stipulates and certifies to the following: that the information presented is true, correct, accurate and complete; that the Contractor has made the necessary detailed examinations, audits, and arithmetic verifications; that the submitted Work has been completed to the extent represented in the Applications for Payment; that the materials and supplies identified in the Applications for Payment have been purchased, paid for, and received; that the subcontractors have been paid as identified in the Applications for Payment or that Contractor has been invoiced for same; that Contractor has made the necessary on-site inspections to confirm the accuracy of the Applications for Payment; that there are no known mechanics' or materialmens' liens outstanding at the date of the Application for Payment; that all due and payable bills with respect to the Work have been paid to date or are included in the amount requested in the current Payment Application; that, except for such bills not paid but so included, there is no known basis for the filing of any mechanics' or materialmens' liens on the Work; that the Payment Application includes only Work self-performed by Contractor or for which Contractor has been invoiced; and that releases from all Subcontractors and materialmen have been obtained in such form as to constitute an effective release of lien under the laws of the State of Texas covering all Work performed and for which payment has been made by the Owner to the Contractor. Contractor understands that documents submitted to Owner become government documents under the laws of the State of Texas. Contractor further understands that falsification of Contractor's Application for Payment may constitute a violation of the penal laws of the State of Texas, including, but not limited to, Texas Penal Code Sections 32.46, 37.09, and 37.10, and may justify termination of Contractor's Contract with Owner. Contractor further understands and agrees that falsification of documents may entitle Owner to restitution as permitted by Texas law and these Contract Documents. PAGE 44

§ 9.4.1 The Architect will, within seven days after receipt of the Contractor's Application for Payment, either (1) Payment carefully evaluate and review the Application for Payment and, when appropriate, return the Application for Payment to the Contractor as provided in Section 9.3.4. If the Application for Payment is complete, then the Architect shall sign and, either (1) certify and 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) certify and issue to the Owner a Certificate for Payment for such amount as the Architect determines is properly due, and notify the Contractor and Owner in writing of the Architect's

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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 in writing of the Architect's reason for withholding certification in whole as provided in Section 9.5.1. <u>Architect's written reasons for withholding certification shall be</u> construed as the notice required by Texas Government Code Section 2251.042 et seq.

§ 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, that, the Architect has observed the progress of the Work and determined that, in the Architect's professional opinion, and the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, Documents, Further, the issuance of the Certificate for Payment will constitute a representation by the Architect to the Owner that the Architect has, carefully evaluated and certified that the amounts requested in the Application for Payment are valid and correct and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion, and to specific qualifications expressed by the Architect. Architect in writing to the Owner. 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 unless 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. Examinations, audits, and verifications, if required by the Owner, will be performed by the Owner's accountants or other representatives of the Owner acting in the sole interest of the Owner.

§ 9.4.3 The issuance of a Certificate for Payment shall constitute a recommendation to the Owner regarding the amount to be paid. This recommendation is not binding on the Owner if Owner knows of other reasons under the Contract Documents why payment should be withheld. PAGE 45

- .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-the Contract Documents; or
- ,8 failure to submit a written plan indicating action by the Contractor to regain the time schedule for completion of Work within the Contract time.

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

....

§ 9.5.4 If the Architeet 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. Notwithstanding any provision contained within this Article, if the Work has not attained Substantial Completion or Final Completion by the required dates, subject to extensions of time allowed under the Contract Documents, then Architect may withhold any further Certificate for Payment from Contractor to the extent necessary to preserve sufficient funds to complete the construction of the Project and to cover liquidated damages. The Owner shall not be deemed in default by reason of withholding payment as provided for in Sections 9.3.4, 9.4.3, 9.5.1, or this Section.

....

§ 9.6.1 After the Architect has issued a Certificate for Payment, the Owner shall make payment for undisputed amounts in the manner and within the time provided in the Contract Documents, and shall so notify the Architect. Owner shall notify Contractor within 21 days if Owner disputes the Architect's Certificate for Payment pursuant to

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Texas Government Code Section 2251.042 et seq., listing the specific reasons for nonpayment. Payments to the Contractor shall not be construed as releasing the Contractor or his Surety from any obligations under the Contract Documents.

§ 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. In compliance with Texas Government Code Section 2251.022, the Contractor shall, within ten (10) days following receipt of payment from the Owner, pay all bills for labor and materials performed and furnished by others in connection with the Work, and shall, if requested, provide the Owner with evidence of such payment. Contractor shall include a provision in each of its subcontracts imposing the same payment obligations on its Subcontractors as are applicable to the Contractor hereunder, and if the Owner so requests, shall provide to the Owner copies of such Subcontractors or for materials or labor used in the Work for which the Owner has made payment to the Contractor, then the Owner shall be entitled to withhold payment to the Contractor in part or in whole to the extent necessary to protect the Owner. This Section is subject to the provisions of Texas Business and Commerce Code Chapter 56.

....

§ 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.supplier. Any action taken by the Owner to require the Contractor to pay a Subcontractor shall not impose any liability on Owner to the Subcontractor or supplier.

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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. Payments received by the Contractor from the Owner for Work properly performed by Subcontractors, or materials properly provided by suppliers, shall be held in trust by the Contractor for the benefit of those Subcontractors or suppliers who performed Work or furnished materials, or both, under contract with the Contractor for the benefit of those Subcontractors or suppliers who performed by suppliers, shall be held in trust by the Contractor for the benefit of those Subcontractors or suppliers who performed Work or furnished materials, or both, under contract with the Contractor. Texas Property Code § 162.001.

§ 9.6.8 Provided the Owner has fulfilled its payment obligations under the Contract Documents, the 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.

§ 9.6.9 Contractor shall not withhold as a retainage a greater percentage from Subcontractors or materialmen than the percentage that Owner withheld as retainage from payments to Contractor.

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§ 9.7.1 Pursuant to Texas Government Code Section 2251.051, if the Owner does not pay the Contractor any payment certified by the Architect, which is undisputed, due, and owing after the date the payment is due under the Contract Documents, then the Contractor, upon ten (10) additional days' written notice to the Owner and Architect that payment has not been made and the Contractor intends to suspend performance for nonpayment, may stop the Work until payment of the undisputed amount owing has been received. If the Owner provides written notice to the

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Contractor that: 1) payment has been made; or 2) a bona fide dispute for payment exists, listing the specific reasons for nonpayment, then Contractor shall be liable for damages resulting from suspension of the Work. If a reason specified is that labor, services, or materials provided by the Contractor are not provided in compliance with the Contract Documents, then the Contractor shall be provided a reasonable opportunity to cure the noncompliance or to compensate Owner for any failure to cure the noncompliance. No amount shall be added to the Contract Sum as a result of a dispute between Owner and Contractor unless and until such dispute is resolved in Contractor's favor.

§ 9.7.2 If the Architect does not issue a Certificate for Payment, through no fault of the Contractor, Payment 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' through no fault of the Contractor, then the Contractor shall provide written notice to the Owner, and the Owner shall have fourteen (14) business days after receipt of such notice to provide or obtain a Certificate for Payment. If Owner fails to provide or obtain the Certificate for Payment, then the Contractor may, upon fourteen (14) additional business days' written 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-undisputed amount owing has been received.

§ 9.7.3 If the Owner is entitled to reimbursement or payment from the Contractor under or pursuant to the Contract Documents, then 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 to Owner, pursuant to the Contract, or if the Owner incurs any costs and expenses to cure any default of the Contractor or to correct defective Work, then the Owner shall have an absolute right to offset such amount against the Contract Sum and, in the Owner's sole discretion and without waiving any other remedies, may elect either to:

- deduct an amount equal to that which the Owner is entitled from any payment then or thereafter due to Contractor from the Owner, or
- issue a written notice to the Contractor reducing the Contract Sum by an amount equal to that which the Owner is entitled.

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§ 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; all Project systems included in the Work or designated portion thereof have been successfully tested and are fully operational; all required governmental inspections and certifications required of the Work have been made, approved and posted; designated initial instruction of Owner's personnel in the operation of Project systems has been completed; and all the required finishes set out in the Construction Documents are in place. The only remaining Work shall be minor in nature so that the Owner can occupy the Work or the applicable portion of the Work for all of its intended purposes on that date; and the completion of the Work by the Contractor will not materially interfere with or hamper Owner's normal school operations or other intended use. As a further condition of a determination of Substantial Completion, the Contractor shall certify that all remaining Work shall be completed within 30 days. Contractor shall complete Owner's Substantial Completion Certificate.

§ 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, then the Architect shall so notify the Contractor and Owner in writing, and 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. Except with the consent of the Owner, the Architect shall perform no more than five inspections to determine whether the Work or a designated portion thereof has attained Substantial Completion in accordance with the Contract Documents. The

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Owner shall be entitled to reimbursement from the Contractor for amounts paid to the Architect for any additional inspections.

§ 9.8.4 When the Work or designated portion thereof is substantially complete, the Architect will prepare a prepare, sign and issue Owner's 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 Final Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 9.8.5 The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in the Certificate. Upon-such-acceptance, and consent of surety if any, the Owner shall make payment of retainage applying to the Work or designated portion thereof. Such payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Contract Documents.

....

§ 9.9.1 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, agreed to by the Owner and the Contractor in writing, 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 that 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 Contractor considers a portion substantially complete, the Contractor shall prepare and submit a list to the Architect as provided under Section 9.8.2. resulting from such occupancy, use or installation, and property and liability insurance. 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. Contractor agrees that the Owner may place and install as much equipment and furnishings as is possible before completion or partial completion of portions of the Work.

§ 9.9.2 Immediately prior to such partial occupancy or use, occupancy, use or installation, 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, upon in writing, partial occupancy or use of a portion or portions of the Work or installation of furnishings and equipment shall not constitute acceptance of Work not complying with the requirements of the Contract Documents. Documents, nor shall it constitute evidence of Substantial Completion or Final Completion.

§ 9.9.4 In the event that Owner takes partial occupancy or installs furnishings and equipment prior to Substantial Completion of the Project. Contractor shall obtain an endorsement to Contractor's Builder's Risk Policy to provide extended coverage for partial occupancy if Contractor's Builder's Risk Coverage required by Article 11 would not otherwise provide such coverage. PAGE 48

§ 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 prepare, sign, and issue Owner's Certificate of Final Completion and a final Certificate for Payment certifying to the Owner that, 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-balance, including all retainages 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

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Contractor's being entitled to final payment have been fulfilled. Final payments shall be made by the Owner in accordance with Owner's regular schedule for payments.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect (1) using AIA Document G706, 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 evidence satisfactory to Owner that insurance required by the Contract Documents to remain in force after final payment is currently in effect, (3) a written statement that the Contractor knows of no reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent-using AIA Document G707, 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-except for amounts previously withheld by the Owner, other data establishing payment or satisfaction of obligations, such as AIA Document G706A, notarized subcontractor's lien releases, 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. In addition, the following items must be completed and received by the Owner before Final Payment will be due:

- .1 Written certifications required by Sections 10.5, 10.6, and 10.7;
- .2 Final list of subcontractors (AIA Document G705);
- .3 Contractor's certification in Texas Education Agency's Certification of Project Compliance, located at: www.tea.state.tx.us/school.finance/facilities/cert\_2004. pdf;
- .4 Contractor's warranties, organized as required elsewhere in the Contract Documents;
- .5 Maintenance and Instruction Manuals;
- .6 Owner's Final Completion Certificate; and
- .7 "As-constructed record drawings". At the completion of the Project, the Contractor shall submit one complete set of "as-constructed" record drawings, with all changes made during construction, including concealed mechanical, electrical, and plumbing items. The Contractor shall submit these as electronic, sepia, or other acceptable medium, in the discretion of the Owner. The "as-constructed" record drawings shall delete the seal of the Architect and/or the Engineer and any reference to those firms providing professional services to the Owner, except for historical or reference purposes.

Documents identified as affidavits must be notarized. All manuals will contain an index listing the information submitted. The index section will be divided and identified by tabbing each section as listed in the index. Upon request, the Architect will furnish the Contractor with blank copies of the forms listed above. Final payment shall be paid by the Owner to the Contractor within thirty (30) days after Owner's Board of Trustees has voted to accept Final Payment.

§ 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 and it shall not constitute a waiver of Claims.

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§ 9.10.4 The making of final payment shall constitute a waiver of Claims by the Owner except those arising from

- .1 liens, Claims, security interests, or encumbrances arising out of the Contract and unsettled;
- .2 failure of the Work to comply with the requirements of the Contract Documents;

.3 terms of special warranties required by the Contract Documents; or

.4 audits performed by the Owner, if permitted by the Contract Documents, after final payment.not constitute a waiver of any Claims by the Owner.

§ 9.10.5 Acceptance of final payment by the Contractor, a Subcontractor, or a supplier, shall constitute a waiver of claims by that payee except those previously made in writing asserted pursuant to Article 15 and identified by that payee as unsettled at the time of final Application for Payment. PAGE 49

The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the <u>Contract and shall conform to all provisions of the "Manual of Accident</u> <u>Prevention in Construction", published by the Associated General Contractors of America, Inc., latest edition, and the</u> <u>Contractor further agrees to fully comply with all safety standards required by the Occupational Safety and Health</u> <u>Administration ("OSHA") 29 USC Section 651 et seq., and all amendments thereto. However, the Contractor's duties</u> <u>herein shall not relieve any Subcontractor or any other person or entity, including any person or entity required to</u> <u>comply with all applicable federal, state and local laws, rules, regulations, and ordinances, from the obligation to</u> <u>provide for the safety of their employees, persons, and property and their requirements to maintain a work</u> <u>environment free of recognized hazards. Contractor shall provide reasonable fall protection safeguards and provide</u> <u>approved fall protection safety equipment for use by all exposed Contractor employees.</u>

§ 10.1.2 Contractor's employees, agents, Subcontractors, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, shall not perform any service for Owner while under the influence of any amount of alcohol or any illegal controlled substance; or use, possess, distribute, or sell alcoholic beverages while on Owner's premises. No person shall: use, possess, distribute, or sell illegal or nonprescribed controlled drugs or drug paraphemalia; misuse legitimate prescription or over-the-counter drugs; or act in contravention of warnings on medications while performing the Work or while on Owner's premises. Contractor's employees, agents, Subcontractors, or anyone directly or indirectly employed by any of them, shall not distribute or sell alcohol or drugs of any kind to Owner's students or staff, regardless of the location of the distribution or sale.

§ 10.1.3 Contractor will comply with all applicable federal, state, and local drug and alcohol-related laws and regulations (e.g., Department of Transportation regulations, Drug-Free Workplace Act). Contractor has adopted or will adopt its own policy to assure a drug-free and alcohol-free workplace while on Owner's premises or performing the Work. Contractor will remove any of its employees, agents, subcontractors, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, from performing the Work any time there is suspicion of alcohol and/or drug use, possession, or impairment involving such person, and at any time an incident occurs where drug or alcohol use could have been a contributing factor. Owner has the right to require Contractor to remove any person from performing the Work any time cause exists to suspect alcohol or drug use. In such cases, the person so removed may only be considered for return to work after the Contractor certifies, as a result of a for-cause test, conducted immediately following removal, that said person was in compliance with this Contract. Contractor will not use any person to perform the Work who fails or refuses to take, or tests positive on, any for-cause alcohol or drug test.

§ 10.1.4 Owner has also banned the presence of all weapons on the Project site, whether or not the owner thereof has a permit for a weapon, and Contractor agrees that Contractor's representatives, employees, agents, and subcontractors will abide by same. Weapons may only be permitted in Owner's parking lots if weapons are locked in personal vehicles in Owner's parking lot.
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.1 employees on the Work-Work, school personnel, students, and other persons on Owner's premises, and other persons who may be affected thereby; thereby, including the installation of fencing between the Work site and any connecting or adjacent property of Owner, when required by Texas Education Code Section 22.08341;

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.3 other property at the site or adjacent thereto, such as <u>other buildings</u>, and other contents, fencing, trees, shrubs, lawns, walks, <u>athletic fields</u>, facilities, and tracks, pavements, roadways, structures, and utilities not designated for removal, relocation, or replacement in the course of construction.

§ 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 <u>installing fencing</u>, 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. <u>The Contractor shall also be responsible</u>, at the Contractor's sole cost and expense, for <u>all measures necessary to protect any personal or real property adjacent to the Project and improvements therein. Any damage to such property or improvements shall be promptly repaired by the Contractor.</u>

§ 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-personnel and shall only conduct such activities after giving reasonable advance written notice of the presence or use of such materials, equipment, or methods to Owner and Architect. The storage of explosives on Owner's property is prohibited. The use of explosive materials on Owner's property is prohibited unless expressly approved in advance in writing by Owner and Architect.

§ 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 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.
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§ 10.2.7 The Contractor shall not load or permit any part of the construction or site to be loaded so as to cause damage or create an unsafe condition.

§ 10.2.8 The Contractor shall do all things reasonably necessary to protect the Owner's premises and all persons from damage and injury when all or a portion of the Work is suspended for any reason.

§ 10.2.9 The Contractor shall promptly report in writing to the Owner and Architect all accidents arising out of or in connection with the Work which cause death, bodily injury, or property damage, giving full details and statements of any witnesses. In addition, if death, serious bodily injuries, or serious property damages are caused, then the accident shall be reported immediately by any means necessary to give actual notice to the Owner's representative and the Architect.

§ 10.2.10 Contractor's obligations under Section 10.2 as to each portion of the Project shall continue until Owner takes possession of and occupies that portion of the Project.

# § 10.2.8 Injury or Damage to Person or Property

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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.

### § 10.2.11 Injury or Damage to Person or Property

If either party to the Contract 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, written notice of the injury or damage, whether or

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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. Contractor understands and acknowledges that, under Texas law, Owner has sovereign and/or governmental immunity as to all torts except as to the Owner's permitted use or operation of Owner's motor vehicles, subject to any defenses under law.

§ 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 in writing the Owner and Architect of the condition. In the event the Contractor encounters polychlorinated biphenyl (PCB), and the specifications require the PCB's removal, the Contractor shall remove the PCB and store it in marked containers at the jobsite provided by the Owner. If PCBs are found which are leaking, then Contractor shall stop work on the affected fixture and shall contact Owner for removal and disposal of the leaking PCBs.

§ 10.3.2 Upon receipt of the Contractor's <u>written</u> notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Contract Documents, the Owner shall furnish in writing to the Contractor and Architect the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of the material or substance or who are to perform tests verifying the presence or absence of the material or substance or who are to perform the task of removal or safe containment of the material or substance. The Contractor and the Architect will promptly reply to the Owner in writing stating whether or not either has reasonable objection to the persons or entities proposed by the Owner. If either the Contractor or Architect has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Contractor and the Architect have no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Contractor. By Change Order, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable additional costs of shutdown, delay, and start-up. The Contractor may be entitled to an equitable adjustment regarding the Date of Substantial Completion and/or Final Completion.

§ 10.3.3 To the fullest extent permitted by law, the Owner shall indemnify and hold hamless 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.IF CONTRACTOR IMPORTS HAZARDOUS MATERIALS ONTO THE PROJECT SITE. THEN CONTRACTOR HEREBY INDEMNIFIES AND HOLDS HARMLESS THE OWNER, ITS CONSULTANTS, TRUSTEES, OFFICERS, AGENTS AND EMPLOYEES, AGAINST ANY CLAIMS ARISING OUT OF OR RELATED TO SUCH IMPORTATION, INCLUDING BUT NOT LIMITED TO COSTS AND EXPENSES THE OWNER INCURS FOR REMEDIATION OF A MATERIAL OR SUBSTANCE THE CONTRACTOR BRINGS TO THE SITE, AS PROVIDED FOR IN SUBPARAGRAPH 3.18.

§ 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.

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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.

§10.4.1 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.

§ 10.4.2 The performance of the foregoing services by the Contractor shall not relieve the subcontractors of their responsibility for the safety of persons and property and for compliance with all federal, state and local statutes, rules, regulations and orders of any governmental authority applicable to the conduct of the Work.

# § 10.5 ASBESTOS OR ASBESTOS-CONTAINING MATERIALS

§ 10.5.1 Contractor shall submit to the Architect a written certification addressed to the Owner that all materials used in the construction of this Project contain less than 0.10% by weight of asbestos and for which it can be demonstrated that, under reasonably foreseeable job site conditions, will not release asbestos fibers in excess of 0.1 fibers per cubic centimeter. The written certification shall further state that, should asbestos fibers be found at this Project in concentrations greater than 0.1 fibers per cubic centimeter, then Contractor shall be responsible for determining which materials contain asbestos fibers and shall take all necessary corrective action to remove those materials from the Project, at no additional cost to the Owner. The written certification shall be dated, shall reference this specific Project and shall be signed by not less than two (2) officers of the Contractor,

§ 10.5.2 Final Payment shall not be made until this written certification has been received.

# § 10.6 LEAD-FREE MATERIAL IN POTABLE WATER SYSTEM

§ 10.6.1 Prior to payment of retainage and final payment, the Contractor and each subcontractor involved with the potable water system shall furnish a written certification that the potable water system is "lead-free".

§ 10.6.2 The written certification shall further state that should lead be found in the potable water system built under this Project, then Contractor shall be responsible for determining which materials contain lead and shall take all necessary corrective action to remove lead from the Project, at no additional cost to the Owner. The written certification shall be dated, shall reference this specific Project and shall be signed by not less than two (2) officers of the Contractor.

# § 10.7 HAZARDOUS MATERIALS CERTIFICATION

The Contractor shall provide written certification that no materials used in the Work contain lead or asbestos materials in them in excess of amounts allowed by federal, state or local standards, laws, codes, rules and regulations; the Federal Environmental Protection Agency (EPA) standards; and/or the Federal Occupational Safety and Health Administration (OSHA) standards, whichever is most restrictive. The Contractor shall provide this written certification as part of submittals under the Section in the Project Manual related to Contract Closeout. PAGE 52

§ 11.0.1 No Work will be commenced, and no equipment or materials can be shipped, until all requirements of this Article have been satisfied, satisfactory evidence of insurance has been provided, and all insurance is in full force and effect. Contractor shall notify Owner and Architect in writing of any proposed nonconformity with these requirements, and shall notify Owner and Architect in writing of any insurance changes which occur during the terms required under the Contract Documents. Any deviation from these requirements can only be approved by Owner's Board of Trustees. Any nonconformity may be grounds for termination or modification of the Contract. To the extent that Contractor is unable to procure the insurance designated herein because the insurance is not reasonably available or is cost-prohibitive, then Contractor shall provide written notice to Owner's Board of Trustees. Said lack of insurance may then be grounds for termination or modification of this Agreement.

§ 11.0.2 Satisfactory evidence of insurance required by this Article shall be provided to Owner and Architect not later than five business days after execution of the Contract by Owner. Satisfactory evidence shall include copies of all required insurance policies, declarations, and endorsements themselves. In addition, Contractor shall also provide a duly-executed ACORD Form 25 Certificate of Liability Insurance naming Owner as a certificate holder and additional

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insured (except as noted in Section 11.0.4) and attaching all endorsements required herein. The Contractor shall furnish Owner all insurance amendments, renewals, notices, cancellations, and additional endorsements, as they are provided to Contractor.

§ 11.0.3 All insurance required herein shall be obtained from a company licensed to do business in the State of Texas by the Texas Department of Insurance, and shall be underwritten by a company rated not less than "A-" X in A.M. Best's Key Rating Guide, Property-Casualty, according to the latest posted ratings available on A.M. Best's website, www.ambest.com, and that permits waivers of subrogation.

§ 11.0.4 All insurance required herein shall name the Owner, its officers, employees, representatives, or agents, as an additional insured, except Contractor's Worker's Compensation insurance.

§ 11.0.5 All insurance required herein shall, by endorsement, be primary and non-contributory insurance with respect to the Owner, its officers, employees, representatives, or agents. All insurance shall be written on an occurrence basis, if available, and shall contain a waiver of subrogation in favor of Owner as provided for in Section 11.3.

§ 11.0.6 Any failure of Contractor to comply with the reporting provisions of the policies shall not affect the coverage provided to the Owner, its officers, employees, representatives, or agents.

§ 11.0.7 All workers on the Project must be covered by the required insurance policies of the Contractor or a Subcontractor.

§ 11.0.8 Nothing contained in this Article shall limit or waive Contractor's legal or contractual responsibilities to Owner or others.

§ 11.1.1 The Contractor and the Contractor's Subcontractors shall purchase and maintain such insurance as will protect them and the Owner from claims that may arise out of, or result from, the Contractor's operations under the Contract, whether such operations be by Contractor or by any Subcontractor, or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable, at a minimum, of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement in this Section 11.1 in the Agreement, or elsewhere in the Contract Documents. The Contractor shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Owner, Architect, and Architect's consultants shall be named as additional insureds under the Contractor's commercial general liability policy or as otherwise described in the Contract Documents. Such insurance shall include the following:

- .1 Claims under workers' compensation, disability benefit, and other similar employee benefit acts that are applicable to the Work to be performed, including private entities performing work at the site, and exempt from the coverage on account of number of employees or occupation, which entities shall maintain voluntary compensation coverage at the same limits specified for mandatory coverage for the duration of the Project (see Exhibit A);
- <u>Claims for damages because of bodily injury, occupational sickness or disease, or death of the</u> 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, other than to the Work itself, 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;

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- Claims involving contractual liability insurance applicable to the Contractor's obligations under the .8 Contract Documents, including under Section 3.18; and
- Claims for damages to the Work itself, through builder's risk insurance, pursuant to AIA 101-2017, .9 Exhibit A.

§ 11.1.2.1 The Contractor shall furnish separate payment and performance bonds covering faithful performance of the Contract and payment of obligations arising thereunder, each bond to be in a total amount equal to 100% of the Contract Sum or Guaranteed Maximum Price, if the Project is a Construction Manager at Risk project, whichever is applicable. Provided, however, no limitation herein shall limit Contractor's liability under the Contract Documents. Except as provided below, such bond shall be furnished to Owner before any work begins and not later than five business days after execution of the Contract by Owner. (If the Guaranteed Maximum Price is not known at the time that a Construction Manager at Risk contract is awarded, then the sum of the payment and performance bonds must each be in an amount equal to the Project budget. The Construction Manager at Risk shall deliver the bonds not later than the tenth day after the date the Construction Manager at Risk executes the Contract, unless the Construction Manager at Risk furnished a bid bond or other financial security acceptable to the Owner to the District to ensure that the Construction Manager will furnish the required payment and performance bonds when the Guaranteed Maximum Price is established.) All bonds shall be issued by a surety company licensed, listed and authorized to issue bonds in the State of Texas by the Texas Department of Insurance, and shall fully comply with Texas Insurance Code Section 3503.001 et seq. and Texas Government Code Chapter 2253, or their successors. The surety company shall have a rating of not less than "A-"X according to the latest posted ratings on the A.M. Best website, www.ambest.com. The surety company shall provide, if requested, information on bonding capacity and other projects under coverage and shall provide proof to establish adequate financial capacity for this Project. Should the bond amount be in excess of ten percent (10%) of the surety company's capital and surplus, then the surety company issuing the bond shall certify that the surety company has acquired reinsurance, in a form and amount acceptable to the Owner, to reinsure the portion of the risk that exceeds ten percent (10%) of the surety company's capital and surplus with one or more reinsurers who are duly authorized and admitted to do business in Texas and that amount reinsured by a reinsurer does not exceed ten percent (10%) of the reinsurer's capital and surplus. Contractor shall immediately notify the Owner and Architect in writing if there is any change in: the rating; insolvency or receivership in any State; bankruptcy; right to do business in the State; or status of Contractor's sureties at any time until Final Completion.

§ 11.1.2.2 The Contractor shall deliver copies of the required bonds to the Owner and Architect not later than five business days after execution of the Contract by Owner. All bonds will be reviewed by the Architect for compliance with the Contract Documents. In the event that the Architect has any questions concerning the sufficiency of the bonds, the bonds will be referred to the Owner or the Owner's Representative with Architect's recommendation.

§ 11.1.2.3 All bonds shall be originals. The Contractor shall require the attorney-in-fact who executes the required Bonds on behalf of the Surety to affix thereto a certified and current copy of the power-of-attorney. The name, address, and telephone number of a contact person for the bonding company shall be provided.

§ 11.1.2.4 Bonds shall guarantee the faithful performance of all of the covenants, stipulations, and agreements of the Contract. Bonds shall be signed by an agent, resident in the State of Texas. If at any time during the continuance of the Contract, the Owner determines that the Contractor is unable to complete the Work in accordance with the Contract Documents, any of the Contractor's bonds become insufficient, the surety becomes insolvent, or the surety's rating drops below the required level, then the Owner shall have the right to require from the Contractor additional and sufficient sureties or other security acceptable to the Owner, which the Contractor shall furnish to the satisfaction of the Owner within ten (10) days after notice to do so. These contractual remedies are in addition to all remedies available by law. In default thereof, all payment or money due to the Contractor may be withheld until the Contractor provides additional surety or security.

§ 11.1.2 The Contractor shall provide surety bonds of the types, for such penal sums, and subject to such terms and conditions as required by the Contract Documents. The Contractor shall purchase and maintain the required bonds from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located.

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§ 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 knows or should know of an impending or actual cancellation or expiration of any insurance required by the Contract Documents, the Contractor shall provide written notice to the Owner of such impending or actual eancellation or expiration. cancellation. Upon receipt of written 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 written notice by the Contractor shall not relieve the Contractor of any contractual obligation to provide any required coverage. At least 30 calendar days prior to the date of expiration of any policy required by Section 11.1, Contractor shall provide Owner written notice of the impending expiration.

§ 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 ecompanies lawfully authorized to issue insurance in the jurisdiction where the Project is located, be responsible for purchasing and maintaining property and casualty insurance no later than the date of Substantial Completion and such date of Owner responsibility shall be documented in the Certificate of Substantial Completion. If Owner occupies or uses any completed or partially-completed portion of the Work at any stage, then such occupancy or use must be consented to by the insurer and authorized by public authorities having jurisdiction over the Work. To the extent of overlap between Owner's property insurance and Contractor's builder's risk insurance, if any, Contactor's builder's risk shall be primary and non-contributory.

§ 11.2.2 Partial occupancy or use shall not commence until the insurance company providing this insurance has consented in writing, by endorsement or otherwise. Owner and Contractor shall take reasonable steps to obtain such consent and shall take no action without written mutual consent that would cause cancellation, lapse, or reduction of this insurance.

§ 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.

§ 11.3.1 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

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§ 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-The Owner, as fiduciary, shall have power to adjust and settle any loss arising out of the Work with insurers, regardless of the purchaser of the insurance policy. The Contractor upon receipt of proceeds shall, as a fiduciary, pay all subcontractors their just shares of insurance proceeds received by the Contractor, and by appropriate agreements shall require subcontractors to make payment to their sub-subcontractors in similar manner. The Owner shall deposit in a separate account proceeds so received, which the Owner shall distribute in accordance with such agreement as the parties in interest may reach. If after such loss no other special agreement is made and unless the Owner terminates the Contract for convenience, replacement of damaged property shall be performed by the Contractor with the insurance proceed from the Owner.

§ 11.3.3 Partial occupancy or use shall not commence until the insurance company providing this insurance has consented in writing, by endorsement or otherwise. Owner and Contractor shall take reasonable steps to obtain such consent and shall take no action without written mutual consent that would cause cancellation, lapse, or reduction of this insurance.

### § 11.4 Loss of Use, Business Interruption, and Delay in Completion Insurance

The Owner, at the Owner's option, may purchase and maintain insurance that will protect the Owner against loss of use of the Owner's property, or the inability to conduct normal operations, due to fire or other causes of loss. The Owner waives all rights of action against the Contractor and Architect for loss of use of the Owner's property, due to fire or other hazards however caused.

### § 11.4 Loss of Use and Business Interruption

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.

§ 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 and Architect of the terms of the proposed settlement as well as the proposed allocation of the insurance proceeds. The Contractor and the Architect shall have 14 days from receipt of notice to object to the proposed settlement or allocation of the proceeds. If the Contractor does and/or the Architect do not object, the Owner shall settle the loss and the Contractor and Architect 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 and/or Architect timely object to either the terms of the proposed settlement or the allocation of the proceeds, the Owner may proceed to settle the insured loss, and any dispute between the Owner and Contractor arising out of the settlement or

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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. PAGE 56

§ 12.1.1 If a portion of the Work is covered contrary to the Architect's or <u>Owner's</u> request or to requirements specifically expressed in the Contract Documents, it must, if requested in writing by the Architect, or <u>Owner</u> 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 or Owner 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-may 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.

#### ...

The Contractor shall promptly correct Work rejected by the Architect or <u>Work</u> failing to conform to the requirements of the Contract Documents, discovered before Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Architect's services and expenses made necessary thereby, shall be at the Contractor's expense.

§ 12.2.1.1 The Owner may make emergency repairs to the Work or take such other measures necessary under the circumstances, if the Contractor does not promptly respond to a notice of defect or nonconforming Work. Contractor shall be responsible to Owner for this cost if the reason for the repairs is attributable to the Contractor. If payments then or thereafter due to the Contractor are not sufficient to cover such costs, then the Contractor shall pay the difference to the Owner on demand.

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§ 12.2.2.1 In addition to the Contractor's obligations under Section 3.5, if, within one year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.9.1, or thereof, 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 written 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 written notice promptly after discovery of the condition. During the one-year period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor and to make a claim for breach of warranty. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of written notice from the Owner or Architect, the Owner may correct it in accordance with Section 2.5 the Work as provided in 12.2.2.1.1. Nothing contained in this Section 12.2 is intended to limit or modify any obligations under the law or under the Contract Documents, including any warranty obligations, expressed or implied

§ 12.2.2.1.1 If the Contractor fails to perform the corrective Work, then Owner may perform corrective Work, at Contractor's cost. If Owner performs corrective Work, then Owner may also remove nonconforming Work and store the salvageable materials or equipment at Contractor's expense. If the Contractor does not pay all costs incurred by Owner within ten (10) days after written notice, then Owner may, upon ten (10) additional days' written notice, sell the removed materials and equipment in accordance with Owner's policies, and shall account for the proceeds thereof, after deducting costs and damages that should have been borne by the Contractor, including compensation for the Architect's services and expenses made necessary thereby. If such proceeds of sale do not cover costs which the Contractor should have borne, then the Contractor shall pay the difference to the Owner.

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§ 12.2.2.2 The one-year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual completion of that portion of the Work-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. Section 12.2, but only as to the corrected Work, PAGE 57

§ 12.2.4 The Contractor shall bear the cost of correcting destroyed or damaged construction of by 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.

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§ 12.2.6 Contractor shall replace, repair, or restore any parts of the Project or furniture, fixtures, equipment, or other items placed therein (whether by Owner or any other party) that are destroyed or damaged by any such parts of the Work that do not conform to the requirements of the Contract Documents or by defects in the Work.

§ 12.2.7 The provisions of this Section 12.2 apply to Work done by Subcontractors of the Contractor as well as Work done directly by employees of the Contractor. The provision for this Section 12.2.7 shall not apply to corrective work attributable solely to the acts or omissions of any separate contractor of Owner (unless Contractor is acting in such capacities). The cost to Contractor of performing any of its obligations under this Section 12.2.7 to the extent not covered by insurance shall be borne by Contractor.

§ 12.2.8 If, however, Owner and Contractor deem it inexpedient to require the correction of Work damaged or not done in accordance with the Contract Documents, then an equitable deduction from the Contract Sum shall be made by written agreement between Contractor and Owner. Until such settlement, Owner may withhold such sums as Owner deems just and reasonable from moneys, if any, due Contractor. The settlement shall not be unreasonably delayed by the Owner and the amount of money withheld shall be based on estimated actual cost of the correction to Owner.

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The Contract shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 15.4. laws of the State of Texas, and any litigation shall be conducted in state district court. Mandatory and exclusive venue for any disputes shall be in the county in which the Project is located.

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§ 13.2.1 The Owner and Contractor respectively bind themselves, their partners, successors, assigns, and legal representatives the other party hereto and to partners, successors, assigns and legal representatives of such other party in respect to covenants, agreements, and obligations contained in the Contract Documents. Except as provided in Section 13.2.2, neither Neither party to the Contract shall assign the Contract as a whole Contract, in whole or in part 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 invalidity of any part or provision of the Contract Documents shall not impair or affect in any manner whatsoever the validity, enforceability, or effect of the remainder of the Contact Documents.
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§ 13.3.2 No action or failure to act by the Owner, Architect, or Contractor-Owner or Architect 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.

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§ 13.4.1 Tests, inspections, and approvals of portions of the Work shall be made <u>at appropriate times</u> as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules, and regulations or lawful orders of public authorities. <u>authorities having jurisdiction</u>. 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. <u>approvals which shall be included in the Cost of the Work</u>. Provided, however, per Texas Government Code Chapter 2269, <u>Owner shall bear all costs of construction materials engineering, testing and inspection services, and the verification testing services necessary for acceptance of the facility by the Owner.</u> The Contractor shall give the Architect timely written 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 Owner shall provide or contract 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, approval. Such costs, except as provided in Section 13.4.3, shall be at the Owner's expense. Architect, Owner and Contractor shall cooperate for the timely scheduling of such tests and inspections.

§ 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 including, but not limited to, 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. Architect with a copy to the Owner.

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Payments-Undisputed payments over 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 as provided by Texas Government Code Section 2251.025. Any such payment shall be deemed overdue on the thirty-first day after Owner received Architect's invoice or Contractor's completed Application for Payment for the Architect, whichever is later, if Owner's Board of Trustees meets more than once per month. Any such payment shall be deemed overdue on the forty-sixth day after Owner receives Architect's invoice or Contractor's Certificate for Payment from the Architect, if Owner's Board of Trustees meets once a month or less frequently. No interest shall be due on sums properly retained by Owner, except as provided by law, or on disputed sums unpaid by Owner.

# § 13.6 EQUAL OPPORTUNITY IN EMPLOYMENT

§ 13.6.1 The Contractor and the Contractor's Subcontractors shall not discriminate against any employee or applicant for employment because of race, religion, age, disability, sex, or national origin, or any class otherwise protected by District policy or law. The Contractor agrees to post in conspicuous places, available to employees and applicants, notices setting forth the Contractor's nondiscrimination policies.

§ 13.6.2 The Contractor and the Contractor's Subcontractors shall, in all solicitations or advertisements for employees placed by them or on their behalf, state that all qualified applicants will receive consideration for employment without regard to race, religion, age, disability, sex, national origin, or any class otherwise protected by District policy or law.

# § 13.7 RECORDS

§ 13.7.1 Contractor shall at all times through the date of Final Completion, maintain Job Records, including, but not limited to, invoices, Construction Documents, payment records, payroll records, daily reports, diaries, logs,

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instructions, drawings, receipts, subcontracts, purchase orders, vouchers, memoranda, other financial data and job meeting minutes applicable to the Project, in a manner which maintains the integrity of the documents. Job Records must be retained by Contractor for at least twelve (12) years after the date of Final Completion of the Project. Within 10 days of Owner's request, Contractor shall make such Job Records available for inspection, copying and auditing by the Owner, Architect or their respective representatives, at Owner's central office.

§ 13.7.2 If Contractor is a Construction Manager at Risk, then Contractor shall also maintain, in accordance with the provisions of Section 13.7.1, the following: subcontract files, including proposals of successful and unsuccessful bidders, bid recaps and subcontractor payments; original estimates; estimating work sheets; general ledger entries detailing cash and trade discounts received; insurance rebates and dividends; and any other supporting evidence deemed necessary by the Owner to substantiate charges related to the Contract.

§ 13.7.3 Contractor shall keep a full and detailed financial accounting system and shall exercise such controls as may be necessary for proper financial management under this Contract; the accounting and control systems shall be satisfactory to the Owner and shall be subject to the provisions of Section 13.7.1.

§ 13.7.4 Contractor shall keep all Contract Documents related to the Project, subject to the provisions of Section 13.79.1, provided, however, Contractor shall not destroy said documents until Contractor has confirmed with Owner in writing that Owner has obtained a copy of all as-built drawings.

