

DRAFT AIA® Document A105® – 2017

Standard Short Form of Agreement Between Owner and Contractor

AGREEMENT made as of the « » day of « » in the year «Two Thousand Twenty »
(In words, indicate day, month and year.)

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

«Livonia Public Schools»
«15125 Farmington Road
Livonia, Michigan 48154 »

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

« »
« »
« »
« »

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

«Livonia Public Schools»
«Sinking Fund – 2026 Paving Program at the following: »
« »

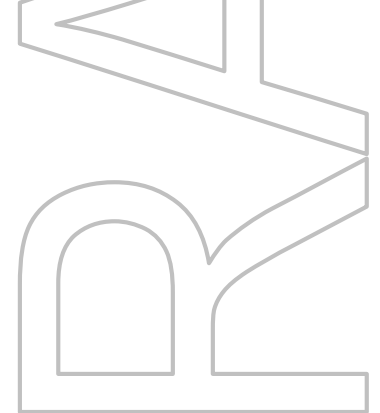
The Architect:
(Name, legal status, address and other information)

«Spalding, DeDecker & Associates, Inc. »« »
«905 South Blvd East »
«Rochester Hills, Michigan 48307
(248) 844-5400 »

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.

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



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ARTICLE 1 THE CONTRACT DOCUMENTS

~~The Contractor shall complete the Work described in the Contract Documents for the Project. The Contract Documents consist of~~§1.1 The Contractor shall faithfully and competently complete the Work described in this Agreement, including all Exhibits or documents incorporated herein by reference (hereinafter collectively referred to as the "Agreement" or "Contract"), including the Conditions of the Contract (General, Supplementary and other Conditions), the Request for Proposals dated _____ including any Addenda, as well as the Advertisement or Invitation to Bid, Instructions to Bidders, Drawings and Specifications and the Contract Documents for the Project, or as reasonably inferable as necessary or incidental, to produce the results intended by the Contract Documents (collectively "the RFP"), which RFP is incorporated herein by reference, as well as in the Contractor's Proposal in response to the RFP dated _____, including the Post-Bid interview documents dated _____ (collectively the "Proposal"), which Proposal is incorporated herein by reference (except to the extent any exceptions contained in the Contractor's Proposal are not expressly accepted by the Owner in writing or incorporated into this Agreement). In the event of any inconsistency or ambiguity between this Agreement and the Contractor's Proposal, the terms that are more favorable to the Owner shall govern. The Contract Documents consist of:

- ~~.1~~ .1 this Agreement signed by the Owner and Contractor;
- ~~.2~~ .2 all the Drawings and Specifications prepared by the Architect for construction for the Project, are attached hereto by this reference, and including (but not necessarily limited to) the following:



.3 ~~addenda~~ addenda, if any, prepared by the Architect as follows:

Number	Date	Pages

.4 written orders for changes in the Work, pursuant to Article 10, issued after execution of this Agreement; and

.5 ~~other documents, if any, identified as follows:~~ 5 other Contract Documents, if any, identified as follows:

Exhibit A – Schedule of Values, to be provided prior to the first Payment Application for the Owner’s review and approval

Exhibit B – Contractor’s Unit Prices and Hourly Rates

Exhibit C – Not Used

Exhibit D - List of Subcontractors and Suppliers, to be provided at a later date for Owner’s review and approval

Exhibit E – Not Used

Exhibit F – Contractor’s Certificate of Insurance and Bonds; contractor may not commence the Work on the Project until after insurance certificates and bonds, if applicable, are delivered to the Owner »

§1.2 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. Work called for on the Drawings and not mentioned in the Specifications, or vice versa, shall be performed as though fully set forth in both. Nothing in this Section 1.2, however, shall relieve the Contractor of any of its obligations under the Contract Documents. Other conflicts between or among the Contract Documents shall be resolved under the following rules of construction:

- .1 the specific shall govern over the general;
- .2 specified dimensions shown on the Drawings shall govern, even though they may differ from dimensions scaled on the Drawings, if any;
- .3 Drawings of larger scale shall govern over those of smaller scale; any special Drawing details shall govern over standard detail;
- .4 Specifications shall govern over Drawings in matters of material or equipment specified; Drawings shall govern over Specifications in matters of construction or installation detail;
- .5 documents of later date shall always govern; except that the Agreement shall govern over all other documents, regardless of their dates; and
- .6 in the event of any inconsistency or ambiguity between this Agreement and the Contract Documents, the terms that requires a higher standard of performance by the Contractor shall prevail.

§1.3 Work not particularly detailed, marked or specified shall be the same as similar parts that are detailed, marked or specified. On certain Contract Documents, only a portion of the detail may be fully shown and the remainder indicated in outline, in which case the general detail shall be understood as also applying to other like portions of the Work.

§1.4 The organization of the Specifications into divisions, sections, and/or articles, and the arrangement of the Drawings, shall not dictate to the Contractor in any way how the Work is to be divided among Subcontractors, or establish the extent of Work to be performed by any trade. Similarly, the organization of the Contractor’s duties into different phases or categories in the Agreement is for convenience only and shall not limit the generality of the Contractor’s obligation to provide all of the services whenever necessary.

§1.5 All references in the Contract Documents to standards (such as commercial standards, federal specifications, trade association standards or similar standards), whether for materials, processes, assemblies, workmanship, performance or any other purpose, shall mean, unless otherwise noted, the most recent available published version of such standard as of the date of that part of the Contract Documents bearing the reference. All standards referred to, except as modified in the Contract Documents, shall have the same force and effect as though printed therein. These standards will not be furnished to the Contractor, as the Contractor and all members of the construction team are required to be familiar with their requirements.

§1.6 Whenever a provision of the Contract Documents conflicts with agreements or regulations in force among members of trade associations, unions or councils, which regulate or distinguish the portions of the Work which shall or shall not be performed by a particular trade, the Contractor shall make necessary arrangements to reconcile the conflict without delay, damage, cost or recourse to the Owner. Delays in the Work resulting from the failure of the Contractor to use its best efforts to reconcile any such conflicts shall not result in an extension of the Project Schedule and shall not result in the increase of the Contract Sum.

§1.7 The Contractor acknowledges that there may be items of the Work, which the Contractor is responsible to provide under the Agreement that are not drawn or specified in the Design but are necessary for the proper execution and completion of the Work and are consistent with and reasonably inferable from the Drawings and Specifications. All such items shall be provided as part of the Work without delay in its progress and without any increase in the Contract Sum.

ARTICLE 2 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 2.1 The Contract Time is the number of calendar days available to the Contractor to substantially complete the Work.

§ 2.2 Date of Commencement:

Unless otherwise set forth below, the date of the commencement of the Work shall be the date of this Agreement.
(Insert the date of commencement if other than the date of this Agreement.)

«Date of Commencement of the Work is _____, Notwithstanding the foregoing, the Contractor may not commence the Work on the Project until after insurance certificates and bonds, if applicable, are delivered to the Owner.»

§ 2.3 Substantial Completion:

Subject to adjustments of the Contract Time as provided in the Contract Documents, the Contractor shall achieve Substantial Completion, as defined in Section 12.5, of the entire Work:
(Check the appropriate box and complete the necessary information.)

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

By the following date: «100% Completion for the Project described in this Agreement is to be no later than _____.»

§ 2.4 Liquidated Damages:

§ 2.4.1 NOT USED

§ 2.4.2 NOT USED

§ 2.4.3 NOT USED

§ 2.4.4 NOT USED

ARTICLE 3 CONTRACT SUM

§ 3.1 The Contract Sum shall include all items and services necessary for the proper execution and completion of the Work. Subject to additions and deductions in accordance with Article 10, the Contract Sum is:

«The total Lump Sum amount is _____ and No/100 Dollars (\$ _____). The total Lump Sum amount includes all Work and costs associated with such Work per this Agreement and as detailed in the RFP, and is broken down as follows:

(\$—) Bid Work at _____ School for the Lump Sum of _____ Dollars (\$ _____).

Bid Work at	School for the Lump Sum of	Dollars (\$)
Bid Work at	School for the Lump Sum of	Dollars (\$)
Bid Work at	School for the Lump Sum of	Dollars (\$)

§ 3.2 For purposes of payment, the Contract Sum includes the Schedule of Values provided in **Exhibit A** related to portions of the Work.

§ 3.3 The Contract Sum is based upon the following alternates, if any, which are described in the Contract Documents and hereby accepted by the Owner.

§ 3.3.1 The following alternates are included in the Contract Sum:

Item	Price

§ 3.3.2 The Contract Sum does not include the following alternates, which are described in the Contract Documents and may be accepted by the Owner in writing; provided, however, that the Contractor shall furnish the Owner with not less than fourteen (14) days' prior written notice of the date upon which any of the alternates set forth below in this Section 3.3.2 must be accepted by the Owner in order for the Contractor to perform the Work covered by such alternates for the price set forth below in this Section 3.3.2 and without any adjustment to a milestone date or in the Contract Time.