§ 13.7.5 In the event that an audit by the Owner reveals any errors/overpayments by the Owner, then the Contractor shall refund to the Owner the full amount of such overpayments within thirty (30) days of such audit findings, or the Owner, at its option, reserves the right to deduct such amounts owed to the Owner from any payments due to the Contractor.

# § 13.8 PROPRIETARY INTERESTS AND CONFIDENTIAL INFORMATION

§ 13.8.1 Neither Architect nor Contractor shall use the image or likeness of Owner's Project or Owner's official logo or emblem and any other trademark, service mark, or copyrighted or otherwise protected information of Owner, without Owner's prior written consent. Contractor and Architect shall not have any authority to advertise or claim that Owner endorses Architect or Contractor's services, without Owner's prior written consent.

§ 13.8.2 Neither Architect nor Contractor shall disclose any confidential information of Owner which comes into the possession of Architect or Contractor at any time during the Project, including but not limited to: pending real estate purchases, exchange, lease, or value; information related to litigation; the location and deployment of security devices; security access codes; student likenesses; student record information; employee information; or any other information deemed confidential by law.

§ 13.8.3 The parties acknowledge that, as a public entity in the State of Texas, Owner is subject to, and must comply with, the provisions of the Texas Public Information Act, Texas Government Code Section 552.001, et seq., and the Texas Open Meetings Act, Texas Government Code, Section 551.001, et seq.
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§ 14.1.1 The Contractor may terminate the Contract if the Work is stopped for a period of 30-ninety (90) consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, for any of the following reasons: PAGE 60

- .2 An act of government, such as a declaration of national emergency, that requires all Work to be stopped; or
- .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 of undisputed sums due on an approved 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.Documents.

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§ 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' exists then, after the applicable time period, the Contractor may, upon ten (10) days' written 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 and for proven unrecoverable loss with respect to materials, equipment, tools, and construction equipment and machinery incurred to the date of termination.

§ 14.1.4 If the Work is stopped for a period of 60-ninety (90) 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-twenty (20) additional days' written notice to the Owner and the Architect, terminate the Contract and recover from the Owner as provided in Section 14.1.3.

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- .2 fails to make payment to Subcontractors or suppliers Suppliers in accordance with the respective agreements between the Contractor and the Subcontractors or suppliers; Suppliers;
- .3 repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority;07
- .4 otherwise is guilty of substantial breach of a provision of the Contract Documents;
- .5 fails to furnish the Owner, upon written request, with assurances satisfactory to the Owner, evidencing the Contractor's ability to complete the Work in compliance with all the requirements of the Contract Documents;
- .6 engages in serious or repeated worker misconduct in violation of Article 3.3.2;
- .7 engages in conduct that would constitute a violation of state or federal criminal law, including but not limited to, the laws prohibiting certain gifts to public servants, or engages in conduct that would constitute a violation of the Owner's ethics or conflict of interest policies; or
- .8 fails to proceed continuously and diligently with the construction and completion of the Work, except as permitted under the Contract Documents.

§ 14.2.2 When any of the reasons described in Section 14.2.1 exist, and upon-certification by the Architect that sufficient cause exists to justify such action, subject to any prior rights of the surety, 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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§ 14.2.3 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. <u>Any further payment shall be limited to amounts</u> earned to the date of termination.

§ 14.2.4 If the unpaid balance of the Contract Sum-exceeds-costs of finishing the Work, including compensation for the Architect's Architects' services and expenses made necessary thereby, and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance, the Contractor-exceed the unpaid balance of the Contract Sum or Guaranteed Maximum Price, (if the Project is a Construction Manager at Risk project), then the Contractor and/or its Surety shall pay the difference to the Owner. The amount to be paid to the Contractor or Owner, as the case may be, shall be certified by the Initial Decision Maker, upon application, and this Owner shall be certified by Architect upon application. The obligation for payment shall survive termination of the Contract.

§ 14.2.5 The parties hereby agree that: 1) if an order for relief is entered on behalf of the Contractor, pursuant to Chapter 11 of the U.S. Bankruptcy Code; 2) if any other similar order is entered under any debtor relief laws; 3) if Contractor makes an assignment for the benefit of one or more of its creditors; 4) if a receiver is appointed for the benefit of its creditors; or 5) if a receiver is appointed on account of its insolvency, any such event could impair or frustrate Contractor's performance of the Contract Documents. Accordingly, it is agreed that upon occurrence of any

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such event. Owner shall be entitled to request of Contractor or its successor in interest adequate assurance of future performance in accordance with the terms and conditions of the Contract Documents. Failure to comply with such request within ten (10) days of delivery of the request shall entitle Owner to terminate the Contract and to the accompanying rights set forth in Subparagraphs 14.2.1 through 14.2.6. In all events, pending receipt of adequate assurance of performance and actual performance in accordance with the Contract Documents, Owner shall be entitled to proceed with the Work with Owner's own forces or with other Contractors on a time and material or other appropriate basis, the cost of which will be charged against the Contract Sum.

§ 14.2.6 As required by Texas Government Code Chapter 2253, if a Performance Bond has been furnished and the Contractor is declared by the Owner to be in default under the Contract, then the Surety shall promptly perform the Work, in full accordance with the plans, specifications and Contract Documents. Unless otherwise agreed in writing between the Surety and the Owner, the Surety shall complete the Work by the Surety entering into a Contract acceptable to Owner, with a Contractor acceptable to Owner, and shall obtain new Payment and Performance Bonds as required by law.

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§ 14.3.2 The Contract Sum and Contract Time shall be adjusted Sum, Guaranteed Maximum Price, and Contract Time may be adjusted, by mutual written agreement, 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

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§ 14.4.1 The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause. Furthermore, if this Contract is a multi-year contract funded through Owner's current general funds that are not bond funds, then the Owner's Board of Trustees has the right to not appropriate adequate monies for the next fiscal year and to terminate this Contract at the end of each fiscal year during the term of the Contract, without the Owner incurring any further liability to Contractor as a result of such termination.

§ 14.4.2 Upon receipt of written notice from the Owner of such termination for the Owner's convenience, the Contractor shall

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§ 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 executed and for proven unrecoverable loss with respect to materials, equipment, tools, and construction equipment and machinery incurred to the date of termination. Such payment shall not cause the Contract Sum, or Guaranteed Maximum Price, if the Project is a Construction Manager at Risk Project, to be exceeded. Such payment shall not include overhead and profit for Work not executed.

§ 14.4.4 Upon determination by a Court of competent jurisdiction that termination of the Contractor pursuant to Section 14.2 was wrongful, such termination will be deemed converted to a termination for convenience pursuant to Section 14.4, and Contractor's remedy for wrongful termination shall be limited to the recovery of the payments permitted for termination for convenience as set forth in Section 14.4.

# ARTICLE 15 CLAIMS AND DISPUTES OF CONTRACTOR PAGE 62

A Claim is a demand or assertion by one of the parties the Contractor seeking, as a matter of right, payment of money, of additional compensation under the Contract Documents, interpretation of the Contract Document terms, 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. Contractor. 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.

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### § 15.1.2 Time Limits on Claims

The Owner and Contractor shall commence all Claims and eauses 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-

# § 15.1.2 Time Limits on Litigation

The Owner and Contractor shall commence all litigation, whether in contract, tort, breach of warranty or otherwise, in accordance with the requirements of the dispute resolution method selected in the Agreement and within the period specified by applicable law, but in the case of the Owner not more than twelve (12) years after the date of Final Completion of the Work. The Owner and Contractor waive all causes of action not commenced in accordance with this Section 15.1.2.

§ 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 written notice to the Owner party and to the Architect. Claims by Contractor under this Section 15.1.3.1 must be initiated within 21 calendar days after occurrence of the event giving rise to such Claim or within 21 days after the claimant first recognizes calendar days after the Contractor first knew or should have known the condition giving rise to the Claim, whichever is later.earlier. Claims must be initiated by written notice titled "Notice of Claim" ("Notice") and sent to the Architect and Owner's designated representatives. The Notice shall clearly set out the specific matter of complaint, and the impact which may occur or have occurred as a result thereof, to the extent that the impact can be assessed at the time of the Notice. If the impact cannot be assessed as of the date of the Notice then the Notice shall be amended at the earliest date that is reasonably possible. It is imperative that Owner receive timely specific Notice of any potential problem identified by Contractor in order that the problem can be mitigated or resolved promptly.

§ 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 <u>written</u> notice to the other party. In such event, no decision by the Initial Decision Maker is required.

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§ 15.1.4.1 Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 Section 9.7, as amended, and Article 14, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make <u>undisputed</u> payments for Work performed in accordance with the Contract Documents.

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§ 15.1.5 Claims for Additional Cost or an Increase in the Contract Sum or Guaranteed Maximum Price If the Contractor wishes to make a Claim for additional cost or an increase in the Contract Sum, or Guaranteed Maximum Price, written 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-to Owner and Architect. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4. The Architect will promptly investigate such Claim and report findings and a recommended resolution in writing to the Owner and Contractor. If the Claim is approved by Owner's Board of Trustees, or Owner's representative if provided for herein, then Contractor shall proceed with the execution of the Work that is the subject matter of the Claim. If the Claim is rejected by the Owner, then Contractor may pursue alternative dispute resolution as provided for in the Contract Documents.

§ 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 eost and of probable effect of delay on progress of the Work. In the case of a continuing delay, only one Claim is necessary.

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§ 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-prevented the execution of major items of work on normal working days. "Adverse weather conditions" means unusually severe weather which is beyond the normal weather recorded and expected for the locality and/or the season or seasons of the year...

§ 15.1.6.3 The Contractor shall anticipate and include in the construction schedule rain days due to adverse weather conditions in accordance with the rainfall table below. A rain day is defined as a day when rainfall exceeds one-half (.5) inch during a 24-hour period. The number of rain days expected for each month is as follows:

#### Note: Prior to the execution of the Contract, Owner shall fill in the blanks below:

January	Calendar days	July	[] calendar days
February	[] calendar days	August	[] calendar days
March	[] calendar days	September	[] calendar days
April	[] calendar days	October	[] calendar days
May	[] calendar days	November	[] calendar days
June	[] calendar days	December	[] calendar days

§ 15.1.6.4 Time extensions may be granted for rain days in any month when the cumulative number of rain days during that month exceeds the number scheduled, provided that the rainfall prevented the execution of major items of work on normal working days. No day will be counted as a rain day when substantial Contractor forces are able to perform Work on the Project for more than fifty percent (50%) of the usual workday or when the stage of the Work on the Project is not adversely impacted. The number of rain days shown in the above schedule for the first and last months of the Contract will be prorated in determining the total number of rain days expected during the period of the Contract.

§ 15.1.6.5 No extension of time shall be made to the Contractor because of hindrances or delays from any cause which is the fault of Contractor or Contractor's Subcontractors or under Contractor's control. Claims for extension of time may only be considered because of rain delays, or because of hindrances or delays which are the fault of Owner and/or under Owner's control, but only to the extent that Substantial Completion of the Project is adjusted beyond the original Substantial Completion date. Only claims for extension of time shall be considered because of hindrances or delays not the fault of either Contractor or Owner, but only to the extent that Substantial Completion of the Project exceeds the Substantial Completion date established for the Work. Board approval shall be required for any extension of time. No damages shall be paid for delays. Contractor shall only be entitled to time extensions per the terms of the Contract Documents.

§ 15.1.6.6 Requests for time extension shall be submitted on a monthly basis and shall specify the time delay, the cause of the delay, and the responsible party for the delay, whether Contractor, Owner, rain day, or other. No claims for damages for delay shall be made by Contractor. Any claim not submitted under the terms of this Section shall be waived.

•••

The Contractor and Owner-waive-waives all Claims against each Owner 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. Contract, including, but not limited to, any amount owed as compensation for the increased cost to perform the Work as a direct result of Owner-caused delays or acceleration. 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.

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#### § 15.2 Initial-DecisionResolution of Claims and Disputes

§ 15.2.1 Claims, excluding those where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2 or arising under Sections 10.3, 10.4, and 11.5, shall be referred to the Initial Decision Maker for initial decision. The Architect will serve as the Initial Decision Maker, unless otherwise indicated in the Agreement. Except for those Claims excluded by this Section 15.2.1, an initial decision Claims by the Contractor against the Owner, including those alleging an error or omission by the Architect, shall be referred initially to the Architect for written recommendation. An initial recommendation by the Architect shall be required as a condition precedent to mediation of any Claim. If an initial decision has not been rendered within 30 days or litigation of all Claims by the Contractor arising prior to the date final payment is due, unless 30 days have passed after the Claim has been referred to the Initial Decision Maker, the party asserting the Claim may demand mediation and binding dispute resolution without a decision having been rendered. Unless the Initial Decision Maker and all affected parties agree, the Initial Decision Maker will not decide disputes between the Contractor and persons or entities other than the Owner, Architect with no recommendation having been rendered by the Architect.

§ 15.2.2 The Initial Decision Maker will-Architect shall review Claims and within ten days of the receipt of a-the Claim take one or more of the following actions: (1) request additional supporting data from the elaimant 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. Contractor, or (2) make a written recommendation to the Owner, with a copy to the Contractor.

§ 15.2.3 In evaluating Claims, the Initial Decision Maker Architect 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. Architect in making a written recommendation.

§ 15.2.4 If the Initial Decision Maker-Architect 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-Architect when the response or supporting data will be furnished, or (3)-advise the Initial Decision Maker-Architect that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Initial Decision Maker will either reject or approve the Claim in whole or in part.

§ 15.2.5 The Initial Decision Maker will render an initial decision approving or rejecting the Claim, or indicating that the Initial Decision Maker is unable to resolve the Claim. This initial decision shall (1) be in writing; (2) state the reasons therefor, and (3) notify the parties and the Architect, if the Architect is not serving as the Initial Decision Maker, of any change in the Contract Sum or Contract Time or both. The initial decision shall be final and binding on the parties but subject to mediation and, if the parties fail to resolve their dispute through mediation, to binding dispute resolution. Following receipt of the Architect's written recommendation regarding a Claim, the Owner and Contractor shall attempt to reach agreement as to any adjustment to the Contract Sum or Guaranteed Maximum Price and/or Contract Time. If no agreement can be reached, then either party may request mediation of the dispute pursuant to Section 15.3.

§ 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. Upon receipt of a Claim against the Contractor or at any time thereafter, the Architect or 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 Architect or the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

§ 15.2.8.1 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 domand is made and the party receiving the domand 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.

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§ 15.2.7 In the event of a Claim against the Contractor, the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

§ 15.2.8 If a Claim relates to or is the subject of a mechanic's lien, the party asserting such Claim may proceed in accordance with applicable law to comply with the lien notice or filing deadlines.

#### § 15.3 MediationAlternative Dispute Resolution

§ 15.3.1 Claims, disputes, or other matters in controversy-Any Claim arising out of or related to the Contract, except those waived as provided for in Sections 9.10.4, 9.10.5, and 15.1.7, shall be subject to mediation as a condition precedent to binding dispute resolution. Claims relating to aesthetic effect and except those waived under the terms of the Contract Documents, shall, after written recommendation by the Architect or 30 days after submission of the Claim to the Architect, be subject to mediation at the request of either party. Owner and Contractor expressly agree that mediation shall be a condition precedent to the initiation of any litigation arising out of such Claims. Claims for injunctive relief shall not be subject to this Section.

§ 15.3.2 The parties shall endeavor to resolve their Claims by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of binding dispute resolution proceedings but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration is stayed pursuant to this Section 15.3.2, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.mediation. Requests for mediation shall be filed in writing with the other party to the Contract. Mediation shall be subject to and in accordance with Chapter 154 of the Texas Civil Practice & Remedies Code. Mediation shall be conducted by a mutually-agreed-upon mediator. In the event that the parties are unable to agree on a mediator, then the parties shall jointly request the appointment of a neutral mediator by a District Judge in the county in which the Project is located.

§ 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. The parties shall share the mediator's fee equally and, if any filing fee is required, shall share said fee equally. Mediation shall be held within the county where the Owner's main administrative office is located, unless another location is mutually agreed upon by the parties. Agreements reached in mediation shall be reduced to writing, considered for approval by the Owner's Board of Trustees, signed by the oarties if approved by the Board of Trustees, and, if signed, shall thereafter be enforceable as provided by the laws of the State of Texas.

§ 15.3.4 Any claim not resolved in mediation shall be subject to litigation pursuant to Section 13.1.

§ 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 No Arbitration

§ 15.4.1 If the parties have selected arbitration as the method for binding dispute resolution in the Agreement, any Claim subject to, but not resolved by, mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of the Agreement. The Arbitration shall be conducted in the place where the Project is located, unless another location is mutually agreed upon. A demand for arbitration shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the arbitration. The party filing a notice of demand for arbitration must assert in the demand all Claims then known to that party on which arbitration is permitted to be demanded. Notwithstanding anything to the contrary in the Contract Documents or in any document forming a part hereof, there shall be no mandatory arbitration for any dispute arising hereunder.

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§ 15.5 Contractor stipulates that Owner is a political subdivision of the State of Texas, and, as such, enjoys immunities from suit and liability provided by the Constitution and laws of the State of Texas. By entering into this Agreement, Owner does not waive any of its immunities from suit and/or liability, except as otherwise specifically provided herein and as specifically authorized by law.

§ 15.6 In any adjudication under this Agreement, reasonable and necessary attorneys' fees may be awarded to the prevailing party.

EXECUTED this day of . 20 .

OWNER:

CONTRACTOR:

Dr. JoAnn Fey, Superintendent

Midlothian Independent School District

\$ 15.4.1.1

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

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

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

#### § 15.4.4 Consolidation or Joinder

§ 15.4.4.1 Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation, (2) the arbitrations to be consolidated substantially involve common questions of law or fact, and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

§ 15.4.4.2 Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent-

§ 15.4.4.3 The Owner and Contractor grant to any person or entity made a party to an arbitration conducted under this Section 15.4, whether by joinder or consolidation, the same rights of joinder and consolidation as those of the Owner and Contractor under this Agreement.

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I, Felicia Webb, 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 19:38:09 ET on 05/27/2021 under Order No. 1936672269 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA<sup>®</sup> Document A201<sup>TM</sup> – 2017, General Conditions of the Contract for Construction, 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)

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## SUMMARY OF WORK

#### PART 1 GENERAL

## 1.1 WORK COVERED BY CONTRACT DOCUMENTS

- A. Project: 8 schools and 1 administration building requires upgraded access control at the reception area controlling unrestricted access into the buildings. Door access control will be provided at noted locations and some buildings will require new doors.
- B. Base Bid: Work consist of, but not limited to, replacing doors, adding card access controls, replacing door hardware, new walls. The Base Bid shall include labor, material, equipment, services and transportation necessary to Complete the work as planned. The work shall include utility connections and other work indicated, or reasonably implied, unless specifically indicated "Not in Contract."
- C. The Contractor shall be responsible for any and all existing structures and/or improvements, both above and underground, including the finishes thereof (both interior an exterior) within the adjoining working areas, and shall provide adequate protection therefore, either by barricades, or coverings, or by temporary removal. Any existing structures and/or improvements damaged during construction shall be repaired and/or replaced with materials, workmanship, fixtures or equipment of the same kind, quality and size as required by the Drawings or specifications. Any materials or equipment temporarily removed and damaged shall be repaired or replaced and re-erected or installed in an approved manner.
- D. Scaffold, Staging, Protection, etc.: The Work under each Section of these Specification shall include providing, installing, and maintaining all scaffold, staging, trestles, and planking necessary for the work under each Section in strict conformity with all applicable laws and ordinances, and maintenance of same so as not to interfere with or obstruct the work of other trades. Additionally, the work under each section of these Specifications shall include providing all forms of protection necessary to preserve the work of other trades free from damage. These provisions shall be considered as though repeated under each separate Section of the Specifications.
- E. Asbestos: It is the intent and requirement of these Contract Documents that no asbestos is to be used or incorporated into this Project in any form. If asbestos in any form is incorporated into the construction and is subsequently found during the construction period or after occupancy, it shall be the Contractor's responsibility to remove it immediately and replace it with materials approved by the Architect, including repair of all damage to adjacent materials caused by the asbestos removal, at the Contractor's expense. The period for discovery of materials containing asbestos shall not be limited by warranty period contained within this Contract or otherwise provided with the materials or construction. At close-out, the Contractor shall complete the affidavit in Section 01 7700, Closeout Procedures, on behalf of himself, his subcontractors and his suppliers, certifying that materials used or installed in the project are asbestos free.
- F. Time for Completion: The Contractor shall complete the Work within the limits of the Contract.
- G. Utilities:

- 1. Utilities, services, etc., cut or damaged by the Work shall be the Contractor's responsibility for repair and/or replacement in accordance with governing authority's requirements.
- 2. Contractor shall obtain written approval from the Owner a minimum of 72 hours prior to disconnection or shutting off service or utility.
- H. Accessibility of Systems: No equipment which must be operated or maintained, such as valves, taps, controls, unions, motors, etc., shall be placed in an inaccessible location.
  - 1. Dampers, filters, controls, valves, expansion joints, electrical junction boxes, air handling units or filters, or other apparatus that must be located in walls, above ceilings, etc., shall be provided with suitable access doors (fitted in a framed opening) that will permit proper operation, servicing and access. The access door shall be fire rated where required to maintain the fire rating of the wall or ceiling.
  - 2. Exhaust fans, fan coil units, VAV boxes or other air handling equipment shall not be located above hard ceiling areas. Piping, fan covers, etc. shall be arranged to allow easy access to filters or other parts that may need maintenance. Valves, etc., shall be grouped to minimize the number of access panels required.
  - 3. Filters, valves, traps, controls, etc., that require periodic maintenance and whose removal would cause adverse consequences to occupants, equipment or critical operations shall be supplied with manual bypasses whenever practical.

## 1.2 WORK UNDER OTHER CONTRACTS

A. Work will occur at an existing school.

## 1.3 CONTRACTOR USE OF PREMISES

- A. Contractor's parking, access, yards, etc., shall be limited to those areas on the site or as specifically indicated at the Pre-Bid or Pre-Construction Conferences.
- B. Contractor and other persons connected to this Project shall only use parking areas designated on site plan or as approved by the Owner.
- C. Contractor and workmen shall not trespass into area beyond the "Limit of Work" area.
- D. Contractor shall use and maintain in clean condition site access route as shown on site or site access plan. No other access shall be used for vehicles or personnel.
- E. Portions of the Project site will be in use by the Owner during the construction period and the Contractor shall make every effort to minimize disruption of on-going operations, including necessary safety and security at the construction site. Appropriate safety and security measures shall be the responsibility of the Contractor.
- F. After August 13, 2021, all work shall take place at night or on weekends or on days/holidays when no students are in the building. A school calendar will be provided to the successful proposer.

## CONTRACTOR'S REQUEST FOR INTERPRETATION (RFI)

## PART 1 GENERAL

- 1.1 SUMMARY
  - A. Section Includes: Administrative requirements for Requests For Interpretation.
- 1.2 DEFINITIONS
  - A. Request for Interpretation:
    - 1. A document submitted by the Contractor requesting interpretation of a portion of the Contract Documents, hereinafter referred to as RFI.
    - 2. A properly prepared Request for Interpretation shall include a detailed written statement that indicates the specific Drawings or Specification in need of clarification and the nature of the clarification requested.
      - a. Drawings shall be identified by drawing number and location on the drawing sheet.
      - b. Specifications shall be identified by Section number, page and paragraph.
  - B. Improper or frivolous RFI's:
    - 1. RFI's that request information that is clearly shown on the Contract Documents.
    - 2. RFI's that are not properly prepared or are incomplete.
    - 3. RFI's that do not reference the contract documents.
    - 4. Improper RFI's will be processed by the Architect at the Architect's standard hourly rate. Such costs may be deducted by the Owner from monies due the Contractor. The Contractor will be notified by the Architect prior to the processing of improper RFI's.

## 1.3 CONTRACTOR'S REQUESTS FOR INTERPRETATION

- A. When the Contractor is unable to determine from the Contract Documents, the material, process or system to be installed, the Architect shall be requested to make a clarification of the indeterminate item.
  - 1. Wherever possible, such clarification shall be requested at the next appropriate project meeting, with the response entered into the meeting minutes. When clarification at the meeting is not possible, either because of the urgency of the need, or the complexity of the item, Contractor shall prepare and submit an RFI to the Architect.
- B. RFI's shall be submitted online using a web based program acceptable to the Architect.
- C. RFI's shall be originated by the Contractor.
  - 1. RFI's from subcontractors or material suppliers shall be submitted through, reviewed by, and signed by the Contractor prior to submittal to the Architect.
  - 2. RFI's sent directly from Subcontractors to the Architect or the Architect's consultants shall not be answered.
- D. Contractor shall carefully study the Contract Documents to assure that the requested information is not available therein. RFI's that request information available in the Contract Documents will be deemed either "improper" or "frivolous" as noted above.

- E. In cases where RFI's are issued to request clarification of coordination issues, for example, pipe and duct routing, clearances, specific locations of work shown diagrammatically, and similar items, the Contractor shall fully lay out a suggested solution using drawings or sketches drawn to scale, and submit same with the RFI. RFI's that fail to include a suggested solution will be returned unanswered with a requirement that the Contractor submit a complete request.
- F. RFI's shall not be used for the following purposes:
  - 1. To request approval of submittals
  - 2. To request approval of substitutions,
  - 3. To request changes which entail additional cost or credit.
  - 4. To request different methods of performing work than those drawn and specified.
  - 5. To confirm Owner direction or decisions.
- G. In the event the Contractor believes that a clarification by the Architect results in additional cost or time, Contractor shall not proceed with the work indicated by the RFI until a change order is prepared and approved.
  - 1. Answered RFI's shall not be construed as approval to perform extra work or incur additional expense.
  - 2. Unanswered RFI's will be returned with a stamp or notation: Not Reviewed.
- H. Architect will respond to RFI's in one of the following manners:
  - 1. Properly prepared RFI's:
    - a. Issue an "Architect's Supplemental Instruction" form.
    - b. Issue a "Request for Proposal" form.
    - c. Respond directly on the R.F.I. form.
  - 2. Improper or Frivolous RFI's:
    - a. Unanswered RFI's will be returned with a stamp or notation: "Not Reviewed".
- I. Contractor shall allow up to seven (7) days review and response time for RFI's, however, the Architect will endeavor to respond in a timely fashion to RFI's.

## PART 2 PRODUCTS

Not applicable.

# PART 3 EXECUTION

Not applicable.

## PROJECT COORDINATION

## PART 1 GENERAL

## 1.1 RELATED DOCUMENTS

A. Drawings and general provisions if the Contract, including General and Supplementary conditions and Division 1 Specification Sections, apply to this section.

## PART 2 PRODUCTS

NOT USED

## PART 3 EXECUTION

- 3.1 SUMMARY
  - A. Requirements
    - 1. Review requirements and clearances of all building utilities and structural components above ceiling and coordinate the installation of all components to provide proper access and clearances to valves, access doors, ports, etc.
    - 2. Provide project interface and coordination as required to properly and accurately bring together the several parts, components, systems, and assemblies and as required to complete the Work and the Project.
    - 3. Provide interface and coordination of all trades, crafts, and subcontracts as required to provide correct and accurate connection of abutting, adjoining, overlapping, and related Work, and provide all anchors, fasteners, accessories, appurtenances, and incidental items as required to complete the Work properly, fully, and correctly in accordance with the Contract Documents.
    - 4. Provide additional structural components, miscellaneous metal, bracing, blocking, backing, clips, anchors, fasteners, and installation accessories as required to properly anchor, fasten, or attach materials, equipment, appliances, hardware, systems, assemblies, cabinets, and architectural features to the structure required to adequately support or back building components.
    - 5. Provide excavation and backfill, trenching and drilling for all trades as required for the installation of their Work.
    - 6. Provide concrete foundations, pads, supports, bases, and grouting for all trades as required for the installation of their Work.
    - 7. Provide caulking, sealing, and flashings as required to weatherproof the building complete and as required to insulate the building thermally and acoustically. Include caulking, sealing, flashings, and related work as required to prevent moisture intrusion, air infiltration, and light leakage.
    - 8. Provide equipment, appliances, fixtures, and systems requiring plumbing and mechanical services, rough-in, and connections, or other utilities and services, with such services, rough-in, and final connections.
    - 9. Terminations, connections, circuiting and conductors for appliances, fixtures, and indicated equipment required to complete the Work which are not provided by Subcontractors shall be provided by the Contractor.

- 10. Materials, equipment, component parts, accessories, incidental items, connections, and services required to complete the Work that are not provided by Subcontractors shall be provided by the Contractor.
- B. Field Measurements and Templates:
  - 1. Obtain all field measurements required for the accurate fabrication and installation of the Work. Exact measurements are the Contractor's responsibility.
  - 2. Furnish or obtain templates, patterns, and setting instructions as required for the installation of all Work. Verify all dimensions in the field.
- C. Responsibility
  - 1. The Contractor shall be in charge of this Contract and the site, as well as the directing and scheduling and coordination of all Work.
  - 2. Final responsibility for the performance, interface, and completion of the Work and the Project in accordance with the Contract Documents shall be with the Contractor.

## PROJECT MEETINGS

## PART 1 GENERAL

## 1.1 PROJECT MEETINGS

- A. General: Contractor will schedule and conduct meetings and conferences at the 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: Prepare the meeting agenda. Distribute the agenda to all invited attendees.
  - 3. Minutes: Entity responsible for conducting meeting will record significant discussions and agreements achieved. Distribute the meeting minutes to everyone concerned, including Owner and Architect, within two (2) days of the meeting.
  - 4. Preconstruction Conference: Contractor will schedule and conduct a preconstruction conference before starting construction, at a time convenient to the Owner and Architect.
  - 5. Attendees: Authorized representatives of Owner, Architect, and their consultants; Contractor and its superintendent; major subcontractors; suppliers; and other concerned parties shall attend the conference when appropriate. Participants at the conference shall be familiar with Project and authorized to conclude matters relating to the Work.
  - 6. Agenda: Discuss items of significance that could affect progress, including the following:
    - a) Tentative construction schedule.
    - 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.
    - I) Preparation of record documents.
    - m) Use of the premises
    - n) Work restrictions.
    - o) Working hours.
    - p) Owner's occupancy requirements.
    - q) Responsibility for temporary facilities and controls.
    - r) Procedures for moisture and mold control.
    - s) Procedures for disruptions and shutdowns.
    - t) Construction waste management and recycling.
    - u) Parking availability.
    - v) Office, work, and storage areas.
    - w) Equipment deliveries and priorities.
    - x) Progress cleaning.
  - 7. Minutes: Entity responsible for conducting meeting will record and distribute meeting minutes.

- B. Pre-installation Conferences: Conduct a pre-installation conference for systems as specified herein.
  - 1. Attendees: Installer and representatives of manufacturers and fabricators involved in or affected by the installation and its coordination or integration with other materials and installations that have preceded or will follow, shall attend the meeting. Advise Architect of scheduled meeting dates.
  - 2. Agenda: Review progress of other construction activities and preparations for the particular activity under consideration, including requirements for the following:
    - a. Contract Documents
    - b. Options
    - c. Related RFIs
    - d. Submittals
    - e. Compatibility requirements
    - f. Manufacturer's written instructions
    - g. Warranty requirements
    - h. Compatibility of materials
    - i. Acceptability of substrates
    - j. Space and access limitations
    - k. Regulations of authorities having jurisdiction
    - I. Testing and inspecting requirements
    - m. Installation procedures
    - n. Coordination with other work
    - o. Required performance results
    - p. Protection of adjacent work
  - 3. Record significant conference discussions, agreements, and disagreements, including required corrective measures and actions.
  - 4. Reporting: Distribute minutes of the meeting to each party present and to other parties requiring information.
  - 5. Do not proceed with installation if the conference cannot be successfully concluded. Initiate whatever actions are necessary to resolve impediments to the performance of the Work and reconvene the conference at the earliest feasible date.
- C. Progress Meetings: Contractor will conduct progress meetings at weekly intervals unless otherwise noted.
  - 1. Coordinate dates of meetings with preparation of payment requests.
  - 2. Attendees: In addition to the representatives of the Owner and Architect, each subcontractor, and other entity concerned with current progress or performance of future activities shall be represented. All participants at the meeting shall be familiar with Project and authorized to conclude matters relating to the Work.
  - 3. Agenda: Review and correct or approve minutes of previous progress meeting. Review other items of significance that could affect progress. Include topics for discussion as appropriate to status of Project.
    - a. Contractor's Construction Schedule: Review progress since the last meeting. Determine whether each activity is on time, ahead of schedule, or behind schedule, in relation to Contractor's construction schedule. Determine how construction, behind schedule will be expedited; secure commitments from parties involved to do so. Discuss whether schedule revisions are required to ensure that current and subsequent activities will be completed within the Contract Time.
      - 1) Review schedule for next period.
    - b. Review present and future needs of each entity present, including the following:
      - 1) Interface requirements.
      - 2) Sequence of operations.
      - 3) Status of submittals.

- 4) Deliveries.
- 5) Off-site fabrication.
- 6) Access.
- 7) Site utilization.
- 8) Temporary facilities and controls.
- 9) Progress cleaning.
- 10) Quality and work standards.
- 11) Status of correction of deficient items.
- 12) Field observations.
- 13) Status of RFIs.
- 14) Status of proposal requests.
- 15) Pending changes.
- 16) Status of Change Orders.
- 17) Pending claims and disputes.
- 18) Documentation of information for payment requests.
- 4. Minutes: Entity responsible for conducting the meeting will record and distribute the meeting minutes to each party present and to parties requiring information.

## CONSTRUCTION SCHEDULE

## PART 1 GENERAL

## 1.1 SUMMARY

- A. Related Documents
  - 1. Drawings and General Provisions of the Contract, including Special Supplemental and General Conditions and other Division 01 Specification sections apply to work of this section.

## 1.2 CONSTRUCTION SCHEDULE

A. Progress schedule shall be submitted to Architect no later than seven (7) calendar days after date of Agreement and shall be updated bi-monthly during construction or as required to keep it current. A current schedule shall be submitted with each application for payment. Nothing in this requirement shall be deemed to be a usurpation of the Contractor's authority and responsibility to plan and schedule the work as he sees fit, subject to other requirements of the Contract Documents.

## 1.3 TIME OF COMPLETION

A. Contractor's time of completion shall be as indicated in the Contract for construction. Any change to the construction duration or completion date shall be formalized by a Change Order. All days or time referenced in this section are calendar days unless otherwise noted.

## 1.4 CONTRACT SCHEDULE

- A. The Contractor shall present the construction approach and explain the schedule logic, duration and sequencing. The schedule shall cover the entire contract time.
  - 1. The above generated schedule shall include:
    - a. Working activities broken down by trade or CSI Division.
    - b. Milestone activities identifying completion of each stage of work.
    - c. Owner furnished materials or equipment identified as separate activities for delivery and installation.
    - d. Activities for procurement of major equipment or long lead items.
  - 2. Upon acceptance of the schedule, it will be incorporated into the Contract as the Construction Schedule. All monthly payment applications will be generated from the updated Construction Schedule. Acceptance of the Construction Schedule will be a condition precedent to the making of any progress payments under the Contract.

## 1.5 CONTRACTOR'S RESPONSIBILITY

A. The Contractor shall furnish sufficient forces, facilities and equipment, and shall work such hours including night shift and overtime operations, as necessary to ensure the prosecution of the Work in accordance with the current monthly Construction Schedule Update. If the Contractor falls behind in meeting the Construction Schedule as noted by negative float in the current monthly Construction Schedule, the Contractor shall take such steps as may be necessary to accelerate the Work without additional cost to the Owner. The provision of this paragraph shall not be construed as prohibiting the Contractor from increasing the hours of work, the number of shifts, overtime operations and/or the amount of construction plant and equipment provided the Contractor gives reasonable notice to the Owner.

# 1.6 CONTRACT SCHEDULE REVISIONS

- A. Change Proposals:
  - 1. When a Change Proposal is issued which has the potential to impact specified completion dates, the Contractor shall notify the Owner and Architect immediately of that fact.
- B. Additional Costs:
  - 1. No additional cost beyond that provided in Article 7 of the General Conditions will be allowed for the incorporation of approved Change Orders into the Contract Schedule.

# 1.7 SHORT INTERVALS SCHEDULES

- A. Use of Short Intervals Schedules:
  - 1. Short Interval Scheduling shall be used throughout the construction period and shall be a two week projection to include the week submitted and the week thereafter. The schedule shall be submitted weekly for approval by the Owner.

#### SUBMITTAL PROCEDURES

## PART 1 GENERAL

#### 1.1 SUBMITTALS REQUIRED OF THE CONTRACTOR

The listing of required submittals that follows is compiled for convenience. Absence from the list of a submittal required elsewhere in these specifications does not relieve the Contractor of his responsibility to make all required submittals.

Time Due: At time of contract execution	<u>Submittal</u> : Performance Bond Labor and Materials Payment Bond Document supporting Power of Attorney Certificates of Insurance
Within 28 days of execution of contract	Construction Schedule Schedule of Values Subcontractor Bonds (if required) Schedule of Submittals
Each month	Updated Construction Schedule Partial Payment Application Lien Waivers
At time of request for Substantial Completion	Contractor's written "Punch List" Owner/Operator Training Schedule Certificate of Occupancy from AHJ H.V.A.C. Test and Balance Report(s) AZDHS Construction Closeout Documents (if applicable)
At Final Completion	Completed Record Drawings Completed Maintenance Manuals and Operating Instructions Warranties for all building components AIA G706, Contractor's Affidavit of Payment of Debts and Claims AIA G706-A, Contractor's Affidavit of Release of Liens AIA G707, Consent of Surety Company to Final Payment Application for Final Payment

#### 1.2 SHOP DRAWINGS, PRODUCT DATA AND SAMPLES

- A. Shop Drawings: The term "Shop Drawings" includes but is not limited to fabrication, erection, layout and setting drawings, manufacturer's standard drawings, descriptive literature, catalogs, brochures, performance and test data pertaining to materials and equipment systems and methods of construction as may be required to show that the materials, equipment or systems and the positions and layout of each conform to the Contract requirements. As used herein the term "manufactured" applies to standard units usually mass-produced and 'fabricated' means items specifically assembled or made out of selected materials to meet individual design requirements. Shop Drawings shall establish the actual detail of manufactured or fabricated items; indicate proper relation to adjoining Work; amplify design details of mechanical and electrical equipment in proper relation to physical spaces in the structure; and incorporate minor changes of design or construction to suit actual conditions.
- B. Submittal Schedule: Submission of Shop Drawings and samples to the Architect is required for <u>only</u> those items specifically mentioned in the Specification Sections. Within twenty-eight (28) days of execution of construction contract, Contractor shall provide a submittal schedule indicating all items that are to be provided for A/E review and the date each is to be received by the Architect and the date required for return of same. Unless other arrangements are made in advance, Contractor's schedule shall allow for a review period of ten (10) working days. If Contractor submits Shop Drawings for items other than those items specifically requested, the Architect will not be obliged to review them. Contractor shall be responsible for the procuring of Shop Drawings for his own use as he may require for the progress of the work, even though the Shop Drawings may not require the Architect's review.

- C. Contractor is responsible for scheduling and organizing the submittals from the various subcontractors and suppliers and verifying compliance with the contract documents. All submittals are to be indexed and clearly labeled with the C.S.I. (2004 MasterFormat) section number and title. Following Contractor's review and approval, Contractor shall submit electronic versions (.pdf or similar) using a web-based program acceptable to the Architect. If any submittals are not able to be scanned and submitted electronically, Contractor shall provide the required number of hardcopies to the Architect for review. The Architect will review and affix a stamp indicating the findings of the review and will return same to the Contractor. Comments, if any, will be noted directly on the submittal or attached. The Contractor shall then distribute copies to the various trades and to Contractor's job personnel as required.
- D. Samples: Submit to the Architect for review and/or selection all samples and appropriate information for the Architect to select all colors, textures, fabric and finishes for the entire project. Final selection of color, textures, fabrics or finishes will not be made until all applicable and related submittals have been provided to the Architect. Samples required other than for selection of color, texture, fabric or finish shall be delivered to the Architect at a time determined by the Contractor, that allows for any necessary resubmittal and that will not cause any delay in the Work.
- E. Fire Alarm System/Fire Sprinklers System Shop Drawings shall be submitted to the authorities having jurisdiction (AHJ) by the Contractor and approval obtained prior to installation. Inspection, testing and approval of completed installations shall be obtained prior to acceptance of the systems and shall be a condition of Substantial Completion of the Project.

#### 1.3 QUALITY CONTROL SUBMITTALS

- A. Manufacturer's Instructions: Where any item or work is required by Specifications to be furnished installed or performed in accordance with a specified product manufacturer's instructions, Contractor shall procure and distribute the necessary copies of such instructions to concerned parties.
- B. Certificates: When requested by the Architect, the Contractor shall deliver to the Architect, prior to final acceptance of the Work as a whole, signed certificates from suppliers of materials and manufactured items stating that such items conform to the Contract Documents.
- C. Field Test Reports: Portions of the work may require special testing, inspections, certification, etc. as indicated in this Project Manual. Properly prepared written summaries, reports, etc., as required shall be forwarded to the Architect through the Contractor promptly upon completion. Compliance with this requirement will be a condition for payment.

## SUBSTITUTION OF MATERIALS OR PRODUCTS DURING CONSTRUCTION

## PART 1 GENERAL

- 1.1 To be considered, substitutions must be made in accordance with these instructions.
- 1.2 When a specific product is specified for use in the project, it is to establish a standard of quality and shall not be construed as limiting competition. It is the Architect's and Engineers' intent that "Substitutions during Construction" match the specified product, system, equipment or material criteria including, but not limited to, color, texture, size, weight, utility requirements, working clearances, capacity, volume, speeds, power, BTU's, etc.
- 1.3 This project is to include only the products, materials, equipment and systems that are indicated on the Drawings, and are specified or approved through the "Substitution Prior to Bid" process. In order for "Substitutions During Construction" to be considered by the Owner, Architect and Engineers, the Contractor shall demonstrate that the specified or Prior Approved product, material, equipment or system is not available after award of the Contract. Requests for "Substitution During Construction" shall contain sufficient information, descriptive brochures, drawings, samples or other data as is necessary to provide direct comparison to the specified materials.
- 1.4 Products proposed as "Substitutions" must be fully compared to the product, material, equipment or system specified. Contractor shall thoroughly review and compare the Specifications for both the specified item and proposed "Substitution During Construction", and clearly identify in writing to the Architect and Engineer, any differences between the items. Differences that are to be identified shall include, but not be limited to, size, weight, utility requirements, working clearances volume, capacity, speeds, power, BTU's, etc. Should the Architect and Engineer deem any differences to be unacceptable, the "Request for Substitution During Construction" shall be rejected.
- 1.5 All requests for "Substitution During Construction" will be accompanied by a "Substitution of Materials During Construction" Request Form, that is a part of this Specification section. Requests not accompanied by the Form will not be reviewed. Requests for "Substitution During Construction" shall be in the hands of the Architect no later than twenty-eight (28) calendar days prior to date Contractor is required to place an order for the product of material.
- 1.6 Each submittal shall be well marked and identified as to types and kind of the items being submitted for approval. It is the sole responsibility of the Contractor to submit complete descriptive and technical information to the Architect so the Architect can make proper appraisal. Lack of proper information will be sufficient cause for rejection. Reference to catalogs will not be acceptable unless catalog is submitted with Substitution Request Form. All pertinent information shall be clearly marked by the Contractor and shall be specific to the product in question.
- 1.7 It is the Contractor's responsibility to confirm and correlate quantities and dimensions and coordinate with trades whose work may be affected by the requested substitution.
- 1.8 In submitting a Request for Substitution During Construction, the Manufacturer and Contractor shall make the following representations:
  - A. The specified or prior approved product, material, equipment or system is not available, does not comply with current or local codes or is not approved by the AHJ.

- B. The proposed product is equal or superior in all respects to that specified.
- C. The Substitution carries the same or better Warranty as the specified product, materials, equipment or system.
- D. Installation of the accepted Substitution shall be incorporated into the Work, making such changes as may be required for the Work to be completed in every respect and at no additional cost to the Owner.
- E. Claims for additional costs related to the Substitution that subsequently become apparent, shall be waived by the Contractor.
- F. Cost data is complete and includes related costs under the Contract but excludes costs under separate construction contracts and design consultant's redesign.
- 1.9 If, at any time, any differences in the performance or physical characteristics of the proposed "Substitutions During Construction" and are determined to be a liability to the performance, operation or design intent of the building, the Contractor shall be required to replace said product, material, equipment or system with the originally specified product at Contractor's expense, as well as compensate the Owner for any costs associated with the substituted product, material, equipment or system.

# SUBSTITUTION OF MATERIALS DURING CONSTRUCTION REQUEST FORM

TO:						
PRO	DJECT:BID DATE:					
We s	ubmit for your co	onsideration the followir	ig product instead of	the specified item for the abo	ve project:	
Secti	on	Page/Sheet No.	Paragraph/Line	Specified Ite	m	
Prop	osed Substitutio	n:				
Reas	on for substitution	on:				
Attac colors optio	h complete prod s/finishes, and o ns, etc.	luct description, drawing ther information necess	js, photographs, perf ary for evaluation. Ic	ormance and test data, availadentify specific model number	able rs, finishes,	
A.	Will changes be required to building design or any components or assemblies in order to properly install and operate proposed substitution? Yes No If yes, explain:					
B		of the difference prope	sod for oach substitu	tion and specified item		
D.	Specified Iter	<u>n</u>	Propose	ed Substitution		
C.	Does substitu	ution affect Drawing clea	arances and/or dimer	nsions? Yes No		
	lf yes, explair	n:				
D.	What effect does substitution have on other trades? List affected trades					

E.	Does manufacturer's warranty of proposed substitution differ from that specified? Yes No If yes, explain:
F.	Will substitution affect progress schedule? Yes No If yes, explain:
G.	Will substitution require more license fees or royalties than specified product?      Yes No If yes, explain:
H.	Will maintenance and service parts be locally available for substitution?      Yes No If no, explain:
I.	Will substitution require additional testing, inspection, certification or approvals?      Yes No If yes, explain:

In submitting this "REQUEST FOR SUBSTITUTION OF MATERIALS DURING CONSTRUCTION" Contractor represents the following:

- 1. The proposed product is equal or superior in all respects to that specified
- 2. The Substitution carries the same or better Warranty as the specified product, materials, equipment or system.
- 3. Installation of the accepted Substitution shall be incorporated into the Work, making such changes as may be required for the Work to be completed in every respect, at no additional cost to the Owner.
- 4. Claims for additional costs related to the Substitution,, that subsequently become apparent, will be waived by the Contractor.
- 5. Cost data is complete and includes related costs under the Contract but excludes costs under separate contracts and design consultant's redesign.
- 6. If, at any time, any differences in the performance or physical characteristics of the proposed "Substitutions During Construction" and are determined to be a liability to the performance, operation or design intent of the building, the Contractor shall be required to replace said product, material, equipment or system with the originally specified product at Contractor's expense, as well as compensate the Owner for any costs associated with the substituted product, material, equipment or system.
- 7. The Contractor understands that he will pay for changes to the building design, including engineering and drawing costs, caused by requested substitution.

Submitted by General Contractor:

Signature Date
For Architect's Use:
Accepted Accepted as Noted Not Accepted
Ву
Date
Remarks
For Engineer's Use:
Accepted Accepted as Noted Not Accepted
Ву
Date
Remarks
For Owner's Use:
Accepted Accepted as Noted Not Accepted
Ву
Date
Remarks

## QUALITY CONTROL

## PART 1 GENERAL

#### 1.1 SUMMARY

- A. This Section describes regulatory requirements, quality control, and quality assurance procedures.
- B. This Section is complimentary to the General Conditions, Supplementary Conditions, General Structural Notes, and local code requirements and nothing contained herein shall be considered to waive any such requirement.

#### 1.2 REGULATORY REQUIREMENTS

- A. Design Criteria: Every reasonable effort has been made to design this Project in accordance with the applicable regulatory requirements. Regulatory requirements are interpretive by nature and the Architect cannot warrant compliance; only officials of the enforcing agencies can attest to compliance.
- B. Construction methods: the responsibility for constructing this Project in compliance with the latest edition of all applicable building codes and regulatory requirements rests solely with the Contractor and his subcontractors. All work shall comply with codes and regulations noted herein.
- C. Conflicts: If a conflict is found between regulatory requirements and information contained in the Contract Documents, the Contractor shall immediately report the conflict to the Architect. Contractor shall not proceed with any Work that he knows to be in violation of either the regulatory requirements or the Contract Documents. The fact that a regulatory official may accept a particular product and/or system does not relieve the Contractor from providing what is required by the Contract Documents.

### 1.3 QUALITY CONTROL

- A. The Contractor shall schedule the times for Special Inspections and Materials Testing with the consultant providing the service, so as to coordinate with the construction progress. Appointments for such services shall be made twenty-four (24) hours in advance or greater. Refer to the General Structural Notes in the Drawings for Special Structural Inspection requirements.
- B. Where specific instructions in these specifications require that a particular product and/or material be installed and/or applied by an "approved applicator" of the manufacturer, it is the Contractor's responsibility to ensure that the subcontractor employed for such work be an approved applicator. Such subcontractor(s) shall provide evidence of being an approved applicator when requested by the Architect.
- C. Where not more specifically described in the Specifications, workmanship shall conform to the methods and operations of best standards and accepted practices of the trade or trades involved, and shall include all items of fabrication, construction or installation regularly furnished or required for completion (including any finish), and for successful operation as intended.
- D. Work shall be executed by mechanics skilled in their respective lines of work.

- E. If a product or material is indicated or shown for an application other than that intended by the manufacturer, the supplier, installer or manufacturer shall notify Architect prior to bidding.
- F. UL Label: Where applicable, materials and equipment for which Underwriter's Laboratories, Inc. standards have been established, and their label services available, shall bear the appropriate UL label.
- G. Anything in the Contract Drawings notwithstanding, the Contractor accepts the responsibility of construction of a watertight, weathertight project.
- 1.4 TESTING AND INSPECTION SERVICES
  - A. Selection of inspection and/or testing company:
    - 1. Special Structural Inspections: By Structural Engineer of Record's assigned personnel.
    - 2. Special electrical Inspections: By Electrical Engineer of Record's assigned personnel.
    - 3. Earthwork and Material Tests: By the same company that prepared the Geotechnical Engineering Report. Where no Geotechnical Engineering Report was prepared the Testing Company shall be selected by the Contractor and approved by the Architect.
  - B. The Owner will retain and pay the expenses of the services for special structural and special electrical inspections.
  - F.
  - G. Contractor shall pay all costs associated with dry runs and for all re-testing costs (e.g. removals and replacements of subject material, additional field testing, laboratory service, Architect's review time).

# 1.5 SUBMITTALS

- A. Special Inspection Reports: Inspecting Agent will submit a copy of report to the Contractor and a copy to the Architect. Contractor to make additional copies as required and distribute to all affected subcontractors and material suppliers.
- B. Distribution of test reports: The Testing Agency shall distribute copies of all reports to the offices of the parties concerned as follows:
  - copy to the Architect
    copy to the Electrical Consultant
    copy to the Owner
    copy to the Contractor
    copy to the Supplier being tested

# PART 2 PRODUCTS

2.1 General: As determined by the Inspection/Testing Company

## PART 3 EXECUTION

3.1 Testing Methods: As determined by the Inspection/Testing Company and/or as required to satisfy the A.H.J.

- 3.2 Required Special Inspection and Material Testing:
  - A. Electrical: Provide for Special Inspection of the electrical service entrance as indicated in the electrical drawings to ensure conformance with the contract documents.

#### **TEMPORARY FACILITIES AND CONTROLS**

#### PART 1 GENERAL

#### 1.1 GENERAL

- A. The Contractor shall be responsible for and comply with codes and regulations regarding potable drinking water, sanitation, dust control, fire protection, and other temporary controls.
- B. Temporary office facilities, toilets, storage sheds and other construction of temporary nature shall be removed from the site as soon as, the progress of the work will permit and as agreed to by Owner, and the portions of the site occupied by same shall be properly reconditioned and restored to a condition acceptable to the Owner.
- C. Contractor shall obtain written approval from the Owner a minimum of 72 hours prior to disconnection or shutting off service or utility.

## 1.2 TEMPORARY UTILITIES

- A. Temporary Electricity:
  - 1. Power required for Construction Work may be used by the Contractor from existing available on-site sources, except high-draw uses such as welding, etc.
- B. Temporary Lighting:
  - 1. Adequate lighting and convenience outlets shall be furnished and installed as may be necessary for proper performance and inspection of the Work. If operations are carried on during hours of darkness, adequate illumination shall be furnished and maintained during hours that natural illumination is insufficient for the Work being performed. Artificial lighting shall be placed in all areas where Work under the Contract is in progress. Lighting level shall be an average of 20 f.c. minimum.
- C. Temporary Heating and Cooling:
  - 1. When required for proper installation or protection of any portion of the Work, the Contractor shall maintain an interior building temperature between 60° 85° F.
  - 2. When the permanent heating, ventilation and air conditioning systems are installed and operable, the Contractor shall be responsible for operation and paying costs in connection with such operations. Prior to Substantial Completion, registers, diffusers and filters shall be cleaned or replaced as appropriate
- D. Temporary Water:
  - 1. Water required for the performance of the Contract shall be provided and paid for by the Owner from onsite source.

#### 1.3 BARRIERS AND ENCLOSURES

A. Temporary Barricades: Within existing structures shall be dustproof and adequately braced. Between barricade and existing finish, provide a compressible seal to prevent the passage of dust. Temporary doors shall be installed with appropriate hardware to provide

exits at end of corridors. Such doors shall not be used by workmen except with permission by the Owner. The barricade shall be painted on the public side and emergency exits labeled.

## 1.4 TEMPORARY CONTROLS

- A. Construction Cleaning:
  - 1. Clean up daily refuse, rubbish, scrap materials and debris caused by operations, such that at all times the site of the work shall present a neat, orderly and workmanlike appearance.
  - 2. Remove surplus material, false-work, temporary structures, including their foundations, plant of any description and debris of every nature resulting from operations and put the site in a neat, orderly condition.
  - 3. Use only cleaning materials recommended by manufacturer of surface to be cleaned. Use cleaning materials only on surfaces recommended by cleaning material manufacturer.
  - 4. Provide for the disposal of waste products, trash, debris, etc., and make necessary arrangements for legal disposal of same off the site. Never throw rubbish from windows or other parts of building. Lower waste materials in a controlled manner with as few handlings as possible.
  - 5. Vacuum clean interior building areas when ready to receive finish painting and continue vacuum cleaning on an as-needed basis until building is ready for acceptance.
  - 6. Schedule cleaning operations such that dust and other contaminants resulting from cleaning process will not fall on wet, newly painted surfaces.
- B. Noise Control:
  - 1. The noise generated by construction of this Work may at times create a problem for the Owner.
  - 2. The Owner recognizes and can tolerate the normal level of noise created by a majority of construction activity and, therefore, does not feel a need to set certain hours of the day when noise will be restricted.
  - 3. However, the Owner recognizes that, during certain construction work such as connecting to the existing building, the noise level may be unusually higher than normal. These higher levels of noise generation may conflict with a specific activity being simultaneously conducted by the Owner.
  - 4. The Contractor shall secure agreement from the Owner prior to scheduling unusually noisy activity, and Contractor shall cooperate if an on-going activity becomes objectionable by its longevity or overlapping into a program started later by the Owner. It is understood and agreed that both parties will cooperate to the end that neither will be unduly inconvenienced by this requirement.

## PRODUCT REQUIREMENTS

## PART 1 GENERAL

#### 1.1 DELIVERY AND STORAGE OF MATERIALS

- A. Deliver manufactured materials in the original packages, containers or bundles (with the seals unbroken) bearing the name or identification mark of the manufacturer.
- B. Deliver fabrications in as large assemblies as practicable and where specified to be shop-primed or shop-finished, they shall be packaged or crated as required to preserve such priming or finish intact and free from abrasion.
- C. Store materials in such manner as necessary to properly protect same from damage, as materials or equipment damage by handling, weather, dirt or from any other cause will not be acceptable.
- D. Store materials so as to cause no obstructions, stored off sidewalks, roadways, and underground services. The Contractor shall be responsible for protecting materials and equipment furnished under the Contract.
- E. All ductwork delivered to the site shall be temporarily sealed at both ends as required to prevent dust from entering ducts prior to installation. All installed ductwork shall remain sealed until final connections are made.

#### 1.2 WORKMANSHIP STANDARDS

- A. Where not more specifically described in the various Sections of these Specifications, workmanship shall conform to the methods and operations of best published standards and accepted practices of the trade or trades involved, and shall include items of fabrication, construction or installation regularly furnished or required for completion (including finishes), and for successful operation as intended.
- B. Work shall be executed by mechanics skilled in their respective lines of work.
- C. When completed, parts shall have been durably and substantially built and shall present a neat, workmanlike appearance.

### 1.3 PRODUCT SUBSTITUTIONS

- A. See Section 01 3301 "Substitution of Materials or Products During Construction" (if applicable)
- 1.4 MANUFACTURER'S TRADE MARKS AND NAMES
  - A. The Architect reserves the right to review and request and removal of manufacturer's trade marks and names on items or materials and equipment which will be in plain view of the occupants of the building when placed in their final position. Such removal shall be at no expense to the Owner. A decision on the necessity to remove may be obtained from the Architect, in writing. Failure to obtain such approval shall constitute agreement to comply with this requirement.

# **PRODUCT STORAGE AND PROTECTION**

## PART 1 GENERAL

## 1.1 SUMMARY

A. Section includes the general requirements for storage of materials and products prior to installation and protection after installation.

## 1.2 GENERAL STORAGE

- A. Deliver materials to job site in manufacturer's original, unopened packaging.
- B. Store products immediately on delivery in the manner recommended by the manufacturer and in accordance with the manufacturer's printed instructions.
- C. Store products subject to damage by the elements in substantial weathertight enclosures.
- D. Arrange storage in a manner with seals and labels intact and legible. Provide access for inspection and verification of materials and quantities.
- E. Maintain temperature and humidity within the ranges required by manufacturer both during storage and prior to installation.
- F. Where materials are to be "acclimated" prior to installation ensure that manufacturer's recommended temperature and humidity levels are maintained throughout the acclimatization period.
- G. Materials that are damaged or soiled shall be removed and replaced or repaired to the satisfaction of the Owner.

#### 1.3 EXTERIOR STORAGE

- A. Provide substantial platforms, blocking or skids to support fabricated products above the ground to prevent soiling or staining.
- B. Cover products that are subject to discoloration or deterioration from exposure to the elements with impervious sheet coverings. Provide adequate ventilation to avoid condensation.
- C. Store loose granular materials in a well-drained area on solid surfaces to prevent mixing with foreign matter.

## 1.4 PROTECTION AFTER INSTALLATION

- A. Provide substantial coverings to protect installed products from damage from subsequent operations.
- B. Control traffic to prevent damage to equipment and surfaces.
- C. Cover projections, wall corners, jambs, sills and soffits of openings, in areas used for

traffic and passage of products in subsequent work.

- D. Protect finished floors and stairs from dirt and damage.
- E. In areas subject to foot traffic secure heavy paper, sheet goods or other materials in place over the finish flooring.
- F. For movement of heavy products, lay planking or similar materials in place.
- G. Cover walls and floor of elevator car, and surfaces of elevator car doors, used by construction personnel.
- H. Finished roof surfaces shall not be used for storage, prohibit traffic of any kind except where required to carry out the Contract. In such instances install recommended protection and remove on completion of that activity.
- I. Prohibit traffic of any kind across planted lawn and landscaped areas.
- J. Damaged product/materials will be removed and replaced at no cost to the owner.

# PART 2 PRODUCTS

NOT APPLICABLE

# PART 3 EXECUTION

NOT APPLICABLE

#### CUTTING AND PATCHING

#### PART 1 GENERAL

- 1.1 CUTTING AND PATCHING
  - A. Structural Work: Do not cut-and-patch structural work in a manner resulting in a reduction of load-carrying capacity of load/deflection ratio. Submit proposal and request and obtain Engineer's approval before proceeding with any cut-and-patch of structural work.
  - B. Visual/Quality Limitations: Do not cut-and-patch work exposed to view (exterior and interior) in a manner resulting in noticeable reduction of visual qualities and similar qualities, as judged by Architect.
    - 1. Engage the original installer/fabricator, or (if not available) an acceptable equivalent entity, to perform cutting and patching.
    - 2. Refinish entire surfaces to match adjacent finishes. For continuous surfaces, refinish to nearest intersection. For an assembly, refinish the entire unit.
  - C. Limitation on Approvals: Architect's approval to proceed with cutting and patching does not waive right to later require removal/replacement of work found to be cut-and-patched in an unsatisfactory manner, as judged by the Architect.
  - D. Where not more specifically described in any of the various Sections of these Specifications, workmanship shall conform to all of the methods and operations of best standards and accepted practices of the trade or trades involved, and shall include all items of fabrication, construction, or installation regularly furnished or required for completion, (including any finish), and for successful operation as intended.
  - E. Work shall be executed by mechanics skilled and experienced in their respective trade, and shall have proper certification or other credentials where appropriate.
  - F. In every case, exercise extreme care in cutting operations, and perform such operations under adequate supervision. Openings shall be neatly cut and shall be kept as small as possible to avoid unnecessary damage. Careless and/or avoidable cutting damage, etc., will not be tolerated, and the Contractor will be held responsible for such avoidable or willful damage.
  - G. Replacing, patching and repairing of materials and surfaces cut or damaged in the execution of the Work shall be performed by experienced mechanics of the applicable trades involved. Such replacing, repairing or patching shall be done with the applicable materials, in such manner that surfaces so replaced, etc., will, upon completion of the Work, match the surrounding similar surfaces.
  - H. When completed, all parts shall have been durably and substantially built and shall present a neat, workmanlike appearance.

## STARTING AND ADJUSTING

## PART 1 GENERAL

## 1.1 SUMMARY

- A. Section Includes: Perform operations in following order prior to request for Substantial Completion:
  - 1. Starting of Systems
  - 2. Demonstration of systems and instruction of Owner's designated personnel.

## 1.2 SUBMITTALS

- A. General: Submit in accordance with Section 01 3300, Submittal Procedures.
- B. Submit following items as required by this Section:
  - 1. Testing and Balancing Report.
  - 2. Record of Owner's training/Instructions.

## 1.3 STARTING OF SYSTEMS

- A. Coordinate schedule for startup of various equipment and systems.
- B. Verify that each piece of equipment or system has been checked for proper lubrication, drive rotation, belt tension, control sequence, or for other conditions that may cause damage.
- C. Verify that tests, meter readings, and specified electrical characteristics agree with those required by contract documents and equipment or system manufacturer.
- D. Verify wiring and support components for equipment are complete and tested.
- E. Execute startup under supervision of applicable manufacturer's representatives and Contractor's personnel in accordance with manufacturer's instructions.
- F. When specified in individual Specification Sections, require manufacturer to provide authorized representative to be present at site to inspect, check, and approve equipment or system installation prior to startup, and to supervise placing equipment or system in operation.
- G. Verify that all waste piping is clear of obstructions and free flowing from top of vent to municipal tap.
- H. Verify that all roof drainage systems are clear of debris and free flowing from roof drain inlet to point of discharge.

#### 1.4 DEMONSTRATION

- A. Demonstration is for verification that systems will start and operate properly.
- B. Demonstrate systems operation to Owner's personnel prior to performing instruction of Owner's personnel.

- C. Demonstrate Project equipment by qualified manufacturers' representative who is knowledgeable about Project requirements and operation and maintenance of equipment being demonstrated.
- D. For equipment or systems requiring seasonal operation, perform demonstration for other season within six (6) months.
- E. Demonstrate startup, operation, control, adjustment, trouble-shooting, servicing, maintenance, and shutdown of each item of equipment.
- F. Prepare and insert additional data in operations and maintenance manuals required by Section 01 7700, Closeout Procedures when need for additional data becomes apparent during instruction.

## 1.5 INSTRUCTION OF OWNER'S PERSONNEL

- A. Prior to Substantial Completion, fully instruct Owner's designated operation and maintenance personnel in operation, adjustment, and maintenance of products, equipment and systems requiring regular maintenance. Perform instructions within continuous period of thirty (30) days. For equipment that requires seasonal operation, provide similar instruction during other seasons.
- B. Arrange and pay for services of qualified manufacturer's representatives to fully instruct Owner on specialized portions of installation, such as refrigeration machines, automatic controls, water treatment, and electrical systems.
- C. Use operations and maintenance manual as basis of instruction. Review contents of manual with personnel in full detail to explain all aspects of operations and maintenance. Include detailed review of following items:
  - 1. Maintenance manuals.
  - 2. Record documents.
  - 3. Spare parts and materials.
  - 4. Tools.
- D. Submit complete record of instructions as part of operations and maintenance manual given to Owner. For each instructional period, supply following data:
  - 1. Date.
  - 2. System or equipment involved.
  - 3. Names of persons giving instructions.
  - 4. Other persons present.

## PART 2 PRODUCTS

NOT USED

## PART 3 EXECUTION

NOT USED

#### CLOSEOUT PROCEDURES

#### PART 1 GENERAL

#### 1.1 GENERAL REQUIREMENTS

- A. Requirements and procedures for submittal of pertinent data relating to closing out the Project upon completion of the Project Work. Detailed instructions elsewhere in these Specifications may require that certain items listed herein be submitted prior to Substantial Completion of the Project.
- B. Receipt and approval of items specified in this Section is a prerequisite for Final Payment and/or release of Retention.

#### 1.2 FINAL CLEANING

- A. Perform the following special cleaning for trades at completion of Work; employing only experienced workmen or professional cleaners for the final cleaning:
  - 1. Remove marks, stains, fingerprints, soil and dirt from painted areas.
  - 2. Remove spots, soil, paint and mastic from tile work and wash same.
  - 3. Clean fixtures, equipment and piping; remove stains, paint, dirt and dust.
  - 4. Remove temporary floor protections; clean and polish (wax) floors.
  - 5. Clean concrete walks and slabs of plaster or cement droppings, paint and other objectionable materials to present a neat, clean appearance.
  - 6. Clean exterior and interior metal surfaces, including doors and windows and their frames.
  - 7. Clean items required to have a polished finish free of oil, stains, dust, dirt, paint and the like; polish and leave without fingermarks or other blemishes.
  - 8. Clean exterior surfaces of building to be free of dirt, dust, concrete, splatters, overspray, etc. Use low-pressure water stream to clean all exterior surfaces.
  - 9. Clean windows and window framing system components to be free of smears, adhesives, coatings, etc.
  - 10. Wax all V.C.T. Floors
- B. Make building(s) ready for occupancy in every respect. Lay heavy building paper in main circulation areas to protect the floors until final inspection and acceptance.
- C. Existing improvements, inside or outside the property that are disturbed, damaged or destroyed by the Work under the Contract shall be restored to the condition in which they originally were, or to the satisfaction of the Architect.

## 1.3 OWNER TRAINING

A. Schedule and provide training or Owner's staff or maintenance and operation of equipment and systems provided and installed under this contract. Provide written documentation/acceptance of training prior to final closeout on form included at the end of this section. Contractor shall remain responsible for maintenance and operation of all building systems until acknowledgment of completion of Owner training.

## 1.4 PROJECT RECORD DOCUMENTS

- A. Record Drawings: The Contractor will provide the Architect with a complete record document set of the original Construction Documents to be used by the Architect to complete computer generated record drawings. The following shall be provided on the Drawings, as follows:
  - 1. Any changes from the contract documents, secured with prior approval of the Architect, for any phase of the Work, other than those listed below, shall be recorded in a neat readable manner, on the record document set. All changes from the documents originally bid shall be made in black ink or pencil, by a competent drafter. All deletions shall be made by crossing out items modified and clearly indicating modification.
  - 2. For plumbing; heating, ventilating and air-conditioning; electrical; and fire protection Work, Record Drawings shall be maintained by the Contractor as the Work progresses and as follows:
    - a. Deviations from the sizes, locations, and from other features of installations shown in the Contract Documents shall be recorded. Shut-off valves and other controls shall be clearly marked.
    - b. In addition, it shall be possible, using these drawings, to correctly and easily locate, identify and establish sizes of all piping, directions and the like, as well as other features of the Work which will be concealed underground and/or in the finished building.
  - 3. Locations of underground Work shall be established by dimensions to column lines or walls, locating all turns, etc., and by properly referenced centerline or invert elevations and rates of fall.
    - a. For Work concealed in the building, sufficient information shall be given so it can be located with reasonable accuracy and ease. In some cases, this may be by dimension. In others it may be sufficient to illustrate the Work on the drawings in relation to the spaces in the building near which it was actually installed. Architect's decision in this matter shall be final.
  - 4. Additional drawings shall be provided as necessary for clarification.
  - 5. Drawings shall be kept up-to-date during the entire course of the work and shall be available upon request for examination by the Architect and, when necessary, to establish clearances for other parts of the Work.
  - 6. Upon substantial completion of the Work, submit one copy of the Record Drawings to the Architect for review. The Architect may request additional information be included as part of the record document set prior to approval.

## 1.5 OWNER'S MANUAL

- A. Upon Substantial Completion of the Project Work, submit one (1) copy of the Owner's Manual suitably typed, indexed and labeled for ready reference to the Architect for review.
  - 1. Subcontractors, major suppliers list with company's names, addresses and telephone numbers.
  - 2. Guarantees/warranties: General Contractor and Subcontractor's, certifications as described in the General Conditions, Supplementary General conditions and/or the technical specification or each item or work product (Two (2) years, unless otherwise noted).
  - 3. AIA Documents G706, Contractors Affidavit of Payments of Debts and Claims; G706A, Contractors Affidavit of Release of Liens; and G707, Consent of Surety to Final Payment, if required.
  - 4. "Affidavit: Non-Use of Asbestos Containing Building Materials" from General Contractor on use of asbestos-free materials, included in this Section.
  - 5. "Materials Receipt" signed by Owner and Contractor, included in this Section
  - 6. Special certifications and inspections documentation.
  - 7. Training Log or other documentation verifying system(s) training.
  - 8. Other items required by the Specifications.

Upon acceptance of Owner's Manual document, the Contractor shall provide two (2) final hard copies, along with one (1) electronic (.pdf) file copy for transmittal to the Owner.

## 1.6 OPERATION AND MAINTENANCE DATA

- A. Upon Substantial Completion of the Project Work, submit one (1) copy of the Operation and Maintenance Manual and Operating Instructions including parts lists for materials, equipment and systems, electrical and control items, to the Architect for review. Divisions 21 to 28 may be contained in separate binders for each division. If required, correct and resubmit two (2) copies of the Operation and Maintenance Manuals along with two (2) electronic (.pdf) file copies to the Architect who will transmit them to the Owner. NOTE: Failure to properly complete and submit Maintenance and Operation Manuals in a timely manner shall place responsibility for detrimental maintenance and operating procedures on the Contractor.
- B. Operating instructions shall include complete operating sequence, control diagrams, description of method of operating machinery, machine serial numbers, factory order numbers, parts, tests, instruction books, suppliers phone numbers and addresses and individual equipment guarantees. Parts lists shall be complete in every respect, showing parts and part numbers for ready reference.
- C. Maintenance instructions shall include a written list of required and suggested maintenance for mechanical, plumbing, electrical or other equipment or features in the project. Each item shall contain a brief description of the maintenance required as well as the recommended time frame or period for the maintenance. Include lists of filter sizes for air handling equipment, indicated "washable" or "disposable" and for which unit the filter is for. Shut off valves, etc., must be clearly marked on as-constructed drawings.
- D. Assemble maintenance manual and operating instructions in hard back loose leaf binders. Suitably label and index material for ready reference.

## 1.7 CERTIFICATES AND AFFIDAVIT

- A. Certificates: Submit certificates from governing authorities, manufacturers and subcontractors not previously submitted at the time of Substantial Completion.
- B. Affidavit: Submit the completed "Non-Use of Asbestos Containing Building Materials"; this form is bound into these specifications as the last page of this section.
# MATERIALS RECEIPT

DATE:

PROJECT:

O W PROJECT NO .:

GENERAL CONTRACTOR:

# I HAVE RECEIVED THE FOLLOWING EXTRA MATERIALS AS REQUIRED FOR EACH LISTED CATEGORY (*insert "N/A" to those items not in contract*).

ITEM	PROVIDED
LANDSCAPE SPRINKLER HEADS	
CEILING TILE	
CARPET (BROADLOOM) (2 YDS EACH TYPE)	
CARPET (TILE) (16 SF EACH TYPE)	
VINYL COMPOSITION TILE (1 SF/100 SF)	
RESILIENT FLOORING (1 SF/100 SF)	
CERAMIC TILE (1 SF/100 SF)	
PORCELAIN TILE (1 SF/100 SF)	
PAINT (ONE GALLON OF EACH TYPE)	
FIRE SPRINKLER HEADS	
HVAC FILTERS (ONE SET)	
HVAC BELTS (ONE OF EACH TYPE)	
OWNER REPRESENTATIVE	
NAME	

 SIGNATURE
 DATE

 CONTRACTOR
 Image: Contractor

 NAME
 Image: Contractor

 SIGNATURE
 DATE

## AFFIDAVIT: NON-USE OF ASBESTOS CONTAINING BUILDING MATERIALS

State of «» )	
) ss: County of «» )	
I,(name)	_, having
been duly sworn, depose as follows:	
1. I am authorized to make this affidavit on	behalf
of	
(name of General Contractor)	
who/which is the General Contractor of the	(project name)
2. In performing the Contract for the constr	uction of
(project name)	,
I certify that no building materials containing asbestos we the completed project.	ere used or incorporated in any way in
DATED thisday of, 20	
(Name of General Contractor)	_
Ву	_
lts	
(Title)	_
Subscribed and sworn to before me this	
day of,20	
Notary Public My commission expires:	_

	RESPONSIBLE PARTY	DATE PERFORMED	OWNER REP	OWNER SIGNATURE
«Plant material maintenance		1	1	1
Irrigation valves and timers		1	1	1
Carpet/VCT care & cleaning		1	1	1
Scoreboards & Backstops		1	1	1
Elevator Operation		1	1	1
Fire line, valves, alarms		1	1	1
Fire Alarm System		1	1	1
Fire & smoke dampers		1	1	1
Fire doors/curtains		1	1	1
Water piping and valves		1	1	1
Gas piping and valves		1	1	1
HVAC System Controls		1	1	1
HVAC Filters		1	1	1
Foodservice equipment		1	1	1
Lighting controls		1	1	1
Emergency generator		1	1	1
Roof system maintenance		1	1	1
Roof drain test		1	1	<u>/</u> »

**END OF SECTION** 

## **SECTION 08 7100**

## DOOR HARDWARE

## PART 1 - GENERAL

## 1.1 RELATED DOCUMENTS

A. Drawings and general provisions of the Contract, including General and Supplementary Conditions and Division 1 Specification Sections, apply to this Section.

#### 1.2 SUMMARY

- A. This Section includes commercial door hardware for the following:
  - 1. Swinging doors.
- B. Door hardware includes, but is not necessarily limited to, the following:
  - 1. Mechanical door hardware.
- C. Related Sections:
  - 1. Division 08 Section "Hollow Metal Doors and Frames".
  - 2. Division 08 Section "Flush Wood Doors".
  - 3. Division 08 Section "Sound Control Hollow Metal Door Assemblies".
  - 4. Division 08 Section "Sound Control Wood Door Assemblies".
- D. Codes and References: Comply with the version year adopted by the Authority Having Jurisdiction.
  - 1. ANSI A117.1 Accessible and Usable Buildings and Facilities.
  - 2. ICC/IBC International Building Code.
  - 3. NFPA 70 National Electrical Code.
  - 4. NFPA 80 Fire Doors and Windows.
  - 5. NFPA 101 Life Safety Code.
  - 6. NFPA 105 Installation of Smoke Door Assemblies.
  - 7. State Building Codes, Local Amendments.
- E. Standards: All hardware specified herein shall comply with the following industry standards as applicable. Any undated reference to a standard shall be interpreted as referring to the latest edition of that standard:
  - 1. ANSI/BHMA Certified Product Standards A156 Series.
  - 2. UL10C Positive Pressure Fire Tests of Door Assemblies.
  - 3. ANSI/UL 294 Access Control System Units.
  - 4. UL 305 Panic Hardware.
  - 5. ANSI/UL 437- Key Locks.
- 1.3 SUBMITTALS
  - A. Product Data: Manufacturer's product data sheets including installation details, material descriptions, dimensions of individual components and profiles, operational descriptions and finishes.

- B. Door Hardware Schedule: Prepared by or under the supervision of supplier, detailing fabrication and assembly of door hardware, as well as procedures and diagrams. Coordinate the final Door Hardware Schedule with doors, frames, and related work to ensure proper size, thickness, hand, function, and finish of door hardware.
  - 1. Format: Comply with scheduling sequence and vertical format in DHI's "Sequence and Format for the Hardware Schedule."
  - 2. Organization: Organize the Door Hardware Schedule into door hardware sets indicating complete designations of every item required for each door or opening. Organize door hardware sets in same order as in the Door Hardware Sets at the end of Part 3. Submittals that do not follow the same format and order as the Door Hardware Sets will be rejected and subject to resubmission.
  - 3. Content: Include the following information:
    - a. Type, style, function, size, label, hand, and finish of each door hardware item.
    - b. Manufacturer of each item.
    - c. Fastenings and other pertinent information.
    - d. Location of door hardware set, cross-referenced to Drawings, both on floor plans and in door and frame schedule.
    - e. Explanation of abbreviations, symbols, and codes contained in schedule.
    - f. Mounting locations for door hardware.
    - g. Door and frame sizes and materials.
    - h. Warranty information for each product.
  - 4. Submittal Sequence: Submit the final Door Hardware Schedule at earliest possible date, particularly where approval of the Door Hardware Schedule must precede fabrication of other work that is critical in the Project construction schedule. Include Product Data, Samples, Shop Drawings of other work affected by door hardware, and other information essential to the coordinated review of the Door Hardware Schedule.
- C. Keying Schedule: After a keying meeting with the owner has taken place prepare a separate keying schedule detailing final instructions. Submit the keying schedule in electronic format. Include keying system explanation, door numbers, key set symbols, hardware set numbers and special instructions. Owner must approve submitted keying schedule prior to the ordering of permanent cylinders/cores.
- D. Informational Submittals:
  - 1. Product Test Reports: Indicating compliance with cycle testing requirements, based on evaluation of comprehensive tests performed by manufacturer and witnessed by a qualified independent testing agency.
- E. Operating and Maintenance Manuals: Provide manufacturers operating and maintenance manuals for each item comprising the complete door hardware installation in quantity as required in Division 01, Closeout Procedures.

## 1.4 QUALITY ASSURANCE

A. Manufacturers Qualifications: Engage qualified manufacturers with a minimum 5 years of documented experience in producing hardware and equipment similar to that indicated for this Project and that have a proven record of successful in-service performance.