Item	Price

§ 3.2 For purposes of payment, the Contract Sum includes the following values related to portions of the Work: *(Itemize the Contract Sum among the major portions of the Work.)*

Portion of the Work	Value

§ 3.3 The Contract Sum is based upon the following alternates, if any, which are described in the Contract Documents and hereby accepted by the Owner: *(Identify the accepted alternates. If the bidding or proposal documents permit the Owner to accept other alternates subsequent to the execution of this Agreement, attach a schedule of such other alternates showing the amount for each and the date when that amount expires.)*

§ 3.4 Allowances, if any, included in the Contract Sum are as follows: *(Identify each allowance.)*

Item	Price

§ 3.4.1 Use of any Allowance shall be at the sole direction and written approval of the Owner. Costs allocated against an Allowance shall exclude overhead and profit; any overage on an Allowance, shall be calculated by adding the Contractor's Actual Cost for labor and material plus the Contractor's overhead and profit as defined in Section 10.1.

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

set forth in the "Unit Prices and Hourly Rates" attached hereto and made part of this Agreement as **Exhibit B**. Such Unit prices are considered complete and include: (i) all materials, equipment, labor, delivery, installation, overhead, and profit; and (ii) any and all other costs or expenses in connection with, or incidental to, the performance of that portion of the Work to which such unit prices apply.

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

ARTICLE 4 PAYMENTS

§ 4.1 Based on Contractor’s Applications for Payment certified by the Architect, the Owner shall pay the Contractor, in accordance with Article 12, as follows:

(Insert below timing for payments and provisions for withholding retainage, if any.)

§ 4.1.1 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month.

§ 4.1.2 Provided that a complete Application for Payment is received by the Architect not later than the «last» day of a month, the Owner shall make payment of undisputed portions of the certified amount to the Contractor not later than the «last» day of the «following» month. If an Application for Payment is received by the Architect after the application date fixed above, payment shall be made by the Owner not later than «forty-five» (45) days after the Architect certifies the Application for Payment.

§ 4.1.2.1 NOT USED

§ 4.1.3 Retainage. Subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

- .1 Take that portion of the Contract Sum properly allocable to completed 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, less retainage of «ten» percent («10»%). Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute shall be included;
- .2 Add that portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction (or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing), less retainage of «ten» percent («10»%);
- .3 Subtract the aggregate of previous payments made by the Owner; and
- .4 Subtract amounts, if any, for which the Architect has withheld or nullified a Certificate for Payment.

§ 4.1.4 The progress payment amount determined in accordance with Section 4.1.3 shall be further modified under the following circumstances:

- .1 Add, upon Substantial Completion of the Work, a sum sufficient to increase the total payments to the full amount of the Contract Sum, less such amounts as the Architect shall determine for incomplete Work, retainage applicable to such work and unsettled claims; and
- .2 Add, if final completion of the Work is thereafter materially delayed through no fault of the Contractor, any additional amounts payable.

§ 4.2 Payments due and unpaid under the Contract Documents shall bear interest from the date payment is due at the rate below, or in the absence thereof, at the legal rate prevailing at the place of the Project.

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

~~—~~ % Zero percent (0%)

ARTICLE 5 INSURANCE AND BONDS

§ 5.1 The Contractor shall maintain the following types and limits of insurance until the expiration of the period for correction of Work as set forth in Section 14.2, subject to the terms and conditions set forth in this Section 5.1:

§ 5.1.1 Commercial General Liability insurance for the Project, written on an occurrence form, with policy limits of not less than ~~(\$ —) each occurrence, (\$ —) general aggregate, and (\$ —) aggregate for products-completed operations hazard.~~ the minimum coverages indicated in Section 5.1.7 below.

§ 5.1.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Contractor, with policy limits of not less than (\$) per accident, for bodily injury, death of any person, and property damage arising out of the ownership, maintenance, and use of those motor vehicles the minimum coverages indicated in Section 5.1.7 below along with any other statutorily required automobile coverage.

§ 5.1.3 The Contractor may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided that such primary and excess or umbrella insurance policies result in the same or greater coverage as those required under Section 5.1.1 and 5.1.2, 5.1.7, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require exhaustion of the underlying limits only through the actual payment by the underlying insurers.

§ 5.1.4 Workers' Compensation at statutory limits.

§ 5.1.5 Employers' Liability with policy limits not less than (\$) each accident, (\$) each employee, and (\$) policy limit.the minimum coverages indicated in Section 5.1.7 below.

§ 5.1.6 ~~The Contractor shall provide builder's risk insurance to cover the total value of the entire Project on a replacement cost basis. Owner shall purchase and maintain a property insurance written on a builder's risk "all-risk" or equivalent form in the amount and with deductibles determined by the Owner. Except as otherwise provided in the Contract Documents, if the property insurance requires deductibles, the Contractor shall be responsible to pay costs, resulting from the acts or omission of the Contractor and its subcontractors, not covered because of such deductibles.~~

§ 5.1.7 Other Insurance Provided by the Contractor

(List below any other insurance coverage to be provided by the Contractor and any applicable limits.)

Coverage	Limits
<u>Workers' Compensation</u>	<u>Statutory</u>
<u>Employer's Liability:</u>	
<u>Bodily Injury by Accident:</u>	<u>\$1,000,000.</u>
<u>Bodily Injury by Disease, Policy Limit</u>	<u>\$1,000,000.</u>
<u>Bodily Injury by Disease, Each Employee</u>	<u>\$1,000,000.</u>
<u>General Liability:</u>	
<u>Each Occurrence (Bodily Injury and Property Damage)</u>	<u>\$1,000,000.</u>
<u>Personal & Advertising Injury</u>	<u>\$1,000,000.</u>
<u>Medical Payments Coverage</u>	<u>\$5,000.</u>
<u>Fire Damage Liability</u>	<u>\$100,000.</u>
<u>General Aggregate</u>	<u>\$2,000,000.</u>
<u>Products & Completed Operations Aggregate</u>	<u>\$2,000,000.</u>
<u>Excess Umbrella Liability:</u>	
<u>Each Occurrence</u>	<u>\$1,000,000.</u>
<u>General Aggregate</u>	<u>\$1,000,000.</u>
<u>Automobile Liability:</u>	
a. <u>Bodily Injury - Each Person</u>	<u>\$1,000,000.</u>
<u>Each Accident</u>	<u>\$1,000,000.</u>
b. <u>Property Damage – Each Accident</u>	<u>\$1,000,000.</u>
<u>or</u>	
c. <u>Combined Single Limit – Each Accident</u>	<u>\$2,000,000.</u>
<u>(Bodily Injury and Property Damage)</u>	

§ 5.1.7.1 If the Contractor is required to furnish professional services as part of the Work, the Contractor shall procure Professional Liability insurance covering performance of the professional services, with policy limits of not less than Two Million Dollars (\$ 2,000,000.00) per wrongful act and Two Million Dollars (\$ 2,000,000.00) in the aggregate.

§ 5.1.7.2 If the Work involves the transport, dissemination, use, or release of pollutants, the Contractor shall procure Pollution Liability insurance, with policy limits of not less than One Million Dollars (\$ 1,000,000.00) per event and Two Million Dollars (\$ 2,000,000.00) policy aggregate.

§ 5.1.8 Contractor shall name Owner, Architect, Plante Moran Realpoint, LLC and their respective directors, officers, and employees as additional insureds on General Liability, Umbrella / Excess Liability, and Automobile Liability policies.

§ 5.1.8.1 Contractor shall require all Subcontractors and/or their agents to name Owner, Architect, Plante Moran Realpoint, LLC and their respective directors, officers, and employees as additional insureds on General Liability, Umbrella / Excess Liability, and Automobile Liability policies.

§ 5.1.9 Insurance coverage and surety bond required under this Agreement shall be written with insurance and surety carriers authorized to do business in the State of Michigan. Insurance coverage and surety bonds shall be in a form and provided by an insurer acceptable to the Owner with an A.M. Best rating of A, XII or better.

§ 5.1.10 The Contractor shall furnish payment and performance bonds covering faithful performance of the Contract and payment of obligations arising thereunder. Bonds may be obtained through the Contractor's usual source, and the cost thereof shall be included in the Cost of the Work. The amount of each bond shall be equal to one hundred percent (100%) of the Contract Sum. The Contractor shall deliver the required bonds to the Owner at least three (3) days before the commencement of any Work at the Project site. The Contractor shall only subcontract with Subcontractors that are trustworthy, financially able, and have a track record in successfully completing trade works of similar size and complexity.