- B. Certified Products: Where specified, products must maintain a current listing in the Builders Hardware Manufacturers Association (BHMA) Certified Products Directory (CPD).
- C. Installer Qualifications: A minimum 3 years documented experience installing both standard and electrified door hardware similar in material, design, and extent to that indicated for this Project and whose work has resulted in construction with a record of successful in-service performance.
- D. Door Hardware Supplier Qualifications: Experienced commercial door hardware distributors with a minimum 5 years documented experience supplying both mechanical and electromechanical hardware installations comparable in material, design, and extent to that indicated for this Project. Supplier recognized as a factory direct distributor by the manufacturers of the primary materials with a warehousing facility in Project's vicinity. Supplier to have on staff a certified Architectural Hardware Consultant (AHC) available during the course of the Work to consult with Contractor, Architect, and Owner concerning both standard and electromechanical door hardware and keying.
- E. Each unit to bear third party permanent label demonstrating compliance with the referenced standards.
- F. Keying Conference: Conduct conference to comply with requirements in Division 01 Section "Project Meetings." Keying conference to incorporate the following criteria into the final keying schedule document:
  - 1. Function of building, purpose of each area and degree of security required.
  - 2. Plans for existing and future key system expansion.
  - 3. Requirements for key control storage and software.
  - 4. Installation of permanent keys, cylinder cores and software.
  - 5. Address and requirements for delivery of keys.
- G. Pre-Submittal Conference: Conduct coordination conference in compliance with requirements in Division 01 Section "Project Meetings" with attendance by representatives of Supplier(s), Installer(s), and Contractor(s) to review proper methods and the procedures for receiving, handling, and installing door hardware.
  - 1. Prior to installation of door hardware, conduct a project specific training meeting to instruct the installing contractors' personnel on the proper installation and adjustment of their respective products. Product training to be attended by installers of door hardware (including electromechanical hardware) for aluminum, hollow metal and wood doors. Training will include the use of installation manuals, hardware schedules, templates and physical product samples as required.
  - 2. Inspect and discuss electrical roughing-in, power supply connections, and other preparatory work performed by other trades.
  - 3. Review sequence of operation narratives for each unique access controlled opening.
  - 4. Review and finalize construction schedule and verify availability of materials.
  - 5. Review the required inspecting, testing, commissioning, and demonstration procedures
- H. At completion of installation, provide written documentation that components were applied to manufacturer's instructions and recommendations and according to approved schedule.
- 1.5 DELIVERY, STORAGE, AND HANDLING
  - A. Inventory door hardware on receipt and provide secure lock-up and shelving for door hardware delivered to Project site. Do not store electronic access control hardware, software or accessories at Project site without prior authorization.

- B. Tag each item or package separately with identification related to the final Door Hardware Schedule, and include basic installation instructions with each item or package.
- C. Deliver, as applicable, permanent keys, cylinders, cores, access control credentials, software and related accessories directly to Owner via registered mail or overnight package service. Instructions for delivery to the Owner shall be established at the "Keying Conference".

#### 1.6 COORDINATION

- A. Templates: Obtain and distribute to the parties involved templates for doors, frames, and other work specified to be factory prepared for installing standard and electrified hardware. Check Shop Drawings of other work to confirm that adequate provisions are made for locating and installing hardware to comply with indicated requirements.
- B. Door and Frame Preparation: Doors and corresponding frames are to be prepared, reinforced and pre-wired (if applicable) to receive the installation of the specified electrified, monitoring, signaling and access control system hardware without additional in-field modifications.

#### 1.7 WARRANTY

- A. General Warranty: Reference Division 01, General Requirements. Special warranties specified in this Article shall not deprive Owner of other rights Owner may have under other provisions of the Contract Documents and shall be in addition to, and run concurrent with, other warranties made by Contractor under requirements of the Contract Documents.
- B. Warranty Period: Written warranty, executed by manufacturer(s), agreeing to repair or replace components of standard and electrified door hardware that fails in materials or workmanship within specified warranty period after final acceptance by the Owner. Failures include, but are not limited to, the following:
  - 1. Structural failures including excessive deflection, cracking, or breakage.
  - 2. Faulty operation of the hardware.
  - 3. Deterioration of metals, metal finishes, and other materials beyond normal weathering.
  - 4. Electrical component defects and failures within the systems operation.
- C. Standard Warranty Period: One year from date of Substantial Completion, unless otherwise indicated.
- D. Special Warranty Periods:
  - 1. Ten years for extra heavy duty cylindrical (bored) locks and latches.
  - 2. Five years for exit hardware.
  - 3. Twenty five years for manual overhead door closer bodies.

#### 1.8 MAINTENANCE SERVICE

A. Maintenance Tools and Instructions: Furnish a complete set of specialized tools and maintenance instructions as needed for Owner's continued adjustment, maintenance, and removal and replacement of door hardware.

## PART 2 - PRODUCTS

#### 2.1 SCHEDULED DOOR HARDWARE

- A. General: Provide door hardware for each door to comply with requirements in Door Hardware Sets and each referenced section that products are to be supplied under.
- B. Designations: Requirements for quantity, item, size, finish or color, grade, function, and other distinctive qualities of each type of door hardware are indicated in the Door Hardware Sets at the end of Part 3. Products are identified by using door hardware designations, as follows:
  - 1. Named Manufacturer's Products: Product designation and manufacturer are listed for each door hardware type required for the purpose of establishing requirements. Manufacturers' names are abbreviated in the Door Hardware Schedule.
- C. Substitutions: Requests for substitution and product approval for inclusive mechanical and electromechanical door hardware in compliance with the specifications must be submitted in writing and in accordance with the procedures and time frames outlined in Division 01, Substitution Procedures. Approval of requests is at the discretion of the architect, owner, and their designated consultants.

#### 2.2 HANGING DEVICES

- A. Hinges: ANSI/BHMA A156.1 certified butt hinges with number of hinge knuckles and other options as specified in the Door Hardware Sets.
  - 1. Quantity: Provide the following hinge quantity:
    - a. Two Hinges: For doors with heights up to 60 inches.
    - b. Three Hinges: For doors with heights 61 to 90 inches.
    - c. Four Hinges: For doors with heights 91 to 120 inches.
    - d. For doors with heights more than 120 inches, provide 4 hinges, plus 1 hinge for every 30 inches of door height greater than 120 inches.
  - 2. Hinge Size: Provide the following, unless otherwise indicated, with hinge widths sized for door thickness and clearances required:
    - a. Widths up to 3'0": 4-1/2" standard or heavy weight as specified.
    - b. Sizes from 3'1" to 4'0": 5" standard or heavy weight as specified.
  - 3. Hinge Weight and Base Material: Unless otherwise indicated, provide the following:
    - a. Exterior Doors: Heavy weight, non-ferrous, ball bearing or oil impregnated bearing hinges unless Hardware Sets indicate standard weight.
    - b. Interior Doors: Standard weight, steel, ball bearing or oil impregnated bearing hinges unless Hardware Sets indicate heavy weight.
  - 4. Hinge Options: Comply with the following:
    - a. Non-removable Pins: Provide set screw in hinge barrel that, when tightened into a groove in hinge pin, prevents removal of pin while door is closed; for the all out-swinging lockable doors.
  - 5. Manufacturers:

- a. Bommer Industries (BO).
- b. Ives: Allegion (IVE).
- c. McKinney Products; ASSA ABLOY Architectural Door Accessories (MK).

# 2.3 DOOR OPERATING TRIM

- A. Flush Bolts and Surface Bolts: ANSI/BHMA A156.3 and A156.16, Grade 1, certified.
  - 1. Flush bolts to be furnished with top rod of sufficient length to allow bolt retraction device location approximately six feet from the floor.
  - 2. Furnish dust proof strikes for bottom bolts.
  - 3. Surface bolts to be minimum 8" in length and U.L. listed for labeled fire doors and U.L. listed for windstorm components where applicable.
  - 4. Provide related accessories (mounting brackets, strikes, coordinators, etc.) as required for appropriate installation and operation.
  - 5. Manufacturers:
    - a. Burns Manufacturing (BU).
    - b. Ives; Allegion (IVE).
    - c. Rockwood Products; ASSA ABLOY Architectural Door Accessories (RO).
- B. Coordinators: ANSI/BHMA A156.3 certified door coordinators consisting of active-leaf, holdopen lever and inactive-leaf release trigger. Model as indicated in hardware sets.
  - 1. Manufacturers:
    - a. Burns Manufacturing (BU).
    - b. Ives; Allegion (IVE).
    - c. Rockwood Products; ASSA ABLOY Architectural Door Accessories (RO).
- C. Door Push Plates and Pulls: ANSI/BHMA A156.6 certified door pushes and pulls of type and design specified in the Hardware Sets. Coordinate and provide proper width and height as required where conflicting hardware dictates.
  - 1. Push/Pull Plates: Minimum .050 inch thick, size as indicated in hardware sets, with beveled edges, secured with exposed screws unless otherwise indicated.
  - 2. Door Pull and Push Bar Design: Size, shape, and material as indicated in the hardware sets. Minimum clearance of 2 1/2-inches from face of door unless otherwise indicated.
  - 3. Offset Pull Design: Size, shape, and material as indicated in the hardware sets. Minimum clearance of 2 1/2-inches from face of door and offset of 90 degrees unless otherwise indicated.
  - 4. Fasteners: Provide manufacturer's designated fastener type as indicated in Hardware Sets.
  - 5. Manufacturers:
    - a. Burns Manufacturing (BU).
    - b. Ives; Allegion (IVE).
    - c. Rockwood Products; ASSA ABLOY Architectural Door Accessories (RO).

## 2.4 CYLINDERS AND KEYING

A. General: Cylinder manufacturer to have minimum (10) years experience designing secured master key systems and have on record a published security keying system policy.

- B. Source Limitations: Obtain each type of keyed cylinder and keys from the same source manufacturer as locksets and exit devices, unless otherwise indicated.
- C. Cylinder Types: Original manufacturer cylinders able to supply the following cylinder formats and types:
  - 1. Threaded mortise cylinders with rings and cams to suit hardware application.
  - 2. Rim cylinders with back plate, flat-type vertical or horizontal tailpiece, and raised trim ring.
  - 3. Mortise and rim cylinder collars to be solid and recessed to allow the cylinder face to be flush and be free spinning with matching finishes.
  - 4. Keyway: Match Facility Standard.
- D. Keying System: Each type of lock and cylinders to be factory keyed.
  - 1. Supplier shall conduct a "Keying Conference" to define and document keying system instructions and requirements.
  - 2. Furnish factory cut, nickel-silver large bow permanently inscribed with a visual key control number as directed by Owner.
  - 3. Existing System: Field verify and key cylinders to match Owner's existing system.
- E. Key Quantity: Provide the following minimum number of keys:
  - 1. Change Keys per Cylinder: Three (3).
  - 2. Construction Keys (where required): Ten (10).
- F. Construction Keying: Provide construction master keyed cylinders.
- G. Key Registration List (Bitting List):
  - 1. Provide keying transcript list to Owner's representative in the proper format for importing into key control software.
  - 2. Provide transcript list in writing or electronic file as directed by the Owner.
- 2.5 MECHANICAL LOCKS AND LATCHING DEVICES
  - A. Mortise Locksets, Grade 1 (Commercial Duty): ANSI/BHMA A156.13, Series 1000, Operational Grade 1 Certified Products Directory (CPD) listed.
    - 1. Locks are to be non-handed and fully field reversible.
    - 2. Manufacturers:
      - a. Schlage; Allegion (SCH) L9000 Series.
      - b. No Substitution.

## 2.6 LOCK AND LATCH STRIKES

- A. Strikes: Provide manufacturer's standard strike with strike box for each latch or lock bolt, with curved lip extended to protect frame, finished to match door hardware set, unless otherwise indicated, and as follows:
  - 1. Extra-Long-Lip Strikes: For locks used on frames with applied wood casing trim.
  - 2. Aluminum-Frame Strike Box: Provide manufacturer's special strike box fabricated for aluminum framing.

- B. Standards: Comply with the following:
  - 1. Strikes for Mortise Locks and Latches: BHMA A156.13.
  - 2. Strikes for Auxiliary Deadlocks: BHMA A156.36.
  - 3. Dustproof Strikes: BHMA A156.16.

## 2.7 CONVENTIONAL EXIT DEVICES

- A. General Requirements: All exit devices specified herein shall meet or exceed the following criteria:
  - 1. At doors not requiring a fire rating, provide devices complying with NFPA 101 and listed and labeled for "Panic Hardware" according to UL305. Provide proper fasteners as required by manufacturer including sex nuts and bolts at openings specified in the Hardware Sets.
  - 2. Where exit devices are required on fire rated doors, provide devices complying with NFPA 80 and with UL labeling indicating "Fire Exit Hardware". Provide devices with the proper fasteners for installation as tested and listed by UL. Consult manufacturer's catalog and template book for specific requirements.
  - 3. Except on fire rated doors, provide exit devices with hex key dogging device to hold the pushbar and latch in a retracted position. Provide optional keyed cylinder dogging on devices where specified in Hardware Sets.
  - 4. Devices must fit flat against the door face with no gap that permits unauthorized dogging of the push bar. The addition of filler strips is required in any case where the door light extends behind the device as in a full glass configuration.
  - 5. Lever Operating Trim: Where exit devices require lever trim, furnish manufacturer's heavy duty escutcheon trim with threaded studs for thru-bolts.
    - a. Lock Trim Design: As indicated in Hardware Sets, provide finishes and designs to match that of the specified locksets.
    - b. Where function of exit device requires a cylinder, provide a cylinder (Rim or Mortise) as specified in Hardware Sets.
  - 6. Vertical Rod Exit Devices: Where surface or concealed vertical rod exit devices are used at interior openings, provide as less bottom rod (LBR) unless otherwise indicated. Provide dust proof strikes where thermal pins are required to project into the floor.
  - 7. Narrow Stile Applications: At doors constructed with narrow stiles, or as specified in Hardware Sets, provide devices designed for maximum 2" wide stiles.
  - 8. Dummy Push Bar: Nonfunctioning push bar matching functional push bar.
  - 9. Rail Sizing: Provide exit device rails factory sized for proper door width application.
  - 10. Through Bolt Installation: For exit devices and trim as indicated in Door Hardware Sets.
- B. Conventional Push Rail Exit Devices: ANSI/BHMA A156.3, Grade 1 Certified Products Directory (CPD) listed panic and fire exit hardware devices furnished in the functions specified in the Hardware Sets. Exit device latch to be stainless steel, pullman type, with deadlock feature.
  - 1. Manufacturers:
    - a. Von Duprin; Allegion (VON) 33A/99 Series.
    - b. No Substitution

## 2.8 DOOR CLOSERS

A. All door closers specified herein shall meet or exceed the following criteria:

- 1. General: Door closers to be from one manufacturer, matching in design and style, with the same type door preparations and templates regardless of application or spring size. Closers to be non-handed with full sized covers.
- 2. Standards: Closers to comply with UL-10C for Positive Pressure Fire Test and be U.L. listed for use of fire rated doors.
- 3. Size of Units: Comply with manufacturer's written recommendations for sizing of door closers depending on size of door, exposure to weather, and anticipated frequency of use. Where closers are indicated for doors required to be accessible to the Americans with Disabilities Act, provide units complying with ANSI ICC/A117.1.
- 4. Closer Arms: Provide heavy duty, forged steel closer arms unless otherwise indicated in Hardware Sets.
- 5. Closers shall not be installed on exterior or corridor side of doors; where possible install closers on door for optimum aesthetics.
- 6. Closer Accessories: Provide door closer accessories including custom templates, special mounting brackets, spacers and drop plates as required for proper installation. Provide through-bolt and security type fasteners as specified in the hardware sets.
- B. Door Closers, Surface Mounted (Commercial Duty): ANSI/BHMA 156.4, Grade 1 Certified Products Directory (CPD) listed surface mounted, institutional grade door closers with complete spring power adjustment, sizes 1 thru 6; and fully operational adjustable according to door size, frequency of use, and opening force. Closers to be rack and pinion type, one piece cast iron or aluminum alloy body construction, with adjustable backcheck, closing sweep, and latch speed control valves. Provide non-handed units standard.
  - 1. Manufacturers:
    - a. LCN; Allegion (LCN) 4040XP Series.
    - b. No Substitution.

## 2.9 ARCHITECTURAL TRIM

- A. Door Protective Trim
  - 1. General: Door protective trim units to be of type and design as specified below or in the Hardware Sets.
  - 2. Size: Fabricate protection plates (kick, armor, or mop) not more than 2" less than door width (LDW) on stop side of single doors and 1" LDW on stop side of pairs of doors, and not more than 1" less than door width on pull side. Coordinate and provide proper width and height as required where conflicting hardware dictates. Height to be as specified in the Hardware Sets.
  - 3. Where plates are applied to fire rated doors with the top of the plate more than 16" above the bottom of the door, provide plates complying with NFPA 80. Consult manufacturer's catalog and template book for specific requirements for size and applications.
  - 4. Protection Plates: ANSI/BHMA A156.6 certified protection plates (kick, armor, or mop), fabricated from the following:
    - a. Stainless Steel: 300 grade, 050-inch thick.
  - 5. Options and fasteners: Provide manufacturer's designated fastener type as specified in the Hardware Sets. Provide countersunk screw holes.
  - 6. Manufacturers:
    - a. Burns Manufacturing (BU).
    - b. Ives; Allegion (IVE).
    - c. Rockwood Products; ASSA ABLOY Architectural Door Accessories (RO).

## 2.10 DOOR STOPS AND HOLDERS

- A. General: Door stops and holders to be of type and design as specified below or in the Hardware Sets.
- B. Door Stops and Bumpers: ANSI/BHMA A156.16, Grade 1 certified door stops and wall bumpers. Provide wall bumpers, either convex or concave types with anchorage as indicated, unless floor or other types of door stops are specified in Hardware Sets. Do not mount floor stops where they will impede traffic. Where floor or wall bumpers are not appropriate, provide overhead type stops and holders.
  - 1. Manufacturers:
    - a. Burns Manufacturing (BU).
    - b. Ives; Allegion (IVE).
    - c. Rockwood Products; ASSA ABLOY Architectural Door Accessories (RO).
- C. Overhead Door Stops and Holders: ANSI/BHMA A156.8, Grade 1 Certified Products Directory (CPD) listed overhead stops and holders to be surface or concealed types as indicated in Hardware Sets. Track, slide, arm and jamb bracket to be constructed of extruded bronze and shock absorber spring of heavy tempered steel. Provide non-handed design with mounting brackets as required for proper operation and function.
  - 1. Manufacturers:
    - a. Glynn Johnson; Allegion (GLY).
    - b. Rixson Door Controls (RF).
    - c. Rockwood Products; ASSA ABLOY Architectural Door Accessories (RO).
    - d. Sargent Manufacturing (SA).

## 2.11 ARCHITECTURAL SEALS

- A. General: Thresholds, weatherstripping, and gasket seals to be of type and design as specified below or in the Hardware Sets. Provide continuous weatherstrip gasketing on exterior doors and provide smoke, light, or sound gasketing on interior doors where indicated. At exterior applications provide non-corrosive fasteners and elsewhere where indicated.
- B. Smoke Labeled Gasketing: Assemblies complying with NFPA 105 that are listed and labeled by a testing and inspecting agency acceptable to authorities having jurisdiction, for smoke control ratings indicated, based on testing according to UL 1784.
  - 1. Provide smoke labeled perimeter gasketing at all smoke labeled openings.
- C. Fire Labeled Gasketing: Assemblies complying with NFPA 80 that are listed and labeled by a testing and inspecting agency acceptable to authorities having jurisdiction, for fire ratings indicated, based on testing according to UL-10C.
  - 1. Provide intumescent seals as indicated to meet UL10C Standard for Positive Pressure Fire Tests of Door Assemblies, and NPFA 252, Standard Methods of Fire Tests of Door Assemblies.
- D. Sound-Rated Gasketing: Assemblies that are listed and labeled by a testing and inspecting agency, for sound ratings indicated.
- E. Replaceable Seal Strips: Provide only those units where resilient or flexible seal strips are easily replaceable and readily available from stocks maintained by manufacturer.

## F. Manufacturers:

- 1. Pemko Products; ASSA ABLOY Architectural Door Accessories (PE).
- 2. Reese Enterprises, Inc. (RE).
- 3. Zero International; Allegion (ZER).

## 2.12 FABRICATION

A. Fasteners: Provide door hardware manufactured to comply with published templates generally prepared for machine, wood, and sheet metal screws. Provide screws according to manufacturers recognized installation standards for application intended.

#### 2.13 FINISHES

- A. Standard: Designations used in the Hardware Sets and elsewhere indicate hardware finishes complying with ANSI/BHMA A156.18, including coordination with traditional U.S. finishes indicated by certain manufacturers for their products.
- B. Provide quality of finish, including thickness of plating or coating (if any), composition, hardness, and other qualities complying with manufacturer's standards, but in no case less than specified by referenced standards for the applicable units of hardware
- C. Protect mechanical finishes on exposed surfaces from damage by applying a strippable, temporary protective covering before shipping.

## PART 3 - EXECUTION

## 3.1 EXAMINATION

- A. Examine scheduled openings, with Installer present, for compliance with requirements for installation tolerances, labeled fire door assembly construction, wall and floor construction, and other conditions affecting performance.
- B. Notify architect of any discrepancies or conflicts between the door schedule, door types, drawings and scheduled hardware. Proceed only after such discrepancies or conflicts have been resolved in writing.

## 3.2 PREPARATION

- A. Hollow Metal Doors and Frames: Comply with ANSI/DHI A115 series.
- B. Wood Doors: Comply with ANSI/DHI A115-W series.

#### 3.3 INSTALLATION

- A. Install each item of mechanical and electromechanical hardware and access control equipment to comply with manufacturer's written instructions and according to specifications.
  - 1. Installers are to be trained and certified by the manufacturer on the proper installation and adjustment of fire, life safety, and security products including: hanging devices; locking devices; closing devices; and seals.

- B. Mounting Heights: Mount door hardware units at heights indicated in following applicable publications, unless specifically indicated or required to comply with governing regulations:
  - 1. Standard Steel Doors and Frames: DHI's "Recommended Locations for Architectural Hardware for Standard Steel Doors and Frames."
  - 2. Wood Doors: DHI WDHS.3, "Recommended Locations for Architectural Hardware for Wood Flush Doors."
  - 3. Where indicated to comply with accessibility requirements, comply with ANSI A117.1 "Accessibility Guidelines for Buildings and Facilities."
  - 4. Provide blocking in drywall partitions where wall stops or other wall mounted hardware is located.
- C. Retrofitting: Install door hardware to comply with manufacturer's published templates and written instructions. Where cutting and fitting are required to install door hardware onto or into surfaces that are later to be painted or finished in another way, coordinate removal, storage, and reinstallation of surface protective trim units with finishing work specified in Division 9 Sections. Do not install surface-mounted items until finishes have been completed on substrates involved.
- D. Thresholds: Set thresholds for exterior and acoustical doors in full bed of sealant complying with requirements specified in Division 7 Section "Joint Sealants."
- E. Storage: Provide a secure lock up for hardware delivered to the project but not yet installed. Control the handling and installation of hardware items so that the completion of the work will not be delayed by hardware losses before and after installation.

## 3.4 FIELD QUALITY CONTROL

- A. Field Inspection (Punch Report): Reference Division 01 Sections "Closeout Procedures" and "Cash Allowances". Produce project punch report for each installed door opening indicating compliance with approved submittals and verification hardware is properly installed, operating and adjusted. Include list of items to be completed and corrected, indicating the reasons or deficiencies causing the Work to be incomplete or rejected.
  - 1. Organization of List: Include separate Door Opening and Deficiencies and Corrective Action Lists organized by Mark, Opening Remarks and Comments, and related Opening Images and Video Recordings.
    - Submit documentation of incomplete items in the following formats:
    - a. PDF electronic file.
      - b. Electronic formatted file integrated with the Openings Studio<sup>™</sup> door opening management software platform.

## 3.5 ADJUSTING

2.

A. Initial Adjustment: Adjust and check each operating item of door hardware and each door to ensure proper operation or function of every unit. Replace units that cannot be adjusted to operate as intended. Adjust door control devices to compensate for final operation of heating and ventilating equipment and to comply with referenced accessibility requirements.

## 3.6 CLEANING AND PROTECTION

A. Protect all hardware stored on construction site in a covered and dry place. Protect exposed hardware installed on doors during the construction phase. Install any and all hardware at the latest possible time frame.

- B. Clean adjacent surfaces soiled by door hardware installation.
- C. Clean operating items as necessary to restore proper finish. Provide final protection and maintain conditions that ensure door hardware is without damage or deterioration at time of owner occupancy.

## 3.7 DEMONSTRATION

A. Instruct Owner's maintenance personnel to adjust, operate, and maintain mechanical and electromechanical door hardware.

## 3.8 DOOR HARDWARE SETS

- A. The hardware sets represent the design intent and direction of the owner and architect. They are a guideline only and should not be considered a detailed hardware schedule. Discrepancies, conflicting hardware and missing items should be brought to the attention of the architect with corrections made prior to the bidding process. Omitted items not included in a hardware set should be scheduled with the appropriate additional hardware required for proper application and functionality.
  - 1. Quantities listed are for each pair of doors, or for each single door.
  - 2. The supplier is responsible for handing and sizing all products.
  - 3. Where multiple options for a piece of hardware are given in a single line item, the supplier shall provide the appropriate application for the opening.
  - 4. At existing openings with new hardware the supplier shall field inspect existing conditions prior to the submittal stage to verify the specified hardware will work as required. Provide alternate solutions and proposals as needed.
- B. Manufacturer's Abbreviations:
  - IVE Ives
     SCH Schlage
     VON Von Duprin
     LCN LCN
     GLY Glynn Johnson
     ZER Zero International

## Hardware Sets

## Set: 1.0

Doors: 104 Description: Pair - Storeroom - CFB - Closer/stop

6 Hinge, Full Mortise

TA2714 4-1/2" x 4-1/2"

US26D MK 087100

1 S	elf Latching Flush Bolt	2845/2945	US26D	RO	087100
1 D	ust Proof Strike	570	US26D	RO	087100
1 S <sup>.</sup>	toreroom Lock	QL82 SB	US26D	AW	087100
1 C	oordinator	2672	US28	RO	087100
2 M	ounting Bracket	2601AB or 2601C	US28	RO	087100
2 S	urf Overhead Stop	55-336	652	RF	087100
2 S	urface Closer	5016NP	AL	AW	087100
1 G	asketing Pair	S88BL		ΡE	087100
1 A	stragal	S771D		ΡE	087100
1 A	stragal	3572SP		ΡE	087100

## Set: 2.0

Doors: 113, 216

Description: Sgl - Storeroom - Closer - KP

Hinge, Full Mortise	TA2714 4-1/2" x 4-1/2"	US26D	MK	087100
Storeroom Lock	QL82 SB	US26D	AW	087100
Surface Closer	5016N	AL	AW	087100
Kick Plate	K1050 10" 4BE CSK	US32D	RO	087100
W/F Stop	406 / 441CU	US26D	RO	087100
Gasketing Sgl	S88BL		PE	087100
	Hinge, Full Mortise Storeroom Lock Surface Closer Kick Plate W/F Stop Gasketing Sgl	Hinge, Full MortiseTA2714 4-1/2" x 4-1/2"Storeroom LockQL82 SBSurface Closer5016NKick PlateK1050 10" 4BE CSKW/F Stop406 / 441CUGasketing SglS88BL	Hinge, Full MortiseTA2714 4-1/2" x 4-1/2"US26DStoreroom LockQL82 SBUS26DSurface Closer5016NALKick PlateK1050 10" 4BE CSKUS32DW/F Stop406 / 441CUUS26DGasketing SglS88BL	Hinge, Full MortiseTA2714 4-1/2" x 4-1/2"US26DMKStoreroom LockQL82 SBUS26DAWSurface Closer5016NALAWKick PlateK1050 10" 4BE CSKUS32DROW/F Stop406 / 441CUUS26DROGasketing SglS88BLPE

# Set: 3.0

Doors: 110A, 115, 207, 209, 210, 217 Description: Sgl - Storeroom - Closer - KP

3 Hinge, Full Mortise	TA2714 4-1/2" x 4-1/2"	US26D	MK 087100
1 Storeroom Lock	QL82 SB	US26D	AW 087100
1 Surface Closer	5016N	AL	AW 087100
1 Kick Plate	K1050 10" 4BE CSK	US32D	RO 087100
1 W/F Stop	406 / 441CU	US26D	RO 087100
3 Silencer - Metal Frame	608		RO 087100

## Set: 4.0

Doors: 112 Description: Sgl - Storage

3 Hinge, Full Mortise	TA2714 4-1/2" x 4-1/2"	US26D	MK 087100
1 Storeroom Lock	QL82 SB	US26D	AW 087100
1 W/F Stop	406 / 441CU	US26D	RO 087100
3 Silencer - Metal Frame	608		RO 087100

## Set: 5.0

Doors: 111, 202, 203 Description: Sgl - Office

3	Hinge, Full Mortise	TA2714 4-1/2" x 4-1/2"	US26D	MK	087100
1	Entrance Lock	QL81 SB	US26D	AW	087100
1	W/F Stop	406 / 441CU	US26D	RO	087100
1	Silencer - Metal Frame	608		RO	087100

#### Set: 6.0

Doors: 208A, 208B

Description: Sgl - Rim/Lever - Closer/stop - KP

3	Hinge, Full Mortise	TA2714 4-1/2" x 4-1/2"	US26D	MK	087100
1	Rim Exit Device	38-83-SL	US32D	AW	087100
1	Surf Overhead Stop	55-336	652	RF	087100
1	Surface Closer	5016NP	AL	AW	087100
1	Kick Plate	K1050 10" 4BE CSK	US32D	RO	087100
3	Silencer - Metal Frame	608		RO	087100

## Set: 7.0

Doors: 106, 107

Description: Sgl - Rim/Lever - Closer/stop - KP - Sound seals

3	Hinge, Full Mortise	TA2714 4-1/2" x 4-1/2"	US26D	MK	087100
1	Rim Exit Device	38-83-SL	US32D	AW	087100
1	Surf Overhead Stop	55-336	652	RF	087100
1	Surface Closer	5016NP	AL	AW	087100
1	Kick Plate	K1050 10" 4BE CSK	US32D	RO	087100
1	Acoustic Seal Set	PEMKOSTCSET-3D	BL	PE	087100

Notes: STC seal and other required hardware items to come complete with the STC door assemble. STC 50

## Set: 8.0

# Doors: 219, 220

Description: Sgl - Classroom - Closer - KP - STC50

3	Hinge, Full Mortise, Hvy Wt	T4A3786 5" x 4-1/2"	US26D	MK	087100
1	Classroom Lock	QL87 SB	US26D	AW	087100
1	Surface Closer	5016N	AL	AW	087100
1	Kick Plate	K1050 10" 4BE CSK	US32D	RO	087100

1	W/F Stop	406 / 441CU	US26D	RO	087100
1	Acoustic Seal Set	PEMKOSTCSET-3D	BL	ΡE	087100

Notes: STC seal and other required hardware items to come complete with the STC door assemble. STC 50

#### Set: 9.0

Doors: 101, 102, 103, 114, 116, 117, 118, 204, 205, 206, 218 Description: Sgl - Classroom

3 Hinge, Full Mortise	TA2714 4-1/2" x 4-1/2"	US26D	MK 087100
1 Classroom Lock	QL87 SB	US26D	AW 087100
1 W/F Stop	406 / 441CU	US26D	RO 087100
3 Silencer - Metal Frame	608		RO 087100

## Set: 10.0

Doors: 108A, 108B, 109 Description: Sgl - Classroom - Sound seals

3	Hinge, Full Mortise	TA2714 4-1/2" x 4-1/2"	US26D	MK	087100
1	Classroom Lock	QL87 SB	US26D	AW	087100
1	W/F Stop	406 / 441CU	US26D	RO	087100
1	Acoustic Seal Set	PEMKOSTCSET-3D	BL	ΡE	087100

Notes: STC seal and other required hardware items to come complete with the STC door assemble. STC 50

#### Set: 11.0

Doors: 214, 215 Description: Sgl - Privacy

4 Hinge, Full Mortise	TA2714 4-1/2" x 4-1/2"	US26D	MK 087	7100
1 Privacy Lock	QL72 SB	US26D	AW 087	7100
1 W/F Stop	406 / 441CU	US26D	RO 087	7100
1 Gasketing Sgl	S88BL		PE 087	7100

## Set: 12.0

Doors: 212, 213

Description: Sgl - Push/Pull - Closer - KP	
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3	Hinge, Full Mortise	TA2714 4-1/2" x 4-1/2"	US26D	MK	087100
1	Push Plate	70C-RKW	US32D	RO	087100
1	Pull Plate	122x70C	US32D	RO	087100

1 Surface Closer	5016N	AL	AW	087100
1 Kick Plate	K1050 10" 4BE CSK	US32D	RO	087100
1 W/F Stop	406 / 441CU	US26D	RO	087100
3 Silencer - Metal Frame	608		RO	087100

# **END OF SECTION**

END OF SECTION 087100

Hardware Group No. C201 Provide each SGL door(s) with the following:

QTY		DESCRIPTION	CATALOG NUMBER		FINISH	MFR
3	EA	HINGE	5BB1 4.5 X 4.5		652	IVE
1	EA	POWER TRANSFER	EPT10 CON	×	689	VON
1	EA	EU MORTISE LOCK	L9092HD EU 07A RX CON (FAIL SECURE)	×	626	SCH
1	EA	SFIC EVEREST CORE	80-037		626	SCH
1	EA	SURFACE CLOSER	4040XP RW/PA TBWMS X MTG BRKT, SPCR & PLATE AS REQ		689	LCN
1	EA	KICK PLATE	8400 10" X 2" LDW B-CS		630	IVE
1	EA	FLOOR STOP	FS436/FS438 AS REQ.		626	IVE
1	EA	GASKETING	488S PSA H & J (USE SILENCERS @ NON-RATED DOORS)		BK	ZER
2	EA	HARNESS (1 IN DOOR & 1 IN FRAME)	ALLEGION CONNECT TYPE & LENGTH AS REQ			SCH
1	EA	HARNESS (TO POWER SUPPLY)	CON-6W - CONNECTION LEADS			SCH
1	EA	CREDENTIAL READER	MT SERIES - COORDINATE WITH SECURITY CONTRACTOR	N	BLK	SCE
1	EA	DOOR CONTACT	679-05 TYPE AS REQ	×	WHT	SCE
1	EA	POWER SUPPLY	POWER SUPPLY FOR CREDENTIAL READER BY ANOTHER SECTION			
1	EA	POWER SUPPLY	PS902 120/240 VAC - COORDINATE WITH SECURITY CONTRACTOR (COORDINATE PS WITH SECURITY CONTRACTOR PRIOR TO SUBMITTAL S)	*	LGR	SCE

-INGRESS BY THE CARD READER OR KEY OVERRIDE. -FREE EGRESS BY LEVER.

Hardware Group No. C701 Provide each SGL door(s) with the following:

QTY		DESCRIPTION	CATALOG NUMBER		FINISH	MFR
3	EA	HINGE	5BB1HW 4.5 X 4.5		652	IVE
1	EA	POWER TRANSFER	EPT10 CON	N	689	VON
1	EA	ELEC PANIC HARDWARE	RX-QEL-99-L-NL-07-CON-SNB 24 VDC	×	626	VON
1	EA	SFIC EVEREST CORE	80-037		626	SCH
1	EA	SFIC RIM CYLINDER	80-159 W/KEYED CONST. CORE		626	SCH
1	EA	SURFACE CLOSER	4040XP SCUSH TBWMS X MTG BRKT, SPCR & PLATE AS REQ		689	LCN
1	EA	KICK PLATE	8400 10" X 2" LDW B-CS		630	IVE
1	EA	RAIN DRIP	142A DW + 4"		AA	ZER
1	EA	GASKETING	328AA H & J		AA	ZER
1	EA	DOOR SWEEP	8198AA LENGTH AS REQ		AA	ZER
1	EA	THRESHOLD	65A LENGTH AS REQ		А	ZER
2	EA	HARNESS (1 IN DOOR & 1 IN FRAME)	ALLEGION CONNECT TYPE & LENGTH AS REQ			SCH
1	EA	HARNESS (TO POWER SUPPLY)	CON-6W - CONNECTION LEADS			SCH
1	EA	CREDENTIAL READER	MT SERIES - COORDINATE WITH SECURITY CONTRACTOR	×	BLK	SCE
1	EA	DOOR CONTACT	679-05 TYPE AS REQ	×	WHT	SCE
1	EA	POWER SUPPLY	POWER SUPPLY FOR CREDENTIAL READER BY ANOTHER SECTION			
1	EA	POWER SUPPLY	PS902 120/240 VAC - COORDINATE WITH SECURITY CONTRACTOR (COORDINATE PS WITH SECURITY CONTRACTOR PRIOR TO SUBMITTALS)	×	LGR	SCE
	CC DV					

-INGRESS BY THE CARD READER OR KEY OVERRIDE. -FREE EGRESS BY THE PUSH PAD.

Hardware Group No. CE201

Provide each SGL door(s) with the following:

QTY		DESCRIPTION	CATALOG NUMBER		FINISH	MFR
3	EA	HINGE	5BB1 4.5 X 4.5		652	IVE
1	EA	STOREROOM LOCK	L9080HD 07A		626	SCH
1	EA	SFIC EVEREST CORE	80-037		626	SCH
1	EA	ELECTRIC STRIKE (SGL DOOR - HMF)	6211-FSE-CON (FAIL SECURE) VOLTAGE AS REQ	×	630	VON
1	EA	SURFACE CLOSER	4040XP RW/PA TBWMS X MTG BRKT, SPCR & PLATE AS REQ		689	LCN
1	EA	KICK PLATE	8400 10" X 2" LDW B-CS		630	IVE
1	EA	FLOOR STOP	FS436/FS438 AS REQ.		626	IVE
1	EA	GASKETING	488S PSA H & J (USE SILENCERS @ NON-RATED DOORS)		BK	ZER
1	EA	HARNESS (TO POWER SUPPLY)	CON-6W - CONNECTION LEADS			SCH
1	EA	CREDENTIAL READER	MT SERIES - COORDINATE WITH SECURITY CONTRACTOR	×	BLK	SCE
1	EA	DOOR CONTACT	679-05 TYPE AS REQ	×	WHT	SCE
1	EA	MOTION SENSOR	SCANII 12/24 VDC	×	WHT	SCE
1	EA	POWER SUPPLY	POWER SUPPLY FOR CREDENTIAL READER BY ANOTHER SECTION			
1	EA	POWER SUPPLY	PS902 FA900 120/240 VAC (COORDINATE PS WITH SECURITY CONTRACTOR PRIOR TO SUBMITTALS)	*	LGR	SCE

VERIFY THAT EXISTING HARDWARE IS IN PROPER WORKING ORDER. -REUSE EXISTING HARDWARE WHEREVER POSSIBLE AND PROVIDE NEW HARDWARE BASED ON THE HARDWARE SET.

-INGRESS BY THE CARD READER OR KEY OVERRIDE.

-EGRESS BY THE LEVER.

Hardware Group No. CE201A

Provide each SGL door(s) with the following:

QTY		DESCRIPTION	CATALOG NUMBER		FINISH	MFR
3	EA	HINGE	5BB1 4.5 X 4.5		652	IVE
1	EA	STOREROOM LOCK	L9080HD 07A		626	SCH
1	EA	SFIC EVEREST CORE	80-037		626	SCH
1	EA	ELECTRIC STRIKE (SGL DOOR - HMF)	6211-FSE-CON (FAIL SECURE) VOLTAGE AS REQ	N	630	VON
1	EA	SURFACE CLOSER	4040XP RW/PA TBWMS X MTG BRKT, SPCR & PLATE AS REQ		689	LCN
1	EA	FLOOR STOP	FS436/FS438 AS REQ.		626	IVE
1	SET	SEAL	PERIMETER SEAL BY FRAME MFR.			
2	EA	HARNESS (1 IN DOOR & 1 IN FRAME)	ALLEGION CONNECT TYPE & LENGTH AS REQ			SCH
1	EA	CREDENTIAL READER	MT SERIES - COORDINATE WITH SECURITY CONTRACTOR	×	BLK	SCE
1	EA	DOOR CONTACT	679-05 TYPE AS REQ	×	WHT	SCE
1	EA	POWER SUPPLY	POWER SUPPLY FOR CREDENTIAL READER BY ANOTHER SECTION			
1	EA	POWER SUPPLY	PS902 120/240 VAC - COORDINATE WITH SECURITY CONTRACTOR (COORDINATE PS WITH SECURITY CONTRACTOR PRIOR	*	LGR	SCE
			TO SUBMITTALS)	10		

-A 5" LOCK STILE IS REQUIRED FOR THE USE OF THE DISTRICT STANDARD MORTISE LOCK -VERIFY PRIOR TO ORDERING HARDWARE

-INGRESS BY THE CARD READER OR KEY OVERRIDE.

-FREE EGRESS BY LEVER.

Hardware Group No. CER201 Provide each SGL door(s) with the following:

QTY		DESCRIPTION	CATALOG NUMBER		FINISH	MFR
3	EA	HINGE	5BB1 4.5 X 4.5		652	IVE
1	EA	STOREROOM LOCK	L9080HD 07A		626	SCH
1	EA	SFIC EVEREST CORE	80-037		626	SCH
1	EA	ELECTRIC STRIKE (SGL DOOR - HMF)	6211-FSE-CON (FAIL SECURE) VOLTAGE AS REQ	N	630	VON
1	EA	SURFACE CLOSER	4040XP RW/PA TBWMS X MTG BRKT, SPCR & PLATE AS REQ		689	LCN
1	EA	KICK PLATE	8400 10" X 2" LDW B-CS		630	IVE
1	EA	FLOOR STOP	FS436/FS438 AS REQ.		626	IVE
1	EA	GASKETING	488S PSA H & J (USE SILENCERS @ NON-RATED DOORS)		BK	ZER
2	EA	HARNESS (1 IN DOOR & 1 IN FRAME)	ALLEGION CONNECT TYPE & LENGTH AS REQ			SCH
1	EA	CREDENTIAL READER	MT SERIES - COORDINATE WITH SECURITY CONTRACTOR	×	BLK	SCE
1	EA	DESK MOUNT BUTTON	660-PB	×	628	SCE
1	EA	MOTION SENSOR	SCANII 12/24 VDC	×	WHT	SCE
1	EA	POWER SUPPLY	POWER SUPPLY FOR CREDENTIAL READER BY ANOTHER SECTION			
1	EA	POWER SUPPLY	PS902 120/240 VAC - COORDINATE WITH SECURITY CONTRACTOR (COORDINATE PS WITH SECURITY CONTRACTOR PRIOR	*	LGR	SCE
-INGRI	ESS BY	CARD READER OR REMOTE	RELEASE.			

-FREE EGRESS AT ALL TIMES ..

Hardware Group No. CR710ACM Provide each PR door(s) with the following:

QTY		DESCRIPTION	CATALOG NUMBER		FINISH	MFR
2	EA	CONT. HINGE	112XY EPT HEIGHT AS REQ		628	IVE
2	EA	POWER TRANSFER	EPT10 CON	×	689	VON
1	EA	REMOVABLE MULLION	KR4954 HEIGHT AS REQ		689	VON
1	EA	ELEC PANIC HARDWARE	RX-QEL-33A-EO-CON LENGTH AS REQ	×	626	VON
1	EA	ELEC PANIC HARDWARE	RX-QEL-33A-NL-OP-CON LENGTH AS REQ	×	626	VON
2	EA	SFIC EVEREST CORE	80-037		626	SCH
1	EA	SFIC MORTISE CYL.	80-132 W/KEYED CONST. CORE		626	SCH
1	EA	SFIC RIM CYLINDER	80-159 W/KEYED CONST. CORE		626	SCH
2	EA	90 DEG OFFSET PULL	8190-O 10"		630	IVE
2	EA	SURFACE CLOSER	4040XP RW/PA TBWMS X MTG BRKT, SPCR & PLATE AS REQ		689	LCN
1	SET	SEAL	PERIMETER SEAL BY FRAME MFR.			
1	SET	ASTRAGAL	MEETING STILE SEAL BY DOOR MFR.			
4	EA	HARNESS (1 IN DOOR & 1 IN FRAME)	ALLEGION CONNECT TYPE & LENGTH AS REQ			SCH
2	EA	HARNESS (TO POWER SUPPLY)	CON-6W - CONNECTION LEADS			SCH
1	EA	CREDENTIAL READER	MT SERIES - COORDINATE WITH SECURITY CONTRACTOR	×	BLK	SCE
1	EA	DESK MOUNT BUTTON	660-PB	×	628	SCE
2	EA	DOOR CONTACT	679-05 TYPE AS REQ	×	WHT	SCE
1	EA	POWER SUPPLY	POWER SUPPLY FOR CREDENTIAL READER BY ANOTHER SECTION			
1	EA	POWER SUPPLY	PS902 900-2RS 120/240 VAC - COORDINATE WITH SECURITY CONTRACTOR (COORDINATE PS WITH SECURITY CONTRACTOR PRIOR	×		VON
			TO SUBMITTALS)			
				יווס	TTON	

-INGRESS BY THE CARD READER OR KEY OVERRIDE OR REMOTE RELEASE BUTTON. -FREE EGRESS BY THE PUSH PADS.

Hardware Group No. CR710AM Provide each PR door(s) with the following:

QTY		DESCRIPTION	CATALOG NUMBER		FINISH	MFR
2	EA	CONT. HINGE	112XY EPT HEIGHT AS REQ		628	IVE
2	EA	POWER TRANSFER	EPT10 CON	×	689	VON
1	EA	REMOVABLE MULLION	KR4954 HEIGHT AS REQ		689	VON
1	EA	ELEC PANIC HARDWARE	RX-QEL-33A-EO-CON LENGTH AS REQ	×	626	VON
1	EA	ELEC PANIC HARDWARE	RX-QEL-33A-NL-OP-CON LENGTH AS REQ	×	626	VON
2	EA	SFIC EVEREST CORE	80-037		626	SCH
1	EA	SFIC MORTISE CYL.	80-132 W/KEYED CONST. CORE		626	SCH
1	EA	SFIC RIM CYLINDER	80-159 W/KEYED CONST. CORE		626	SCH
2	EA	90 DEG OFFSET PULL	8190-O 10"		630	IVE
2	EA	SURFACE CLOSER	4040XP RW/PA TBWMS X MTG BRKT, SPCR & PLATE AS REQ		689	LCN
2	EA	FLOOR STOP	FS436/FS438 AS REQ.		626	IVE
1	SET	SEAL	PERIMETER SEAL BY FRAME MFR.			
1	SET	ASTRAGAL	MEETING STILE SEAL BY DOOR MFR.			
4	EA	HARNESS (1 IN DOOR & 1 IN FRAME)	ALLEGION CONNECT TYPE & LENGTH AS REQ			SCH
2	EA	HARNESS (TO POWER SUPPLY)	CON-6W - CONNECTION LEADS			SCH
1	EA	CREDENTIAL READER	MT SERIES - COORDINATE WITH SECURITY CONTRACTOR	×	BLK	SCE
1	EA	DESK MOUNT BUTTON	660-PB	×	628	SCE
2	EA	DOOR CONTACT	679-05 TYPE AS REQ	×	WHT	SCE
1	EA	POWER SUPPLY	POWER SUPPLY FOR CREDENTIAL READER BY ANOTHER SECTION			
1	EA	POWER SUPPLY	PS902 900-2RS 120/240 VAC - COORDINATE WITH SECURITY CONTRACTOR (COORDINATE PS WITH SECURITY CONTRACTOR PRIOR	×		VON
			TO SUBMITTALS)			
INGRESS BY THE CARD READER OR KEY OVERRIDE OR REMOTE RELEASE BUTTON.						

IDE OR RE NOTER EASE BUI IC -FREE EGRESS BY THE PUSH PADS.

Hardware Group No. EX-CE201

Provide each SGL door(s) with the following:

QTY		DESCRIPTION	CATALOG NUMBER		FINISH	MFR
3	EA	HINGE	5BB1 4.5 X 4.5		652	IVE
1	EA	STOREROOM LOCK	L9080HD 07A		626	SCH
1	EA	SFIC EVEREST CORE	80-037		626	SCH
1	EA	ELECTRIC STRIKE (SGL DOOR - HMF)	6211-FSE-CON (FAIL SECURE) VOLTAGE AS REQ	×	630	VON
1	EA	SURFACE CLOSER	4040XP RW/PA TBWMS X MTG BRKT, SPCR & PLATE AS REQ		689	LCN
1	EA	KICK PLATE	8400 10" X 2" LDW B-CS		630	IVE
1	EA	FLOOR STOP	FS436/FS438 AS REQ.		626	IVE
1	EA	GASKETING	488S PSA H & J (USE SILENCERS @ NON-RATED DOORS)		BK	ZER
1	EA	HARNESS (TO POWER SUPPLY)	CON-6W - CONNECTION LEADS			SCH
1	EA	CREDENTIAL READER	MT SERIES - COORDINATE WITH SECURITY CONTRACTOR	N	BLK	SCE
1	EA	DOOR CONTACT	679-05 TYPE AS REQ	×	WHT	SCE
1	EA	MOTION SENSOR	SCANII 12/24 VDC	N	WHT	SCE
1	EA	POWER SUPPLY	POWER SUPPLY FOR CREDENTIAL READER BY ANOTHER SECTION			
1	EA	POWER SUPPLY	PS902 FA900 120/240 VAC (COORDINATE PS WITH SECURITY CONTRACTOR PRIOR TO SUBMITTALS)	*	LGR	SCE

VERIFY THAT EXISTING HARDWARE IS IN PROPER WORKING ORDER. -REUSE EXISTING HARDWARE WHEREVER POSSIBLE AND PROVIDE NEW HARDWARE BASED ON THE HARDWARE SET.

-INGRESS BY THE CARD READER OR KEY OVERRIDE.

-EGRESS BY THE LEVER.

Hardware Group No. EX-CER201

Provide each SGL door(s) with the following:

QTY		DESCRIPTION	CATALOG NUMBER		FINISH	MFR
3	EA	HINGE	5BB1 4.5 X 4.5		652	IVE
1	EA	STOREROOM LOCK	L9080HD 07A		626	SCH
1	EA	SFIC EVEREST CORE	80-037		626	SCH
1	EA	ELECTRIC STRIKE (SGL DOOR - HMF)	6211-FSE-CON (FAIL SECURE) VOLTAGE AS REQ	×	630	VON
1	EA	SURFACE CLOSER	4040XP RW/PA TBWMS X MTG BRKT, SPCR & PLATE AS REQ		689	LCN
1	EA	KICK PLATE	8400 10" X 2" LDW B-CS		630	IVE
1	EA	FLOOR STOP	FS436/FS438 AS REQ.		626	IVE
1	EA	GASKETING	488S PSA H & J (USE SILENCERS @ NON-RATED DOORS)		BK	ZER
1	EA	HARNESS (TO POWER SUPPLY)	CON-6W - CONNECTION LEADS			SCH
1	EA	CREDENTIAL READER	MT SERIES - COORDINATE WITH SECURITY CONTRACTOR	N	BLK	SCE
1	EA	DOOR CONTACT	679-05 TYPE AS REQ	×	WHT	SCE
1	EA	MOTION SENSOR	SCANII 12/24 VDC	×	WHT	SCE
1	EA	POWER SUPPLY	POWER SUPPLY FOR CREDENTIAL READER BY ANOTHER SECTION			
1	EA	POWER SUPPLY	PS902 FA900 120/240 VAC (COORDINATE PS WITH SECURITY CONTRACTOR PRIOR TO SUBMITTALS)	~	LGR	SCE

VERIFY THAT EXISTING HARDWARE IS IN PROPER WORKING ORDER. -REUSE EXISTING HARDWARE WHEREVER POSSIBLE AND PROVIDE NEW HARDWARE BASED ON THE HARDWARE SET.

-INGRESS BY THE CARD READER, REMOTE RELEASE, OR KEY OVERRIDE. -EGRESS BY THE LEVER.

Hardware Group No. EX-CER201T

Provide each SGL door(s) with the following:

QTY		DESCRIPTION	CATALOG NUMBER		FINISH	MFR
4	EA	HINGE	5BB1 4.5 X 4.5		652	IVE
1	EA	STOREROOM LOCK	L9080HD 07A		626	SCH
1	EA	SFIC EVEREST CORE	80-037		626	SCH
1	EA	ELECTRIC STRIKE (SGL DOOR - HMF)	6211-FSE-CON (FAIL SECURE) VOLTAGE AS REQ	×	630	VON
1	EA	SURFACE CLOSER	4040XP RW/PA TBWMS X MTG BRKT, SPCR & PLATE AS REQ		689	LCN
1	EA	KICK PLATE	8400 10" X 2" LDW B-CS		630	IVE
1	EA	FLOOR STOP	FS436/FS438 AS REQ.		626	IVE
1	EA	GASKETING	488S PSA H & J (USE SILENCERS @ NON-RATED DOORS)		BK	ZER
1	EA	HARNESS (TO POWER SUPPLY)	CON-6W - CONNECTION LEADS			SCH
1	EA	CREDENTIAL READER	MT SERIES - COORDINATE WITH SECURITY CONTRACTOR	N	BLK	SCE
1	EA	DOOR CONTACT	679-05 TYPE AS REQ	×	WHT	SCE
1	EA	MOTION SENSOR	SCANII 12/24 VDC	×	WHT	SCE
1	EA	POWER SUPPLY	POWER SUPPLY FOR CREDENTIAL READER BY ANOTHER SECTION			
1	EA	POWER SUPPLY	PS902 FA900 120/240 VAC (COORDINATE PS WITH SECURITY CONTRACTOR PRIOR TO SUBMITTALS)	~	LGR	SCE

VERIFY THAT EXISTING HARDWARE IS IN PROPER WORKING ORDER. -COORDINATE HINGE WEIGHT AND SIZE IF HINGES NEED TO BE REPLACED. -REUSE EXISTING HARDWARE WHEREVER POSSIBLE AND PROVIDE NEW HARDWARE BASED ON THE HARDWARE SET.

-INGRESS BY THE CARD READER, REMOTE RELEASE, OR KEY OVERRIDE. -EGRESS BY THE LEVER.

#### SECTION 28 05 00

#### GENERAL ELECTRONIC SAFETY AND SECURITY SYSTEM REQUIREMENTS

#### PART 1 – GENERAL

#### 1.1 WORK INCLUDES

- A. Drawings and general provisions of the Contract, including General and Supplementary Conditions and Division 1, apply to this Section.
- B. Electronic Safety and Security Systems complete including modification of existing systems to be revised and expanded, cabling, special backboxes, hardware and all other required devices and equipment.
- C. Installation of system equipment per specifications.
- D. Supply in a timely manner to the electrical contractor special backboxes for installation as required.
- E. Coordinate wireway, raceway, power, and outlet requirements with the builder and the electrical contractor.
- F. Electronic Safety and Security Systems Contractors shall provide and install prior to cable installation plastic snap in bushings at each box opening, passage through a metal stud, and at the end of all open conduit stubs or sleeves to protect the cabling from damage.
- G. Furnishing of all required materials, equipment, tools, scaffolding, labor, and transportation necessary for the complete installation of the Electronic Safety and Security systems as shown on the drawings and as specified herein.
- H. Cable pathways, conduit, and cable support systems shall be complete with bushings, de-burred, cleaned, and secure prior to installation of cable.
- I. It is the intent of these specifications to provide complete installations although every item necessary may not be specifically mentioned or shown.

#### 1.2 WORK TO BE INCLUDED BY THE ELECTRICAL CONTRACTOR IN BASE CONTRACT PROPOSAL

- A. Provide utility services conduit as outlined on drawings as required.
- B. All required conduit for accessibility to attic space.
- C. Furnishing and installation of all required standard back boxes and conduit.
- D. Installation of special back boxes supplied by Division 28 contractor(s).
- E. Furnishing and installation of all floor boxes, surface raceways, and other wireways which are detailed or specified under Division 26.
- F. Provide equipment-mounting boards as outlined on drawings.
- G. Provide equipment grounding system, conductors, and bus bars and as outlined in Division 26.
- H. Provide 120-volt power and hook-up to equipment provided in Division 28.
- I. Coordination of requirements of Division 28 with the Builder.

#### 1.3 WORK NOT INCLUDED

A. Contractors shall make no agreement that obligates the Owner to pay any company providing communications, monitoring, or other services. Contractors shall not make selection, purchase, or installation of interconnect instruments/equipment to be used on this project.

#### 1.4 RELATED SECTIONS

- A. The conditions of the Division 0, Division 1, Division 26 requirements, and the contract requirements that include the General Conditions and the Supplementary Conditions apply to work of this division.
- B. Section 26 05 34 Provisions For Communication, Security & Safety Systems.

## 1.5 CODES, STANDARDS, AND THEIR ABBREVIATIONS

#### A. General:

- 1. Perform all work in strict accordance with the requirements and recommendations stated in the codes and standards except when requirements are exceeded by the contract documents.
- 2. In addition to the requirements outlined in other sections of the specifications the following standards are imposed as applicable to the work in each instance:
  - a. OSHA Safety and Health Regulations for Construction.
  - b. NFPA No. 70 National Electrical Code.
  - c. NESC National Electrical Safety Code, ANSI Standard C2.
  - d. NEiS National Electrical Installation Standards.
  - e. Local Codes and Ordinances.
- B. Where local codes or practices exceed or conflict with the NEC, it shall be the Contractor's responsibility to perform the work in accordance with the local code prevailing and local interpretations thereof. Any such additional work shall be performed at no additional cost to the Owner.
- C. Materials and components shall be UL listed and labeled by Underwriters Laboratories, Inc. for the intended use under the latest appropriate testing standard.
- D. The Contractor shall obtain all permits required to commence work. Upon completion of the Work, the Contractor shall obtain and deliver to the Owner's Representative a Certificate of Inspection and Approval from the State Board of Fire Underwriters, the City of Midlothian, Texas, and other authorities having jurisdiction. The Contractor shall pay required permit fees.

#### 1.6 LIST OF ASSOCIATIONS AND STANDARDS:

ADA: ANSI:	Americans with Disabilities Act. American National Standards Institute, 1430 Broadway: New York, NY 10018,
ASTM:	American Society for Testing and Materials, 1916 Race Street; Philadelphia, PA 19103.
BICSI:	(RCDD5 Standards), 8610 Hidden River Parkway, Tampa, FL 33637
CBM:	Certified Ballast Manufacturers Association, 2116 Keith Building; Cleveland, Ohio 44115.
IEEE:	Institute of Electrical and Electronics Engineers, 345 East 47th Street; New York, NY 10017.
ICEA:	Insulated Cable Engineers Association, P.O. Box P, South Yarmouth, MA 02664.
NEC:	National Electrical Čode; NFPA No. 70.
NECA:	National Electrical Contractors Association, Inc., 7315 Wisconsin Ave.; Washington, DC 20014.
NEMA:	National Electrical Manufacturers Association, 155 East 44th Street; New York, NY 10017.
NESC:	National Electrical Safety Code, ANSI Standard C2.
NFPA:	National Fire Protection Association, 60 Batterymarch Street; Boston, MA 02110.
OSHA:	Occupational Safety and Health Administration, US Department of Labor; Washington, DC 20402.
TAS:	Texas Accessibility Standards (TAS) Article 9102.
UL:	Underwriters Laboratories, Inc., 333 Pfigsten Road; Northbrook, IL 60062.

- A. Nothing in the Contract Documents shall be construed to permit work not conforming to these codes.
- B. When two or more codes or standards are applicable to the same work, then the stricter code or standard shall govern.
- C. The date of the code or standard is that in effect on the date of issue stated on the contract documents, except when a particular publication date is specified.
- D. The Contractor shall comply with all State, Federal, NFPA, local codes and ordinances that may alter any part of the plans or specifications. The Contractor shall bear all costs for correcting any deficiencies due to non-compliance.
- E. Where local codes and ordinances are not in writing or on record but local precedence have been set, the Owner shall pay for any additional resulting cost.

#### 1.7 DEFINITIONS

- A. Approval: It is understood that approval must be obtained from the Architect in writing before proceeding with the proposed work. Approval by the Architect of any changes, submitted by the Contractor, will be considered as general only to aid the Contractor in expediting his work.
- B. The Builder: The primary contractor engaged to oversee the construction project. They may be technically described as a Construction Manager, General Contractor, Managing Construction Contractor, et cetera.
- C. The Contractor: The Contractor engaged to execute the work included a particular section only, although he may be technically described as a Subcontractor to the Builder. If the Contractor, engaged to execute said work, employs Sub-Contractors to perform various portions of the work included under a particular Section, they shall be held responsible for the execution of this work, in full conformity with Contract Document requirements. The Contractor shall cooperate at all times and shall be responsible for the satisfactory cooperation of his Subcontractors with the other Contractors on the job so that all of the various sections and phases of work may be properly coordinated without unnecessary delays or damage.
- D. The Electrical Contractor: The Electrical Contractor shall be engaged to execute the work included Division 26 only.
- E. PDF file or .pdf: The filename extension associated with "Portable Document Format" files, which are multi-platform computer files in the ISO 32000-1:2008 open standard format developed and licensed by Adobe Systems. These files are a digital electronic representation of text, documents, images, and technical drawings in a font and color-accurate fixed-layout format that is platform and display resolution independent. PDF files can be electronically transmitted, viewed, or printed with various free PDF reader application programs, and may allow markups/comments with various PDF editing application programs.
- F. Provide: Defined as requiring both the furnishing and installation of the item or facility indicated, complete in all respects and ready for operation unless otherwise specifically noted.

#### 1.8 SCHEDULE OF VALUES, APPLICATION FOR PAYMENT

A. The Contractor shall in accordance with the General Provisions of the Contract, including General and Supplementary Conditions, and Division 1, complete a Schedule of Values and Applications for Payment. When a portion of this work separately funded, including donations or E-Rate, the contractor shall accommodate this in the Schedule of Values and Applications for Payment. For E-Rate eligible portions of this work, the contractor will be required to participate in the E-Rate program, comply with all E-Rate regulations, and provide billing as needed. The contractor shall coordinate with the Owner to file Form 471 or latter edition and/or other forms as may be required.

## 1.9 WARRANTY

A. The Contractor shall warranty his work against defective materials and workmanship for a period of one year from date of acceptance of the job.

#### GENERAL ELECTRONIC SAFETY AND SECURITY SYSTEM REQUIREMENTS 28 05 00 - 3

- B. Neither the final payment nor any provisions in Contract Documents shall relieve the Contractor of the responsibility for faulty materials or workmanship.
- C. He shall remedy any defects due thereto and pay for any damage to other work resulting there from, which shall appear within a period of one year from date of substantial completion.
- D. The Owner shall give notice of observed defects with reasonable promptness.
- E. This Warranty shall not be construed to include the normal maintenance of the various components of the system covered by these specifications.

#### 1.10 SITE VISIT

- A. Before submitting a proposal, each proposed contractor shall examine all plans and specifications relating to the work, shall visit the site of the project, and become fully informed of the extent and character of the work required, including all required utilities.
- B. No consideration will be granted for any alleged misunderstanding of the materials to be furnished or the amount of work to be done, it being fully understood that the tender of a proposal carries with it the agreement to all items and conditions referred to herein, or indicated on the accompanying plans or required by nature of the site of which may be fairly implied as essential to the execution and completion of any and all parts of the work.

#### 1.11 SUBMITTALS

- A. Submittal procedures shall be per Division 1 General Requirements.
- B. Provide a complete submittal for each section as specified.
- C. Submit complete submittal package within 30 calendar days after award of this work for approval. Equipment is not to be ordered without approval. Partial submittals are not acceptable for review. Each submittal shall include a dated transmittal.
- D. A submittal may be electronically transmitted in PDF file format (preferred) or paper copies may be provided in quantities indicated in Division 1. Paper copies shall be organized including index tabs in a 3-ring black binder of sufficient size.
- E. Each Product data submittal shall include:
  - 1. A cover sheet with the name and location of the project, the name, address, and telephone number of the Contractor, and the name, address, and telephone number of the submitting sub-contractor. Include on or after the cover sheet sufficient space for review stamps.
  - 2. An indication of any deviations from Contract Document requirements, including variations and limitations. Show any revisions to equipment layout required by use of selected equipment.
  - 3. A product data index and complete equipment list including for each product submitted for approval the manufactures name and part number, including options and selections.
  - 4. Cut-sheets or catalog data illustrating the physical appearance, size, function, compatibility, standards compliance, and other relevant characteristics of each product on the equipment list. Indicate by prominent notation (an arrow, circle, or other means) on each sheet the exact product and options being submitted.
  - 5. Submit design data, when the scope of work requires, including calculations, schematics, risers, sequences, or other data.
  - 6. When the contract requires extended product warranties, submit a sample of warranty language.
  - 7. Any resubmittal shall include a complete revised equipment list and any product data that is revised.
- F. Submit shop or coordination drawings, when specified or the required for the scope of work, which include information that will allow to the Contractor to coordinate interdisciplinary work and when necessary guide the manufacturer or fabricator in producing the product. Shop or coordination drawings shall be specifically prepared to illustrate the submitted portion of work, this may require diagrams, schedules, details, and accurate to scale equipment and device layouts prepared using a CAD or BIM engineering drawing program.

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G. The Engineer's review of submittals is only for confirmation of adherence to design of project and does not relieve the Contractor of final responsibility for furnishing all materials required for a complete working system and in complying with the Contract Documents in all respects.

## 1.12 PROJECT RECORD DOCUMENTS

- A. The Contractor shall keep a set of plans on the job, noting daily all changes made in connection with the final installation including exact dimensioned locations of all new and uncovered existing utility piping outside the building.
- B. Upon submitting his request for final payment, he shall turn over to the Architect/Engineer, for subsequent transmittal to the Owner revised plans showing "as installed" work.
- C. In addition to the above, the Contractor shall accumulate during the jobs progress the following data in PDF file format (preferred) or paper copies to be turned over to the Architect/Engineer for checking and subsequent delivery to the Owner:
  - 1. All warranties, guarantees, and manufacturer's directions on equipment and material covered by the Contract.
  - 2. PDF file or paper copies of all Shop Drawing prints and CAD or BIM engineering drawing program files.
  - 3. Any software programs, data/programming files, passwords, special interface cables, or keys that may be needed to maintain or access equipment.
  - 4. Set of operating instructions. Operating instructions shall also include recommended maintenance and seasonal changeover procedures.
  - 5. Any and all other data and/or plans required during construction.
  - 6. Repair parts lists of all major items and equipment including name, address, and telephone number of local supplier or agent.
  - 7. The first page, or pages, shall have the names, addresses, and telephone numbers of the following:
    - a. Builder and all Contractors.
    - b. Major Equipment Suppliers
    - c. Submit communication systems warranties.

#### 1.13 TRAINING

- A. Upon completion of the work and at a time designated by the Architect, provide formal training sessions for the Owner's operating personnel to include location, operation, and maintenance of all Electronic Safety and Security systems equipment and systems.
- B. See other sections for time requirements.

#### 1.14 PLANS AND SPECIFICATIONS

- A. The intent of the project drawings is to establish the types of systems and functions, but not to set forth each item essential to the functioning of the system.
- B. Electrical drawings are generally diagrammatic and show approximate location and extent of work.
- C. Install the work complete including minor details necessary to perform the function indicated. Provide Electronic Safety and Security systems (including all hook-ups) complete in every respect and ready to operate.
- D. If clarification is needed, consult the Architect/Engineer.
- E. Review pertinent drawings and adjust the work to conditions shown. Where discrepancies occur between drawings, specifications, and actual field conditions, immediately notify the Architect/Engineer for his interpretation.
- F. The Architect/Engineer reserves the right to make any reasonable change in the location of any part of this work without additional cost to the Owner.
# 1.15 PRODUCT SUBSTITUTIONS:

- A. Descriptions and details, acceptable manufacturers' names listed, and specific manufacturer and model number items indicated in the plans and specifications shall establish a standard of quality, function, and design. Manufacturers and model numbers listed "no exceptions" shall not be substituted without specific notice in an addendum. Otherwise, where a specific manufacturer's product is indicated, products of other manufacturers listed as acceptable may be submitted for approval based on the substitute product being, in the opinion of the Engineer, of equivalent or better quality than that of the product specified.
- B. Proposed contractors wishing to propose systems which differ in manufacturer, features, functions, or operating characteristics from those outlined in these specifications must do so in writing to the specifying authority at least ten (10) days prior to the proposal opening.
- C. For manufacturers equipment or models other than that specified, the proposed contractor shall supply proof that such substitute equipment equals or exceeds the features, functions, performance, and quality of the specified equipment. Proposals must include detailed information showing all deviations from the system as specified and include relevant technical and cost data. This shall include a complete description of the proposed substitution, drawings, catalog cuts, performance data, test data, or any other data or information necessary for evaluation.
- D. The Engineer will consider all such submittals and the Architect will issue an addendum listing items that the Engineer considers acceptable. Only such items as specified or approved as acceptable will be installed on this project.
- E. Substitute products for which the proposed contractor does not obtain prior approval will not be considered acceptable for this project. Final approval of the alternate system shall be based on the decision of the Owner and Architect. Prior approval to make a proposal for this project does not automatically ensure the system will be an acceptable equivalent.
- F. The Contractors' proposal represents that the contract proposal price is based solely upon the materials, equipment, and labor described in the Contract Proposal Documents (including addenda, if any) and that he contemplates no substitutions or extras.
- G. The manufacturer of the proposed substitute unit shall provide samples for evaluation, when required, at no charge and non-returnable.
- H. Requests for substitution are understood to mean that the Contractor:
  - 1. Has personally investigated the proposed substitution and determined that it is equivalent or superior in all respects to that specified.
  - 2. Will provide the same guarantee for the substitution that he would for that specified.
  - 3. Will, at no cost to the Owner, replace the substitute item with the specified product if the substitute item fails to perform satisfactorily.
  - 4. After Award of the Contract, substitutions will be considered only under one or more of the following circumstances:
    - a. The substitution is required for compliance with subsequent interpretations of code or insurance requirements.
    - b. The specified product is unavailable through no fault of the Contractor.
    - c. The manufacturer refuses to warranty the specified products as required.
    - d. Subsequent information indicates that the specified product is unable to perform properly or to fit in the designated space.
    - e. In the Engineer's sole judgment, the substitution would be in the Owner's best interest.
    - f. Revisions to the electrical system caused by substitutions shall be under the supervision of the Engineer, at a standard hourly rate charged by the Engineer. Charges from the Engineer, Architect, and Electrical Contractor shall be paid by the Contractor originating the changes.

# 1.16 FUTURE USE CABLING

A. When cabling is installed for future use, it shall be identified with a tag of sufficient durability to withstand the environment involved.

- B. Locations and Existing Conditions:
  - 1. Location and condition of any existing equipment or services, when shown, have been obtained from substantially reliable sources, are shown as a general guide only, without guarantees as to accuracy.
  - 2. The Contractor will examine the site, verify all requirements, service points, and availability of all services required to complete this project. No consideration will be granted for any alleged misunderstanding of the materials and labor to be provided as necessitated by nature of the site including those items that may be fairly implied as essential to the execution and completion of any and all parts of this project.

# 1.17 EXISTING ELECTRONIC SAFETY AND SECURITY SYSTEMS MODIFICATION AND EXPANSION FOR ADDITIONS AND RENOVATION

- A. The electronic safety and security contractor shall be responsible for modification of the existing electronic safety and security systems, including demolition of any devices and cabling previously abandoned. Demolition shall include:
  - 1. Disconnection and removal of all electronic safety and security devices not to remain in service in walls, floors, and ceilings.
  - Identification and verification of abandoned wiring and equipment. All disconnected or abandoned devices that are visible shall be removed, i.e. non-functional fire pulls, bells, speakers, signals, et cetera. Remove abandoned wiring to the source of the supply everywhere possible, the accessible portions of all inaccessible abandoned cabling shall be removed.
  - 3. Removal of exposed abandoned conduit and supports including brackets, stems, hangers, and other accessories located on walls and above accessible finished ceilings. Cut abandoned conduit flush with walls, floors, etc., and patch surfaces.
  - 4. Provide a blank cover for abandoned device backboxes that are impractical to remove from masonry construction without unnecessary damage.
  - 5. Confirm with Owner/Architect regarding the handling and disposal/reuse of removed material, equipment, devices, et cetera.
  - 6. Off-site disposal in a legal manner of all materials not requested to be turned over to the Owner. Comply with government regulations pertaining to environmental protection, and disposal of materials and equipment. Do not burn any materials on the site.
  - 7. Repair of any finishes or adjacent construction damaged during modification, extension, and demolition work.

## 1.18 EXAMINATION

- A. Verify field conditions including existing systems, equipment models, configurations, circuiting arrangements, cabling, and devices. Adjust all circuiting, cabling, and materials to be provided as required by job conditions.
- B. Project drawings are based on casual field observation and existing record documents when available, report any significant discrepancies to the Engineer before disturbing existing systems.
- C. The Contractor accepts the existing conditions when beginning demolition.

# 1.19 IMPLEMENTATION

- A. Verify phasing in regard to systems and coordinate before energizing any system.
- B. When required during phases of construction to maintain existing systems in service in particular areas, provide temporary wiring and connections as necessary to accommodate construction.

## 1.20 OPERATION OF NEW EQUIPMENT PRIOR TO PROJECT COMPLETION

A. When the phasing of a project requires that electronic safety and security systems are operable in certain areas and the Owner needs to operate the equipment the contractor shall make such provisions. The warranty period shall commence on new equipment when it is operated for the beneficial use of the Owner. Regardless of whether or not the equipment has or has not been operated, the Contractor shall properly clean the equipment, properly adjust, and complete all punch list items before final acceptance by the Owner. In these cases, the date of acceptance and the start of the warranty may be different dates.

#### 1.21 CLEANING AND REPAIR

A. Clean and repair existing materials and equipment in areas of renovation that are to remain or be reused.

#### 1.22 PROTECTION OF EQUIPMENT AND MATERIALS

- A. The Contractor shall take such precautions as may be necessary to protect his apparatus from damage.
- B. This shall include the creation of all required temporary shelters to protect any apparatus above the floor of the construction and the covering of apparatus in the completed building with tarpaulins or other protective covering.
- C. Failure to comply with the above to the satisfaction of the Owner's inspector will be sufficient cause for the rejection of the equipment in question and its complete replacement by the Contractor.

#### 1.23 FINAL OBSERVATION

- A. It shall be the duty of the Contractor to make a careful observation trip of the entire project, assuring themselves that the work on the project is ready for final acceptance before calling upon the Architect/Engineer to make a final observation.
- B. To avoid delay of final acceptance of the work, the Contractor shall have all necessary bonds, warranties, receipts, affidavits, et cetera, called for in the various articles of these specifications, prepared and signed in advance, together with a letter of transmittal, listing each paper included, and shall deliver the same to the Architect/Engineer at or before the time of said final observation. The Contractor is cautioned to check over each bond, receipt, et cetera, before preparing for submission to verify that the terms check with the requirements of the specifications.
- C. The following and other provision of Division 1 General Conditions will be required at time of final completion:
  - 1. Final clean up completed.
  - 2. All systems are fully operational, all material and devices installed.
  - 3. As built (as installed) drawings and operations manuals.

## 1.24 PROHIBITED MATERIALS

A. No new asbestos, lead, or materials containing these substances shall be permitted in this project. The Contractor shall consult the Architect concerning these materials if their presence is suspected. All work in or around existing asbestos or lead materials is at the sole risk of the Contractor and his personnel.

## 1.25 CUTTING AND PATCHING

- A. Notify the Builder sufficiently ahead of construction of any floors, walls, ceiling, roof, et cetera, of any openings that will be required for his work.
- B. The Contractor shall see that all sleeves required for his work are set at proper times to avoid delay of the job.
- C. All necessary cutting of walls, floors, partitions, ceilings, et cetera, as required for the proper installation of the work under this Contract shall be done at the Subcontractor or at the Subcontractor's expense in a neat and workmanlike manner, and as approved by the Architect/Engineer.

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- D. Patching of openings and/or alterations shall be provided by the Electronic Safety and Security Subcontractor or at the Subcontractor's expense in an approved manner.
- E. No joists, beams, girders, or columns shall be cut by any Contractor without first obtaining written permission of the Architect/Engineer.
- F. All openings in firewalls and floors shall be completely sealed after installation for a completely airtight installation. Sealing material shall be non-combustible and UL approved. The installed sealing assembly shall not cause the fire rating of the penetrated structure to be decreased.
- G. All openings in exterior walls shall be sealed watertight.
- H. Seal voids around conduits penetrating fire-rated assemblies and partitions using fire stopping materials and methods in accordance with NFPA and local codes.

#### 1.26 MANUFACTURERS' INSTRUCTIONS

- A. All equipment and devices shall be installed in accordance with the drawings and specifications, manufacturer's instructions, and applicable codes.
- B. Where specifications call for installation of a product to be in accordance with manufacturer's instructions and/or where manufacturer's instructions are required for installation of a product, it shall be the contractor's responsibility to obtain the necessary applicable manufacturer's instructions and install the product in accordance with the manufacturer's instructions.
- C. It shall be the Contractor's responsibility to install all equipment, materials, and devices shown on the plans and as called out in these specifications even if manufacturer's instructions are absolutely unattainable.

#### 1.27 INSTALLATION

- A. Cooperation with trades of adjacent, related or affected materials or operations, and or trades performing continuations of this work under subsequent contracts are considered a part of this work. In order to effect timely and accurate placing of work and to bring together, in the proper and correct sequence, the work of such trades, including work provided under a Division 1 allowance.
- B. The Electronic Safety and Security Contractor shall coordinate installation of the Electronic Safety and Security systems with the Builder, Electrical, Mechanical, and Plumbing Contractors to ensure a complete working system for the Owner.
- C. Where required for accessibility all conduit and boxes for all Electronic Safety and Security systems shall be provided by the Electrical contractor as specified, including systems in Division 28, any and all allowances shall be included. Normally low voltage wiring shall run open and supported in accessible attic space. All low voltage wiring in exposed areas such as gyms, stages, shops, and field houses shall be enclosed in conduit. Coordinate with and verify with Division 26 to provide required conduit and boxes at locations and heights as required.
- D. Conduit, innerduct, track, or raceway shall conceal and protect wiring in exposed areas, within walls, through in- accessible areas, floors, chases, under slab, crawlspaces, or underground.
- E. All conduit, duct, track, and raceway runs shall be spaced apart to allow for maintenance, such as the installation of couplings, without disturbing adjacent pathways.
- F. All work must be performed by workers skilled in their trade. The installation must be complete whether the work is concealed or exposed.
- G. Provide stainless screw/bolt hardware wherever stainless devices are used and in potentially wet areas.

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H. Coordinate the actual locations of devices and outlets and equipment with building features and mechanical equipment as indicated on architectural, structural, and mechanical drawings. Review with the Architect any proposed changes in outlet or equipment location. Relocation of devices, before installation, of up to 3 feet from the position indicated, may be directed without additional cost. Remove and relocate outlets placed in an unsuitable location when so requested by the Architect.

# PART 2 – PRODUCTS

A. Not Applicable

# PART 3 - EXECUTION

A. Not Applicable

END OF SECTION

# SECTION 28 13 27

## BUILDING ACCESS CONTROL SYSTEM

## PART 1 - GENERAL

# 1.1 SCOPE OF WORK

- A. Expand the existing Owner's Lenel•S2 Security Building Access Control System as indicated on the project plans.
- B. NOTE: All electric door locks shall be configured for fail-safe un-delayed egress operation and fail-secure to prevent unauthorized entry on loss of power.