§ 5.1.11 Except for any applicable Professional Liability Insurance coverages, Insurance coverages, shall be written on an occurrence basis, and shall be maintained without interruption from the date of commencement of the Work until the date of final payment and termination of any coverage required to be maintained after final payment, and, with respect to the Contractor's completed operations coverage, until the expiration of the period for correction of Work or for such other period for maintenance of completed operations coverage as specified in the Contract Documents. If Professional Liability Insurance coverage is required under this Agreement, Contractor shall maintain its Professional Liability Coverage without interruption for a period of not less than the Statute of Limitation and Statute of Repose periods in the state where the Project is located after the Project's relevant Date of Substantial Completion or the last day service is rendered by the Contractor on the Project, whichever shall be the later. The Contractor shall notify the Owner any disruption in coverage occurs and shall provide "tail coverage" at no cost to the Owner.

§ 5.2 The Owner shall be responsible for purchasing and maintaining the Owner's usual liability insurance and shall provide property insurance to cover the value of the Owner's property. The Contractor is entitled to receive an increase in the Contract Sum equal to the insurance proceeds related to a loss for damage to the Work covered by the Owner's property insurance; however, the Contractor shall be responsible to pay costs resulting from the acts or omission of the Contractor and its subcontractors not covered because of any deductibles.

§ 5.3 The Contractor shall obtain an endorsement to its Commercial General Liability insurance policy to provide coverage for the Contractor's obligations under Section 8.12.

§ 5.4 Prior to commencement of the Work, ~~each party~~ the Contractor shall provide certificates of insurance showing ~~their respective coverages~~ its coverages. The Owner may require additional proof of coverage in the form of a true and accurate copy of the policies of insurance, themselves. The maintenance of the insurance in strict compliance with the requirements of this Agreement shall be condition precedent to Owner's obligation to make any payment under this Agreement.

§ 5.5 Unless specifically precluded by the Owner's property insurance policy, the Owner and Contractor waive all rights against (1) each other and any of their subcontractors, suppliers, agents, and employees, each of the other; and (2) the Architect, Architect's consultants, and any of their agents and employees, for damages caused by fire or other

~~causes of loss to the extent those losses are covered by property insurance or other insurance applicable to the Project, except such rights as they have to the proceeds of such insurance.~~**NOT USED**

~~**§ 5.6** The Contractor and each member of the construction team shall be solely responsible for insuring against any loss or damage to all owned, borrowed or rented property, including but not limited to tools, materials, supplies, equipment, forms, scaffolding, towers, staging, bunkhouses and other temporary structures including their contents, which do not form a permanent part of the Project. The Owner shall in no event be liable for any loss or damage to any of the aforementioned items, or the Work connected with the Contractor, or employees, agents or servants of same, which is not to be included in and remain a permanent part of the Project.~~

ARTICLE 6 GENERAL PROVISIONS

§ 6.1 The Contract

The Contract represents the entire and integrated agreement between the parties and supersedes prior negotiations, representations or agreements, either written or oral. The Contract may be amended or modified only by a written modification in accordance with Article 10.

§ 6.2 The Work

~~The term "Work" means the construction and services required by the Contract Documents, and includes all other labor, materials, equipment, and services provided, or to be provided, by the Contractor to fulfill the Contractor's obligations, consists of all goods and services, such as labor, transportation, materials, tools, and equipment (i) to be incorporated into the Project (or the Contractor's portion of the Project if the Contractor is not responsible for the entire Project), (ii) required of the Contractor under the Contract Documents, or (iii) necessary or appropriate to fully construct, fixture, operate and maintain the Project (or the Contractor's portion of the Project if the Contractor is not responsible for the entire Project). The Work shall be performed in accordance with the Contract Documents. The Work may constitute the whole or a part of the Project. The term "Work" also shall include labor, materials, equipment and services provided or to be provided by Subcontractors, Sub-Subcontractors, material suppliers or any other entity for whom the Contractor is responsible under or pursuant to the Contract Documents.~~

§ 6.3 Intent

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.

~~**§ 6.4 Ownership and Use of Architect's Drawings, Specifications and Other Documents**~~**Consent, Approve, Satisfactory, Proper, and As Directed**

~~Documents prepared by the Architect are instruments of the Architect's service for use solely with respect to this Project. The Architect shall retain all common law, statutory, and other reserved rights, including the copyright. The Contractor, subcontractors, sub-subcontractors, and suppliers are authorized to use and reproduce the instruments of service solely and exclusively for execution of the Work. The instruments of service may not be used for other Projects or for additions to this Project outside the scope of the Work without the specific written consent of the Architect. The words "consent," "approved," "satisfactory," "proper," "as directed," any derivatives of them, or similar terms, mean written approval by the Owner, and may include approval of the Architect if the Owner so directs. Except where a different standard is specifically established, the Owner has the right to grant or withhold such approval in its sole discretion.~~

~~**§ 6.5 Electronic Notice**~~**Provide**

~~Written notice under this Agreement may be given by one party to the other by email as set forth below. (Insert requirements for delivering written notice by email 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.)~~The word "provide" and any derivatives thereof, and similar terms, mean to properly fabricate, complete, transport, deliver, install, erect, construct, test and furnish all labor, materials, equipment, apparatus, appurtenances, and all items and expenses necessary to properly complete in place, ready for operation or use under the terms of the Contract Documents.

§ 6.6 Knowledge

The terms "known," "knowledge," "recognize," "believe," and "discover," and any derivatives thereof and similar terms, when used in reference to the Contractor, shall mean that which the Contractor knows or should reasonably know, recognizes or should reasonably recognize, and discovers or should reasonably discover in exercising the care, skill, and diligence required of the Contractor by the Agreement. The expression "reasonably inferable" and similar terms mean reasonably inferable by a Contractor familiar with the Work and exercising the care, skill and diligence required of the Contractor by the Agreement.

§ 6.7 Including

The word "including" shall not be a word of limitation, but instead shall be construed as introducing one or more nonexclusive examples.

§ 6.8 Abbreviations

Words or abbreviations that are not defined but have well-known technical, trade or construction industry meanings, shall have those meanings ascribed to them. The singular shall include the plural and vice versa. Pronouns are interchangeable. The word "person" includes human beings and recognized legal entities. Unless the context clearly requires otherwise, reference to a Section shall include all subsections beneath it bearing identical introductory numbers.

§ 6.9 Ownership and Use of Architect's Drawings, Specifications and Other Documents

Documents prepared by the Architect are instruments of the Architect's service for use solely with respect to this Project. All plans, drawings, specifications, computations, sketches, data, surveys, models, photographs, renderings, and other like materials relating to the services ("Documents") shall become the property of the Owner at the conclusion of the project, or termination of the services of the Contractor, whichever is earlier, and shall be delivered to the Owner clearly marked and identified in good order. The Owner may use the Documents in connection with the Project, including maintenance, repair, or expansion of the Project or as a reference for other projects, but the Contractor and the Contractor's Architect shall incur no liability for the Owner's use of the Documents other than in connection with the Project, and the Owner hereby releases the Contractor from any loss or damage, including attorneys' fees, incurred solely as a result of Owner's use of the Documents other than in connection with the Project, or as a reference for other projects, if and only if the Contractor and/or its Architect is not involved in such use.

§ 6.10 Access and Cooperation

§6.10.1 The Owner shall cooperate with the Contractor and shall provide the Contractor reasonable access to the premises for the performance of the Contractor's Work and duties under this Agreement. Owner shall not intentionally interfere with the Work of the Contractor or any of its subcontractors.

§6.10.2 Contractor shall provide the Owner in writing critical dates when Owner supplied materials and equipment are to be on the job site when Contractor is to install such materials and equipment. The Owner shall provide such materials on the job site by such dates. The Owner is responsible for the condition, performance, and warranty of Owner supplied materials. The Contractor shall be responsible for properly installing such materials and equipment in accordance with the manufacturer's specifications. The Contractor shall be responsible for the condition, performance and warranty of the materials and equipment if the Contractor damages or improperly installs such materials and equipment.

§6.10.3 If the Contractor will require use of the Owners' utilities during construction. The Owner shall bear the cost of utilities. The Contractor shall exercise reasonable care to protect and use of such utility services; and shall bear full responsibilities to damages caused due to Contractor's acts or omissions.

§6.10.4 The Contractor will place construction Project and safety signs at the Project to provide identification for resident and occupant safety, deliveries and subcontractors. The signs will meet OSHA and MIOSHA requirements and be removed upon completion and Owner taking occupancy of the Project.

§6.11 Deliveries. Contractor shall protect and secure materials and equipment delivered to and stored at the Project site and Work that are completed from theft, vandalism, fire etc. Contractor shall carry insurance for loss due to

Contractor's failure to protect and secure materials and equipment on the job site or due to Contractor's acts or omissions.

§6.12 Subcontractors. At times Contractor may employ trade specialists, laborers, vendors, and other forces (Subcontractors) to perform various aspects of the Work. The Contractor shall, at all times, be fully responsible for the Work and conduct of its Subcontractors.