## 1.2 WORK INCLUDES

- A. Drawings and general provisions of the Contract, including General and Supplementary Conditions and Division 1, apply to this Section.
- B. Provide all equipment, materials, labor, software, licensing, supervision, and services necessary for or incidental to the installation of a card reader operated door access control system expansion, as shown or indicated on the drawings and as specified.
- C. This access control system shall provide for controlled entry doors to be released when a valid credential card is presented to the credential card reader located adjacent to the door. This system shall monitor for unauthorized entry attempts, control access to the building, and log entry information. The system shall in no way impede free emergency exit from the building. Exit from the building shall not require special effort or knowledge.
- D. In shall be the responsibility of this Contractor to obtain all required approvals and certifications from authorities having jurisdiction.
- E. It shall be the responsibility of the Electrical Contractor to provide and install all conduit systems, standard electrical boxes, and operating power for the building access systems as outlined on the project drawings. This Contractor shall coordinate all system requirements with and provide special back boxes to the Electrical Contractor prior to installation of conduit.
- F. The electrical contractor shall provide 120-volt power as required to the security system through separate dedicated branch circuits, maximum 20 amperes each. Each such circuit shall be labeled at the power distribution panel as ACCESS CONTROL. The location of all circuit breakers serving the system shall be posted in the control unit cabinets. Each cabinet shall be grounded securely to the building grounding system.
- G. Provide all testing, documentation, training, and warranty service as outlined in these specifications.

## 1.3 RELATED SECTIONS

- A. Section 26 05 34 Provisions For Communication, Security & Safety Systems.
- B. Section 27 10 30 Data and Telephone Cable Plant.
- C. Section 28 05 00 General Electronic Safety and Security System Requirements.

#### 1.4 CODES AND REGULATIONS

A. Perform all work in strict accordance with the requirements and recommendations stated in the codes and standards except when requirements are exceeded by the contract documents.

- B. The equipment, materials, and installation shall confirm to the latest version of all applicable codes, standards and regulations of authorities having jurisdiction including the following:
  - 1. NFPA 70, National Electrical Code.
  - 2. NFPA 72, National Fire Alarm and Signaling Code.
  - 3. Americans with Disabilities Act.
  - 4. Texas Accessibility Standards.
  - 5. International Building Codes (IBC).
  - 6. Local and State Building Codes.
  - 7. All requirements of the local Authority Having Jurisdiction (AHJ).

## 1.5 SUBMITTALS

- A. Submittal procedures: See Section 28 05 00.
- B. Submit a complete submittal package within 30 calendar days after award of this work for approval. Equipment is not to be ordered without approval. Partial submittals are not acceptable for review. Each submittal shall include a dated transmittal.
- C. Submittal may be electronically transmitted in PDF file format (preferred) or paper copies may be provided in quantities indicated in Division 1. Paper copies shall be organized including index tabs in a 3-ring black binder of sufficient size.
- D. Quality Assurance Submittal:
  - 1. Letter from manufacturer stating that the Contractor is an Authorized Factory Distributor for the area where the project is located.
  - 2. The Contractor and Manufacturer shall supply sufficient information to indicate that the proposed system is based on the latest hardware, software technology available.
  - 3. Current copy of the Contractors Electronic Access Control Device Security Company license issued by the Texas Department of Public Safety Private Security Board.
  - 4. Calculations for device circuit current drop and battery backup calculations.
- E. Product Data Submittal including special boxes, cable, and other material as requested by the Architect including:
  - 1. A cover sheet with the name and location of the project, the name, address, and telephone number of the Contractor, and the name, address, and telephone number of the submitting sub-contractor. Include on or after the cover sheet sufficient space for review stamps.
  - 2. An indication of any deviations from Contract Document requirements, including variations and limitations. Show any revisions to equipment layout required by use of selected equipment.
  - 3. A product data index and complete equipment list including for each product submitted for approval the manufactures name and part number, including options and selections.
  - 4. Cut-sheets or catalog data illustrating the physical appearance, size, function, compatibility, standards compliance, and other relevant characteristics of each product on the equipment list. Indicate by prominent notation (an arrow, circle, or other means) on each sheet the exact product and options being submitted.
  - 5. Submit design data, when the scope of work requires, including calculations, schematics, risers, sequences, or other data.
  - 6. Any resubmittal shall include a complete revised equipment list and any product data that is revised.
- F. Submit shop drawings locating all components of the system, indicating circuit routing, cable type, and gauge. Shop or coordination drawings shall include information that will allow to the Contractor to coordinate interdisciplinary work and when necessary guide the manufacturer or fabricator in producing the product. Shop or coordination drawings shall be specifically prepared to illustrate the submitted portion of work, this may require diagrams, schedules, details, and accurate to scale equipment and device layouts prepared using a CAD or BIM engineering drawing program.

# 1.6 QUALIFICATIONS OF A PROPOSED CONTRACTOR

- A. Proposed contractors who do not currently possess the necessary qualifications, trained and experienced personnel, financial capacity, and meet the other requirements herein described will be disqualified.
- B. The Contractor shall be currently licensed under the Texas Department of Public Safety Private Security Board as an Electronic Access Control Service Installer Company to sell, install, and service private security systems.
- C. The proposed contractor, as a business entity, shall be an authorized distributor and designated representative of the security panel manufacturer, with full warranty privileges, and shall have been actively engaged in the business of selling, installing, and servicing commercial building alarm systems for a period of at least 5 years.
- D. Recently formed companies are acceptable only if specific pre-approval is requested, and granted by the Architect/Engineer, based on experience of key personnel, current and completed projects, and all licensing requirements are met 10 working days prior to the contract proposal date.
- E. All employees working on the project must be registered alarm system installers. The Contractor shall employ factory trained technicians capable of supporting the maintenance of the system. No contract employees are allowed unless they have been to the factory service school within the last 18 months. A certificate of this training shall be provided with the Contractors submittal.
- F. The contractor shall employ full time local technicians and installers. The manufacturer shall maintain a full time factory employed service staff for product support and service.
- G. The proposed Contractor shall have an office within 150-miles of the job site, staffed with trained technicians who are qualified and licensed to supervise the installation, to be responsible that the system is installed as submitted, to conduct system start up and perform a 100 percent operational audit of all installed devices, to instruct the Owners representatives in the proper operation of the system, and to provide service throughout the warranty period. The contractor shall be capable of dispatching technicians to repair a system within six hours of a service request.
- H. The proposed contractor shall be fully experienced in the design and installation of the type of security system herein specified and shall furnish with the contract proposal an itemized list of the installations of the type specified herein. The list shall include the name of the project, date of completion, the amount of the contract, the name, and telephone number of a qualified person to contact for reference. This list must contain at least two (2) projects within a 150-mile radius of the project to allow the owner to visit the job site for review of the system installation and service. Each reference project listed must utilize equipment by the same manufacturer as the proposed system.
- I. The Contractor shall employ factory-trained technicians capable of supporting the maintenance of the system. No contract employees are allowed unless they have been to the factory service school within the last 18 months. A certificate of this training shall be provided with the contractors' submittal.
- J. The Proposed Contractor shall not have any grievances or complaints of record regarding workmanship, code compliance, or service response. A Proposed Contractor that has any prior finding(s) of a code or license violation or has any litigation in process concerning the installation of a communication system is unacceptable.
- K. The ability of a proposed Contractor to obtain plans and provide a performance bond shall not be regarded as the sole qualification of the Contractors' competency and responsibility to meet the requirements and obligations of the contract.
- L. The Builder shall be satisfied that a proposed Contractor meets all the requirements expressed herein before including the Contractor's proposal in the project.
- M. The Owner may investigate, as they deem necessary to determine the ability of the proposed Contractor to perform the work. The proposed Contractor shall furnish to the Owner with any information or data requested for this purpose.

- N. The Owner reserves the right to reject any contract proposal if the evidence submitted, or their investigation, fails to indicate that the Contractor is qualified to fulfill of any part of the contract or to complete the work contemplated therein.
- O. The Owner reserves the right to reject the proposal of any Contractor who has previously failed to perform properly, or complete on time, contracts of a similar nature.

# PART 2 – PRODUCTS

#### 2.1 GENERAL

- A. The system provided shall be fully compatible and integrated with the Owners existing system hardware, software, credentials, and credential database.
- B. Provide complete and satisfactorily operating Access Control System as described herein, using materials and equipment of types, sizes, ratings, and performances as indicated. Use materials and equipment that comply with referenced standards and manufacturers' standard design and construction, in accordance with published product information. Coordinate the features of all materials and equipment so they form a functional system, with components and interconnections matched for optimum performance of specified functions.
- C. The system and all components shall be tested and found suitable for the specified purpose as part of a commercial building security system by a nationally recognized approvals agency acceptable to the AHJ.
- D. The control units, power supplies, batteries, subassemblies, software, firmware, and all cable, devices control units, power supplies, batteries, subassemblies, software, firmware, cable, and all accessories provided shall be listed and labeled by Underwriters Laboratories, Inc. for commercial security system use under the latest appropriate testing standard.
- E. All date keeping hardware, firmware, and software provided shall be fully compliant with the calendar year designated in four-digit date format. Any time equations must function normally, leap year, and daylight savings time must be supported.
- F. Only equipment devices have been shown on the contract drawings. Specific wiring between equipment has not been shown.
- G. The system shall include but not be limited to all control units, power supplies, batteries, subassemblies, card sensors, software, firmware, and all cable, door release equipment, and all accessories required to provide a complete operating system.
- H. All equipment and components shall be installed in strict compliance with manufacturers' recommendations and the requirements of the components UL listing. Consult the manufacturer's installation manuals for all wiring diagrams, schematics, electrical requirements, cable types, and physical equipment sizes, etc., before beginning system installation. Refer to the manufacturers' riser / connection diagrams for all specific system installation/termination/wiring data.
- I. All equipment and components shall be new, and the manufacturer's current model. All like devices shall be of the same manufacturer and model number.
- J. All equipment shall be attached to walls and ceiling/floor assemblies and shall be held firmly in place (e.g., detectors shall not be supported solely by suspended ceilings). Fasteners and supports shall be adequate to support the required load.

# 2.2 ACCEPTABLE BUILDING ACCESS CONTROL SYSTEM MANUFACTURER

- A. Descriptions and details, acceptable manufacturers' names listed, specific manufacturers' model numbers indicated in the project plans and specifications, and other pertinent information herein are intended to establish minimum standards of quality, compatibility, functions, features, and performance of the equipment to be furnished. Manufacturers and model numbers listed "no exceptions" shall not be substituted without specific notice in an addendum. Otherwise, where a specific manufacturer's product is indicated, products of other manufacturers listed as acceptable may be submitted for approval based on the substitute product being, in the opinion of the Engineer, of equivalent or better quality than that of the product specified.
- B. Proposed contractors wishing to propose any product substitution must do so in writing to the specifying authority at least ten (10) days prior to the proposal opening.
- C. For manufacturers equipment or models other than that specified, the proposed contractor shall supply proof that such substitute equipment equals or exceeds the features, functions, performance, and quality of the specified equipment. Proposals must include detailed information showing all deviations from the system as specified.
- D. Substitute products for which the proposed contractor does not obtain prior approval will not be considered acceptable for this project. Final approval of alternate products shall be based on the decision of the Owner and Architect. Prior approval to make a proposal for this project does not automatically ensure products will be an acceptable equivalent.
- E. It is the responsibility of the Contractor to provide all features and functions as outlined in these specifications. The functions and features specified are vital to the operation of this facility; therefore, inclusion in the list of acceptable manufacturers does not release the contractor from strict compliance with the requirements of this specification
- F. The existing system, which is the school District standard, and the manufacturers model numbers, functions, and features described in this specification section are those of the Lenel-S2 Security building access control system with Mercury Access Technology hardware, this shall constitute the quality, compatibility, features, and performance of the equipment to be furnished, no exceptions. Any other proposed manufactures devices or software must be pre-approved.

## 2.3 BUILDING ACCESS CONTROL SYSTEM INSTALLATION REQUIREMENTS

- A. Contractors shall provide all material, labor, tools, and equipment required to perform the work described and make complete, safe, and functional systems.
- B. Contractors shall pay for and acquire all permits and inspections required by controlling authority.
- C. All work shall be installed in accordance with state, local, and national codes.
- D. Contractors shall warrant his workmanship and materials for a period of one year from the date of acceptance upon completion of the project.
- E. All work shall be done by mechanics skilled in the particular trade involved, under responsible supervision.
- F. No surface mounted raceway or conduit will be accepted on any new construction job.
- G. Seal all wall and floor penetrations with approved sealant.
- H. Access control system cabling can share conduit with intrusion alarm system cabling.
- I. All cabling must be suspended up off the ceiling grid.
- J. Contractor must provide the Owner with all security equipment MAC addresses and network drop information.

- K. The access control contractor shall provide and install all required parts and local cabling to get the system online and operational; this includes power supplies required to operate the electrified exit devices.
- L. Where 110 Volt electrical receptacles as needed to accommodate system transformers, they shall be provided by the electrical contractor at exact locations coordinated with the access control contractor.
- M. Where 110 Volt electrical receptacles as needed to accommodate door release hardware/ electrified exit devices, they shall be provided by the electrical contractor in an accessible location at 12" above the finished ceiling and within 20 feet of door location.
- N. Data drops shall be provided by the cabling contractor for security equipment. See Section 27 10 30 Data-Telephone Cable Plant.
- O. Exterior card reader locations shall be prepared including a recessed single-gang weatherproof metal back box located approximately 44" centered from the ground and 12" off the opened door edge to the side, with a ½" secured rigid or flex conduit with pull string to an accessible interior location concealed above the finished ceiling.
- P. Controlled door frames shall be prepared as detailed on the plans including a ½" secured rigid or flex conduit with pull string to an accessible interior location concealed above the finished ceiling.
- Q. Continuous hinges with built in power transfers (concealed ribbon wire) are not acceptable.
- R. Mag-locks are not acceptable.

## 2.4 RELATED WORK - NETWORK CONNECTIVITY

- A. The system shall utilize the owner's Ethernet system backbone for all security devices communications.
- B. No Ethernet cabling, network RJ-45 jacks, or patch cords are included in the scope of this Specification Section.
- C. The Awarded Contractor from Section 27 will provide this Contractor with a terminated network drop at security devices, and the required TCP/IP configuration settings: static IP address, domain, gateway, and subnet mask.
- D. This contractor will program and test all access control system devices for connection to the network.
- E. This contractor will provide complete programming of all device parameters in accordance with the Owners requirements.
- F. For each building access control system intelligent door controller (network controller) panel requiring an Ethernet network connection, the Division 27 contractor shall provide a dedicated data drop located above the ceiling at the panel location. The building access control system contractor shall provide and install a conduit pathway from the top of the panel up to the ceiling space with plastic snap in bushings at each conduit end or transition used for this connection. The Division 27 contractor shall provide the patch cable, and the building access control system contractor shall provide the patch cable, and the building access control system contractor shall route and connect the patch cable between the faceplate jack above the ceiling and the panel Ethernet network connection jack.

## 2.5 ACCEPTABLE MANUFACTURES

- A. All references to manufacturer's model numbers and other pertinent information herein are intended to establish minimum standards of performance, function, and quality. With approval, equivalent, compatible, UL listed equipment from other manufacturers may be substituted for the specified equipment as long as all requirements are met.
- B. The system herein specified is the Lenel-S2 Security Access Control System software with Mercury Access Technology hardware, fully licensed solution, utilizing various door controller model numbers and this shall constitute the functionality, quality, compatibility, and performance of the system to be furnished, no exceptions.

# 2.6 ACCESS CONTROL SYSTEM PANELS/ENCLOSURES

A. Provide as required, enclosures suitable for surface wall mounting and shall include battery backup power supplies where required. Each enclosure shall include a removable back plate for module mounting, a keyed lock, and tamper switch. Access power enclosures shall include a single AC power connection (for power supply), a pre-wired LSP power section. Each tamper switch shall be wired to a module input circuit for monitoring by the system.

# 2.7 ACCESS SYSTEM CONTROLLER BOARDS

- A. Utilize existing expansion capabilities of the existing hardware where available.
- B. Provide as required, Mercury Security intelligent controllers, door reader interface sub-modules and I/O modules for the additional doors per the drawings as follows:
  - 1. Intelligent multi-port Ethernet-enabled controller model S2-LP-1502.
  - 2. Card reader interface module model S2-MR52-S3.
  - 3. Input module model S2-MR16IN-S3.
  - 4. Output module model S2-MR16OUT-S3.

## 2.8 ACCESS CONTROL SYSTEM LAYOUT PLANS

- A. The Contractor shall provide a mock-up of the layout plan documents prior to mounting.
- B. Provide mounted inside each Access Control System Panel/Enclosure cover, or adjacent to the panel location, an 8 ½" x 11" laminated layout plan including the following information:
  - 1. In the upper left corner of the layout provide the name of the installing company, phone number and Texas Security License number.
  - 2. In the upper right corner of the page provide the Name of the campus and the MDF or IDF room I.D./location.
  - 3. Under the room I.D. list:
    - a. IP address of the panel
    - b. Subnet mask.
    - c. Gateway IP address
  - 4. Place the service contract information (contact or department and phone number or just phone number will be acceptable).
  - 5. Beneath the common information, provide a line diagram indicating each module location and the name of the device attached to each input on each card.

## 2.9 PROXIMITY CARD READERS

- A. Controlled access door location as indicated on plans shall be provided with an entry card reader to allow access to authorized individuals as scheduled.
- B. Each proximity card reader shall mount on a standard single-gang electrical wall box or on the surface of an interior or exterior wall.
- C. Outdoor weatherproof back boxes shall be flush mounted and connected to a ½" threaded rigid pipe conduit and sealed. The reader casing shall be grounded to prevent electrostatic discharge from interfering with the operation of the reader.
- D. Threaded conduit is required for outdoor applications and dielectric grease shall be used to coat field connections.
- E. Manufacturer / Model: Provide HID Multiclass SE R40 card readers, match to existing District readers or standards, as required.

## 2.10 PRIMARY SERVER DATABASE AND PROGRAMMING REQUIREMENTS

A. This site shall utilize the existing District server. Incorporate the new doors in this construction package into the existing data base.

- B. Include any licensing requirements or fees for using the management software and accompanying client software. The contractor will load the most current software revision being used at the time of the software programming.
- C. District programming requirements for the access control system will require unique and specialized programming. The feature set below will be required customized programming completed by vender of choice.
  - 1. Map navigation will be a complete as-built of the installation to include all access control icons to coincide with actual install.
  - 2. Program integration with the VMS for pop up video on alarm. Reference the drawings for camera locations that are tied to select doors or events.
- D. Programming each panel at the location. Program each panel on the District network, IP addresses and VLAN configuration will be provided by the District.

## 2.11 AUXILIARY POWER SUPPLY

A. Manufacturer/Model: Provide Altronix power supplies model AL600ULACM, Life Safety Power or approved equivalent.

# 2.12 DOOR SWITCHES (ACCESS SYSTEM DOOR CONTACTS)

- A. Provide door switches where indicated on floor plans with conduit run to a nearby, accessible, junction box located above ceiling.
- B. Door frame flush mount: Provide recessed magnetic contact door switch GRI Telemark Corp. model 180-12-G, closed loop, 12" leads, gray, 0.50" diameter, with wire leads as required or equivalent.

## 2.13 DOOR RELEASE HARDWARE

- A. Install all wiring and control devices necessary to enable limited access to the indicated points of entry. Each controlled access door shall be fitted with a door switch (above), control relay, and an electric latch or strike. Each controlled door shall be setup to allow entry as permitted by the building access system, to prevent unauthorized entry, and to allow free exit from the building without special knowledge or effort. Magnetic force holding or 'mag' locks are prohibited by this specification.
- B. NOTE: All electric door locks shall be configured for fail-safe un-delayed free egress operation and failsecure to prevent unauthorized entry on loss of power.
- C. Verify exact hardware requirements with Division 08 and Door Hardware Schedules including door and frame preparation details.
- D. Only when the door hardware does not include an integrated Request-to-Exit Switch, provide a request-to-exit sensor (see below).

## 2.14 REQUEST-TO-EXIT SWITCH OR SENSOR

- A. The system shall not be programmed to unlock a door automatically from a request to exit signal, as this presents a security breach. The request to exit signal shall be used only to indicate a normal exit status, as opposed to a forced entry. Exit shall be made with the normal door hardware and shall not be impeded or assisted by the electronic system. Exit shall not be affected if the power is off and the battery backup exhausted.
- B. When no request-to-exit switch is provided integrated into the door hardware (see above), provide at the exit side of each controlled door a request-to-exit passive infrared detector with x-y targeting and digital signal processing.
- C. Request-to-Exit Sensor Manufacturer / Model: Provide Bosch Security Systems DS160 Series High Performance Request-To-Exit Detector, no exceptions.

## 2.15 DOOR RELEASE PUSHBUTTON SYSTEM

- A. Provide as indicated on the drawings for each campus undercounter pushbuttons and cable as follows. Protect the cable under the counters in flexible raceway, secured appropriately to prevent damage.
  - 1. Alarm Controls Corporation model TS-18 undercounter pushbutton for door lock remote control.
  - 2. Console cord shall be General Cable Carol Ultra Flex catalog number 89004, or equivalent, 4conductor, 18 AWG, UL Type SJEOOW 300 VAC Flexible Power Cable.
- B. If a building access control system controls these doors in a parallel manner, connect a pushbutton to an input on access control input module and program the software to, upon pressing the pushbutton momentarily, unlock the door for a set period of time. This operation shall allow the opening of the doors from the secure side without a valid card read. Program the operation to log as a reception visitor entry door release.
- C. For stand-alone operation provide the following configured for a timed release of each door lock:
  - 1. Timer Module: Provide two (2) Safety Technology International, Inc. model LT-1UL UL 294 listed latching 12-24 VAC/VDC digital timer configured so that a momentary contact closure begins the timing cycle (15, 30, 45 seconds and latches a set of Form "C" dry contacts. The timer is to provide an adjustable time period (delay) for the door to remain unlatched when released, to give people time to get through the door. Initially set the time delay to 15 seconds or the Owners preference.
  - 2. Buzzer: Provide two (2) Edwards Signaling model 15-0G1, 24VDC Miniature Lungen Buzzer with adjustable volume, chrome cover, and zinc-plated base. Mount each buzzer concealed above the ceiling, immediately above the visitors' side of the controlled door. The buzzer is to alert the waiting person to try the door, people may not hear the latch click, and then just stand there until the door re-latches, leading to a repeating cycle of button release/alert attempt/trying the door, the "BUZZ-IN" audible signal is to prevent this. The buzzer is to be wired parallel with the door release circuit, controlled by timer's door lock output (Form 'C' dry contacts) with 24 VDC power on the common contact, such that the buzzer sounds during the time that the door in unlatched.
  - 3. 24 VDC Dual 16-Amp Inrush, 0.5-Amp Continuous Output Power Supply/Battery Backup: Provide one (1) Altronix model Strikelt1 Panic Device Power Controller featuring two (2) individually controlled lock outputs (N/O trigger inputs). Shall feature a built-in charger and automatic switch over to stand-by battery when AC fails for emergency stand-by of at least a 1/2 hour and a wall mount enclosure for indoor use which accommodates two 12VDC/7Ah batteries. Dimensions 13.5" high x 13" wide x 3.25" deep. Product Weight: 9.5 lbs. without batteries. Also provide two 12VDC/7Ah 12 VDC sealed batteries, installed in parallel for 24 VDC operation. This unit shall provide operation power for the Visitor Entry Door Control Button Desktop Console. 115VAC 50Hz 6.3-amp input operating power is to be provided by the Electrical Contractor.

## 2.16 CABLING (PLENUM RATED)

- A. All exposed wiring shall be NEC type CMP, plenum cable.
- B. All exterior cabling shall be in rigid metallic conduit. All connectors must be fastened, tied, and crimped for maximum reliability.
- C. Avoid if at all possible, junctions or splicing all junctions in cable shall be made by proper splicing techniques in a junction box.
- D. All cabling is to be concealed where construction permits.
- E. This contractor shall provide and install new and unused ASTM bare stranded copper conductor wire per ANSI/NEMA codes. Follow the manufacturer's instructions. All wire shall the type recommended by the manufacturer for security system applications.
- F. All cable shall have a machine printed label located within 2" from every terminal block and within 6" from all other connections utilizing self-laminating flexible vinyl film labels.

G. Wire gauge shall be selected per circuit based on cable length and current requirements.

LOW VOLTAGE CABLE TYPES			
Device	Conductors	Min. AWG	Description
RS-485 Serial Interface*	1-Pair Twisted	24	<b>Overall Shield</b>
Entry Intercom	4-Pair UTP	23	Category 6
Point Contact/Relay	1-Pair Twisted	22	<b>Overall Shield</b>
Two Point Contact/Relay	2-Pair Twisted	22	<b>Overall Shield</b>
Three Point Contact/Relay	3-Pair Twisted	22	<b>Overall Shield</b>
Four Point Contact/Relay	4-Pair Twisted	22	<b>Overall Shield</b>
Five Point Contact/Relay	5-Pair Twisted	22	<b>Overall Shield</b>
Six Point Contact/Relay	6-Pair Twisted	22	<b>Overall Shield</b>
Credential Reader (RS-485)	1-Pair Twisted	24	<b>Overall Shield</b>
Credential Reader (TTL)	6-Wire	18	<b>Overall Shield</b>
Composite	Multi-Conductor	22	<b>Overall Shield</b>
Low Voltage Power Combined	2-Pair Twisted	18	Unshielded
Low Voltage Power or Siren	1-Pair Twisted	18	Unshielded
Low Voltage Power	1-Pair Twisted	16	Unshielded
Low Voltage Power	1-Pair Twisted	14	Unshielded
Low Voltage Power	1-Pair Twisted	12	Unshielded

\* Belden 82841 or equivalent up to 4,000' per RS-485 serial circuit.

#### 2.17 CABLE TIES (PLENUM RATED)

- A. HALAR Fluoropolymer plenum rated cable ties shall be furnished and installed to attach wire bundles to supports and for appropriate wire management as required.
  - 1. HALAR wire tie, 4.0", miniature Panduit PLT1M-C702 or equivalent.
  - 2. HALAR wire tie, 7.4", standard Panduit PLT2S-C702 or equivalent.
  - 3. HALAR wire tie, 11.6", standard Panduit PLT3S-C702 or equivalent.

#### 2.18 SURGE AND AMPERAGE PROTECTION

- A. Electrical surge protection shall be provided for all service entrance connections and on each copper pair that connects one building to another (i.e. any other portion of a building complex not under one continuous roof) at both exit points to prevent damage to equipment.
- B. Security system circuit surge protectors shall be mounted in a standard grounded metallic electric box. Shall be Ditek, 12345-A Starky Road, Largo, Florida 34643 model numbers as follow, multiple pair units are available, or equivalent:
  - 1. Part No. DTK-1LVLP-X
- 2-wire protector for 12 Volt circuits.
- 2. Part No. DTK-1LVLP-D
- 2 wire protector for 5 Volt circuits.
- 3. Part No. DTK-Z8LVLP-GP 8-pair protector for RS-485 circuits.

## 2.19 CABLE ROUTING, INSTALLATION, AND SUPPORT

- A. System wiring and equipment installation shall be in accordance with good engineering practices as established by the NFPA. Wiring shall meet all state and local electrical code requirements.
- B. Cable pathways, conduit, and cable support systems shall be complete with bushings, de-burred, cleaned, and secure prior to installation of cable.
- C. Before energizing the system check all cables for correct connections and test for short circuits, ground faults, continuity, and insulation.
- D. In all exposed areas such as gymnasiums, shops, field houses, janitors' closets, or mechanical / electrical rooms all access system cable shall be fully enclosed in conduit.
- E. Access system cables shall be run in conduit stubs from wall boxes to accessible areas above finished ceilings. Conduit shall be required only within walls and concealed spaces to provide access. Provide bushings to protect the cable from damage for conduit ends, box openings, and passage through metal studs.

- F. Access system cables shall be run in bundles above accessible ceilings and supported from building structure by j-hooks, conduit or cable tray. Cabling shall be loosely bundled with cable ties randomly spaced at 30 to 48 inches on center, cable ties shall not be tight enough to deform cabling and shall not be used to support the cabling.
- G. Do not attach any supports to joist bridging or other lightweight members. The support system shall provide a protective pathway to eliminate stress that could damage the cabling.
- H. Mount all equipment firmly in place such that vibration or jarring will not interfere with system operation. Route cable in a professional, neat, and orderly installation.
- I. The cable shall not be crushed, deformed, skinned, crimped, twisted, or formed into tight radius bends that could compromise the integrity of the cabling.
- J. Access system cable must not be fastened to electrical conduits, mechanical ductwork / piping, sprinkler pipes, or routed to obstruct access to hatches, doors, utility access panels, or service work areas. Do not route cables through fire doors, ventilation shafts, grates, or parallel for more than four-feet with line voltage electrical conductors. Access system cables shall not be run loose on ceiling grid or ceiling tiles.
- K. Support shall be provided by mounting appropriate fasteners that may be loaded with multiple cables. If the weight load is carried by the support rod or wire, the support assembly may attach to the ceiling grid for lateral stabilization. The required support wires for the ceiling grid or light fixtures shall not be utilized. Any fastener attached to the ceiling grid shall not interfere with inserting or removing ceiling tiles. The cable pathway of supports must be positioned at least 12 inches above the ceiling grid.
- L. All cable shall have a label on both ends utilizing self-laminating, flexible vinyl film, non-smear, machine printed labels.
- M. Each cable run shall include a three-foot service loop with wire tie located in the ceiling above the control unit panel. This is to allow for future re-termination or repair.
- N. Provide for adequate ventilation to all equipment housings and take precautions to prevent electromagnetic or electrostatic hum.
- O. All conduit, ducts, track, and raceways shall be supported from the structure at industry standard intervals for the size specified, utilizing proper anchoring devices. Cable fill may not exceed the manufacturers' instructions for each type of support.
- P. All conduit, duct, track, and raceway runs shall be spaced apart to allow for maintenance, such as the installation of couplings, without disturbing adjacent pathways.
- Q. Each cable run shall be free of splices. No terminations, splices, or equipment will be installed in or above ceilings.
- R. All cabling will be placed with regard to the environment, EMI/RFI interference, and its effect on communication signal transmission.
- S. Do not route any communication cable within two feet of any light fixture, HVAC unit, service access area, electric panel, or any device containing a motor or transformer.
- T. Access system cable will not be installed in the same conduit, duct, or track with line voltage electrical cable.
- U. Maximum cable pulling tension shall not exceed 25 pounds force (110 N) or the manufactures recommendation, whichever is less.
- V. Any pulling compounds utilized must be approved by the cable manufacturer and shall not degrade the strength or electrical characteristics of the cable.

#### 2.20 TERMINATION PRACTICES

- A. Strip back only as much cable jacket as required to terminate.
- B. Do not "loop" over wiring terminals, the cable could come loose and the condition not be detected as an open circuit or disconnected device.
- C. Preserve wire twists as closely as possible to point of termination (0.5" maximum) to keep signal impairment to a minimum.
- D. Avoid twisting cable jacket during installation.

#### 2.21 BUSHINGS

- A. Provide a plastic snap in bushing at each box opening, passage through a metal stud, and at the end of all open conduit stubs or sleeves prior to cable installation to protect the cabling from damage:
  - 1. Box openings Thomas & Betts Knockout Bushing Series 3210, or equivalent.
  - 2. Metal stud passage Thomas & Betts Twist It Bushing Catalog Number SB1216-SC, or equivalent.
  - 3. Conduit ends Thomas & Betts Anti-Short Bushing Series 390 or Tite-Bite Combination Coupling Series 442, or equivalent.

## 2.22 CEILING MOUNTED DEVICE BOX HANGERS

- A. All ceiling mounted devices including: smoke detectors, heat detectors, remote power/status LEDs, ceiling mounted strobes and horn/strobes, et cetera, when mounted in a drop ceiling shall be supported by an electrical box hanger (Caddy #512 or #512A for deep boxes 24" span), or equivalent. Box hangers shall be attached to the ceiling grid only for lateral stabilization, separate support wires shall be provided. The required support wires for the ceiling grid or light fixtures shall not be utilized. The backbox shall be flush and level with the bottom of the ceiling tile and the hole neatly cut for a finished appearance when the device is installed.
- B. Device and box hanger assemblies shall not be supported solely by suspended ceilings. Fasteners and supports shall be adequate to support the required load.

## 2.23 J-HOOKS

- A. Attachments for cabling support shall be spaced at approximately 48 to 60 inches on center. Each cable bundle shall be routed with enough slack to prevent damage to cables but not allowed to sag more than 12 inches mid-span between attachments. Attachments shall be sized as follows: Single cables or bundles up to four cables may be supported directly by the building structure. Bundles up to 1/2" dia. (Ten 1/4" cables)
  Bundles up to 3/4" dia. (Sixteen 1/4" cables)
  Bundles up to 1-5/16" dia. (Fifty 1/4" cables)
  Bundles up to 2" dia. (Eighty 1/4" cables)
  Bundles up to 2" dia. (Eighty 1/4" cables)
  Bundles up to 2" dia. (Eighty 1/4" cables)
  Caddy #CAT32 or equivalent
  Cadd
- B. Do not mix different signal strength cables on the same J-Hook (i.e. access system with telephone/data cable). Multiple J-Hooks can be placed on the same attachment point, up to the rated weight load of the attachment device.

# 2.24 COMMUNICATIONS CIRCUIT SURGE PROTECTION

- A. Provide surge protection shall be provided for all exterior devices, communications service or antenna entrance connections, and for each circuit that connects one building to another (i.e. any other portion of a building complex not under one continuous roof) at both entry/exit points to prevent damage to equipment.
- B. Each surge protector shall be mounted in a standard grounded metallic electric box or equipment backboard with a separate ground wire ran directly to the ground bus bar or equipment panel ground stud, do not daisy chain ground wires.

- C. Surge protectors for low voltage communications signal and control circuits with a data rate from 200kbps to 2Mbps, nominal voltage as listed below AC or DC. Each module shall protect up to two pairs using hybrid design multi-stage SAD technology, shall be Ditek 2MHLP series field replaceable modules with MB Series mounting bases for one to five modules, or equivalent, model numbers as follows: 70 to 75 Volt circuit, 4 wire protector with base DTK-2MHLP75BWB.
  48 to 50 Volt circuit, 4 wire protector with base DTK-2MHLP48BWB.
  36 Volt circuit, 4 wire protector with base DTK-2MHLP36BWB.
  24 Volt circuit, 4 wire protector with base DTK-2MHLP24BWB.
  12 Volt circuit, 4 wire protector with base DTK-2MHLP12BWB.
  0 to 6 Volt circuits, 4 wire protector with base DTK-2MHLP5BWB.
- D. Surge protectors for low voltage communications high data rate voice, data and signaling data and loop circuits, or serial communication, nominal voltage as listed below AC or DC. Each module shall provide Line-Ground (All) protection modes, maximum surge current: 2,000 Amps per pair (6V-50V) or 9,000 Amps per pair (75V-130V), and maximum continuous current: 5 Amps to 0.15 Amps, shall be Ditek LVLP series or equivalent, model numbers as follows:
  115 to 130-Volt circuit, 2-pair protector, 10-12 AWG, DTK-2LVLAWGRUV.
  95-Volt circuit, 2-pair protector, 10-12 AWG, DTK-2LVLAWGSGR.
  75-Volt circuit, 2-pair protector, 10-12 AWG, DTK-2LVLAWGSPK.
  48 to 50-Volt circuit, 2-pair protector, 16-22 AWG, DTK-2LVLPOPX.
  24 to 30-Volt circuit, 2-pair protector, 16-22 AWG, DTK-2LVLPV.
  12 to 14-Volt circuit, 2-pair protector, 16-22 AWG, DTK-2LVLPV.
  0 to 6-Volt circuit, 2-pair protector, 16-22 AWG, DTK-2LVLPV.
- E. Surge protectors for access control devices, types and nominal voltage as listed below. Each module shall provide Line-Ground (All) protection modes, maximum surge current: 2,000 Amps per pair power and 500 Amps per pair data, and maximum continuous current of 3 Amps, shall be Ditek model numbers as follows or equivalent:
  - 1. Wiegand credential reader surge protection 3-pair, 12 to 14-Volt terminal strip, Ditek DTK-3LVLPX.
  - 2. Credential reader surge protection, 4-pair reader and 1-pair each: 12-Volt power, 24-Volt power, 5-Volt data, and 1-Volt signal, Ditek DTK-4LVLPCR.
  - 3. Entry intercom system with data circuit surge protection 1-pair 12/24-Volt power supply, 2-pair 130-Volt voice line, and 1-pair 0 to 6-Volt data circuit, Ditek DTK-4LVTEP.
  - 4. Entry intercom system with door release surge protection 1-pair 12/24-Volt power supply, 2-pair 130-Volt voice line, and 1-pair 24-Volt release solenoid circuit, Ditek DTK-4LVXR.
- F. Surge protectors for Ethernet network runs rated up to Category 6A and operating at up to 10-Gigabit data rates. Each module shall protect up all four pairs using hybrid design multi-stage SAD technology which shall automatically reset to protect against multiple surges, Ethernet surge protectors shall be Ditek DTK-CAT6A series as follows:
  - 1. DTK-110RJC6APOE with 110 to RJ-45 connections with PoE.
  - 2. DTK-110C6APOE with 110 to 110 connections with PoE.
  - 3. DTK-110RJC6A with 110 to RJ-45 connections without PoE.
  - 4. DTK-110C6A with 110 to 110 connections without PoE.
- G. Surge protectors for analog copper pair PSTN telephone service POTS/Trunk/C.O. line alarm Digital Communicator service lines shall be Ditek DTK-2MHTPWB, or equivalent, 2-pair/lines, maximum ringup voltage 110V, includes base. In addition, At Telco service connection demarcation point locations servicing an alarm Digital Communicator, provide per line a Suttle Solutions Part # 635B-48, or equivalent, RJ31X surface mount jack with 8-conductor screw terminal board input and factory wired DATA and VOICE labeled, non-keyed RJ-45 output ports, with line seizure port shorting bar (1&4, 5&8) for alarm reporting device service.
- H. Surge protectors for coaxial cable shall be suitable for analog and digital signals up to 2 Ghz, and shall feature 75 Ω nominal impedance, Center Pin Shield, Shield Ground protection modes, 20,000A surge current rating, a service voltage of 50VDC, and a clamping Voltage of 75VDC. Note: Insertion loss per surge protection module is 0.5dB, include signal attenuation from these devices in signal strength calculations. Surge protectors shall be Ditek VSP series, or equivalent, as follows:
  - 1. Type 'F' connectors Ditek DTK-VSPA or Ditek DTK-VSPA2 (dual).
  - 2. BNC connectors Ditek DTK-VSPBNCA or DTK-VSPBNCA2 (dual).

- 3. BNC connectors and 24-volt power connections Ditek DTK-PVP27B.
- 4. PTZ camera surge protection; BNC video, power and data Ditek DTK-DP4P.
- 5. HD-SDI video Ditek DTK-iBNCHD.
- 6. Type 'N' antenna connector Ditek DTK-VSPN.

#### 2.25 FIRE STOPPING, DRAFT/NOISE STOPPING, PENETRATIONS, AND CORING

- A. UL Listed fire stopping methods that match the fire rating of the wall or floor being penetrated are to be used at all fire barrier penetrations. Seal the interior of the conduit sleeve around the cables and around the outside of the sleeve on each side of the penetration with fire-stop caulk or putty, install according to the manufacturers' instructions.
- B. All penetrations through fire rated walls or floors shall feature a suitable length of metal conduit. Hole diameter shall not exceed ½" larger than the conduit or sleeve to be installed. The hole shall be neatly cut, not oversize or irregular. Do not share wall/floor penetrations with ductwork, piping, line voltage electrical conduits, etc.
- C. All gypsum board or plaster penetrations shall tool cut using an appropriate hole saw / mandrel or manufactured assembly.
- D. Draft/Noise Stopping All penetrations through non-rated walls shall include draft/noise stopping to minimize the transfer of air and sound between enclosed areas. This shall include but not limited to:
  - 1. Neatly cutting all non-rated wall penetrations with a 1" maximum clearance. All gypsum board or plaster penetrations shall be tool cut using an appropriate hole saw / mandrel or manufactured assembly. The hole shall be neatly cut and not oversize or irregular. Do not share wall penetrations with other types of ductwork, piping, line voltage electrical conduits, communications cabling, etc.
  - 2. Provide and install non-combustible mineral wool, fiberglass, cellulose insulation, caulk, and/or sealant as required. Seal the interior of conduit sleeves around the cables and around the outside of the sleeve on each side of the penetration with caulk or putty, install materials according to the manufacturers' instructions.
- E. The Contractor shall make every effort to coordinate with the building Architect, Engineer, Builder, and Electrical Contractor to have sleeves placed in new construction so that later coring or drilling of building structural members will not be required. The Contractor must consult with the building Architect, Engineer, and Builder prior to drilling, coring, or sawing of any wall, floor, etc. All penetrations shall be made at approved, appropriate, locations.
- F. Upon approval, the Contractor shall be required to supply all labor, equipment, tools, and materials to create any additional penetrations, and shall provide the sleeve, temporary and final fire stopping. Special care shall be taken not to stress, overheat, or penetrate any building support member. Coring shall be made with equipment appropriate for the dry penetration of concrete and block materials. Under no circumstances shall penetrations be made utilizing a chisel or percussion type equipment. Concrete, block, or plaster cores shall be made by dry saw methods only.