§6.12.1 By 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 which the Contractor, by these Documents, assumes toward the Owner and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights. 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. Subcontracts shall include the following sentence: "Owner is an intended third-party beneficiary of this Subcontract." Sub-Subcontracts and Supply Contracts shall be subject to identical conditions, except: (i) suppliers that are not performing any Work on the Project Site are not subject to the insurance requirements described in Article 11; and (ii) Subcontractors and Sub-Subcontractors may satisfy the insurance requirements described in Article 5 by being named as an additional insured under the Contractor's insurance policies or, in the case of a Sub-Subcontractor, by being named as an additional insured under a Subcontractors' insurance policies.

§ 6.12.2 Upon request, the Contractor shall deliver a copy of any Subcontract, Sub-Subcontract or Supply Contract to the Owner.

ARTICLE 7 OWNER

§ 7.1 Information and Services Required of the Owner

§ 7.1.1 If requested by the Contractor, the Owner shall furnish ~~all necessary required~~ surveys and a legal description of the site.

§ 7.1.2 Except for permits and fees under Section 8.7.1 that are the responsibility of the ~~Contractor, Contractor under the Contract Documents,~~ the Owner shall obtain and pay for other necessary approvals, easements, assessments, and charges.

§ 7.1.3 ~~Prior to commencement of the Work, at the written request of 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.~~ **NOT USED**

§ 7.2 Owner's Right to Stop the Work

If the Contractor fails to correct Work which is not in accordance with the Contract Documents, ~~the Owner may direct the Contractor in writing to stop the Work until the correction is made or fails to carry out the 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 is corrected, or correct the deficiencies with the Owner's own forces; 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. This right shall be in addition to and not in restriction or derogation of any other rights of the Owner under this Agreement. The Owner's right to stop the Work shall not relieve the Contractor of any of the Contractor's responsibilities or obligations under or pursuant to the Contract Documents.~~

§ 7.3 Owner's Right to Carry Out the Work

If the Contractor ~~defaults-fails, defaults,~~ or neglects to carry out the Work in accordance with the Contract Documents and fails within a ~~seven-three (3)~~ day period after receipt of written notice from the Owner to commence and continue correction of such ~~default-failure, default,~~ or neglect with diligence and promptness, the Owner may, without prejudice to other remedies, including any claim against the Contractor's Performance Bond, correct such deficiencies. In such case, the ~~Architect may withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the cost of correction, provided the actions of the Owner and amounts charged to~~

~~the Contractor were approved by the Architect.~~ Contract Sum shall be adjusted to deduct the cost of correction from payments due the Contractor.

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

§ 7.4.1 The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and to award separate contracts in connection with other portions of the Project.

§ 7.4.2 The Contractor shall coordinate and cooperate with the Owner's own forces and separate contractors employed by the Owner.

§ 7.5 Owner's Approval

Notwithstanding anything to the contrary contained in this Agreement, Owner's review and/or approval of any documents or other matters required herein shall be for the purpose of providing the Contractor or Architect with information as to Owner's objectives and goals with respect to the Project and not for the purpose of determining the accuracy and completeness of the Work. In no way should any review and/or approval Owner alter the Contractor's responsibilities under this Agreement.

ARTICLE 8 CONTRACTOR

§ 8.1 Review of Contract Documents and Field Conditions by Contractor

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

§ 8.1.2 The Contractor shall carefully study and compare the Contract Documents with each other and with information furnished by the Owner. Before commencing activities, the Contractor shall (1) take field measurements and verify field conditions; (2) carefully compare this and other information known to the Contractor with the Contract Documents; and (3) promptly report errors, inconsistencies, or omissions discovered to the ~~Architect.~~Architect and the Owner.

§ 8.2 Contractor's Construction Schedule

The Contractor, ~~promptly after being awarded the Contract,~~promptly, but not more than thirty (30) days, 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 and acceptance Contractor's construction schedule or Project Schedule for the Work. The Project Schedule is the Critical Path Method ("CPM") schedule for construction of the Work submitted as part of the Contractor's Contract Sum Proposal, prepared by the Contractor and accepted by the Owner. The Project Schedule can be modified only by Change Order. Following any such modification, the term "Project Schedule" shall mean the most recent Owner-approved version.~~

§ 8.3 Supervision and Construction Procedures

§ 8.3.1 The Contractor shall employ and assign to the Project a competent and experienced superintendent to be on-site at all times to 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. The Contractor shall inspect the Work of the trade contractors on the Project as it is being performed until final completion and acceptance of the Project by the Owner to ensure that the Work performed and the materials furnished are in accordance with the Contract Documents and that Work on the Project is progressing on schedule. In the event that the quality control testing should indicate that the Work, as installed, does not meet the requirements of this Project, including the Contract Documents, the Owner shall determine the extent of the Work that does not meet the requirements and the Contractor shall direct the trade contractor(s) to take appropriate corrective action, and advise the Owner of the corrective action.

§ 8.3.2 The Contractor, as soon as practicable after award of the Contract, shall furnish in writing to the Owner, through the Architect, the names of ~~subcontractors~~Subcontractors or suppliers for each portion of the Work. The Contractor shall not contract with any ~~subcontractor~~Subcontractor or supplier to whom the Owner or Architect have made a timely and reasonable objection.

§ 8.4 Labor and Materials

§ 8.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work.

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

§ 8.5 Warranty

~~The Contractor warrants to the Owner and Architect that: (1) materials and equipment furnished under the Contract will be new and of good quality unless otherwise required or permitted by the Contract Documents; (2) the Work will be free from defects not inherent in the quality required or permitted; and (3) the Work will conform to the requirements of the Contract Documents. Any material or equipment 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 12.5.~~
§ 8.5.1 The Contractor warrants to the Owner and Architect that: (1) materials and equipment furnished under the Contract will be new and of good quality unless otherwise required or permitted by the Contract Documents; (2) the Work will be free from defects not inherent in the quality required or permitted; and (3) the Work will conform to the requirements of the Contract Documents. Any material or equipment 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 12.5.

§ 8.5.2 The Contractor shall provide a two (2) year limited warranty for all materials, equipment and work performed by the Contractor and/or its Subcontractors. Within the terms of the limited warranty, the Contractor shall remedy any defects due to faulty materials, workmanship, or negligence of the Contractor which are made known to the Contractor in writing, within two (2) years of the completion of the job. All materials are guaranteed for a minimum of two (2) years, or longer as specified, and all materials are warranted by the manufacturer and will be replaced according to the terms of their warranty by the Contractor without charge.

§ 8.5.3 Money being withheld for a warranty or disputed item shall not exceed twice the value of the warranty item (material and labor).

§ 8.5.4 Upon completion of any remedial work, the two (2) year warranty period in this Article 8 shall begin anew with respect to the materials, equipment and/or work requiring remedy.

§ 8.6 Taxes

The Contractor shall ~~pay sales, consumer, use, pay, and include in the Contract Sum, all sales, consumer, use, franchise, commercial activities,~~ and similar taxes that are legally required when the Contract is executed. The Contractor shall pay all state and federal taxes levied on its business, income or property and shall make all contributions for social security and other wage or payroll taxes. The Contractor shall be solely responsible for such payments and shall indemnify the Owner and hold it harmless from any assessment and payment of the same.

§ 8.7 Permits, Fees and Notices Permits, Fees, Licenses, and Notices

§ 8.7.1 The Contractor shall obtain and pay for the building permit and other permits and governmental fees, licenses, and inspections necessary for proper execution and completion of the Work or as required by the Contract Documents. The Contractor, and all its Subcontractors of any tier, shall maintain at all time the required licenses and registrations required to perform the Work.

§ 8.7.2 The Contractor shall strictly comply with and give notices required by agencies having jurisdiction over the Work. If the Contractor performs Work knowing it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Contractor shall assume full responsibility for such Work and shall bear the attributable costs. The Contractor shall promptly notify the Architect and the Owner in writing of any known inconsistencies in the Contract Documents with such governmental laws, rules, and regulations.

§ 8.8 Submittals

The Contractor shall promptly review, approve in writing, and submit to the Architect shop drawings, product data, samples, and similar submittals required by the Contract Documents. Shop drawings, product data, samples, and similar submittals are not Contract Documents.

§ 8.9 Use of Site

The Contractor shall confine operations at the site to areas permitted by law, ordinances, permits, the Contract Documents, and the Owner.

§ 8.10 Cutting and Patching

~~The Contractor shall be responsible for cutting, fitting, or patching required to complete the Work or to make its parts fit together properly.~~ § 8.10.1 The Contractor shall be responsible for cutting, fitting, or patching required to complete the Work or to make its parts fit together properly.