## PART 3 - EXECUTION

## 3.1 SEQUENCE OF OPERATION

A. Scheduled automatic door unlocking/locking of specific entry doors shall be programmed to require verification before being enacted. A credential card from a select group at the local facility (including the manager/assistant manager, etc. as requested) must be presented at the facility within a two-hour period prior to the scheduled unlocking event. This is to prevent the entrance doors from be unlocked when no one is present to supervise and unlocked building, such as due to an unavoidable delay or other unscheduled occurrence. If a scheduled unlocking event is delayed, and a credential card from the select group is presented within two hours after the unlocking event was scheduled, the unlocking shall be enacted immediately.

- B. This access control system shall provide for controlled access through entry doors and into restricted areas when a valid credential card is presented to the credential card reader located adjacent to the door, only if the users group access rights and time schedules allow for access. This system shall monitor for unauthorized entry attempts, control access to the building, and log entry information. The system shall in no way impede free emergency exit from the building. Exit from the building shall not require special effort or knowledge. Controlled door locks shall fail secure from outside entry on loss of power and backup power.
- C. Door Forced and/or Door Held Open alarms shall have the capacity to be locally annunciated via Auxiliary Output relays on the individual controllers. This annunciation shall be controlled as follows. A direct one-to-one relationship shall be able to be programmed between the Door Forced and/or Door Held Open alarm and the auxiliary output. When either condition exists, the auxiliary output is energized. When either condition is cleared, the auxiliary output is de-energized.
- D. Controlled doors using a retractable latch strike shall, on a valid credential card read, activate the output to retract the door latch and immediately allow the exit door to be entered by standard pull lever operation; the door may then be opened without retracting the latch bolt. When the door closes, the latch bolt shall ride over the strike lip. The installation shall include dual switch monitoring, the strike shall have two SPDT contacts; one switch shall monitor the tripper, which is depressed when the latch bolt is inserted into the strike pocket. The second switch shall monitor the condition of the strike lip, indicating open or closed and locked conditions.
- E. Controlled doors with frame or mullion retractable strike, on a valid credential card read, activate the output to retract the door strike and immediately allow the exit door to be entered by standard pull lever operation; the door may then be opened without retracting the latch bolt. When the door closes the beveled latch bolt shall ride over the lip and fall into the electric strike pocket. The installation shall include dual switch monitoring, the strike shall have two SPDT contacts; one switch shall monitor the tripper, which is depressed when the latch bolt is inserted into the strike pocket. The second switch shall monitor the condition of the strike lip, indicating open or closed and locked conditions.
- F. Controlled doors with a crash bar shall include electric latch retraction and a request-to-exit switch, the access control system shall, on a valid credential card read, activate the output to retract the latch bolt and immediately allow the door to be entered by standard pull handle operation.
- G. Where required, the system shall interface with electric door openers utilized for ADA access. This interface shall interconnect to door control interface to mechanically open the door when a valid credential card is read and the exterior door button is pressed. The exterior button shall also open the door when the door is scheduled to be unlocked without a credential card read. The interior door open button shall always be functional, allowing full egress, regardless of the status of the access control system; the interior button shall also be interfaced to the request to exit function.
- H. The request-to-exit switch or sensor shall provide a means for the system to monitor the status of the controlled door and detect a forced entry condition. The request-to-exit signal shall be used only to indicate a normal exit status, as opposed to a forced entry. Exit shall be made with the normal door hardware and shall not be impeded or assisted by the electronic system. Exit shall not be affected if the power is off and the battery backup exhausted.
- I. The access system door contact switch shall provide a means for the system to monitor the open/closed status of the controlled door and detect if the door is held open or left ajar after a valid credential card read.

# 3.2 TESTING, WARRANTY SERVICE

- A. A factory trained representative of the manufacturer shall supervise the final connections and testing of the system and it shall be subject to the final acceptance of the Architect/Engineer and Owner.
- B. This contractor will thoroughly test all components of the systems and devices proposed herein to assure equipment specifications are met. This contractor will start up, test, and debug systems to ensure that all aspects of the system are working, documented, and reporting properly.

- C. This Contractor shall make a thorough inspection and test of the complete installed security system including all components and controls to ensure the following:
  - 1. Complete and functional system.
  - 2. Installed in accordance with manufacturer's instructions.
  - 3. Verify proper operation and processing of signals.
- D. The installation will be verified through use of testing procedures designed to test all specific functions and requirements of your system under various operating conditions.
- E. This Contractor shall provide a warranty of the installed system against defects in material or workmanship for a period of three (3) years from the date of substantial completion. Any equipment or wiring shown to be defective shall be replaced, repaired, or adjusted free of charge. All labor and materials shall be provided at no expense to the Owner. All equipment will carry a three-year warranty or manufacturer's warranty whichever is greater."

#### 3.3 DRAWINGS, MANUALS, AND TRAINING

- Α. Upon completion of the installation, and prior to final inspection, the Building Access Control Contractor shall furnish four (4) hard copies and one (1) electronic CAD and PDF copy on CD-R of as-built drawings. In addition, the Building Access Control contractor shall furnish four (4) hard copies and one (1) electronic PDF copy on CD-R of a complete operating and maintenance manuals listing the manufacturer's name(s), including technical data sheets. Manuals shall include wiring diagrams to indicate internal wiring for each device and the interconnections between the items of equipment. Provide the Owner a copy of the panel control software including the licensed program, site specific data file, and passwords that the Owner may require to maintain the system. Provide a clear and concise description of operation that gives, in detail, the information required to properly operate the equipment and system. Provide a parts list with manufacturer and model number for commonly replaced parts. Include complete instructions for the inspection, testing, and maintenance of the system. Include copies of all programming sheets used to configure the system. As-built drawings and operating and maintenance manuals may be electronically transmitted in PDF file format (preferred) or paper copies may be provided in guantities indicated in Division 1. Paper copies shall be organized including index tabs in a 3-ring black binder of sufficient size.
- B. Provide the Owner a copy of the panel control software including the licensed program, site specific data file, and passwords that the Owner may require to maintain the system.
- C. Formal on-site training sessions shall be conducted by this Contractor. It shall be the responsibility of this Contractor to coordinate time and location of training sessions with the Owner.

## END OF SECTION

## SECTION 28 05 00

#### GENERAL ELECTRONIC SAFETY AND SECURITY SYSTEM REQUIREMENTS

#### PART 1 – GENERAL

#### 1.1 WORK INCLUDES

- A. Drawings and general provisions of the Contract, including General and Supplementary Conditions and Division 1, apply to this Section.
- B. Electronic Safety and Security Systems complete including modification of existing systems to be revised and expanded, cabling, special backboxes, hardware and all other required devices and equipment.
- C. Installation of system equipment per specifications.
- D. Supply in a timely manner to the electrical contractor special backboxes for installation as required.
- E. Coordinate wireway, raceway, power, and outlet requirements with the builder and the electrical contractor.
- F. Electronic Safety and Security Systems Contractors shall provide and install prior to cable installation plastic snap in bushings at each box opening, passage through a metal stud, and at the end of all open conduit stubs or sleeves to protect the cabling from damage.
- G. Furnishing of all required materials, equipment, tools, scaffolding, labor, and transportation necessary for the complete installation of the Electronic Safety and Security systems as shown on the drawings and as specified herein.
- H. Cable pathways, conduit, and cable support systems shall be complete with bushings, de-burred, cleaned, and secure prior to installation of cable.
- I. It is the intent of these specifications to provide complete installations although every item necessary may not be specifically mentioned or shown.

## 1.2 WORK TO BE INCLUDED BY THE ELECTRICAL CONTRACTOR IN BASE CONTRACT PROPOSAL

- A. Provide utility services conduit as outlined on drawings as required.
- B. All required conduit for accessibility to attic space.
- C. Furnishing and installation of all required standard back boxes and conduit.
- D. Installation of special back boxes supplied by Division 28 contractor(s).
- E. Furnishing and installation of all floor boxes, surface raceways, and other wireways which are detailed or specified under Division 26.
- F. Provide equipment-mounting boards as outlined on drawings.
- G. Provide equipment grounding system, conductors, and bus bars and as outlined in Division 26.
- H. Provide 120-volt power and hook-up to equipment provided in Division 28.
- I. Coordination of requirements of Division 28 with the Builder.

#### 1.3 WORK NOT INCLUDED

A. Contractors shall make no agreement that obligates the Owner to pay any company providing communications, monitoring, or other services. Contractors shall not make selection, purchase, or installation of interconnect instruments/equipment to be used on this project.

#### 1.4 RELATED SECTIONS

- A. The conditions of the Division 0, Division 1, Division 26 requirements, and the contract requirements that include the General Conditions and the Supplementary Conditions apply to work of this division.
- B. Section 26 05 34 Provisions For Communication, Security & Safety Systems.

## 1.5 CODES, STANDARDS, AND THEIR ABBREVIATIONS

#### A. General:

- 1. Perform all work in strict accordance with the requirements and recommendations stated in the codes and standards except when requirements are exceeded by the contract documents.
- 2. In addition to the requirements outlined in other sections of the specifications the following standards are imposed as applicable to the work in each instance:
  - a. OSHA Safety and Health Regulations for Construction.
  - b. NFPA No. 70 National Electrical Code.
  - c. NESC National Electrical Safety Code, ANSI Standard C2.
  - d. NEiS National Electrical Installation Standards.
  - e. Local Codes and Ordinances.
- B. Where local codes or practices exceed or conflict with the NEC, it shall be the Contractor's responsibility to perform the work in accordance with the local code prevailing and local interpretations thereof. Any such additional work shall be performed at no additional cost to the Owner.
- C. Materials and components shall be UL listed and labeled by Underwriters Laboratories, Inc. for the intended use under the latest appropriate testing standard.
- D. The Contractor shall obtain all permits required to commence work. Upon completion of the Work, the Contractor shall obtain and deliver to the Owner's Representative a Certificate of Inspection and Approval from the State Board of Fire Underwriters, the City of Midlothian, Texas, and other authorities having jurisdiction. The Contractor shall pay required permit fees.

## 1.6 LIST OF ASSOCIATIONS AND STANDARDS:

ADA: ANSI: ASTM:	Americans with Disabilities Act. American National Standards Institute, 1430 Broadway; New York, NY 10018. American Society for Testing and Materials, 1916 Race Street; Philadelphia, PA 19103.
BICSI:	(RCDD5 Standards), 8610 Hidden River Parkway, Tampa, FL 33637
CBM:	Certified Ballast Manufacturers Association, 2116 Keith Building; Cleveland, Ohio 44115.
IEEE:	Institute of Electrical and Electronics Engineers, 345 East 47th Street; New York, NY 10017.
ICEA:	Insulated Cable Engineers Association, P.O. Box P, South Yarmouth, MA 02664.
NEC:	National Electrical Code; NFPA No. 70.
NECA:	National Electrical Contractors Association, Inc., 7315 Wisconsin Ave.; Washington, DC 20014.
NEMA:	National Electrical Manufacturers Association, 155 East 44th Street; New York, NY 10017.
NESC:	National Electrical Safety Code, ANSI Standard C2.
NFPA:	National Fire Protection Association, 60 Batterymarch Street; Boston, MA 02110.
OSHA:	Occupational Safety and Health Administration, US Department of Labor; Washington, DC 20402.
TAS:	Texas Accessibility Standards (TAS) Article 9102.
UL:	Underwriters Laboratories, Inc., 333 Pfigsten Road; Northbrook, IL 60062.

- A. Nothing in the Contract Documents shall be construed to permit work not conforming to these codes.
- B. When two or more codes or standards are applicable to the same work, then the stricter code or standard shall govern.
- C. The date of the code or standard is that in effect on the date of issue stated on the contract documents, except when a particular publication date is specified.
- D. The Contractor shall comply with all State, Federal, NFPA, local codes and ordinances that may alter any part of the plans or specifications. The Contractor shall bear all costs for correcting any deficiencies due to non-compliance.
- E. Where local codes and ordinances are not in writing or on record but local precedence have been set, the Owner shall pay for any additional resulting cost.

## 1.7 DEFINITIONS

- A. Approval: It is understood that approval must be obtained from the Architect in writing before proceeding with the proposed work. Approval by the Architect of any changes, submitted by the Contractor, will be considered as general only to aid the Contractor in expediting his work.
- B. The Builder: The primary contractor engaged to oversee the construction project. They may be technically described as a Construction Manager, General Contractor, Managing Construction Contractor, et cetera.
- C. The Contractor: The Contractor engaged to execute the work included a particular section only, although he may be technically described as a Subcontractor to the Builder. If the Contractor, engaged to execute said work, employs Sub-Contractors to perform various portions of the work included under a particular Section, they shall be held responsible for the execution of this work, in full conformity with Contract Document requirements. The Contractor shall cooperate at all times and shall be responsible for the satisfactory cooperation of his Subcontractors with the other Contractors on the job so that all of the various sections and phases of work may be properly coordinated without unnecessary delays or damage.
- D. The Electrical Contractor: The Electrical Contractor shall be engaged to execute the work included Division 26 only.
- E. PDF file or .pdf: The filename extension associated with "Portable Document Format" files, which are multi-platform computer files in the ISO 32000-1:2008 open standard format developed and licensed by Adobe Systems. These files are a digital electronic representation of text, documents, images, and technical drawings in a font and color-accurate fixed-layout format that is platform and display resolution independent. PDF files can be electronically transmitted, viewed, or printed with various free PDF reader application programs, and may allow markups/comments with various PDF editing application programs.
- F. Provide: Defined as requiring both the furnishing and installation of the item or facility indicated, complete in all respects and ready for operation unless otherwise specifically noted.

#### 1.8 SCHEDULE OF VALUES, APPLICATION FOR PAYMENT

A. The Contractor shall in accordance with the General Provisions of the Contract, including General and Supplementary Conditions, and Division 1, complete a Schedule of Values and Applications for Payment. When a portion of this work separately funded, including donations or E-Rate, the contractor shall accommodate this in the Schedule of Values and Applications for Payment. For E-Rate eligible portions of this work, the contractor will be required to participate in the E-Rate program, comply with all E-Rate regulations, and provide billing as needed. The contractor shall coordinate with the Owner to file Form 471 or latter edition and/or other forms as may be required.

# 1.9 WARRANTY

A. The Contractor shall warranty his work against defective materials and workmanship for a period of one year from date of acceptance of the job.

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- B. Neither the final payment nor any provisions in Contract Documents shall relieve the Contractor of the responsibility for faulty materials or workmanship.
- C. He shall remedy any defects due thereto and pay for any damage to other work resulting there from, which shall appear within a period of one year from date of substantial completion.
- D. The Owner shall give notice of observed defects with reasonable promptness.
- E. This Warranty shall not be construed to include the normal maintenance of the various components of the system covered by these specifications.

#### 1.10 SITE VISIT

- A. Before submitting a proposal, each proposed contractor shall examine all plans and specifications relating to the work, shall visit the site of the project, and become fully informed of the extent and character of the work required, including all required utilities.
- B. No consideration will be granted for any alleged misunderstanding of the materials to be furnished or the amount of work to be done, it being fully understood that the tender of a proposal carries with it the agreement to all items and conditions referred to herein, or indicated on the accompanying plans or required by nature of the site of which may be fairly implied as essential to the execution and completion of any and all parts of the work.

#### 1.11 SUBMITTALS

- A. Submittal procedures shall be per Division 1 General Requirements.
- B. Provide a complete submittal for each section as specified.
- C. Submit complete submittal package within 30 calendar days after award of this work for approval. Equipment is not to be ordered without approval. Partial submittals are not acceptable for review. Each submittal shall include a dated transmittal.
- D. A submittal may be electronically transmitted in PDF file format (preferred) or paper copies may be provided in quantities indicated in Division 1. Paper copies shall be organized including index tabs in a 3-ring black binder of sufficient size.
- E. Each Product data submittal shall include:
  - 1. A cover sheet with the name and location of the project, the name, address, and telephone number of the Contractor, and the name, address, and telephone number of the submitting sub-contractor. Include on or after the cover sheet sufficient space for review stamps.
  - 2. An indication of any deviations from Contract Document requirements, including variations and limitations. Show any revisions to equipment layout required by use of selected equipment.
  - 3. A product data index and complete equipment list including for each product submitted for approval the manufactures name and part number, including options and selections.
  - 4. Cut-sheets or catalog data illustrating the physical appearance, size, function, compatibility, standards compliance, and other relevant characteristics of each product on the equipment list. Indicate by prominent notation (an arrow, circle, or other means) on each sheet the exact product and options being submitted.
  - 5. Submit design data, when the scope of work requires, including calculations, schematics, risers, sequences, or other data.
  - 6. When the contract requires extended product warranties, submit a sample of warranty language.
  - 7. Any resubmittal shall include a complete revised equipment list and any product data that is revised.
- F. Submit shop or coordination drawings, when specified or the required for the scope of work, which include information that will allow to the Contractor to coordinate interdisciplinary work and when necessary guide the manufacturer or fabricator in producing the product. Shop or coordination drawings shall be specifically prepared to illustrate the submitted portion of work, this may require diagrams, schedules, details, and accurate to scale equipment and device layouts prepared using a CAD or BIM engineering drawing program.

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G. The Engineer's review of submittals is only for confirmation of adherence to design of project and does not relieve the Contractor of final responsibility for furnishing all materials required for a complete working system and in complying with the Contract Documents in all respects.

# 1.12 PROJECT RECORD DOCUMENTS

- A. The Contractor shall keep a set of plans on the job, noting daily all changes made in connection with the final installation including exact dimensioned locations of all new and uncovered existing utility piping outside the building.
- B. Upon submitting his request for final payment, he shall turn over to the Architect/Engineer, for subsequent transmittal to the Owner revised plans showing "as installed" work.
- C. In addition to the above, the Contractor shall accumulate during the jobs progress the following data in PDF file format (preferred) or paper copies to be turned over to the Architect/Engineer for checking and subsequent delivery to the Owner:
  - 1. All warranties, guarantees, and manufacturer's directions on equipment and material covered by the Contract.
  - 2. PDF file or paper copies of all Shop Drawing prints and CAD or BIM engineering drawing program files.
  - 3. Any software programs, data/programming files, passwords, special interface cables, or keys that may be needed to maintain or access equipment.
  - 4. Set of operating instructions. Operating instructions shall also include recommended maintenance and seasonal changeover procedures.
  - 5. Any and all other data and/or plans required during construction.
  - 6. Repair parts lists of all major items and equipment including name, address, and telephone number of local supplier or agent.
  - 7. The first page, or pages, shall have the names, addresses, and telephone numbers of the following:
    - a. Builder and all Contractors.
    - b. Major Equipment Suppliers
    - c. Submit communication systems warranties.

# 1.13 TRAINING

- A. Upon completion of the work and at a time designated by the Architect, provide formal training sessions for the Owner's operating personnel to include location, operation, and maintenance of all Electronic Safety and Security systems equipment and systems.
- B. See other sections for time requirements.

## 1.14 PLANS AND SPECIFICATIONS

- A. The intent of the project drawings is to establish the types of systems and functions, but not to set forth each item essential to the functioning of the system.
- B. Electrical drawings are generally diagrammatic and show approximate location and extent of work.
- C. Install the work complete including minor details necessary to perform the function indicated. Provide Electronic Safety and Security systems (including all hook-ups) complete in every respect and ready to operate.
- D. If clarification is needed, consult the Architect/Engineer.
- E. Review pertinent drawings and adjust the work to conditions shown. Where discrepancies occur between drawings, specifications, and actual field conditions, immediately notify the Architect/Engineer for his interpretation.
- F. The Architect/Engineer reserves the right to make any reasonable change in the location of any part of this work without additional cost to the Owner.

#### 1.15 PRODUCT SUBSTITUTIONS:

- A. Descriptions and details, acceptable manufacturers' names listed, and specific manufacturer and model number items indicated in the plans and specifications shall establish a standard of quality, function, and design. Manufacturers and model numbers listed "no exceptions" shall not be substituted without specific notice in an addendum. Otherwise, where a specific manufacturer's product is indicated, products of other manufacturers listed as acceptable may be submitted for approval based on the substitute product being, in the opinion of the Engineer, of equivalent or better quality than that of the product specified.
- B. Proposed contractors wishing to propose systems which differ in manufacturer, features, functions, or operating characteristics from those outlined in these specifications must do so in writing to the specifying authority at least ten (10) days prior to the proposal opening.
- C. For manufacturers equipment or models other than that specified, the proposed contractor shall supply proof that such substitute equipment equals or exceeds the features, functions, performance, and quality of the specified equipment. Proposals must include detailed information showing all deviations from the system as specified and include relevant technical and cost data. This shall include a complete description of the proposed substitution, drawings, catalog cuts, performance data, test data, or any other data or information necessary for evaluation.
- D. The Engineer will consider all such submittals and the Architect will issue an addendum listing items that the Engineer considers acceptable. Only such items as specified or approved as acceptable will be installed on this project.
- E. Substitute products for which the proposed contractor does not obtain prior approval will not be considered acceptable for this project. Final approval of the alternate system shall be based on the decision of the Owner and Architect. Prior approval to make a proposal for this project does not automatically ensure the system will be an acceptable equivalent.
- F. The Contractors' proposal represents that the contract proposal price is based solely upon the materials, equipment, and labor described in the Contract Proposal Documents (including addenda, if any) and that he contemplates no substitutions or extras.
- G. The manufacturer of the proposed substitute unit shall provide samples for evaluation, when required, at no charge and non-returnable.
- H. Requests for substitution are understood to mean that the Contractor:
  - 1. Has personally investigated the proposed substitution and determined that it is equivalent or superior in all respects to that specified.
  - 2. Will provide the same guarantee for the substitution that he would for that specified.
  - 3. Will, at no cost to the Owner, replace the substitute item with the specified product if the substitute item fails to perform satisfactorily.
  - 4. After Award of the Contract, substitutions will be considered only under one or more of the following circumstances:
    - a. The substitution is required for compliance with subsequent interpretations of code or insurance requirements.
    - b. The specified product is unavailable through no fault of the Contractor.
    - c. The manufacturer refuses to warranty the specified products as required.
    - d. Subsequent information indicates that the specified product is unable to perform properly or to fit in the designated space.
    - e. In the Engineer's sole judgment, the substitution would be in the Owner's best interest.
    - f. Revisions to the electrical system caused by substitutions shall be under the supervision of the Engineer, at a standard hourly rate charged by the Engineer. Charges from the Engineer, Architect, and Electrical Contractor shall be paid by the Contractor originating the changes.

# 1.16 FUTURE USE CABLING

A. When cabling is installed for future use, it shall be identified with a tag of sufficient durability to withstand the environment involved.

- B. Locations and Existing Conditions:
  - 1. Location and condition of any existing equipment or services, when shown, have been obtained from substantially reliable sources, are shown as a general guide only, without guarantees as to accuracy.
  - 2. The Contractor will examine the site, verify all requirements, service points, and availability of all services required to complete this project. No consideration will be granted for any alleged misunderstanding of the materials and labor to be provided as necessitated by nature of the site including those items that may be fairly implied as essential to the execution and completion of any and all parts of this project.

# 1.17 EXISTING ELECTRONIC SAFETY AND SECURITY SYSTEMS MODIFICATION AND EXPANSION FOR ADDITIONS AND RENOVATION

- A. The electronic safety and security contractor shall be responsible for modification of the existing electronic safety and security systems, including demolition of any devices and cabling previously abandoned. Demolition shall include:
  - 1. Disconnection and removal of all electronic safety and security devices not to remain in service in walls, floors, and ceilings.
  - Identification and verification of abandoned wiring and equipment. All disconnected or abandoned devices that are visible shall be removed, i.e. non-functional fire pulls, bells, speakers, signals, et cetera. Remove abandoned wiring to the source of the supply everywhere possible, the accessible portions of all inaccessible abandoned cabling shall be removed.
  - 3. Removal of exposed abandoned conduit and supports including brackets, stems, hangers, and other accessories located on walls and above accessible finished ceilings. Cut abandoned conduit flush with walls, floors, etc., and patch surfaces.
  - 4. Provide a blank cover for abandoned device backboxes that are impractical to remove from masonry construction without unnecessary damage.
  - 5. Confirm with Owner/Architect regarding the handling and disposal/reuse of removed material, equipment, devices, et cetera.
  - 6. Off-site disposal in a legal manner of all materials not requested to be turned over to the Owner. Comply with government regulations pertaining to environmental protection, and disposal of materials and equipment. Do not burn any materials on the site.
  - 7. Repair of any finishes or adjacent construction damaged during modification, extension, and demolition work.

# 1.18 EXAMINATION

- A. Verify field conditions including existing systems, equipment models, configurations, circuiting arrangements, cabling, and devices. Adjust all circuiting, cabling, and materials to be provided as required by job conditions.
- B. Project drawings are based on casual field observation and existing record documents when available, report any significant discrepancies to the Engineer before disturbing existing systems.
- C. The Contractor accepts the existing conditions when beginning demolition.

# 1.19 IMPLEMENTATION

- A. Verify phasing in regard to systems and coordinate before energizing any system.
- B. When required during phases of construction to maintain existing systems in service in particular areas, provide temporary wiring and connections as necessary to accommodate construction.

#### 1.20 OPERATION OF NEW EQUIPMENT PRIOR TO PROJECT COMPLETION

A. When the phasing of a project requires that electronic safety and security systems are operable in certain areas and the Owner needs to operate the equipment the contractor shall make such provisions. The warranty period shall commence on new equipment when it is operated for the beneficial use of the Owner. Regardless of whether or not the equipment has or has not been operated, the Contractor shall properly clean the equipment, properly adjust, and complete all punch list items before final acceptance by the Owner. In these cases, the date of acceptance and the start of the warranty may be different dates.

#### 1.21 CLEANING AND REPAIR

A. Clean and repair existing materials and equipment in areas of renovation that are to remain or be reused.

## 1.22 PROTECTION OF EQUIPMENT AND MATERIALS

- A. The Contractor shall take such precautions as may be necessary to protect his apparatus from damage.
- B. This shall include the creation of all required temporary shelters to protect any apparatus above the floor of the construction and the covering of apparatus in the completed building with tarpaulins or other protective covering.
- C. Failure to comply with the above to the satisfaction of the Owner's inspector will be sufficient cause for the rejection of the equipment in question and its complete replacement by the Contractor.

#### 1.23 FINAL OBSERVATION

- A. It shall be the duty of the Contractor to make a careful observation trip of the entire project, assuring themselves that the work on the project is ready for final acceptance before calling upon the Architect/Engineer to make a final observation.
- B. To avoid delay of final acceptance of the work, the Contractor shall have all necessary bonds, warranties, receipts, affidavits, et cetera, called for in the various articles of these specifications, prepared and signed in advance, together with a letter of transmittal, listing each paper included, and shall deliver the same to the Architect/Engineer at or before the time of said final observation. The Contractor is cautioned to check over each bond, receipt, et cetera, before preparing for submission to verify that the terms check with the requirements of the specifications.
- C. The following and other provision of Division 1 General Conditions will be required at time of final completion:
  - 1. Final clean up completed.
  - 2. All systems are fully operational, all material and devices installed.
  - 3. As built (as installed) drawings and operations manuals.

## 1.24 PROHIBITED MATERIALS

A. No new asbestos, lead, or materials containing these substances shall be permitted in this project. The Contractor shall consult the Architect concerning these materials if their presence is suspected. All work in or around existing asbestos or lead materials is at the sole risk of the Contractor and his personnel.

#### 1.25 CUTTING AND PATCHING

- A. Notify the Builder sufficiently ahead of construction of any floors, walls, ceiling, roof, et cetera, of any openings that will be required for his work.
- B. The Contractor shall see that all sleeves required for his work are set at proper times to avoid delay of the job.
- C. All necessary cutting of walls, floors, partitions, ceilings, et cetera, as required for the proper installation of the work under this Contract shall be done at the Subcontractor or at the Subcontractor's expense in a neat and workmanlike manner, and as approved by the Architect/Engineer.

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- D. Patching of openings and/or alterations shall be provided by the Electronic Safety and Security Subcontractor or at the Subcontractor's expense in an approved manner.
- E. No joists, beams, girders, or columns shall be cut by any Contractor without first obtaining written permission of the Architect/Engineer.
- F. All openings in firewalls and floors shall be completely sealed after installation for a completely airtight installation. Sealing material shall be non-combustible and UL approved. The installed sealing assembly shall not cause the fire rating of the penetrated structure to be decreased.
- G. All openings in exterior walls shall be sealed watertight.
- H. Seal voids around conduits penetrating fire-rated assemblies and partitions using fire stopping materials and methods in accordance with NFPA and local codes.

#### 1.26 MANUFACTURERS' INSTRUCTIONS

- A. All equipment and devices shall be installed in accordance with the drawings and specifications, manufacturer's instructions, and applicable codes.
- B. Where specifications call for installation of a product to be in accordance with manufacturer's instructions and/or where manufacturer's instructions are required for installation of a product, it shall be the contractor's responsibility to obtain the necessary applicable manufacturer's instructions and install the product in accordance with the manufacturer's instructions.
- C. It shall be the Contractor's responsibility to install all equipment, materials, and devices shown on the plans and as called out in these specifications even if manufacturer's instructions are absolutely unattainable.

## 1.27 INSTALLATION

- A. Cooperation with trades of adjacent, related or affected materials or operations, and or trades performing continuations of this work under subsequent contracts are considered a part of this work. In order to effect timely and accurate placing of work and to bring together, in the proper and correct sequence, the work of such trades, including work provided under a Division 1 allowance.
- B. The Electronic Safety and Security Contractor shall coordinate installation of the Electronic Safety and Security systems with the Builder, Electrical, Mechanical, and Plumbing Contractors to ensure a complete working system for the Owner.
- C. Where required for accessibility all conduit and boxes for all Electronic Safety and Security systems shall be provided by the Electrical contractor as specified, including systems in Division 28, any and all allowances shall be included. Normally low voltage wiring shall run open and supported in accessible attic space. All low voltage wiring in exposed areas such as gyms, stages, shops, and field houses shall be enclosed in conduit. Coordinate with and verify with Division 26 to provide required conduit and boxes at locations and heights as required.
- D. Conduit, innerduct, track, or raceway shall conceal and protect wiring in exposed areas, within walls, through in- accessible areas, floors, chases, under slab, crawlspaces, or underground.
- E. All conduit, duct, track, and raceway runs shall be spaced apart to allow for maintenance, such as the installation of couplings, without disturbing adjacent pathways.
- F. All work must be performed by workers skilled in their trade. The installation must be complete whether the work is concealed or exposed.
- G. Provide stainless screw/bolt hardware wherever stainless devices are used and in potentially wet areas.

H. Coordinate the actual locations of devices and outlets and equipment with building features and mechanical equipment as indicated on architectural, structural, and mechanical drawings. Review with the Architect any proposed changes in outlet or equipment location. Relocation of devices, before installation, of up to 3 feet from the position indicated, may be directed without additional cost. Remove and relocate outlets placed in an unsuitable location when so requested by the Architect.

# PART 2 – PRODUCTS

A. Not Applicable

# PART 3 – EXECUTION

A. Not Applicable

END OF SECTION

## SECTION 28 13 27

## BUILDING ACCESS CONTROL SYSTEM

## PART 1 - GENERAL

#### 1.1 SCOPE OF WORK

- A. Expand the existing Owner's Lenel•S2 Security Building Access Control System as indicated on the project plans.
- B. NOTE: All electric door locks shall be configured for fail-safe un-delayed egress operation and fail-secure to prevent unauthorized entry on loss of power.

#### 1.2 WORK INCLUDES

- A. Drawings and general provisions of the Contract, including General and Supplementary Conditions and Division 1, apply to this Section.
- B. Provide all equipment, materials, labor, software, licensing, supervision, and services necessary for or incidental to the installation of a card reader operated door access control system expansion, as shown or indicated on the drawings and as specified.
- C. This access control system shall provide for controlled entry doors to be released when a valid credential card is presented to the credential card reader located adjacent to the door. This system shall monitor for unauthorized entry attempts, control access to the building, and log entry information. The system shall in no way impede free emergency exit from the building. Exit from the building shall not require special effort or knowledge.
- D. In shall be the responsibility of this Contractor to obtain all required approvals and certifications from authorities having jurisdiction.
- E. It shall be the responsibility of the Electrical Contractor to provide and install all conduit systems, standard electrical boxes, and operating power for the building access systems as outlined on the project drawings. This Contractor shall coordinate all system requirements with and provide special back boxes to the Electrical Contractor prior to installation of conduit.
- F. The electrical contractor shall provide 120-volt power as required to the security system through separate dedicated branch circuits, maximum 20 amperes each. Each such circuit shall be labeled at the power distribution panel as ACCESS CONTROL. The location of all circuit breakers serving the system shall be posted in the control unit cabinets. Each cabinet shall be grounded securely to the building grounding system.
- G. Provide all testing, documentation, training, and warranty service as outlined in these specifications.

## 1.3 RELATED SECTIONS

- A. Section 26 05 34 Provisions For Communication, Security & Safety Systems.
- B. Section 27 10 30 Data and Telephone Cable Plant.
- C. Section 28 05 00 General Electronic Safety and Security System Requirements.

#### 1.4 CODES AND REGULATIONS

A. Perform all work in strict accordance with the requirements and recommendations stated in the codes and standards except when requirements are exceeded by the contract documents.

- B. The equipment, materials, and installation shall confirm to the latest version of all applicable codes, standards and regulations of authorities having jurisdiction including the following:
  - 1. NFPA 70, National Electrical Code.
  - 2. NFPA 72, National Fire Alarm and Signaling Code.
  - 3. Americans with Disabilities Act.
  - 4. Texas Accessibility Standards.
  - 5. International Building Codes (IBC).
  - 6. Local and State Building Codes.
  - 7. All requirements of the local Authority Having Jurisdiction (AHJ).

#### 1.5 SUBMITTALS

- A. Submittal procedures: See Section 28 05 00.
- B. Submit a complete submittal package within 30 calendar days after award of this work for approval. Equipment is not to be ordered without approval. Partial submittals are not acceptable for review. Each submittal shall include a dated transmittal.
- C. Submittal may be electronically transmitted in PDF file format (preferred) or paper copies may be provided in quantities indicated in Division 1. Paper copies shall be organized including index tabs in a 3-ring black binder of sufficient size.
- D. Quality Assurance Submittal:
  - 1. Letter from manufacturer stating that the Contractor is an Authorized Factory Distributor for the area where the project is located.
  - 2. The Contractor and Manufacturer shall supply sufficient information to indicate that the proposed system is based on the latest hardware, software technology available.
  - 3. Current copy of the Contractors Electronic Access Control Device Security Company license issued by the Texas Department of Public Safety Private Security Board.
  - 4. Calculations for device circuit current drop and battery backup calculations.
- E. Product Data Submittal including special boxes, cable, and other material as requested by the Architect including:
  - 1. A cover sheet with the name and location of the project, the name, address, and telephone number of the Contractor, and the name, address, and telephone number of the submitting sub-contractor. Include on or after the cover sheet sufficient space for review stamps.
  - 2. An indication of any deviations from Contract Document requirements, including variations and limitations. Show any revisions to equipment layout required by use of selected equipment.
  - 3. A product data index and complete equipment list including for each product submitted for approval the manufactures name and part number, including options and selections.
  - 4. Cut-sheets or catalog data illustrating the physical appearance, size, function, compatibility, standards compliance, and other relevant characteristics of each product on the equipment list. Indicate by prominent notation (an arrow, circle, or other means) on each sheet the exact product and options being submitted.
  - 5. Submit design data, when the scope of work requires, including calculations, schematics, risers, sequences, or other data.
  - 6. Any resubmittal shall include a complete revised equipment list and any product data that is revised.
- F. Submit shop drawings locating all components of the system, indicating circuit routing, cable type, and gauge. Shop or coordination drawings shall include information that will allow to the Contractor to coordinate interdisciplinary work and when necessary guide the manufacturer or fabricator in producing the product. Shop or coordination drawings shall be specifically prepared to illustrate the submitted portion of work, this may require diagrams, schedules, details, and accurate to scale equipment and device layouts prepared using a CAD or BIM engineering drawing program.

# 1.6 QUALIFICATIONS OF A PROPOSED CONTRACTOR

A. Proposed contractors who do not currently possess the necessary qualifications, trained and experienced personnel, financial capacity, and meet the other requirements herein described will be disqualified.

- B. The Contractor shall be currently licensed under the Texas Department of Public Safety Private Security Board as an Electronic Access Control Service Installer Company to sell, install, and service private security systems.
- C. The proposed contractor, as a business entity, shall be an authorized distributor and designated representative of the security panel manufacturer, with full warranty privileges, and shall have been actively engaged in the business of selling, installing, and servicing commercial building alarm systems for a period of at least 5 years.
- D. Recently formed companies are acceptable only if specific pre-approval is requested, and granted by the Architect/Engineer, based on experience of key personnel, current and completed projects, and all licensing requirements are met 10 working days prior to the contract proposal date.
- E. All employees working on the project must be registered alarm system installers. The Contractor shall employ factory trained technicians capable of supporting the maintenance of the system. No contract employees are allowed unless they have been to the factory service school within the last 18 months. A certificate of this training shall be provided with the Contractors submittal.
- F. The contractor shall employ full time local technicians and installers. The manufacturer shall maintain a full time factory employed service staff for product support and service.
- G. The proposed Contractor shall have an office within 150-miles of the job site, staffed with trained technicians who are qualified and licensed to supervise the installation, to be responsible that the system is installed as submitted, to conduct system start up and perform a 100 percent operational audit of all installed devices, to instruct the Owners representatives in the proper operation of the system, and to provide service throughout the warranty period. The contractor shall be capable of dispatching technicians to repair a system within six hours of a service request.
- H. The proposed contractor shall be fully experienced in the design and installation of the type of security system herein specified and shall furnish with the contract proposal an itemized list of the installations of the type specified herein. The list shall include the name of the project, date of completion, the amount of the contract, the name, and telephone number of a qualified person to contact for reference. This list must contain at least two (2) projects within a 150-mile radius of the project to allow the owner to visit the job site for review of the system installation and service. Each reference project listed must utilize equipment by the same manufacturer as the proposed system.
- I. The Contractor shall employ factory-trained technicians capable of supporting the maintenance of the system. No contract employees are allowed unless they have been to the factory service school within the last 18 months. A certificate of this training shall be provided with the contractors' submittal.
- J. The Proposed Contractor shall not have any grievances or complaints of record regarding workmanship, code compliance, or service response. A Proposed Contractor that has any prior finding(s) of a code or license violation or has any litigation in process concerning the installation of a communication system is unacceptable.
- K. The ability of a proposed Contractor to obtain plans and provide a performance bond shall not be regarded as the sole qualification of the Contractors' competency and responsibility to meet the requirements and obligations of the contract.
- L. The Builder shall be satisfied that a proposed Contractor meets all the requirements expressed herein before including the Contractor's proposal in the project.
- M. The Owner may investigate, as they deem necessary to determine the ability of the proposed Contractor to perform the work. The proposed Contractor shall furnish to the Owner with any information or data requested for this purpose.
- N. The Owner reserves the right to reject any contract proposal if the evidence submitted, or their investigation, fails to indicate that the Contractor is qualified to fulfill of any part of the contract or to complete the work contemplated therein.