§ 8.10.2 Only tradespersons skilled and experienced in cutting, fitting, and patching shall perform such Work. An appropriate member of the construction team shall do all cutting, fitting, or patching on the Work that may be required to make its several parts come together properly and fit the Work to receive or be received by work of other contractors shown by, or reasonably implied by, the Contract Documents for the completed Project. An appropriate member of the construction team shall repair or otherwise make good all such cutting, fitting, or patching after the required Work has been completed as the Architect may direct.

§ 8.10.3 The Contractor shall not cut or otherwise alter any portion of any structure of which the Work is a part or to which the Work is attached without in each instance having first submitted to the Owner Shop Drawings accurately locating each such cut or alteration. The Architect's approval of such Shop Drawings must be obtained prior to making any such cut or alteration.

§ 8.11 Cleaning Up

~~The Contractor shall keep the premises and surrounding area free from accumulation of debris and trash related to the Work. At the completion of the Work, the Contractor shall remove its tools, construction equipment, machinery, and surplus material; and shall properly dispose of waste materials.~~ § 8.11.1 General Clean Up. The Contractor shall keep the premises and surrounding area free from accumulation of debris and trash related to the Work. At the completion of the Work, the Contractor shall remove its tools, construction equipment, machinery, and surplus material; and shall properly dispose of waste materials.

§ 8.11.2 Final Clean Up.

§ 8.11.2.1 Unless the Contract Documents require a higher standard, the Contractor shall leave all Work installed or modified under the Agreement and all existing materials and surfaces affected by the Work and each area of the Project Site clean to the satisfaction of the Owner. This shall include at a minimum: complete dusting, sweeping, vacuuming, mopping, polishing, and other activities as necessary to remove all dust, dirt and other construction residues, and removal of all tools and equipment, construction debris, rubbish, and surplus materials.

§ 8.11.2.2 Immediately before turning any portion of the Project over to the Owner, the Contractor shall have all glass cleaned by professional window washers. Care shall be taken not to scratch any glass. Acid or other cleaning material which will injure or mar the surface or adjacent Work will not be allowed. Any damage resulting from glass cleaning shall be corrected by the Contractor, including the furnishing of new glass of same character and quality or the replacement of other Work damaged or disturbed.

§ 8.12 Indemnification

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~~ indemnify, defend and hold harmless the Owner, its Board of Education, its Board Members, in their official and individual capacities, its administrators, employees, agents, contractors, successors and assigns, from and against any and all claims, suits, debts, demands, actions, judgments, liens, costs, expenses, damages, losses, injuries and liabilities, expenses, including but not limited to ~~attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder.~~ actual attorneys' fees and actual expert witness fees, arising out of or in connection with Contractor's resulting from performance of the Work pursuant to this Agreement and/or from Contractor's violation of any of the terms of this Agreement, including, but not limited to: (i) the negligent acts or willful misconduct of the Contractor, its officers, directors, employees, successors, assigns, subcontractors, consultants and agents; (ii) any breach of the terms of this Agreement by the Contractor, its officers, directors, employees, successors, assigns, subcontractors, consultants and agents; (iii) any violation or breach of any applicable Federal, State or local law, rule, regulation, ordinance, policy and/or licensing and permitting requirements applicable to providing the services; or (iv) any breach of any representation or warranty by the Contractor, its officers, directors, employees, successors, assigns, subcontractors, consultants and agents under this Agreement. The Contractor shall notify the Owner by certified mail, return receipt requested, immediately upon actual knowledge of any claim, suit, action, or proceeding for which the Owner may be entitled to indemnification under this Agreement. This Section shall survive the expiration or earlier termination of this Agreement and shall not be limited by the Contractor's Insurance obligations contained in this Agreement.

In addition, to the fullest extent permitted by law, the Contractor shall indemnify, defend and hold harmless the Owner its Board of Education, its Board Members, in their official and individual capacities, its administrators, employees, agents, contractors, successors and assigns, from any claim, damage, loss, injury or expense, including but not limited to actual attorney fees, incurred by the Owner related to any Hazardous Material or potentially Hazardous Material, waste, toxic substance, pollution or contamination brought into the Project Site or caused by the Contractor or used, handled, transported, stored, removed, remediated, disturbed or dispersed of by Contractor.

ARTICLE 9 ARCHITECT

§ 9.1 The Architect will provide administration of the Contract as described in the Contract Documents. The Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents.

§ 9.2 The Architect will visit the site at intervals appropriate to the stage of construction to become generally familiar with the progress and quality of the Work.

§ 9.3 The Architect will not have control over or charge of, and will not be responsible for, construction means, methods, techniques, sequences, or procedures, or for safety precautions and programs in connection with the Work, since these are solely the Contractor's responsibility. The Architect will not be responsible for the Contractor's failure to carry out the Work in accordance with the Contract Documents.

§ 9.4 Based on the Architect's observations and evaluations of the Contractor's Applications for Payment, the Architect will review and certify the amounts due the Contractor.

§ 9.5 The Architect ~~has authority to reject~~ shall make timely recommendations to the Owner regarding the rejection of Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect may require inspection or testing of the Work in accordance with the provisions of the Contract Document, whether or not such Work is fabricated, installed, or completed.

§ 9.6 The Architect will promptly review and approve or take appropriate action upon Contractor's submittals, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents.

§ 9.7 On written request from either the Owner or Contractor, the Architect will promptly interpret and decide matters concerning performance under, and requirements of, the Contract Documents.

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

§ 9.9 The Architect's duties, responsibilities, and limits of authority as described in the Contract Documents shall not be changed without written consent of the Owner, Contractor, and Architect. Consent shall not be unreasonably withheld.

ARTICLE 10 CHANGES IN THE WORK

§ 10.1 The Owner, without invalidating the Contract, may order changes in the Work within the general scope of the Contract, consisting of additions, deletions or other revisions, and the Contract Sum and Contract Time shall be adjusted ~~by Change Order~~ accordingly, in writing. If the Owner ~~and Contractor cannot agree to a change in changes~~ the Contract Sum, the Owner shall pay the Contractor its actual cost plus reasonable overhead and ~~profit/profit as mutually agreed to by both parties in writing. Changes in the Work shall not be performed by Contractor without the Owner's authorization to proceed.~~

§ 10.2 The Architect ~~may authorize or will have authority to~~ order minor changes in the Work ~~that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Such authorization or order not involving changes in the Contract Sum or the Contract Time and not inconsistent with the intent of the Contract Documents. Such orders~~ shall be in writing and shall be binding on the Owner and Contractor. The Contractor shall ~~proceed with such minor changes carry out such orders~~ promptly.

§ 10.3 ~~If concealed or unknown physical conditions are encountered at the site that differ materially from those indicated in the Contract Documents or from those conditions ordinarily found to exist, the Contract Sum and Contract Time shall be subject to equitable adjustment.~~ **Materially Different Conditions**

§ 10.3.1 ~~If concealed or unknown physical conditions are encountered at the site that differ materially from those indicated in the Contract Documents or from those conditions ordinarily found to exist, the Contract Sum and Contract Time shall be subject to reasonable adjustment as mutually agreed to by both parties in writing.~~

§ 10.3.2 ~~As a professional familiar and accustomed to Project complexity of the type of Work, the Contractor has inspected the Owner's premises and the Contract Documents prior to submitting its proposal and agreeing to the terms of this Agreement (including, but not limited to, terms regarding time and compensation). Upon discovery of conditions the Contractor believes materially differ from those in the Contract Documents, Contractor shall immediately notify the Architect and the Owner, in accordance with Article 10, if additional cost or time is required to remedy such conditions. Owner shall have the right to inspect the discovered hidden conditions, to determine if the Contractor should have reasonably anticipated such conditions before agreeing to a change order for additional work. Contractor will not be entitled to compensation for differing conditions that are removed which the Contractor failed to notify the Owner and offered the Owner opportunities to inspect/verify the condition.~~

§ 10.4 ~~The Contractor shall not be entitled to any extension of time change to the Contract Sum unless it is included in an authorized change order signed by the Owner and Architect. The Contractor shall submit a written change order request within lesser of twenty-one (21) days after the Contractor discovers or the time the Contractor should have discovered, with the exercise of appropriate diligence, the cause giving rise to the potential change. The Contractor's failure to strictly comply with this Section 10.4 shall constitute a waiver of and shall forever bar any recover for additional time or compensation for the circumstances giving rise to the potential change.~~

§ 10.5 ~~In no event shall the Contractor be entitled to receive, and the Contractor hereby waives the right to receive any payment or any extension of time for additional or changed work, whether partially or fully completed or simply proposed, unless such additional work is authorized by a written Change Order or Construction Change Directive signed by the Owner, nor shall the Contractor be obligated to proceed with any such Work. Only the Owner shall have the right to issue a written Change Order or Constructive Change Directive to the Contractor authorizing an addition, deletion or other revision in the scope of the Work and/or an adjustment in the Contract Sum or Contract Time.~~

ARTICLE 11 TIME

§ 11.1 Time limits stated in the Contract Documents are of the essence of the Contract.

§ 11.2 If the Contractor is delayed at any time in progress of the Work by changes ordered in the Work, or by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, or other causes beyond the Contractor's control, the Contract Time shall be subject to equitable ~~adjustment~~adjustment as mutually agreed to by both parties in writing.

§ 11.3 Costs caused by delays or by improperly timed activities or defective construction shall be borne by the responsible party.

§ 11.4 The Contractor shall provide notice in writing to the Owner of a potential claim for a delay related adjustment to the Contract Sum or Contract Time within five (5) days of start of any delay and shall request in writing all changes to the Contract Time and Contract Sum within twenty-one (21) days after cessation of the delay. Changes to the Contract Sum shall be limited to Owner caused delays that impact the Project's Critical Path and limited to the to the costs set forth in Sections 11.5 and 11.6 resulting from the delay. The Contractor's failure to strictly comply with this Section 11.4 shall constitute a waiver of and shall forever bar any recover for additional time or compensation for the delay.

§ 11.5 No Damage for Delay. Except only as provided in Section 11.4, in no event shall the Contractor be entitled to any compensation or recovery of any damages in connection with any delay. In no event shall the Contractor be entitled to recover special, incidental, or consequential damages including without limitation, loss of anticipated profits, revenue, or use of capital.

§ 11.6 In the event of Owner Delay, the Contractor may be entitled to an equitable adjustment in the Contract Sum. This adjustment shall be based solely upon and limited to additional direct out-of-pocket expenses to the extent they are incurred directly as a result of the Owner Delay. Without limiting the generality of the foregoing, such out-of-pocket expenses shall be calculated on an "actual cost" basis, and shall exclude home office expense and other overhead, profit and the value of lost opportunities. However, the Contractor shall use its best efforts to avoid or reduce delay damages caused by Owner Delay.

§ 11.7 All float time in the Construction Schedule shall be shared by the Owner and Contractor or otherwise used for the benefit of the Project.

ARTICLE 12 PAYMENTS AND COMPLETION

§ 12.1 Contract Sum

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

§ 12.2 Applications for Payment

§ 12.2.1 At least ten days before the date established for each progress payment, the Contractor shall submit to the Architect an itemized Application for Payment for Work completed in accordance with the values stated in this Agreement. The Application shall be supported by data substantiating the Contractor's right to payment as the Owner or Architect may reasonably require, such as evidence of payments made to, and waivers of liens from, subcontractors Subcontractors and suppliers. 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 stored, and protected from damage, off the site at a location agreed upon in writing. Payment to Contractor for materials stored off site is discouraged. Contractor shall prepare the Application for Payment using AIA Standard Form G-702 and G-703 accompanied by required conditional and unconditional lien releases from the Contractor, Subcontractors, suppliers, and delivered to the Architect for review and approval.

§ 12.2.2 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 other encumbrances adverse to the Owner's interests.

§ 12.2.3 Contractor's first Application of Payment is considered incomplete unless in addition to the requirements

described in Sections 12.2.1 through 12.2.2, all of the following completed items are also included with the Application of Payment: (1) Performance and Payment Bonds, if required; (2) Certificate of Insurance, as required; (3) Affidavits that the surety and insurance company or companies meets the requirements in Article 5; (4) Construction schedule for the Project; (5) Completed Schedule of Value for the Project.

§ 12.2.4 In addition to the requirements described in Section 12.2.1 through 12.2.2, all Applications for Payment shall also include:

- .1 a Schedule of Values that updated all approved Change Order amounts added and deducted, if applicable, since the last Application for Payment;
- .2 an updated Project construction schedule that shows actual progress of the Work through the period covered by the current Application for Payment, and clearly identifying any portion of the Work that is behind schedule (if any portion of Work that is behind schedule, the Contractor shall also include with the Application for Payment a schedule recovery plan to bring the Work back on schedule in the next thirty (30) days);
- .3 a duly executed and acknowledged sworn statement in statutory form and acceptable to the Owner with all information provided, together with properly notarized sworn statements, current through the previous draw, from the Contractor and all of the Subcontractor; and
- .4 except as otherwise provided, duly executed unconditional releases in the form required by the Owner establishing payment or satisfaction of all obligations as reflected on the sworn statements, provided, however, that the Contractor may furnish with each Application for Payment applicable waivers of lien or releases and properly notarized sworn statements covering the immediately preceding Application for Payment, as opposed to the current Application for Payment, (i.e., thirty (30) day lag), provided Final Payment shall not be forthcoming until final construction lien waivers or releases from all members of the Construction Team have been delivered.

§ 12.2.5 The Owner shall have the right to withhold sufficient amount from the Application for Payment for unacceptable, defective, deficient, or non-conforming Work ("Disputed Work") after notifying the Contractor. The Contractor shall promptly remedy the Disputed Work. Owner shall promptly render payment for such Disputed Work after the Contractor has cured and the Owner has accepted the remedied Disputed Work.

§ 12.3 Certificates for Payment

The Architect will, within seven (7) days after receipt of the Contractor's Application for Payment, either ~~(1) issue to the Owner a Certificate for Payment in the full amount of the Application for Payment, with a copy to the Contractor;~~ ~~(2) issue to the Owner a Certificate for Payment for with a copy to the Contractor for~~ such amount as the Architect determines is properly due, ~~and or~~ notify the Contractor and Owner in writing of the Architect's reasons for withholding certification in ~~part;~~ or ~~(3) withhold certification of the entire Application for Payment, and notify the Contractor and Owner of the Architect's reason for withholding certification in whole. If certification or notification is not made within such seven day period, the Contractor may, upon seven additional days' written notice to the Owner and Architect, stop the Work until payment of the amount owing has been received. The Contract Time and the Contract Sum shall be equitably adjusted due to the delay whole or in part.~~

§ 12.4 Progress Payments

§ 12.4.1 After the Architect has issued a Certificate for Payment, the Owner shall make payment for undisputed sums in the manner provided in the Contract Documents.

§ 12.4.2 The Contractor shall promptly pay each ~~subcontractor~~ Subcontractor and supplier, upon receipt of payment from the Owner, an amount determined in accordance with the terms of the applicable subcontracts and purchase orders.

§ 12.4.3 Neither the Owner nor the Architect shall have responsibility for payments to a ~~subcontractor~~ Subcontractor or supplier.

§ 12.4.4 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 requirements of the Contract Documents.

§ 12.4.5 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.

§ 12.4.6 Whenever the Owner reasonably determines, after notice to the Contractor, that there is a basis for concern that payments properly owing to any Subcontractor of any tier, supplier or laborer are not being made on a timely basis, the Owner may elect, but shall not be obligated, to make payments to the joint order of the Contractor and such Subcontractor, supplier or laborer with any such payments satisfying any payment obligation otherwise owing by the Owner to the Contractor. The Owner may also elect at any time to require that payments be made through a construction escrow, in which event the Contractor shall supply all customary forms and indemnities as may be required to satisfy the conditions to disbursement established by the applicable escrowee. All requirements relating to payments and retainages, and applicable submittals to be made by the Contractor, shall be subject to reasonable modification and approval of any lender of the Owner supplying funds to the Project.

§ 12.5 Substantial Completion

§ 12.5.1 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 the Owner can occupy or utilize the Work for its intended use.

§ 12.5.2 When the Contractor believes that the Work or designated portion thereof is substantially complete, it will notify the Architect and the Architect will make an inspection to determine whether the Work is substantially complete. When the Architect determines that the Work is substantially complete, the Architect shall prepare a Certificate of Substantial Completion that shall establish the date of Substantial Completion, establish the responsibilities of the Owner and Contractor, and fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 12.6 Final Completion and Final Payment

§ 12.6.1 Upon receipt of a final Application for Payment, the Architect will inspect the Work. When the Architect finds the Work acceptable and the Contract fully performed, the Architect will promptly issue a final Certificate for Payment.

§ 12.6.2 Final payment shall not become due until the Contractor submits to the Architect releases and waivers of liens, and data establishing payment or satisfaction of obligations, such as receipts, claims, security interests, or encumbrances arising out of the Contract.

§ 12.6.3 Acceptance of final payment by the Contractor, a ~~subcontractor~~ Subcontractor or supplier shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

§ 12.6.4 Amounts withheld from the final payment to cover any incomplete work are not considered retainage and shall not be paid to the Contractor until the Work is actually completed and accepted by the Owner. Such withholdings shall not be less than 150% of the estimated cost to complete the Work.

§ 12.6.5 The Owner shall have the right to deduct from the Final Payment due the Contractor all costs, including additional fees paid to Owner's consultants, which the Owner incurred as result of and attributed to Contractor's failure to fully complete and/or closeout the Project within sixty (60) days following Substantial Completion.