O. The Owner reserves the right to reject the proposal of any Contractor who has previously failed to perform properly, or complete on time, contracts of a similar nature.

#### PART 2 – PRODUCTS

#### 2.1 GENERAL

- A. The system provided shall be fully compatible and integrated with the Owners existing system hardware, software, credentials, and credential database.
- B. Provide complete and satisfactorily operating Access Control System as described herein, using materials and equipment of types, sizes, ratings, and performances as indicated. Use materials and equipment that comply with referenced standards and manufacturers' standard design and construction, in accordance with published product information. Coordinate the features of all materials and equipment so they form a functional system, with components and interconnections matched for optimum performance of specified functions.
- C. The system and all components shall be tested and found suitable for the specified purpose as part of a commercial building security system by a nationally recognized approvals agency acceptable to the AHJ.
- D. The control units, power supplies, batteries, subassemblies, software, firmware, and all cable, devices control units, power supplies, batteries, subassemblies, software, firmware, cable, and all accessories provided shall be listed and labeled by Underwriters Laboratories, Inc. for commercial security system use under the latest appropriate testing standard.
- E. All date keeping hardware, firmware, and software provided shall be fully compliant with the calendar year designated in four-digit date format. Any time equations must function normally, leap year, and daylight savings time must be supported.
- F. Only equipment devices have been shown on the contract drawings. Specific wiring between equipment has not been shown.
- G. The system shall include but not be limited to all control units, power supplies, batteries, subassemblies, card sensors, software, firmware, and all cable, door release equipment, and all accessories required to provide a complete operating system.
- H. All equipment and components shall be installed in strict compliance with manufacturers' recommendations and the requirements of the components UL listing. Consult the manufacturer's installation manuals for all wiring diagrams, schematics, electrical requirements, cable types, and physical equipment sizes, etc., before beginning system installation. Refer to the manufacturers' riser / connection diagrams for all specific system installation/termination/wiring data.
- I. All equipment and components shall be new, and the manufacturer's current model. All like devices shall be of the same manufacturer and model number.
- J. All equipment shall be attached to walls and ceiling/floor assemblies and shall be held firmly in place (e.g., detectors shall not be supported solely by suspended ceilings). Fasteners and supports shall be adequate to support the required load.

# 2.2 ACCEPTABLE BUILDING ACCESS CONTROL SYSTEM MANUFACTURER

A. Descriptions and details, acceptable manufacturers' names listed, specific manufacturers' model numbers indicated in the project plans and specifications, and other pertinent information herein are intended to establish minimum standards of quality, compatibility, functions, features, and performance of the equipment to be furnished. Manufacturers and model numbers listed "no exceptions" shall not be substituted without specific notice in an addendum. Otherwise, where a specific manufacturer's product is indicated, products of other manufacturers listed as acceptable may be submitted for approval based on the substitute product being, in the opinion of the Engineer, of equivalent or better quality than that of the product specified.

- B. Proposed contractors wishing to propose any product substitution must do so in writing to the specifying authority at least ten (10) days prior to the proposal opening.
- C. For manufacturers equipment or models other than that specified, the proposed contractor shall supply proof that such substitute equipment equals or exceeds the features, functions, performance, and quality of the specified equipment. Proposals must include detailed information showing all deviations from the system as specified.
- D. Substitute products for which the proposed contractor does not obtain prior approval will not be considered acceptable for this project. Final approval of alternate products shall be based on the decision of the Owner and Architect. Prior approval to make a proposal for this project does not automatically ensure products will be an acceptable equivalent.
- E. It is the responsibility of the Contractor to provide all features and functions as outlined in these specifications. The functions and features specified are vital to the operation of this facility; therefore, inclusion in the list of acceptable manufacturers does not release the contractor from strict compliance with the requirements of this specification
- F. The existing system, which is the school District standard, and the manufacturers model numbers, functions, and features described in this specification section are those of the Lenel-S2 Security building access control system with Mercury Access Technology hardware, this shall constitute the quality, compatibility, features, and performance of the equipment to be furnished, no exceptions. Any other proposed manufactures devices or software must be pre-approved.

## 2.3 BUILDING ACCESS CONTROL SYSTEM INSTALLATION REQUIREMENTS

- A. Contractors shall provide all material, labor, tools, and equipment required to perform the work described and make complete, safe, and functional systems.
- B. Contractors shall pay for and acquire all permits and inspections required by controlling authority.
- C. All work shall be installed in accordance with state, local, and national codes.
- D. Contractors shall warrant his workmanship and materials for a period of one year from the date of acceptance upon completion of the project.
- E. All work shall be done by mechanics skilled in the particular trade involved, under responsible supervision.
- F. No surface mounted raceway or conduit will be accepted on any new construction job.
- G. Seal all wall and floor penetrations with approved sealant.
- H. Access control system cabling can share conduit with intrusion alarm system cabling.
- I. All cabling must be suspended up off the ceiling grid.
- J. Contractor must provide the Owner with all security equipment MAC addresses and network drop information.
- K. The access control contractor shall provide and install all required parts and local cabling to get the system online and operational; this includes power supplies required to operate the electrified exit devices.
- L. Where 110 Volt electrical receptacles as needed to accommodate system transformers, they shall be provided by the electrical contractor at exact locations coordinated with the access control contractor.
- M. Where 110 Volt electrical receptacles as needed to accommodate door release hardware/ electrified exit devices, they shall be provided by the electrical contractor in an accessible location at 12" above the finished ceiling and within 20 feet of door location.
- N. Data drops shall be provided by the cabling contractor for security equipment. See Section 27 10 30 Data-Telephone Cable Plant.
- O. Exterior card reader locations shall be prepared including a recessed single-gang weatherproof metal back box located approximately 44" centered from the ground and 12" off the opened door edge to the side, with a ½" secured rigid or flex conduit with pull string to an accessible interior location concealed above the finished ceiling.
- P. Controlled door frames shall be prepared as detailed on the plans including a ½" secured rigid or flex conduit with pull string to an accessible interior location concealed above the finished ceiling.
- Q. Continuous hinges with built in power transfers (concealed ribbon wire) are not acceptable.
- R. Mag-locks are not acceptable.

#### 2.4 RELATED WORK - NETWORK CONNECTIVITY

- A. The system shall utilize the owner's Ethernet system backbone for all security devices communications.
- B. No Ethernet cabling, network RJ-45 jacks, or patch cords are included in the scope of this Specification Section.
- C. The Awarded Contractor from Section 27 will provide this Contractor with a terminated network drop at security devices, and the required TCP/IP configuration settings: static IP address, domain, gateway, and subnet mask.
- D. This contractor will program and test all access control system devices for connection to the network.
- E. This contractor will provide complete programming of all device parameters in accordance with the Owners requirements.
- F. For each building access control system intelligent door controller (network controller) panel requiring an Ethernet network connection, the Division 27 contractor shall provide a dedicated data drop located above the ceiling at the panel location. The building access control system contractor shall provide and install a conduit pathway from the top of the panel up to the ceiling space with plastic snap in bushings at each conduit end or transition used for this connection. The Division 27 contractor shall provide the patch cable, and the building access control system contractor shall provide the patch cable, and the building access control system contractor shall route and connect the patch cable between the faceplate jack above the ceiling and the panel Ethernet network connection jack.

#### 2.5 ACCEPTABLE MANUFACTURES

- A. All references to manufacturer's model numbers and other pertinent information herein are intended to establish minimum standards of performance, function, and quality. With approval, equivalent, compatible, UL listed equipment from other manufacturers may be substituted for the specified equipment as long as all requirements are met.
- B. The system herein specified is the Lenel-S2 Security Access Control System software with Mercury Access Technology hardware, fully licensed solution, utilizing various door controller model numbers and this shall constitute the functionality, quality, compatibility, and performance of the system to be furnished, no exceptions.

#### 2.6 ACCESS CONTROL SYSTEM PANELS/ENCLOSURES

A. Provide as required, enclosures suitable for surface wall mounting and shall include battery backup power supplies where required. Each enclosure shall include a removable back plate for module mounting, a keyed lock, and tamper switch. Access power enclosures shall include a single AC power connection (for power supply), a pre-wired LSP power section. Each tamper switch shall be wired to a module input circuit for monitoring by the system.

#### 2.7 ACCESS SYSTEM CONTROLLER BOARDS

A. Utilize existing expansion capabilities of the existing hardware where available.

- B. Provide as required, Mercury Security intelligent controllers, door reader interface sub-modules and I/O modules for the additional doors per the drawings as follows:
  - 1. Intelligent multi-port Ethernet-enabled controller model S2-LP-1502.
  - 2. Card reader interface module model S2-MR52-S3.
  - 3. Input module model S2-MR16IN-S3.
  - 4. Output module model S2-MR16OUT-S3.

# 2.8 ACCESS CONTROL SYSTEM LAYOUT PLANS

- A. The Contractor shall provide a mock-up of the layout plan documents prior to mounting.
- B. Provide mounted inside each Access Control System Panel/Enclosure cover, or adjacent to the panel location, an 8 ½" x 11" laminated layout plan including the following information:
  - 1. In the upper left corner of the layout provide the name of the installing company, phone number and Texas Security License number.
  - 2. In the upper right corner of the page provide the Name of the campus and the MDF or IDF room I.D./location.
  - 3. Under the room I.D. list:
    - a. IP address of the panel
    - b. Subnet mask.
    - c. Gateway IP address
  - 4. Place the service contract information (contact or department and phone number or just phone number will be acceptable).
  - 5. Beneath the common information, provide a line diagram indicating each module location and the name of the device attached to each input on each card.

#### 2.9 PROXIMITY CARD READERS

- A. Controlled access door location as indicated on plans shall be provided with an entry card reader to allow access to authorized individuals as scheduled.
- B. Each proximity card reader shall mount on a standard single-gang electrical wall box or on the surface of an interior or exterior wall.
- C. Outdoor weatherproof back boxes shall be flush mounted and connected to a ½" threaded rigid pipe conduit and sealed. The reader casing shall be grounded to prevent electrostatic discharge from interfering with the operation of the reader.
- D. Threaded conduit is required for outdoor applications and dielectric grease shall be used to coat field connections.
- E. Manufacturer / Model: Provide HID Multiclass SE R40 card readers, match to existing District readers or standards, as required.

#### 2.10 PRIMARY SERVER DATABASE AND PROGRAMMING REQUIREMENTS

- A. This site shall utilize the existing District server. Incorporate the new doors in this construction package into the existing data base.
- B. Include any licensing requirements or fees for using the management software and accompanying client software. The contractor will load the most current software revision being used at the time of the software programming.
- C. District programming requirements for the access control system will require unique and specialized programming. The feature set below will be required customized programming completed by vender of choice.
  - 1. Map navigation will be a complete as-built of the installation to include all access control icons to coincide with actual install.
  - 2. Program integration with the VMS for pop up video on alarm. Reference the drawings for camera locations that are tied to select doors or events.

D. Programming each panel at the location. Program each panel on the District network, IP addresses and VLAN configuration will be provided by the District.

#### 2.11 AUXILIARY POWER SUPPLY

A. Manufacturer/Model: Provide Altronix power supplies model AL600ULACM, Life Safety Power or approved equivalent.

#### 2.12 DOOR SWITCHES (ACCESS SYSTEM DOOR CONTACTS)

- A. Provide door switches where indicated on floor plans with conduit run to a nearby, accessible, junction box located above ceiling.
- B. Door frame flush mount: Provide recessed magnetic contact door switch GRI Telemark Corp. model 180-12-G, closed loop, 12" leads, gray, 0.50" diameter, with wire leads as required or equivalent.

### 2.13 DOOR RELEASE HARDWARE

- A. Install all wiring and control devices necessary to enable limited access to the indicated points of entry. Each controlled access door shall be fitted with a door switch (above), control relay, and an electric latch or strike. Each controlled door shall be setup to allow entry as permitted by the building access system, to prevent unauthorized entry, and to allow free exit from the building without special knowledge or effort. Magnetic force holding or 'mag' locks are prohibited by this specification.
- B. NOTE: All electric door locks shall be configured for fail-safe un-delayed free egress operation and failsecure to prevent unauthorized entry on loss of power.
- C. Verify exact hardware requirements with Division 08 and Door Hardware Schedules including door and frame preparation details.
- D. Only when the door hardware does not include an integrated Request-to-Exit Switch, provide a request-to-exit sensor (see below).

### 2.14 REQUEST-TO-EXIT SWITCH OR SENSOR

- A. The system shall not be programmed to unlock a door automatically from a request to exit signal, as this presents a security breach. The request to exit signal shall be used only to indicate a normal exit status, as opposed to a forced entry. Exit shall be made with the normal door hardware and shall not be impeded or assisted by the electronic system. Exit shall not be affected if the power is off and the battery backup exhausted.
- B. When no request-to-exit switch is provided integrated into the door hardware (see above), provide at the exit side of each controlled door a request-to-exit passive infrared detector with x-y targeting and digital signal processing.
- C. Request-to-Exit Sensor Manufacturer / Model: Provide Bosch Security Systems DS160 Series High Performance Request-To-Exit Detector, no exceptions.

### 2.15 DOOR RELEASE PUSHBUTTON SYSTEM

- A. Provide as indicated on the drawings for each campus, undercounter pushbuttons and cable as follows. Protect the cable under the counters in flexible raceway, secured appropriately to prevent damage.
  - 1. Alarm Controls Corporation model TS-18 undercounter pushbutton for door lock remote control.
  - 2. Console cord shall be General Cable Carol Ultra Flex catalog number 89004, or equivalent, 4conductor, 18 AWG, UL Type SJEOOW 300 VAC Flexible Power Cable.
- B. If a building access control system controls these doors in a parallel manner, connect a pushbutton to an input on access control input module and program the software to, upon pressing the pushbutton momentarily, unlock the door for a set period of time. This operation shall allow the opening of the doors from the secure side without a valid card read. Program the operation to log as a reception visitor entry door release.

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- C. For stand-alone operation provide the following configured for a timed release of each door lock:
  - Timer Module: Provide two (2) Safety Technology International, Inc. model LT-1UL UL 294 listed latching 12-24 VAC/VDC digital timer configured so that a momentary contact closure begins the timing cycle (15, 30, 45 seconds and latches a set of Form "C" dry contacts. The timer is to provide an adjustable time period (delay) for the door to remain unlatched when released, to give people time to get through the door. Initially set the time delay to 15 seconds or the Owners preference.
  - 2. Buzzer: Provide two (2) Edwards Signaling model 15-0G1, 24VDC Miniature Lungen Buzzer with adjustable volume, chrome cover, and zinc-plated base. Mount each buzzer concealed above the ceiling, immediately above the visitors' side of the controlled door. The buzzer is to alert the waiting person to try the door, people may not hear the latch click, and then just stand there until the door re-latches, leading to a repeating cycle of button release/alert attempt/trying the door, the "BUZZ-IN" audible signal is to prevent this. The buzzer is to be wired parallel with the door release circuit, controlled by timer's door lock output (Form 'C' dry contacts) with 24 VDC power on the common contact, such that the buzzer sounds during the time that the door in unlatched.
  - 3. 24 VDC Dual 16-Amp Inrush, 0.5-Amp Continuous Output Power Supply/Battery Backup: Provide one (1) Altronix model Strikelt1 Panic Device Power Controller featuring two (2) individually controlled lock outputs (N/O trigger inputs). Shall feature a built-in charger and automatic switch over to stand-by battery when AC fails for emergency stand-by of at least a 1/2 hour and a wall mount enclosure for indoor use which accommodates two 12VDC/7Ah batteries. Dimensions 13.5" high x 13" wide x 3.25" deep. Product Weight: 9.5 lbs. without batteries. Also provide two 12VDC/7Ah 12 VDC sealed batteries, installed in parallel for 24 VDC operation. This unit shall provide operation power for the Visitor Entry Door Control Button Desktop Console. 115VAC 50Hz 6.3-amp input operating power is to be provided by the Electrical Contractor.

### 2.16 CABLING (PLENUM RATED)

- A. All exposed wiring shall be NEC type CMP, plenum cable.
- B. All exterior cabling shall be in rigid metallic conduit. All connectors must be fastened, tied, and crimped for maximum reliability.
- C. Avoid if at all possible, junctions or splicing all junctions in cable shall be made by proper splicing techniques in a junction box.
- D. All cabling is to be concealed where construction permits.
- E. This contractor shall provide and install new and unused ASTM bare stranded copper conductor wire per ANSI/NEMA codes. Follow the manufacturer's instructions. All wire shall the type recommended by the manufacturer for security system applications.
- F. All cable shall have a machine printed label located within 2" from every terminal block and within 6" from all other connections utilizing self-laminating flexible vinyl film labels.
- G. Wire gauge shall be selected per circuit based on cable length and current requirements.

Device	Conductors	Min. AWG	<b>Description</b>
RS-485 Serial Interface*	1-Pair Twisted	24	Overall Shield
Entry Intercom	4-Pair UTP	23	Category 6
Point Contact/Relay	1-Pair Twisted	22	Overall Shield
Two Point Contact/Relay	2-Pair Twisted	22	Overall Shield
Three Point Contact/Relay	3-Pair Twisted	22	Overall Shield
Four Point Contact/Relay	4-Pair Twisted	22	Overall Shield
Five Point Contact/Relay	5-Pair Twisted	22	Overall Shield
Six Point Contact/Relay	6-Pair Twisted	22	Overall Shield
Credential Reader (RS-485)	1-Pair Twisted	24	Overall Shield
Credential Reader (TTL)	6-Wire	18	Overall Shield
Composite	Multi-Conductor	22	Overall Shield
Low Voltage Power Combined	2-Pair Twisted	18	Unshielded
Low Voltage Power or Siren	1-Pair Twisted	18	Unshielded

LOW VOLTAGE CABLE TYPES

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Device	Conductors	Min. AWG	Description
Low Voltage Power	1-Pair Twisted	16	Unshielded
Low Voltage Power	1-Pair Twisted	14	Unshielded
Low Voltage Power	1-Pair Twisted	12	Unshielded

\* Belden 82841 or equivalent up to 4,000' per RS-485 serial circuit.

## 2.17 CABLE TIES (PLENUM RATED)

- A. HALAR Fluoropolymer plenum rated cable ties shall be furnished and installed to attach wire bundles to supports and for appropriate wire management as required.
  - 1. HALAR wire tie, 4.0", miniature Panduit PLT1M-C702 or equivalent.
  - 2. HALAR wire tie, 7.4", standard Panduit PLT2S-C702 or equivalent.
  - 3. HALAR wire tie, 11.6", standard Panduit PLT3S-C702 or equivalent.

#### 2.18 SURGE AND AMPERAGE PROTECTION

- A. Electrical surge protection shall be provided for all service entrance connections and on each copper pair that connects one building to another (i.e. any other portion of a building complex not under one continuous roof) at both exit points to prevent damage to equipment.
- B. Security system circuit surge protectors shall be mounted in a standard grounded metallic electric box. Shall be Ditek, 12345-A Starky Road, Largo, Florida 34643 model numbers as follow, multiple pair units are available, or equivalent:
  - 1. Part No. DTK-1LVLP-X
- 2-wire protector for 12 Volt circuits.
- 2. Part No. DTK-1LVLP-D
- 2 wire protector for 5 Volt circuits.
- 3. Part No. DTK-Z8LVLP-GP 8-pair protector for RS-485 circuits.

# 2.19 CABLE ROUTING, INSTALLATION, AND SUPPORT

- A. System wiring and equipment installation shall be in accordance with good engineering practices as established by the NFPA. Wiring shall meet all state and local electrical code requirements.
- B. Cable pathways, conduit, and cable support systems shall be complete with bushings, de-burred, cleaned, and secure prior to installation of cable.
- C. Before energizing the system check all cables for correct connections and test for short circuits, ground faults, continuity, and insulation.
- D. In all exposed areas such as gymnasiums, shops, field houses, janitors' closets, or mechanical / electrical rooms all access system cable shall be fully enclosed in conduit.
- E. Access system cables shall be run in conduit stubs from wall boxes to accessible areas above finished ceilings. Conduit shall be required only within walls and concealed spaces to provide access. Provide bushings to protect the cable from damage for conduit ends, box openings, and passage through metal studs.
- F. Access system cables shall be run in bundles above accessible ceilings and supported from building structure by j-hooks, conduit or cable tray. Cabling shall be loosely bundled with cable ties randomly spaced at 30 to 48 inches on center, cable ties shall not be tight enough to deform cabling and shall not be used to support the cabling.
- G. Do not attach any supports to joist bridging or other lightweight members. The support system shall provide a protective pathway to eliminate stress that could damage the cabling.
- H. Mount all equipment firmly in place such that vibration or jarring will not interfere with system operation. Route cable in a professional, neat, and orderly installation.
- I. The cable shall not be crushed, deformed, skinned, crimped, twisted, or formed into tight radius bends that could compromise the integrity of the cabling.

- J. Access system cable must not be fastened to electrical conduits, mechanical ductwork / piping, sprinkler pipes, or routed to obstruct access to hatches, doors, utility access panels, or service work areas. Do not route cables through fire doors, ventilation shafts, grates, or parallel for more than four-feet with line voltage electrical conductors. Access system cables shall not be run loose on ceiling grid or ceiling tiles.
- K. Support shall be provided by mounting appropriate fasteners that may be loaded with multiple cables. If the weight load is carried by the support rod or wire, the support assembly may attach to the ceiling grid for lateral stabilization. The required support wires for the ceiling grid or light fixtures shall not be utilized. Any fastener attached to the ceiling grid shall not interfere with inserting or removing ceiling tiles. The cable pathway of supports must be positioned at least 12 inches above the ceiling grid.
- L. All cable shall have a label on both ends utilizing self-laminating, flexible vinyl film, non-smear, machine printed labels.
- M. Each cable run shall include a three-foot service loop with wire tie located in the ceiling above the control unit panel. This is to allow for future re-termination or repair.
- N. Provide for adequate ventilation to all equipment housings and take precautions to prevent electromagnetic or electrostatic hum.
- O. All conduit, ducts, track, and raceways shall be supported from the structure at industry standard intervals for the size specified, utilizing proper anchoring devices. Cable fill may not exceed the manufacturers' instructions for each type of support.
- P. All conduit, duct, track, and raceway runs shall be spaced apart to allow for maintenance, such as the installation of couplings, without disturbing adjacent pathways.
- Q. Each cable run shall be free of splices. No terminations, splices, or equipment will be installed in or above ceilings.
- R. All cabling will be placed with regard to the environment, EMI/RFI interference, and its effect on communication signal transmission.
- S. Do not route any communication cable within two feet of any light fixture, HVAC unit, service access area, electric panel, or any device containing a motor or transformer.
- T. Access system cable will not be installed in the same conduit, duct, or track with line voltage electrical cable.
- U. Maximum cable pulling tension shall not exceed 25 pounds force (110 N) or the manufactures recommendation, whichever is less.
- V. Any pulling compounds utilized must be approved by the cable manufacturer and shall not degrade the strength or electrical characteristics of the cable.

#### 2.20 TERMINATION PRACTICES

- A. Strip back only as much cable jacket as required to terminate.
- B. Do not "loop" over wiring terminals, the cable could come loose and the condition not be detected as an open circuit or disconnected device.
- C. Preserve wire twists as closely as possible to point of termination (0.5" maximum) to keep signal impairment to a minimum.
- D. Avoid twisting cable jacket during installation.

## 2.21 BUSHINGS

- A. Provide a plastic snap in bushing at each box opening, passage through a metal stud, and at the end of all open conduit stubs or sleeves prior to cable installation to protect the cabling from damage:
  - 1. Box openings Thomas & Betts Knockout Bushing Series 3210, or equivalent.
  - 2. Metal stud passage Thomas & Betts Twist It Bushing Catalog Number SB1216-SC, or equivalent.
  - 3. Conduit ends Thomas & Betts Anti-Short Bushing Series 390 or Tite-Bite Combination Coupling Series 442, or equivalent.

### 2.22 CEILING MOUNTED DEVICE BOX HANGERS

- A. All ceiling mounted devices including: smoke detectors, heat detectors, remote power/status LEDs, ceiling mounted strobes and horn/strobes, et cetera, when mounted in a drop ceiling shall be supported by an electrical box hanger (Caddy #512 or #512A for deep boxes 24" span), or equivalent. Box hangers shall be attached to the ceiling grid only for lateral stabilization, separate support wires shall be provided. The required support wires for the ceiling grid or light fixtures shall not be utilized. The backbox shall be flush and level with the bottom of the ceiling tile and the hole neatly cut for a finished appearance when the device is installed.
- B. Device and box hanger assemblies shall not be supported solely by suspended ceilings. Fasteners and supports shall be adequate to support the required load.

#### 2.23 J-HOOKS

- A. Attachments for cabling support shall be spaced at approximately 48 to 60 inches on center. Each cable bundle shall be routed with enough slack to prevent damage to cables but not allowed to sag more than 12 inches mid-span between attachments. Attachments shall be sized as follows:
  Single cables or bundles up to four cables may be supported directly by the building structure.
  Bundles up to 1/2" dia. (Ten 1/4" cables)
  Bundles up to 3/4" dia. (Sixteen 1/4" cables)
  Bundles up to 1-5/16" dia. (Fifty 1/4" cables)
  Bundles up to 2" dia. (Eighty 1/4" cables)
  Bundles greater than 2" dia. or provide cable tray.
- B. Do not mix different signal strength cables on the same J-Hook (i.e. access system with telephone/data cable). Multiple J-Hooks can be placed on the same attachment point, up to the rated weight load of the attachment device.

## 2.24 COMMUNICATIONS CIRCUIT SURGE PROTECTION

- A. Provide surge protection shall be provided for all exterior devices, communications service or antenna entrance connections, and for each circuit that connects one building to another (i.e. any other portion of a building complex not under one continuous roof) at both entry/exit points to prevent damage to equipment.
- B. Each surge protector shall be mounted in a standard grounded metallic electric box or equipment backboard with a separate ground wire ran directly to the ground bus bar or equipment panel ground stud, do not daisy chain ground wires.
- C. Surge protectors for low voltage communications signal and control circuits with a data rate from 200kbps to 2Mbps, nominal voltage as listed below AC or DC. Each module shall protect up to two pairs using hybrid design multi-stage SAD technology, shall be Ditek 2MHLP series field replaceable modules with MB Series mounting bases for one to five modules, or equivalent, model numbers as follows: 70 to 75 Volt circuit, 4 wire protector with base DTK-2MHLP75BWB.
  48 to 50 Volt circuit, 4 wire protector with base DTK-2MHLP48BWB.
  36 Volt circuit, 4 wire protector with base DTK-2MHLP36BWB.
  24 Volt circuit, 4 wire protector with base DTK-2MHLP24BWB.
  12 Volt circuit, 4 wire protector with base DTK-2MHLP12BWB.
  0 to 6 Volt circuits, 4 wire protector with base DTK-2MHLP35BWB.

- D. Surge protectors for low voltage communications high data rate voice, data and signaling data and loop circuits, or serial communication, nominal voltage as listed below AC or DC. Each module shall provide Line-Ground (All) protection modes, maximum surge current: 2,000 Amps per pair (6V-50V) or 9,000 Amps per pair (75V-130V), and maximum continuous current: 5 Amps to 0.15 Amps, shall be Ditek LVLP series or equivalent, model numbers as follows:
  115 to 130-Volt circuit, 2-pair protector, 10-12 AWG, DTK-2LVLAWGRUV.
  95-Volt circuit, 2-pair protector, 10-12 AWG, DTK-2LVLAWGSGR.
  75-Volt circuit, 2-pair protector, 10-12 AWG, DTK-2LVLAWGSPK.
  48 to 50-Volt circuit, 2-pair protector, 16-22 AWG, DTK-2LVLPOPX.
  24 to 30-Volt circuit, 2-pair protector, 16-22 AWG, DTK-2LVLPLV.
  12 to 14-Volt circuit, 2-pair protector, 16-22 AWG, DTK-2LVLPLV.
  0 to 6-Volt circuit, 2-pair protector, 16-22 AWG, DTK-2LVLPD.
  0 to 6-Volt circuit, 8-pair protector, 16-22 AWG, DTK-2LVLPD.
- E. Surge protectors for access control devices, types and nominal voltage as listed below. Each module shall provide Line-Ground (All) protection modes, maximum surge current: 2,000 Amps per pair power and 500 Amps per pair data, and maximum continuous current of 3 Amps, shall be Ditek model numbers as follows or equivalent:
  - 1. Wiegand credential reader surge protection 3-pair, 12 to 14-Volt terminal strip, Ditek DTK-3LVLPX.
  - 2. Credential reader surge protection, 4-pair reader and 1-pair each: 12-Volt power, 24-Volt power, 5-Volt data, and 1-Volt signal, Ditek DTK-4LVLPCR.
  - 3. Entry intercom system with data circuit surge protection 1-pair 12/24-Volt power supply, 2-pair 130-Volt voice line, and 1-pair 0 to 6-Volt data circuit, Ditek DTK-4LVTEP.
  - 4. Entry intercom system with door release surge protection 1-pair 12/24-Volt power supply, 2-pair 130-Volt voice line, and 1-pair 24-Volt release solenoid circuit, Ditek DTK-4LVXR.
- F. Surge protectors for Ethernet network runs rated up to Category 6A and operating at up to 10-Gigabit data rates. Each module shall protect up all four pairs using hybrid design multi-stage SAD technology which shall automatically reset to protect against multiple surges, Ethernet surge protectors shall be Ditek DTK-CAT6A series as follows:
  - 1. DTK-110RJC6APOE with 110 to RJ-45 connections with PoE.
  - 2. DTK-110C6APOE with 110 to 110 connections with PoE.
  - 3. DTK-110RJC6A with 110 to RJ-45 connections without PoE.
  - 4. DTK-110C6A with 110 to 110 connections without PoE.
- G. Surge protectors for analog copper pair PSTN telephone service POTS/Trunk/C.O. line alarm Digital Communicator service lines shall be Ditek DTK-2MHTPWB, or equivalent, 2-pair/lines, maximum ringup voltage 110V, includes base. In addition, At Telco service connection demarcation point locations servicing an alarm Digital Communicator, provide per line a Suttle Solutions Part # 635B-48, or equivalent, RJ31X surface mount jack with 8-conductor screw terminal board input and factory wired DATA and VOICE labeled, non-keyed RJ-45 output ports, with line seizure port shorting bar (1&4, 5&8) for alarm reporting device service.
- H. Surge protectors for coaxial cable shall be suitable for analog and digital signals up to 2 Ghz, and shall feature 75 Ω nominal impedance, Center Pin Shield, Shield Ground protection modes, 20,000A surge current rating, a service voltage of 50VDC, and a clamping Voltage of 75VDC. Note: Insertion loss per surge protection module is 0.5dB, include signal attenuation from these devices in signal strength calculations. Surge protectors shall be Ditek VSP series, or equivalent, as follows:
  - 1. Type 'F' connectors Ditek DTK-VSPA or Ditek DTK-VSPA2 (dual).
  - 2. BNC connectors Ditek DTK-VSPBNCA or DTK-VSPBNCA2 (dual).
  - 3. BNC connectors and 24-volt power connections Ditek DTK-PVP27B.
  - 4. PTZ camera surge protection; BNC video, power and data Ditek DTK-DP4P.
  - 5. HD-SDI video Ditek DTK-iBNCHD.
  - 6. Type 'N' antenna connector Ditek DTK-VSPN.
- 2.25 FIRE STOPPING, DRAFT/NOISE STOPPING, PENETRATIONS, AND CORING
  - A. UL Listed fire stopping methods that match the fire rating of the wall or floor being penetrated are to be used at all fire barrier penetrations. Seal the interior of the conduit sleeve around the cables and around the outside of the sleeve on each side of the penetration with fire-stop caulk or putty, install according to the manufacturers' instructions.

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- B. All penetrations through fire rated walls or floors shall feature a suitable length of metal conduit. Hole diameter shall not exceed ½" larger than the conduit or sleeve to be installed. The hole shall be neatly cut, not oversize or irregular. Do not share wall/floor penetrations with ductwork, piping, line voltage electrical conduits, etc.
- C. All gypsum board or plaster penetrations shall tool cut using an appropriate hole saw / mandrel or manufactured assembly.
- D. Draft/Noise Stopping All penetrations through non-rated walls shall include draft/noise stopping to minimize the transfer of air and sound between enclosed areas. This shall include but not limited to:
  - 1. Neatly cutting all non-rated wall penetrations with a 1" maximum clearance. All gypsum board or plaster penetrations shall be tool cut using an appropriate hole saw / mandrel or manufactured assembly. The hole shall be neatly cut and not oversize or irregular. Do not share wall penetrations with other types of ductwork, piping, line voltage electrical conduits, communications cabling, etc.
  - 2. Provide and install non-combustible mineral wool, fiberglass, cellulose insulation, caulk, and/or sealant as required. Seal the interior of conduit sleeves around the cables and around the outside of the sleeve on each side of the penetration with caulk or putty, install materials according to the manufacturers' instructions.
- E. The Contractor shall make every effort to coordinate with the building Architect, Engineer, Builder, and Electrical Contractor to have sleeves placed in new construction so that later coring or drilling of building structural members will not be required. The Contractor must consult with the building Architect, Engineer, and Builder prior to drilling, coring, or sawing of any wall, floor, etc. All penetrations shall be made at approved, appropriate, locations.
- F. Upon approval, the Contractor shall be required to supply all labor, equipment, tools, and materials to create any additional penetrations, and shall provide the sleeve, temporary and final fire stopping. Special care shall be taken not to stress, overheat, or penetrate any building support member. Coring shall be made with equipment appropriate for the dry penetration of concrete and block materials. Under no circumstances shall penetrations be made utilizing a chisel or percussion type equipment. Concrete, block, or plaster cores shall be made by dry saw methods only.

# PART 3 - EXECUTION

#### 3.1 SEQUENCE OF OPERATION

- A. Scheduled automatic door unlocking/locking of specific entry doors shall be programmed to require verification before being enacted. A credential card from a select group at the local facility (including the manager/assistant manager, etc. as requested) must be presented at the facility within a two-hour period prior to the scheduled unlocking event. This is to prevent the entrance doors from be unlocked when no one is present to supervise and unlocked building, such as due to an unavoidable delay or other unscheduled occurrence. If a scheduled unlocking event is delayed, and a credential card from the select group is presented within two hours after the unlocking event was scheduled, the unlocking shall be enacted immediately.
- B. This access control system shall provide for controlled access through entry doors and into restricted areas when a valid credential card is presented to the credential card reader located adjacent to the door, only if the users group access rights and time schedules allow for access. This system shall monitor for unauthorized entry attempts, control access to the building, and log entry information. The system shall in no way impede free emergency exit from the building. Exit from the building shall not require special effort or knowledge. Controlled door locks shall fail secure from outside entry on loss of power and backup power.
- C. Door Forced and/or Door Held Open alarms shall have the capacity to be locally annunciated via Auxiliary Output relays on the individual controllers. This annunciation shall be controlled as follows. A direct one-to-one relationship shall be able to be programmed between the Door Forced and/or Door Held Open alarm and the auxiliary output. When either condition exists, the auxiliary output is energized. When either condition is cleared, the auxiliary output is de-energized.

- D. Controlled doors using a retractable latch strike shall, on a valid credential card read, activate the output to retract the door latch and immediately allow the exit door to be entered by standard pull lever operation; the door may then be opened without retracting the latch bolt. When the door closes, the latch bolt shall ride over the strike lip. The installation shall include dual switch monitoring, the strike shall have two SPDT contacts; one switch shall monitor the tripper, which is depressed when the latch bolt is inserted into the strike pocket. The second switch shall monitor the condition of the strike lip, indicating open or closed and locked conditions.
- E. Controlled doors with frame or mullion retractable strike, on a valid credential card read, activate the output to retract the door strike and immediately allow the exit door to be entered by standard pull lever operation; the door may then be opened without retracting the latch bolt. When the door closes the beveled latch bolt shall ride over the lip and fall into the electric strike pocket. The installation shall include dual switch monitoring, the strike shall have two SPDT contacts; one switch shall monitor the tripper, which is depressed when the latch bolt is inserted into the strike pocket. The second switch shall monitor the condition of the strike lip, indicating open or closed and locked conditions.
- F. Controlled doors with a crash bar shall include electric latch retraction and a request-to-exit switch, the access control system shall, on a valid credential card read, activate the output to retract the latch bolt and immediately allow the door to be entered by standard pull handle operation.
- G. Where required, the system shall interface with electric door openers utilized for ADA access. This interface shall interconnect to door control interface to mechanically open the door when a valid credential card is read and the exterior door button is pressed. The exterior button shall also open the door when the door is scheduled to be unlocked without a credential card read. The interior door open button shall always be functional, allowing full egress, regardless of the status of the access control system; the interior button shall also be interfaced to the request to exit function.
- H. The request-to-exit switch or sensor shall provide a means for the system to monitor the status of the controlled door and detect a forced entry condition. The request-to-exit signal shall be used only to indicate a normal exit status, as opposed to a forced entry. Exit shall be made with the normal door hardware and shall not be impeded or assisted by the electronic system. Exit shall not be affected if the power is off and the battery backup exhausted.
- I. The access system door contact switch shall provide a means for the system to monitor the open/closed status of the controlled door and detect if the door is held open or left ajar after a valid credential card read.

# 3.2 TESTING, WARRANTY SERVICE

- A. A factory trained representative of the manufacturer shall supervise the final connections and testing of the system and it shall be subject to the final acceptance of the Architect/Engineer and Owner.
- B. This contractor will thoroughly test all components of the systems and devices proposed herein to assure equipment specifications are met. This contractor will start up, test, and debug systems to ensure that all aspects of the system are working, documented, and reporting properly.
- C. This Contractor shall make a thorough inspection and test of the complete installed security system including all components and controls to ensure the following:
  - 1. Complete and functional system.
  - 2. Installed in accordance with manufacturer's instructions.
  - 3. Verify proper operation and processing of signals.
- D. The installation will be verified through use of testing procedures designed to test all specific functions and requirements of your system under various operating conditions.
- E. This Contractor shall provide a warranty of the installed system against defects in material or workmanship for a period of three (3) years from the date of substantial completion. Any equipment or wiring shown to be defective shall be replaced, repaired, or adjusted free of charge. All labor and materials shall be provided at no expense to the Owner. All equipment will carry a three-year warranty or manufacturer's warranty whichever is greater."

### 3.3 DRAWINGS, MANUALS, AND TRAINING

- Α. Upon completion of the installation, and prior to final inspection, the Building Access Control Contractor shall furnish four (4) hard copies and one (1) electronic CAD and PDF copy on CD-R of as-built drawings. In addition, the Building Access Control contractor shall furnish four (4) hard copies and one (1) electronic PDF copy on CD-R of a complete operating and maintenance manuals listing the manufacturer's name(s), including technical data sheets. Manuals shall include wiring diagrams to indicate internal wiring for each device and the interconnections between the items of equipment. Provide the Owner a copy of the panel control software including the licensed program, site specific data file, and passwords that the Owner may require to maintain the system. Provide a clear and concise description of operation that gives, in detail, the information required to properly operate the equipment and system. Provide a parts list with manufacturer and model number for commonly replaced parts. Include complete instructions for the inspection, testing, and maintenance of the system. Include copies of all programming sheets used to configure the system. As-built drawings and operating and maintenance manuals may be electronically transmitted in PDF file format (preferred) or paper copies may be provided in quantities indicated in Division 1. Paper copies shall be organized including index tabs in a 3-ring black binder of sufficient size.
- B. Provide the Owner a copy of the panel control software including the licensed program, site specific data file, and passwords that the Owner may require to maintain the system.
- C. Formal on-site training sessions shall be conducted by this Contractor. It shall be the responsibility of this Contractor to coordinate time and location of training sessions with the Owner.

# END OF SECTION