§ 12.6.6 Unless otherwise agreed to by the Owner, in writing, the Owner shall not be responsible for costs incurred by the Contractor beyond sixty (60) days following Substantial Completion for the Contract Sum that is based on the Cost of the Work plus Contractor's Fee.

ARTICLE 13 PROTECTION OF PERSONS AND PROPERTY

The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs, including all those required by law in connection with performance of the Contract. The Contractor shall take reasonable precautions to prevent damage, injury, or loss to employees on the Work and other persons who may be affected thereby, the Work and materials and equipment to be incorporated therein, and other property at the site or adjacent thereto. The Contractor shall promptly remedy damage and loss to property caused in whole or in part by the Contractor, or by anyone for whose acts the Contractor may be liable.**§13.1** The Contractor shall be responsible for

initiating, maintaining and supervising all safety precautions and programs, including all those required by law in connection with performance of the Contract. The Contractor shall take reasonable precautions to prevent damage, injury, or loss to employees on the Work and other persons who may be affected thereby, the Work and materials and equipment to be incorporated therein, and other property at the site or adjacent thereto. The Contractor shall promptly remedy damage and loss to property caused in whole or in part by the Contractor, or by anyone for whose acts the Contractor may be liable.

§13.2 The Contractor shall take all necessary precautions to guard against and eliminate all possible fire hazards and to prevent fire damage to any construction work, building materials, equipment, temporary field offices, storage sheds, and all other property. The Contractor shall provide necessary personnel and fire-fighting equipment to effectively control fires resulting from welding, flame cutting, or other operations involving the use of flame, sparks, or sparking devices. During such operations, all highly combustible or flammable materials shall be removed from the immediate working area. If removal is impossible the same shall be protected with fire blankets or suitable non-combustible shields. The Contractor shall maintain free access to the building areas for fire-fighting equipment and shall at no time block off main roadways or fire aisles without providing adequate auxiliary roadways and means of entrance for fire-fighting equipment, including heavy fire department trucks, where applicable. The Contractor shall at all times cooperate with the Owner and keep the municipal fire department informed of the means of entrance and changes to roadways or fire aisles as needed to provide fire department access to or around to Project site. The Contractor shall maintain during construction an appropriate number of fire extinguishers to meet Factory Mutual (FM) requirements. Fire extinguishers shall be in good working order, conveniently located, clearly visible, and readily accessible for proper protection of the Work.

ARTICLE 14 CORRECTION OF WORK

§ 14.1 The Contractor shall promptly correct Work rejected by the Architect as failing to conform to the requirements of the Contract Documents. The Contractor shall bear the cost of correcting such rejected Work, including the costs of uncovering, replacement, and additional testing.

§ 14.2 In addition to the Contractor's other obligations including warranties under the Contract, the Contractor shall, for a period of ~~one year~~ two (2) years after Substantial Completion, correct work not conforming to the requirements of the Contract Documents.

§ 14.3 If the Contractor fails to correct nonconforming Work within a reasonable time, the Owner may correct it in accordance with Section 7.3.

ARTICLE 15 MISCELLANEOUS PROVISIONS

§ 15.1 Assignment of Contract

~~Neither party to the Contract shall assign the Contract as a whole without written consent of the other.~~ **§15.1.1** Neither party to the Contract shall assign the Contract as a whole without written consent of the other, except that the Owner may, without consent of the Contractor, assign the Contract to Owner's parents, subsidiaries, successor, affiliates, or lenders providing construction financing for the Project, if the assigned assumes the Owner's rights and obligations under the Contract Document. The Contractor shall execute all consents reasonably required to facilitate such assignment.

§ 15.1.2 The Contractor shall not assign the whole or any part of the Agreement, or any monies due or to become due, without the express written consent of the Owner. If the Contractor, with the Owner's consent, assigns all or any part of the Agreement or any monies due or to become due, the instrument of assignment shall contain a clause satisfactory to the Owner and stating that it is agreed that the right of the assignee in and to any monies due or to become due to the Contractor shall be subject to the prior claims of all persons, firms and corporations for services rendered or materials supplied for the performance of the Work called for in the Agreement.

§ 15.2 Tests and Inspections

§ 15.2.1 At the appropriate times, the Contractor shall arrange and bear cost of tests, inspections, and approvals of portions of the Work required by the Contract Documents or by laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities.

§ 15.2.2 If the Architect requires additional testing, the Contractor shall perform those tests.

§ 15.2.3 The Owner shall bear cost of tests, inspections, or approvals that do not become requirements until after the Contract is executed. ~~The Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations so require.~~

§ 15.3 Governing Law

The Contract shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules.

§ 15.4 Program Management Software. The Owner plans to utilize a web-based collaborative program management project software to assist in the efficient communication of all Project information to pertinent team members. The selected e-Builder platform will be utilized for storage of all pertinent Project correspondence (Meeting Minutes, RFIs, Submittals, Drawing set issuances, Bulletins, etc.), as well as for payment application and invoice processing, and change management approvals. The Contractor will be required to participate in e-Builder platform training and subsequent utilization of the software for their role and information transfer throughout the Project. The Owner will pay for up to two (2) collaborative licenses for the Contractor.

ARTICLE 16 TERMINATION OF THE CONTRACT

§ 16.1 Suspension by the Owner and Termination by the Contractor

~~If the Work is stopped under~~ The Owner may suspend the Work at anytime for any reason. If the Work is suspended for more than twenty one (21) consecutive days, the Contractor shall be entitled to an equitable adjustment in the Contract Sum, subject to mutual agreement of the parties. ~~If the Architect fails to certify payment as provided in Section 12.3 for a period of 14 days~~ thirty (30) days through no fault of the Contractor, ~~the Contractor may, upon seven or if the Owner fails to make payment as provided in Section 12.4.1 for a period of thirty (30) days, the Contractor may, upon thirty (30) additional days' written notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work executed including reasonable overhead and profit, and costs incurred by reason of such profit on the portion of the Work completed to the date of termination.~~

§ 16.2 Termination by the Owner for Cause

§ 16.2.1 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~~ Subcontractors for materials or labor in accordance with the respective agreements between the Contractor and the ~~subcontractors~~ Subcontractors;
- .3 ~~repeatedly~~ disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or
- .4 is otherwise guilty of substantial breach of a provision of the Contract Documents.

§ 16.2.2 When any of the above reasons exist, the Owner, ~~after consultation with the Architect,~~ 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' written notice, terminate employment of the Contractor and may

- .1 take possession of the site and of all materials thereon owned by the Contractor, and
- .2 finish the Work by whatever reasonable method the Owner may deem expedient.

§ 16.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 16.2.1, the Contractor shall not be entitled to receive further payment until the Work is ~~finished~~ finished and determination of the sum due pursuant to Section 16.2.4.

§ 16.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, such excess shall be paid to the Contractor. If such costs exceed the unpaid balance, the Contractor shall pay the difference to the Owner. This obligation for payment shall survive termination of ~~the Contract.~~ this Agreement.

§ 16.3 Termination by the Owner for Convenience

~~The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause. The Contractor shall be entitled to receive payment for Work executed, and costs incurred by reason of such termination, along with reasonable overhead and profit on the Work not executed.~~

§ 16.2.5 If the Owner erroneously or improperly terminates the Contractor for cause, then the Owner's action shall be deemed to be a termination for convenience, subject to the provisions of Section 16.3.

§ 16.3 Termination by the Owner for Convenience

The Owner may, at any time, terminate the Contract for the Owner’s convenience and without cause. The Contractor shall be entitled to receive payment for Work properly executed prior to termination.

§16.4 In the event of any termination, the Contractor’s and Subcontractor’s obligations related to insurance, indemnity, and confidentiality shall survive.

ARTICLE 17 OTHER TERMS AND CONDITIONS

(Insert any other terms or conditions below.)

§ 17.1 The Contractor shall inspect the Work as it is being performed until final completion and acceptance of the Project by the Owner to assure that the Work performed and the materials furnished are in accordance with the Contract Documents and that Work on the Project is progressing on schedule. In the event that the quality control testing should indicate that the Work, as installed, does not meet the requirements of this Project, the Architect shall determine the extent of the Work that does not meet the requirements and the Contractor shall direct the trade contractors(s) to take appropriate corrective action, and advise the Owner of the corrective action.

§ 17.2 The Contractor shall provide daily full-time, on-site field supervision during the entire Construction Phase. The Contractor agrees to assign the following listed Project team members, as listed in their respective capacities to the Project:

Staff Name Assignment Contact Information – e-Mail & Mobile Phone

Contractor shall promptly notify the Owner if services of any one of the listed team members become unavailable due to circumstances beyond the Contractor’s control – e.g., extended illness or disability, death, or termination of employment, etc. No substitution of any of the above listed project team members shall be made without the prior written consent of the Owner; and before any such substitution the Contractor shall submit to the owner a detailed justification supported by the qualification of any proposed replacement. Owner shall have the right to interview and select alternate team member(s) employed by the Contractor to replace the unavailable team member. Contractor shall agree to provide the services of the alternate team member(s) selected by Owner. Contractor is not entitled to additional compensation for any such substitution(s) of the project team members. The Owner reserves the right to require the replacement of any or all of the above listed team members for cause; and the Contractor shall provide suitable replacement or replacements upon two (2) weeks’ notice, subject to interview and acceptance by the Owner.

§ 17.3 As part of Contract Sum, the Contractor shall conduct a post-occupancy audit eleven (11) months following the Date of Substantial Completion and thereafter provide call-back services for a period of twenty three (23) months.

§ 17.4 Notwithstanding anything regarding hazardous materials, the Contractor acknowledges and fully understands that the scope of this Work includes the proper removal and proper disposal of all hazardous materials, including but not limited to any construction debris containing asbestos, PCBs, etc., as required by applicable federal, state, and local laws, rules, regulations and directives by governmental agencies having jurisdiction over the Project and Project site.

§ 17.5 If any provision of this Agreement shall be held to be illegal, invalid or otherwise unenforceable by law, the remainder of this Agreement shall not be affected thereby and each provision, term, covenant or condition of this Agreement shall be enforced to the fullest extent permitted.

§ 17.6 The Contractor shall comply with the Owner’s Policies and Procedures, which will be made available to the Contractor upon request, while on the Project site.

§ 17.7 Dispute Resolution

§ 17.7.1 Alternative Dispute Resolution

Within ten (10) business days of receipt of a written notice of Claim, the parties to a Claim shall attempt in good faith to resolve it promptly by escalating the Claim to persons who have authority to settle the controversy and who are at a higher level of management than the persons with direct responsibility for administration of this Agreement (Negotiation). If the parties agree on the method of resolving such claim, such method shall be embodied in a written

agreement signed by the Owner and the Contractor. Any Claim, dispute, or other matter in question arising out of or related to this Agreement and not resolved by Negotiation shall be subject to Alternative Dispute Resolution (ADR) as a condition precedent to binding dispute resolution, pursuant to Section 17.7.1.3.

§ 17.7.1.2 On those occasions when Negotiation does not resolve the Claim, the parties to this Agreement shall be compelled to seek an alternative means of resolving the dispute as a condition precedent to litigation. Therefore, the parties agree to the following terms and conditions:

- .1 The parties shall designate, by mutual agreement, an independent mediator who shall convene a meeting of the parties within a period of fourteen (14) days of the later of the initial meeting between the parties or the date notice was given pursuant to Section 17.7.1.1. The mediator shall render his/her decision within fourteen (14) days of said meeting;
- .2 The purpose of the mediation is to attempt to resolve the dispute between the parties. The mediator shall not be empowered with the authority to render a binding opinion or award; the confidentiality of mediation shall be governed by the Michigan Court Rules and the Michigan Rules of Evidence;
- .3 In the event the independent mediator's attempt to resolve the dispute between the parties fails, then each party will be free to pursue recovery of claims at law;
- .4 During the pendency of this alternative dispute resolution process, the parties agree that the statute(s) of limitations applicable to all Claims that are the subject of this process shall be tolled.
- .5 Should a party's claim also concern claims against or by the architect then Owner may include the Architect in the alternative dispute resolution process.
- .6 The Contractor shall continue providing all services during any dispute, including during the alternative dispute resolution process.

§ 17.7.1.3 The parties shall share the mediator's fee. The Alternative Dispute Resolution shall be held in the place where the Owner is located, as indicated on page one of this Agreement, unless another location is mutually agreed upon.

If the parties do not resolve a dispute through Negotiation or Alternative Dispute Resolution pursuant to this Article 17, the method of binding dispute resolution shall be as follows:
(Check the appropriate box.)

Arbitration pursuant to Section 21.6 of this Agreement

Litigation in a court of competent jurisdiction, unless otherwise mutually agreed to by the parties.

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 in a court of competent jurisdiction.

§ 17.7.2 NOT USED

§ 17.7.3 NOT USED

§ 17.7.4 In the event the parties resort to a court, and to the extent permitted by law, the parties hereby:

- .1 Irrevocably consent and submit to the jurisdiction of any Federal, state, county or municipal court sitting in the State of Michigan, County of Wayne, in respect to any action or proceeding brought therein concerning any matters arising out of or in any way relating to this Agreement;
- .2 Expressly waive any rights pursuant to the laws of any other jurisdiction by virtue of which exclusive jurisdiction of the courts of any other jurisdiction might be claimed;
- .3 Irrevocably waive all objections as to venue and any and all rights it may have to seek a change of venue with respect to any such action or proceeding;
- .4 Agree that any final judgment rendered in any such action or proceeding shall be conclusive and may be entered in any other jurisdiction by suit on the judgment or in any other manner provided by law and expressly consent to the affirmation of the validity of any such judgment by the courts of any other jurisdiction so as to permit execution thereon.

§ 17.8 Notice

§ 17.8.1 All notices or other communications hereunder to either party shall be (1) in writing, and, if mailed, shall be deemed to have been given on the earlier of actual receipt by the intended recipient or on the third business day after the date when deposited in the United States mail by registered or certified mail, postage pre-paid, or by personal delivery, Federal Express or other recognized and reputable overnight courier, addressed as hereinafter provided, and (2) addressed as follows:

§ 17.8.2 If to the Owner:

The Owner's Designated Representative:

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

«Phillip Francis, Assistant Superintendent of District Services
«Livonia Public Schools»
«15125 Farmington Road
Livonia, MI 48154 »

With a copy to the Owner's Representative Consultant:

The Owner has engaged Plante Moran Realpoint, LLC (PMR) as an Owner's Representative Consultant and on the Project. The Contractor shall keep the Owner and PMR informed in matters regarding the Project. Unless otherwise provided in this Agreement specifically authorized by the Owner, the Owner's Representative Consultant is not authorized to commit the Owner in matters regarding the Work, regarding changes in the Work, Construction Schedule, or grant approval on behalf of the Owner. The Owner reserves for itself the sole right to make decisions in matters regarding the Project. The following individual, subject to change upon written notification to the Contractor, shall be primary contact for the Owner's Representative Consultant:

«Collin Frink »
«Plante Moran Realpoint, LLC »
«3000 Town Center; Suite 100
Southfield, MI 48075
Collin.frink@plantemoran.com; (248) 223-3144»

§ 17.8.3 If to the Contractor:

The Contractor's representative:

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

« »
« »
« »
« »

§ 17.8.4 Neither the Owner's nor the Contractor's representative shall be changed without ten (10) days' prior notice to the other party.

§ 17.9 The Contractor shall notify the Owner in the event of a potential or actual: (a) material change in ownership of the Contractor; (b) intent to dissolve; or (c) intent to otherwise cease active participation in the Project's local marketplace (collectively a "Material Change in Circumstances"). A Material Change in Circumstances shall include any other change that could reasonably give rise to concern on behalf of the Owner regarding the Contractor's ability or willingness to fulfill any of its obligations under this Agreement. In the event of a Material Change in Circumstances, the Contractor shall provide any reasonable assurance or guarantee requested by Owner. Owner shall have the right to terminate this Agreement for cause in the event of a Material Change in Circumstances.

§ 17.10 NOT USED

§ 17.11 The Owner, being a public body, shall render required decisions within a reasonable time after being requested to do so by the Contractor. The Contractor, assisted by the Architect, shall prepare and submit all recommendations for which approval is required by Owner as soon as reasonably possible unless another schedule is agreed to by the Owner, in writing. The Contractor shall not cause unreasonable delays in the orderly progress of Work.

§ 17.12 The Contractor shall develop a plan and to administer an effective labor relations program for the Project in order to ensure labor harmony and to avoid labor disputes during construction. The Owner does not and cannot require the Contractor to employ union labor on the Project. Therefore, if it is necessary that the Contractor enters into a project labor agreement to ensure labor harmony and avoid labor dispute during construction, the Contractor shall have the discretion to do so.

§ 17.13 NOT USED

§ 17.14 NOT USED

§ 17.15 GOVERNMENT AGENCY'S IMMUNITY FROM TORT LIABILITY. Notwithstanding any provisions within the Contract Documents, no provisions shall be deemed a waiver of any immunity granted the Owner, being a governmental unit, by statute, including, without limitation. (MCL 691.1407 / ORC 2743.02)

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

(If required by law, insert cancellation period, disclosures or other warning statements above the signatures.)

LIVONIA PUBLIC SCHOOLS,

OWNER *(Signature)*

«William R. Green II,
Assistant Superintendent of Operations and District
Services »»

(Printed name and title)

CONTRACTOR *(Signature)*

« »»

(Printed name and title)

LICENSE NO.:

JURISDICTION: