



Docusign Transmittal Coversheet

PSA	7226
File Name	Independent Rep for Development Services Building, Ammendment 1
Purchasing Contact	Christa Christian
Contract Expiration	12/30/2099

**FIRST AMENDMENT TO CONTRACT
BY AND BETWEEN THE CITY OF DENTON, TEXAS
AND ELEMENTS OF ARCHITECTURE, INC
PSA 7226**

THE STATE OF TEXAS §

COUNTY OF DENTON §

THIS FIRST AMENDMENT TO CONTRACT 7226 (“Amendment”) by and between the City of Denton, Texas (“City”) and Elements of Architecture, Inc. (“Consultant”); to that certain contract executed on February 04, 2020, in the original not-to-exceed amount of \$106,375 (the “Agreement”); for services related to the Independent Representative for Development services Design Build Renovation Project;

WHEREAS, the City deems it necessary to further expand the services provided by Consultant to the City pursuant to the terms of the Agreement, and to provide an additional not-to-exceed amount \$11,000 with this Amendment for an aggregate not-to-exceed of \$117,375.

FURTHERMORE, the City deems it necessary to further expand the goods/services provided by Consultant to the City;

NOW THEREFORE, the City and Consultant (hereafter collectively referred to as the “Parties”), in consideration of their mutual promises and covenants, as well as for other good and valuable considerations, do hereby AGREE to the following Amendment, which amends the following terms and conditions of the said Agreement, to wit:

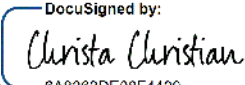
1. The additional services described in Exhibit “A” of this Amendment, attached hereto and incorporated herein for all purposes, for professional services related to the Design Build Renovation Project, are hereby authorized to be performed by Consultant. For and in consideration of the additional services to be performed by Consultant, the Owner agrees to pay, based on the cost estimate detail attached as Exhibit “A” a total fee, including reimbursement for non-labor expenses an amount not to exceed \$11,000.
2. This Amendment modifies the Agreement amount to provide an additional \$11,000 for the additional services with a revised aggregate not to exceed total of \$117,375.

The Parties hereto agree, that except as specifically provided for by this Amendment, that all of the terms, covenants, conditions, agreements, rights, responsibilities, and obligations of the Parties, set forth in the Agreement remain in full force and effect.

IN WITNESS WHEREOF, the City and the Consultant, have each executed this Amendment electronically, by and through their respective duly authorized representatives and officers on this date 10/30/2020

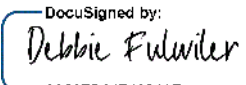
“CITY”

CITY OF DENTON, TEXAS
A Texas Municipal Corporation

By: 
6A8283DE08F4429...
Christa Christian, CPPB, Purchasing
Agent

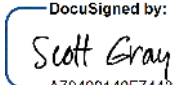
“CONSULTANT”

ELEMENTS OF ARCHITECTURE,
INC

By: 
8C297D6474324A7...

DEBBIE FULWILER, AIA,
PRESIDENT

THIS AGREEMENT HAS BEEN
BOTH REVIEWED AND APPROVED
as to financial and operational
obligations and business terms.


A79499140F7443A...
SIGNATURE SCOTT GRAY
PRINTED NAME

DIRECTOR, FACILITIES ADMINISTRATION
TITLE

FACILITIES ADMINISTRATION
DEPARTMENT

PO #192466



1201 6th Ave, Suite 100
Fort Worth, Texas 76104
Phone 817.333.2880
Fax 817.333.2883

September 9, 2020

Mr. Larry Chan – City of Denton
Mr. Chris Squadra - Peak Program Value
Via email

Re: Proposal for Denton Development Services - Additional Services 01

Dear Larry and Chris;

This letter is to provide additional information as backup to our services provided in support of the G801 AIA documents requesting additional services. Please see the following for services outside of our original agreement:

1. Hours spent in addition to our original fee for Security coordination, FF&E coordination, and additional weekly calls outside of our biweekly budgeted meetings in the Design Phase of the project for an overall amount of \$11,000. This also included assistance with the redesign of the breakroom due to equipment, casework and storage concerns (PR5). And included meetings and site visits with Staples to assist with furniture selection outside of our original scope and budget.

The hours breakdown as follows:

44 hours at \$210 = \$9,240

15 hours at \$130 = \$1,950

2. We understand that going forward that we will not be needed for on-site OAC meetings biweekly, but that we will continue to attend weekly OAC meetings that are virtual. This will keep our budgeted hours inline thru to completion of construction. With this adjustment of scheduling on-site visits, we will have within our budget to perform 4 on-site visits from now thru the duration of construction at times determined. We would anticipate one of these visits during the installation of FF&E and one at the punchlist site visit with the architect and contractor.

If additional site visits are requested or OAC meetings outside of those budgeted, these can be performed based on the following:

Fee for virtual conference calls – \$400 each

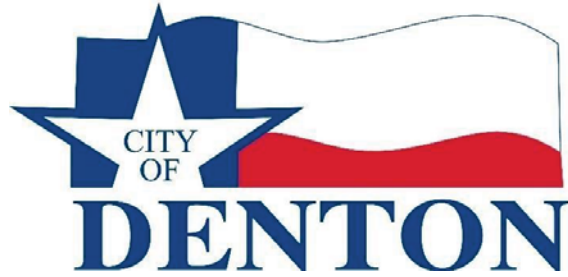
Fee for on site meetings and visits - \$1,000 each

As the fee proposed above for Additional Services 01 #1 is for services already completed, we are looking for approval of that amount to add to our existing contracted amount. For the additional calls and site visits listed for #2, these would only be performed as requested and invoiced based on these amounts.

If you have any questions regarding this proposal or need to discuss, please call me. Thank you.

Sincerely,

Debbie Fulwiler, AIA
President



Docusign City Council Transmittal Coversheet

FILE	7226
File Name	Independent Representative for Development Srv. Bldg
Purchasing Contact	Jody word
City Council Target Date	Febraury 4, 2020
Piggy Back Option	Not Applicable
Contract Expiration	N/A
Ordinance	20-349



AIA[®] Document C141[™] – 2014

Standard Form of Agreement Between Owner and Consultant for a Design-Build Project

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

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

City of Denton
215 East McKinney Street
Denton, TX 76201

and the Consultant:
(Name, address and other information)

Elements of Architecture, Inc.
1201 6th Ave., Suite 100
Fort Worth, TX 76104

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

City of Denton's Development Services Building
401 North Elm Street
Denton, TX 76201

The Owner and Consultant agree as follows:

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

Consultation with an attorney is also encouraged with respect to professional licensing requirements in the jurisdiction where the Project is located.

TABLE OF ARTICLES

1	INITIAL INFORMATION
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5	CLAIMS AND DISPUTES
6	TERMINATION OR SUSPENSION
7	MISCELLANEOUS PROVISIONS
8	COMPENSATION
9	SPECIAL TERMS AND CONDITIONS
10	SCOPE OF AGREEMENT

EXHIBIT A CONSULTANT’S SERVICES

ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth in this Section 1.1. References to AIA Document A141™–2014, and its exhibits, are references to the standard forms published by the American Institute of Architects. If the Owner and Design Builder modify the standard text of AIA Document A141–2014, or its exhibits, the modifications shall not affect this Agreement unless the Owner and the Consultant amend this Agreement or otherwise agree to the modifications in writing Owner Design-Build Agreement.
(Note the disposition of the following items by inserting the requested information or a statement such as "not applicable" or "unknown at time of execution.")

§ 1.1.1 The Owner’s program for the Project:
(Set forth the program, identify documentation in which the program is set forth, or state the manner in which the program will be developed.)

See Exhibit "B" – Design Criteria

§ 1.1.2 The Owner’s design requirements for the Project and related documentation:
(Identify below, or in an attached exhibit, the documentation that contains the Owner’s design requirements, including any performance specifications for the Project.)

See Exhibit "B" – Design Criteria

§ 1.1.3 The Owner’s anticipated Sustainable Objective for the Project, if any:
(Identify the Owner’s Sustainable Objective for the Project such as Sustainability Certification, benefit to the environment, enhancement to the health and well-being of building occupants, or improvement of energy efficiency.)

Not Applicable

§ 1.1.4 Incentive programs the Owner intends to pursue for the Project, including those related to the Sustainable Objective, and any deadlines for receiving the incentives that are dependent on, or related to, the Consultant’s services, are as follows:
(Identify incentive programs the Owner intends to pursue for the Project and deadlines for submitting or applying for the incentive program.)

Not Applicable

§ 1.1.5 The Project's physical characteristics:

(Identify or describe, if appropriate, size, location, dimensions, or other pertinent information, such as geotechnical reports; site, boundary and topographic surveys; traffic and utility studies; availability of public and private utilities and services; legal description of the site; etc.)

See Exhibit "B" – Design Criteria

§ 1.1.6 The Owner's budget for the Cost of the Work as defined in Section 4.1 is identified below:

(Provide total, and if known, a line item breakdown of the Owner's budget for the Cost of the Work.)

To Be Determined

§ 1.1.7 The Owner's design and construction milestone dates:

- .1 Design phase milestone dates:

See Exhibit "C" – Owner's Initial Schedule

- .2 Date for initiating selection of Design-Builder:

See Exhibit "C" – Owner's Initial Schedule

- .3 Date for finalizing agreement with the Design-Builder:

See Exhibit "C" – Owner's Initial Schedule

- .4 Commencement of construction:

See Exhibit "C" – Owner's Initial Schedule

- .5 Phased completion dates:

See Exhibit "C" – Owner's Initial Schedule

- .6 Substantial Completion date:

See Exhibit "C" – Owner's Initial Schedule

- .7 Other milestone dates:

See Exhibit "C" – Owner's Initial Schedule

§ 1.1.8 Other information regarding the selection of the Design-Builder is as follows:

(Identify whether the selection of the Design-Builder will be negotiated, competitively bid or part of a design competition. If the Design-Builder is known, provide the information at Section 1.2.4.)

Selection of the Design-Builder will be by a two-step process, in accordance with Texas Government Code Chapter 2269, Subchapter G.

§ 1.1.9 Other Initial Information on which this Agreement is based:

See Exhibit "D" – Proposed Owner Design-Builder Agreement

§ 1.1.10 If the Owner and Consultant intend to transmit Instruments of Service-Consultant's Deliverables or any other information or documentation in digital form, they shall endeavor to establish necessary protocols governing such

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transmissions. ~~Unless otherwise agreed, the parties will use AIA Document E203™ 2013 to establish the protocols for the development, use, transmission, and exchange of digital data and building information modeling.~~

§ 1.2 Project Team

§ 1.2.1 The Owner identifies the following representative in accordance with Section 3.1:

(List name, address and other information.)

Larry Chan, Project Manager
City of Denton
Facilities Management
869 S. Woodrow Lane
Denton, TX 76205
larry.chan@cityofdenton.com
940-349-7755

§ 1.2.2 The persons or entities, in addition to the Owner's representative, who are required to review the Consultant's services and ~~Instruments of Service~~ Consultant's Deliverables are as follows:

(List name, address and other information.)

Per Exhibit "A" – Consultant's Services

§ 1.2.3 The Owner will retain the following other consultants and contractors:

(List discipline and, if known, identify them by name and address.)

Per Exhibit "A" – Consultant's Services

§ 1.2.4 The Design-BUILDER, if known, is as follows:

(If known, list name, legal status, address and other information, including name of the Design-BUILDER's designated representative.)

To Be Determined

§ 1.2.5 The Consultant identifies the following representative in accordance with Section 2.1:

(List name, address and other information.)

Debbie Fulwiler
Elements of Architecture, Inc.
1201 6th Ave., Suite 100
Fort Worth, TX 76104
dfulwiler@elementsofarc.com
817-333-2880

§ 1.2.6 The Consultant ~~will retain the following subconsultants:~~ Subconsultants to be retained by the Consultant ("Subconsultants") are:

(List discipline and, if known, identify them by name and address.)

Per Exhibit "A" – Consultant's Services

ARTICLE 2 CONSULTANT'S RESPONSIBILITIES

§ 2.1 The Consultant is the person or entity identified as such in this Agreement and is referred to throughout this Agreement as if singular in number. The Consultant shall designate in writing a representative who shall act on the Consultant's behalf with respect to the Project. The term "Consultant" means the Consultant or the Consultant's authorized representative.

§ 2.2 The Consultant shall perform as required under this Agreement and provide the services designated in Exhibit A.

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§ 2.2.1 The Consultant may provide Additional Services not designated in Exhibit A, after execution of this Agreement, without invalidating this Agreement. Upon recognizing the need to perform Additional Services that may arise after execution of this Agreement, the Consultant shall notify the Owner. The Consultant, however, shall not proceed to provide such services until the Consultant receives the Owner's written authorization. Except for services Agreement, if mutually agreed in writing (an "Additional Services Authorization"). In the absence of an Additional Services Authorization, the Consultant shall promptly notify the Owner in writing of the need to provide Additional Services and their cause prior to providing such services. If the Owner deems that all or a part of such Additional Services are not required, the Owner shall give prompt written notice to the Consultant, and the Consultant shall not provide those services. Except for a change due to the fault of the Consultant, any Additional Services provided in accordance with this Section 2.2.1 shall entitle the Consultant to compensation pursuant to Section 8.2. Additional Services of the Consultant shall entitle the Consultant to an adjustment in compensation pursuant to Section 8.2, and to Reimbursable Expenses (if any) made necessary by such Additional Services when such reimbursable expenses are properly incurred and documented by the Consultant, and in accordance with Section 8.5.

§ 2.3 The Consultant shall maintain the following insurance for the duration of this Agreement. If any of the requirements set forth below exceed the types and limits the Consultant normally maintains, the Owner shall reimburse the Consultant for any additional cost as set forth in Section 8.6.

§ 2.3.1 Commercial General Liability with policy limits of not less than Two Million (\$ 2,000,000) for each occurrence and Two Million (\$ 2,000,000) in the aggregate for bodily injury and property damage.

§ 2.3.2 Automobile Liability covering vehicles owned by the Consultant and non-owned and rented/leased vehicles used by the Consultant with policy limits of not less than Five Hundred Thousand (\$ 500,000) per claim and One Million (\$ 1,000,000) in the aggregate for bodily injury and property damage along with any other statutorily required automobile coverage.

§ 2.3.3 The Consultant may achieve the required limits and coverage for Comprehensive General Liability and Automobile Liability through a combination of primary and excess liability insurance, provided such primary and excess insurance policies result in the same or greater coverage as those required under Sections 2.3.1 and 2.3.2.

§ 2.3.4 Workers' Compensation at statutory limits for the State of Texas and Employers' Liability with a policy limit of not less than One Million (\$ 1,000,000).

§ 2.3.5 Professional Liability covering the negligent acts, errors and omissions in the performance of professional services with policy limits of not less than One Million (\$ 1,000,000) per claim and Two Million (\$ 2,000,000) in the aggregate.

§ 2.3.6 The Owner shall be an additional insured on the Contractor's primary and excess policies for Commercial General Liability and Automobile Liability. The additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies. The additional insured coverage shall apply to both ongoing and completed operations.

§ 2.3.7 The Consultant shall provide to the Owner certificates of insurance evidencing compliance with the requirements in this Section 2.3. The certificates Section 2.3, including appropriate evidence that each type of insurance includes appropriate coverages for this specific Project. Certificates will show the Owner as an additional insured "additional insured" on the Commercial General Liability, Automobile Liability, and any excess policies. policies and contain provisions that at least thirty (30) days' prior written notice will be given to the Owner in the event of cancellation, reduction in or nonrenewal of the insurance. Additionally, the General Liability, Auto Liability and Workers' Compensation policies shall contain a Waiver of Subrogation in favor of the Owner.

§ 2.3.8 The Consultant shall obtain insurance covering claims arising out of the performance of professional services under this Agreement and caused by errors, omissions or negligent acts for which the Consultant is liable. The Consultant shall maintain this insurance in force, after the completion of professional services under this Agreement until the expiration of the applicable statutes of limitations. In the event there is no such statute specifically applicable to design and construction of improvements to real property, this insurance, if available, shall be maintained in force by the Consultant for a reasonable period after the date of Substantial Completion of the Project as agreed to by the Owner and Consultant.

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§ 2.3.9 Unless otherwise agreed, the Owner and Consultant shall each provide insurance to protect them from claims under workers' compensation acts; from claims for damages because of bodily injury, including personal injury, sickness, disease, or death of any employees or of any other person; from claims for damages because of injury to or destruction of property including loss of use resulting therefrom; and from damage to or destruction of property including valuable papers and records coverage and including loss of use resulting therefrom.

§ 2.3.10 All insurance coverage procured by the Consultant shall be provided by insurance companies having current policyholder ratings no lower than "A-X" by A.M. Best and acceptable by the Owner, or as expressly agreed otherwise by the Owner in writing. Such companies must be licensed to do business in the State of Texas and, if different, the state in which the Project is located. Notwithstanding the above, the sole exception to this licensing requirement is the state Worker's Compensation fund.

§ 2.3.11 IF ONE OR MORE OF THE INDEMNITEES IDENTIFIED IN SECTION 5.1.3 IS DAMAGED BY THE FAILURE OF THE CONSULTANT TO PURCHASE OR MAINTAIN THE INSURANCE REQUIRED UNDER THIS SECTION 2.3, THEN THE CONSULTANT SHALL BEAR ALL REASONABLE COSTS (INCLUDING ATTORNEYS' FEES AND COURT AND SETTLEMENT EXPENSES) PROPERLY ATTRIBUTABLE TO THE FAILURE.

§ 2.3.12 The Consultant shall cause the provisions of this Section 2.3 to be included in any agreement it enters into with its Subconsultants. It shall be the Consultant's responsibility to obtain the required insurance certificates from its Subconsultants for the Owner.

§ 2.4 The Consultant shall perform its services consistent with the professional skill and care ordinarily provided by consultants practicing in the same or similar locality under the same or similar circumstances. The Consultant shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project. When applicable law requires that services be performed by licensed professionals, the Consultant shall provide those services through the performance of qualified persons or entities duly licensed to practice their professions. The Consultant shall require that its ~~subconsultants~~ Subconsultants maintain professional liability insurance as appropriate to the services provided.

§ 2.5 The Consultant ~~shall~~ shall, in keeping with the requirements of Section 1.1.2 and in accordance with the Consultant's Performance Schedule referenced in Section 2.10, coordinate its services with those services provided by the Owner, the Owner's other consultants and contractors, and the Design-Builder. The Consultant in order to avoid unreasonable delay in the orderly and sequential progress of the Owner's other consultants' services and the Work. The Consultant shall become familiar and stay current with the requirements of, and coordinate all aspects of the Work, whether designed by the Design-Builder or Owner's other consultants, as necessary for the proper coordination of the Project. The Owner shall be entitled to rely on the accuracy and completeness of services and information furnished by the Owner, the Owner's other consultants and contractors, and the Design-Builder. Consultant. The Consultant shall provide prompt written notice to the Owner if the Consultant becomes aware of any error, omission or inconsistency in such services or information.

§ 2.5.1 The Consultant shall provide copies of drawings, reports, specifications and other necessary information during the course of the Project to the Owner and Owner's other consultants in the format the Owner requires or, in the absence of direction from the Owner, as the Owner's other consultants may request. At no additional cost to the Owner, the Consultant shall also provide drawings, reports, specifications and other necessary information electronically to the Owner consistent with the provision of Section 4.2.3 or such other electronic format as may be required by the Owner.

§ 2.5.2 The Consultant shall not be responsible for the acts or omissions of the Owner, the Owner's other consultants, the Design-Builder, Subcontractors, their agents or employees, or other persons performing any of the Work. The Consultant shall provide prompt written notice to the Owner if the Consultant becomes aware of any errors, omissions or inconsistencies in the services or information provided by the Design-Builder, the Owner or the Owner's other consultants. This provision does not relieve the Consultant of responsibility for its own Subconsultants or for supervision of other consultants retained by the Owner if such supervision is included in the Consultant's Services.

~~§ 2.6 As soon as practicable after the date of this Agreement, the Consultant shall submit for the Owner's Prior to requesting any payment hereunder, the Consultant shall submit for and obtain the Owner's written approval a schedule for the performance of the Consultant's services. The schedule initially shall include anticipated dates for the commencement of construction and for Substantial Completion as set forth in the Initial Information. The schedule shall include allowances for periods of time required for the Owner's review, for the performance of the Owner's other consultants and contractors, and the Design-Builder and, services, consistent with the requirements of this Agreement, which shall upon such approval become Exhibit "E" – Consultant's Performance Schedule. It may then only be adjusted by prior written consent of the Owner as the Project proceeds. The Consultant's Performance Schedule shall allow reasonable time for the Owner and the Owner's other consultants to review the Consultant's submittals and for approval of submissions by authorities having jurisdiction over the Project. Once approved by the Owner, time limits established by the schedule Exhibit "E" – Consultant's Performance Schedule shall not, except for reasonable cause, be exceeded by the Consultant or Owner-Consultant. With the Owner's approval, the Consultant shall adjust the schedule, if necessary, as the Project proceeds until the commencement of construction.~~

§ 2.7 Except with the Owner's knowledge and consent, the Consultant shall not engage in any activity, or accept any employment, interest or contribution that would reasonably appear to compromise the Consultant's professional judgment with respect to the Project.

§ 2.8 The Consultant shall coordinate information provided by the Owner with information and data developed by the Consultant in the performance of its services.

§ 2.9 By performing the services under this Agreement, the Consultant does not assume any responsibility for the preparation, adequacy, suitability, performance, quality and completeness of the final design, or for the construction of the Work in accordance with the approved final design. The Consultant shall not have control over, charge of, or responsibility for, the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs of the Project.

§ 2.10 Services, if any, performed by the Consultant during the construction of the Project are undertaken and performed by the Consultant in the sole interest, and for the exclusive benefit, of the Owner.

ARTICLE 3 OWNER'S RESPONSIBILITIES

§ 3.1 The Owner shall identify a representative authorized to act on the Owner's behalf with respect to the Project. The term "Owner" means the Owner or the Owner's authorized representative.

~~§ 3.2 The Owner shall provide full and timely information regarding available information requested in advance in writing by the Consultant, and consistent with Exhibit "E" -Consultant's Performance Schedule including requirements for, and limitations on, the Project and shall render decisions and approve the Consultant's submittals in a timely manner-Design-Builder's scope of the Work; and the Owner's program for the Project. The Owner or such identified representative shall render decisions or cause the Owner to render such decisions in a timely manner pertaining to documents submitted by the Consultant in order to avoid unreasonable delay in the orderly and sequential progress of the Consultant's services.~~

§ 3.3 The Owner shall establish and periodically update the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 4.1; (2) the Owner's other costs; and, (3) reasonable contingencies related to all of these costs. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Consultant. The Owner and the Consultant shall thereafter agree to a corresponding change in the Project's scope and quality.

§ 3.4 The Owner shall furnish the services of other consultants and contractors in addition to those designated in this Agreement, or authorize the Consultant to furnish them as an Additional Service, when the Consultant requests such services and demonstrates that they are reasonably required by the scope of the Project.

~~§ 3.5 The Owner shall provide prompt written notice to the Consultant if the Owner becomes aware of any errors, omissions or inconsistencies in the Consultant's services or in the services or information furnished by the Owner. Not Used.~~

§ 3.6 Services provided by Owner's other consultants or contractors, and the Design-Builder, whether such services are performed directly by them or by their subconsultants or subcontractors, shall be performed by qualified professionals licensed as may be required by applicable law to perform such services in the jurisdiction in which the Project is located. ~~The Owner shall require that its other consultants and contractors, and the Design-Builder maintain professional liability insurance as appropriate to the services provided.~~

§ 3.7 Upon the Consultant's written ~~request~~, request when such services are reasonably required by the scope of the Work, the Owner shall furnish surveys to describe physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information ~~shall~~ may include, as the Owner deems applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions and necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the ~~survey~~ survey, if provided, shall be referenced to a Project benchmark.

§ 3.8 Upon the Consultant's written ~~request~~, request when such services are reasonably required by the scope of the Work, the Owner shall furnish services of geotechnical ~~engineers, which may include but are not limited to~~ engineer(s), which may include, at the Owner's option, test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

§ 3.9 Upon the Consultant's written ~~request~~, request when such services are reasonably required by the scope of the Work, the Owner shall furnish tests, inspections and reports required by law, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

§ 3.10 Upon the Consultant's written ~~request~~, request when such services are reasonably required by the scope of the Work, and to the extent reasonably required for performance of the Consultant's services, the Owner shall provide the Consultant with a copy of the scope of services in the executed agreements between the Owner and the Owner's other consultants and contractors, including the Design-Builder.

§ 3.11 Upon the Consultant's written request when such services are reasonably required by the scope of the Work, the Owner shall furnish services of such other specialty consultants.

§ 3.12 On the Consultant's written request and when necessary for the Consultant's services for the Work, the Owner or the Owner's other consultants shall furnish to the Consultant, in a reasonably timely manner, (1) detailed layouts showing the location of connections, and (2) tabulations giving sizes, loads and other information on equipment designed, specified or furnished by others for design and coordination of the Work.

§ 3.13 The Consultant shall confer with the Owner and the Owner's other consultants, as appropriate, before issuing interpretations or clarifications of documents prepared by the Consultant and shall provide the recommendation of the Consultant before providing interpretations or clarifications of shop drawings, product data, samples or other submissions of the Design-Builder, or upon Change Orders and Construction Change Directives affecting the Work.

§ 3.14 The Owner or Owner's other consultants may furnish to the Consultant a copy of the preliminary estimate or updated estimates of Cost of the Work, bidding documents, bid tabulations, negotiated proposals and Contract Documents, including, to the extent they pertain to the Work, Change Orders and Construction Change Directives for the Consultant's use in the design and coordination of the Work, and the Consultant shall cooperate with the Owner in determining the budget for the entire Project.

§ 3.15 In the event the Owner advises the Consultant of the identity of the Owner's other consultant(s) participating in the Project, the Consultant shall thereafter be responsible for proactively communicating and coordinating with such other consultants to protect the Owner's interests on the Project, and contemporaneously copying the Owner on all related communications and coordination documents.

§ 3.16 The Consultant shall review all decisions, services, deliverables, information, surveys, and reports required by this Article 3 provided by the Owner and the Owner's other consultants, and if any information is inadequate, insufficient, or if the Consultant needs any additional information to perform its services, the Consultant shall promptly notify the Owner and the applicable Owner's consultant(s) in writing. The decisions, services, information, surveys and reports identified in Article 3 shall be furnished at no expense to the Consultant. The Consultant shall provide prompt written notice to the Owner if the Consultant becomes aware of any errors, omissions or inconsistencies in such services or information.

ARTICLE 4 TERMS AND CONDITIONS

§ 4.1 Cost of the Work

§ 4.1.1 The Cost of the Work includes all costs, charges and expenses to be paid by the Owner in connection with the design and construction of the Project. For the purposes of this Agreement, the Cost of the Work shall be the total cost or, to the extent the Work is not completed, the estimated cost to the Owner to construct all elements of the Project designed or specified by the Design-Builder and shall include the Design-Builder's general conditions costs, overhead and profit.

§ 4.1.2 The Cost of the Work does not include the compensation of the Consultant and the Consultant's subconsultants, the costs of the land, rights-of-way and financing. Owner's other consultants, the Consultant and the Consultant's Subconsultants, the costs of the land, rights-of-way, financing, contingencies for changes in the Work caused by force majeure, or other costs that are the responsibility of the Owner. Owner as provided in Article 3 of this Agreement, or that are otherwise not the responsibility of the Consultant.

§ 4.2 Copyrights and Licenses

§ 4.1.3 The Cost of the Work shall include the cost at current market rates of labor and materials furnished by the Design-Builder(s) to the Owner and equipment designed, specified, selected or specially provided for by the Design-Builder, including the costs of management or supervision of construction or installation provided by the Design-Builder, plus a reasonable amount for their overhead and profit. In addition, a reasonable amount for contingencies shall be included for market conditions at the time of bidding and for changes in the Work not the result of force majeure.

§ 4.1.4 If at any time the estimate for the Cost of the Work exceeds the Owner's budget for the Cost of the Work, the Consultant shall make appropriate recommendations to the Owner to adjust the Project's size, quality or budget. Additionally, the Consultant shall cooperate with the Owner, Design-Builder and the Owner's other consultants in redesigning the Work to comply with the budget for the Cost of the Work.

§ 4.1.5 If bidding or negotiation for the Work has not commenced within ninety (90) days after the Construction Documents are completed and submitted to the Owner, the budget for the Cost of the Work shall be adjusted by the Consultant to reflect changes in the Cost of the Work.

§ 4.1.6 If the budget for the Cost of the Work is exceeded by the stipulated sum or proposal negotiated by the Owner with the Design Builder, the Owner shall:

- .1 give written approval of an increase in the budget;
- .2 authorize rebidding or renegotiating of the Project within a reasonable time;
- .3 terminate in accordance with Section 6.7; or
- .4 cooperate in revising the Project scope and quality as required to reduce the Cost of the Work.

If the Owner chooses to proceed under Section 4.1.6.4, the Consultant, without additional compensation, shall work collaboratively with the Owner and Design-Builder as necessary to comply with the budget for the Cost of the Work. The Consultant shall be entitled to compensation in accordance with this Agreement for all services satisfactorily performed whether or not construction is commenced.

§ 4.2 Ownership and Use of Consultant's Deliverables

§ 4.2.1 Drawings, specifications, and other documents furnished by the Consultant, including those in electronic form, are Instruments of Service. The Consultant, and any other person or entity providing services or work for the Consultant, shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and shall retain all common law, statutory and other reserved rights, including copyrights.

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Submission or distribution of Instruments of Service to meet official regulatory requirements, or for similar purposes in connection with the Project, is not to be construed as publication in derogation of the reserved rights of the Consultant, and any other person or entity providing services or work for the Consultant. The most current information or documents created or prepared by the Consultant (collectively the "Consultant's Deliverables") are the product of work made for hire. These are and shall remain the sole property of the Owner. The Consultant assigns to Owner all remaining proprietary rights that the Consultant and its Subconsultants may possess in the Consultant's Deliverables including, without limitation, all copyright and other intellectual property rights. Disputes between the parties shall not impact this transfer of ownership, and neither will a termination of this Agreement. In the event of a dispute between the parties regarding payment for services, the Consultant grants to the Owner a license at no charge to use the Consultant's Deliverables and other services in its possession, which license shall be unrestricted.

§ 4.2.2 The Owner and Consultant warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project. Project is the property of the Owner, and the Consultant may not use the Consultant's Deliverables for any purpose not related to the Project without the Owner's prior written consent.

§ 4.2.3 Upon execution of this Agreement, the Consultant grants to the Owner a nonexclusive license to use the Consultant's Instruments of Service solely and exclusively for constructing, using, maintaining, altering and adding to the Project, provided that the Owner substantially performs its obligations, including prompt payment of all sums when due, under this Agreement. The license granted under this Section 4.2.3 permits the Owner to authorize the Design Builder and its consultants, contractors, and material or equipment suppliers, as well as the Owner's consultants and separate contractors, to use and reproduce applicable portions of the Instruments of Service solely and exclusively for use in performing services or construction for the Project, including the further development of the Instruments of Service. The Consultant shall obtain similar limited, irrevocable and non-exclusive licenses from its subconsultants consistent with this Agreement. If the Consultant rightfully terminates this Agreement for cause as provided in Section 6.4, the license granted in this Section 4.2.3 shall terminate. When requested by the Owner, the Consultant shall furnish to the Owner the Consultant's Deliverables. At a minimum this information shall be provided in electronic format compatible with the most recent versions of the industry standard software for such information. Specifically, by way of example only, and without limitation drawings shall be compatible with AutoCAD; design and engineering calculations compatible with MS Excel; and specifications with MS Word. All layers and information shall be fully accessible (not "PDF" "protected" or "plot" files).

§ 4.2.4 The Owner, to the extent permitted by law, agrees to indemnify and hold harmless the Consultant and its subconsultants from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity, to the extent such costs and expenses arise from changes to, or further development of, the Instruments of Service by, or on behalf of, the Owner, and without the involvement of the Consultant. Submission or distribution of documents to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the Owner's reserved rights.

§ 4.2.5 Except for the licenses granted in this Article 4, no other license or right shall be deemed granted or implied under this Agreement. The Owner shall not otherwise assign, delegate, sublicense, pledge or otherwise transfer any license granted herein to another party without the prior written agreement of the Consultant. Any unauthorized reproduction or use of the Instruments of Service by the Owner or others shall be at the Owner's sole risk and expense and without liability to the Consultant and its subconsultants.

ARTICLE 5 CLAIMS AND DISPUTES

§ 5.1 General

§ 5.1.1 The Owner and Consultant shall commence all claims and causes of action, whether in contract, tort, or otherwise, against the other arising out of or related to this Agreement in accordance with the requirements of the method of binding dispute resolution selected in Section 5.2.4 this Agreement within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Project. The Owner and Consultant waive all claims and causes of action not commenced in accordance with this Section 5.1.1. Both parties agree to non-binding mediation to resolve any contractual dispute by submitting the dispute to the American Arbitration Association utilizing the Construction Industry Rules for Mediation in force at the time of the creation of the contract. If mediation fails, the jurisdiction and venue of any suit to enforce the terms of Agreement shall lie in Denton County, Texas. Should either party to this Agreement bring suit to enforce this Agreement following an unsuccessful mediation, it is agreed that the prevailing party shall be entitled to recover its costs,

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expenses and reasonable attorney fees. A prevailing party is a party that shall have obtained a final judgment or order no longer subject to appeal. In the event of a settlement before final adjudication, both parties shall bear their own respective costs, expenses and attorney fee unless otherwise agreed.

§ 5.1.2 To the extent damages are covered by property insurance, insurance during construction the Owner and Consultant waive all rights against each other; the Owner's contractors; the Owner's other consultants; and against the contractors, consultants, agents and employees of the other for damages, but only to the extent of actual coverage and recovery of any property insurance proceeds, except such rights as they may have to the proceeds of such insurance as set forth in AIA Document A141-2014, including its exhibits, this Agreement. The Owner or the Consultant, as appropriate, shall require of their contractors, consultants, agents, and employees of any of them, similar waivers in favor of the other parties enumerated herein.

§ 5.1.3 The Owner and Consultant waive consequential damages for claims, disputes or other matters in question arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination of this Agreement, except as specifically provided in Section 6.6: **TO THE FULLEST EXTENT PERMITTED BY LAW, THE CONSULTANT SHALL INDEMNIFY AND HOLD THE OWNER, THE OWNER'S OTHER CONSULTANTS, AND THE OFFICERS AND EMPLOYEES OF ANY OF THEM (THE "INDEMNITEES") HARMLESS FROM AND AGAINST CLAIMS, DAMAGES, LOSSES, EXPENSES AND JUDGMENTS, INCLUDING BUT NOT LIMITED TO REASONABLE ATTORNEYS' FEES AND EXPENSES RECOVERABLE UNDER APPLICABLE LAW, DIRECTLY OR INDIRECTLY 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) INCLUDING LOSS OF USE RESULTING THEREFROM, BUT ONLY TO THE EXTENT THEY ARE CAUSED IN WHOLE OR IN PART BY THE NEGLIGENT OR WILLFUL ACTS OR OMISSIONS OF THE CONSULTANT, ITS EMPLOYEES AND ITS CONSULTANTS OR ANYONE WHOSE ACTS THE CONSULTANT MAY BE LIABLE, IN THE PERFORMANCE OF PROFESSIONAL SERVICES UNDER THIS AGREEMENT. TO THE EXTENT THAT LIABILITY ARISES UNDER THIS PROVISION FOR ACTS FOR WHICH CONSULTANT, ITS EMPLOYEES AND ITS CONSULTANTS OR ANYONE FOR WHICH THE CONSULTANT MAY BE LIABLE ARE ONLY PARTIALLY RESPONSIBLE, LIABILITY FOR RESULTING DAMAGES, IF ANY, SHALL BE APPORTIONED BETWEEN OR AMONG THE RESPONSIBLE PARTIES BASED UPON THEIR RELATIVE PERCENTAGES OF FAULT. SUCH OBLIGATION SHALL NOT BE CONSTRUED TO NEGATE, ABRIDGE, OR REDUCE OTHER RIGHTS OR OBLIGATIONS OF INDEMNITY WHICH WOULD OTHERWISE EXIST AS TO A PARTY OR PERSON DESCRIBED IN THIS SECTION 5.1.3 AND SECTION 5.1.4.**

§ 5.1.4 IN CLAIMS AGAINST ANY OF THE INDEMNITEES UNDER THIS SECTION 5.1.4 AND SECTION 5.1.3 BY AN EMPLOYEE OF THE CONSULTANT, ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY THE CONSULTANT OR ANYONE FOR WHOSE ACTS THE CONSULTANT MAY BE LIABLE, THE INDEMNIFICATION OBLIGATION UNDER THIS SECTION 5.1.4 AND SECTION 5.1.3 SHALL NOT BE LIMITED BY A LIMITATION ON AMOUNT OR TYPE OF DAMAGES, COMPENSATION OR BENEFITS PAYABLE BY OR FOR THE CONSULTANT UNDER WORKERS' COMPENSATION ACTS, DISABILITY BENEFIT ACTS OR OTHER EMPLOYEE BENEFIT ACTS.

§ 5.2 Mediation

§ 5.2.1 Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to non-binding mediation as a condition precedent to ~~binding dispute resolution~~ litigation in a court of competent jurisdiction. If such matter relates to or is the subject of a lien arising out of the Consultant's services, the Consultant may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by ~~mediation or by binding dispute resolution~~ non-binding mediation or by litigation in a court of competent jurisdiction.

§ 5.2.2 The Owner and Consultant shall endeavor to resolve claims, disputes and other matters in question between them by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of this

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Agreement. A request for mediation shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of a complaint or other appropriate demand for binding dispute resolution but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration proceeding is stayed pursuant to this section, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§ 5.2.3 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

§ 5.2.4 If the parties do not resolve a dispute through non-binding mediation pursuant to this Section 5.2, the method of binding dispute resolution shall be the following:

(Check the appropriate box. If the Owner and Consultant do not select a method of binding dispute resolution below, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, the dispute will be resolved in a court of competent jurisdiction.)

☐ Arbitration pursuant to Section 5.3 of this Agreement

☒ Litigation in a court of competent jurisdiction

☐ Other: *(Specify)*

§ 5.3 Arbitration

§ 5.3.1 If the parties have selected arbitration as the method for binding dispute resolution in this Agreement, any claim, dispute or other matter in question arising out of or related to this Agreement subject to, but not resolved by, mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of this Agreement. A demand for arbitration shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the arbitration.

§ 5.3.1.1 A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the claim, dispute or other matter in question would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the claim, dispute or other matter in question.

§ 5.3.2 The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by the parties to this Agreement shall be specifically enforceable in accordance with applicable law in any court having jurisdiction thereof.

§ 5.3.3 The award rendered by the arbitrator(s) shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

§ 5.3.4 Consolidation or Joinder

§ 5.3.4.1 Either party, at its sole discretion, may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation; (2) the arbitrations to be consolidated substantially involve common questions of law or fact; and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

§ 5.3.4.2 Either party, at its sole discretion, may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional

person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.

~~§ 5.3.4.3 The Owner and Consultant grant to any person or entity made a party to an arbitration conducted under this Section 5.3, whether by joinder or consolidation, the same rights of joinder and consolidation as the Owner and Consultant under this Agreement.~~

ARTICLE 6 TERMINATION OR SUSPENSION

~~§ 6.1 If Unless there is a bona fide dispute, if the Owner fails to make payments to the Consultant in accordance with this Agreement, such failure shall be considered substantial non-performance and cause for termination or, at the Consultant's option, cause for suspension of performance of services under this Agreement. Prior to suspension or termination of services, the Consultant shall give seven days' written notice to the Owner. The Consultant shall have no liability to the Owner for delay or damage caused to~~ If the Consultant is contemplating termination, prior to any suspension or termination of services, and notwithstanding the shorter notice period in Section 6.4, the Consultant shall give twenty-one (21) days' written notice and the right to cure such non-performance to the Owner. In the event of suspension of services, without such notice and right to cure, the Consultant shall have liability to the Owner for any delay or damage caused the Owner because of such suspension or termination of services. In the event of suspension of services, and before resuming services, the Consultant shall be paid for all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Consultant's services. The Consultant's compensation and schedule for the remaining services shall be equitably adjusted.

~~§ 6.2 If the Owner suspends the Project or the Consultant's services, services for more than ninety (90) consecutive days, the Consultant shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Consultant shall be compensated for expenses incurred in the interruption and resumption of the Consultant's services. The Consultant's compensation and schedule for the remaining services shall be equitably adjusted.~~

~~§ 6.3 If the Project is suspended or the Consultant's services are suspended for more than 90 cumulative days, the Consultant may terminate this Agreement by giving not less than seven days' written notice.~~

~~§ 6.4 This Agreement may be terminated by either party upon not less than seven (7) days' written notice specifying the cause and the other party's right to cure should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination. Such notice shall specify the reason for termination.~~

~~§ 6.5 This Agreement may be terminated by the Owner upon not less than seven-twenty-one (21) days' written notice to the Consultant solely for the Owner's convenience and without cause.~~

~~§ 6.6 In the event of termination not the fault of the Consultant, the Consultant shall be compensated for services performed prior to termination, together with Reimbursable Expenses then due and all expenses directly attributable to termination for which the Consultant is not otherwise compensated due. Owner shall have no further liability for compensation expenses, or fees to Consultant hereunder, including, without limitation, compensation for lost opportunity or other indirect or consequential costs.~~

~~§ 6.7 In the event of any termination under this Article 6, the Consultant consents to Owner's selection of another consultant of the Owner's choice to assist the Owner in any way in completing the Project. Consultant further agrees to cooperate and provide any information requested by the Owner in connection with the completion of the Project and consents to and authorizes the making of any reasonable changes to the design and requirements of the Project by the Owner and such other consultant as Owner may desire. Any services provided by Consultant which are requested by the Owner after termination shall be fairly compensated by Owner as Additional Services.~~

ARTICLE 7 MISCELLANEOUS PROVISIONS

~~§ 7.1 This Agreement shall be governed by the law of the place where the Project is located, except that if the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern~~ Section 5.3. laws, codes and regulations of Denton County and the State of Texas to the extent that such laws, codes

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and regulations are applicable to the Owner. The parties agree that the venue of any civil action arising out of this Agreement shall be Denton County, Texas.

§ 7.2 Terms not defined in this Agreement shall have the same meaning as those in AIA Document A141–2014, Standard Form of Agreement Between Owner and Design-BUILDER, and its ~~exhibits~~ exhibits as amended and attached as Exhibit "D" – Proposed Owner Design-BUILDER Agreement.

§ 7.3 Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the Owner or Consultant.

§ 7.4 Unless explicitly provided otherwise in this Agreement, ~~neither the Owner nor the Consultant and its subconsultants~~ Subconsultants shall have no any responsibility for the discovery, presence, handling, removal or disposal of, or for the exposure of persons to, hazardous materials or toxic substances in any form at the Project site. However, the Consultant shall report to the Owner the presence and location of any hazardous material which the Consultant notices or which a Consultant of similar skill and experience would have noticed.

§ 7.5 Subject to the confidentiality requirements of Section 7.6, the Consultant shall have the right to include in its promotional and professional materials photographic representations of the Project, copies of its Instruments of Service or any other materials prepared by the Consultant in connection with the Project. The Consultant shall be given reasonable access to the completed Project to make such photographic representations. The Owner shall provide professional credit to the Consultant in the Owner's promotional materials for the Project.

§ 7.6 If the ~~Owner or Consultant receives information specifically designated as "confidential" or "business proprietary," the receiving party~~ Consultant receives information from the Owner, it shall treat such information as "confidential" or "business proprietary" and shall keep such information strictly confidential and shall not disclose it to any other person except as set forth in Section 7.6.1.

§ 7.6.1 If the ~~Owner or Consultant receives information specifically designated as "confidential" or "business proprietary," the receiving party~~ Consultant receives information from the Owner, it shall treat such information as "confidential" or "business proprietary" and may disclose such information as required by law or court order, including a subpoena or other form of compulsory legal process issued by a court or governmental entity. The Party Consultant receiving such information may also disclose it to its employees, consultants or contractors in order to perform services or work solely and exclusively for the Project, provided those employees, consultants and contractors are subject to the restrictions on the disclosure and use of such information as set forth in this Section 7.6.

§ 7.7 The Owner and Consultant, respectively, bind themselves, their partners, successors, assigns and legal representatives to this Agreement. ~~Neither the Owner nor the Consultant shall~~ The Consultant shall not assign this Agreement without the written consent of the other except that the Owner may assign this Agreement to a lender providing financing for the Project if the lender agrees to assume the Owner's rights and obligations under this Agreement. ~~Owner.~~

§ 7.8 If the Owner requests the Consultant to execute certificates, the proposed language of such certificates shall be submitted to the Consultant for review at least ~~14~~ fourteen (14) days prior to the requested dates of execution. If the Owner requests the Consultant to execute consents reasonably required to facilitate assignment to a lender, the Consultant shall execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to the Consultant for review at least ~~14~~ fourteen (14) days prior to execution. The Consultant shall not be required to execute certificates or consents that would require knowledge, services or responsibilities beyond the scope of this Agreement.

§ 7.9 This Agreement has been created jointly and ambiguity cannot be construed against either party.

§ 7.10 To the extent damages are covered by property insurance during construction the Owner and the Consultant waive all rights against each other; the Owner's contractors; the Owner's other consultants; and the agents and employees of any of them for damages, but only to the extent of actual recovery of any property insurance proceeds, except such rights as they may have to the proceeds of such insurance as set forth in this Agreement. The Consultant and Owner shall each require similar waivers of the contractors, consultants, agents and employees of any of them.

§ 7.11 This Agreement and the attached Exhibits represents the entire and integrated agreement for the Work between the Owner and the Consultant and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Owner and Consultant.

§ 7.12 Time limits set out in or under this Agreement are solely for the protection and benefit of the Owner and create no third-party beneficiary rights in any other party.

§ 7.13 Any notice required or permitted by this Agreement shall be in writing and shall be deemed to have been sufficiently given for all purposes when deposited in the U.S. Mail and sent either certified or registered, postage and fees prepaid, addressed to the party to whom such notice is intended to be given at the address set forth below, or at such other address as has been previously furnished in writing, to the other party or parties. A confirming, simultaneous and congruent electronic notice shall also be sent to the most current email address provided by the parties to each other at the time of such notice.

§ 7.14 All Exhibits referred to in this Agreement and those stipulated in Exhibit "Z" – Schedule of Exhibits, to be provided at a later date, are, by reference, incorporated herein for all purposes.

§ 7.15 The numbering and captions of the paragraphs are set forth only for convenience and reference, and are not intended in any way to define, limit, or describe the scope or intent of this Agreement.

§ 7.16 The parties agree that they will execute any further instrument or instruments, and that they will perform any act or acts, which are or may become necessary to effectuate any of the terms or provisions of this Agreement.

§ 7.17 The Consultant represents and warrants the following to the Owner (in addition to any other representation and warranties contained elsewhere in this Agreement and its Exhibits) as a material inducement to the Owner to execute this Agreement, which representations and warranties shall survive the execution and completion of the services of this Agreement, any termination of this Agreement, and final completion of the Work:

.1 All architectural services will be performed under the direct supervision of a Registered Professional Architect licensed to practice in the State of Texas. The Architect will seal all documents requiring the seal of a Professional Architect. The services will meet or exceed the minimum standards of practice established by the Texas Board of Architectural Examiners;

.2 Firm must be registered by the State of Texas to provide services in the State. All fees and taxes are the responsibility of the responding architect or firm;

.3 Copies of current licenses or certifications of the lead Architect and any other firm employee that will be signing and/or sealing official documents are attached to this Agreement as Exhibit "H" – Consultant's Current Licenses & Certifications";

.4 The firm shall not substitute or replace the lead Architect or any other major staff involved with this contract without the written notice and acceptance by the Owner;

.5 The Consultant and its Subconsultants are financially solvent, able to pay all debts as they mature and possessed of sufficient working capital to complete the Work and perform all obligations hereunder;

.6 The Consultant is authorized to do business in the City of Denton, Denton County, and the State of Texas and is properly licensed by all necessary governmental and public and quasi-public authorities having jurisdiction over the Consultant and over the Work and the Project;

.7 The Consultant's execution of this Agreement and performance thereof is within the Consultant's duly-authorized powers;

.8 The Consultant's duly-authorized representative has visited the site of the Project and is familiar with the local conditions under which the Work is to be performed and has correlated its observations with the requirements of this Agreement;

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.9 The Consultant possesses a high level of experience and expertise in providing the services specified in Exhibit "A" – Consultant's Services for projects of this size, complexity and nature of this particular Project and will perform such services with the highest level of care, skill and diligence;

.10 The foregoing warranties are in addition to, and not in lieu of, any and all other liability imposed upon the Consultant by law with respect to the Consultant's duties, obligations, and performance hereunder; and

.11 The Consultant acknowledges that the Owner is relying upon the Consultant's skill and experience in connection with the proper, timely and diligent provision of the services hereunder.

§ 7.18 Some or all of the Owner's duties, approvals and actions required under this Agreement may be provided by third parties by mutual agreement of the Owner and such third parties. When notified in writing of the specific duties and responsibilities of such third party, the Consultant will recognize the actions and approvals of the third party as sufficient to fulfill the Owner's responsibilities under this Agreement.

§ 7.19 Nothing contained in this Agreement shall create a contractual relationship with a cause of action in favor of a third party against either the Owner or Consultant.

§ 7.20 The Consultant shall, without limitation, not knowingly employ or contract with an illegal alien to perform any of the services under this Agreement. The Consultant shall not knowingly contract with a Subconsultant that (1) knowingly employs or contracts with an illegal alien to perform services under this Agreement or (2) fails to certify to the Consultant that the Subconsultant will not knowingly employ or contract with an illegal alien to perform services under this Agreement.

§ 7.20.1 If Consultant obtains actual knowledge that a Subconsultant performing work under this Agreement knowingly employs or contracts with an illegal alien, the Consultant shall:

- .1 Notify the Subconsultant and the Owner within three (3) days that the Consultant has actual knowledge that the Subconsultant is employing or contracting with an illegal alien; and
- .2 Terminate the subcontract with the Subconsultant if, within three (3) days of receiving notice that the Consultant has actual knowledge that the Subconsultant is employing or contracting with an illegal alien, the Subconsultant does not stop employing or contracting with the illegal alien. The Consultant shall not terminate the contract with the Subconsultant if during the three (3) days, the Subconsultant provides information to establish that the Subconsultant has not knowingly employed or contracted with an illegal alien.

§ 7.20.2 In addition to any other legal or equitable remedy, and notwithstanding anything to the contrary in this Agreement or the Contract Documents the Owner may be entitled to for a breach of the Agreement, if the Owner terminates this Agreement, in whole or in part, due to the Consultant's breach of the obligations set forth above in this Section 7.20, the Consultant shall be liable for actual and consequential damages to the Owner.

ARTICLE 8 COMPENSATION

§ 8.1 For the Consultant's services under this Agreement, the Owner shall compensate the Consultant as follows:
(Insert amount of, or basis for, compensation.)

See Exhibit "F" – Compensation and Reimbursable Expenses

§ 8.2 For Additional Services-Services, pursuant to Section 2.2.1 that may arise during the course of the Project, the Owner shall compensate the Consultant as follows:
(Insert amount of, or basis for, compensation.)

The Consultant and Owner will use their best efforts to agree in writing on such "not-to-exceed" lump sum amount for the Consultant to bill hourly against at the rates shown in Exhibit "G" – Hourly Rates for each Additional Service requested by the Owner in advance of any work being performed by the Consultant. In the absence of such agreement, the Owner shall have the option to:

- .1 Ask the Consultant in writing and in advance to perform the Additional Services on an hourly basis without a "not-to-exceed" lump sum amount at the rates attached in Exhibit "G" – Hourly Rates; or
- .2 Ask the Consultant to cooperate and coordinate with a second consultant (with similar professional requirements as the Consultant had under this Agreement) and the Owner's other consultants, if necessary, to provide the Additional Services in question. The Owner will compensate the Consultant for such reasonable cooperation and coordination time not included in Basic Services at the hourly rates attached in Exhibit "G" – Hourly Rates.

~~§ 8.3 Compensation for Additional Services of the Consultant's subconsultants when not included in Section 8.2, shall be the amount invoiced to the Consultant plus — percent (—%), or as otherwise stated below:~~
For other services of Consultant's Subconsultants for other than Basic Services for the Work, as provided under Section 8.1 or identified in Section 2.2.1 as Other Services, compensation shall be a multiple of one point zero (1.0) times the amount(s) billed to the Consultant for such services.

~~§ 8.4 The hourly billing rates for services of the Consultant and the Consultant's subconsultants, Subconsultants, if any, are set forth below in Exhibit "G" – Hourly Rates. The rates shall be adjusted in accordance with the Consultant's and Consultant's subconsultants' Subconsultants' normal review practices.~~
(If applicable, attach an exhibit of hourly billing rates or insert them below.)

See Exhibit "G" – Hourly Rates

Employee or Category	Rate
N/A	

- ~~§ 8.5 Compensation for Reimbursable Expenses~~
~~§ 8.5.1 The Owner shall compensate the Consultant for expenses incurred by the Consultant and the Consultant's subconsultants reimburse the Consultant for the Reimbursable Expenses necessarily and reasonably incurred by the Consultant directly relating to the Work and listed in this Section 8.5.1 below, up to the maximum amount shown for Reimbursable Expenses in Exhibit "D" – Compensation & Reimbursable Expenses. Reimbursable Expenses are in addition to compensation for the Consultant's services, and are also in addition to the fees for Additional Services (if any). Reimbursable Expenses include those reasonable expenses incurred by the Consultant, the Consultant's employees, and the Consultant's Subconsultants directly related to the Project, as follows:~~
- ~~.1 Transportation in connection with the Work, and when authorized in advance in writing out-of-town travel and subsistence;~~
 - ~~.2 Dedicated data and communication services, teleconferences, Project Web sites, and extranets;~~
 - ~~.3 Fees paid for securing approval of authorities having jurisdiction over the Project;~~
 - ~~.4 Printing, reproductions, plots, standard form documents;~~
 - ~~.5 Postage, handling and delivery; delivery of Drawings and Specifications;~~
 - ~~.6 Expense of overtime work requiring higher than regular rates, if authorized in advance and in writing by the Owner;~~
 - ~~.7 Renderings, models, mock-ups, professional photography, and presentation materials when requested by the Owner;~~
 - ~~.8 Consultant's subconsultant's Subconsultant's expense of professional liability insurance dedicated exclusively to this Project, or the expense of additional insurance coverage or limits if the Owner requests such insurance in excess of that normally carried by the Consultant's subconsultants; Subconsultants;~~
 - ~~.9 All taxes levied on professional services and on reimbursable expenses; and~~
 - ~~.10 Other similar Project-related expenditures.~~

~~§ 8.5.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Consultant and the Consultant's sub-consultants plus — percent (—%) of the expenses incurred. Compensation for Reimbursable Expenses, as described in this Section 8.5, shall be a multiple of one point zero (1.0) times the expenses directly incurred by the Consultant, the Consultant's employees and the Consultant's Subconsultants.~~

~~§ 8.6 If the insurance requirements listed in Section 2.3 exceed the types and limits the Consultant normally maintains and the Consultant incurred additional costs to satisfy such requirements, the Owner shall reimburse the Consultant for such costs as set forth below:~~

Not Used

~~§ 8.7 If the services covered by this Agreement have not been completed by December 8, 2020 through no fault of the Consultant, extension of the Consultant's services beyond that time shall be compensated as provided in Section 8.2.~~

§ 8.8 Payments to the Consultant

~~§ 8.8.1 An initial payment of (\$ —) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice. The Consultant shall submit invoices for services and Reimbursable Expenses in accordance with the provisions of this Agreement in a format specified and containing the detail required by the Owner. The Owner shall review such invoices and, if they are considered incorrect or untimely, the Owner shall, within ten (10) days from receipt of the Consultant's billing, review the matter with the Consultant and confirm in writing to the Consultant and the Owner's understanding of the disposition of the issue.~~

~~§ 8.8.2 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Consultant's invoice. Amounts unpaid (—) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Consultant.
(Insert rate of monthly or annual interest agreed upon.)~~

~~—percent (— %) Payments to the Consultant shall be made promptly by the Owner after the approval of the Consultant's invoice. Payment for any unapproved portions of the Consultant's invoices will be pending resolution of any issue(s) identified in Section 8.8.1 above.~~

~~§ 8.8.3 The Owner shall not withhold amounts from the Consultant's compensation to impose a penalty or liquidated damages on the Consultant, or to offset sums requested by or paid to contractors for the cost of changes in the Work unless the Consultant agrees or has been found liable for the amounts in a binding dispute resolution proceeding.~~

~~§ 8.8.4 ~~Records~~ Detailed records of Reimbursable Expenses, Expenses; expenses pertaining to Additional Services, Services; and services performed on the basis of hourly rates shall be provided by the Consultant upon request, and shall also be made available to the Owner and the Owner's authorized representative at the Consultant's offices at mutually convenient times.~~

ARTICLE 9 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Agreement are as follows:

~~§ 9.1 In the event that any provision herein is held to be unlawful or against public policy, or a violation of the Charter of Ordinances of Denton, Texas, such provision shall be modified to make it valid, or if modification is not possible, such provision shall be deleted and the remainder of this Agreement shall remain in full force and effect.~~

~~§ 9.2 Each party hereto agrees to, without limitation, perform all acts; provide all services, material, equipment, labor and supervision; and to make, execute, and deliver such written instruments, as shall from time to time be reasonably required to carry out the terms and provisions of this Agreement.~~

~~§ 9.3 All exhibits referred to in this Agreement are, by reference, incorporated herein for all purposes.~~

~~§ 9.4 The captions of the paragraphs are set forth only for convenience and reference, and are not intended in any way to define, limit, or describe the scope or intent of this Agreement.~~

~~§ 9.5 Any specific requirement in this Agreement that require responsibilities or obligations of the Consultant also apply to a Subconsultant is added for emphasis and is also hereby deemed to include a Subconsultant, Sub-subcontractor or supplier of any tier. The omission of a reference to a Subcontractor in connection with any of the Consultant's responsibilities or obligations shall not be construed to diminish, abrogate, or limit any responsibilities or~~

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obligations of a Subconsultant or Sub-subconsultant of any tier under this Agreement or the applicable subconsultant's agreement.

§ 9.6 The provisions of this Agreement shall not be changed, amended, waived, or otherwise modified in any respect except by a written document signed by Owner. No person is authorized on behalf of Owner to orally change, amend, waive, or otherwise modify the terms of this Agreement or any of the Consultant's duties or obligations under or arising out of this Agreement. Any change, waiver, approval, or consent granted to the Consultant shall be limited to the specific material restated in the written document signed by Owner, and shall not relieve Consultant of any other of the duties and obligations under this Agreement. No "constructive" changes under any Agreement with the Owner shall be allowed.

§ 9.7 The Consultant shall provide and file, as required by law, all notices required or permitted by the laws of the state in which the Project is located for protection of Owner from liens and claims of lien if permitted or required by applicable law. Design-Builder shall be responsible for filing in the appropriate court or other governmental office records all such notices as required or permitted by the laws of the state in which the Project is located.

§ 9.8.1 The Consultant shall provide Owner with copies of all notices received by Consultant from Subconsultants, Sub-subconsultants, and/or suppliers.

§ 9.8.2 Notices. All legal notices, consents, approvals, demands, requests or other communications provided for or permitted to be given under any of the provisions of this Agreement shall be in writing and shall be deemed to have been duly given or served when delivered by hand delivery or when deposited in the U.S. mail by registered or certified mail, return receipt requested, postage prepaid, and addressed as follows:

If to Owner:

Todd Hileman
City of Denton
215 East McKinney Street
Denton, TX 76201

With a copy to Owner's staff point of contact:

Larry Chan
City of Denton
869 S. Woodrow
Denton, TX 76201
larry.chan@cityofdenton.com
940-349-7755

With a copy to the City Attorney's point of contact:

Larry Collister
City of Denton
215 East McKinney Street
Denton, TX 76201

If to Consultant:

Debbie Fulwiler
1201 6th Ave., Suite 100
Fort Worth, TX 76104
dfulwiler@elementsofarc.com
817-333-2880 Main

§ 9.9 Owner affirmatively represents that its governing body has duly appropriated such sums which are equal to or in excess of the contract amount, and that such contract amount may be lawfully paid by Owner to Consultant. In the event that Owner approves, Owner will issue a written assurance at the time of such approval that such additional compensation to be paid has also been duly appropriated by the Owner's governing body.

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§ 9.10 This Agreement is and shall be subject to those provisions required of political subdivisions by the laws of the State of Texas. The Consultant understands that the Owner is a Texas home rule municipality and that the project is subject to applicable provisions of Texas law including bid requirements, bonding, and final settlement provisions.

§ 9.11 Consultant understands that certain information, including this Agreement, are public records available for public inspection and copying under the Texas Open Records Act., Texas Government Code Ch. 552, as amended, and other applicable laws.

§ 9.12 Consultant certifies and warrants that no gratuities, kickbacks or contingency fees were paid in connection with this Agreement, nor were any fees, commissions, gifts or other considerations made contingent upon the award of this Agreement. Consultant warrants that to the best of Consultant's knowledge, there exists no actual or potential conflict of interest, and no financial or substantial interest as may be prohibited by Texas law, the Charter, or Code of Ethics of the City of Denton between Consultant and Owner. In recognition of this requirement, the Consultant has attested to this fact in Exhibit "I" – Ethics Affidavit.

§ 9.13 Consultant shall comply with the disclosure and reporting requirements in Local Government Code Chapters 171 and 176, and Texas Government Code Sec. 2252.908. Under Sec. 2252.908, if City Council approval is required to award this Agreement or if this Agreement has a value of at least \$1,000,000, the City may not enter into the Agreement unless the Consultant submits a disclosure of interested parties to the City at the time the executed Agreement is presented to the City. The disclosure must be made on the form prescribed by the Texas Ethics Commission and the City is required to submit a copy of the disclosure statement to the Texas Ethics Commission not later than the thirtieth (30th) day after the disclosure is received by the City.

§ 9.14 The Owner is a Texas home-rule municipality and as such is generally exempt from taxation under Texas law, which may include the purchase of items, materials, or supplies purchased on behalf of the Owner for this public works project. Consultant shall confirm that the Owner is exempt before paying taxes for items, materials, or supplies that may not be lawfully charged to the Owner.

§ 9.15 Some or all of the Owner's duties, approvals and actions required under this Agreement may be provided by third parties by mutual agreement of the Owner and such third parties. When notified in writing of the specific duties and responsibilities of such third party, the Consultant will recognize the actions and approvals of the third party as sufficient to fulfill the Owner's responsibilities under this Agreement.

§ 9.16 Time limits set out in or under this Agreement are solely for the protection and benefit of the Owner and create no third-party beneficiary rights in any other party.

§ 9.17 The parties agree that they will execute any further instrument or instruments, and that they will perform any act or acts, which are or may become necessary to effectuate any of the terms or provisions of this Agreement.

§ 9.18 Nothing contained in this Agreement shall create a contractual relationship with a cause of action in favor of a third party against either the Owner or Consultant.

§ 9.19 This Agreement has been created jointly and ambiguity cannot be construed against either party.

§ 9.20 Financial obligations of the Owners payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available.

§ 9.21 No term or condition of the Agreement shall be construed or interpreted as a waiver, express or implied, of any of the governmental or sovereign immunities, rights, benefits, or protections of the Owner.

§ 9.22 Consultant warrants that the deliverables, processes, techniques and methodologies provided by Consultant shall not infringe upon the copyright, patent or other proprietary rights of others.

§ 9.23 In case any provision hereof shall, for any reason, be held invalid or unenforceable in any respect, such invalidity or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid or unenforceable provision had not been included herein.

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§ 9.24 Consultant understands and agrees that time is of the essence.

§ 9.25 This Agreement may be executed by the parties hereto in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute one and the same instrument. Each counterpart may consist of any number of copies hereof each signed by less than all, but together signed by all of the parties hereto.

§ 9.26 Consultant makes the following representations and warranties to Owner, each of which is true and correct as of the Effective Date of this Agreement:

- .1 Consultant is a corporation duly organized, existing and in good standing under the laws of the State of Texas; Consultant possesses all requisite power and authority to enter into and perform this Agreement and to carry out the transactions contemplated herein; and Consultant has all legal power and authority to own and use its properties and to transact the business in which it is engaged and holds or expects to obtain in a timely manner all material franchises, licenses and permits required hereunder;
- .2 Consultant's execution, delivery and performance of this Agreement have been duly authorized by, and are in accordance with, its limited partnership agreement; this Agreement has been duly executed and delivered for it by the signatories so authorized; and this Agreement constitutes Consultant's legal, valid and binding obligation;
- .3 Consultant is not currently in breach of, in default under, or in violation of, and the execution and delivery of this Agreement and the performance of its obligations hereunder will not constitute or result in any breach of, default under or violation of, any Governmental Rule, or the provisions of Consultant's limited partnership agreement, or any franchise or license, or any provision of any indenture or any evidence of indebtedness or security therefor, lease, contract, license or other agreement by which it is bound, except for such breaches, defaults or violations as will not, either individually or in the aggregate, result in a material adverse effect on the ability of Consultant to perform its obligations hereunder;
- .4 No suit, claim, action, arbitration, or legal, administrative or other proceeding is pending or, to the best knowledge of Consultant, threatened against Consultant that could affect the validity or enforceability of this Agreement, the ability of Consultant to fulfill its commitments hereunder in any material respect, or that would result in any material adverse change in the business or financial condition of Consultant;
- .5 Consultant certifies that it (i) is a duly qualified, capable business entity, (ii) is not in receivership and does not contemplate same, (iii) has not filed for bankruptcy, and is not currently delinquent with respect to payment of property taxes to the City of Denton or within Denton County, and (iv) is duly licensed and/or registered in the State of Texas, to the extent required by the laws of the State of Texas, to perform the Consultant's services described in Exhibit "A" Consultant's Services.

§ 9.27 Any of the representations, warranties, covenants, and obligations of the Parties, as well as any rights and benefits of the Parties, pertaining to a period of time following the termination of this Agreement shall survive termination.

ARTICLE 10 SCOPE OF AGREEMENT

§ 10.1 This Agreement represents the entire and integrated agreement between the Owner and the Consultant and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Owner and Consultant. This Agreement is comprised of the documents listed below:

- .1 AIA Document C141™–2014, Standard Form of Agreement Between Owner and Consultant.
Consultant, as amended herein;
- .2 AIA Document C141™–2014, Exhibit A, Consultant's Services.Services;
- .3 AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, if completed,
or the following:

- 4 Other documents, as follows:
(List other documents, if any, including additional scopes of service forming part of this Agreement.)

Exhibit "B" – Design Criteria
Exhibit "C" – Owner's Initial Schedule
Exhibit "D" – Proposed Owner Design-Builder Agreement
Exhibit "E" – Consultant's Performance Schedule
Exhibit "F" – Compensation and Reimbursable Expenses
Exhibit "G" – Hourly Rates
Exhibit "H" – Consultant's Current Licenses or Certifications
Exhibit "I" – Ethics Affidavit
Exhibit "X" – Consultant's Insurance Certificate(s)
Exhibit "Y" – Employing or Contracting with an Illegal Alien
Exhibit "Z" – Schedule of Exhibits

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

DocuSigned by:

Todd Hileman

E776C711BA0D454...

OWNER (Signature)

Todd Hileman , City Manager
 (Printed name and title)

DocuSigned by:

Debbie Fulwiler

8C297D6474324A7...

CONSULTANT (Signature)

Debbie Fulwiler , Owner
 (Printed name and title)

Approved as to Legal Form Only:

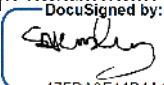
DocuSigned by:

Larry Collister

38A6D90FD9334AB...

Aaron Neal, City Attorney

THIS AGREEMENT HAS BEEN BOTH
REVIEWED AND APPROVED as to financial
and operational obligations and business terms.

DocuSigned by:

47FDA3E11B4A41A...

SIGNATURE

Sara Hensley

PRINTED NAME

Sara Hensley

TITLE

City Managers Office

DEPARTMENT

Additional Consultant Information:

817-333-2880

PHONE NUMBER

dfulwiler@elementsofarc.com


EMAIL ADDRESS

2020-582524

TEXAS ETHICS COMMISSION
CERTIFICATE NUMBER

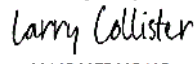
ATTEST City Manager's Signature Above:
ROSA RIOS, CITY SECRETARY

By: _____

DocuSigned by:

1C5CA8C5E175493...

APPROVED AS TO LEGAL FORM:
AARON LEAL, CITY ATTORNEY


By: _____

DocuSigned by:

38A6D90FD9334AB...

Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, Chris Squadra, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with this certification at 21:16:25 ET on 01/26/2020 under Order No. 2714778405 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document C141™ – 2014, Standard Form of Agreement Between Owner and Consultant for a Design-Build Project, as published by the AIA in its software, other than changes shown in the attached final document by underscoring added text and striking over deleted text.


(Signed)

Chris Squadra, Principal
(Title)

26-JAN-2020
(Dated)



AIA[®] Document C141[™] – 2014 Exhibit A

Consultant's Services

for the following PROJECT:
(Name and location or address)

City of Denton's Development Services Building
401 North Elm Street
Denton, TX 76201

THE OWNER:
(Name, legal status and address)

City of Denton
215 East McKinney Street
Denton, TX 76201

THE CONSULTANT:
(Name, legal status and address)

Elements of Architecture, Inc.
1201 6th Ave., Suite 100
Fort Worth, TX 76104

THE AGREEMENT

This Exhibit is part of the accompanying agreement between the Owner and the Consultant (hereinafter, the Agreement), dated the Fifth day of February in the year Two Thousand and Twenty.

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

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

TABLE OF ARTICLES

- A.1 PROJECT ADMINISTRATION SERVICES
- A.2 INFORMATION GATHERING SERVICES
- A.3 PROGRAMMING AND PLANNING SERVICES
- A.4 BRIDGING DOCUMENT DESIGN SERVICES
- A.5 OWNER'S CRITERIA DEVELOPMENT SERVICES
- A.6 BUDGETING AND COST ESTIMATING SERVICES
- A.7 DESIGN-BUILD PROCUREMENT SERVICES
- A.8 CONSULTING SERVICES IN CONNECTION WITH DESIGN AND CONSTRUCTION DOCUMENTS PREPARED BY THE DESIGN-BUILDER
- A.9 CONSULTING SERVICES IN CONNECTION WITH THE CONSTRUCTION OF THE PROJECT
- A.10 CONSULTING SERVICES AFTER SUBSTANTIAL COMPLETION
- A.11 SUSTAINABILITY SERVICES
- A.12 OTHER SERVICES

The Consultant shall provide to the Owner only the services in this Exhibit A that are designated by a check or "X" in the box adjacent to the listed service. In providing subsequent services, the Consultant shall be entitled to rely on the Owner's prior approvals of documents submitted or services rendered.

(Designate the services the Consultant shall provide by placing a check or "X" in the box adjacent to the listed service. If necessary, provide expanded or modified descriptions of the designated services in the space provided in the section, or in an exhibit attached to this document.)

ARTICLE A.1 PROJECT ADMINISTRATION SERVICES

<input checked="" type="checkbox"/>	<p>§ A.1.1 Project Administration. Consult with the Owner and administer the Project on the Owner's behalf, including, attending and conducting Project meetings, communicating with members of the Project Team, and issuing progress reports to the Owner.</p> <p><u>Included in Consultant's Services</u></p>
<input checked="" type="checkbox"/>	<p>§ A.1.2 Agency Consultation/Review/Approval. Assist the Owner in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project and not otherwise the responsibility of the Design-Builder. The Consultant's obligation with respect to this Section A.1.2 is limited to the following approvals:</p> <p><u>Included in Consultant's Services</u></p>
<input checked="" type="checkbox"/>	<p>§ A.1.3 Schedule Development/Monitoring. Prepare and periodically update the Project schedule, which shall include the milestone dates set forth in Section 1.1.7 of the Agreement and identify additional milestone dates for decisions and approvals required of the Owner, services furnished by the Consultant, and completion of documentation provided by the Consultant.</p> <p><u>Included in Consultant's Services</u></p>
	<p>§ A.1.4 Other Project Administration Services <i>(Identify any other Project Administration Services to be provided by the Consultant and provide a detailed description of such services below, or in an exhibit attached to this document.)</i></p> <p><u>Not Applicable</u></p>

ARTICLE A.2 INFORMATION GATHERING SERVICES

	<p>§ A.2.1 Perform Information Gathering Services to obtain information for subsequent programming, planning and Owner's Criteria development activities. The Consultant shall perform the Information Gathering Services designated in Section A.2.2. Unless otherwise agreed upon in writing, the Consultant shall determine the extent and detail of the information to be gathered by the Consultant. Promptly after execution of the Agreement, the Consultant shall advise the Owner of any additional information not designated as the Consultant's responsibility which, in the Consultant's judgment, is required in connection with the Project. In conjunction with the Information Gathering Service designated in Section A.2.2, the Consultant shall perform the following services:</p> <p>§ A.2.1.1 Preparation of Draft Information Gathering Report. Upon completion of information gathering, prepare and deliver to the Owner, a written draft Information Gathering Report identifying and analyzing the information gathered by the Consultant or provided by the Owner and summarizing the results of the analysis.</p> <p>§ A.2.1.2 Preparation of Final Information Gathering Report. Revise the draft Information Gathering Report in response to the Owner's comments and provide the Owner with a copy of the final Information Gathering Report for the Owner's review and approval.</p>
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	§ A.2.2 Information-Gathering Services (Designate the Information-Gathering Services to be provided by the Consultant by placing a check or "X" in the box adjacent to the listed service and provide a detailed description of each designated service in the space provided, or in an exhibit attached to this document.)
	§ A.2.2.1 Site Investigation
	§ A.2.2.2 Site Surveying
	§ A.2.2.3 Environmental Studies and Reports
	§ A.2.2.4 Geotechnical Studies and Reports
	§ A.2.2.5 Existing On-Site Utilities Survey
	§ A.2.2.6 Existing Off-Site Utilities Survey
	§ A.2.2.7 Existing Facilities Survey
	§ A.2.2.8 Identification of Reviewing Agencies/Groups and Required Approvals
	§ A.2.2.9 Identification of Applicable Regulations
	§ A.2.2.10 Marketing Studies
	§ A.2.2.11 Economic Feasibility Studies

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	§ A.2.2.12 Project Financing Studies
	§ A.2.2.13 Other Information Gathering Services (Identify any other Information Gathering Services to be provided by the Consultant and provide a detailed description of such services below, or in an exhibit attached to this document.)

ARTICLE A.3 PROGRAMMING AND PLANNING SERVICES

	§ A.3.1 Provide Programming and Planning Services to establish and document requirements of the Project, which may include design objectives and concepts; approximate gross facility areas and space requirements; space adjacencies, flexibility and expandability requirements; and special equipment and systems requirements. The Consultant shall perform the Programming and Planning Services designated in Section A.3.2. In conjunction with the Programming and Planning Services designated in Section A.3.2, the Consultant shall perform the following services:
	<p>§ A.3.1.1 Review of Programming and Planning Requirements</p> <p>§ A.3.1.1.1 Facilitate a meeting with the programming participants to identify, discuss, and prioritize values and goals that will impact the Project, including institutional purposes; growth objectives; and cultural, technological, temporal, aesthetic, symbolic, economic, environmental, safety, sustainability, and other relevant criteria.</p> <p>§ A.3.1.1.2 Prepare and provide to the Owner a written evaluation of the identified Project values and goals; addressing functional efficiency, user comfort, building economics, safety, environmental sustainability, and visual quality.</p> <p>§ A.3.1.1.3 Meet with the Owner to confirm and finalize the Owner's and user's priorities, values, and goals that will impact the Project.</p> <p>§ A.3.1.1.4 Identify and confirm the Owner's objectives for the Project, including such elements as image, efficiencies, functionality, cost and schedule.</p> <p>§ A.3.1.1.5 Confirm the intended use of the program documents and services with the Owner.</p> <p>§ A.3.1.1.6 Identify and evaluate the constraints and opportunities that will have an impact on the existing or proposed facility, such as governmental requirements, financial resources, location, access, visibility and building services.</p>
	§ A.3.1.2 Preparation of Draft Program Document. Prepare and deliver to the Owner a written draft Program Document, (1) describing all programming and planning requirements identified by the Consultant or provided by the Owner, (2) identifying alternate concepts to address those requirements, and (3) providing the Consultant's recommendations.
	§ A.3.1.3 Preparation of Final Program Document. Revise the draft Program Document in response to the Owner's comments, prepare a final Program Document, and provide the final Program Document to the Owner for review and approval.
	§ A.3.2 Programming and Planning Services (Designate the Programming and Planning services to be provided by the Consultant by placing a check or "X" in the box adjacent to the listed service and provide a detailed description of each designated service in the space provided, or in an exhibit attached to this document.)
	§ A.3.2.1 Multiple Site Evaluation

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	§ A.3.2.2 Site Suitability
	§ A.3.2.3 Site Planning
	§ A.3.2.4 Master Planning
	§ A.3.2.5 Preliminary Cost Estimating
	§ A.3.2.6 Scheduling
	§ A.3.2.7 Market Analysis
	§ A.3.2.8 Detailed Existing Facility Evaluation
	§ A.3.2.9 Environmental Suitability
	§ A.3.2.10 Services in Support of the Owner's Other Consultants (Geotechnical Engineer, Landscape Architect, Real Estate or Legal Services Providers, Lending Institutions or others)
	§ A.3.2.11 Space Adjacencies/Flow Diagrams
	§ A.3.2.12 Detailed Site Utilization Studies

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	§ A.3.2.13 Off-Site Utility Studies
	§ A.3.2.14 Narrative of Program Requirements/Objectives
	§ A.3.2.15 Narrative of Design Goals and Project Objectives, including Sustainability Objectives
	§ A.3.2.16 Project Concept Diagrams and Documents
	§ A.3.2.17 Project Use
	§ A.3.2.18 Project Space Requirements
	§ A.3.2.19 Project Schedule
	§ A.3.2.20 Project Phasing
	§ A.3.2.21 Project Performance Requirements
	§ A.3.2.22 Project Expandability Requirements
	§ A.3.2.23 Project Flexibility Requirements
	§ A.3.2.24 Energy Requirements

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	§ A.3.2.25 Minority, Women, Disadvantaged Business Enterprises, and Other Similar Requirements
	§ A.3.2.26 Zoning Analysis
	§ A.3.2.27 Traffic Studies
	§ A.3.2.28 Attend Agency Meetings
	§ A.3.2.29 Life Cycle Analysis
	§ A.3.2.30 Other Programming and Planning Services (Identify any other Programming and Planning Services to be provided by the Consultant and provide a detailed description of such services below, or in an exhibit attached to this document.)

ARTICLE A.4 BRIDGING DOCUMENT DESIGN SERVICES

	§ A.4.1 Bridging Document Design Services. Bridging Document Design Services are performed to provide a functional, aesthetic, and quality framework for the Project. The Bridging Documents will be part of the Owner's Criteria provided to the Design Builder and incorporated into the Design-Build Contract. The Bridging Documents shall include the following: planning criteria (area, volume, equipment, finishes, technical services, and other relevant functional requirements for typical spaces); specifications and performance requirements (including sustainable design criteria) for materials, systems, components and assemblies organized in accordance with a standard classification system; drawing, building information modeling, and documentation standards (including requirements for interim and final contract document deliverables); typical design details of selected conditions; and procurement, contracting and general requirements. The Consultant shall perform the Design Services designated in Section A.4.2. In conjunction with the Services designated in Section A.4.2, the Consultant shall perform the following services:
	<p>§ 4.1.1 Preliminary Bridging Documents. Based upon the information provided by the Owner and any information developed by the Consultant pursuant to this Agreement, prepare and submit Preliminary Bridging Documents to the Owner. The Preliminary Bridging Documents shall consist of drawings and other documents including, the following:</p> <ul style="list-style-type: none"> .1 Confirmation of the allocations of program functions; .2 Site plan; .3 Building plans, sections and elevations; .4 Structural system; .5 Selections of major building systems, including but not limited to mechanical, electrical and plumbing systems; and .6 Outline specifications or sufficient drawing notes describing construction materials. <p>The Preliminary Bridging Documents may include some combination of physical study models, perspective sketches, or digital modeling.</p>

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	<p>§ 4.1.2 Final Bridging Documents Revise the Preliminary Bridging Documents in response to the Owner's comments and prepare Final Bridging Documents for the Owner's approval. The Final Bridging Documents shall consist of the revised Preliminary Bridging Documents and other documentation as appropriate to communicate the scope, quality, budget and intent of the Project, and a preliminary schedule indicating the design and construction milestone dates through final completion of the Project.</p>
	<p>§ A.4.2 Bridging Document Design Services <i>(Designate the Design Services to be provided by the Consultant by placing a check or "X" in the box adjacent to the listed service and provide a detailed description of each designated service in the space provided, or in an exhibit attached to this document.)</i></p>
	<p>§ A.4.2.1 Architectural Design</p>
	<p>§ A.4.2.2 Performance Specifications</p>
	<p>§ A.4.2.3 Building Systems Requirements</p>
	<p>§ A.4.2.4 Building Materials Requirements</p>
	<p>§ A.4.2.5 Equipment Requirements</p>
	<p>§ A.4.2.6 Building Code Analysis</p>
	<p>§ A.4.2.7 Accessibility Analysis</p>
	<p>§ A.4.2.8 Structural Design</p>
	<p>§ A.4.2.9 Mechanical Design</p>
	<p>§ A.4.2.10 Electrical Design</p>

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	§ A.4.2.11 Fire Protection Design
	§ A.4.2.12 Civil Design
	§ A.4.2.13 Landscape Design
	§ A.4.2.14 Interior Design
	<p>§ A.4.2.15 Other Bridging Document Design Services</p> <p><i>(Identify any other Bridging Document Design Services to be provided by the Consultant and provide a detailed description of such services below, or in an exhibit attached to this document.)</i></p>

ARTICLE A.5 OWNER'S CRITERIA DEVELOPMENT SERVICES

	<p>§ A.5.1 The Consultant shall perform the following Owner's Criteria Development Services to describe, in detail, the Owner's Criteria for the Project. Unless otherwise agreed in writing, the Owner's Criteria shall include those items listed in Section 1.1 of AIA Document A141™ 2014. The Owner's Criteria is intended to be made a part of the Design-Build Contract.</p>
	<p>§ A.5.1.1 Preparation of Draft Owner's Criteria. Prepare and deliver to the Owner a draft of the Owner's Criteria for the Project. The Owner's Criteria shall be based on a program, schedule, and budget for the Project agreed upon by the Owner, information provided by the Owner, and other information developed by the Consultant under the Agreement. Depending on the other services provided by the Consultant, the Owner's Criteria may include, or be based on, the Final Information Gathering Report, Final Program Document, or Final Bridging Documents.</p>
	<p>§ A.5.1.2 Preparation of Final Owner's Criteria. Revise the draft Owner's Criteria in response to the Owner's comments and provide the final Owner's Criteria to the Owner for the Owner's review and approval.</p>
	<p>§ A.5.1.3 Revisions to the Final Owner's Criteria. If necessary, revise the Final Owner's Criteria, after receipt of Design-Build proposals or negotiations to reduce the estimated Project cost to conform to the Owner's budget for the Project, identified in Section 1.1.6 of the Agreement.</p> <p>.1 Provide not more than () revisions over the duration of the Project.</p>
	<p>§ A.5.2 Other Owner's Criteria Development Services</p> <p><i>(Identify any other Owner's Criteria Development services to be provided by the Consultant not otherwise included in this Agreement and provide a detailed description of each service in the space provided, or in an exhibit attached to this document.)</i></p>

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ARTICLE A.6 BUDGETING AND COST ESTIMATING SERVICES

	<p>§ A.6.1 Budgeting and cost estimating services are intended to aide in the development of the Owner's Criteria, and the evaluation of the Owner's Criteria in light of the Owner's budget for the Project. The Consultant's budgeting and cost estimating services represent the Consultant's professional judgment. It is recognized, however, that neither the Consultant nor the Owner has control over the cost of labor, materials or equipment; the methods of determining bid prices; or competitive bidding, market, or negotiating conditions. Accordingly, the Consultant cannot and does not warrant or represent that bids or negotiated prices will not vary from the Owner's budget for the Project or from any evaluation or estimate of the Cost of the Work of the Project. The Consultant, when preparing estimates of overall Project cost, shall include contingencies for design, bidding and/or negotiation, and price escalation. If the design-build contract award has not occurred within 90 days of the date shown on the schedule referred to in Section 1.1.7 of the Agreement, the overall Project budget shall be adjusted to reflect changes in the general level of prices in the applicable construction market.</p>
	<p>§ A.6.1.1 Preliminary Estimate. When the Owner's Criteria requirements have been sufficiently identified, prepare a preliminary estimate of the overall Project cost. This estimate may be based on information provided by the Owner and on current area, volume, or similar estimating techniques.</p>
	<p>§ A.6.1.2 Updated Estimate. As appropriate to the progress of the development of the Owner's Criteria for the Project and the Design-Build Documents, update and refine the Preliminary Estimate. Advise the Owner of any adjustments to previous estimates made necessary by changes or refinements in Project requirements, or by changes in general market conditions. After execution of the Design-Build Amendment the Consultant shall provide updated estimates at the request of the Owner as an Additional Service.</p>
	<p>§ A.6.2 Recommendation to Adjust Project Parameters. At the request of the Owner, make recommendations to adjust the Project's size, quality, budget or other parameters.</p>
	<p>§ A.6.3 Other Budgeting and Cost Estimating Services <i>(Identify any other Budgeting and Cost Estimating services to be provided by the Consultant and provide a detailed description of each designated service in the space provided or in an exhibit attached to this document.)</i></p>

ARTICLE A.7 DESIGN-BUILD PROCUREMENT SERVICES

<u>X</u>	<p>The Consultant shall assist the Owner in procuring the services of a design builder as follows: <i>(Identify the Design-Build Procurement services to be provided by the Consultant provide a detailed description of each designated service in the space provided, or in an exhibit attached to this document.)</i></p> <p>Included in Consultant's Services as follows: Review Design-Builder candidates' proposals; attend Design-Builder interviews; offer recommendation(s) on most qualified Design-Builder; and assist Owner with negotiating Owner Design-Builder Agreement</p>
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ARTICLE A.8 CONSULTING SERVICES IN CONNECTION WITH DESIGN AND CONSTRUCTION DOCUMENTS PREPARED BY THE DESIGN-BUILDER

<u>X</u>	<p>§ A.8.1 Respond to Questions. Assist the Owner in responding to the Design-Builder's questions regarding the intent of the Design-Build Documents.</p>
<u>X</u>	<p>§ A.8.2 Review Documents Prepared by Design-Builder. Review design and construction documents prepared by the Design-Builder for the limited purpose of evaluating conformance with the information given and the design concept expressed in the Design-Build Documents.</p>
	<p>§ A.8.3 Other Consulting Services in Connection with Design and Construction Documents Prepared by the Design-Builder <i>(Identify any other services to be provided by the Consultant in connection with the Design and Construction Documents prepared by the Design-Builder and provide a detailed description of each designated service in the space provided, or in an exhibit attached to this document.)</i></p>

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	Not Applicable
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ARTICLE A.9 CONSULTING SERVICES IN CONNECTION WITH THE CONSTRUCTION OF THE PROJECT

<u>X</u>	§ A.9.1 Respond to Questions. Assist the Owner in responding to questions from the Design-Builder relating to the intent of the Design-Build documents.
<u>X</u>	§ A.9.2 Review Submittals by Design-Builder. The Consultant shall review the Design-Builder's Submittals to the Owner as set forth below.
<u>X</u>	§ A.9.2.1 For Submittals to the Owner prior to execution of the Design-Build Amendment, the Consultant's review shall be for the limited purpose of evaluating the Submittal for conformance with the Owner's Criteria set forth in the Design-Build Contract.
<u>X</u>	§ A.9.2.2 The Consultant's review of Submittals after the execution of the Design-Build Amendment shall be for the limited purpose of checking for conformance with the Owner's Criteria and other design concepts expressed in the Design-Build Documents.
<u>X</u>	§ A.9.2.3 By reviewing Submittals, the Consultant does not assume the responsibility to coordinate the services performed or the information provided by the design professionals engaged by the Owner, the Design-Builder, or the trade contractors and suppliers of any of them. The Consultant's review of Submittals is not for the purpose of determining the accuracy or completeness of other information, such as dimensions, quantities, and installation or performance of equipment or systems. The Consultant's review shall not constitute: approval of safety precautions; approval of any construction means, methods, techniques, sequences or procedures; or approval of an assembly of which the reviewed item is a component.
<u>X</u>	§ A.9.2.4 The Consultant shall not be obligated to review any Submittals until the Design-Builder and the Design-Builder's professional consultants provide a representation that the Design-Builder and the Design-Builder's professional consultants have (1) reviewed and approved the Submittal, (2) determined and verified materials, field measurements, and field construction criteria related thereto, or will do so, and (3) checked and coordinated the information contained within the Submittal with the requirements of the Design-Build Documents.
<u>X</u>	§ A.9.3 Site Visits for Selected Purposes. Visit the site at intervals appropriate to the stage of construction, or as otherwise agreed in writing, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine, in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Design-Build Documents. However, the Consultant shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Consultant shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and report to the Owner (1) known deviations from the Design-Build Documents and from the most recent construction schedule submitted by the Contractor, and (2) defects and deficiencies observed in the Work.
<u>X</u>	§ A.9.4 Recommendations for Payment. Recommend to the Owner amounts due the Design-Builder on the basis of (1) the payment provisions of the Design-Build Contract, (2) the data comprising the Design-Builder's Application for Payment, and (3) an evaluation of the progress of the Work. Such recommendation shall not constitute a representation that the Consultant has (1) made exhaustive or continuous inspections to check the quality or quantity of the Work; (2) reviewed construction means, methods, techniques, sequences or procedures; (3) reviewed copies of requisitions received from the Design-Builder's Contractor(s) and material suppliers, and other data requested by the Owner to substantiate the Design-Builder's right to payment; or (4) ascertained how or for what purpose the Design-Builder has used money previously paid on account of the Contract Sum.
<u>X</u>	§ A.9.5 Substantial Completion and Final Completion Inspections. Conduct inspections to determine the date or dates of Substantial Completion and the date of Final Completion. Inspections shall be conducted with the Owner's Designated Representative to check conformance of the Work with the requirements of the Design-Build Documents and to verify the accuracy and completeness of the list submitted by the Design-Builder

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	of Work to be completed or corrected.
<u>X</u>	§ A.9.6 Recommendation for Final Payment. Recommend to the Owner the final amount due the Design-Builder on the basis of (1) the payment provisions of the Design-Build Contract, (2) the data comprising the Design-Builder's final Application for Payment, and (3) a final inspection indicating the Work complies with the requirements of the Design-Build Contract. Such recommendation shall not constitute a representation that the Consultant has (1) evaluated the quality of the Work or made exhaustive or continuous inspections to check the quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from the Design-Builder's Contractor(s) and material suppliers and other data requested by the Owner to substantiate the Design-Builder's right to payment, or (4) ascertained how or for what purpose the Design-Builder has used money previously paid on account of the Contract Sum.
	§ A.9.7 Other Consulting Services in Connection with the Construction of the Project <i>(Identify any other services to be provided by the Consultant in connection with the construction of the Project and provide a detailed description of each designated service in the space provided, or in an exhibit attached to this document.)</i>

ARTICLE A.10 CONSULTING SERVICES AFTER SUBSTANTIAL COMPLETION

<u>X</u>	§ A.10.1 Attend Meetings. Attend and participate at meetings subsequent to Substantial Completion.
<u>X</u>	§ A.10.2 Remedial Work of Design-Builder. Assist the Owner in coordinating remedial work required of the Design-Builder after Substantial Completion.
<u>X</u>	§ A.10.3 Warranty Review Services. Consult with the Owner during the duration of warranties in connection with suspected inadequate performance of materials, systems and equipment under warranty; inspect selected materials, systems and equipment prior to expiration of the warranty period(s) to ascertain adequacy of performance; document defects or deficiencies; and assist the Owner in preparing instructions to the Design-Builder for correction of noted defects.
<u>X</u>	§ A.10.4 Project Evaluation Services. One year following Substantial Completion, conduct a Project evaluation. Interview appropriate supervisory, operating and maintenance personnel of the Owner and analyze operating costs and related cost data to provide an evaluation of (1) the initial Project programming versus actual facility use, (2) functional effectiveness of planned spaces and relationships, and (3) the operational effectiveness of systems and materials installed.
	§ A.10.5 Other Consulting Services After Substantial Completion <i>(Identify any other services to be provided by the Consultant after Substantial Completion and provide a detailed description of each designated service in the space provided, or in an exhibit attached to this document.)</i>

ARTICLE A.11 SUSTAINABILITY SERVICES

	§ A.11.1 Sustainability Workshop. During the establishment of the Owner's Criteria, the Consultant shall conduct a Sustainability Workshop with the Owner, to (1) review and discuss potential Sustainability Certifications; and, (2) establish the Sustainable Objective.
	§ A.11.2 Other Sustainability Services for the Project <i>(Identify any other Sustainability Services to be provided by the Consultant and provide a detailed description of each designated service in the space provided, or in an exhibit attached to this document.)</i>

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ARTICLE A.12 OTHER SERVICES

(Identify any other services to be provided by the Consultant and provide a detailed description of each designated service in the space provided in the Section, or in an exhibit attached to this document.)



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Project Design and Construction Criteria

Index

November 6, 2019

EXHIBIT

- I. Space Program
- II. Plans
 - a. Proposed Site Plan
 - b. Shell Floor Plan with fixed elements – preferred to remain in place.
- III. Construction and Engineering Requirements
- IV. City of Denton TS Closet Guidelines (with room examples)

EXHIBIT I

DEVELOPMENT FACILITIES BUILDING

SPACE REQUIREMENTS

Approximate Building Gross Area	28,000 square feet
Approximate Building Useable Area	27,195 square feet

SUB GROUPINGS		Staff Count	Square Feet per Space	Space Sub Totals	Space Type	Room Finish			Electrical Requirements	Notes
						Walls	Floor	Base	Ceiling	
	Department Director	2	160	320	Private Office	Paint	Carpet Tile	Rubber	Acoustical Tile	as required+ 2 Data
	Department Deputy Director	2	120	240	Private Office	Paint	Carpet Tile	Rubber	Acoustical Tile	as required+ 2 Data
	Manager	1	120	120	Private Office	Paint	Carpet Tile	Rubber	Acoustical Tile	as required+ 2 Data
	Development Facilitator	2	100	200	Office system cubicles		Carpet Tile		Acoustical Tile	as required+ 2 Data
	Engineering Facilitator	3	100	300	Office system cubicles		Carpet Tile		Acoustical Tile	as required+ 2 Data
CUSTOMER SERVICE										
	Customer Service Representatives	9	100	900	Open Office	Paint	Carpet Tile	Rubber	Acoustical Tile	as required+ 2 Data
	Administrative Assistants	4	100	400	Open Office	Paint	Carpet Tile	Rubber	Acoustical Tile	as required+ 2 Data
DEVELOPMENT SERVICES										
Planning	Business Analyst	1	90	90	Private Office	Paint	Carpet Tile	Rubber	Acoustical Tile	as required+ 2 Data
	Principal Planner	2	100	200	Private Office	Paint	Carpet Tile	Rubber	Acoustical Tile	as required+ 2 Data
Senior Planner	Senior Planner	4	100	400	Private Office	Paint	Carpet Tile	Rubber	Acoustical Tile	as required+ 2 Data
	Assistant Planner	2	100	200	Private Office	Paint	Carpet Tile	Rubber	Acoustical Tile	as required+ 2 Data
G.I.S. group	G.I.S. group	3	90	270	Office system cubicles		Carpet Tile	Rubber	Acoustical Tile	as required+ 2 Data
	Planner - Real Estate	1	100	100	Private Office	Paint	Carpet Tile	Rubber	Acoustical Tile	as required+ 2 Data
Planning Technicians	Planning Technicians	4	90	360	Office system cubicles		Carpet Tile		Acoustical Tile	as required+ 2 Data
	Building Official	1	160	160	Private Office	Paint	Carpet Tile	Rubber	Acoustical Tile	as required+ 2 Data
Deputy Building Official	Deputy Building Official	1	120	120	Private Office	Paint	Carpet Tile	Rubber	Acoustical Tile	as required+ 2 Data
	Plans Examiner	6	65	390	Office system cubicles		Carpet Tile		Acoustical Tile	as required+ 2 Data
Deputy Building Official	Deputy Building Official	1	120	120	Private Office	Paint	Carpet Tile	Rubber	Acoustical Tile	as required+ 2 Data
	Building Inspectors	11	65	715	Office system cubicles		Carpet Tile		Acoustical Tile	as required+ 2 Data
Zoning Compliance	Zoning Compliance	2	65	130	Office system cubicles		Carpet Tile			as required+ 2 Data
	Manager	1	100	100	Private Office	Paint	Carpet Tile	Rubber	Acoustical Tile	as required+ 2 Data
Health	Health Inspectors	3	65	195	Office system cubicles					as required+ 2 Data
	Sub-Totals	66		6,030						
ENGINEERING										
Engineering Director	Engineering Director	1	120	120	Private Office	Paint	Carpet Tile	Rubber	Acoustical Tile	as required+ 2 Data
	Deputy Director	1	120	120	Private Office	Paint	Carpet Tile	Rubber	Acoustical Tile	as required+ 2 Data
Public Works Inspectors	PWI Manager	2	100	200	Private Office	Paint	Carpet Tile	Rubber	Acoustical Tile	as required+ 2 Data
	PWI Supervisors	12	65	780	Office system cubicles		Carpet Tile		Acoustical Tile	as required+ 2 Data
Traffic	City Traffic Engineer	1	120	120	Private Office	Paint	Carpet Tile	Rubber	Acoustical Tile	as required+ 2 Data
	Traffic Manager	1	100	100	Private Office	Paint	Carpet Tile	Rubber	Acoustical Tile	as required+ 2 Data
Traffic Staff	Traffic Staff	8	65	520	Office system cubicles		Carpet Tile		Acoustical Tile	as required+ 2 Data
	Engineer Manager	1	120	120	Private Office	Paint	Carpet Tile	Rubber	Acoustical Tile	as required+ 2 Data
Flood Plain / Drainage Engineer	Flood Plain / Drainage Engineer	1	100	100	Private Office	Paint	Carpet Tile	Rubber	Acoustical Tile	as required+ 2 Data
	Development Staff	5	65	325	Office system cubicles					as required+ 2 Data
PMO Deputy Director	PMO Deputy Director	1	120	120	Private Office	Paint	Carpet Tile	Rubber	Acoustical Tile	as required+ 2 Data
	PMO Manager	1	100	100	Private Office	Paint	Carpet Tile	Rubber	Acoustical Tile	as required+ 2 Data
PMO Staff	PMO Staff	6	65	390	Office system cubicles		Carpet Tile		Acoustical Tile	as required+ 2 Data
	Deputy Director	1	120	120	Private Office	Paint	Carpet Tile	Rubber	Acoustical Tile	as required+ 2 Data
Real Estate Staff	Real Estate Staff	7	65	455	Office system cubicles					as required+ 2 Data
	Assistant City Engineer	1	120	120	Private Office	Paint	Carpet Tile	Rubber	Acoustical Tile	as required+ 2 Data
Project Managers	Project Managers	2	100	200	Private Office	Paint	Carpet Tile	Rubber	Acoustical Tile	as required+ 2 Data
	Project Delivery Staff	6	65	390	Office system cubicles		Carpet Tile			as required+ 2 Data
SUB TOTAL		59		4,520						
FIRE INSPECTION										
Manager	Manager	1	100	100	Private Office	Paint	Carpet Tile	Rubber	Acoustical Tile	as required+ 2 Data
	Fire Inspectors	10	65	650	Office system cubicles	Paint	Carpet Tile	Rubber	Acoustical Tile	as required+ 2 Data
SUB TOTAL		11		750						
COMMUNITY IMPROVEMENT SERVICES										
Manager Staff	Manager Staff	1	100	100	Private Office	Paint	Carpet Tile	Rubber	Acoustical Tile	as required+ 2 Data
	Staff	11	65	715	Office system cubicles		Carpet Tile		Acoustical Tile	as required+ 2 Data
SUB TOTAL		11		815						

EXHIBIT I

DEVELOPMENT FACILITIES BUILDING

SPACE REQUIREMENTS

SUB GROUPINGS	Staff Count	Square Feet per Space	Space Sub Totals	Space Type	Room Finish			Notes		
					Walls	Floor	Base		Ceiling	
TOTAL STAFF COUNT										
147										
SUB TOTAL AREA REQUIREMENT										
12,115										
SUPPORT SPACES										
	Lobby / Reception Area	2,000.00	2,000.00	Open Area	Paint	Carpet Tile	Rubber	Acoustical Tile	as required+ 2 Data boards, receptacles as required + 4 Data	Customer counter with space for 6 attendants Smaller group meeting areas - to accommodate 4-6 people, niches off lobby Kiosks
	Training / Class Room (100 occupants) w/adjacent small Break Room	1,600	1,600	Room	Paint	Carpet Tile	Rubber	Acoustical Tile	Provision for smart boards, receptacles as required + 4 Data	Cluster meeting spaces Plan-Touch Screen Tables Small adjacent Break Room included in s.f. requirement
	Meeting Room (15 occupants) 4 Required	250	1000	Room	Paint	Carpet Tile	Rubber	Acoustical Tile	Provision for smart boards, receptacles as required + 2 Data	Cluster meeting spaces Plan-Touch Screen Tables
	Team Areas (8)	65	520	Open Office		Carpet Tile	Rubber	Acoustical Tile	As required + 2 Data	4 person capacity - various locations w/departments
	Break Room (1)	200	200	Enclosed Space	Paint	VCT	Rubber	Acoustical Tile	As required + 2 Data	
	Plotter Area (1)	200	200	Room	Paint	VCT	Rubber	Acoustical Tile	Electrical receptacles as required + 4 Data	
	Toilet Room (2 Required) 3 water closets/2 wash basins each	200	400	Separate Men's and Women facilities	See notes	See notes	See notes	See notes	As required	<ul style="list-style-type: none">• Build over existing toilets and reuse under slab plumbing• Ceramic floor and wall tile is encouraged. Use medium to dark grout on floor. White grout is acceptable, but not required, on walls.• 2x4 lay in ceilings are acceptable.• Automatic flush devices are encouraged.• Motion controlled sink faucets are encouraged. Battery power.• Motion controlled lights are encouraged.• Sanitary napkin dispensers will not be used, but disposal bins will.• Bag type soap dispensers are encouraged.• Floor mount toilets• Partitions between urinals.• Floor-mount toilet partitions.• Partitions should scratch and graffiti resistant to discourage vandalism.• NOTE: Large buildings should have a single pair of restrooms rather than dispersed pairs. If the space is available for vision blocking vestibules, the rest rooms should be doorless. If multi occupant rest rooms have doors, they will have D handles and push plates only.
	Toilet (1)	80	80	Unisex	See notes	See notes	See notes	See notes	As required	See Notes above
	Storage	200	500	Room	Paint	VCT	Rubber	Acoustical Tile	As required	As needed. One large or separate spread apart individual spaces among departments
	Technology Services Closet	100	100	Room	Paint	VCT or Sealed Concrete	Rubber	Open above	Four receptacles +	Equipment by C.O.D. - allow for one 10'x10' space. See also Exhibit
	Janitor's Closet	70	70	Room	Paint	VCT or Sealed Concrete	Rubber	Gyp. Bd.	As required	Janitor's sink, mop rack and wall mount shelving
	Circulation Space	4,500	4,500	-	Paint	Carpet Tile	Rubber	Acoustical Tile	As required	Housekeeping receptacles as required.
	Existing Electrical / Mechanical Space	450	450	Room	Paint	VCT or Sealed Concrete	Rubber	Open above	As required	Existing Spaces as per plan.
SUB TOTAL AREA REQUIREMENT				11,620						

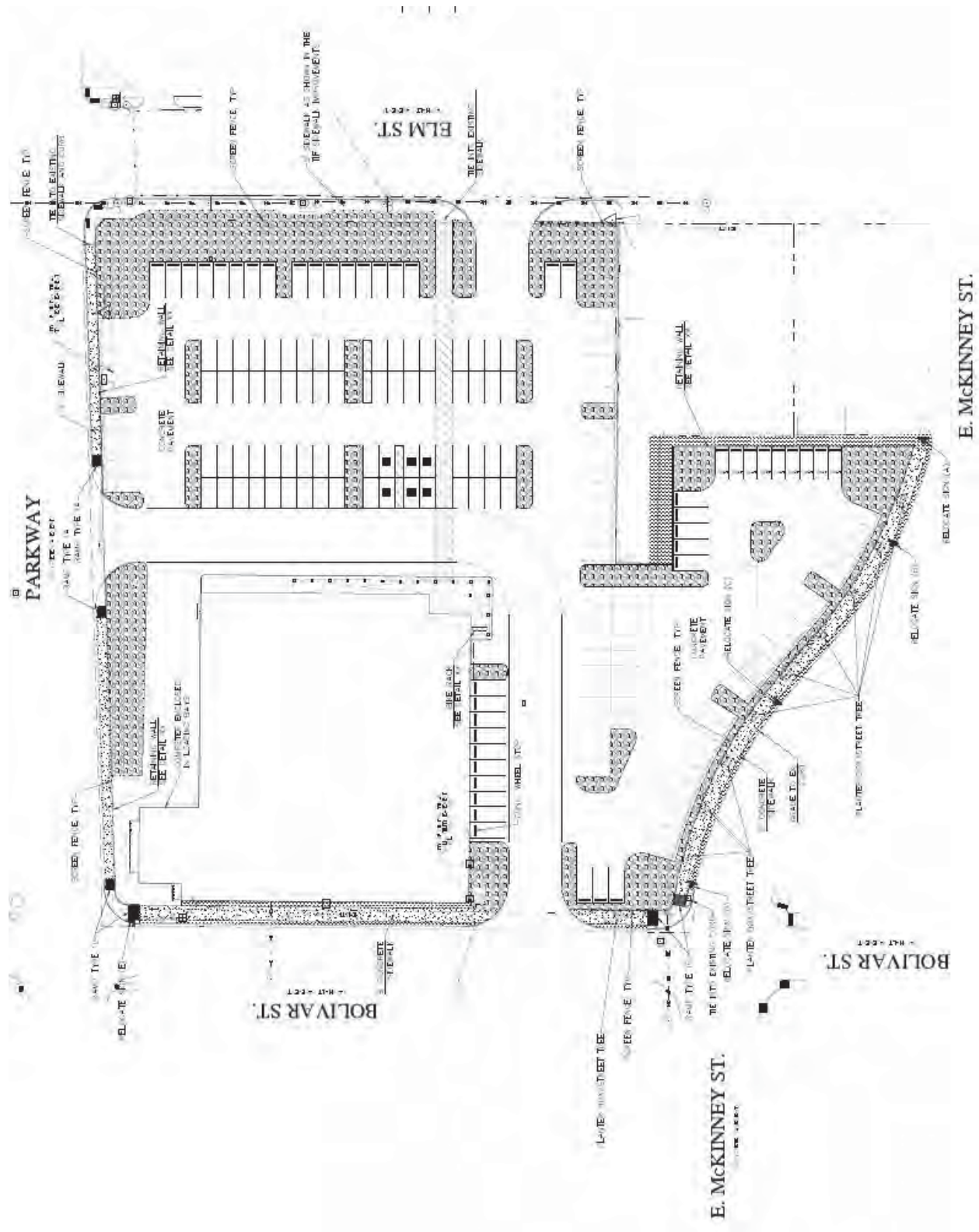


EXHIBIT IIa – PROPOSED SITE PLAN

Not to Scale

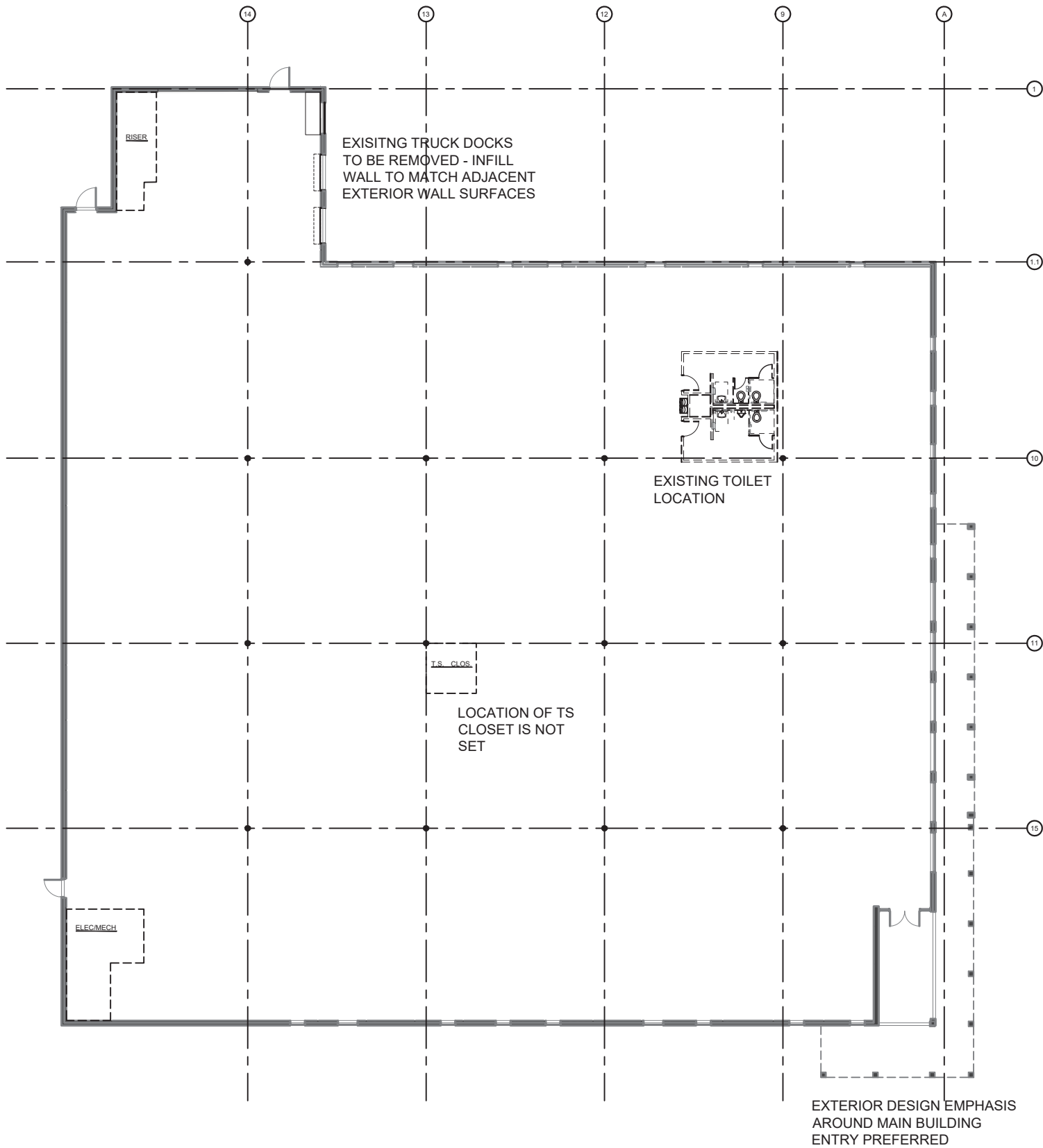


EXHIBIT IIb - General Shell Floor Plan

NOT TO SCALE

Exhibit III. Engineering and Construction Requirements

1.0 GENERAL REQUIREMENTS

The requirements indicated here are considered as minimum performance requirements. More specific project functional and performance requirements, scope items and expected quality levels over and above the standards in Part V. are also identified in Request for Proposal or Basic Ordering Agreement. The Contractor is encouraged to exceed the minimum requirements. The Contractor's performance evaluation will be based in part on enhancements to materials, engineering, design and construction provided for the contract that exceed minimum requirements.

Part V. is a general section. Not all items in this part may be required for this project. See other parts for other project-specific requirements.

In general, unless otherwise indicated, provide all labor, equipment and materials necessary to complete the work required for the contract. All work must be in conformance with all applicable referenced criteria, construction standards, laws and regulations, including applicable building fire and life safety codes.

Limited enhancements to the exterior of this building will be considered. This should be focused primarily on the front entrance and adjacent exterior wall surfaces.

Application of Recycled Materials Considerations:

The intent is to conserve resources and reduce solid waste by developing markets for recycled products and encouraging manufacturers to produce quality recycled content products. Use products that meet or exceed the EPA guideline standards. A partial list of products containing recycled materials for possible use is as follows:

- Rock Wool Insulation
- Fiberglass Insulation
- Cellulose Insulation
- Structural Fiberboard and Laminated Paperboard
- Cement and Concrete - Coal Fly Ash
- Carpet including backings and cushions
- Floor Tiles
- Reprocessed and Consolidated Latex Paint
- Crushed Concrete Aggregate for new asphalt, concrete or subgrade
- Recycled glass for terrazzo aggregate
- Acoustical Ceiling Tile
- Gypsum Wallboard
- Steel wall studs

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- Cellulose spray applied fireproofing
- HDPE Toilet Partitions

1.1 MATERIALS AND METHODS OF CONSTRUCTION

Only new materials and equipment are to be installed in the work. All materials, equipment and appliances must be of the current manufacturers' products. Do not use obsolete or discontinued materials, equipment and appliances, except that construction materials containing recycled content as described in Paragraph 1 of this Part that completely comply with all materials specifications found elsewhere in this Part may be used.

1.2 APPLICABLE CODES AND STANDARDS

The advisory provisions of all codes and standards is mandatory, as though the word "must" had been substituted for "should" wherever it appears. Reference to the "authority having jurisdiction" is to be construed to mean "City of Denton Construction Project Manager". Comply with the required and advisory portions of the current edition of the standard at the time of contract award. All work must comply with UFC 1-200-01, *General Building Requirements*, and IBC 2018 or later edition as modified by applicable NFPA Standard as well as codes and standards listed below.

1.3 LOCATION-SPECIFIC CODES AND STANDARDS

Current list of City of Denton applicable codes and references are as follows;
2018 International Building Code

2018 International Electrical Code

2018 International Energy Compliance Code

2018 International Fire Code

Current City of Denton Development Code

Note: Applicable references can be viewed on the City of Denton website at

<https://www.cityofdenton.com/en-us/business/permits-licenses/commercial-permits>

1.4 DISCREPANCIES

When discrepancies in the referenced standards and the contract requirements occur, the more stringent requirements govern. The word "should" in all NFPA publications is to be interpreted as a requirement. The Authority Having Jurisdiction in the interpretation of the codes and standards, and approving the exceptions allowed in the referenced standards, is the C.O.D. Construction Project Manager, and the parties designated by the C.O.D. Construction Project Manager.

2.00 MATERIAL PERFORMANCE TECHNICAL SPECIFICATIONS

Note: The paragraph numbers used correspond with the numbers used in UNIFORMAT II/Work

Breakdown Structures (WBS) as listed in the Whole Building Design Guide, Navy Design Build Master, accessible at this website: www.wbdg.org/ndbm .

SHELL

This section is not applicable unless modifications or new structure is contemplated for this particular project.

SUPERSTRUCTURES

Superstructure work includes structural frames, bearing walls, floors, roofs, roof canopies, and balcony construction. Unless otherwise specified in Part 3, superstructures may be designed and constructed using any materials or combination of different materials allowed by applicable codes and standards. Comply with IBC and applicable UFGS. Special inspection, testing, approvals, certifications, observations and quality assurance plans as prescribed in Chapter 17 of the IBC are required.

1. **Concrete:** All concrete must be constructed in accordance with ACI 301. Concrete must have a 28-day minimum compressive strength of 3,000 psi. Slump must be between 2 and 4 inches in accordance with ASTM C143. Provide joints as required to minimize cracking. All concrete must be reinforced. Provide joints as required by applicable ACI standards. Unless otherwise specified in Part 3 or as indicated by the contracting officer, provide steel trowel finish for all exposed floor surfaces. Exterior surfaces must be a broom finish.
2. **Masonry:**
 - a. All concrete masonry must be constructed in accordance with ACI 530.1. Concrete masonry must have a minimum 28-day compressive strength of 1500 psi. Concrete masonry units must conform to ASTM C90, grade A1. Broken blocks are not allowed. Use only standard size and shape blocks. Block may be cut when necessary. Mortar must be Type S.
 - b. When used, brick must conform to ASTM C216. In exposed construction, broken brick is not be allowed. Standard size brick may be cut to fit job condition. Use Type S mortar.
 - c. Provide metal anchors for masonry and brick, including veneer construction as required by IBC.
3. **Structural Steel:** Structural steel exposed to weathering must be adequately protected to prevent corrosion.
4. **Steel deck:** Steel form deck must have a G90 galvanized finish, and must have a minimum 26-gage thickness. All other steel deck must have a G90 galvanized finish, and must have a minimum 20-gage thickness.
5. **Cold-formed metal framing:** Cold-formed steel studs, joists and track must be galvanized with a minimum thickness of 20-gage.
6. **Wood framing:** Wood framing members must be new lumber, unless otherwise allowed by Part 3. Timber can be Douglas Fir, Douglas Fir-Larch, Hem-Fir, Southern Pine or other structurally competent species allowed by applicable codes and standards. Wood framing must meet the following minimum grading requirements:
 - a. Studs - #2
 - b. Joists and rafters- #2

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- c. Beams, 4x and larger - #1
- d. Posts, 4x and larger - #1
- e. Blocking - #3
- f. Fascia, trim - #1
- g. Wood Structural Panel Sheathing (Exterior Glue)
- h. Roof - APA rated with span index of 24/0 - minimum thickness 1/2 inch
- i. Walls - APA rated with span index of 32/16 - minimum thickness 1/2 inch
- j. Flooring- APA rated with span index of 48/24 - minimum thickness 3/4 inch

EXTERIOR ENCLOSURE

For this project, it is the intent to match exterior materials where necessary. Some material properties noted below are for reference only if they should be incorporated into the project.

EXTERIOR WALLS

1. Exterior Wall Performance:

- a. **Vapor Transmission Analysis:** Perform a job specific vapor transmission analysis in accordance with ASHRAE 90.1 or WUFI. The conclusion of the analysis must indicate the appropriate locations of needed vapor retarders, air barriers, and anticipated dew-point locations in the exterior enclosure during different critical times of the year.
- b. **Maximum Air Infiltration:** The air leak flow rate must not exceed 0.25 CFM at 75 Pa per square foot (0.076 cm 75 Pa per square meter) of building envelope area including roof or ceiling, walls and floor as provided by the DOR.

Where required in RFP Part 3, provide air barrier testing. Perform testing as required by UFGS 07 08 27.00 10, *Building Air Barrier System Testing for Commissioning*. DOR must edit this section and incorporate into the project specification. Repair leaks and repeat testing until prescribed maximum air leak flow rate is achieved. Provide intermediate and final reports.

- c. **Wind Loads:** Provide wind load calculations for exterior cladding in accordance with ASCE-7 with comparative analysis of the cladding system to be provided.
- d. **Water Penetration:** No water penetration is acceptable at a pressure of 39 Kg/m² (8 psf) of fixed area when tested in accordance with ASTM E 331.
- e. **Insulating Value:** Provide complete thermal envelope in accordance with ASHRAE 90.1, Chapter 5 with improvements required to meet project energy goals.

Where required in RFP Part 3, provide infrared thermal envelope performance testing. Test the building envelope using Infrared Thermography in accordance with the requirements of ASTM C1060 (latest edition) and ISO 6781. The Contracting Officer will witness the testing. Provide thermography test report including thermographs in color and a color temperature scale to define the temperature indicated by the various colors. The report must identify the high temperature reading, the outdoor air temperature, the building indoor air temperature, and the wind speed and direction. Report to note any areas of compromise in the building envelope, and note all actions required and taken to correct those areas. Repair and repeat testing until discrepancies are demonstrated to be resolved.

- 2. **Masonry Veneer Exterior Wall Closure Components:** Masonry veneer includes load bearing and non-load bearing exterior walls of the structure, and must include colored mortar, special

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shapes such as sills, headers, trim units and copings of brick masonry, precast concrete, concrete masonry units, or other approved material. Utilize BIA Technical Notes to design, detail, and construct brick masonry walls. Substitute directive language in the place of BIA suggestive language. The results of these wording substitutions change this document to required procedures. Tie the veneer to the backup wall system with a system that allows the veneer to move independently of the backup wall system, while being structurally supported. The masonry veneer must allow for expansion and contraction of the veneer without cracking the exterior material.

- a. **Masonry Veneer Installation:** Conform to ACI 530.1 for masonry veneer installation, including cold weather construction. Antifreeze admixtures are not to be used.
- b. **Mortar:** Provide factory-tinted colored mortar conforming to ASTM C270, unless DOR directs otherwise.
- c. **Expansion/Control Joints:** Locate expansion/control joints and seal with proper backing material and ASTM C 920 polyurethane sealant, or preformed foam or rubberized expansion joint closure. Conform to UFC 3-101-01, *Architecture* and BIA Technotes 18, 18A.
- d. **Brick:** Meet ASTM C216, Grade SW, type FBS, or type FBX for detail work. ASTM C67 test rating shall be "Not effloresced". Use FBA brick only for special architectural effects requiring a non-uniform size.
- e. **Split Faced or Ground Faced Masonry:** ASTM C 90
- f. **Cast Stone Trim Units:** Cast Stone must meet or exceed the requirements of ASTM C 1364.
- g. **Wall Cavity:** shall Comply with the and BIA Technical Notes 21A, 21B, 21C, 28B
- h. **Through-Wall Flashing Components:** Through-wall flashing with weep holes must be incorporated in cavity wall construction. Flashing must be 7 ounce copper flashing with a 3 ounce bituminous coating on each side or a fiberglass fabric bonded on each side of the copper sheet; 16-ounce uncoated copper, 28 gauge Type 302 or 304 stainless steel is also acceptable. 'Flexible membrane flashing, plastic or PVC-based membrane flashing is prohibited.
- i. **Reinforcing in Veneer Layer:** Reinforcing in the veneer layer must be galvanized in accordance with ASTM A 123/A123M, ASTM A153/A153M, or ASTM A653/A653M, Z275 (G90) coating, and be of sufficient size to eliminate damage to the veneer layer from wind and other live and dead loads imposed on the veneer layer.
- j. **Masonry Cleaning:** Clean the masonry in accordance with manufacturer's instructions and BIA Technote 20.

3. **Metal Wall Panel Exterior Closure**

Panels must have factory applied, baked coating to the exterior and interior of metal wall panels and metal accessories. Exterior finish topcoat must be of 70 percent polyvinylidene fluoride (PVDF) resin with not less than 0.8 mil dry film thickness (DFT). Exterior primer must be standard with panel manufacturer with not less than 0.8 mil dry film thickness (DFT).

Wall system and attachments must resist wind loads as determined by ASCE 7, with a factor of safety appropriate for the material holding the anchor. Maximum deflection due to wind on aluminum wall panels must be 1/60. Maximum deflection due to wind on steel wall panels and girts behind aluminum or steel wall panels must be limited to 1/120 of their respective spans,

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except that when interior finishes are used the maximum allowable deflection must be limited to 1/180 of their respective spans.

Conformations - Non-insulated steel or aluminum wall panels must have configurations for overlapping adjacent sheets or interlocking ribs for securing adjacent sheets and must be fastened to framework using concealed fasteners, or choose the option for exposed fasteners when exposed fasteners are acceptable at the installation. Length of sheets must be sufficient to cover the entire height of any unbroken wall surface.

a. **Steel Wall Panels:**

1) Material and Coating: Form sheets from steel conforming to ASTM A 653/A 653M, Structural Grade 40, galvanized coating conforming to ASTM A 924/A 924M, Class G-90; aluminum-coated steel conforming to SAE AMS 5036; or steel-coated with aluminum-zinc alloy conforming to ASTM A 792/A 792M, except that coating chemical composition must be approximately 55 percent aluminum, 1.6 percent silicon, and 43.4 percent zinc with minimum coating weight of 0.5 ounce per square foot.

2) Gage: Minimum 22 U.S. Standard Gage for wall panels, but in no case lighter than required to meet maximum deflection requirements specified.

b. **Aluminum Wall Panels:**

1) Material and Coating - Form sheets of Alloy 3004 or Alclad 3004 conforming to ASTM B 209 having proper temper to suit respective forming operations.

2) Thickness - Minimum 0.81 mm (0.032 inch) nominal, but in no case thinner than that required to meet maximum deflection requirements specified.

c. **Insulated Aluminum or Steel Wall Panels:** Insulated wall panels must be steel or aluminum factory-fabricated units with insulating core between metal face sheets securely fastened together and uniformly separated with rigid spacers. Panels must have a factory color finish. Wall panels must have edge configurations with interlocking ribs for securing adjacent panels. System must utilize factory fabricated corners and trim pieces at intersections with other materials. Insulated wall panels must be fastened to framework using concealed fasteners.

1) Insulated Steel Panels - Zinc-coated steel conforming to ASTM A 653/A 653M; or Aluminum-zinc alloy coated steel conforming to ASTM A 792/A 792M, AZ 55 coating. Uncoated wall panels must be 0.61 mm (0.024 inch) thick minimum.

2) Insulated Aluminum Panels - Alloy conforming to ASTM B209, temper as required for the forming operation, minimum 0.81 mm (0.032 inch) thick.

4. **Stucco Exterior Wall Closure**

a. **Portland Cement Plaster:** ASTM C150, gray Portland cement Type II with 13 mm (1/2 inch) maximum chopped alkali resistant fiberglass strands, minimum 1.5 percent by weight to cement; .68 kg (1 1/2 pounds) per sack of cement. Lime must conform to ASTM C206, Type S. System must utilize stainless steel or zinc corner beads, J-beads and other accessories. Unless specifically deleted, the system must utilize an acrylic admixture or coating to give additional moisture suppression to control fungus growth.

b. **Exterior Insulation and Finish System (EIFS):** EIMA TM 101 and 01 EIMA TM 101.86. EIFS must be used as the non-primary or the primary exterior finish material only for projects where it is necessary to match existing EIFS.

5. **Precast Concrete Wall Panels:** ACI 211.1 and ACI 301. PCI MNL-116 or PCI MNL-117. Concrete must have a minimum 28-day compressive strength of 281 Kg/cm² (4000 psi). Joints

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must include properly sized and placed backing material and fully loaded and tooled sealant joint of no less than 1/4 inch sealant material thickness.

6. **Other Wall Finish Systems** (if applicable)

- a. **Horizontal Wood Siding:** Horizontal Wood Siding: DOC PS 20, exterior, lap type, 6 inches wide, maximum practicable lengths, 11 mm (7/16 inch) thick, smooth face. All surfaces of wood siding and trim must be shop coated with an alkyd primer.

Species and Grades 1. Grade 1 Common spruce-pine-fir; NELMA, NLGA, WCLIB, or WWP. 2. Grade Prime or D finish, pressure-preservative-treated hem-fir; NLGA, WCLIB, or WWP.; 3. Grade D Select (Quality) eastern white pine, eastern hemlock-balsam fir-tamarack, eastern spruce, or white woods; NELMA, NLGA, WCLIB, or WWP. 4. Grade D Select northern white cedar; NELMA or NLGA. 5. Grade B & B, pressure-preservative-treated southern pine; SPIB.
- b. **Vinyl Siding System:** Integrally colored, vinyl siding complying with ASTM D 3679.
- c. **Manufactured Faced Panels Systems Exterior Wall Siding:** Glass Fiber Reinforced Cementitious Panels System: Siding made from fiber-cement board that does not contain asbestos fibers; complies with ASTM C 1186, Type A, Grade II; horizontal or vertical pattern in plain or beaded-edge style. Texture: Rough sawn or smooth, factory primed.

7. **Exterior Wall Backup Construction**

- a. **Concrete Unit Masonry:** Provide concrete unit masonry to comply with ACI 530.1. Load-bearing units: ASTM C90, Non-load bearing- units: ASTM C129, Type I or II. Provide ground face units, split-faced units, ground-faced units, or split-ribbed units for exposed exterior walls. Provide water repellent admixture to masonry units where the exterior face of the units will not receive a waterproof coating such as paint.
- b. **Dampproofing:** Dampproof the cavity-facing wythe of the backup masonry using asphaltic primer according to ASTM D 41, if dampproofing is not provided by a sprayed on foam or other DOR-approved membrane insulation system.

8. **Load-Bearing Metal Framing System**

If permitted, provide load-bearing metal framing including top and bottom tracks, bracing, fastenings, and other accessories necessary for complete installation. Framing members must have the structural properties indicated. Where physical structural properties are not indicated, they must be as necessary to withstand all imposed loads. Design framing in accordance with AISI SG-673. Install in accordance with DOR-approved shop drawings and manufacturer's installation instructions.

9. **Exterior Studs:** Exterior Finish

Max. Deflection Criteria

L/360	Cement Plaster, Wood Veneer, Synthetic Plaster, Metal Panels
L/600	Brick Veneer, Stone Panels

Wall deflections must be computed on the basis that studs withstand all lateral forces independent of any composite action from sheathing materials. Studs abutting windows or

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louvers must also be designed not to exceed 1/4-inch maximum deflection and as required in UFC 4-010-01, DoD Minimum Antiterrorism Standards for Buildings.

1) Studs - ASTM A 1003/ASTM A 1003M, Structural Grade 50, Type H minimum; provide Z180 (G60) galvanized coating in accordance with ASTM A 653/ASTM A 653M. Do not expose studs to direct moisture contact

2) Bracing - Provide horizontal bracing in accordance with design calculations and AISI SG-673, consisting of, as a minimum, runner channel cut to fit between and welded to the studs.

3) Sheathing - Provide sheathing to withstand structural loads imposed on the wall structure. Cover sheathing with either a 15 pound asphalt-impregnated building paper, or air barrier as required by the wall moisture analysis. Sheathing must be one of the following:

- a) Plywood: C-D Grade, Exposure 1;
- b) Structural-Use and OSB Panels;
- c) Gypsum: ASTM C 79/C 79M and ASTM C 1177/C 1177M, 13 mm (1/2 inch) thick fire retardant (Type X) 15 mm (5/8 inch) thick; 1.2 meters (4 feet) wide with square edge for supports 400 mm (16 inches) o.c. with or without corner bracing of framing. Gypsum sheathing must be faced with materials capable of resisting six months of weathering exposure without degradation of the covering or the gypsum. Seal all joints as recommended by the manufacturer.

10. **Wood Framing System:** All materials shall be kiln-dried lumber complying with DOC PS 20. Installation must be in accordance with AF&PA T11. Use preservative pressure treated lumber at sill plates and other members in contact with concrete and masonry surfaces.

- a. **Species and Grades:** Provide species and grades listed: 1) Grade 2 Common spruce-pine-fir; NELMA, NLGA, WCLIB, or WWPA; 2) Grade 2 Common, hem-fir; Douglas-fir; NLGA, WCLIB, or WWPA; 3) Grade 2 Common, southern pine; SPIB.
- b. **Sheathing:** Sheathing must withstand structural loads imposed on the wall structure. Cover sheathing with either a 15 pound asphalt-impregnated building paper, or air barrier as required by the wall moisture analysis. Sheathing must be as for Metal Studs.

11. **Cast-in-place Concrete System:** Concrete construction must be in accordance with ACI 301.

12. **Insulation and Vapor Retarder:** Insulation, Vapor Retarders, and Air Barrier Systems in or on Exterior Enclosure must include: insulation, liquid, sheet or continuous film materials installed separately in or on wall assemblies to provide resistance to heat loss/gain, and vapor penetration.

- a. **Vapor retarder:** Comply with ASTM C755. Incorporate in the exterior wall system where required by vapor transmission calculations or dew point analysis indicates the need or in conditions of high moisture exposure.
- b. **Bituminous Dampproofing:** Bituminous Dampproofing must be ASTM D449, Type I or Type II bituminous dampproofing on the exterior surface of the interior wythe of masonry in a cavity wall (back-up wall for masonry veneer).
- c. **Building Paper:** FS UU-B-790, Type I, Grade D, Style 1.
- d. **Air Barrier:** Building wrap consisting of air barrier sheeting complying with ASTM E 1677, Type 1, not less than 3 mils thick with a permeance of not less than 575 ng/Pa x s x sq.m. (10 perms). Building wrap must have a flame spread index of less than 25 in accordance with ASTM E 84. Provide building wrap over sheathing of wood or metal framed construction to reduce air penetration and airborne vapor penetration. Provide building wrap tape as recommended by the manufacturer for sealing all joints in the building wrap. Install in accordance with manufacturer's instructions. Air barrier

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installation at windows must be in accordance with ASTM E 2112.

- e. **Insulation Systems:** Vertical and horizontal polystyrene insulation conforming to ASTM C578 or rigid polyisocyanurate board wall insulating products conforming to ASTM C591 or mineral-fiber blanket insulation conforming to ASTM C 665 must be provided.
- 13. **Parapets:** Avoid parapets when possible, but when necessary, provide parapets with the same materials as the exterior wall construction. Provide scuppers and wall edge according to SMACNA.
- 14. **Exterior Louvers and Screens:** If required, provide louvers for Screened Equipment Enclosure or as louvers for exterior doors.

Storm shutters must comply with ASTM E 1996-03.
- 15. **Handrails:** Balcony walls to match exterior construction. Handrails to comply with the IBC and OSHA.
- 16. **Exterior Soffits:** Exterior soffit system.
- 17. **Exterior Painting and Special Finishes;** All painting and coating materials must be low VOC. Painting practices must comply with applicable federal, state and local laws enacted to insure compliance with Federal Clean Air Standards. Apply coating materials in accordance with SSPC PA 1. SSPC PA 1 methods are applicable to all substrates.

All paint must be in accordance with the Master Painters Institute (MPI) standards for the exterior architectural surface being finished. The current MPI, "Approved Product List" which lists paint by brand, label, product name and product code as of the date of contract award, will be used to determine compliance with the submittal requirements of this specification. Provide paint systems tested to "Detailed Performance Level" standard as defined by MPI.
- 18. **Exterior Joint Sealant:** Sealant joint design, priming, tooling, masking, cleaning and application must be in accordance with the general requirements of Sealants: A Professionals' Guide from the Sealant, Waterproofing & Restoration Institute (SWRI). All sealant must conform to ASTM C 920.
- 19. **Sun Control Devices:** Sun control devices must be manufactured devices to provide sun control on exterior windows and storefronts. Sun control devices must be designed and installed to withstand the wind loads prevailing at the project site.

EXTERIOR WINDOWS

Unless otherwise allowed by Part V., window frames for new facilities must be aluminum. In building renovations windows must match existing window materials, except when all windows are to be replaced. If all windows are to be replaced, they shall be aluminum. Exterior windows must meet or exceed Energy Star requirements. The design and placement of exterior windows must take into considerations view, natural light, privacy, and protection for the occupants of the facilities. Provide operable hardware and insect screen for exterior windows. Windows must be fabricated by manufacturers normally involved in the manufacturing of windows and be of the current make and model. Do not use obsolete or discontinued windows. Provide weather stripping, STC and IIC rating, commensurate with the intended use of the facility. Submit catalog information and manufacturer's specifications for approval by Contracting Officer prior to purchase of windows.

All window assemblies must meet performance grade CW 60 minimum tested in accordance with AAMA/WDMA/CSA 101/I.S.2/A440-08 or most current edition of this standard.

Where windows separate conditioned spaces from non-conditioned spaces, provide windows bearing NFRC energy label indicating window exceeds current EnergyStar criteria. For storefront or curtainwall systems, provide thermally broken framing and insulating glazing with whole-assembly U-value of 0.40 or less. Provide windows exceeding requirements of ASHRAE 90.1, Table 5.5 for project climate zone.

Windows must consist of fixed and operable sash used singly and in multiples. Provide operable sash in spaces occupied by people as a minimum. Include operating hardware, non-corroding framed metal screens for operable sash, integrated blinds set between glass panels and security grilles. Provide jamb support for larger windows where recommended by manufacturer.

1. **Metal Windows:** All windows must conform to ANSI/AAMA/WDMA 101. Metal windows with insulating glass must have thermally broken frames and sash. Factory finish aluminum windows and provide with aluminum frame screens with aluminum mesh at operable sash, hardware and locks, and tinted glazing. Aluminum screens must comply with ANSI/SMA 1004.
2. **Wood Windows:** Clad wood and wood windows must consist of complete units including sash, glass, frame, weatherstripping, insect screen, and hardware. Window units must meet the requirements of AAMA 101, except maximum air infiltration shall not exceed 0.30 CFM per linear foot of sash crack when tested under uniform static air pressure difference of 7.66 Kg/m2 (1.57 psf).
3. **Storefronts:** Provide one-story storefront system fabricated from formed and extruded aluminum and glass components for exterior use. Utilize the specific section of the Standard Design-Build Performance Technical Specifications Section B202002 for the storefront to be provided. Storefront framing must meet or exceed the structural requirements, as measured in accordance with ANSI/ASTM E330: Design system to withstand this as a minimum and comply with design pressure established within the required ASCE 7-05 Wind Speed Calculations determined by the overall average opening within the project.
4. **Glazing:** All exterior glazing must be insulating glass.
 - a. Clear Glass - Type I, Class 1 (clear), Quality q4 (A);
 - b. Heat-Absorbing Glass - ASTM 1036, Type I, Class 2 Quality q3 (select) ray frames;
 - c. Wire Glass - Type II, Class 1, Form 1, Quality q8 Mesh m1 or Form 2, Quality q7;
 - d. Laminated Glass - ASTM 1172, total thickness shall be nominally 6 mm (1/4 inch);
 - e. Insulating Glass Units - Typically ASTM C 1036, Type I, Class 1, Quality q4, minimum 6 mm;
 - f. Tempered Glass - ASTM C 1048, Kind FT (fully tempered);
 - g. Patterned Glass - ASTM 1036, Type II, Class 1 (translucent), Form 3 (patterned), Quality q7 (decorative), Finish f1 (patterned one side), Pattern p2 (geometric) 5.55 mm (7/32 inch) thick.

EXTERIOR DOORS

Exterior doors must be heavy duty insulated steel doors and frames for service access. Provide door frames with welded corners. Use heavy-duty overhead holder and closer to protect doors from wind damage. Steel must have G60 galvanized coating in accordance with ASTM A 924/A 924M and ASTM A 653/A 653M when the job site is located within 300 feet from a body of salt water. Provide commercial

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quality, coating Class A zinc coating in accordance with ASTM A591 for other steel or steel skin hollow metal doors at other locations. Provide kickplates on the inside face of all exterior doors. Weather-protect all exterior doors and related construction with low infiltration weatherstripping and sealants. Provide threshold with offset to stop water penetration while maintaining accessibility compliance. Conform to the design criteria of ASCE 7. See the hardware schedule for door hardware requirements.

Where doors separate conditioned spaces from non-conditioned spaces, provide doors exceeding current EnergyStar criteria. For storefront entrances, provide thermally broken door framing and insulating glazing with whole-assembly U-value of 0.67 or less. Provide doors exceeding requirements of ASHRAE 90.1, Table 5.5 for project climate zone.

1. **Steel Doors:** Exterior doors must comply with ANSI A250.8-1998 (SDI-100). Hardware preparation must be in accordance with ANSI A250.6. Doors must be hung in accordance with ANSI A115.16.
 - a. Doors Required:
 - 1) Standard Duty Doors - Level 1, MSG # 20 (IP 0.032", 0.8 mm), physical performance Level C, Model 1 or 2.
 - 2) Heavy Duty Doors - MSG # 18 (IP 0.042", 1 mm), physical performance Level B, Model 1 or 2.
 - 3) Extra Heavy Duty Doors - Level 3, MSG #16, (0.053", 1.3 mm) physical performance Level A, Model 1, 2, or 3.
 - 4) Maximum Duty Doors - Level 4 (IP 0.067", 1.6 mm), physical performance Level A, Model 1 or 2.
 - b. Insulated steel doors and frames are required for entrances to dwelling units, and may also be specified as a Contractor's option to Level 1 standard hollow metal doors. Do not use wood doors for exterior doors, unless they are fully protected from the elements, an exterior grade species, and specially finished. If wood doors are used, provide in accordance with Standard Design-Build Performance Technical Specification Paragraph B203001 2.
2. **Standard Steel Frames:** ANSI A 250.8. Form frames with welded corners for installation in exterior walls. Form stops and beads of 20 gage steel. Frames must be set in accordance with ASTM A250.11. Anchor all frames with a minimum of three jamb anchors and base steel anchors per frame, zinc-coated or painted with rust-inhibitive paint, not lighter than 18 gage. Mortar infill frames in masonry walls, and infill with gypsum board compound at each jamb anchor in metal frame walls. Only use surface exposed bolted anchors in concrete walls.
3. **Door and Frame Finishes:** a) Exterior Doors, Factory-Primed and Field Painted Finish - Doors and frames must be factory primed with a rust inhibitive coating as specified in ANSI A250.8. Factory prime doors on six sides of the door; b) Exterior Doors Galvanized Finish -- Must be Commercial Quality, Coating Class A, zinc coating in accordance with ASTM A 591 when facility is located further than 91 meters (300 feet) from the ocean. When facility is located within 91 meters (300 feet) of the ocean, provide G60 galvanized coating in accordance with ASTM A 924/A 924M and ASTM A 653/A 653M.
8. **Hardware:** Provide the services of a Certified Door Hardware Consultant to prepare the door hardware schedule.

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A. Acceptable Manufacturers:

1. Hager Hinge Co., St. Louis, MO.
2. McKinney, Scranton, PA.
3. Stanley Hardware Division of The Stanley Works, New Britain, CT.

B. Butt Hinges:

1. Comply with ANSI A156.1 and A156.7.
2. Five knuckle designs with square corners.
3. Full mortise type.
4. Flat button tip and matching plug.
5. Non-removable pins for out-swinging exterior doors and for interior reverse bevel doors equipped with locking device; safety stud also acceptable. Non-rising pin for other doors.
6. Non-ferrous construction at locations exposed to exterior atmosphere.
7. Heavy weight for doors 3'-4" width and over and for fire rated doors over 8'-0" height. Standard weight at other doors.
8. Anti-friction or ball bearing type for doors equipped with closers.
9. Anti-friction or ball bearing type for doors (3'-0") width and over which are not equipped with closers.
10. Plain bearing type for doors less than 3'-0" width which are not equipped with closers.

D. Minimum Number Hinges, Butt style:

1. Doors 5'-0" or less in height: One pair.
2. Doors over 5'-0" and not over 7'-6": 1-1/2 pair.
3. Doors over 7'-6": One for each additional 2'-6" height or fraction thereof.
4. Dutch doors: 2 pair.

E. Minimum Size and Gage:

1. Doors 3'-0" width or less: 4-1/2 by 4-1/2 inches, 0.134 gage
2. Doors over 3'-0" up to 3'-4": 5 by 4-1/2 inches, 0.146 gage).
3. Doors over 3'-4": 5 by 4-1/2 inches, 0.190 gage.
4. Fire rated doors over 8'-0" height: Sized as indicated above, except not less than 0.180 gage.
5. Doors scheduled for spring hinges: 4-1/2 by 4-1/2 inches, 0.134 gage).

CYLINDERS and PERMANENT CORES

A. Provide cylinders for locksets, deadlocks, exit devices, and other control and locking devices indicated in Hardware Sets.

B. Furnish permanent cores keyed to factory-registered extension of Owners existing Best series interchangeable core cylinder system.

C. Cores shall be Solid brass construction to provide high quality and long cylinder life.

D. Removable Core: 7 pin tumbler interchangeable core design removable by a control key.

1. Brass cylinder body having a head cap of brass, bronze or stainless steel finished to match locking trim.
2. Equip cylinders with appropriate rings.
3. Equip with proper tail piece for mortise and or rim cylinders.

E. Acceptable Manufacturers:

1. Best Access Systems.

F. Mortise Type: Threaded cylinders with rings and cams to suit hardware application.

G. Rim Type: Cylinders with back plate, flat-type vertical or horizontal tailpiece, and raised trim ring.

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- H. Bored-Lock Type: Cylinders with tailpieces to suit locks.
- I. Mortise and rim cylinder collars to be solid and recessed to allow the cylinder face to be flush and be free spinning with matching finishes.
- J. Keyway: Match Facility Standard.
- K. Equip cylinders with appropriate rings.
- L. Finish cylinders and rings to match trim.

KEYS AND KEYING

- A. Consult with Owner's authorized representative and prepare detailed keying schedule accordingly.
- B. Keying:
 - 1. Provide Best interchangeable core cylinders designed so that cores can quickly and easily be changed by non-technical personnel by using a special control key.
- C. Construction Keying:
 - 1. Furnish exterior door lock sets with keyed alike removable construction core cylinders for use during construction.
 - 2. Restrict distribution of construction keys. Maintain record of persons who have received keys and deliver copies of record to Contracting Officer upon request.
 - 3. Provide permanent cores to owner prior to substantial completion.
 - 4. Owner shall store them securely until needed. At substantial completion and at Contracting Officer direction, remove construction cores and replace with permanent cores in presence of Owner.
 - 5. Provide keys to Owner and return construction cores to manufacturer.
- D. Permanent Keying: Master locks and cylinders are to match the Best Key System as instructed by owner.
- E. Provide keys of Nickel Silver Material in Following Quantities:
 - 1. Grandmaster-keys (MGK): Six (6)
 - 2. Master keys (MK - each set): Six (6)
 - 3. Change-keys (per lock): Two (2)
 - 4. Removable Core Control Keys: Six (6)
 - 5. Construction Master keys: Ten (10)
 - 6. Construction Control Keys Two (2)
- F. Identification and Control:
 - 1. Stamp all keys with do not duplicate, or as otherwise instructed by owner.
- G. Furnish visual control system; coordinate provisions with Owner. Stamp or emboss keys with identification code.
- H. Deliver construction master keys to Project site. Forward other keys directly from manufacturer to Owner. Ship master keys, and grandmaster-keys via prepaid registered mail. Ship change keys via prepaid freight.

LOCKING AND LATCHING DEVICES

- A. Acceptable Manufacturers:
 - Basis of Design: products specified are manufactured by Best Corporation.
 - 1. Yale Security, ASSA ABLOY, Lenoir City, TN.
 - 2. Corbin Russwin, ASSA ABLOY, Berlin, CT.
 - 3. Sargent, ASSA ABLOY, New Haven, CT.
 - 4. Schlage, Ingersoll-Rand, Indianapolis, IN.
 - 5. Best Access Systems, Indianapolis, IN.
- B. Mortise Locksets:

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1. Best 40H Series with lever and rose, 7 pin.
2. ANSI A156.13, Grade 1.
3. Functions:
 - a. Entrance
4. Acceptable Products for cast or forged Lever with Rose Trim:
 - a. Yale 8800FL Series x PBR Lever.
 - b. Corbin Russwin ML2000 Series x PSA Lever.
 - c. Sargent 8200 Series x LNP Lever.
 - d. Schlage L9000 Series x 17A Lever.
 - e. Best 40H Series x 14H Lever.
5. Features:
 - a. Backset: 2-3/4 inches.
 - b. Faceplate: 8 by 1-1/4 inches, adjustable from flat to bevel of 1/8 inch in 2 inches, finished to match trim on hinge side of door.
 - c. Latch Bolt: Two-piece anti-friction, 3/4 inch throw.
 - d. Strike: ANSI standard 4-7/8 inch height, 1-1/4 inch curved lip.
 - e. Provide strikes with proper lip length to protect trim of the frame, but not to project more than 1/8 inch (3.2) beyond frame trim or the inactive leaf of a pair of doors.
 - f. Finish to match trim on hinge side of door

C. Cylindrical Locksets and Latchsets:

1. ANSI A156.13, Grade 1.
2. 7 pin cylinder core to match Owners standard.
3. Functions
 - a. Entrance
 - b. Classroom
 - c. Privacy
 - d. Passage
4. Acceptable Products:
 - a. Best 93K series with 16D lever and rose.
 - b. Yale 5400 LN Series 4000 Grade 1 Monroe trim levers
 - c. Schlage ND Series with Athens lever and rose.
 - d. Corbin Russwin CL3300 series with Armstrong lever
 - e. Sargent 10 Line series with B lever trim.

D. Deadbolts:

1. Best T Series Deadbolts – or equal.
2. Backset: 2 3/4 inches
3. Cylinders: ANSI A156.36-2010 Auxiliary Locks, Grade 1
4. Deadbolt: 1" throw, 5/8" x 7/8" solid stainless-steel bolt.

E. Standard: Comply with ANSI A156.2, Series 1000, Grade 1.

1. Backset: 2-3/4 inches.
2. Faceplate: 8 by 1-1/4 inches, adjustable from flat to bevel of 1/8 inch in 2 inches, finished to match trim on hinge side of door.
3. Latch bolt: Two-piece anti-friction, 3/4-inch throw.
4. Dead bolt: 1-inch throw.
5. Strike:
 - a. ANSI standard 4-7/8-inch height, 1-1/4 inch curved lip.
 - b. Equip with wrought or plastic box.
 - c. Finish to match trim on hinge side of door.

ELECTRIC STRIKES - Coordinate installation with HM frame and electrical rough-in.

A. At rim type exit devices: HES 9600

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B. At non-fire rated cylindrical and mortise locksets: HES 8000

C. At fire rated cylindrical and mortise locksets: HES 8300

SURFACE MOUNTED CLOSERS

A. Acceptable Manufacturers:

1. LCN Closers, Princeton, IL.
2. Norton Door Controls, Charlotte, NC.
3. Sargent, New Haven, CT.
4. No other substitutions allowed.

B. Acceptable Products:

1. LCN 4040 Series.
2. Sargent 350
3. Norton 8500

C. Standard: Comply with ANSI A156.4, Grade 1.

D. Required Features:

1. Manufacturer's standard cast iron or cast aluminum construction.
2. Heavy duty, double lever arm type.
3. Regular or parallel arm mounting.
4. Rack and pinion construction with compression spring, fully hydraulic.
5. Closing speed and latching speed controlled by independently operated valves.
6. Adjustable spring power allowing adjustment up to 50% in field to suit individual door conditions.
7. Adjustable backcheck for interior and exterior units.
8. Maximum operating force of 8.5 pounds for exterior doors, 5 pounds for interior doors, and 15 pounds for label doors.
9. Size as recommended by manufacturer for door size and weight.
10. Hold open and deadstop features where indicated in Hardware Sets.

E. Accessories:

1. Manufacturer's standard full-size metal or non-metallic cover.
2. Furnish with necessary arms, tracks, brackets, plates, shoes, and other accessories to suit door and frame conditions.
3. Finish accessories to match cover.

F. Mounting: Room side of door. Also refer to hardware locations.

EXIT DEVICES

A. Acceptable Manufacturers:

1. Von Duprin, Inc., Indianapolis, IN.

B. Acceptable Products:

1. Von Duprin 99 Series rim device at single doors and surface mounted vertical rod at pair of doors, touch bar design with 99L key locks and #07 levers as indicated in Hardware Sets.
2. Stanley 200 Series Heavy Duty rim type.
3. Approved equal.

C. Standards:

1. Comply with ANSI A156.3, Grade 1.
2. Underwriters' Laboratories Inc. listed for "Accident Equipment List - Panic Hardware" at exit assemblies.
3. Underwriters' Laboratories Inc. listed for "Fire Exit Hardware" at labeled assemblies.

D. Mullion Finish: Factory paint. Color as selected by Architect.

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DOOR STOPS

A. Acceptable Manufacturers:

1. Baldwin Hardware Corp., Reading, PA.
2. Brookline Industries, Inc., Chicago, IL.
3. Builder's Brass Works Corp., Los Angeles, CA.
4. Glynn-Johnson, Chicago., IL.
5. Hiawatha, Inc., Bloomington, MN.
6. H.B. Ives, Wallingford, CT.
7. Quality Hardware Manufacturing Co., Hawthorne, CA.
8. Rockwood Manufacturing Co., Rockwood, PA.
9. Triangle Brass Manufacturing Co., Inc., (Trimco), Los Angeles, CA.

B. Provide door stops at each door leaf, except not required at doors equipped with overhead stops/holders, or doors equipped with closers having dead-stop features whether scheduled or not.

C. Door stops consist of stops to prevent doors from striking building components or equipment.

D. Floor Stops:

1. Dome type.
 - a. Use only at storage, janitor, mechanical equipment, and electrical rooms and other locations indicated in Hardware Sets.
 - b. Equip with appropriate riser where scheduled for areas indicated to receive carpet or thresholds.
 - c. Acceptable Product: Trimco #1212.
2. Heavy Duty type:
 - a. Use at HM doors and other locations indicated in Hardware Sets.
 - b. Heavy duty, high impact
 - c. Acceptable Product: Rockwood 463

E. Overhead Door Stops and Holders: ANSI/BHMA A156.6, Grade 1 certified overhead stops and holders to be surface or concealed types as indicated in Hardware Sets. Track, slide, arm and jamb bracket to be constructed of extruded bronze and shock absorber spring of heavy tempered steel. Provide non-handed design with mounting brackets as required for proper operation and function.

1. Acceptable Manufacturers:
 - a. Rixson Door Controls (RF).
 - b. Sargent Manufacturing (SA).

ELECTRONIC DOOR CONTROLS

A. Electromagnetic Hold Open Devices:

1. Acceptable manufacturers:
 - a. Dorma Door Controls Inc., Reamstown, PA.
 - b. Rixson-Firemark, Franklin Park, IL.
 - c. Yale Security Inc., Charlotte, NC.
2. Operation: Fail-safe.
3. Voltage: 24 volts DC.
4. Acceptable products:
 - a. Single Door, head mounted, Dorma EML 1000.

MISCELLANEOUS HARDWARE

A. Acceptable Manufacturers:

1. Baldwin Hardware Manufacturing Corp, Reading, PA.

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2. Brookline Industries, Inc., Chicago, IL.
3. Builder's Brass Works Corp., Los Angeles, CA.
4. Door Controls International, Ann Arbor, MI.
5. Glynn-Johnson, Chicago, IL.
6. Hiawatha, Inc., Bloomington, MN.
7. H.B. Ives, Wallingford, CT.
8. Quality Hardware Manufacturing Co., Hawthorne, CA.
9. Rixson-Firemark, Franklin Park, IL.
10. Rockwood Manufacturing Co., Rockwood, PA.
11. Stanley Hardware Division of The Stanley Works, New Britain, CT.
12. Trego Industries, Inc., Red Oak, TX.
13. Triangle Brass Manufacturing Co. (Trimco), Los Angeles, CA.

B. Flush Bolts:

1. Manual design equivalent to Ives 458-1/2 at non-labeled metal or wood doors.
2. Manual design equivalent to Ives 358 at labeled wood doors.
3. Manual design equivalent to Ives 458 at labeled metal doors.
4. Equip with extension bolts of lengths to locate operating mechanism at 12 inches above floor for bottom unit and not over 72 inches above floor for top unit.
5. Equip bottom bolts with dust proof strike equivalent to Ives 489. Provide Ives 487 plate where floor mounted; plate not required at thresholds.

C. Push Plates:

1. Rockwood RM1030 H "PUSH" 4" X 22" US 32D

D. Pull Plates:

1. Rockwood RM 3100 Door Pull. 1" diameter, 22" overall length, 16" center to center; US32D finish.

E. Coordinators:

1. Provide aluminum filler bar, prime painted; field paint to match door frame.
2. Acceptable Product: Glynn-Johnson COR Series, Model No. COR-FB-BX with FB Series filler.

F. Silencers:

1. Type: Preformed neoprene or rubber.
2. Location and quantities:
 - a. Pairs of doors: Two at header.
 - b. Single doors: Three at strike jamb.
 - c. Weatherstripped doors
 - d. Smoke sealed doors:

WEATHERSTRIPPING, SEALS AND THRESHOLDS

A. Acceptable Manufacturers:

1. A. J. May Corp., Houston, TX.
2. National Guard Products, Inc., Memphis, TN.
3. Pemko Inc., Ventura, CA.
4. Reese Enterprises, Inc. Rosemount, MN.
5. Ultra Industries, Commerce, CA.
6. Zero International, Inc. Bronx, NY.

B. Smoke Seals:

1. Type: UL rated, surface applied, self-adhesive, polypropylene or silicone rubber strips.
2. Color: Black.
3. Acceptable product: Pemko S88 Siliconseal.

C. Astragals

1. Type: Steel, adjustable, surface mounted; push side.

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2. Acceptable Product: Pemko 351 Series.

D. Thresholds:

1. Type: Extruded aluminum.
2. Acceptable Product: NGP 890 with vinyl bumper.

E. Weatherstripping:

1. Type: Extruded aluminum with neoprene bulb.
2. Acceptable product: NGP 131NSA.

F. Sweep Strips:

1. Type: Extruded aluminum with neoprene seal.
2. Acceptable Product: NGP 100VA.

FINISHES

A. Except where indicated otherwise in Hardware Sets, comply with following:

B. Typically: 626 Brushed Chrome, 630 stainless steel.

C. Surface Mounted Closers: Spray-painted to match other hardware.

D. Special care is to be taken to make uniform the finish of all various manufactured items.

E. Extruded aluminum products, except for thresholds and specified gasketing, are not acceptable.

KEY CONTROL SYSTEM

A. Acceptable Manufacturers:

1. Key Control Systems, Inc., Bechtelsville, PA.
2. Lund Equipment Co., Inc., Bath, OH.
3. Telkee, Inc., Glen Riddle, PA.

B. Cabinet: Surface mounted hinged panel type cabinet manufactured from cold-rolled furniture steel, electro-welded construction, with manufacturer's standard baked enamel finish. Equip with pin tumbler locking mechanism. Sized to contain indexed keys for Project, plus 50 percent expansion.

C. Key Control System: Dual tag indexed system complete with numbered labels and numbered tags, permanent key tags, working key tags, key loan and receipt system, three way cross index system, key gathering envelopes, and instruction manual.

ROOFING

For repair of existing roofing, the cutting of the existing roof shall be kept to a minimum and, where necessary, must be made in a clean and orderly manner to prevent the appearance of a patch.

Repair all damage to existing and new roofing caused by the work of this Contract at no additional cost to the Government. The work must be executed in such a manner as to maintain the integrity of the existing roofing manufacturer's warranty.

1. **Pre-Roofing Conference:** Prior to beginning roofing work, hold a Pre-Roofing Conference with the personnel directly responsible for the roofing systems work, as well as the roofing manufacturer's technical representative.
2. **Roof Design Assurance:** If the roofing project is significant (Significant Roof - A single or group of buildings greater than 1,400 m² (15,000 sf)), or where extenuating circumstances of the roof project such as building use, content, safety, or visibility require a roofing consultant, provide the services of a Registered Roof Consultant (RRC) certified by the Roof Consultant Institute, or a Registered Professional architect or Engineer who specializes in roofing, to approve the roof

design. The roof consultant must be engaged in roofing design and roofing construction as his primary endeavor. The roof consultant must verify in writing that the design for the project is in accordance with the current edition of *NRCA Roofing and Waterproofing Manual*, UFC's, and RFP, and standard industry practices and building codes.

If a Roof Design Assurance Consultant is needed, consider using a Registered Roof Observer as a QC specialist.

ROOF COVERINGS

Roof coverings and procedures must comply with the requirements of UFC 3-110-03, *Roofing*, and NRCA, *Roofing and Waterproofing Manual* found at <http://www.nrca.net/rp/technical/manual/manual.aspx> as the primary NAVFAC roofing criteria. Roof selection must comply with UFC 3-110-03, *Roofing*.

1. ROOF COMPONENTS:

- a. **Insulation:** For existing structures, provide insulation in accordance with ASHRAE 90.1. For new construction, provide R-30 insulation in the ceilings, attic spaces and soffit areas for interior spaces. Injected polyurethane and Urea Formaldehyde Foam field applied is not permitted. Provide acoustical insulation above walls separating bathroom/restrooms and corridor and adjacent occupied spaces, and between offices and corridors. Insulation must have a minimum sound attenuation rating of STC-55.

Insulation must be Polyisocyanurate Rigid Board Insulation, Mineral Fiber Blanket Insulation to conform to ASTM C 991, with Glass Mat Gypsum Roof Board for use above the deck or insulation conforming to ASTM C 1177/C 1177M, where necessary.

- b. **Vapor Retarder:** Determine the need and location in the roof assembly for a vapor retarder. Where the mean January temperature is 40 degrees Fahrenheit or less, and the expected interior relative humidity is 45% or greater, use a vapor retarder. Otherwise, use ASHRAE 90.1 for the determination.

1) Vapor Retarders as Integral Facing - Alloy conforming to ASTM B 209, or Vapor Retarders Separate from Insulation - Vapor retarder material must be 10 mil polyethylene sheeting conforming to ASTM D 4397.

2) A slip sheet is required to separate the roofing panels from the insulation facing where the facing would be in direct contact with the roofing panels. If a slip sheet is necessary for use with a vapor retarder, use a 5 lb. per 100 square feet rosin-sized, unsaturated building paper.

- c. **Prefabricated Curbs and Equipment Support:** Provide Prefabricated curbs and equipment supports of structural quality, hot-dipped galvanized or galvanized sheet steel, factory primed and prepared for painting with mitered and welded joints. Provide integral base plates and water diverter crickets. Minimum height of curb must be 8 inches above finish roof.
- d. **Fasteners:** Provide fasteners that meet all requirements of the NRCA and Factory Mutual.
- e. **Wood Nailers:** Wood nailers shall be pressure-preservative-treated in accordance with AWPA M2 Standards, permanently marked or branded, and installed flush with the top of the adjacent insulation board.
- f. **Flashing and Sheet Metal:** Provide flashing and sheet metal work including scuppers, splash pans, and sheet metal roofing. Flashing and sheet metal must be provided in

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accordance with roof manufacturer's printed installation instructions and in compliance with NRCA and SMACNA recommendations. Fabricate Flashing and sheet metal components from Copper, Lead-Coated Copper sheet, Steel Sheet, Zinc-Coated (Galvanized) - ASTM A 653/ A 653M, Stainless Steel - ASTM A 167, Type 302 or 304, 2D finish, or Pre-Finished Aluminum.

- g. **Gutters and Downspouts:** Provide gutters and downspouts compatible with roofing material and finish. Concealed (interior) gutters and downspouts are prohibited. Provide splash guards at points of discharge.
- h. **Roof Openings and Supports:** Provide flashings for roof openings and supports as recommended by the NRCA. Assure all penetration flashings extend minimum 200 mm (8 inches) above the finished roof surface.
- i. **Roof Hatches:**
- l. **Guards:** Provide rails or guards, if required should be as required by the OSHA, the International Building Code or other applicable safety standards.
- m. **Traffic Pads:** Provide on roof system to protect roof from foot traffic. Provide traffic pads around roof mounted mechanical equipment and underneath removable mechanical equipment access panels. Traffic pads must be of compatible material to roof.

4. OTHER ROOFING

- a. **Lightning Protection:** Lightning protection component penetrations and attachments must be sealed and flashed and anchored in a permanent manner and in a manner to avoid the degradation of the watertight integrity of the roof system.
- b. **Roof Drains (Existing):** Where existing roof drains are to be reused in roof replacement construction, the contractor must provide new, compatible flashing materials, a new drain clamping ring and new bolts for anchorage. Reuse of existing clamping ring and bolts is unacceptable.

INTERIOR CONSTRUCTION

PARTITIONS

1. **Fixed Partitions:** wood frame; light gage steel frame; concrete masonry complying with ACI 530.1/ASCE 6/TMS 602 and associated ASTM Standards; or cast-in-place concrete complying with UFC 1-200-01, *General Building Requirements*, ACI 117 and ACI 301/301M. In addition, interior partitions must comply with tables for sound isolation and noise reduction in Chapter 1, "Architectural Graphic Standards". Include a statement of adherence to the applicable criteria.

Gypsum board/stud partitions may be standard gypsum board, moisture resistant, or impact resistant. Use cement board in showers and other wet areas. Reinforce points where doorknobs can strike a wall and anchorage points for wall mounted equipment.

2. **Demountable or Removable Partitions:** Must be of materials allowed by code and shall be anchored firmly to the structure to carry their own weight as well as impact forces and seismic lateral forces. Sound Transmission Class (STC) rating and Impact Isolation Class (IIC) rating shall be in accordance with ASTM E 90 or ASTM E 413 for frequency data, and shall meet the requirements of the intended use in Part 3. The majority of the components and hardware must

be provided by a single manufacturer and on the manufacturer's current GSA price list. The product must be included on the NAVFAC Selection Tool for Movable Walls.

3. **Glazed Partitions and Interior Windows:** Must be of the materials allowed by IBC, and must comply with fire and smoke separation requirements. Provide safety glazing and fire resistant rating where they are required.

INTERIOR DOORS

1. **Wood Doors:** Stile and rail wood doors must be WDMA I.S.6A-01, premium or custom grade, heavy duty or extra heavy duty. Flush wood doors must be WDMA I.S.1A-04, premium or custom grade, heavy duty or extra heavy duty; or WDMA I.S.-97 (PC-5 5-ply particleboard core or SCLC-5 5-ply structural composite lumber core). Doors adjacent to paneling or millwork must comply with corresponding AWI millwork grade. Provide interior fire doors in rated walls.
2. **Steel doors:** Must be ANSI A 250.8, Level 1, (occasional use, low abuse types such as closet doors without locks); Level 2, (low use, moderate abuse types such as office/storeroom doors); Level 3, (moderate use, high abuse types such as BEQ sleeping room doors); Level 4, (high use, high abuse types such as corridors, stairways, assembly spaces, and main entry doors), with a physical performance level of 'A'. Maximum door undercut must not exceed 19 mm (3/4 inch).
3. **Sound Insulated Doors and Frames:** Utilize Sound Insulated Doors and Frames with sound control weatherstripping in rooms requiring wall assemblies to be sound insulated with a Sound Transmission Class (STC) rating as required. The STC rating for the door and frame assembly must be not less than the wall assembly STC rating.
4. **Aluminum Doors and Frames:** Provide swing-type aluminum doors and frames complete with framing members, transoms, side-lites, and accessories. Fabricate of ASTM B 221, Alloy 6063-TS for extrusions.
5. **Steel Door Frames:** ANSI A 250.8. Form frames with welded corners for installation in masonry partitions and knock-down field assembled corners for installation in metal stud and GWB partitions. Install frames in accordance with SDI 105. Form stops and beads with 20 gauge steel.

Provide a minimum of three jamb anchors and base steel anchors per frame, zinc-coated or painted with rust-inhibitive paint, not lighter than 18 gauge. Secure frames to previously installed concrete or masonry with expansion bolts in accordance with SDI 11-F. Provide mortar infill of frames in masonry walls, and gypsum board compound infill at each jamb anchor in metal frame walls.

6. **Fire doors:** Provide in conformance with NFPA 80 and NFPA 105. Fire doors and frames must bear the label of UL, FM or WHI attesting to the rating required. Door and frame assemblies must be tested for conformance per NFPA 252 or UL 10B (for neutral pressure) or UL 10C (for positive pressure). Wood fire doors must also comply with ASTM E 152.

Provide stainless steel astragals complying with NFPA 80 for fire-rated assemblies and NFPA 105 for smoke control assemblies.

7. **Interior Door Hardware:** Provide the services of a certified door hardware consultant to prepare the door hardware schedule. Unless otherwise noted, interior doors include latch,

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hinges, door stops and door silencers. Provide closers and kick plates for fire-rated, corridor, stairway and high-use non-residential doors.

- a. **Hinges** - BHMA A156.1, Grade 1, 108 x 108 mm (4 1/2 x 4 1/2 inches) with non-removable pin or anti-friction bearing hinges.
- b. **Locks and Latches** - For non-residential buildings use Series 1000, Operational Grade 1, Security Grade 2 for stairways, building entrances, corridors, assembly spaces, and other high use interior doors. Use Series 4000, Grade 1 for non-residential locations not using Series 1000 hardware. For residential buildings use Series 4000, Grade 2 for interior doors. a) Mortise Locks and Latches - BHMA A 156.13, Series 1000, Operation Grade 1, Security Grade 2. b) Bored Locks and Latches - BHMA A 156.2, Series 4000, Grade 1, or Grade 2.
- c. **Exit Devices** - BHMA A 156.3, Grade 1. Provide touch bars in lieu of conventional crossbars and arms. Use manufacturer's integral touch bars in aluminum storefront doors.
- d. **Card Key Access** - Provide card key type access units for specialized entries. Provide lithium battery powered, magnetic stripe keycard locksets that are ANSI/BHMA A156.13, Series 1000, Grade 1, mortise or ANSI/BHMA A156.2, Series 4000, Grade 1, cylindrical locks, tamper resistant, UL listed with 25 mm (1 inch) throw deadbolt, 19 mm (3/4-inch) throw latch bolt, auxiliary dead-locking latch, and 68.75 mm (2-3/4 inch) backset.

Provide hardware keying compatible with the existing base-wide keying system. Replacement interchangeable cores must be compatible with the Best Lock system.

- e. **Key Cabinet:** Provide a Key Cabinet with 30% over capacity.

SPECIALTIES

1. **Compartments, Cubicles, & Toilet Partitions:** FS A-A-60003. Provide toilet compartments at multi-fixture toilet rooms of Type I, Style B-Ceiling Hung, C-Overhead Braced, or F-Overhead braced-alcove. Reinforce panels to receive partition-mounted accessories. Urinal screens must be FS A-A-60003. Type III, Style A, floor supported and wall hung or Style D, wall hung. Wall hung urinal screens must be secured with continuous flanges to urinal screen and wall. Steel and Plastic toilet partitions must have a recovered materials content of 20 to 30 percent. Chrome-plated or stainless steel door latches and coat hooks. Provide one coat hook per compartment door. Latches and hinges for handicapped compartments must comply with ABA Accessibility Standards.
2. **Toilet and Bath Accessories:** Provide toilet and bath accessories and install per ABA Accessibility Standards and manufacturers' requirements.

All toilet accessories shall be of matching design and all from a single manufacturer. Bobrick Company catalog numbers are referred to for purposes of establishing a quality. Products of similar design, function and quality from other manufacturers may be submitted for consideration.

Grab Bars - 36" and 42" Surface mounted straight grab bars (B-6806). 36" and 42" lengths, 1-1/2" diameter, satin finish: Grab bar shall be type-304 stainless steel with satin finish. Grab bar shall have 18-gauge (1.2mm) wall thickness and 1-1/2" outside diameter. Clearance between the grab bar and wall shall be 1-1/2". Concealed mounting flanges shall be 1/8" thick stainless steel plate, 2" x 3-1/8", and equipped with two screw holes for attachment to wall. Flange covers shall be 22 gauge, 3-1/4" diameter x 1/2" deep, and shall snap over mounting

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flange to conceal mounting screws. Ends of grab bar shall pass through concealed mounting flanges and be heliarc welded to form one structural unit. Grab bar shall comply with barrier-free accessibility guidelines (including ADAAG in U.S.A.) for structural strength.

Sanitary Napkin Disposal (B-270). Surface mounted sanitary napkin disposal shall be type 304 Stainless steel with all welded construction; exposed surfaces shall have satin finish. Front of sanitary napkin disposal shall have same degree of arc and match other Bobrick Contura Series accessories. Cover shall be drawn, one-piece seamless construction and secured to container with a full length stainless steel piano hinge. Container shall have integral finger depression for opening cover.

Surface Mounted Multi-Roll Toilet Tissue Holder (B-2740): Double-roll toilet tissue dispenser shall have a heavy-duty cast-aluminum bracket with satin finish. Theft-resistant spindles shall be molded high-impact ABS with retractable pins and concealed locking mechanisms. Unit shall accommodate two standard-core toilet tissue rolls up to 6" (152mm) diameter (2000 sheets).

Mirror specified in Section 08800 Glass and Glazing.

Touch-free foam soap dispenser. (Gojo 2730-12). Surface mounted soap dispenser with hands-free battery-operated pump dispenser. 1200 mL capacity. ABS Plastic with polycarbonate view window. 3-year warranty.

Automatic Paper Towel Dispenser: Georgia Pacific Model #59498A enMotion Impulse 8"

Automated Touchless Towel Dispenser. Black with translucent gray view windows. Holds and dispenses proprietary hard-wound roll towels. **Dimensions:** 13.8" H x 12.7" W x 8.58" D.

Mop and Broom Holder: (B-223) 24" long. Type 304 stainless steel, satin finish. Antislip mop holders have spring-loaded rubber cam. Holds 3 mops 3 1/4" (85mm) from wall.

Surface Mounted Mirror Bobrick Surface mounted stainless steel framed mirror (B-290 x1836). No. 1 quality 1/4" float glass mirror electrolytically copper plated. 15-year guarantee against silver spoilage. 20 ga. galv. steel back with concealed mounting bracket and set screws. 1/8" thick polyethylene back padding.

Utility Hook: (B-670) Bright-polished stainless steel. Flange is 2" x 2" (50 x 50mm).

Hook 1/2" (13mm) wide, projects 2" (50mm) from wall.

24" Surface mounted straight grab bars (B-6806). 24" length, 1-1/2" diameter, satin finish: Grab bar shall be type-304 stainless steel with satin finish. Grab bar shall have 18-gauge (1.2mm) wall thickness and 1-1/2" outside diameter. Clearance between the grab bar and wall shall be 1-1/2". Concealed mounting flanges shall be 1/8" thick stainless steel plate, 2" x 3-1/8", and equipped with two screw holes for attachment to wall. Flange covers shall be 22 gauge, 3-1/4" diameter x 1/2" deep, and shall snap over mounting flange to conceal mounting screws. Ends of grab bar shall pass through concealed mounting flanges and be heliarc welded to form one structural unit. Grab bar shall comply with barrier-free accessibility guidelines (including ADAAG in U.S.A.) for structural strength.

Recessed Automatic Paper Towel Dispenser: Georgia Pacific Model #59466A enMotion Impulse 8" Automated Touchless Towel Dispenser. Recesses 4" into wall. gBlack with translucent gray view windows. Holds and dispenses proprietary hard-wound roll towels. **Dimensions:** 16.4" H x 13.3" W x 8." D.

3. **Marker Boards and Tack Boards:** Provide porcelain enamel marker boards fused to a nominal 28 gauge steel sheet and tack boards of cork, with a tensile strength of at least 40 psi when tested according to ASTM F 152, with woven or vinyl covering.

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4. **Signage:** All doors must have an identifying device. All handicap accessible facilities must utilize signage which meets current ABA Accessibility Standards requirements with regard to Braille, raised characters, finishes (contrast), size and mounting height. If room names are subject to frequent change, provide an interchangeable strip to be utilized to facilitate removal and replacement.
5. **Lockers:** Provide lockers to meet FS AA-L-00486 (Rev J), enameled steel with special bases.
6. **Shelving:** Provide steel shelving.
7. **Counters:** Provide solid plastic or plastic laminate counter tops and back splashes, AWI Custom grade.
8. **Cabinets:** Provide cabinetry and millwork items with associated accessories and hardware. Cabinetry must be AWI premium or custom grade and have concealed hinges with adjustable standards for shelves.
9. **Casework:** Provide all built-in premanufactured metal cabinetry for specialized functions such as laboratories, libraries, medical and dental facilities. Casework must comply with Mil Std 1691.
10. **Closets:** Provide premanufactured or millwork closets or prefabricated coat closets.
11. **Fire Extinguisher Cabinets:**
 - A. Fire Extinguisher Cabinets: Furnish a total of seven (7) semi-recessed fire extinguisher cabinets equal to Larsen Fire Extinguisher Cabinet. Install as indicated on the drawings as FEC.
 1. Model:
 - a. Semi-recessed: 2409-5R
 2. Size: 9 1/2" x 24" x 5" deep clear inside.
 3. Material: Steel with factory-baked prime coat of paint.
 4. Trim: Flat Trim.
 5. Door: Full DSA glass panel.
 - B. Fire Extinguisher: Furnish a total of seven (7) fire extinguishers. Install as indicated on the drawings as FEB's and in FEC's.
 1. Extinguisher: Multi-purpose dry chemical type. 10 lb. nominal capacity.
12. **Firestopping Penetrations:** Provide all sleeves, caulking, and flashing for firestopping penetrations.
13. **Entrance Floor Grilles and Mats:** Provide recessed pan or surface floor mats at main entrance only or all building entrances.
14. **Ornamental Metal Work:** Provide ornamental metalwork.
15. **Other Interior Specialties:** Motorized projection screen must be wall or ceiling or above-ceiling mounting. Pull-down projection screens must be provided in lieu of motorized projection screens as approved by the Activity.

INTERIOR FINISHES

WALL FINISHES

Unless otherwise noted in the RFP, primary wall finish is painted gypsum wall board. Provide fire resistive construction and finishes for fire separation between areas of the building in accordance with the latest adopted version of the IBC, and NFPA 101. Provide water resistant cementitious board at floors and walls of tubs and showers.

1. **Ceramic Tile:** Provide ceramic tile wall systems as defined in the Tile Council of America (TCA) handbook for ceramic tile installation and materials for the service requirements listed. Provide installation and materials in accordance with ANSI A108/A118 series standards, except do not use organic adhesives. Provide manufacturer's full range of colors and styles. Tile must be a minimum of one grade above base grade. Coordinate with ceramic bath accessories for modularity. Include all trim pieces, caps, stops, and returns to complete installation.

FLOOR FINISHES

Provide new flooring materials as required. All flooring materials, adhesives, finish coats, sealers and mortar materials must meet or exceed EPA requirements for toxic substance content restrictions and air quality requirements; and meet or exceed fire protection requirements, such as smoke and flame spread requirements. When laying broadloom carpets and resilient flooring, use the widest sheet materials available to avoid or minimize the number and extent of seams. When seams are required, locate seams at infrequent traffic areas. Contractor is required to submit seam layout to Contracting Officer for approval prior to installation.

1. **Ceramic Tile:** Provide ceramic tile floor systems as defined in the Tile Council of America (TCA) handbook for ceramic tile installation and materials for the service requirements listed. Provide installation and materials in accordance with ANSI A108/A118 series standards, except do not use organic adhesives. Provide manufacturer's full range of colors and styles. Tile must be a minimum of one grade above base grade. Provide ceramic or porcelain tile with a minimum breaking strength of 202kg (300 pounds), ASTM C648, and a maximum absorption rate of 0.5%, ASTM C373. Tile must have a minimum coefficient of friction (wet and dry) of 0.6, ASTM C1028.
2. **Resilient Flooring:** Meet or exceed applicable ABA Accessibility Standards horizontal requirements. Install flooring per manufacturer's recommended methods and adhesives. Provide manufacturers full line of color and pattern selections, including multi-color patterns. Linoleum Sheet or Tile Flooring must be 2.5 mm (0.10 inch) gage; minimum 250 psi static load limit, ASTM F970; and with multi-color pattern and color extending throughout thickness, ASTM F2034, Type I. Resilient homogeneous vinyl sheet flooring must be commercial quality, 2.0 mm (0.080 inch) overall gage, with minimum 1.6 mm (.066 inch) thick wear layer, protective urethane finish, ASTM F1303, Type II, Grade 1, Class A. Resilient vinyl composition tile must be commercial grade, 3 mm (.125 inch) gage, ASTM F1066, Comp. 1, Class 2, through pattern.
3. **Carpet:** Carpet manufacturer and installer must be experienced, established and in good standing with the industry. Carpet, broadloom or tile must be installed per the Carpet & Rug Institute's recommendations. Carpet must be tufted, textured loop, cut/loop or tip sheared, a minimum of 26 oz. face weight, minimum density of 6600, 100% premium branded yarn- or solution-dyed, Type 6 or 6.6 continuous hollow filament nylon. Carpet must be multi-color and patterned for soil and wear hiding properties. Carpet must have high performance backing warranted against zippering, edge raveling and delamination, be anti-static and anti-microbial. Carpet must meet Flammability ratings; generate less than a 450 rating, ASTM E662; meet the

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Critical Radiant Flux Classification of not less than 0.45 W/sq. cm., ASTM E648. Where indicated in the room requirements, provide attached polyurethane cushion or separate polyurethane cushion for double stick pad installations, ASTM 1667 and ASTM 3676.

4. **Wall Base:** Provide porcelain or ceramic tile base for porcelain or ceramic tile floor. Provide solid, through color preformed rubber or vinyl base for carpeted/resilient flooring areas. Provide a sealant between base and floor finish in all wet areas.

CEILING FINISHES

Unless otherwise noted in the room requirements, acoustical ceiling panels must be 24 inch by 24 inch, with a minimum light reflectance of .75, Class A, flame spread 25 or less and smoke development of 50 or less, ASTM E84. Acoustical ceiling panels must have minimum 60% recycled content and conform to ASTM E1264. Panels must have a factory-applied standard washable painted finish or Type IV with factory-applied plastic membrane-faced vinyl, Form: 1, 2 or 3. Provide square edge except as noted.

Unless otherwise noted in the room requirements for entrance lobby, restrooms and showers, provide a painted, suspended gypsum board ceiling. Exposed structural systems shall be painted.

PAINTING

All painting and coating materials must be low VOC, comply with local air quality control laws and regulations; and conform to the Master's Painters Institute's (MPI) *Architectural, Interior Systems Manual* and the MPI's *Maintenance and Repainting Manual* recommendations for paint systems, surface preparation and applications.

Provide minimum of one prime coat and two finish coats. The prime coat must not be combined with texture or other coatings. Seal and prime all surfaces to cover underlying stains or discoloration that may affect finish paint. Finish coats must provide full coverage of undercoats and substrates. All walls and ceilings in wet area must have semi-gloss paint. All wood or metal cased openings, door trims and casings, window trims and casing, and other finish trim must have semi-gloss paint. All interior walls and ceilings must have satin or eggshell finish. For previously painted surfaces, prime all surfaces to ensure compatibility of finish coats. Do not paint prefinished surfaces except as noted.

Provide Institutional Low Odor/Low VOC Latex paint or High Performance Architectural Latex systems as defined and approved by the MPI Systems Manual for the various substrates required to be painted.

Paint/Color Selection: Provide paint systems tested to "Detailed Performance Level" standard as defined by MPI. Paints must be readily available for purchase in standard colors.

SERVICES

PLUMBING

Provide plumbing fixtures, appliances, and equipment complete and usable as required by Part 3. All plumbing fixtures, appliances and equipment, piping, valves, accessories, and appurtenances must comply with International Plumbing Code (IPC) and all other applicable codes and standards, including energy, water conservation, and local activity regulations and standards. Provide all plumbing fixtures to meet current criteria of EPA Watersense program <http://www.epa.gov/watersense>

1. **Domestic Water:** Provide ASTM B 88 Type K or L copper tubing and fittings for pipe sizes 4 inches or smaller. Provide Type L tubing above ground with solder fittings. For buried piping,

use Type K tubing with solder fittings, or Chlorinated polyvinyl chloride (CPVC) Plastic pipe, fittings, and solvent cement per ASTM D 2846/D 2846M for sizes 4 inches and smaller.

Provide mineral fiber insulation with vapor barrier on domestic water (hot and cold) supply and recirculation piping. Provide re-circulating pumps or instantaneous water heaters for hot water systems with fixtures greater than 100 ft from hot water source. Provide water hammer arrestors per PDI STD WH-210 as required for rapid water shut off scenarios. All water valves except for fixture shut off valves must be ANSI B16.18 brass, full port ball type. All plumbing fixtures must have separate shut off valves. All piping must be concealed in walls, attic spaces, or in crawl spaces under floors. Provide access panels for valves behind walls. No under slab water piping is allowed. Fittings for annealed copper tubing must conform to ANSI B16.22. Solder and flux must be lead free. Exposed exterior piping is prohibited unless otherwise not practical. Provide identification for piping and equipment.

2. **Wall Penetrations:** Piping which penetrates fire rated walls must be completely sealed to maintain fire resistance integrity as required by Code. Penetrations through walls that are not fire rated must be adequately supported and sealed. Pipe penetrations through exterior walls must be sleeved, caulked with weatherproof sealant and provided with finish trim.

PLUMBING FIXTURES

Provide fixtures complete with fittings, and chromium-plated, or nickel-plated brass (polished bright or satin surface) trim. All fixtures, fittings, and trim, must be from the same manufacturer and must have the same finish. Access panels must be provided for all bathtubs and showers, except at exterior and party walls and where tub or showers are back to back. Provide cleanouts in accordance with the plumbing code. Rotate or extend cleanouts required to facilitate maintenance and clearing of blockage in waste piping.

1. **Faucets:** All faucets must be brass construction, washerless type, with seals and seats combined in one replaceable ceramic disk valve cartridge designed to be interchangeable with all lavatories, bathtubs and kitchen sinks, or having replaceable seals and seats removable either as a seat insert or as a part of a replaceable valve unit. Faucets provided must be of the same type and manufacturer throughout the facility, unless otherwise noted. Lavatory faucets must be U.S. Environmental Protection Agency (EPA) Watersense® certified and labeled bathroom sink faucets.
2. **Water Closets:** Water closets must be in accordance with ANSI A112.19.2, with trim conforming to A112.19.5. Water closets must be vitreous china and have an elongated bowl with trip lever, unlined tank, close coupled siphon jet, floor outlet with wax gasket, flange and an anti-siphon float valve. Provide white closed front seat and cover for private toilets and open front seat cover for public facilities. Water consumption must be no greater than 1.6 gallon maximum per complete flushing cycle. Provide self-closing metering type flush valve on flush valve type water closets, unless electronic control is specified in Part 3. Maximum flush volume must not exceed 1.28 gallon per flush (GPF) (4.8 Liter per flush (LPF)) for single function flush valves. Dual function flush valves must provide a flush of 0.8 to 1.6 GPF (3.0 to 6.0 LPF) or 1.28 GPF (4.8 LPF) average for 2 low volume flushes and one high volume flush. Tank type water closets must be U.S. Environmental Protection Agency (EPA) Watersense® certified and labeled toilets.
3. **Urinals:** Provide U.S. Environmental Protection Agency (EPA) Watersense® certified and labeled ceramic-type urinals.
4. **Lavatories:** Unless otherwise specified by Part 3, lavatories must be integral to the vanity countertops. Each lavatory must be provided with hot and cold water tempered by means of a mixing valve or combination faucet.

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5. **Sinks:** ASME/ANSI A112.19.3M sink, 20 gage stainless steel with integral mounting rim, minimum dimensions of 840 mm (33 inches) wide for two compartment or 560 mm (21 inches) wide for one compartment by 560 mm (21 inches) front to rear, with ledge back and undersides coated with sound dampening material.
6. **Water Coolers:** ARI 1010, wall-mounted, bubbler style, air-cooled condensing unit, 4.20 mL per second (4.0 gph) minimum capacity, stainless steel splash receptor, double wall heat exchanger, and all stainless steel cabinet. Install in accordance with the manufacturers instructions.
7. **Service sinks:** ASME A112.19.1M, white enameled cast-iron or ASME A112.19.2M white vitreous china, wall mounted and floor supported by wall outlet cast-iron P-trap, minimum dimensions of 560 mm (22 inches) wide by 457 mm (18 inches) front to rear with 230 mm (9 inch) splashback, and stainless steel rim guard. Provide ASME A112.18.1M copper alloy back-mounted combination faucets with vacuum breaker and 20 mm (0.75 inch) external hose threads
9. **Mop Sinks:** Pre-cast terrazzo or ASME A112.19.2M white vitreous china floor-mounted mop sink, 914 mm x 914 mm x 305 mm (36 inches x 36 inches x 12 inches). Terrazzo must be made of marble chips cast in white Portland cement to a compressive strength of not less than 25 mPa (3625 PSI) 7 days after casting. Provide brass body drains with nickel bronze strainers cast integral with mop sink. Provide stainless steel rim guard for mop sink. Provide chrome-plated exposed hot and cold water faucets ASME A112.15.M wall-mounted copper alloy faucets swing spout with 20 mm (3/4 inch) hose connection, vacuum breaker, and pail hook. Provide mop hanger on wall above sink suitable for four mops.

DOMESTIC WATER DISTRIBUTION

1. **Natural Gas or Propane Fired Storage Water Heaters:** Provide high efficiency storage type natural gas or propane fired water heaters per ANSI Z21.10.1 or ANSI Z21.10.3 meeting AGA requirements. For California, unit efficiency must meet or exceed that listed in the Title-24Standards. Equipment efficiency must be in accordance with Energy Star or FEMP designated products list, For gas water heaters use Energy Star labeled products. For products not listed by Energy Star or FEMP provide products with efficiency rated in the top 25% of available products. Water heaters must be equipped with glass-lined steel tanks, minimum R-15 polyurethane foam insulation, replaceable anodes, and adjustable range thermostat to allow hot water settings between 43 and 71 degrees C (110 and 160 degrees F). Water heater warranty must be a minimum of 10 years. Provide vent in accordance with NFPA 54. Provide low NOx burners that meet SCAQMD requirements. Install in accordance with manufacturer's instructions and the code. Where earthquake loads are applicable, water heater supports must be designed and installed for seismic forces in accordance with the International Building Code.
2. **Electric Water Heaters:** Provide electric water heaters with double heating element per UL 174. Unit efficiency must meet or exceed that listed for FEMP or ENERGYSTAR, or as listed in ASHRAE 90.1, whichever is greatest. Water heaters must be equipped with glass-lined steel tanks, high efficiency type, insulated with polyurethane foam insulation, replaceable anodes, and adjustable range thermostat to allow hot water settings between 43 and 71 degrees C.

SANITARY WASTE & VENT

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All new sewers below concrete slab must be solid core, minimum schedule 40 (DWV Type), ABS in accordance with ASTM 2661. New waste and vent piping above floor must be Schedule 40 PVC (DWV Type) ASTM 2665 or ABS ASTM 2661. Use of ABS plastic pipe must conform to the IBC and IPC. Provide pipe sizing, configurations, and cleanouts as required by the IPC. Cellular core plastic pipe is not allowed. SOVENT systems are not allowed.

RAINWATER DRAINAGE

Below concrete slab must be solid core, minimum schedule 40 (DWV Type), ABS in accordance with ASTM 2661. Above floor must be cast iron hubless, or hub and spigot, or Schedule 40 PVC (DWV Type) ASTM 2665 or ABS ASTM 2661 as indicated in Part 3. Pipe materials must conform to the IBC and IPC. Provide pipe sizing, configurations, and cleanouts as required by applicable codes and standards.

OTHER PLUMBING SYSTEMS

Natural Gas Piping Systems: Exterior above grade natural gas piping must be schedule 40 galvanized steel pipe with threaded fittings and joints. Underground exterior gas piping must be polyethylene pipe that satisfies the requirements of NFPA 54, ASTM D2513-01, and ASME B31-8. Provide warning tape at 12 inches below grade directly above buried gas pipes. Below grade metal gas piping is prohibited. Interior gas piping must be ASTM A 53, schedule 40 black steel with ASME B16.3 threaded fittings and joints. The use of semi-rigid tubing and flexible connectors for gas equipment and appliances is prohibited except for final connections to the equipment and appliances where they must be provided. Provide flexible gas connections in accordance with ANSI Z21.45 and not more than 40 inches long. Provide accessible gas service with shutoff valve for all equipment. Gas piping must conform to NFPA 54 and must be pressure tested in accordance therewith. Gas piping is considered a fragile utility in the content of UFC 4-010-01, *DOD Minimum Antiterrorism Standards for Buildings*.

HEATING, VENTILATION AND AIR CONDITIONING (HVAC) SYSTEMS

The HVAC systems must comply with the latest edition of the International Mechanical Code, International Plumbing Code, ASHRAE Standards, National Electrical Code, National Fire Protection Association Publications, International Building Code or ASHRAE 90.1 energy efficiency standards (the more stringent of the two) unless otherwise specified in Part 3. All equipment, appliances, ductwork and accessories must comply with applicable codes and standards. The Contractor must certify that the installation is in conformance with the applicable codes and standards at the completion of the contract, prior to final invoice being processed and final acceptance. Provide Energy Star rated equipment where available. Provide equipment with performance in excess of Energy Star requirements where specified.

1. **Equipment Clearance:** Provide working space around all equipment. Provide all required fittings, connections and accessories required for a complete and usable system. All equipment shall be installed per the manufacturer's recommendations. Where the word "should" is used in manufacturer's instructions, substitute the word "shall".
2. **Material and Equipment Qualifications:** All materials and equipment must have been in satisfactory commercial or industrial use for 2 years prior to the bid opening. The 2-year use must include applications of equipment and materials under similar circumstances and of similar size. The product must have been for sale on the commercial market through advertisements, manufacturer's catalogs, or brochures during the 2-year period.
3. **Motors:** Single-phase fractional-horsepower alternating-current motors must be high efficiency types corresponding to the applications listed in NEMA MG 11. Select polyphase motors based on high efficiency characteristics relative to the applications as listed in NEMA MG 10.

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Additionally, all polyphase squirrel-cage medium induction motors with continuous ratings must meet or exceed energy efficient ratings per Table 12-10 of NEMA MG 1. Provide controllers for 3-phase motors rated 0.75 kW (1 hp) and above with phase voltage monitors designed to protect motors from phase loss and over/under-voltage. Provide means to prevent automatic restart by a time adjustable restart relay. For packaged equipment, the manufacturer must provide controllers including the required monitors and timed restart. Provide reduced voltage starters for all motors 25 hp and larger.

4. **Equipment Support:** Provide housekeeping pads and vibration isolators under all floor-mounted equipment.
5. **Coatings:** When required in Part 3, provide chiller and air handler coils with copper tube/copper fin coil construction or immersion applied, baked phenolic or other approved coating. Field applied coatings are not acceptable. Mechanical equipment casings must have painted finishes that pass a salt-spray test conducted per ASTM B117 for duration of at least 500 hours.
6. **Equipment Insulation:** Provide insulation on all chilled water equipment. Insulate hot and chilled water pumps and equipment as suitable for the temperature and service in rigid block, semi-rigid board, or flexible unicellular insulation to fit as closely as possible to equipment. Provide vapor retarder for chilled water applications.
7. **Acoustical considerations:** Noise levels in all areas served (supply, return, and exhaust) by a mechanical system must comply with ASHRAE Design Guidelines for HVAC related background sound in rooms as indicated in the lasted ASHRAE Fundamentals Handbook. The RC-rating method must be utilized.

COOLING GENERATING SYSTEMS

1. **Chillers:** Air-cooled chillers must be type indicated in Part 3 and meet the requirements of ARI 550/590-98. Provide control panel with the manufacturers' standard controls and protection circuits. If DDC system is required in project, provide a control interface for remote monitoring of the chiller's operating parameters, functions and alarms from the DDC control system central workstation. Provide complete start-up and operational testing of chiller equipment.
2. **Direct expansion systems:** Provide units factory assembled, designed, tested, with ducted air distribution and rated in accordance with ARI 210/240 or ARI 340/360. Refrigerant piping size must be per the manufacturer's recommendations. Insulate refrigerant piping suction lines and condensate drain.
3. **Refrigerants:** The use of Ozone Depleting Substances (ODS) as well as the qualifications and credentials of personnel servicing equipment that contains ODS is restricted. Refrigerants must have an Ozone Depletion Potential (ODP) of 0.0 with exception to R-123. The ODP must be in accordance with the "Montreal Protocol on Substances That Deplete the Ozone Layer", September 1987, as amended through 2000, sponsored by the United Nations Environment Programme.
4. **Coils:** If coatings are indicated in Part 3, provide with copper tube/copper fin construction or immersion applied, baked phenolic or other approved coating that passes the 3000 hour salt spray resistance test using ASTM B117 procedure. Field applied coatings are not acceptable.

DISTRIBUTION SYSTEMS

1. **Ductwork:** All ductwork must be provided in accordance with the latest SMACNA guidelines. Flexible duct lengths must not exceed 5 feet. Provide galvanized sheet metal ducts except for special exhaust systems and the following:
 - a. For fume hood exhaust, kitchen hood exhaust, and dishwasher exhaust, provide stainless steel ductwork.
 - b. For shower area exhausts, provide aluminum or stainless steel ductwork and sloped to drain provisions. After the shower exhaust is mixed with a volume of general exhaust air equal to 200% of the shower exhaust rate, standard galvanized construction may be used.
 - c. Internal insulation-lined ductwork is prohibited in all areas. For ductwork located exterior to the building, provide externally insulated systems with sheet metal cladding. Provide external thermal insulation for all ductwork. Insulate ductwork in concealed spaces with blanket flexible mineral fiber. Insulate ductwork in Mechanical Rooms and exposed locations with rigid mineral fiber insulation. Provide insulation with factory applied all-purpose jacket with integral vapor retarder. In exposed locations, provide a jacket with white surface suitable for painting. Flame spread/smoke developed rating for all insulation shall not exceed 25/50. Minimum insulation thickness must be the minimum thickness required by ASHRAE 90.1. Insulate the backs of all supply air diffusers with blanket flexible mineral fiber insulation.
 - d. The ductwork must be sealed with an approved duct sealer and in accordance with SMACNA standards. If leakage testing is indicated in part 3, the duct leakage must not exceed 2%.
 - e. Provide manual volume dampers in each branch take-off from the main duct to control air quantity. Dampers must conform to SMACNA DCS. Dampers must be installed in accessible locations.
2. **Fire Dampers:** Fire dampers must be rated per UL 555. Fire dampers must be dynamic type rated for closure against a moving airstream. Provide fire dampers that do not intrude into the air stream when in the open position.
2. **Piping:**
 - a. Provide insulated, steel piping for sizes 4 inches and larger and insulated copper piping for sizes less than 4 inches for water supply and return piping to serve the HVAC equipment throughout the facility.
 - b. Provide system flushing and start-up for water systems.
 - b. Oil piping: ANSI/ASTM A53 or A106 piping with associated ASME fittings or ASTM B88, type L or M copper tubing with ASME B16.26 flared fittings or compression type fittings.
 - c.
4. **Exhaust Fans And Ducts:**
 - a. **General:** Exhaust fans must be sized to move the volume of air required to comply with International Mechanical Code for the areas requiring exhaust.
 - b. **Bathroom, restrooms and Utility Room Exhaust Fans:** Exhaust fans must be sized to give not less than 10 air changes per hour in the space to be ventilated. Fans must

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have a maximum sound level of 3 sones and be separately switched from light.

- c. **Flues:** When required, provide new Type B, U.L. listed, double wall flues. Flue installation must be in accordance with the International Mechanical Code.
5. **Air handling units:** Modular construction, double wall air handling units with minimum of 25 mm (1 inch) casing insulation. Provide ARI 430 certified fans and ARI certified coils. Provide stainless steel, positive draining condensate drain pan. For 100% outside air units provide capability for cooling, heating, dehumidification and reheat.

TERMINAL AND PACKAGE UNITS

1. **Unit ventilators:** Unit must be factory assembled unit ventilator capable of up to 100% outdoor air ventilation and UL-listed.
2. **Unit heaters:** ANSI Z83.8 and AGA label. Equip each heater with individually adjustable package discharge louver. Provide with thermostat.
3. **Fan coil units:** UL-Listed, factory assembled and tested fan coils, ARI 440 and ARI certified.
4. **Packaged units:**

Factory packaged rooftop units in accordance with ARI 430 and suitable for outdoor installation. Provide with manufacturer's roof curb.

Packaged through wall units must be factory assembled air conditioner or heat pump and rated in accordance with ARI 310 or ARI 380 and ARI certified. Unit must include heat and operate under the standard unit controls. Units must be designed to allow ease of maintenance by use of a wall sleeve. Units must have internal condensate removal (condensate must not be externally drained).

CONTROLS AND INSTRUMENTATION

1. **General:** Provide stand-alone or distributed direct digital controls, as required in Part 3.
3. **Distributed Direct Digital Controls (DDC):** DDC hardware must be UL-916 rated. Use controllers in a distributed control manner. Controllers must be stand alone with an internal clock and modem. The total number of I/O hardware points shall not exceed 48 in any controller. Provide sufficient memory for each controller to support required control, communication, trends, alarms, and messages. Provide communications ports for controller to controller interface and on-site interface. When providing a partial DDC system or connecting to an existing DDC system, provide a laptop computer with all necessary software for user interface.
3. Currently, the City of Denton uses an Enviromatic Systems building automation control. Please refer to Michael Ceritelli 214.435.9275 for additional information.

SYSTEMS TESTING AND BALANCING

All HVAC water and air systems, both new and retrofit, must be TABed in accordance with NEBB or

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AABC standards. As part of any TAB air balancing effort, acceptable air quantity variations must be 0 to -10% for exhaust systems and 0 to +10% for supply air systems.

FIRE PROTECTION

Provide new or extend existing Automatic Fire Sprinkler systems, Smoke and Heat detection systems, Fire Alarm and Mass Notification systems as required. The work for fire sprinklers, fire alarm, smoke detection, and heat detection must be provided by contractors licensed to perform such work.

Project Requirements: Prior to the start of design, the Designer of Record must meet with the Government's Fire Protection Engineer to determine the extent and types of fire protection required.

FIRE ALARM AND DETECTION

Fire alarm system includes manual stations, system smoke detectors, duct smoke detectors, heat detectors, audio/visual alarms, connection to basewide fire alarm monitoring, electrical supervision of fire pump controllers, and electrical supervision of all sprinkler system alarm and supervisory devices as required.

FIRE SUPPRESSION WATER SUPPLY AND EQUIPMENT

The design point of connection to existing water supply will require the approval of the City. The FPE DOR must conduct additional flow tests after contract award prior to any design submissions. Tests must be coordinated through the Contracting Officer.

SPRINKLERS

Areas subject to freezing must be provided with a dry pipe system.

ELECTRICAL

ELECTRICAL SERVICE & DISTRIBUTION

Provide interior electrical wiring, fixtures, switches, outlets, and apparatus in accordance with applicable codes and standards. The electrical system must conform to NFPA 70. Power and lighting circuits must be separate.

1. **Wiring:** All wiring must be in electrical metal conduits and must be concealed except in the industrial spaces and at locations indicated in Part 3. No conductors are permitted to be smaller than No. 12 AWG, copper wires. Wiring below slab or underground must be in Schedule 40 PVC with ground wire. Exposed conduits on the exterior of the building are prohibited. Provide a ground conductor for each circuit; conduits must not be used as the sole means of grounding. Cable assemblies Types AC, MC, or MI and flat conductors may only be used in locations allowed by UFC 3-520-01. Circuit breakers must be bolt-on type. Series rated circuit breakers and fusible panelboards must not be used.
4. **Outlet Circuits** Lighting and convenience outlets must be on separate circuits. Install GFI protected receptacles at all wet or damp areas. Location of outlets must be as required by applicable codes and standards. Provide extra outlets for maintenance and service staffs in spaces such as corridors, hallways and other public spaces as identified below. All exterior outlets must be on separate circuits, be GFI protected, and equipped with a cover to prevent

accidental water infiltration into the devices.

In addition to the location requirements specified by NFPA 70, locate general purpose and dedicated outlets in accordance with the following:

5.

- a. Mechanical equipment: Provide receptacle within 7.6 m (25 ft) of mechanical equipment on the interior and exterior of buildings.
- b. Office, staff support spaces, and other workstation locations: One receptacle for each workstation with a minimum of one for every 3050 mm (10 ft) of wall space. When less than 3500 mm (10 ft) of wall at the floor line, provide a minimum of two receptacles spaced appropriately to anticipate furniture relocations. Limit loads to a maximum of four workstations per 20 amp circuit. See Appendix C, Table C1 for workstation load data.
- c. Conference rooms and training rooms: One for every 3.6 m (12 ft) of wall space at the floor line. Ensure one receptacle is located next to each voice/data outlet. Provide one receptacle above the ceiling to support video projection device. Extend circuit to wall location for connection to motorized screen. When it is expected that a conference room table will be specifically dedicated to floor space in a conference room, locate a floor-mounted receptacle under the table. This receptacle may be part of combination power/communications outlet.
- d. Provide power outlets throughout the building to serve all proposed equipment, including government furnished equipment, and allow for future reconfiguration of equipment layout. Provide power connections to all ancillary office equipment such as printers, faxes, plotters, and shredders. Provide dedicated circuits where warranted.
- e. In each telecommunications room provide a dedicated 20 amp circuit with a receptacle adjacent to each rack or backboard for each of the following:
 - 1) CCSTV for security systems
 - 2) CATV
 - 3) Data systems.
- e. Provide dedicated receptacles as required throughout the facility for television monitors. These outlets will typically be located at the ceiling level for wall mounted television monitors.
- f. Provide dedicated receptacles as required throughout the facility for tape players and disc players.
- g. Corridors: One every 15 m (50 ft) maximum with a minimum of one per corridor.
- h. Janitor's closet and toilet rooms: One GFI receptacle per closet. Provide GFI receptacles at counter height for each counter in toilets such that there is a minimum of one outlet for each two sinks.
- i. Space with counter tops: One for every 1.200 m (4 ft) of countertop, with a minimum of one outlet. Provide GFI protection of outlets when located within 1.8 m (6 ft) of plumbing fixtures.
- j. Kitchen non-residential: One for each 3.05 m (10 ft) of wall space at the floor line. Provide GFI protection when located within 1.8 m (6 ft) of plumbing fixture.
- n. All other rooms: One for every 7.6 m (25 ft) of wall space at the floor line. When 7.6 m

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(25 ft) or less of wall at the floor line exists in a room, provide a minimum of two receptacles spaced appropriately to anticipate furniture relocations.

- o. Special purpose receptacles: Designer of Record must coordinate with the user to provide any special purpose outlets required. Provide outlets to allow connection of equipment in special use rooms.
3. **Service Entrance Equipment:** When a switchboard or switchgear is required, the Designer of Record must utilize UFGS Section 26 23 00, *Low Voltage Switchgear* or UFGS 26 24 13 *Switchboards*, for the project specification, and must submit the edited specification section as a part of the design submittal for the project.

LIGHTING & BRANCH WIRING

1. **Lighting Fixtures:** All lighting fixtures must be energy conservation compact fluorescent or Light Emitting Diode (LED) except where indicated by Part 3.
 - a. **Fixtures for Administrative and Commercial Spaces:** For offices, commercial and administrative spaces and facilities provide high efficiency ballast, and instant or rapid start recessed fluorescent fixtures or LED fixtures.
 - b. **Three-Way and Four-Way Switches:** Provide three-way or four-way switching of light fixtures as necessary to facilitate movement between adjacent spaces to allow efficient energy management.
2. **Exterior Lighting Fixtures for Large Open Areas:** Exterior lighting fixtures for large open areas such as parking lots, streets and playgrounds must be energy efficient High-Intensity Discharge (HID) or compact fluorescent fixtures and must comply with local regulations regarding low lighting levels to avoid light pollution.
 - a. **Photocell Overriding Switch:** Provide photocell-overriding switch for all outdoor light fixtures.

COMMUNICATIONS & SECURITY

1. **Telecommunications Systems:** Provide a horizontal distribution system including, but not necessarily limited to, all wiring, pathway systems, connector blocks, protectors for all copper service entrance pairs, terminators for all fiber optic cables, outlet boxes, telephone jacks, and data jacks cover plates in accordance with EIA/TIA standards. Provide Category 6 UTP telephone premise wiring where telephones are required.
2. **Television Systems:** Provide television if required. Coordinate with the local Cable Company, Local users and Local Authority at the Activity for other specific requirements. The interior cable outlets and wiring must be complete and ready for use. Wiring must not be run exposed on any surface of the building.
3. **Security Systems:** Provide an Intrusion Detection System (IDS) to sense all perimeter doors and windows and the interior volume in at least two locations. System must have a minimum 90-minute battery back-up and annunciate both locally and at the Base Security Office via a telephone dialer. System must have entry/exit timer. Provide wall mounted keypad control at two locations.

OTHER ELECTRICAL SERVICES

1. **Surge Protective Device (SPD):** Provide SPD in accordance with UFC 3-501-01, *Electrical Engineering*.
2. **Variable Frequency Drives:** When variable frequency drives are required, the Designer of Record must utilize UFGS Section 26 29 23 20 for the project specification, and must submit the edited specification section as a part of the design submittal for the project.
3. **Emergency Generators:** When an emergency generator is required, the Designer of Record must utilize UFGS Section 26 32 13.00 20 for the project specification, and must submit the edited specification section as a part of the design submittal for the project.
4. **Automatic Transfer and Bypass/Isolation Switches:** When an Automatic Transfer Switch is required, the Designer of Record must utilize UFGS Section 26 36 23.00 20 for the project specification, and must submit the edited specification section as a part of the design submittal for the project.
5. **Uninterruptible Power Supply (UPS) System:** When a UPS system is required, the Designer of Record must utilize UFGS Section 26 33 53.00 20 and must submit the edited specification section as a part of the design submittal for the project.
6. **400 Hertz Systems:** The Designer of Record must utilize UFGS Section 26 32 26 or 26 35 43 for the project specification, and must submit the edited specification section as a part of the design submittal for the project.
7. **Lightning Protection:** When lightning protection is required, the Designer of Record must utilize UFGS Section 26 41 00.00 20 for the project specification, and must submit the edited specification section as a part of the design submittal for the project.
8. **Building Photovoltaic System:** When a PV system is required, the Designer of Record must utilize UFGS Section 26 31 00 for the project specification, and must submit the edited specification section as part of the design submittal for the project.

EQUIPMENT AND FURNISHINGS

EQUIPMENT

Equipment and Appliances: Provide appliances and equipment to fulfill the work for Part 3. Whenever possible, all appliances and equipment provided for the facilities in the contract must be by the same manufacturer and must be the current model available at the time of proposals. Discontinued makes and models are prohibited. All appliances and equipment must comply with applicable Energy Star efficiency rating requirements and must be rated as high efficiency models. Appliances and equipment on California projects must comply with California Title 24 and be rated as high efficiency. All appliances must be of the same manufacturer and shall be the same, or similar in color. Submit catalog information for approval by the Contracting Officer prior to purchasing, delivery and installation of the appliances at the job site. Equipment and appliances such as dishwashers, ice machines with drains, garbage disposers, and ovens/ranges are not considered FF&E.

FURNISHINGS

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The Contractor must have an Interior Designer, certified by the National Council for Interior Design Qualification (NCIDQ) or a state and/or jurisdiction Certified, Registered, or Licensed Interior Designer prepare both the FF&E and the SID Package and participate in any design charrettes to develop the building floor plan. As required, the Contractor must obtain services of equipment specialists to specify the audiovisual, shop, or specialty equipment. The Interior Designer and any specialists must not be affiliated with any furniture dealership/vendor or manufacturer. The Government Interior Designer reserves the right to approve/disapprove the qualifications of the Contractor's Interior Designer.

Systems furnishings installers must be the systems furniture manufacturer's approved dealer of record. In addition, installation dealers must be located within a 100 mile radius of the project site unless approved by the government Interior Designer.

For renovation projects, contractor to re-purpose/recycle existing furniture if not relocated by the government. Contractor to provide verification that the existing furniture was not disposed of at the landfill.

WINDOW TREATMENTS

Provide interior window coverings, associated hardware and controls at each exterior window and at any interior view window where privacy may be required. Refer to the Project Program for size, pattern and style of window treatments. At a minimum, functional window coverings are required on all projects.

Provide energy efficient solar shading systems for exterior windows. The system shall maintain visibility while reducing glare, solar heat gain during the summer and heat loss during the winter. Openness configuration shall be no more than 5% for most areas. The system fabrics and components must be dimensionally stable and must be manufactured to withstand fading, fire, mildew, and soiling. Product must have a minimum 10 year commercial warranty.

MOVABLE FURNISHINGS

Furnishings, Fixtures, and Equipment (FF&E) includes furniture, shop equipment, audiovisual equipment, and specialty equipment. Weapon racks, drying cages, and lockers are not considered FF&E. FF&E must be fully integrated with the building systems and finishes. FF&E may also include specialty items for which the customer activity will be responsible for specifying.

Design and provide as required FF&E for all areas as developed during client programming. Design an FF&E package and prepare supporting plans and procurement data in accordance with the general interior design requirements in UFC 3-120-10.

FF&E PACKAGE

Design and provide a fully usable and complete facility to include a FF&E movable furnishings package from Government supply sources according to Federal Acquisition Regulations. The FF&E will include, but not limited to, systems and modular furniture, training and conference furniture, seating, tables, artwork, decorative window covering, specialty furniture and equipment, dormitory room furnishings, and accessories. NAVSUP Blanket Purchase Agreements (BPA) must be used. The government will provide separate funding for the FF&E package. Construction funds will not be used. The FF&E Package must include shipping, freight, handling, installation and the HAR percentage as applied to the final FF&E total cost.

PURCHASE AND INSTALLATION

The Contractor must coordinate the building completion date with the installation dealer specified in the FF&E Package. The Contractor or contractor's representative is responsible for the following: issuing purchase orders, receiving acknowledgements, sending copies of purchase orders to the installation

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dealer(s) specified in the FF&E package, and providing necessary deposits to furniture manufacturers.

The FF&E installation dealer(s) is responsible for the following: Receiving and installing all FF&E specified in the FF&E package, coordinating delivery and installation with the Contractor, inspecting for damage, providing delivery receipts to the Contractor, filing necessary freight claims, hanging artwork, bulletin boards, etc., removing packaging material, cleaning up the site upon completion, and adhering to Contractor's safety requirements.

Deposits

The Contractor should anticipate providing a deposit of between 30% to 50% of the furniture costs when placing their order.

The Contractor must also anticipate possible manufacturer price increases. Recommend ordering FF&E product once funds are received to avoid incurring additional costs. Delayed production and delivery dates can be noted at the time of order placement to coincide with building completion dates. Any costs incurred due to manufacturer price increases will be the burden of the contractor.

Davis Bacon Wages

Davis Bacon Wages do not apply to the FF&E installer from the government supply sources. The workforce for the FF&E installation and delivery shall be separate and distinct from the labor workforce performing under the construction contract.

Sales Tax

Exemptions for certain State or Local taxes may be available to the contractor and/or its subcontractors. The contractor must take maximum advantage of all exemptions, including obtaining a resale permit, from State and Local taxation authorities whether available to it directly or available to the contractor based on an exemption afforded the government. The responsibility for paying applicable taxes rests with the contractor. State and local taxes applicable to the FF&E line will be included with the subcontractor's quote, if applicable. Any items purchased as building materials such as carpet are taxable.

Bonds

FF&E line item is not considered construction and the prime contractor shall not be required to secure any additional bond for the award of the FF&E line item unless otherwise indicated in the RFP. If any additional bond is required for the FF&E line item it is to be included in the prime contractor's FF&E HAR.

Unique item identification and valuation is a system of marking and valuing items delivered to DoD that enhances logistics, contracting, and financial business transactions. The IUID policy is mandatory for all DoD contracts that require the delivery of items. An item is a single article or a single unit formed by a grouping of subassemblies, components or constituent parts. The contractor must provide DoD Unique item identification, valuation and delivery of data for all required FF&E items for which the government's unit acquisition cost is \$5,000 or more.

Installation

The FF&E package includes the installation of all furniture and furnishings as specified in the FF&E package. The installation dealer specified in the FF&E package will receive, store, if required, transport to the project site, off load, inside deliver, unpack, assemble, place/install, clean, if required, and dispose of all the trash for all furniture and furnishings. The Contractor's Interior Designer will be responsible for specifying installation services and warehousing, as required, for all collateral equipment. It is the Contractor's responsibility to coordinate the building

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completion, occupancy, and furniture installation dates with the installation dealer specified in the FF&E package. Any costs associated with storing or delaying furniture shipments is the responsibility of the construction contractor.

Installation Warranty

All movable furnishings must be installed in accordance with the manufacturer's instructions and warranty requirements. All movable furnishings must be level and aligned and all doors, drawers and accessories must be level and aligned to open, close and otherwise operate smoothly and securely. All systems furniture must be installed by the systems furniture manufacturer's dealer of record and not the general Contractor. The Contractor must repair, to the customer's satisfaction, any/all damage to any facility finish that is a result of the furniture installation and correct all punch list items for the furniture/furnishings.

Ordering Documentation

Two copies of all ordering documentation must be provided to the contracting officer including Factory Order number (FO) and warranty information.

Post Award Changes

After award of the FF&E line item modification, any request to change the FF&E items must be submitted on the Construction Project Manager. The FF&E modification has been accepted, priced, and negotiated based on specific line items as detailed in the final package. Those items have been agreed to considering color, specific type and quality of material, price, sustainability, life cycle, and dealership service. The Government will expect and require the contractor to provide exactly those items. Should changes become necessary, careful consideration is required to ensure that equivalent quality, price and other aspects of the item is maintained. Otherwise, price adjustments must be negotiated. The Construction Project Manager will obtain approval in consultation with the client department for any changes to the FF&E.

Post award FF&E manufacturer's price increases are the responsibility of the Contractor and must not be transferred to the government. Recommend ordering FF&E product once funds are received to avoid incurring additional costs. Delayed production and delivery dates can be noted at the time of order placement to coincide with building completion dates.

SPECIAL CONSTRUCTION AND DEMOLITION

SELECTIVE BUILDING DEMOLITION

In general terms, demolition work must include the removal and effective management and disposition of existing construction and or structures. Take care to prevent damage to existing utilities and construction that are not scheduled for demolition. If damage occurs, make repairs to the satisfaction of the Construction Project Manager and at no cost to the City of Denton. Comply with local Activity and Installation local requirements regarding demolition and removal. Unless otherwise specified in Part 3, all demolished materials and equipment must be removed from government property in accordance with applicable laws and regulations, including local Activity or Installation regulations. Selling of demolished or salvaged materials and equipment on government properties is prohibited.

Demolition Plan: No demolition work is permitted to take place until a Demolition Plan has been submitted to, and approved by, the Construction Project Manager. The Plans must take into consideration, and indicate method of removal, disposition, and abatement of environmentally hazardous materials. Demolition, disposition, and abatement of hazardous materials must comply with all applicable Local, State, and Federal regulations and laws. If destructive investigation is to occur, the Construction

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Project Manager shall approve a Destructive Investigation Plan.

When hazardous materials such as asbestos, lead paint, PCB and other hazardous materials are involved in the performance of the work, the contractor must abate, remove and manage the hazardous materials in construction and finish materials such as insulation, flooring, wall materials, ceiling materials, roofing materials, heating, plumbing, ventilation, air conditioning equipment and installations in accordance with National as well as local Environmental Protection Laws and Regulations.

HAZARDOUS COMPONENT ABATEMENT

1. Asbestos Materials: Asbestos must be removed, transported and managed in accordance with the edited UFGS 02 82 16.00 20, Engineering Control of Asbestos Containing Materials.
2. Paint Related Work: Perform work which requires the disturbance of paint that have been determined to contain all or any of the following: lead, cadmium and chromium in accordance with the edited UFGS 02 83 13.00 20, Lead in Construction.
3. LLR Components: Perform work which requires removal of mercury and LLR components in accordance with the edited UFGS 01 57 19, Temporary Environmental Controls.
4. PCBs: Perform work which requires removal of PCB containing components or materials in accordance with the edited UFGS 02 84 33, Removal and Disposal of Polychlorinated Biphenyls (PCBs).]
5. Animal Droppings: Perform work which requires removal of animal droppings in accordance with the edit UFGS 01 57 19, Temporary Environmental Controls.
6. Mold and Spores: Perform work which requires removal, disposal and remediation of mold contaminated areas in accordance with the edit UFGS 02 85 00.00 20, Mold Remediation.
7. Radon: Perform work which involves implementation of a radon mitigation system in accordance with the edited UFGS 31 21 13, Radon Mitigation.
8. Mercury: Perform work which requires the removal of mercury containing equipment in accordance with the edited UFGS 02 84 16, Handling of Lighting Ballasts and Lamps Containing PCBs and Mercury.
9. Hazardous Materials Reporting: a. Daily Report: Notify the Contracting Officer of work involving hazardous materials abatement and removal, including the quantities involved, on daily reports. b. Hazardous Material Inventory Report: The Contractor must provide a list of all hazardous materials used on the site.

ELECTRICAL DISTRIBUTION

1. **Electrical Utilities Design and Construction:** Site electrical utilities include all exterior electrical work, including the connection to the primary distribution system. This also includes telephone and cable television supplies.

Provide electrical overhead and underground, distribution systems in accordance with IEEE C2 (National Electrical Safety Code), NFPA 70, local utilities company requirements, and local

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Activity guidelines.

2. **Coordination With Local Utilities Company and Local Activity:** Service meters for electrical services must be provided and installed in conformance with the local utilities company requirements and local activity guidelines.
3. **Transformers:** When transformers are required, the Designer of Record must utilize UFGS Section 26 12 19.10, *Three-Phase Pad Mounted Transformers*, UFGS Section 26 12 21, *Single-Phase Pad Mounted Transformers*, or UFGS Section 33 71 01, *Overhead Transmission and Distribution*, for the project specification, and must submit the edited specification section as a part of the design submittal for the project.
5. **Switches, Controls and Devices:** When switches or control devices are required, the Designer of Record must utilize UFGS Section 26 13 00, *SF6 Insulated Pad Mounted Switchgear*, or UFGS Section 33 71 01, *Overhead Transmission and Distribution*, for the project specification, and must submit the edited specification section as a part of the design submittal for the project.

EXTERIOR LIGHTING FIXTURES AND CONTROLS

1. Utilize broad spectrum (white light) sources such as metal halide, induction, Light Emitting Diode (LED), and fluorescent to provide good visibility at low light levels, unless lighting is required to match existing sources. The IESNA 10th Edition Handbook has developed a methodology to apply white light.
2. Comply with ANSI/ASHRAE/IES 90.1 for all exterior lighting applications and controls.
3. Comply with EPACT 2005, the exterior lighting power density must be below ASHRAE by 30% if considered a building load and 20% if considered a non-building load.
4. Provide surge protective device (SPD) at panelboards that include circuits feeding exterior lighting systems.
5. Coordinate the design and luminaire selection with the landscape designer. Such coordination should include the location of poles which may conflict with tree locations.
6. When exterior lighting is required the designer of record must utilize UFGS Section 26 51 00 for the project specification section as part of the design submittal for the project and must submit the edited specification section as a part of the design submittal for the project. Provide "dark-sky" compliant exterior light fixtures and design to minimize light trespass and light pollution.

SITE COMMUNICATION & SECURITY

1. **Telephone Distribution System:** Provide all telephone distribution systems in accordance with EIA/TIA Standards, NFPA 70, and the cognizant telephone company requirements.
2. **Cable Television System:** Provide all cable television systems in accordance with NFPA 70, and the cognizant cable television company requirements and BICSI recommendations.

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Exhibit IV

Network Closet Standards

Dimensions

- ✓ Size 8 X10 ** (preferred see Appendix below)
- ✓ See also, examples below – verify with City of Denton TS department project coordinator

Lighting requirements

- ✓ Light fixtures should be located overhead
- ✓ Provide at least 500 lux of brightly lit
- ✓ Motion sensor light switch for energy efficiency

HVAC needs/requirements

- ✓ The system should be sufficient to sustain a steady temperature of 68-70 degrees 24/7
- ✓ The HVAC must drain outside the room

Electrical outlets quantity

- ✓ Two outlets on each of the four walls on at least two separate 120V-20 AMP circuits at standard height
- ✓ Electrical ground rod provided for grounding the network rack

Security

- ✓ Card reader controlled access

Location of the room

- ✓ Closet must be centrally located to provide no more than 280' distance to any jack termination in the building.
- ✓ If any single home run exceeds 280' there need to be an additional room on symmetrical end of building.

Ceiling

- ✓ No loose or dust producing ceiling material
- ✓ Two 4' stubs for data cabling entrance to the room **

Walls

- ✓ ¾ inch Plywood on all four walls, 8 feet high and starting 2 feet from the floor.

Flooring

- ✓ Sealed concrete, to prevent dust breakdown

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Appendix

****** -This item may be adjusted to meet the building's unique needs by consulting with the City of Denton Technology Services department.

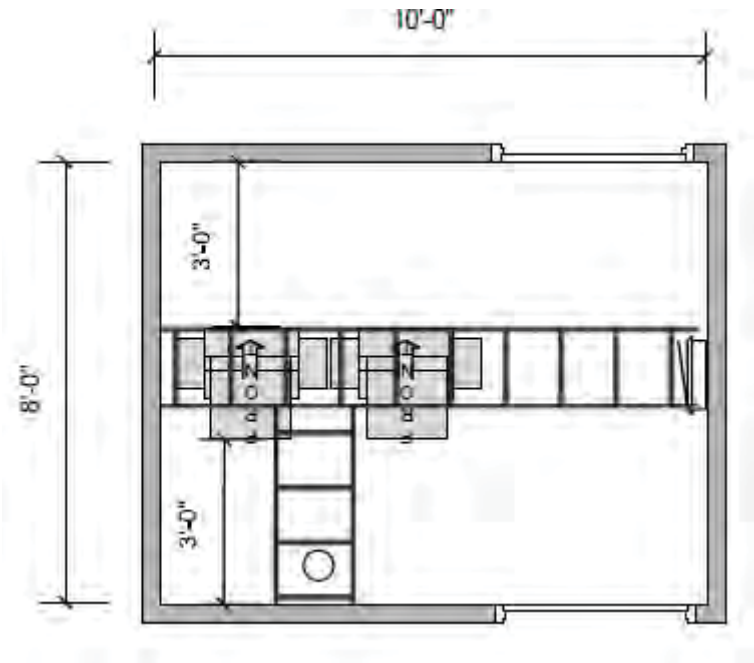
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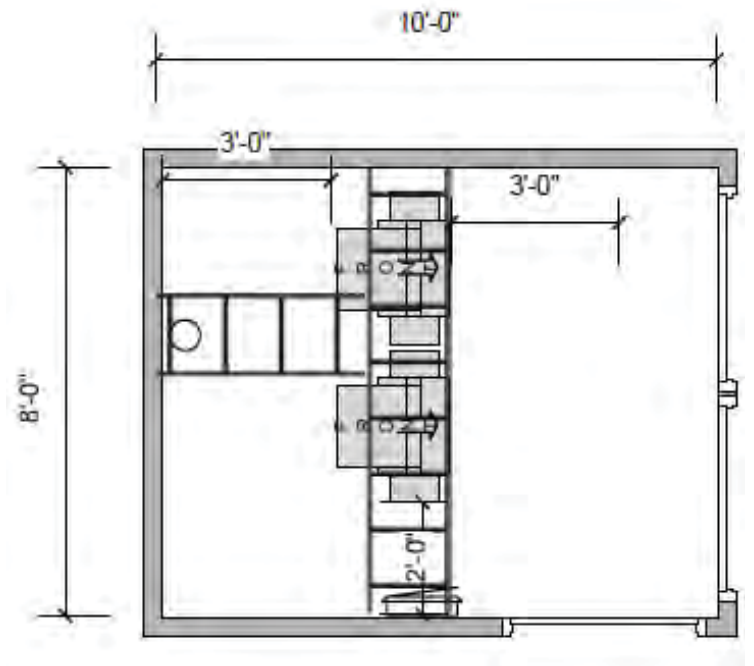
City of Denton TS Closet Examples

Page 1

Option 1: 10' x 8'



Option 2: 10' x 8'



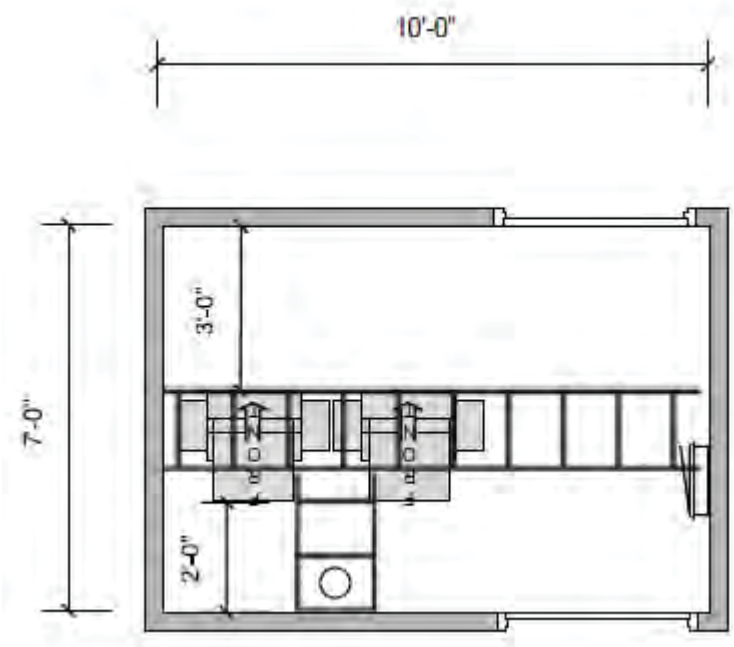
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City of Denton TS Closet Examples

Page 2

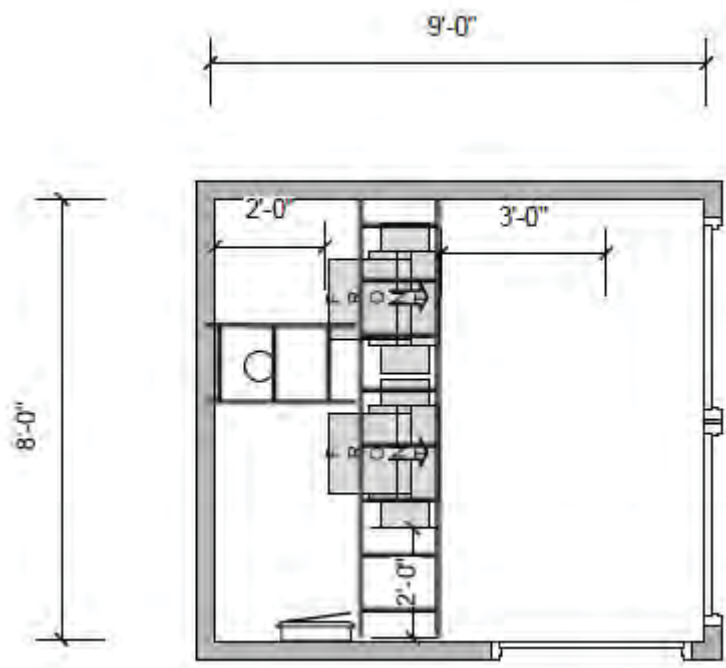
Option 3: 10' x 7'



Option 4: 9' x 8'

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1307 Locust Street Denton, Texas

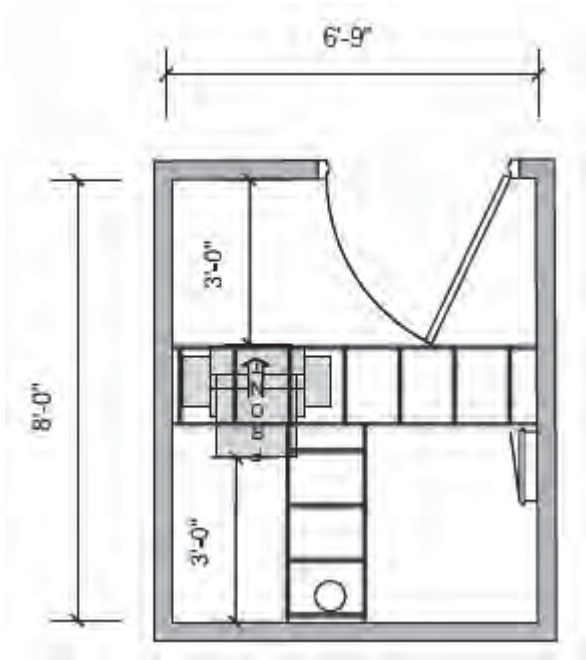
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City of Denton TS Closet Examples

Page 3

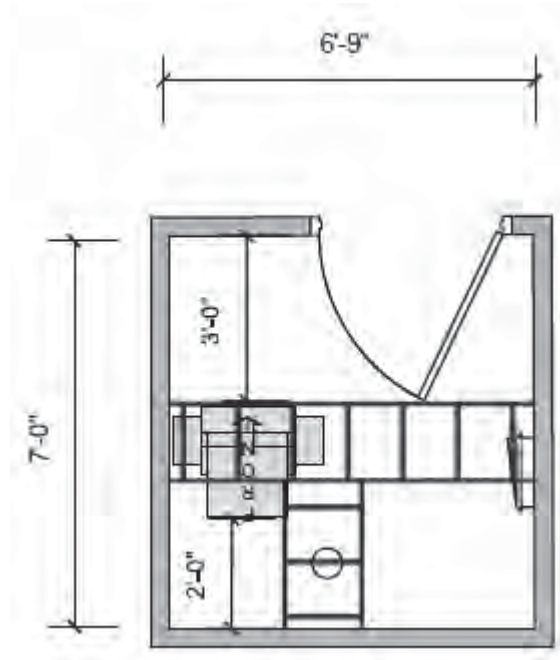
Option 5: 6'-9" x 8'



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Option 6: 6'-9" x 7'



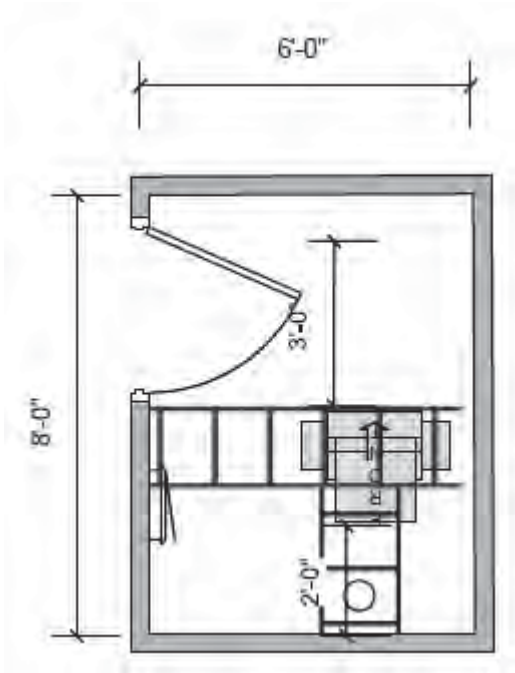
City of Denton TS Closet Examples

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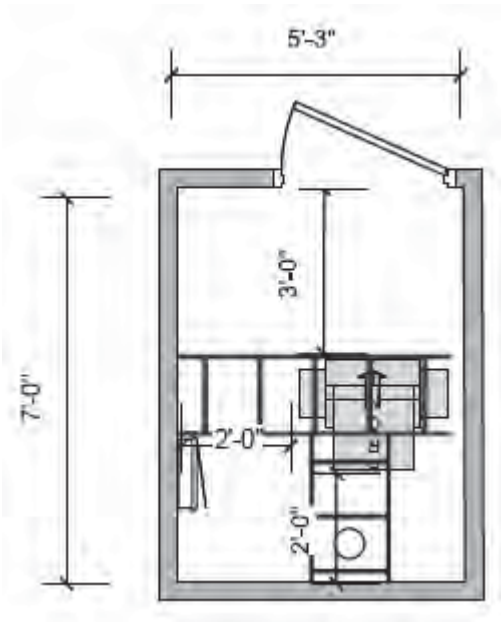
Option 7: 6' x 8'

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Option 8: 5'-3" x 7'



City of Denton's Development Services Building
AIA C141 Owner-Consultant Agreement
Exhibit C - Owner's Initial Schedule

1. Interviews with Design Build Candidates – February 5, 2020
2. Notice to proceed with Design Build Team – April 29, 2020
3. Substantial Completion and staff move-in – November 5, 2020
4. Move-in Complete – December 8, 2020



Document A141™ – 2014

Standard Form of Agreement Between Owner and Design-Builder

AGREEMENT made as of the [Date] day of [Month] in the year Two Thousand [XXXX]
(In words, indicate day, month and year.)

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

City of Denton
215 East McKinney Street
Denton, TX 76201

and the Design-Builder:
(Name, legal status, address and other information)

[Design-Builder's Name]
[Design-Builder's Street Address]
[Design-Builder's City, State and Zip Code]

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

City of Denton's Development Services Building
401 North Elm Street
Denton, TX 76201
And as further described in Exhibit "D" –Design Criteria

The Owner and Design-Builder agree as follows.

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

Consultation with an attorney is also encouraged with respect to professional licensing requirements in the jurisdiction where the Project is located.

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2	COMPENSATION AND PROGRESS PAYMENTS
3	GENERAL REQUIREMENTS OF THE WORK OF THE DESIGN-BUILD CONTRACT
4	WORK PRIOR TO EXECUTION OF THE DESIGN-BUILD AMENDMENT
5	WORK FOLLOWING EXECUTION OF THE DESIGN-BUILD AMENDMENT
6	CHANGES IN THE WORK
7	OWNER'S RESPONSIBILITIES
8	TIME
9	PAYMENT APPLICATIONS AND PROJECT COMPLETION
10	PROTECTION OF PERSONS AND PROPERTY
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14	CLAIMS AND DISPUTE RESOLUTION
15	MISCELLANEOUS PROVISIONS
16	SCOPE OF THE AGREEMENT

TABLE OF EXHIBITS

A	DESIGN-BUILD AMENDMENT
B	INSURANCE AND BONDS
C	SUSTAINABLE PROJECTS

ARTICLE 1 GENERAL PROVISIONS

§ 1.1 Owner's Criteria

This Agreement is based on the Owner's Criteria set forth in this Section 1.1, requirements for the Project (the "Design Criteria") set forth in Exhibit "D" – Design Criteria.

(Note the disposition for the following items by inserting the requested information or a statement such as "not applicable" or "unknown at time of execution." If the Owner intends to provide a set of design documents, and the requested information is contained in the design documents, identify the design documents and insert "see Owner's design documents" where appropriate.)

§ 1.1.1 The Owner's program for the Project:

(Set forth the program, identify documentation in which the program is set forth, or state the manner in which the program will be developed.)

See Exhibit "D" – Design Criteria

§ 1.1.2 The Owner's design requirements for the Project and related documentation:

(Identify below, or in an attached exhibit, the documentation that contains the Owner's design requirements, including any performance specifications for the Project.)

See Exhibit "D" – Design Criteria

§ 1.1.3 The Project's physical characteristics:

(Identify or describe, if appropriate, size, location, dimensions, or other pertinent information, such as geotechnical reports; site, boundary and topographic surveys; traffic and utility studies; availability of public and private utilities and services; legal description of the site; etc.)

See Exhibit "D" – Design Criteria

§ 1.1.4 The Owner's anticipated Sustainable Objective for the Project, if any:

(Identify the Owner's Sustainable Objective for the Project such as Sustainability Certification, benefit to the environment, enhancement to the health and well-being of building occupants, or improvement of energy efficiency. If the Owner identifies a Sustainable Objective, incorporate AIA Document A141™–2014, Exhibit C, Sustainable Projects, into this Agreement to define the terms, conditions and Work related to the Owner's Sustainable Objective.)

See Exhibit "D" – Design Criteria

§ 1.1.5 Incentive programs the Owner intends to pursue for the Project, including those related to the Sustainable Objective, and any deadlines for receiving the incentives that are dependent on, or related to, the Design-Builder's services, are as follows:

~~excluded.~~
(Identify incentive programs the Owner intends to pursue for the Project and deadlines for submitting or applying for the incentive programs.)

§ 1.1.6 The ~~Owner's budget~~ Design-Builder's conceptual estimate for the Work to be provided by the Design-Builder is set forth ~~below~~: below in:

(Provide total for Owner's budget, and if known, a line item breakdown of costs.)

Exhibit "E" – Control Estimate #1

§ 1.1.7 The ~~Owner's design and construction milestone dates~~ Design-Builder's design and construction milestone dates are attached as Exhibit "F.2" – Design-Builder's Project Schedule:

.1 Design phase milestone dates:

See Exhibit "F.2" – Design-Builder's Project Schedule

.2 Submission of Design-Builder Proposal:

See Exhibit "F.2" – Design-Builder's Project Schedule

.3 Phased completion dates:

See Exhibit "F.2" – Design-Builder's Project Schedule

.4 Substantial Completion date:

See Exhibit "F.2" – Design-Builder's Project Schedule

.5 Other milestone dates:

See Exhibit "F.2" – Design-Builder's Project Schedule

§ 1.1.8 The Owner requires the Design-Builder to retain the following ~~an~~ Architect, Consultants and Contractors at the Design-Builder's ~~cost~~ cost as necessary to complete the Work:
(List name, legal status, address and other information.)

.1 Architect

See Exhibit "G" – Key Firms and Personnel

.2 Consultants

See Exhibit "G" – Key Firms and Personnel

.3 Contractors

See Exhibit "G" – Key Firms and Personnel

§ 1.1.9 Additional Owner's Criteria upon which the Agreement is based:
(Identify special characteristics or needs of the Project not identified elsewhere, such as historic preservation requirements.)

See Exhibit "D" – Design Criteria

§ 1.1.10 The Design-Builder shall confirm that the information included in the Owner's Criteria is, without limitation, sufficient; reasonably achievable; and complies with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities.

§ 1.1.10.1 If the Owner's Criteria is not sufficient; reasonably achievable; or conflicts with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Design-Builder shall notify the Owner of the conflict, the conflict in writing, together with the Design-Builder's recommendations for modifications to resolve such conflicts, as further described in Section 4.2.2.

§ 1.1.11 If there is a change in the Owner's Criteria, the Owner and the Design-Builder shall execute a Modification in accordance with Article 6.

§ 1.1.12 If the Owner and Design-Builder intend to transmit Instruments of Service or any other information or documentation in digital form, they shall endeavor to establish necessary protocols governing such transmissions. Unless otherwise agreed, the parties will use AIA Document E203™ 2013 to establish the protocols for the development, use, transmission, and exchange of digital data and building information modeling.

§ 1.2 Project Team

§ 1.2.1 The Owner identifies the following representative in accordance with Section 7.1.1:
(List name, address and other information.)

[City's Staff Member Point of Contact]

City of Denton
215 East McKinney Street
Denton, TX 76201

[Email Address]

[Phone Number]

§ 1.2.2 The persons or entities, in addition to the Owner's representative, who are required to review the Design-Builder's Submittals are as follows:
(List name, address and other information.)

[Owner's Independent Representative]

[Organization]

[Street Address]

[City, State and ZIP Code]

[Email]**[Phone Number]****[Add More If Needed]**

§ 1.2.3 The Owner will retain the following consultants and separate contractors:
(List discipline, scope of work, and, if known, identify by name and address.)

.1 Geotechnical Engineer.2 Commissioning Agent.3 **[List Other Consultants Owner Will Provide Here If Needed]**

§ 1.2.4 The Design-Builder identifies the following representative in accordance with Section 3.1.2:
(List name, address and other information.)

[Design-Builder's Representative's Name]**[Street Address]****[City, State, ZIP Code]****[Email Address]****[Phone Number]**

§ 1.2.5 Neither the Owner's nor the Design-Builder's representative shall be changed without ten (10) days' written notice to the other party. The Design-Builder's proposed replacement representative shall be approved by the Owner in writing prior to being assigned to the project. Such Owner's approval shall not be unreasonably withheld.

§ 1.3 Binding Dispute Resolution

For any Claim subject to, but not resolved by, mediation pursuant to Section 14.3, the method of binding dispute resolution shall be the following:

(Check the appropriate box. If the Owner and Design-Builder do not select a method of binding dispute resolution below, or do not subsequently agree in writing to a binding dispute resolution other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.)

☐ Arbitration pursuant to Section 14.4

☒ Litigation in a court of competent jurisdiction

☐ Other: *(Specify)*

§ 1.4 Definitions

§ 1.4.1 **Design-Build Documents.** The Design-Build Documents consist of ~~this Agreement between Owner and Design-Builder and its attached Exhibits (hereinafter, the "Agreement"); other documents listed in the documents defined in Article 16 of this Agreement, other documents listed in and incorporated into this Agreement; and Modifications issued after execution of this Agreement.~~ A Modification is (1) a written amendment to the Contract signed by both parties, including the Design-Build Amendment, (2) a Change Order, or (3) a Change Directive.

§ 1.4.2 **The Contract.** The Design-Build Documents form 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 Modification. The Design-Build Documents shall not be construed to create a contractual relationship of any kind between any persons or entities other than the Owner and the Design-Builder.

§ 1.4.3 **The Work.** The term "Work" means the design, construction and related services required to fulfill the Design-Builder's obligations under the Design-Build Documents, whether completed or partially completed, and includes all labor, materials, ~~equipment and services provided or to be provided by the Design-Builder.~~ equipment, supplies, skill, supervision, transportation, support services, facilities and other resources necessary or proper or incidental to the carrying out and completion of the terms of the contract and all other items of cost or value needed to

produce, construct and fully complete the Work identified by the Design-Build Documents. The Work may constitute the whole or a part of the Project.

§ 1.4.4 The Project. The Project is the total design and construction of which the Work performed under the Design-Build Documents may be the whole or a part, and may include design and construction by the Owner and by separate contractors.

§ 1.4.5 Instruments of Service-Design Documents. ~~Instruments of Service-Design Documents~~ Design Documents are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Design-Builder, Contractor(s), Architect, and Consultant(s) under their respective agreements. ~~Instruments of Service-Design Documents~~ may include, without limitation, studies, surveys, models, sketches, drawings, specifications, digital models and other similar materials.

§ 1.4.6 Submittal. A Submittal is any submission to the Owner for review and approval demonstrating how the Design-Builder proposes to conform to the Design-Build Documents for those portions of the Work for which the Design-Build Documents require Submittals. Submittals include, but are not limited to, shop drawings, product data, and samples. Submittals are not Design-Build Documents unless incorporated into a Modification.

§ 1.4.7 Owner. The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Design-Build Documents as if singular in number. The term "Owner" means the Owner or the Owner's authorized ~~representative-representative, including by not limited to the Owner's Independent Representative defined in Section 1.4.16.~~

§ 1.4.8 Design-Builder. The Design-Builder is the person or entity identified as such in the Agreement and is referred to throughout the Design-Build Documents as if singular in number. The term "Design-Builder" means the Design-Builder or the Design-Builder's authorized representative.

§ 1.4.9 Consultant. A Consultant is a person or entity providing professional services for the Design-Builder for all or a portion of the Work, and is referred to throughout the Design-Build Documents as if singular in number. To the extent required by the relevant jurisdiction, the Consultant shall be lawfully licensed to provide the required professional services.

§ 1.4.10 Architect. The Architect is a person or entity providing design services for the Design-Builder for all or a portion of the Work, and is lawfully licensed to practice architecture in the applicable jurisdiction. The Architect is referred to throughout the Design-Build Documents as if singular in number.

§ 1.4.11 Contractor. A Contractor is a person or entity performing all or a portion of the construction, required in connection with the Work, for the Design-Builder. The Contractor shall be lawfully licensed, if required in the jurisdiction where the Project is located. The Contractor is referred to throughout the Design-Build Documents as if singular in number and means a ~~Contractor-Contractor; a Subcontractor of or vendor to the Contractor; or an~~ authorized representative of the Contractor.

§ 1.4.12 Confidential Information. Confidential Information is information containing confidential or business proprietary information that is clearly marked as "confidential."

§ 1.4.13 Contract Time. Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, as set forth in the Design-Build Amendment for Substantial Completion of the Work.

§ 1.4.14 Day. The term "day" as used in the Design-Build Documents shall mean calendar day unless otherwise specifically defined.

§ 1.4.15 Contract Sum. The Contract Sum is the amount to be paid to the Design-Builder for performance of the Work after execution of the Design-Build Amendment, as identified in Article A.1 of the Design-Build Amendment.

§ 1.4.16 Owner's Independent Representative

Pursuant to and in accordance with Chapter 2269 of the Texas Government Code, the Owner has selected or designated an architect or engineer independent of the Design-Builder to act as the Owner's representative for the duration of the project. This "Owner's Independent Representative" shall provide such services as the Owner deems

necessary to protect its interests, and comply with statutory requirements. The Owner's Independent Representative shall provide review and recommendation services, but shall not have the authority to execute Modifications or other documents on behalf of the Owner that change the Contract Time or Contract Sum.

§ 1.4.17 Design Criteria

The information in Exhibit D - Design Criteria specifies criteria the Owner considers necessary to describe the project. It may (or may not) include, as appropriate to the project, the legal description of the site, survey information concerning the site, interior space requirements, special material requirements, material quality standards, conceptual criteria for the project, special equipment requirements, cost or budget estimates, time schedules, quality assurance and quality control requirements, site development requirements, applicable codes and ordinances, provisions for utilities, parking requirements, and any other requirements the Owner, at its sole discretion believes the Design-Builder requires to describe the project. The Owner, by providing the Design Criteria, makes no representation or warranty the information in it is complete; unambiguous; or in compliance with current design, engineering, or code and statutory requirements. The Owner does not warrant and will not be held responsible for errors or omissions in the Design Criteria not specifically identified in the Design-Builder's report required by Section 4.2.2.

§ 1.4.18 The Drawings

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

§ 1.4.19 The Specifications

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

§ 1.4.20 The Indemnitees

The Owner, which includes the Mayor, members of the City Council, employees, agents, assigns, and other city officers, the Owner's consultants and the Owner's Independent Representative or the agents and employees of any of them shall hereafter be collectively known as the "Indemnitees".

§ 1.4.21 Construction Management Plan

The Construction Management Plan is prepared by the Design-Builder for its use in managing the Work and is not a Contract Document. The Construction Management Plan must include, at a minimum and without limitation, the following separate deliverables, which are subject to review and approval by the Owner:

- .1 Safety and Logistics Plan;
- .2 Design-Builder's Construction Schedule;
- .3 Cost Management Plan, Control Estimate and Schedule of Values;
- .4 Quality Management, Commissioning and Turnover Plan; and
- .5 Information Management System.

§ 1.4.22 As-Built Documents

The As-Built Documents are the Drawings, Specifications, and addenda thereto that may be updated by the Design-Builder to accurately reflect the actual Work in place, including without limitation, the incorporation of Change Orders, responses to the Design-Builder's requests for information, Architect's supplemental instructions, field modifications, and other similar changes made to the Work during construction. The As-Built documents shall conform to the format and compatibility requirements of Section 12.4.

§ 1.4.23 Work Breakdown Structure

The project's Work Breakdown Structure ("WBS") is a deliverable-oriented, hierarchical organization of the Project components to be executed by the Owner, and its accompanying numbering system. The WBS will be mutually agreed upon by the Owner and used by the Design-Builder.

§ 1.4.24 Equal to (or Approved Equal)

Products by manufacturers and information about those products other than those products required to meet the Design Criteria which the Design-Builder may submit for substitution as equal to those products required to meet in the Design Criteria; which may be incorporated in the Work after review and acceptance by the Owner and Owner's Independent Representative.

§ 1.4.25 Force Majeure

An act of God, fire, tornado, hurricane, flood, earthquake, explosion, war on American soil, civil disturbance, labor strikes, and similar unavoidable circumstances beyond Design-Builder's control, not caused by the negligent act or omission of Design-Builder or breach of this Agreement, the Architect, the Contractor, its Subcontractors, or anyone else for whom Design-Builder is responsible, and not caused by Design-Builder's breach of a project labor or a "no strike" agreement.

§ 1.4.26 Knowledge

The terms "knowledge," "recognize" and "discover," their respective derivatives and similar terms in the Design-Build Documents, as used in reference to the Design-Builder, shall be interpreted to mean that which the Design-Builder knows or should know, recognizes or should recognize and discovers or should discover in exercising the care, skill, and diligence of a diligent and prudent design-builder familiar with the Work. Analogously, the expression "reasonably inferable" and similar terms in the Design-Build Documents shall be interpreted to mean reasonably inferable by a diligent and prudent design-builder familiar with the Work and in accordance with nationally recognized standards in the construction profession.

ARTICLE 2 COMPENSATION AND PROGRESS PAYMENTS**§ 2.1 Compensation for Work Performed Prior To Execution of Design-Build Amendment**

§ 2.1.1 Unless otherwise agreed, payments for Work performed prior to Execution of the Design-Build Amendment shall be made monthly. For the Design-Builder's performance of Work prior to the execution of the Design-Build Amendment, the Owner shall compensate the Design-Builder as follows:

(Insert amount of, or basis for, compensation, including compensation for any Sustainability Services, or indicate the exhibit in which the information is provided. If there will be a limit on the total amount of compensation for Work performed prior to the execution of the Design-Build Amendment, state the amount of the limit.)

See Exhibit "H" – Design-Builder's Fee & Cost Proposal

§ 2.1.2 The hourly billing rates for services of the Design-Builder and the Design-Builder's Architect, Consultants and Contractors, if any, are set forth below.

(If applicable, attach an exhibit of hourly billing rates or insert them below.)

See Exhibit "I" – Billing Rates

Individual or Position**Rate**

Not Used

§ 2.1.3 Compensation for Reimbursable Expenses Prior To Execution of Design-Build Amendment

§ 2.1.3.1 Reimbursable Expenses are in addition to compensation set forth in Section 2.1.1 and 2.1.2 and include expenses, directly related to the Project, incurred by the Design-Builder and the Design-Builder's Architect, Consultants, and Contractors, as follows:

- .1 Transportation and authorized out-of-town travel and subsistence;
- .2 Dedicated data and communication services, teleconferences, Project web sites, and extranets;
- .3 Fees paid for securing approval of authorities having jurisdiction over the Project;
- .4 Printing, reproductions, plots, standard form documents;
- .5 Postage, handling and delivery;
- .6 Expense of overtime work requiring higher than regular rates, if authorized in advance by the Owner;
- .7 Renderings, physical models, mock-ups, professional photography, and presentation materials requested by the Owner; and
- .8 All taxes levied on professional services and on reimbursable expenses; and
- .9 Other Project-related expenditures, if authorized in advance by the Owner.

§ 2.1.3.2 For Reimbursable Expenses, Expenses prior to the execution of the Design-Build Amendment, the compensation shall be the expenses the Design-Builder and the Design-Builder's Architect, Consultants and Contractors incurred, plus an administrative fee of percent (%) of the expenses incurred; incurred; will be billed at actual cost as supported by receipts and other similar documentation; and will not exceed the topset shown in Exhibit "H" – Design-Builder's Fee & Cost Proposal.

§ 2.1.4 Payments to the Design-Builder Prior To Execution of Design-Build Amendment

§ 2.1.4.1 Payments are due and payable upon presentation of the Design-Builder's invoice. Amounts unpaid ~~()~~ days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Design-Builder.
(Insert rate of monthly or annual interest agreed upon.)

~~%~~ within thirty (30) days of the submission of the Design-Builder's properly formatted invoice. Amounts unpaid shall bear interest at the legal rate allowed by Texas Government Code Ch. 2251.

§ 2.1.4.2 Records of Reimbursable Expenses and services performed on the basis of hourly rates shall be available to the Owner at mutually convenient times for a period of two years following execution of the Design-Build Amendment-Work or termination of this Agreement, whichever occurs first.

§ 2.2 Contract Sum and Payment for Work Performed After Execution of Design-Build Amendment

For the Design-Builder's performance of the Work after execution of the Design-Build Amendment, the Owner shall pay to the Design-Builder the Contract Sum in current funds as agreed in the Design-Build Amendment.

ARTICLE 3 GENERAL REQUIREMENTS OF THE WORK OF THE DESIGN-BUILD CONTRACT

§ 3.1 General

§ 3.1.1 The Design-Builder shall comply with any applicable licensing requirements in the jurisdiction where the Project is ~~located~~-located, Denton, Texas.

§ 3.1.2 The Design-Builder shall designate in writing a representative who is authorized to act on the Design-Builder's behalf with respect to the Project.

§ 3.1.3 The Design-Builder shall perform the Work in accordance with the Design-Build Documents. The Design-Builder shall not be relieved of the obligation to perform the Work in accordance with the Design-Build Documents by the activities, tests, inspections or approvals of the Owner.

§ 3.1.3.1 The Design-Builder shall perform the Work in compliance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities. If the Design-Builder performs Work contrary to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, the Design-Builder shall assume responsibility for such Work and shall bear the costs attributable to correction in a good workmanlike manner, fully execute the Work described in, and reasonably inferable from the Design-Build Documents. The Design-Builder shall at its sole cost, risk, and expense construct, equip, provide purchase, pay for, and furnish all of the Work necessary to provide the results intended by the Design-Build Documents, except as specifically indicated in the Design-Build Documents to be the responsibility of others. The Work shall be in accordance with such Design-Build Documents, as well as all local, state and federal governmental codes, ordinances and regulations as they apply to performance of the Work.

§ 3.1.3.2 Neither the Design-Builder nor any Contractor, Consultant, or Architect shall be obligated to perform any act which they believe will violate any applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities. If the Design-Builder determines that implementation of any instruction received from the Owner, including those in the Owner's Exhibit "D" – Design Criteria, would cause a violation of any applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Design-Builder shall notify the Owner in writing, together with the Design-Builder's written recommendation for modifying Exhibit "D" – Design Criteria to eliminate such violation. Upon verification by the Owner that a change to the Owner's Exhibit "D" – Design Criteria is required to remedy the violation, the Owner and the Design-Builder shall execute a Modification in accordance with Article 6.

§ 3.1.3.3 The Design-Builder shall not be entitled to any adjustments in the Contract Sum or the Contract Time as a result of any action, or failure to act, in connection with any work or other services performed by the Design-Builder, or any entity affiliated with the Design-Builder, for portions of the Project other than the Work, such as, without limitation, other projects for this Owner or nearby this site, whether such work or other services are performed under contract with the Owner or an independent third party.

§ 3.1.3.4 The Design-Builder shall proceed with performance of the Work as required by the Design-Build Documents and shall not modify such requirements in accordance with any substitution request, value engineering, or other

recommendations unless such recommendations are accepted by the Owner in a Modification. The Design-Builder shall not be entitled to receive any additional fees as a result of substitution request, value engineering, or other recommendations submitted by the Design-Builder.

§ 3.1.3.5 During the performance of the Work including, but not limited to, weekends, evenings and nights, or as otherwise reasonably and mutually agreed in writing with the Owner, until all punch list items have been completed, the Design-Builder shall keep a competent superintendent at the Project site, fully authorized to act on behalf of the Design-Builder. Notice from the Owner to such superintendent, in connection with defective Work, instructions for performance of the work or any and all other issues arising under this Agreement shall be considered notice of such issues to the Design-Builder.

§ 3.1.3.6 All of the Design-Builder's proposed on-site personnel must be approved by the Owner. The Design-Builder shall not employ a proposed superintendent to whom the Owner has made reasonable and timely objection. The Design-Builder shall not change the superintendent without the Owner's consent, which shall not unreasonably be withheld or delayed. Substitution or other significant personnel changes which may affect the Design-Builder's on-site personnel must be preceded by written notification of the Owner no less than seven (7) business days before the anticipated event. Such proposed changes must be approved by the Owner. The Design-Builder shall designate a second person in charge in writing in the event the superintendent is temporarily absent due to illness, vacation, or any other cause(s).

§ 3.1.4 The Design-Builder shall be responsible to the Owner for acts and omissions of the Design-Builder's employees, Architect, Consultants, Contractors, and their agents and employees, and other persons or entities performing portions of the Work.

§ 3.1.5 General Consultation. The Design-Builder shall schedule and conduct periodic meetings with the Owner to review matters such as procedures, progress, coordination, and scheduling of the Work.

§ 3.1.6 When applicable law requires that services be performed by licensed professionals, the Design-Builder shall provide those services through qualified, licensed professionals. The Owner ~~understands and agrees and Design-Builder agree~~ that the services of the Design-Builder's Architect and the Design-Builder's other Consultants are performed in the sole interest of, and for the exclusive benefit of, the ~~Design-Builder-Owner~~.

§ 3.1.7 The Design-Builder, with the assistance of the Owner, shall prepare and file documents required to obtain necessary approvals of governmental authorities having jurisdiction over the Project.

§ 3.1.8 Progress Reports

§ 3.1.8.1 The Design-Builder shall keep the Owner informed of the progress and quality of the Work. On a monthly basis, or otherwise as agreed to by the Owner and Design-Builder, the Design-Builder shall submit written progress reports to the Owner, showing estimated percentages of completion and other information identified below:

- .1 Work completed for the period;
- .2 Project schedule status;
- .3 Submittal schedule and status report, including a summary of outstanding Submittals;
- .4 Responses to requests for information to be provided by the Owner;
- .5 Approved Change Orders and Change Directives;
- .6 Pending Change Order and Change Directive status reports;
- .7 Tests and inspection reports;
- .8 Status report of Work rejected by the Owner;
- .9 Status of Claims previously submitted in accordance with Article 14;
- .10 Cumulative total of the Cost of the Work to date including the Design-Builder's compensation and Reimbursable Expenses, if any;
- .11 Current Project cash-flow and forecast reports; and
- .12 Additional information as agreed to by the Owner and Design-Builder.

§ 3.1.8.2 In addition, where the Contract Sum is the Cost of the Work with or without a Guaranteed Maximum Price, the Design-Builder shall include the following additional information in its progress reports:

- .1 Design-Builder's work force report;
- .2 Equipment utilization report; and
- .3 Cost summary, comparing actual costs to updated cost estimates.

§ 3.1.9 Design-Builder's Schedules

§ 3.1.9.1 The Design-Builder, promptly after execution of this Agreement, shall prepare and submit for the Owner's information a schedule for the Work. The schedule, including the time required for design and construction, shall not exceed time limits current under the Design-Build Documents, shall be revised at appropriate intervals as required by the conditions of the Work and Project, shall be related to the entire Project to the extent required by the Design-Build Documents, shall provide for expeditious and practicable execution of the Work, and shall include ~~allowances for~~ adequate periods of time required for the Owner's review and for approval of submissions by authorities having jurisdiction over the Project.

§ 3.1.9.2 The Design-Builder shall perform the Work in ~~general~~-accordance with the most recent schedules submitted to and approved by the Owner.

§ 3.1.10 Certifications. Upon the Owner's written request, the Design-Builder shall obtain from the Architect, Consultants, and Contractors, and furnish to the Owner, certifications with respect to the documents and services provided by the Architect, Consultants, and Contractors (a) that, to the best of their knowledge, information and belief, the documents or services to which the certifications relate (i) are consistent with the Design-Build Documents, except to the extent specifically identified in the certificate, and (ii) comply with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities governing the design of the Project; and (b) that the Owner and its consultants shall be entitled to rely upon the accuracy of the representations and statements contained in the certifications. The Design-Builder's Architect, Consultants, and Contractors shall not be required to execute certificates or consents that would require knowledge, services or responsibilities beyond the scope of their services.

§ 3.1.11 Design-Builder's Submittals

§ 3.1.11.1 ~~Prior~~ No less than thirty (30) days prior to submission of any Submittals, the Design-Builder shall prepare a Submittal schedule, and shall submit the schedule for the Owner's and Owner's Independent Representative's approval. The Owner's and Owner's Independent Representative's approval shall not unreasonably be delayed or withheld. The Submittal schedule shall (1) be coordinated with the Design-Builder's schedule provided in Section 3.1.9.1, (2) allow the Owner and Owner's Independent Representative reasonable time to review Submittals, and (3) be periodically updated to reflect the progress of the Work. If the Design-Builder fails to submit a Submittal schedule, the Design-Builder shall not be entitled to any increase in Contract Sum or extension of Contract Time based on the time required for review of Submittals.

§ 3.1.11.2 By providing Submittals the Design-Builder represents to the Owner that it has (1) reviewed and approved them, (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so and (3) checked and coordinated the information contained within such Submittals with the requirements of local, State and Federal codes, statutes, ordinances, and all authorities having jurisdiction; the Work and of the Design-Build Documents.

§ 3.1.11.3 The Design-Builder shall perform no portion of the Work for which the Design-Build Documents require Submittals until the Owner ~~has approved and Owner's Independent Representative has reviewed~~ the respective Submittal.

§ 3.1.11.4 The Work shall be in accordance with ~~approved-reviewed~~ Submittals except that the Design-Builder shall not be relieved of its responsibility to perform the Work consistent with the requirements of the Design-Build Documents. The Work may deviate from the Design-Build Documents only if the Design-Builder has notified the Owner in writing of a deviation from the Design-Build ~~Documents~~ Documents, and the impact of such deviation on the Owner's future costs of ownership at the time of the Submittal and a Modification is executed authorizing the identified deviation. The Design-Builder shall not be relieved of responsibility for errors or omissions in Submittals by the Owner's ~~approval and Owner's Independent Representative's review~~ of the Submittals.

§ 3.1.11.5 All professional design services or certifications to be provided by the Design-Builder, including all drawings, calculations, specifications, certifications, shop drawings and other Submittals, shall contain the signature and seal of the licensed design professional preparing them. Submittals related to the Work designed or certified by the licensed design professionals, if prepared by others, shall bear the licensed design professional's written approval. The Owner and its consultants shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications or approvals performed by such design professionals.

§ 3.1.12 Warranty. The Design-Builder warrants to the Owner that materials and equipment furnished under the Contract will be of good quality and new unless the Design-Build Documents require or permit otherwise. The Design-Builder further warrants that the Work will conform to the requirements of the Design-Build Documents and will be free from defects, except for those inherent in the quality of the Work or otherwise expressly permitted by the Design-Build Documents. Work, materials, or equipment not conforming to these requirements may be considered defective. The Design-Builder's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Design-Builder, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Owner, the Design-Builder shall furnish satisfactory evidence as to the kind and quality of materials and equipment. **THE DESIGN-BUILDER SHALL DEFEND AND HOLD THE OWNER HARMLESS AGAINST ANY CLAIM, DEMAND, LOSS, OR DAMAGE BY ANY BREACH OF THIS WARRANTY, AND DESIGN-BUILDER ACKNOWLEDGES IT SHALL NOT LIMIT SUCH WARRANTY BY THE PROVISIONS OF SECTION 11.2.**

§ 3.1.12.1 All material, equipment, or other special warranties required by the Design-Build Documents shall be issued in the name of the Owner and shall commence in accordance with Section 9.8.5.

§ 3.1.12.2 When written warranties are specified, the document shall include the following information:

Name and address of Project and Owner;
Article, materials, or systems covered;
Name and address of Installer;
Name and address of Design-Builder; and
Signature of individual authorized to sign contracts for the company issuing the warranty.

§ 3.1.12.3 The following minimum warranty terms shall be incorporated:

- .1 Duration shall be one year or as otherwise specified, dated from the Date of Substantial Completion;
- .2 The article, material or system is free from defective materials and workmanship;
- .3 Costs of repair or replacement shall not accrue to the Owner, including without limitation repair or replacement of other work disturbed by, or because of, repair or replacement; and
- .4 The warranty period of one year, or as otherwise specified, shall recommence upon the identification and completion by Design-Builder and acceptance by Owner of any warranty claim during the initial one-year warranty period.

§ 3.1.12.4 Warranties which are provided by a manufacturer for its product shall be received by the Design-Builder, filled out and filed with the manufacturer or other appropriate entity for the Owner. Certificates or registration stubs shall be included with the record documents submitted for the Owner upon completion of the Work. The Owner shall administrate manufacturer's warranties/guarantees after expiration of the Design-Builder's warranty.

§ 3.1.12.5 Temporary or trial usage by the Owner of any mechanical device, machinery, apparatus, equipment, or any work or material supplied under the Design-Build Documents before final completion and written acceptance by the Owner shall not be construed as evidence of the Owner's acceptance of same, or the commencement of any warranty periods.

§ 3.1.12.6 The Owner has the privilege of such temporary or trial usage, for such reasonable time as the Owner deems proper. The Design-Builder shall make no claims for damage or injury to, or breaking of, any parts of such work which may be caused by weakness or insufficiency of structural parts, or by defective materials or workmanship.

§ 3.1.12.7 The Design-Builder may, without cost to the Owner, make such trial usage. However, trials shall only be conducted with the Design-Builder's prior approval and under its observation as may be required by either of them. Equipment and/or materials shall be replaced or returned to "as new" condition prior to acceptance by the Owner.

§ 3.1.12.8 The Design-Builder agrees to assign to the Owner at the time of final completion of the Work any and all manufacturer's warranties relating to materials and labor used in the Work and further agrees to perform the Work in such manner so as to preserve any and all such manufacturer's warranties.

§ 3.1.12.9 If necessary as a matter of law, the Design-Builder may retain the right to enforce directly any such manufacturers' warranties during the one (1) year period following the date of Substantial Completion described in Section 12.2.2.

§ 3.1.13 Royalties, Patents and Copyrights

§ 3.1.13.1 The Design-Builder shall pay all royalties and license fees.

§ 3.1.13.2 The Design-Builder shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner and its separate contractors and consultants harmless from loss on account thereof, but shall not be responsible for such defense or loss when a particular design, process or product of a particular manufacturer or manufacturers is required by the Owner, or where the copyright violations are required in the Owner's Exhibit "D" – Design Criteria. However, if the Design-Builder has reason to believe that the design, process or product required in the Owner's Criteria is an infringement of a copyright or a patent, the Design-Builder shall be responsible for such loss unless such information is promptly furnished to the Owner in writing. If the Owner receives notice from a patent or copyright owner of an alleged violation of a patent or copyright, attributable to the Design-Builder, the Owner shall give prompt written notice to the Design-Builder.

§ 3.1.14 Indemnification

§ 3.1.14.1 To the fullest extent permitted by law, the Design-Builder shall indemnify and hold harmless the Owner, including the Owner's agents and employees, from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, but only to the extent caused by the negligent acts or omissions of the Design-Builder, Architect, a Consultant, a Contractor, or anyone directly or indirectly employed by them or anyone for whose acts they may be liable. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described in this Section 3.1.14. **TO THE FULLEST EXTENT PERMITTED BY LAW, THE DESIGN-BUILDER SHALL INDEMNIFY AND HOLD HARMLESS THE INDEMNITEES AS DEFINED IN SECTION 1.4.20 FROM AND AGAINST CLAIMS, DAMAGES, LOSSES AND EXPENSES, INCLUDING BUT NOT LIMITED TO ATTORNEYS' FEES, ARISING OUT OF OR RESULTING FROM PERFORMANCE OF THE WORK, BUT ONLY TO THE EXTENT CAUSED BY THE NEGLIGENT ACTS OR OMISSIONS OF THE DESIGN-BUILDER, ARCHITECT, CONSULTANT, CONTRACTOR, OR ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY THEM OR ANYONE FOR WHOSE ACTS THEY MAY BE LIABLE. SUCH OBLIGATION SHALL NOT BE CONSTRUED TO NEGATE, ABRIDGE, OR REDUCE OTHER RIGHTS OR OBLIGATIONS OF INDEMNITY WHICH WOULD OTHERWISE EXIST AS TO A PARTY OR PERSON DESCRIBED IN THIS SECTION 3.1.14.**

§ 3.1.14.2 The indemnification obligation under this Section 3.1.14 shall not be limited by a limitation on amount or type of damages, compensation, or benefits payable by or for Design-Builder, Architect, a Consultant, a Contractor, or anyone directly or indirectly employed by them, under workers' compensation acts, disability benefit acts or other employee benefit acts. **THE INDEMNIFICATION OBLIGATION UNDER THIS SECTION 3.1.14 SHALL NOT BE LIMITED BY A LIMITATION ON AMOUNT OR TYPE OF DAMAGES, COMPENSATION, OR BENEFITS PAYABLE BY OR FOR DESIGN-BUILDER, ARCHITECT, CONSULTANT, CONTRACTOR, OR ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY THEM, UNDER WORKERS' COMPENSATION ACTS, DISABILITY BENEFIT ACTS OR OTHER EMPLOYEE BENEFIT ACTS.**

§ 3.1.14.3 **THE DESIGN-BUILDER'S INDEMNITY OBLIGATIONS UNDER THIS SECTION 3.1.14 SHALL ALSO SPECIFICALLY INCLUDE, WITHOUT LIMITATION, ALL FINES, PENALTIES, DAMAGES, LIABILITY, SAFETY VIOLATIONS, COSTS, EXPENSES (INCLUDING, WITHOUT LIMITATION, REASONABLE ATTORNEYS' FEES), AND PUNITIVE DAMAGES (IF ANY) ARISING OUT OF, OR IN CONNECTION WITH ANY:**

- .1 VIOLATION OF OR FAILURE COMPLY WITH ANY LAW, STATUTE, ORDINANCE, RULE, REGULATION, CODE OR REQUIREMENT OF A PUBLIC AUTHORITY THAT BEARS UPON THE PERFORMANCE OF THE WORK BY THE DESIGN-BUILDER, A SUBCONTRACTOR OR ANY PERSON OR ENTITY FOR WHOM EITHER IS RESPONSIBLE;**
- .2 MEANS, PROCEDURES, TECHNIQUES, SAFETY PRECAUTIONS, OR SEQUENCES OF EXECUTION OR PERFORMANCE OF THE WORK; AND**

.3 FAILURE TO SECURE AND PAY FOR PERMITS, FEES, APPROVALS, LICENSES, AND INSPECTION AS REQUIRED UNDER THE DESIGN-BUILD DOCUMENTS, OR ANY VIOLATION OF ANY PERMIT OR OTHER APPROVAL OF A PUBLIC AUTHORITY APPLICABLE TO THE WORK, BY THE DESIGN-BUILDER, A SUBCONTRACTOR, OR ANY PERSON OR ENTITY FOR WHOM EITHER IS RESPONSIBLE.

§ 3.1.14.4 THE DESIGN-BUILDER SHALL INDEMNIFY AND HOLD HARMLESS ALL OF THE INDEMNITEES AS DEFINED IN SECTION 1.4.20 FROM AND AGAINST ANY COSTS AND EXPENSES (INCLUDING REASONABLE ATTORNEYS' FEES) INCURRED BY ANY OF THE INDEMNITEES IN ENFORCING ANY OF THE DESIGN-BUILDER'S DEFENSE, INDEMNITY, AND HOLD-HARMLESS OBLIGATIONS UNDER THIS CONTRACT.

§ 3.1.15 Contingent Assignment of Agreements

§ 3.1.15.1 Each agreement for a portion of the Work is assigned by the Design-Builder to the Owner, provided that

- .1 assignment is effective only after termination of the Contract by the Owner for cause, pursuant to Sections 13.1.4 or 13.2.2, or termination by the Owner for convenience, pursuant to Section 13.2.4; and only for those agreements that the Owner accepts by written notification to the Design-Builder and the Architect, Consultants, and Contractors whose agreements are accepted for assignment; and
- .2 assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

When the Owner accepts the assignment of an agreement, the Owner assumes the Design-Builder's rights and obligations under the agreement.

§ 3.1.15.2 Upon such assignment, if the Work has been suspended for more than ~~30~~ thirty (30) days, the compensation under the assigned agreement shall be equitably adjusted for increases in cost resulting from the suspension.

§ 3.1.15.3 Upon such assignment to the Owner under this Section 3.1.15, the Owner may further assign the agreement to a successor design-builder or other entity. If the Owner assigns the agreement to a successor design-builder or other entity, the Owner shall nevertheless remain legally responsible for all of the successor design-builder's or other entity's obligations under the agreement.

§ 3.1.16 Design-Builder's Insurance and Bonds. The Design-Builder shall purchase and maintain insurance and provide bonds as set forth in Exhibit B.

ARTICLE 4 WORK PRIOR TO EXECUTION OF THE DESIGN-BUILD AMENDMENT

§ 4.1 General

§ 4.1.1 Any information submitted by the Design-Builder, and any interim decisions made by the Owner, shall be for the purpose of facilitating the design process and shall not modify the Owner's Criteria unless the Owner and Design-Builder execute a Modification.

§ 4.1.2 The Design-Builder shall advise the Owner on proposed site use and improvements, selection of materials, and building systems and equipment. The Design-Builder shall also provide the Owner with recommendations, consistent with the Owner's Criteria, on constructability; availability of materials and labor; time requirements for procurement, installation and construction; and factors related to construction cost including, but not limited to, costs of alternative designs or materials, preliminary budgets, life-cycle data, and possible cost reductions.

§ 4.2 Evaluation of the Owner's Criteria

§ 4.2.1 The Design-Builder shall schedule and conduct meetings with the Owner and any other necessary individuals or entities to discuss and review the Owner's Criteria as set forth in ~~Section 1.1.~~ The Section 1.1. The Design-Builder shall thereafter again meet with the Owner to discuss a preliminary evaluation of the Owner's Criteria. The preliminary evaluation shall address possible alternative approaches to design and construction of the Project and include the Design-Builder's recommendations, if any, with regard to accelerated or fast-track scheduling, procurement, or phased construction. The preliminary evaluation shall ~~consider~~ consider, without limitation, cost information, constructability, and procurement and construction scheduling issues.

§ 4.2.2 After the Design-Builder meets with the Owner and presents the preliminary evaluation, the Design-Builder shall provide a written report to the Owner, summarizing the Design-Builder's evaluation of the Owner's Criteria. The report shall also include

- .1 allocations of program functions, detailing each function and their square foot areas;
- .2 a ~~preliminary estimate~~ proposed Control Estimate of the Cost of the Work, and, if necessary, recommendations to adjust the Owner's Criteria to conform to the Owner's budget;
- .3 a ~~preliminary schedule~~, proposed Design-Builder's Project Schedule, which shall include proposed design milestones; dates for receiving additional information from, or for work to be completed by, the Owner; anticipated date for the Design-Builder's Proposal; and dates of periodic design review sessions with the Owner; and
- .4 the following:

(List additional information, if any, to be included in the Design-Builder's written report.)

- a. Anything in the Owner's Criteria that may conflict with the requirements of local, State and Federal codes, statutes, ordinances, and all authorities having jurisdiction;
- b. Anything in the Owner's Criteria that conflicts with best practices for design, engineering, or other industry standards that would prevent the Design-Builder from fully implementing and being completely responsible for their intended results; and
- c. Other information and draft Exhibits to this Agreement as the Owner and Design-Builder agree are appropriate in the meeting described in Section 4.2.1.

§ 4.2.3 The Owner shall review the Design-Builder's written report and, if acceptable, provide the Design-Builder with written consent to proceed to the development of the Preliminary Design as described in Section 4.3. The consent to proceed shall not be understood to modify the Owner's Criteria unless the Owner and Design-Builder execute a Modification.

§ 4.3 Preliminary Design

§ 4.3.1 Upon the Owner's issuance of a written consent to proceed under Section 4.2.3, the Design-Builder shall prepare and submit a Preliminary Design to the Owner. The Preliminary Design shall include a report identifying any deviations from the Owner's Criteria, and shall include the following:

- .1 Confirmation of the allocations of program functions;
- .2 Site plan;
- .3 Building plans, sections and elevations;
- .4 Structural system;
- .5 Selections of major building systems, including but not limited to mechanical, electrical and plumbing systems; ~~and~~
- .6 Outline specifications or sufficient drawing notes describing construction materials; materials; and
- .7 Such other information the Owner and Design-Builder agree in writing to be appropriate.

The Preliminary Design may include some combination of physical study models, perspective sketches, or digital modeling.

§ 4.3.2 The Owner ~~and Owner's Independent Representative~~ shall review the Preliminary Design and, if acceptable, provide the Design-Builder with written consent to proceed to development of the Design-Builder's Proposal. The Preliminary Design shall not modify the Owner's Criteria unless the Owner and Design-Builder execute a Modification.

§ 4.4 Design-Builder's Proposal

§ 4.4.1 Upon the Owner's issuance of a written consent to proceed under Section 4.3.2, the Design-Builder shall prepare and submit the Design-Builder's Proposal to the Owner. The Design-Builder's Proposal shall include the following:

- .1 A list of the Preliminary Design documents and other information, including the Design-Builder's clarifications, assumptions and deviations from the Owner's Criteria, upon which the Design-Builder's Proposal is based;
- .2 The proposed Contract Sum, including the compensation method and, if based upon the Cost of the Work plus a fee, ~~a written statement of estimated proposed Control Estimate detailing cost organized by trade categories, allowances, contingencies, Design-Builder's Fee, and other items that comprise the~~

- updates to Exhibit "H" – Design-Builder's Fee and Cost Proposal, and other items that comprise the Control Estimate detailing the proposed Contract Sum;
- .3 The proposed Design-Builder's Project Schedule showing the detailed work plan supporting date the Design-Builder shall achieve Substantial Completion;
- .4 An enumeration of any qualifications and exclusions, if applicable;
- .5 A list of the Design-Builder's ~~key personnel, Contractors and suppliers;~~ and proposed Exhibit "G" – Key Firms & Personnel;
- .6 The date on which the Design-Builder's Proposal ~~expires.~~ expires and;
- .7 Such other information the Owner and Design-Builder agree in writing to be appropriate.

§ 4.4.2 Submission of the Design-Builder's Proposal shall constitute a representation by the Design-Builder that it has visited the site and become familiar with local conditions under which the Work is to be completed. Prior to execution of the Agreement, the Design-Builder and each Subcontractor have evaluated and satisfied themselves as to the conditions and limitations under which the Work is to be performed, including, without limitation, (i) the location, condition, layout, and nature of the Project site and surrounding areas and generally prevailing climatic conditions; (ii) anticipated labor supply and costs; (iii) availability and cost of materials, tools, and equipment; and (iv) other similar issues. The Owner assumes no responsibility or liability for the physical condition or safety of the Project site or any improvements located on the Project site. Except as set forth in Section 10.3, the Design-Builder shall be solely responsible for providing a safe place for the performance of the Work. The Owner shall not be required to make any adjustment in either the Contract Sum or the Contract Time in connection with any failure by the Design-Builder or any Subcontractor to have complied with the requirements of this Section 4.4.2.

§ 4.4.3 If the Owner and Design-Builder agree on a proposal, the Owner and Design-Builder shall execute the Design-Build Amendment setting forth the terms of their agreement.

ARTICLE 5 WORK FOLLOWING EXECUTION OF THE DESIGN-BUILD AMENDMENT

§ 5.1 Construction Documents

§ 5.1.1 Upon the execution of the Design-Build Amendment, the Design-Builder shall prepare Construction Documents. The Construction Documents ~~shall~~ shall, without limitation, establish the quality levels of materials and systems required. The Construction Documents shall be consistent with the Design-Build Documents. Prior to execution of the Agreement, the Design-Builder and each Subcontractor have evaluated and satisfied themselves as to the conditions and limitations under which the Work is to be performed, including, without limitation, (i) the location, condition, layout, and nature of the Project site and surrounding areas and generally prevailing climatic conditions; (ii) anticipated labor supply and costs; (iii) availability and cost of materials, tools, and equipment; and (iv) other similar issues. The Owner assumes no responsibility or liability for the physical condition or safety of the Project site or any improvements located on the Project site. Except as set forth in Section 10.3, the Design-Builder shall be solely responsible for providing a safe place for the performance of the Work. The Owner shall not be required to make any adjustment in either the Contract Sum or the Contract Time in connection with any failure by the Design-Builder or any Subcontractor to have complied with the requirements of this Section 5.1.1.

§ 5.1.2 The Design-Builder shall provide the Construction Documents to the Owner for the Owner's information. If the Owner discovers any deviations between the Construction Documents and the Design-Build Documents, the Owner shall promptly notify the Design-Builder of such deviations in writing. The Construction Documents shall not modify the Design-Build Documents unless the Owner and Design-Builder execute a Modification. The failure of the Owner to discover any such deviations shall not relieve the Design-Builder of the obligation to perform the Work in accordance with the Design-Build Documents.

§ 5.2 Construction

§ 5.2.1 Commencement. Except as permitted in Section 5.2.2, construction shall not commence prior to execution of the Design-Build Amendment. ~~Amendment~~ and issuance by the Owner of a written Notice to Proceed.

§ 5.2.2 If the Owner and Design-Builder agree in writing, construction may proceed prior to the execution of the Design-Build Amendment. However, such authorization shall not waive the Owner's right to reject the Design-Builder's Proposal.

§ 5.2.3 The Design-Builder shall supervise and direct the Work, using the Design-Builder's best skill and attention. The Design-Builder shall be solely responsible for, and have control over, construction means, methods, techniques,

sequences and procedures, and for coordinating all portions of the Work under the Contract, unless the Design-Build Documents give other specific instructions concerning these matters.

§ 5.2.4 The Design-Builder shall be responsible for inspection of portions of Work already performed to determine that such portions are in proper condition to receive subsequent Work.

§ 5.2.5 The Design-Builder shall carefully check its own work and that of Subcontractors as the work is being performed.

§ 5.2.6 During the finishing stages of the project, the Design-Builder shall make frequent inspections of the Work in the presence of the Owner, the Contractor, and the applicable Subcontractor(s) involved, if any, and the Architect shall identify incorrect and faulty Work.

§ 5.2.7 The Design-Builder shall ensure that incorrect or faulty Work is corrected immediately.

§ 5.2.8 The Design-Builder shall not be relieved of obligations to perform the Work in accordance with the Design-Build Documents either by activities or duties of the Owner or Architect in their administration of the Contract, or by tests, inspections or approvals required or performed by persons other than the Design-Builder.

§ 5.3 Labor and Materials

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

§ 5.3.2 When a material or system is required to meet the Design Criteria or is specified in the Design-Build Documents, the Design-Builder may make substitutions only in accordance with Article 6. The Design-Builder shall also submit to the Owner, for each proposed substitution:

- .1 A full explanation of the proposed substitution and submittal of all supporting data, including technical information, catalog "cut sheets", warranties, test results, installation instructions, operating procedures, and other like information necessary for a complete evaluation of the substitution;
- .2 A written explanation of the reasons the substitution is advantageous and necessary, including the benefits to the Owner and the Work in the event the substitution is acceptable;
- .3 The adjustment, if any, in the Contract Sum, in the event the substitution is acceptable;
- .4 The adjustment, if any, in the time of completion of the Contract and the Contractor's Construction Schedule in the event the substitution is acceptable; and
- .5 Proposals for substitutions shall be submitted electronically to the Owner in sufficient time to allow no less than ten (10) business days for review.

§ 5.3.3 The Design-Builder shall enforce strict discipline and good order among the Design-Builder's employees and other persons carrying out the Work. The Design-Builder shall not permit employment of unfit persons or persons not properly skilled in tasks assigned to them. Smoking and chewing of tobacco products is prohibited in enclosed new construction. No glass bottles shall be brought on the construction site or Owner's property by any construction personnel.

§ 5.3.4 All work under this Agreement shall be performed in a skillful and workmanlike manner in accordance with the highest industry standards.

§ 5.3.5 The Design-Builder shall only employ or use labor in connection with the Work capable of working harmoniously with all trades, crafts, and any other individuals associated with the Project. The Design-Builder shall also use best efforts to minimize the likelihood of any strike, work stoppage, or other labor disturbance.

- .1 If the Work is to be performed by trade unions, the Design-Builder shall make all necessary

arrangements to reconcile, without delay, damage, or cost to the Owner and without recourse to the Architect or the Owner, any conflict between the Design-Build Documents and any agreements or regulations of any kind at any time in force among members or councils that regulate or distinguish the activities that shall not be included in the work of any particular trade.

- .2 In case the progress of the Work is affected by any undue delay in furnishing or installing any items or materials or equipment required under the Design-Build Documents because of such conflict involving any such labor agreement or regulation, the Owner may require that other material or equipment of equal kind and quality be provided pursuant to a Change Order or Construction Change Directive.

§ 5.3.6 Pursuant to Chapter 2258, Texas Government Code, all Contractors and any Subcontractor involved in the construction of a public work project shall pay not less than the prevailing rates as per diem wages in the locality at the time of construction to all laborers, workmen and mechanics employed by them in the execution of this contract. The Design-Builder shall assure that these requirements are met for the Project and shall insure that every contract or subcontract relating to the Work requires, on behalf of Owner, that the prevailing wage rates be paid.

§ 5.3.7 The Design-Builder shall be provided an applicable Department of Labor Wage Rate Determination for use on the Project required by Chapter 2258.022, Texas Government Code.

§ 5.4 Taxes

The Design-Builder shall, to the extent the Owner is not exempted under this Agreement, pay sales, consumer, use and similar taxes, for the Work provided by the Design-Builder, that are legally enacted when the Design-Build Amendment is executed, whether or not yet effective or merely scheduled to go into effect. In no event should the Owner pay the Design-Builder for taxes that were not properly due and duly paid or for which the Owner is exempt from paying under Texas law.

§ 5.5 Permits, Fees, Notices and Compliance with Laws

§ 5.5.1 Unless otherwise provided in the Design-Build Documents, the Design-Builder shall secure and pay for the building permit as well as any permit. The Owner shall also pay for any applicable gas, water, sewer and electrical service application fees; assessments against the property, including property tax, developmental excise and similar taxes; sewer, water, and related utility tap fees; and sewer plant improvement fees, unless exempted under Texas law. The Contractor shall secure and pay for all other permits, fees, licenses, and inspections by government agencies, necessary for proper execution of the Work and Substantial Completion of the Project.

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

§ 5.5.2.1 If the Design-Builder performs Work knowing it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, regardless of whether such work is in accordance with Design-Build Documents, the Design-Builder shall assume appropriate responsibility for such Work and shall bear the costs attributable to correction. Codes and ordinances shall take full and complete precedence over anything contained in the Design-Build Documents, except where the Design-Build Documents call for Work or materials of higher standards than those required by codes or ordinances, in which case, the Design-Build Documents shall govern. Nothing contained in the Design-Build Documents shall be construed as authority for the Design-Builder to violate any applicable codes or ordinances in effect at the site.

§ 5.5.3 Concealed or Unknown Conditions. If the Design-Builder encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Design-Build Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Design-Build Documents, the Design-Builder shall promptly provide notice to the Owner before conditions are disturbed and in no event later than ~~24~~ twenty-one (21) days after first observance of the conditions. The Owner shall promptly investigate such conditions and, if the Owner determines that they differ materially and cause an increase or decrease in the Design-Builder's cost of, or time required for, performance of any part of the Work, shall recommend an equitable adjustment in the Contract Sum or Contract Time, or both. If the Owner determines that the conditions at the site are not materially different from those indicated in the Design-Build Documents and that no change in the terms of the Contract is justified, the Owner shall promptly notify the Design-Builder in writing, stating the reasons. If

the Design-Builder disputes the Owner's determination or recommendation, the Design-Builder may proceed as provided in Article 14.

§ 5.5.3.1 In no event shall any adjustment in the Contract Sum or Contract Time be made for conditions which should have been known to the Design-Builder or would have been noticed by a Design-Builder of similar size and experience pursuant to its on-site inspection; by way of or conditions referenced in any other inspections or tests concerning the site which have been made available to the Design-Builder or have been performed by the Design-Builder or its Subcontractors; are part of the Design-Build Documents; or are part of the materials provided by the Design-Builder to be used in constructing the improvements.

§ 5.5.4 If, in the course of the Work, the Design-Builder encounters human remains, or recognizes the existence of burial markers, archaeological sites, or wetlands, not indicated in the Design-Build Documents, the Design-Builder shall immediately suspend any operations that would affect them and shall notify the Owner. Upon receipt of such notice, the Owner shall promptly take any action necessary to obtain governmental authorization required to resume the operations. The Design-Builder shall continue to suspend such operations until otherwise instructed by the Owner but shall continue with all other operations that do not affect those remains or features. Requests for adjustments in the Contract Sum and Contract Time arising from the existence of such remains or features may be made as provided in Article 14.

§ 5.5.5 The Design-Builder shall comply with all applicable laws, statutes, rules, codes, orders, regulations, and ordinances, including but not limited to all applicable immigration, employment, environmental and safety laws, statutes, rules, codes, orders and regulations.

§ 5.6 Allowances

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

§ 5.6.2 Unless otherwise provided in the Design-Build Documents,

- .1 allowances shall cover the cost to the Design-Builder of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;
- .2 the Design-Builder's costs for unloading and handling at the site, labor, installation costs, overhead, profit, and other expenses contemplated for stated allowance amounts, shall be included in the Contract Sum but not in the allowances; and
- .3 whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Section 5.6.2.1 and (2) changes in Design-Builder's costs under Section 5.6.2.2.

§ 5.6.3 The Owner shall make selections of materials and equipment with reasonable promptness for allowances requiring Owner selection.

§ 5.7 Key Personnel, Contractors and Suppliers

§ 5.7.1 The Design-Builder shall not employ personnel, or contract with Contractors or suppliers to whom the Owner has made reasonable and timely objection. The Design-Builder shall not be required to contract with anyone to whom the Design-Builder has made reasonable and timely objection.

§ 5.7.2 If the Design-Builder changes any of the personnel, Contractors or suppliers identified in the Design-Build Amendment, the Design-Builder shall notify the Owner and provide the name and qualifications of the new personnel, Contractor or supplier. The Owner may reply within ~~14~~fourteen (14) days to the Design-Builder in writing, stating (1) whether the Owner has reasonable objection to the proposed personnel, Contractor or supplier or (2) that the Owner requires additional time to review. Failure of the Owner to reply within the ~~14 day~~fourteen (14) day period shall constitute notice of no reasonable objection.

§ 5.7.3 Except for those persons or entities already identified or required in the Design-Build Amendment, the Design-Builder, as soon as practicable after execution of the Design-Build Amendment, shall furnish in writing to the Owner the names of persons or entities (including those who are to furnish materials or equipment fabricated to a

special design) proposed for each principal portion of the Work. The Owner may reply within ~~14~~fourteen (14) days to the Design-Builder in writing stating (1) whether the Owner has reasonable objection to any such proposed person or entity or (2) that the Owner requires additional time for review. Failure of the Owner to reply within the ~~14 day~~fourteen (14) day period shall constitute notice of no reasonable objection.

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

§ 5.8 Documents and Submittals at the Site

The Design-Builder shall maintain at the site for the Owner one copy of the Design-Build Documents and a current set of the Construction Documents, in good order and marked currently to indicate field changes and selections made during construction, and one copy of approved Submittals. The Design-Builder shall deliver these items to the Owner in accordance with Section 9.10.2 as a record of the Work as constructed. The Design-Builder shall make available to the Owner for inspection and copying the record copy of the drawings, specifications, addenda, Change Orders and other Modifications, including all such documents maintained by the Design-Builder in electronic format, upon reasonable request of the Owner and, in any event, within twenty-four (24) hours of receipt by Design-Builder of a request from Owner for such review and/or copying. The Owner may request the record copy of the As-Built Documents, specifications, addenda, Change Orders and other modifications of the Work to be updated before Substantial Completion to reflect the most current condition of the Project, as additional Cost of the Work paid as a Change Order at the Owner's expense. The Owner may require the Design-Builder to furnish the As-Built Documents in electronic format and may make copies of them prior to completion of the Work at the Owner's expense.

§ 5.8.1 The Design-Builder shall provide final electronic files and one "hard" copy of the Drawings and Specifications to the Owner updated to reflect the final condition of the Project with the final Application for Payment as a condition precedent to final payment.

§ 5.9 Use of Site

§ 5.9 Use of Site, Delivery, & Storage

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

§ 5.9.1 The Design-Builder shall coordinate the Design-Builder's operations with, and secure the approval of, the Owner before using any portion of the site.

§ 5.9.2 The Design-Builder shall take reasonable precautions for the safety of, and shall provide all reasonable protection to prevent damage, injury or loss to, all persons at the Project site; all property at the Project site; and all persons or property adjacent thereto.

- .1 The Design-Builder acknowledges the Project site comprises and/or may be adjacent to existing structures and that these site areas may be occupied during the performance of some portions of this Contract.
- .2 The Work shall be performed, to the fullest extent reasonably possible, in such a manner that public areas adjacent to the site of the Work shall be free from all debris, building materials, and equipment likely to cause interference with adjacent stakeholders or create hazardous conditions.
- .3 The Design-Builder shall be responsible for the mitigation and/or abatement of all noise, dust, fumes, traffic or other by-product of construction activity that, in the opinion of the Owner or the Architect, have an adverse affect on the quality of life or productivity for Project stakeholders, the Owner's current operations, or the Owner's employees. Such mitigation and/or abatement shall be performed in manner and with a result completely and wholly acceptable to the Owner.

- .4 The Design-Builder shall control its personnel and the Subcontractors on site, especially regarding the use of alcohol or profanity, dressing in an inappropriate manner, parking in an inappropriate place, or other activities deemed to be inappropriate, to the satisfaction of the Owner. Repeat offenses will cause the Owner to require, through the Design-Builder, the temporary or permanent removal of the offending individuals, Subcontractor(s) or Sub-subcontractor(s) from the site.
- .5 The Design-Builder shall, at a minimum, secure the site by erecting and maintaining a 6'-0" chain link fence around the perimeter of the construction site. This fence shall remain intact until such time the site becomes secure in the opinion of the Design-Builder, as a result of construction progress (by way of example, and without limitation, completion of site grading and backfill, installation of doors and windows, etc.).
- .6 The Design-Builder shall furnish and maintain sufficient sanitary facilities for its own forces and those of any Subcontractor or Sub-subcontractor. The facilities of any existing, nearby buildings will not be available for construction use.
- .7 The Design-Builder is advised that the project site area is subject to, among other inclement weather, unpredictable and high winds. When all or a portion of the Work is suspended for any reason, the Design-Builder shall securely fasten down all coverings and stored materials on site and fully protect the Work, as necessary, from injury or damage by any cause and to prevent possible damage caused by flying materials and debris.

§ 5.9.3 The Design-Builder shall ensure that the Work, at all times, is performed in a manner that affords reasonable access, both vehicular and pedestrian, to the site of the Work and all adjacent areas.

- .1 The access to the site shall be maintained in compliance with all local, state, and Federal code and life safety requirements for ingress by first responders and other similar emergency requirements.
- .2 The Design-Builder shall inform the Owner and any officials referenced in Section 5.9.5 in writing a minimum of thirty (30) calendar days prior to any disruption of access, specifically and graphically showing the nature of the disruption, as well as the hours it will be disrupted. Such disruption will be subject to Owner's approval, such approval not to be unreasonably withheld.
- .3 The Owner shall be responsible for storm debris and snow removal to the limits of the construction site only so far that the Design-Builder will have access to the entrance to the construction area.
- .4 Storm debris and snow removal within the limits of work and/or for the purpose of performing and protecting work by individual contractors shall be up to the Design-Builder.

§ 5.9.4 During the performance of the Work, the Design-Builder, its Subcontractors, Sub-subcontractors, suppliers and their employees agree they shall:

- .1 Use such entrances to the construction site that may be designated by the Owner;
- .2 Perform the Work at such times of the day and days of the week as may be designated by the Owner; and
- .3 Accept that these entrances and times may be reviewed and changed from time to time by the Owner.

§ 5.9.5 The Design-Builder shall notify all public utility companies a minimum of two (2) business days prior to the commencement of any work by it or its Subcontractors in the vicinity of the utilities. No work shall commence until the utilities have been located and staked by the utility company or written consent from the Owner to proceed has been given to the Design-Builder. If the utility service must be interrupted, the Design-Builder shall, at Design-Builder's sole cost and expense, notify the head of the local administrative services (by way of example only, and without limitation, the city manager, the mayor, the city or county clerk, etc. as applicable) and the utility users affected by the interruption. Such notice shall consist of direct written communication, publication on the Owner's

website or in a local newspaper, and/or announcement on local radio or television stations, whichever is most reasonably calculated to give the most effective notice to such utility users.

§ 5.9.6 The Design-Builder shall exercise due diligence in seeing that all equipment, material, and supplies are delivered in advance of the time they are needed for the Work, and shall properly store and protect same at the Design-Builder's expense.

§ 5.9.7 Notwithstanding any other provision herein, the Design-Builder shall take all necessary measures to store materials on site for which payment has been requested by the Design-Builder or been made by the Owner so that they shall not deteriorate, be damaged or be stolen.

- .1 Only materials and equipment that are to be used directly in the Work shall be brought to and stored on the Project site by the Design-Builder.
- .2 Protection of construction materials and equipment stored at the Project site from fire, weather, burglary, pilferage, vandalism and mischief, damage, and all other adversity; and the care and protection of materials and Work installed in the building is solely the responsibility of the Design-Builder.
- .3 The Design-Builder shall bear sole responsibility for the restoration of damaged Work and replacement of damaged or stolen materials at no additional cost to the Owner.
- .4 After equipment is no longer required for the Work, it shall be promptly removed from the Project site.

§ 5.9.8 The Design-Builder shall not deliver any materials to the site which are not to be installed by same Design-Builder without fifteen (15) day's advance notice in writing to the Owner of the location, date, and time of such delivery to allow proper coordination. Such materials shall be received jointly by a representative of the Design-Builder and a representative of the Owner, who shall agree, and the Design-Builder shall document such agreement in writing:

- .1 the materials delivered are undamaged, or if damaged, such damage is documented by digital photo(s);
- .2 they are in the quantities shown on the purchase order, invoice or bill of lading accompanying the shipment or delivery or otherwise provided;
- .3 the storage conditions are adequate for the purposes; and
- .4 the Design-Builder has accepted responsibility for insurance and ongoing protection per Section 10.2.8 for such material until it is released to a third party authorized in writing by the Owner to receive it.

§ 5.10 Cutting and Patching

The Design-Builder shall not cut, patch or otherwise alter fully or partially completed construction by the Owner or a separate contractor except with written consent of the Owner and of such separate contractor; such consent shall not be unreasonably withheld. The Design-Builder shall not unreasonably withhold from the Owner or a separate contractor the Design-Builder's consent to cutting or otherwise altering the Work. The Design-Builder shall be responsible for cutting, fitting, or patching required to complete the Work or to make its parts fit together properly. All areas requiring cutting, fitting, or patching shall be restored to the condition existing prior to the cutting, fitting, or patching, unless otherwise required by the Design-Build Documents. The Design-Builder shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner or separate contractors by cutting, patching, or otherwise altering such construction, or by excavation.

§ 5.11 Cleaning Up

§ 5.11.1 The Design-Builder shall keep the premises and surrounding area free from accumulation of waste materials or rubbish caused by operations under the Contract. Contract and shall be responsible for daily clean-up of construction materials and dust control. At completion of the Work, the Design-Builder shall remove waste materials,

rubbish, the Design-Builder's tools, construction equipment, machinery and surplus materials from and about the Project. Project and shall clean all glass surfaces and leave the Work "broom clean", or its equivalent, except as otherwise specified.

§ 5.11.2 If the Design-Builder fails to clean up as provided in the Design-Build Documents, the Owner may do so and Owner shall be entitled to reimbursement from the Design-Builder.

§ 5.12 Access to Work

The Design-Builder shall provide the Owner and its separate contractors and consultants access to the Work in preparation and progress wherever located. The Design-Builder shall notify the Owner regarding Project safety criteria and programs, which the Owner, and its contractors and consultants, shall comply with while at the site.

§ 5.13 Construction by Owner or by Separate Contractors

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

§ 5.13.1.1 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, or other construction or operations on the site, under terms and conditions identical or substantially similar to this Contract, including those terms and conditions related to insurance and waiver of subrogation. The Owner shall notify the Design-Builder promptly after execution of any separate contract. If the Design-Builder claims that delay or additional cost is involved because of such action by the Owner, the Design-Builder shall make a Claim as provided in Article 14.

§ 5.13.1.2 When separate contracts are awarded for different portions of the Project or other construction or operations on the site, the term "Design-Builder" in the Design-Build Documents in each case shall mean the individual or entity that executes each separate agreement with the Owner.

§ 5.13.1.3 The Owner shall provide for coordination of the activities of the Owner's own forces, and of each separate contractor, with the Work of the Design-Builder, who shall cooperate with them. The Design-Builder shall participate with other separate contractors and the Owner in reviewing their construction schedules. The Design-Builder shall make any revisions to the construction schedule deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the Design-Builder, separate contractors and the Owner until subsequently revised.

§ 5.13.1.4 Unless otherwise provided in the Design-Build Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces or separate contractors, the Owner shall be deemed to be subject to the same obligations, and to have the same rights, that apply to the Design-Builder under the Contract.

§ 5.13.1.5 The Design-Builder accepts assignment of, and liability for, all purchase orders and other agreements for procurement of materials and equipment that are identified as part of the Design-Build Documents. The Design-Builder shall be responsible for such pre-purchased items, if any, as if the Design-Builder were the original purchaser. The Contract Sum includes, without limitation, all costs and expenses in connection with delivery, storage, insurance, installation, and testing of items covered in any assigned purchase orders or agreements. All warranty and correction of the Work obligations under the Design-Build Documents shall also apply to any pre-purchased items, unless the Design-Build Documents specifically provide otherwise.

§ 5.14 Mutual Responsibility

§ 5.14.1 The Design-Builder shall afford the Owner and separate contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Design-Builder's construction and operations with theirs as required by the Design-Build Documents.

§ 5.14.2 If part of the Design-Builder's Work depends upon construction or operations by the Owner or a separate contractor, the Design-Builder shall, prior to proceeding with that portion of the Work, prepare a written report to the Owner, identifying apparent discrepancies or defects in the construction or operations by the Owner or separate contractor that would render it unsuitable for proper execution and results of the Design-Builder's Work. Failure of the Design-Builder to report shall constitute an acknowledgment that the Owner's or separate contractor's completed or partially completed construction is fit and proper to receive the Design-Builder's Work, except as to defects not then reasonably discoverable.

§ 5.14.3 The Design-Builder shall reimburse the Owner for costs the Owner incurs that are payable to a separate contractor because of the Design-Builder's delays, improperly timed activities or defective construction. The Owner shall be responsible to the Design-Builder for costs the Design-Builder incurs because of a separate contractor's delays, improperly timed activities, damage to the Work or defective construction.

§ 5.14.4 The Design-Builder shall promptly remedy damage the Design-Builder wrongfully causes to completed or partially completed construction or to property of the Owner or separate contractors as provided in Section 10.2.5.

§ 5.14.5 The Owner and each separate contractor shall have the same responsibilities for cutting and patching the Work as the Design-Builder has with respect to the construction of the Owner or separate contractors in Section 5.10.

§ 5.14.6 Should the Design-Builder wrongfully delay or cause damage to the work or property of any separate contractor, the Design-Builder shall, upon due notice, promptly attempt to settle with such other contractor by agreement or otherwise to resolve the dispute. If such separate contractor sues or initiates a judicial proceeding against the Owner on account of any delay or damage alleged to have been caused by the Design-Builder, the Owner shall notify the Design-Builder who shall defend such proceedings at the Design-Builder's expense. The Owner may fund the defense of such proceedings contemplated by this Section but, in any event, if any judgment or award against the Owner arises therefrom, the Design-Builder shall pay to satisfy it to the extent of Design-Builder's responsibility.

§ 5.14.7 SHOULD ANY SUCH SEPARATE CONTRACTOR WRONGFULLY DELAYED OR DAMAGED BY THE DESIGN-BUILDER OR PERSONS FOR WHOM THE DESIGN-BUILDER IS RESPONSIBLE PER SECTION 5.14.6 MAKE A CLAIM AGAINST THE INDEMNITEES, OR BRING ANY ACTION AGAINST THE INDEMNITEES, ON ACCOUNT OF THE DAMAGE ALLEGED TO HAVE BEEN SO SUSTAINED, THE DESIGN-BUILDER SHALL HOLD THE INDEMNITEES HARMLESS AND DEFEND THEM AGAINST ANY SUCH CLAIM OR SUIT, AND SHALL REIMBURSE TO THE INDEMNITEES THE COST INCLUDING, WITHOUT LIMITATION, REASONABLE, ADDITIONAL ATTORNEY'S FEES INCURRED DEFENDING SUCH SUIT, AND IF ANY JUDGMENT AGAINST THE INDEMNITEES ARISES THERE FROM, THE DESIGN-BUILDER SHALL PAY OR SATISFY IT AND SHALL PAY ALL COSTS INCURRED BY THE INDEMNITEES.

§ 5.14.8 Should the Design-Builder be caused damage by any separate contractor, by reason of such separate contractor's failure to perform properly under its contract with the Owner, no action will lie against the Owner, and the Owner shall have no liability therefore, but the Design-Builder may assert its claims for damages directly against such separate contractor and the Owner shall assign such rights to Design-Builder, as allowed under Texas law to pursue such claims.

§ 5.14.9 Inasmuch as the completion of the Project within the prescribed time is dependent very largely upon the close and active cooperation of all those engaged therein, it is, therefore expressly understood and agreed that each Design-Builder shall lay out and install its work at such time(s) and in such manner as to not delay or interfere with the carrying forward of the work of the other contractors.

§ 5.14.10 Where the work of one contractor directly affects the conditions of the work of another contractor including, as examples only, and not limited to, providing shoring for backfilling, providing protective covering for painting, providing adequate bracing of door jambs, etc., the Design-Builder performing the work which will adversely affect another contractor's work shall be responsible for providing adequate protection based upon methods used to perform its work.

§ 5.15 Owner's Right to Clean Up

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

ARTICLE 6 CHANGES IN THE WORK

§ 6.1 General

§ 6.1.1 Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order or Change Directive, subject to the limitations stated in this Article 6 and elsewhere in the Design-Build Documents.

§ 6.1.2 A Change Order shall be based upon agreement between the Owner and Design-Builder. The Owner may issue a Change Directive without agreement by the Design-Builder.

§ 6.1.3 Changes in the Work shall be performed under applicable provisions of the Design-Build Documents, and the Design-Builder shall proceed promptly, unless otherwise provided in the Change Order or Change Directive. Except as permitted in Section 1.4.1 and Section 6.3, a change in the Contract Sum or the Contract Time shall be accomplished only by Change Order. Accordingly, no course of conduct or dealings between the parties, nor express or implied acceptance of alterations or additions to the Work, and no claim that Owner has been unjustly enriched by any alteration of or addition to the Work, whether or not there is, in fact, any unjust enrichment to the Work, shall be the basis of any claim to an increase in any amounts due under the Design-Builder or a change in any time period provided for in the Design-Builder.

§ 6.2 Change Orders

A Change Order is a written instrument signed by the Owner and Design-Builder stating their agreement upon all of the following:

- .1 The change in the Work;
- .2 The amount of the adjustment, if any, in the Contract Sum or, if prior to execution of the Design-Build Amendment, the adjustment in the Design-Builder's compensation; and
- .3 The extent of the adjustment, if any, in the Contract Time.

§ 6.2.1 Methods used in determining adjustments to the Contract Sum may include those listed in Sections 6.3.3, 6.3.7 and 6.3.10.

§ 6.2.2 Agreement on any Change Order shall constitute a final settlement of all matters relating to the change in the Work that is the subject of the Change Order, including, but not limited to, all direct and indirect costs and consequential damages associated with such change and any and all adjustments to the Contract Sum and the construction schedule.

§ 6.2.3 Change Orders Requiring City Council Approval

The Contract Sum may not be increased because of a Change Order unless additional money for increased costs is appropriated for that purpose from available funds or is provided for by the authorization of the issuance of time warrants. The approval of the Denton City Council is required if a Change Order involves a decrease or an increase of \$50,000.01 or more. The original Contract Sum also may not be increased under this Section 6.2.3 by more than twenty-five percent (25.0%) over the entire duration of the Project. The original Contract Sum may not be increased by more than twenty-five percent (25%) for any reason; nor may it be decreased by more than twenty-five percent (25%) without the consent of the Design-Builder, as provided in Texas Local Government Code Sec. 252.048. After the Change Order is submitted by the Design-Builder under this Section 6.2.3, the additional time required to obtain City Council approval shall not be factored into any past or future claim for delays or calculated as a part of the Change Order request.

§ 6.3 Change Directives

§ 6.3.1 A Change Directive is a written order signed by the Owner directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum or, if prior to execution of the Design-Build Amendment, the adjustment in the Design-Builder's compensation, or Contract Time. The Owner may by Change Directive, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions, the Contract Sum or, if prior to execution of the Design-Build Amendment, the adjustment in the Design-Builder's compensation, and Contract Time being adjusted accordingly.

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

§ 6.3.3 If the Change Directive provides for an adjustment to the Contract Sum or, if prior to execution of the Design-Build Amendment, an adjustment in the Design-Builder's compensation, the adjustment shall be based on one of the following methods:

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

.4 As provided in Section 6.3.7.

§ 6.3.4 If unit prices are stated in the Design-Build Documents or subsequently agreed upon, and if quantities originally contemplated are materially changed in a proposed Change Order or Change Directive so that application of such unit prices to quantities of Work proposed will cause substantial inequity to the Owner or Design-Builder, the applicable unit prices shall be equitably adjusted.

§ 6.3.5 Upon receipt of a Change Directive, the Design-Builder shall promptly proceed with the change in the Work involved and advise the Owner of the Design-Builder's agreement or disagreement with the method, if any, provided in the Change Directive for determining the proposed adjustment in the Contract Sum or, if prior to execution of the Design-Build Amendment, the adjustment in the Design-Builder's compensation, or Contract Time.

§ 6.3.6 A Change Directive signed by the Design-Builder indicates the Design-Builder's agreement therewith, including adjustment in Contract Sum or, if prior to execution of the Design-Build Amendment, the adjustment in the Design-Builder's compensation, and Contract Time or the method for determining them. Such agreement shall be effective immediately and shall be recorded as a Change Order.

§ 6.3.7 If the Design-Builder does not respond promptly or disagrees with the method for adjustment in the Contract Sum or, if prior to execution of the Design-Build Amendment, the method for adjustment in the Design-Builder's compensation, the Owner shall determine the method and the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase, an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount, calculated using the sum of the actual costs allowed in Sections 6.3.7.1 through 6.7.3.5, and using the percentages shown in Section 6.3.12 below. In such case, and also under Section 6.3.3.3, the Design-Builder shall keep and present, in such form as the Owner may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Design-Build Documents, costs for the purposes of this Section 6.3.7 shall be limited to the following:

- .1 Additional verifiable and reasonable costs of professional services;
- .2 Costs of labor, including social security, unemployment insurance, fringe benefits required by agreement or custom, and workers' compensation insurance;
- .3 Costs of materials, supplies and equipment, including cost of transportation, whether incorporated or consumed;
- .4 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Design-Builder or others;
- .5 Costs of premiums for all bonds and insurance, permit fees, and sales, use or similar taxes related to the Work; and
- .6 Additional costs of supervision and field office-verifiable payroll and subsistence costs incurred by the Design-Builder, Subcontractor and Subcontractors of field personnel directly attributable to the change.

§ 6.3.8 The amount of credit to be allowed by the Design-Builder to the Owner for a deletion or change that results in a net decrease in the Contract Sum or, if prior to execution of the Design-Build Amendment, in the Design-Builder's compensation, shall be actual net cost. When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change.

§ 6.3.9 Pending final determination of the total cost of a Change Directive to the Owner, the Design-Builder may request payment for Work completed under the Change Directive in Applications for Payment. The Owner will make an interim determination for purposes of certification for payment for those costs deemed to be reasonably justified. The Owner's interim determination of cost shall adjust the Contract Sum or, if prior to execution of the Design-Build Amendment, the Design-Builder's compensation, on the same basis as a Change Order, subject to the right of Design-Builder to disagree and assert a Claim in accordance with Article 14.

§ 6.3.10 When the Owner and Design-Builder agree with a determination concerning the adjustments in the Contract Sum or, if prior to execution of the Design-Build Amendment, the adjustment in the Design-Builder's compensation and Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and the Owner and Design-Builder shall execute a Change Order. Change Orders may be issued for all or any part of a Change Directive.

§ 6.3.11 If the Owner and Design-Builder do not agree with the adjustment in Contract Time or the method for determining it, the adjustment or the method shall be referred to the Architect for determination. The Architect may consult with the Owner in connection with such determination either at the direction of the Owner or at the Architect's discretion.

§ 6.3.12 In Section 6.3.7, the allowance for the combined total of onsite and offsite overhead, insurance and profit included in the total cost to the Owner shall be based on the following schedule:

- .1 For the Design-Builder, for Work performed by the Design-Builder's own forces, ten percent (10%) of the cost;
- .2 For the Design-Builder, for Work performed by the Design-Builder's Subcontractor, five percent (5%) of the amount due the Subcontractor;
- .3 For each Subcontractor or Sub-subcontractor involved, for Work performed by that Subcontractor or Sub-subcontractor's own forces, ten percent (10%) of the cost;
- .4 For each Subcontractor, for Work performed by the Subcontractor's Sub-subcontractors, five percent (5%) of the amount due the Sub-subcontractor;
- .5 Cost to which overhead and profit is to be applied shall be determined in accordance with Section 6.3.7;
- .6 Under no circumstance shall costs of the Design-Builder's supervisory, management, administrative or other office personnel, regardless of where stationed, be paid as cost of the Work under 6.3.7. Conversely, the Design-Builder shall be compensated for their labor within the overhead and profit percentage specified in this Section 6.3.12.
- .7 In order to facilitate checking of quotations for extras or credits, all proposals, except those so minor that their propriety can immediately be seen by inspection, shall be accomplished by a complete itemization of costs including labor, materials, and subcontracts. Labor and materials shall be itemized in the manner prescribed above. Where major cost items are subcontracts, they shall be itemized also.
- .8 When both additions and credits are involved in any change, the allowance for overhead and profit shall be figured on the basis of the net increase or decrease, if any.
- .9 Overtime, when specifically authorized by the Owner and not as a requirement for the Design-Builder to fulfill its obligations under this Agreement, shall be paid for by the Owner on the basis of premium payment only, plus the cost of insurance and taxes based on the premium payment period. Overhead and profit will not be paid by the Owner for overtime.

§ 6.4 Supporting Information

Notwithstanding the above, requests for an adjustment in the Contract Sum or adjustment in the Contract Time shall be in a form and accompanied by supporting information with a level of detail wholly acceptable to the Owner. The Design-Builder shall also comply with all provisions of Articles 8 and 14 with respect to claims. The required information shall be provided by the Design-Builder in less than twenty-one (21) days from the Design-Builder's request for an adjustment in the Contract Sum or Contract Time. Failure to timely provide this information in the proper form may be, in and of itself, grounds for rejection of the request, at the sole discretion of the Owner.

ARTICLE 7 OWNER'S RESPONSIBILITIES

§ 7.1 General

§ 7.1.1 The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all Project matters requiring the Owner's approval or authorization.

§ 7.1.2 The Owner shall render decisions in a timely manner and in accordance with the Design-Builder's schedule agreed to by the Owner. The Owner shall furnish to the Design-Builder, within ~~15~~fifteen (15) days after receipt of a

written request, information necessary and relevant for the Design-Builder to evaluate, give notice of or enforce mechanic's lien rights. Such information shall include a correct statement of the record legal title to the property on which the Project is located, usually referred to as the site, and the Owner's interest therein.

§ 7.1.3 The Owner may obtain independent review(s) of the Design-Builder's Design Documents, or of any document or other materials submitted by the Design-Builder, by a separate architect, engineer, contractor, cost estimator or any other consultant they deem necessary and put under contract to or cause to be employed by the Owner. Such independent review shall be undertaken at the Owner's expense in a timely manner and shall not delay the orderly progress of the Work. The Design-Builder shall cooperate with such Owner's other consultants fully, and respond to their reviews and comments in writing in a timely and comprehensive manner. This provision shall not be interpreted to require the Owner to obtain an independent review or imply that the Owner is in any way assuming responsibility for the work of the Design-Builder.

§ 7.2 Information and Services Required of the Owner

§ 7.2.1 The Owner shall furnish information or services required of the Owner by the Design-Build Documents with reasonable promptness.

§ 7.2.2 The Owner shall provide, to the extent under the Owner's control and if not required by the Design-Build Documents to be provided by the Design-Builder, the results and reports of prior tests, inspections or investigations conducted for the Project involving structural or mechanical systems; chemical, air and water pollution; hazardous materials; or environmental and subsurface conditions and information regarding the presence of pollutants at the Project site. Upon receipt of a written request from the Design-Builder, the Owner shall also provide surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site under the Owner's control.

§ 7.2.3 The Owner shall promptly obtain easements, zoning variances, and legal authorizations or entitlements regarding site utilization where essential to the execution of the Project.

§ 7.2.4 The Owner shall cooperate with the Design-Builder in securing building and other permits, licenses and inspections.

§ 7.2.5 The services, information, surveys and reports required to be provided by the Owner under this Agreement, shall be furnished at the Owner's expense, and except as otherwise specifically provided in this Agreement or elsewhere in the Design-Build Documents or to the extent the Owner advises the Design-Builder to the contrary in writing, the Design-Builder shall be entitled to rely upon the accuracy and completeness thereof. Omissions and conflicts thus discovered by the Design-Builder will be promptly communicated to the Owner in writing, after the Design-Builder has carefully scrutinized such information for consistency with other information about the Work. In no event shall the Design-Builder be relieved of its responsibility to exercise proper precautions relating to the safe performance of the Work.

§ 7.2.6 If the Owner observes or otherwise becomes aware of a fault or defect in the Work or non-conformity with the Design-Build Documents, the Owner shall give prompt written notice thereof to the Design-Builder.

§ 7.2.7 Prior to the execution of the Design-Build Amendment, the Design-Builder may request in writing that the Owner provide reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Design-Build Documents and the Design-Builder's Proposal. Thereafter, the Design-Builder may only request such evidence if (1) the Owner fails to make payments to the Design-Builder as the Design-Build Documents require; (2) a change in the Work materially changes the Contract Sum; or (3) the Design-Builder identifies in writing a reasonable concern regarding the Owner's ability to make payment when due. The Owner shall furnish such evidence as a condition precedent to commencement or continuation of the Work or the portion of the Work affected by a material change. After the Owner furnishes the evidence, the Owner shall not materially vary such financial arrangements without prior notice to the Design-Builder. As required by the provisions of Chapter 56 of the Texas Business and Commerce Code, the Owner has represented that it has sufficient funds available to undertake the Project.

§ 7.2.8 Except as otherwise provided in the Design-Build Documents or when direct communications have been specially authorized, the Owner shall communicate through the Design-Builder with persons or entities employed or retained by the Design-Builder.

§ 7.2.9 Unless required by the Design-Build Documents to be provided by the Design-Builder, the Owner shall, upon request from the Design-Builder, furnish the services of geotechnical engineers or other consultants for investigation of subsurface, air and water conditions when such services are reasonably necessary to properly carry out the design services furnished by the Design-Builder. In such event, the Design-Builder shall specify the services required. Such services may include, but are not limited to, test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, ground corrosion and resistivity tests, and necessary operations for anticipating subsoil conditions. The services of geotechnical engineer(s) or other consultants shall include preparation and submission of all appropriate reports and professional recommendations.

§ 7.2.10 The Owner shall purchase and maintain insurance as set forth in Exhibit B.

§ 7.2.11 The Owner shall furnish information and services under the Owner's control when (1) such services are reasonably required by the scope of the Work; (2) are scheduled by the Design-Builder in the approved Design-Builder's Project Schedule; (3) and requested by the Design-Builder in writing reasonably in advance of the date required by the Design-Builder to allow the Owner to procure of the requested information and/or consultant(s), and such consultant(s) to provide the requested information and/or services in the normal course of the consultant(s)' business.

§ 7.2.12 The Owner shall furnish the following information to a person, including the Architect or Contractor, who makes a request for information under Texas Government Code Chapter 2253, related to a payment or performance bond: (1) a certified copy of a payment bond and any attachment to the bond; (2) the public work contract for which the bond was given; and (3) the toll-free telephone number maintained by the Texas Department of Insurance under Subchapter B, Chapter 521, Insurance Code, for obtaining information concerning licensed insurance companies.

§ 7.2.13 Notwithstanding the foregoing, the Design-Builder expressly understands, acknowledges and agrees that such reports, analyses and assessments have been provided for the Design-Builder's bidding and informational purposes only. The City does not warrant or guarantee the information contained in those documents. The Design-Builder shall not be entitled to rely solely on the aforementioned documents in performing any portion of the Work, but shall conduct its own testing, inspections and investigations as part of the final Project design. The Design-Builder agrees that nothing contained in any Owner-provided reports, analyses or assessments, nor any provision of the Design-Build Agreement, shall have the effect of releasing, diminishing, discharging or otherwise absolving Design-Builder of the responsibility for performing any testing, inspections or evaluations necessary to ensure the structural integrity of the foundation and compliance with the Design-Build Documents.

PROJECT SITE INFORMATION AND REPORTS (INCLUDING BUT NOT LIMITED TO SOILS TESTING REPORTS, GEOTECHNICAL REPORTS, OR ENVIRONMENTAL SITE ASSESSMENTS) PROVIDED BY THE OWNER IN THE PROJECT MANUAL OR BY OTHER MEANS SHALL BE UTILIZED BY THE DESIGN-BUILDER AT ITS OWN RISK. THE OWNER AND THE OWNER'S CONSULTANTS DO NOT GUARANTEE OR WARRANT ANY INFORMATION SHOWN IN THE PROJECT SITE INFORMATION AND REPORTS.

§ 7.2.14 The Design-Builder shall be the party with primary responsibility for securing necessary site, building, and other permits, licenses and inspections required by regulatory agencies, unless otherwise provided herein or required by law. The Owner shall cooperate with the Design-Builder in securing permits. The Design-Builder will include the fees for such permits, licenses and inspections in the Contract Sum.

§ 7.2.15 If the Owner observes or otherwise becomes aware of any fault or defect in the Work or non-conformity with the Design-Build Documents, the Owner shall, as soon as possible but not later than fifteen (15) days after the Owner becomes aware of such fault or defect, give written notice thereof to the Design-Builder.

§ 7.3 Submittals

§ 7.3.1 The Owner shall review and approve or take other appropriate action on Submittals. Review of Submittals is not conducted for the purpose of determining the accuracy and completeness of other details, such as dimensions and quantities; or for substantiating instructions for installation or performance of equipment or systems; or for determining that the Submittals are in conformance with the Design-Build Documents, all of which remain the responsibility of the Design-Builder as required by the Design-Build Documents. The Owner's action will be taken in accordance with the submittal schedule approved by the Owner or, in the absence of an approved submittal schedule,

with reasonable promptness while allowing sufficient time in the Owner's judgment to permit adequate review. The Owner's review of Submittals shall not relieve the Design-Builder of the obligations under Sections 3.1.11, 3.1.12, and 5.2.3. The Owner's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Owner, of any construction means, methods, techniques, sequences or procedures. The Owner's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 7.3.2 Upon review of the Submittals required by the Design-Build Documents, the Owner shall notify the Design-Builder of any non-conformance with the Design-Build Documents the Owner discovers.

§ 7.4 Visits to the site by the Owner shall not be construed to create an obligation on the part of the Owner to make on-site inspections to check the quality or quantity of the Work. The Owner shall neither have control over or charge of, nor be responsible for, the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, because these are solely the Design-Builder's rights and responsibilities under the Design-Build Documents.

§ 7.5 The Owner shall not be responsible for the Design-Builder's failure to perform the Work in accordance with the requirements of the Design-Build Documents. The Owner shall not have control over or charge of, and will not be responsible for acts or omissions of the Design-Builder, Architect, Consultants, Contractors, or their agents or employees, or any other persons or entities performing portions of the Work for the Design-Builder.

§ 7.6 The Owner has the authority to reject Work that does not conform to the Design-Build Documents. The Owner shall have authority to require inspection or testing of the Work in accordance with Section 15.5.2, whether or not such Work is fabricated, installed or completed. However, neither this authority of the Owner nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Owner to the Design-Builder, the Architect, Consultants, Contractors, material and equipment suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 7.7 The Owner shall determine the date or dates of Substantial Completion in accordance with Section 9.8 and the date of final completion in accordance with Section 9.10.

§ 7.8 Owner's Right to Stop Work

If the Design-Builder fails to correct Work which is not in accordance with the requirements of the Design-Build Documents as required by Section 11.2 or ~~persistently~~ fails to carry out Work in accordance with the Design-Build Documents, the Owner may issue a written order to the Design-Builder to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Design-Builder or any other person or entity, except to the extent required by Section 5.13.1.3.

§ 7.9 Owner's Right to Carry Out the Work

If the Design-Builder defaults or neglects to carry out the Work in accordance with the Design-Build Documents and fails within a ~~ten-day-four~~ (4) day period after receipt of written notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such deficiencies. In such case, an appropriate Change Order shall be issued deducting from payments then or thereafter due the Design-Builder the reasonable cost of correcting such deficiencies. If payments then or thereafter due the Design-Builder are not sufficient to cover such amounts, the Design-Builder shall pay the difference to the Owner.

§ 7.10 Extent of Owner Rights

§ 7.10.1 The rights stated in this Article 7 and elsewhere in the Design-Build Documents are cumulative and not in limitation of any rights of the Owner granted in the Design-Build Documents; at law; or in equity.

§ 7.10.2 In no event shall the Owner have control over, charge of, or any responsibility for construction means, methods, techniques, sequences, or procedures or for safety precautions and programs in connection with the Work. Notwithstanding anything else herein, and without limitation, the providing of the Design Criteria; any review(s), independent or otherwise, or approval(s) by the Owner or Owner's Independent Representative of the Design-Build Documents, the Contract Documents, the Design-Builder's Construction Management Plan(s), the Design-Builder's Construction Schedule, shop drawings, submittals, meeting minutes or other Design-Builder's services, deliverables

or activities; nor the exercising of any of the rights and authority granted the Owner in the Design-Build Documents shall in any way reduce, diminish, or otherwise affect the Design-Builder's responsibilities, duties and accountability to the Owner for, without limitation, the design, engineering, construction means, methods, techniques, sequences, procedures or for safety precautions, and the provision of the Work per the requirements of the Design-Build Documents.

§ 7.10.3 The Owner reserves the right to have the Design-Builder and/or subcontractors remove person(s) and/or personnel from any and all work on the Project for cause but without cost to the Owner. Such requests from the Owner will be made in writing. "Cause" may include, but is not limited to, any of the following: incompetence, poor workmanship, poor scheduling abilities, poor coordination, disruptive to the project, the facility or others, poor management, cause delay or delays, will not strictly adhere to facility procedures and project requirements either willfully or unknowingly, insubordination, drug/alcohol use, possession of contraband, belligerent acts or actions, etc. The Design-Builder shall provide replacement person(s) and/or personnel acceptable to the Owner at no cost to the Owner.

ARTICLE 8 TIME

§ 8.1 Progress and Completion

§ 8.1.1 Time limits stated in the Design-Build Documents are of the essence of the Contract. By executing the Design-Build Amendment the Design-Builder confirms that the Contract Time is a reasonable period for performing the Work.

§ 8.1.2 The Design-Builder shall not, except by agreement of the Owner in writing, commence the Work prior to the effective date of insurance, other than property insurance, required by this Contract. The Contract Time shall not be adjusted as a result of the Design-Builder's failure to obtain insurance required under this Contract. Unless the date of commencement is established by a notice to proceed given by the Owner, the Design-Builder shall notify the Owner in writing not less than five (5) days or other agreed period before commencing the Work to permit the timely filing of any documents or notices required of the Owner prior to such commencement of the Work.

§ 8.1.3 The Design-Builder shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time. Attention is directed to the fact that the Work is urgently needed by the Owner; for this reason it shall be agreed that the Design-Builder will substantially complete all Work under the Contract within the time established in the Design-Build Documents and the most recently approved Design-Builder's Construction Schedule. The Design-Builder shall begin the Work on the date of commencement as defined in Exhibit "A" – Design-Build Amendment; carry the Work forward with adequate resources; furnish, without limitation such labor, supervision, materials, facilities, and equipment; and work such hours, including night shifts, overtime operations, and Sundays and/or holidays, as may be necessary to ensure the progress and completion of both the Work and the Project as reflected by the most recently approved Design-Builder's Construction Schedule.

§ 8.1.4 The Design-Builder shall achieve specific Contractual Milestone dates (if any), Substantial Completion, and Final Completion within the times stated in Exhibit "A" – Design Build Amendment, and such dates shall be adhered to and shall be the last acceptable dates for completion of Work required for those milestones and completions, unless and until modified by the Owner in writing.

§ 8.1.5 The Design-Builder understands and agrees that all Work must be performed in an orderly and closely coordinated sequence so that the dates for Contractual Milestones (if any), Substantial Completion, and Final Completion, may be met by the both the Design-Builder as well as the respective Multiple Prime Contractors.

§ 8.1.6 The Design-Builder shall also complete the Work in all of its details for final acceptance as expeditiously as possible after Substantial Completion.

§ 8.2 Delays and Extensions of Time

§ 8.2.1 If the Design-Builder is delayed at any time in the commencement or progress of the Work by an act or neglect of the Owner or of a consultant or separate contractor employed by the Owner; or by changes ordered in the Work by the Owner; or by labor disputes, fire, unusual delay in deliveries, transportation, unavoidable casualties or other causes beyond the Design-Builder's control; causes; or by delay authorized by the Owner pending mediation and binding dispute resolution or by other causes that the Owner determines may justify delay, then the Contract Time shall be extended by Change Order for such reasonable time as the Owner may determine.

§ 8.2.2 Claims relating to time shall be made in accordance with applicable provisions of Article 14.

§ 8.2.3 This Section 8.2 does not preclude recovery of damages for delay by either party under other provisions of the Design-Build Documents.

§ 8.2.4 Any claims for extension of time shall be made in writing to the Owner not more than ten (10) days after commencement of the delay; otherwise it shall be waived. In the case of a continuing delay only one claim is necessary. The Design-Builder shall provide an estimate of the probable effect of such delay on the progress of work within five (5) days of the first date the Design-Builder should reasonably be expected to have calculated the impact of such delay, but in no event more than fifteen (15) days after the commencement of the delay, with weekly updates to the impact if the delay is of an ongoing nature.

§ 8.2.5 Extensions of the Contract Time will be made for delays due to weather conditions only when such conditions are more severe and extended than those reflected by the ten (10) year average for the month as evidenced by the National Climatic Data Center's (NCDC's) Surface Data US at <https://www.ncdc.noaa.gov/cag/regional/mapping/-1/pcp/201804/60/value> or other data as mutually agreed by the Owner and Design-Builder for the Project area. In allowing delays for weather, the Owner will be entitled to consider weather conditions prevailing throughout the entire Contract period. Extensions of time due to weather or other allowable reasons will be granted on the basis actual impacts of those work days lost with each separate extension figured to the nearest whole calendar day. The extension of the contract completion time for weather conditions will occur only in the event that the weather in question affected critical activities on the most current Design-Builder's Construction Schedule, and at least one half of the work force allocated to that item of work was also adversely affected by the same weather conditions.

§ 8.3 Design-Builder's Obligations after Delay

§ 8.3.1 If either the Work actually in place falls behind as reflected by the currently updated Master Project Schedule or Design-Builder's Construction Schedule, or it becomes apparent or likely in the reasonable opinion of the Owner that the Work will not be completed within the Contract Time or in accordance with the Design-Builder's Construction Schedule, the Design-Builder agrees it shall, as necessary, take some or all of the following actions (hereinafter referred to collectively as "Extraordinary Measures") at no additional cost to the Owner, as required to substantially eliminate, in the judgement of the Owner, the backlog of Design-Builder's Work on the Project:

- .1 Increase quantities of, without limitation, labor, supervision, material deliveries, equipment on site, and crafts as necessary;
- .2 Increase the number of working hours per shift, shifts per working day, working days per week, or any combination of the foregoing;
- .3 Reschedule activities to achieve maximum practical concurrence of accomplishment; and
- .4 Do whatever else is reasonably required by the Owner.

§ 8.3.2 These Extraordinary Measures shall continue until the progress of the Work complies with the stage of completion required by the Design-Build Documents. The Owner's right to require Extraordinary Measures is solely for the purpose of ensuring the Design-Builder's compliance with the Design-Builder's Construction Schedule.

§ 8.3.3 In the event of a delay, the Owner may also require the Design-Builder to immediately submit a Proposed Recovery Schedule as specified in Section 8.3.1 above. If the Proposed Recovery Schedule is not satisfactory, the Owner may unilaterally establish a new Proposed Recovery Schedule acceptable to the Owner; issue it as a Construction Change Directive; and the Design-Builder shall comply therewith. The Owner may also require the Design-Builder to take any of the Extraordinary Measures to make up the lag in scheduled progress, all without additional cost to the Owner.

§ 8.3.4 Failure of the Design-Builder to substantially comply with the requirements of this Section 8.3 shall be considered grounds for a determination by the Owner that the Design-Builder is in breach of this Agreement by failing to prosecute the Work and that of the Project so as to ensure its completion within both the Contract Time and the updated Design-Builder's Construction Schedule.

§ 8.3.5 Likewise, in the event the progress of the Project falls behind the predictions of the Master Project Schedule through no fault of the Design-Builder, the Owner may request, and the Design-Builder agrees to take one or more of the Extraordinary Measures, with the Owner bearing the cost for such actions per Article 6 herein.

§ 8.3.6 The Design-Builder shall not be entitled to an adjustment in the Contract Sum in connection with Extraordinary Measures required by the Owner under or pursuant to this Section 8.3, except as specifically noted otherwise in Section 8.3.5.

§ 8.4 Owner's Rights after Delay

§ 8.4.1 Likewise, in the event the Design-Builder fails, or appears likely to fail, to complete a critical portion of Work on time or to complete a Contractual Milestone Date or completion date as evidenced by the most recently approved Design-Builder's Construction Schedule, the Owner shall have the right to impose any or all of the following options:

.1 Require the Design-Builder to substantiate the capability to get back on schedule within ten (10) business days;

.2 Require the Design-Builder to take some or all of the Extraordinary Measures, and do whatever else is required by the Owner until Design-Builder confirms, to the satisfaction of the Owner, the progress of the Work is in compliance and congruence with the most recently approved Design-Builder's Construction Schedule, such measures being at no extra cost to Owner;

.3 Withhold progress payment, or portions thereof, until such time as the Design-Builder is in compliance with the most recently approved Design-Builder's Project Schedule; and

.4 Contact or visit the factory, plant or distribution center whose production or delivery schedule may be critical to the scheduled completion of a portion of the contract work, and expedite same, at Design-Builder's expense.

§ 8.5 Liquidated Damages

§ 8.5.1 Should the Design-Builder fail to substantially complete the Work on, or before, the original date set forth in the Contract, or on or before the revised date as granted by extensions to Contract Time, the Owner may at its sole discretion permit the Design-Builder to proceed, and in such case, there shall be deducted from any monies due or which may become due the Design-Builder, a sum as specified herein, for each and every calendar day that the Work shall remain uncompleted. This sum shall be considered, not as penalty, but as the cost(s) for substantial losses suffered by the public and the Owner. Liquidated damages are intended to compensate the Owner for the Design-Builder's failure to meet the deadlines set forth herein, and shall not excuse the Design-Builder from liability from any other breach of requirements of the Contract Documents, including any failure of the Work to conform to applicable requirements. The Design-Builder agrees that the sums in Section 8.5.2 are reasonable in light of the anticipated or actual harm caused by the breach, the difficulties of the proof of loss, and the inconvenience or non-feasibility of otherwise obtaining an adequate remedy. Design-Builder further acknowledges and agrees that Liquidated Damages may be owing even though no termination has occurred.

[USE THIS LANGUAGE for PROJECTS with a SINGLE COST per DAY for LIQUIDATED DAMAGES:]

§ 8.5.2 The Design-Builder shall pay Owner [XXXX] dollars (\$ [X,XXX]) for each day that expires after the date set forth in the Contract for substantially completing the work to be "ready for use, beneficial occupancy and operation" by the Owner and [XXXX] dollars (\$ [X,XXX]) for each day that expires after the date set forth in the Contract for Final Completion of the Work.

[OR USE THIS LANGUAGE for PROJECTS with GRADUATED LIQUIDATED DAMAGES:]

[DELETE ONE]

Design-Builder shall pay as liquidated damages to the Owner: the sums shown in the table below for each calendar day that expires after the date set forth in the Contract for Final Completion of the Work.

<u>First Week Late</u>	<u>Second Week Late</u>	<u>Third & Fourth Weeks Late</u>	<u>Every Day After the Fourth Week Late</u>
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<u>\$500/day</u> <u>(Example)</u>	<u>\$750/day</u> <u>(Example)</u>	<u>\$1,000/day</u> <u>(Example)</u>	<u>\$2,000/day</u> <u>(Example)</u>
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[Best Practice Tip: Adjust these Liquidated Damages above to reflect the approximate project-specific cost and/or revenue impacts to the City of the facility's loss of use. Liquidated Damages must have some foundation in actual facts, and are not to be "punitive".]

§ 8.5.3 The parties acknowledge, covenant and agree that the daily basis and the amount set forth above for liquidated damages are reasonable and equitable due to increased Owner personnel efforts in administering the Contract; increased consultants' expenses; inconvenience and expense caused to Project stakeholders; and loss of confidence and diminished trust in the Owner's management abilities by the local and national community, the Owner's peers, and by financial institutions necessary to the Owner's future endeavors; all incurred by delays in the completion time.

§ 8.5.4 Permitting the Design-Builder to continue and finish the Work, or any portion thereof, after the time fixed for its completion, shall in no way operate as a waiver on the part of the Owner of any of its rights under the Contract. The Design-Builder acknowledges the Owner receives no benefits from early completion of the Project or the Work, therefore all rights, if any, to an early completion bonus or other increases in the Contract Sum for such early completion are hereby waived by the Design-Builder.

ARTICLE 9 PAYMENT APPLICATIONS AND PROJECT COMPLETION

§ 9.1 Contract Sum

The Contract Sum is stated in the Design-Build Amendment.

§ 9.2 Schedule of Values

~~Where the Contract Sum is based on a stipulated sum or Guaranteed Maximum Price, the Design-Builder, prior to the first Application for Payment after execution of the Design-Build Amendment shall submit to the Owner a schedule of values allocating Stipulated Sum or the Cost of the Work with a Guaranteed Maximum Price, the Design-Builder, meet with the Owner, at the Preconstruction Conference with a proposed Schedule of Values. The Design-Builder's Schedule of Values will be reviewed by the Owner in the context of the Design-Builder's proposed Construction Management Plan, including but not limited to the Design-Builder's Construction Schedule therein. The values assigned to each work activity in the Schedule of Values should be generated by the projected earned value of the activities in the Design-Builder's Construction Schedule, rounded to the nearest five dollars, and equal in aggregate to the Design-Builder's and Subcontractor's contract amount(s). The Schedule of Values shall allocate the entire Contract Sum to the various portions of the Work and be prepared in such form and supported by such additional data to substantiate its accuracy as the Owner may require. This schedule, Schedule of Values, unless objected to by the Owner, shall be used as a basis for reviewing the Design-Builder's Applications for Payment.~~

§ 9.3 Applications for Payment

§ 9.3.1 At least ten (10) days before the date established for each progress payment, the Design-Builder shall submit to the Owner an itemized Application for Payment for completed portions of the Work. The application shall be notarized, if required, and supported by data substantiating the Design-Builder's right to payment as the Owner may require, such as copies of requisitions from the Architect, Consultants, Contractors, and material suppliers, and shall reflect retainage if provided for in the Design-Build Documents. The form of Application for Payment shall be a notarized AIA Document G702, Application and Certification for Payment; supported by AIA Document G703, Continuation Sheet; and other documentation as reasonably required by the Owner; submitted electronically.

§ 9.3.1.1 As provided in Section 6.3.9, Applications for Payment may include requests for payment on account of changes in the Work that have been properly authorized by Change Directives, or by interim determinations of the Owner, but not yet included in Change Orders.

§ 9.3.1.2 Applications for Payment shall not include requests for payment for portions of the Work for which the Design-Builder does not intend to pay the Architect, Consultant, Contractor, material supplier, or other persons or entities providing services or work for the Design-Builder, unless such Work has been performed by others whom the Design-Builder intends to pay.

§ 9.3.1.3 Each Application for Payment shall be accompanied by the following, all in form and substance satisfactory to the Owner and in compliance with all applicable statutes:

- .1 A duly executed and acknowledged sworn statement showing all Subcontractors and material suppliers with whom the Design-Builder has entered into subcontracts, the amount of each such subcontract, the invoice from and the amount requested for any Subcontractor and material supplier in the requested Application for Payment, and the amount to be paid to the Design-Builder from such progress payment, together with similar sworn statements from all such Subcontractors and material suppliers;
- .2 Duly executed unconditional waivers of mechanics' and material suppliers' liens from all Subcontractors and, when appropriate, from material suppliers and lower tier Sub-subcontractors establishing payment or satisfaction of payment of all amounts requested by the Design-Builder on behalf of such entities or persons in any previous Application for Payment;
- .3 Duly executed waivers of mechanics' and material suppliers' liens from all Subcontractors and, when appropriate, from material suppliers and lower tier Sub-subcontractors conditional upon and establishing payment or satisfaction of payment of all amounts requested by the Design-Builder on behalf of such entities or persons in the current Application for Payment;
- .4 An updated Design-Builder's Construction Schedule clearly showing the actual progress of the Work for each activity against the Work previously scheduled to be completed during the period, and against targeted activities' previously approved completion dates; and
- .5 Notwithstanding the above, Applications for Payment shall be in a form and accompanied by supporting information with a level of detail wholly acceptable to the Owner, and shall include, at a minimum, an updated monthly Design-Builder's Construction Schedule clearly and graphically comparing the actual "work-in-place" completed to the Work previously projected to be complete for the period. Failure to provide this information in the proper form may be, in and of itself, grounds for rejection of the Application for Payment, at the discretion of the Owner.

§ 9.3.2 Unless otherwise provided in the Design-Build Documents, payments shall be made for services provided as well as materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed upon in writing. Payment for materials and equipment stored on or off the site shall be conditioned upon compliance by the Design-Builder with procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest, and stored materials and equipment are properly tagged as to material and job identification; are available for inspection by the Owner; and such requests for payment must be accompanied by documentary evidence as specified, without limitation, in Sections 5.9 and the insurance required by Exhibit "B" – Insurance and Bonds, which supports the request's validity; quantity and value of materials; proper material acceptance and storage; and including insurance on the materials as evidenced by a Certificate of Insurance or otherwise protects the Owner's interests. Such request, shall include the costs of applicable insurance, storage and transportation to the site for such materials and equipment stored off the site. Such materials shall be:

- .1 Protected from diversion, destruction, theft, and damage to the satisfaction of the Owner, and the Lender (if any);
- .2 Specifically marked for use on the Project; and
- .3 Segregated from other materials at the storage facility.

§ 9.3.3 The Design-Builder warrants that title to all ~~Work, other than Instruments of Service, Work covered by an Application for Payment will pass to the Owner no later than the time of payment, either by incorporation into the construction or receipt of payment by the Design-Builder, whichever occurs first.~~ The Design-Builder 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 Design-Builder's knowledge, information and belief, be free and clear of liens, claims, security interests or encumbrances in favor of the Design-Builder, Architect, Consultants, Contractors, material suppliers, or other persons or entities entitled to make a claim by reason of having provided labor, materials and equipment relating to the Work.

- .1 THE DESIGN-BUILDER FURTHER EXPRESSLY UNDERTAKES TO DEFEND THE INDEMNITEES, AT THE DESIGN-BUILDER'S SOLE EXPENSE, AGAINST ANY ACTIONS, LAWSUITS, OR PROCEEDINGS BROUGHT AGAINST THE INDEMNITEES AS A RESULT OF LIENS OR VERIFIED CLAIMS FILED AGAINST THE WORK, THE SITE OF ANY OF THE WORK, THE PROJECT SITE AND ANY IMPROVEMENTS THEREON, PAYMENTS DUE THE DESIGN-BUILDER, THE PROJECT BOND OR ANY PORTION OF THE PROPERTY OF ANY OF THE INDEMNITEES (REFERRED TO COLLECTIVELY AS "LIENS OR VERIFIED CLAIMS" IN THIS SECTION 9.3.3). THE DESIGN-BUILDER HEREBY AGREES TO INDEMNIFY AND HOLD THE INDEMNITEES HARMLESS AGAINST ANY SUCH LIENS OR VERIFIED CLAIMS AND AGREES TO PAY ANY JUDGMENT OR LIENS OR VERIFIED CLAIMS RESULTING FROM ANY SUCH ACTIONS, LAWSUITS, OR PROCEEDINGS.
- .2 The Owner shall release any payments withheld due to a lien or verified claim if the Design-Builder obtains security acceptable to the Owner or a lien bond that is (1) issued by a surety acceptable to the Owner, (2) in form and substance satisfactory to the Owner, and (3) in an amount not less than two hundred percent (200%) of such lien or verified claim or such other amount as required by applicable law. By posting a lien bond or other acceptable security, however, the Design-Builder shall not be relieved of any responsibilities or obligations under this Section 9.3.3, including, without limitation, the duty to defend and indemnify the Indemnitees. The cost of any premiums incurred in connection with such bonds and security shall be the responsibility of the Design-Builder and shall not be part of, or cause any adjustment to, the Contract Sum.
- .3 Notwithstanding the foregoing, the Owner reserves the right to settle any disputed lien or verified claim by payments to the claimant or by such other means as the Owner, in the Owner's sole discretion, determines is the most economical or advantageous method of settling the dispute. The Design-Builder shall promptly reimburse the Owner, upon demand, for any payments so made if the amount paid exceeds the amount remaining owed under the subcontract.

§ 9.4 Certificates for Payment

The Owner shall, within seven (7) days after receipt of the Design-Builder's Application for Payment, issue to the Design-Builder a Certificate for Payment indicating the amount the Owner determines is properly due, and notify the Design-Builder in writing of the Owner's reasons for withholding certification in whole or in part as provided in Section 9.5.1.

§ 9.4.1 The issuance of a Application for Payment will constitute a representation by the Design-Builder to the Owner, based on the Design-Builder's evaluation of the Work and the data comprising the Application for Payment, that, to the best of the Design-Builder's knowledge, information and belief, the Work has progressed to the point indicated and that the quality of the Work is in accordance with the Design-Build Documents. The foregoing representations are subject to an evaluation of the Work for conformance with the Design-Build Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Design-Build Documents prior to completion and to specific qualifications expressed by the Design-Builder. The issuance of a Certificate for Payment will further constitute a representation that the Design-Builder is entitled to payment in the amount certified.

§ 9.4.2 Certification will be issued for ninety-five percent (95%) of the amount requested by the Design-Builder and approved by the Owner to be properly due until the Design-Builder is ninety-five percent (95%) completed with the Work. Thereafter, the accumulated retainage may be held without additional retainage, except that should the Design-Builder at any time fail to keep current with the approved progress schedule; fail to assure payment to Subcontractors, Sub-subcontractors and suppliers as required hereunder; or fails to promptly and diligently correct Work that does not comply with the Design-Build Documents, certification of ninety-five percent (95%) shall automatically again become effective and shall apply as long as the Design-Builder lags behind such progress or fails to assure such payment.

§ 9.5 Decisions to Withhold Certification

§ 9.5.1 The Owner may withhold a Certificate for Payment in whole or in part to the extent reasonably necessary to protect the Owner due to the Owner's determination that the Work has not progressed to the point indicated in the Design-Builder's Application for Payment, or the quality of the Work is not in accordance with the Design-Build

Documents. If the Owner is unable to certify payment in the amount of the Application, the Owner will notify the Design-Builder as provided in Section 9.4. If the Design-Builder and Owner cannot agree on a revised amount, the Owner will promptly issue a Certificate for Payment for the amount that the Owner deems to be due and owing. The Owner may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued to such extent as may be necessary to protect the Owner from loss for which the Design-Builder is responsible because of

- .1 defective Work, including design and construction, not remedied;
- .2 third party claims filed or reasonable evidence indicating probable filing of such claims unless security acceptable to the Owner is provided by the Design-Builder;
- .3 failure of the Design-Builder to ~~make~~ assure payments properly to the Architect, Consultants, Contractors or others, for services, labor, materials or equipment;
- .4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
- .5 damage to the Owner or a separate contractor;
- .6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
- .7 repeated failure to carry out the Work in accordance with the Design-Build Documents.
- .8 Design-Builder's failure to obtain necessary permits or licenses or to comply with applicable codes, regulations, or other laws;
- .9 failure to fully execute the Contract with all associated documents as required;
- .10 liens filed for any portion of the Work; or
- .11 failure of the Design-Builder to comply with any provisions of the Design-Build Documents, including without limitation Section 8.3.

§ 9.5.2 When the above reasons for withholding certification are removed, certification will be made for amounts previously withheld. previously withheld less all associated damages, costs and expenses, suffered or accrued by the Owner. In the event the Owner nullifies a previously issued Certificate for Payment, and the Owner has, prior to such nullification, paid thereon, the Design-Builder shall promptly reimburse to the Owner amounts the latter had paid pursuant to the nullified Certificate for Payment. Alternately, the Owner may withhold payment in any subsequent Application for Payment, until and unless the reasons for nullification of the previously issued Certificate for Payment have been remedied and all associated damages, costs, and expenses of Owner have been paid by the Design-Builder.

§ 9.5.3 If the Owner withholds certification for payment under Section 9.5.1.3, the Owner may, at its sole option, issue joint checks to the Design-Builder and to the Architect or any Consultants, Contractor, material or equipment suppliers, or other persons or entities providing services or work for the Design-Builder to whom the Design-Builder failed to make payment for Work properly performed or material or equipment suitably delivered.

§ 9.5.4 The Design-Builder shall not stop work or terminate the Contract if the Owner's Lender (if any) should refuse to issue any certificate because the Application for Payment does not conform with the requirements of Sections 9.3, 9.4, 9.5 or any other portion of these General Conditions, as supplemented herein.

§ 9.6 Progress Payments

§ 9.6.1 After the Owner has issued a Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the Design-Build Documents.

§ 9.6.2 The Design-Builder shall pay each Architect, Consultant, Contractor, and other person or entity providing services or work for the Design-Builder no later than the time period required by applicable law, but in no event more than seven (7) days after receipt of payment from the Owner the amount to which the Architect, Consultant, Contractor, and other person or entity providing services or work for the Design-Builder is entitled, reflecting percentages actually retained from payments to the Design-Builder on account of the portion of the Work performed by the Architect, Consultant, Contractor, or other person or entity. The Design-Builder shall, by appropriate agreement with each Architect, Consultant, Contractor, and other person or entity providing services or work for the Design-Builder, require each Architect, Consultant, Contractor, and other person or entity providing services or work for the Design-Builder to make payments to subconsultants and subcontractors in a similar manner.

§ 9.6.3 The Owner will, on request and if practicable, furnish to the Architect, a Consultant, Contractor, or other person or entity providing services or work for the Design-Builder, information regarding percentages of completion or amounts applied for by the Design-Builder and action taken thereon by the Owner on account of portions of the Work

done by such Architect, Consultant, Contractor or other person or entity providing services or work for the Design-Builder.

§ 9.6.4 The Owner has the right to request written evidence from the Design-Builder that the Design-Builder has properly paid the Architect, Consultants, Contractors, or other person or entity providing services or work for the Design-Builder, amounts paid by the Owner to the Design-Builder for the Work. If the Design-Builder fails to furnish such evidence within seven (7) days, the Owner shall have the right to contact the Architect, Consultants, and Contractors to ascertain whether they have been properly paid. The Owner shall have no obligation to pay or to see to the payment of money to a Consultant or Contractor, except as may otherwise be required by law.

§ 9.6.5 Design-Builder payments to material and equipment suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.

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

§ 9.6.7 ~~Unless the Design-Builder provides the Owner with a payment bond in the full penal sum of the Contract Sum, payments~~ The Design-Builder shall not withhold from any Subcontractor sums due the Subcontractor for completed Work which has been paid for by the Owner. Sums withheld by the Owner from the Design-Builder for deficiencies solely attributable to the Design-Builder shall not be grounds for the Design-Builder to withhold sums due to any Subcontractor. All sums paid to the Design-Builder for labor, materials, or equipment for the Work or Project shall be considered trust funds to be used by the Design-Builder for payment to those persons and entities to the extent providing labor, materials and/or equipment incorporated into the Work or Project. Payments received by the Design-Builder for Work properly performed by the Architect, Consultants, Contractors and other person or entity providing services or work for the Design-Builder, shall be held by the Design-Builder for the Architect and those Consultants, Contractors, or other person or entity providing services or work for the Design-Builder, for which payment was made by the Owner. ~~Nothing~~ However, notwithstanding the above, nothing contained herein shall require money to be placed in a separate account and not commingled with money of the Design-Builder, shall create any fiduciary liability or tort liability on the part of the Design-Builder for breach of trust or shall entitle any person or entity to an award of punitive damages against the Design-Builder for breach of the requirements of this provision. In addition to this contractual trust requirement, Design-Builder understands and acknowledges that all payments under this Contract are considered construction trust fund payments for the purposes of application of Chapter 162 of the Texas Property Code.

§ 9.6.8 The Design-Builder agrees to keep the Work and the site of the Project and all project bonds free and clear of all liens and verified claims related to labor and materials furnished in connection with the Work.

§ 9.6.9 Notwithstanding anything to the contrary contained in the Design-Build Documents, if any lien or verified claim is filed or there is evidence to believe that any lien or verified claim may be filed at any time during the progress of the Work or the duration of this Contract, the Owner may refuse to make any payment otherwise due the Design-Builder or may withhold from any payment due the Design-Builder a sum sufficient in the opinion of the Owner to pay all obligations and expenses necessary to satisfy such lien or verified claim. The Owner may withhold such payment unless or until the Design-Builder, within ten (10) calendar days after demand therefore by the Owner, shall furnish satisfactory evidence that the indebtedness and any lien or verified claim in respect thereof has been satisfied, discharged, and released of record, or that the Design-Builder has legally caused such lien or verified claim to be released of record pending the resolution of any dispute between the Design-Builder and the person or persons filing the lien or verified claim. If the Design-Builder fails to furnish satisfactory evidence within ten (10) calendar days of the demand thereof, the Design-Builder and the Owner shall meet within two (2) additional business days to review and agree in writing on the Design-Builder's action plan for disposing of the lien or verified claim in question. Failing an agreement satisfactory to the Owner, the Owner may discharge such indebtedness in any manner and may deduct the amount thereof, together with any and all losses, costs, damages, and attorney's fees suffered or incurred by the Owner from any sum payable to the Design-Builder under the Design-Build Documents, including but not limited to final payment and retained amounts.

§ 9.6.10 If the Owner is entitled to reimbursement or payment from the Design-Builder under or pursuant to the Design-Build Documents, such payment shall be made promptly upon demand by the Owner. Notwithstanding anything contained in the Design-Build Documents to the contrary, if the Design-Builder fails to promptly make any payment due the Owner, or if the Owner incurs any costs and expenses to cure any default of the Design-Builder or to

correct defective Work, the Owner shall have an absolute right to offset such amount against the Contract Sum and may, at the Owner's sole discretion, elect either to (i) deduct an amount equal to that which the Owner is entitled from any payment then or thereafter due the Design-Builder from the Owner, or (ii) issue a written notice to the Design-Builder reducing the Contract Sum by an amount equal to that which the Owner is entitled.

§ 9.7 Failure of Payment

If the Owner does not issue a Certificate for Payment, through no fault of the Design-Builder, within the time required by the Design-Build Documents, then the Design-Builder may, upon seven (7) additional days' written notice to the Owner, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Design-Builder's reasonable costs of shut-down, delay and start-up, plus interest as provided for in the Design-Build Documents.

§ 9.8 Substantial Completion

§ 9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Design-Build Documents so that the Owner can occupy or utilize the Work for its intended use. The date of Substantial Completion is the date certified by the Owner in accordance with this Section 9.8-use, all major systems are operational, and all safety features are completed and Owner's receipt of written confirmation after final inspections by the applicable electrical, plumbing, fire department, health department, and other local and state officials having jurisdiction, stating the project is ready for occupancy by the Owner. In addition to the other requirements of the Design-Build Documents, and without limitation the Design-Builder must also have obtained the written approval and issuance of any occupancy permits required by the laws of local government(s) and the State of Texas before the Contractor shall be deemed to have achieved Substantial Completion.

§ 9.8.2 When the Design-Builder considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Design-Builder shall prepare and submit to the Owner a comprehensive list of items to be completed or corrected prior to final payment. The Design-Builder shall proceed promptly to complete and correct items on the list. Failure to include an item on such list does not alter the responsibility of the Design-Builder to complete all Work in accordance with the Design-Build Documents. The Design-Builder will also provide the Owner a comprehensive list of all claims previously and properly made in writing and identified by the Design-Builder as unsettled at the time of Substantial Completion.

§ 9.8.3 Upon receipt of the Design-Builder's list, the Owner shall make an inspection observation to determine whether the Work or designated portion thereof is substantially complete. If the Owner's inspection observation discloses any item, whether or not included on the Design-Builder's list, which is not sufficiently complete in accordance with the Design-Build Documents so that the Owner can occupy or utilize the Work or designated portion thereof for its intended use, the Design-Builder shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Owner. In such case, the Design-Builder shall then submit a request for another inspection observation by the Owner to determine Substantial Completion.

§ 9.8.4 Prior to issuance of the Certificate of Substantial Completion under Section 9.8.5, the Owner and Design-Builder shall discuss and then determine the parties' obligations to obtain and maintain property insurance following issuance of the Certificate of Substantial Completion. Such determination shall be documented in writing by the Design-Builder; provided to the Owner for approval.

§ 9.8.5 When the Work or designated portion thereof is substantially complete, the Design-Builder will prepare for the Owner's signature a Certificate of Substantial Completion that shall, upon the Owner's signature, establish the date of Substantial Completion; establish responsibilities of the Owner and Design-Builder for security, maintenance, heat, utilities, damage to the Work and insurance; and fix the time within which the Design-Builder shall finish all items on the list accompanying the Certificate. Warranties required by the Design-Build Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 9.8.6 The Certificate of Substantial Completion shall be submitted by the Design-Builder to the Owner for written acceptance of responsibilities assigned to it in the Certificate. Upon the Owner's acceptance, and consent of surety, if any, the Owner shall make payment of retainage applying to the Work or designated portion thereof. Payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Design-Build Documents.

§ 9.8.6 The Design-Builder's acceptance of payment per Section 9.8.5 shall constitute a waiver for all purposes of all claims by the Design-Builder against the Owner, except those previously and properly made in writing and identified in the list provided by the Design-Builder as unsettled at the time of Substantial Completion per Sections 9.8.2.

§ 9.9 Partial Occupancy or Use

§ 9.9.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Design-Builder, provided such occupancy or use is consented to, by endorsement or otherwise, by as such occupancy or use has been consented to by the Design-Builder in advance herein, the Design-Builder shall obtain by endorsement or otherwise, similar consent from the insurer providing property insurance and authorized by secure authorization for such use from the public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Design-Builder have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Design-Build Documents. When the Design-Builder considers a portion substantially complete, the Design-Builder shall prepare and submit a list to the Owner as provided under Section 9.8.2. Consent of the Design-Builder to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Design-Builder.

§ 9.9.2 Immediately prior to such partial occupancy or use, the Owner and Design-Builder shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

§ 9.9.3 Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Design-Build Documents.

§ 9.10 Final Completion and Final Payment

§ 9.10.1 Upon receipt of the Design-Builder's written notice that the Work is ready for final inspection-observation and acceptance and upon receipt of a final Application for Payment, the Owner will promptly make such inspection-observation. When the Owner finds the Work acceptable under the Design-Build Documents and the Contract fully performed, the Owner will, subject to Section 9.10.2, promptly issue a final Certificate for Payment.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Design-Builder submits to the Owner (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work, for which the Owner or the Owner's property might be responsible or encumbered, (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Design-Build Documents to remain in force after final payment is currently in effect, and will not be cancelled or allowed to expire until at least forty-five (45) days written notice is given the Owner, (3) a written statement that the Design-Builder knows of no substantial reason that the insurance will not be renewable to cover the period required by the Design-Build Documents, (4) consent of surety, if any, to final payment, (5) as-constructed record copy of the Construction Documents marked to indicate field changes and selections made during construction, (6) manufacturer's warranties, product data, and maintenance and operations manuals, and (7) if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts, or releases and waivers of liens, claims, security interests, or encumbrances, arising out of the Contract, to the extent and in such form as may be designated by the Owner. If an Architect, a Consultant, or a Contractor, or other person or entity providing services or work for the Design-Builder, refuses to furnish a release or waiver required by the Owner, the Design-Builder may furnish a bond satisfactory to the Owner to indemnify the Owner against such liens, claims, security interests, or encumbrances. If such liens, claims, security interests, or encumbrances remains unsatisfied after payments are made, the Design-Builder shall refund to the Owner all money that the Owner may be compelled to pay in discharging such liens, claims, security interests, or encumbrances, including all costs and reasonable attorneys' fees.

§ 9.10.2.1 In addition to items listed in 9.10.2 to be submitted before Final Payment will be made or remaining retainage released, Design-Builder shall deliver a permanent certificate of occupancy from local authorities having jurisdiction.

§ 9.10.3 If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Design-Builder or by issuance of Change Orders affecting final completion, the Owner shall, upon application by the Design-Builder, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed and accepted. If the remaining balance for Work not fully completed or corrected is less than

retainage stipulated in the Design-Build Documents, and if bonds have been furnished, the written consent of surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Design-Builder to the Owner prior to issuance of payment. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of claims.

§ 9.10.4 The making of final payment shall constitute a waiver of Claims by the Owner except those arising from

- .1 ~~liens, Claims, bond claims, Claims, liquidated damages,~~ security interests or encumbrances arising out of the Contract and unsettled;
- .2 failure of the Work to comply with the requirements of the Design-Build Documents; or
- .3 terms of special warranties required by the Design-Build Documents by the Design-Build Documents;
- .4 audits performed by the Owner, if permitted by the Design-Build Documents, after final payment; or
- .5 gross negligence, willful misconduct, or fraudulent concealment in connection with the performance of the Contract.

§ 9.10.5 ~~Acceptance Application~~ for and acceptance of final payment by the Design-Builder shall constitute a waiver of claims by the Design-Builder ~~against the Owner~~ except those previously made in writing and identified by the Design-Builder as ~~unsettled at the time of final Application for Payment arising after the waiver given at Substantial Completion~~ payment described in Sections 9.8.2 and 9.8.6.

§ 9.10.6 In addition to any other damages, failure of the Design-Builder to achieve final completion within sixty (60) days after the specified date of Substantial Completion, subject to authorized extensions, will result in the Design-Builder being responsible for excess Owner's consultant(s)' fees beyond their original scope of services required to achieve final completion ("Excess Fees"). Excess Fees will be deducted from the amount due the Design-Builder.

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

§ 10.1 Safety Precautions and Programs

The Design-Builder shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of the Contract. Design-Builder's and all Subcontractors' Safety Programs shall comply with all applicable requirements of the Occupational Safety and Health Act of 1970, and all other applicable state, local, or federal laws or regulations.

§ 10.2 Safety of Persons and Property

§ 10.2.1 The Design-Builder shall be responsible for precautions for the safety of, and reasonable protection to prevent damage, injury or loss to all of the following:

- .1 employees on the Work and other persons who may be affected thereby;
- .2 the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody or control of the Design-Builder or the Architect, Consultants, or Contractors, or other person or entity providing services or work for the Design-Builder; and
- .3 other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, or structures and utilities not designated for removal, relocation or replacement in the course of construction.

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

§ 10.2.3 The Design-Builder shall implement, erect, and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations, and notify owners and users of adjacent sites and utilities of the safeguards and protections. The Design-Builder shall also be responsible, at the Design-Builder's sole cost and expense, for all measures necessary to protect any property adjacent to the Project and improvements therein. Any damage to such property or improvements shall be promptly repaired by the Design-Builder.

§ 10.2.4 When use or storage of explosives or other hazardous materials or equipment, or unusual methods, are necessary for execution of the Work, the Design-Builder shall exercise utmost care, and carry on such activities under supervision of properly qualified ~~personnel~~ personnel, and the Design-Builder shall give the Owner reasonable advance written notice of such planned activities.

§ 10.2.5 The Design-Builder shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Design-Build Documents) to property referred to in Sections 10.2.1.2 and 10.2.1.3, caused in whole or in part by the Design-Builder, the Architect, a Consultant, a Contractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Design-Builder is responsible under Sections 10.2.1.2 and 10.2.1.3; except damage or loss attributable to acts or omissions of the Owner, or anyone directly or indirectly employed by the Owner, or by anyone for whose acts the Owner may be liable, and not attributable to the fault or negligence of the Design-Builder. The foregoing obligations of the Design-Builder are in addition to the Design-Builder's obligations under Section 3.1.14.

§ 10.2.6 The Design-Builder shall designate a responsible member of the Design-Builder's organization, at the site, whose duty shall be the prevention of accidents. This person shall be the Design-Builder's superintendent unless otherwise designated by the Design-Builder in writing to the Owner.

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

§ 10.2.8 **Injury or Damage to Person or Property.** If the Owner or Design-Builder suffers injury or damage to person or property because of an act or omission of the other, or of others for whose acts such party is legally responsible, written notice of the injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding 24 twenty-one (21) days after discovery. The notice shall provide sufficient detail to enable the other party to investigate the matter.

§ 10.2.9 The Design-Builder shall immediately report in writing to the Owner all accidents arising out of or in connection with the Work that cause death, personal injury, or property damage, giving full details and statements of any witnesses. In addition, if death, serious personal injuries, or serious damages are caused, the accident shall be reported immediately electronically, as well as by telephone or messenger to the Owner.

§ 10.3 Hazardous Materials

§ 10.3.1 Hazardous materials include any material in such quantity, concentration, and physical or chemical characteristics including but not limited to ignitability or toxicity, so as to be capable of posing an unreasonable risk to health, safety and/or property if released into the atmosphere, transported, stored, or disposed of. The Design-Builder is responsible for compliance with any requirements included in the Design-Build Documents regarding hazardous materials. If the Design-Builder encounters a hazardous material or substance not addressed in the Design-Build Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Design-Builder, the Design-Builder shall, upon recognizing the condition, immediately stop Work in the affected area and report the condition to the Owner in writing.

§ 10.3.2 Upon receipt of the Design-Builder's written notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Design-Builder and, in the event such material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Design-Build Documents, the Owner shall furnish in writing to the Design-Builder the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of such material or substance or who are to perform the task of removal or safe containment of such material or substance. The Design-Builder will promptly reply to the Owner in writing stating whether or not the Design-Builder has reasonable objection to the persons or entities proposed by the Owner. If the Design-Builder has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Design-Builder has no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Design-Builder. By ~~Change Order~~, Order duly processed and approved, the Contract Time shall be extended appropriately and the Contract Sum shall be increased in the amount of the Design-Builder's reasonable additional costs of shut-down, delay and ~~start-up~~.

§ 10.3.3 ~~To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Design-Builder, the Architect, Consultants, and Contractors, and employees of any of them, from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area, if in fact the material or substance presents the risk of bodily injury or death as described in Section 10.3.1 and has not been rendered harmless, provided that such claim, damage, loss or expense is attributable to~~

bodily injury, sickness, disease or death, or to injury to, or destruction of, tangible property (other than the Work itself), except to the extent that such damage, loss or expense is due to the fault or negligence of the party seeking indemnity-start-up, both as specified in Article 6. The term "rendered harmless" shall be interpreted to mean, without limitation that levels of hazardous materials, including but not limited to asbestos and polychlorinated biphenyls, are less than any applicable exposure standards set forth in OSHA regulations. In no event, however, shall the Owner have any responsibility for any substance or material that is brought to the Project site by the Design-Builder, any Subcontractor, any material supplier, or any entity for whom any of them is responsible. The Design-Builder agrees not to use any fill or other materials to be incorporated into the Work that are hazardous, toxic, or made up of any items that are hazardous or toxic.

§ 10.3.3 Not Used.

§ 10.3.4 The Owner shall not be responsible under this Section 10.3 for materials or substances the Design-Builder brings to the site unless such materials or substances are required by the Owner's Criteria. The Owner shall be responsible for materials or substances required by the Owner's Criteria, except to the extent of the Design-Builder's fault or negligence in the use and handling of such materials or substances.

§ 10.3.5 The Design-Builder shall indemnify the Owner for the cost and expense the Owner incurs (1) for remediation of a material or substance the Design-Builder brings to the site and negligently handles, or (2) where the Design-Builder fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence.

§ 10.3.6 If, without negligence on the part of the Design-Builder, the Design-Builder is held liable by a government agency for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Design-Build Documents, the Owner shall indemnify the Design-Builder for all cost and expense thereby incurred.

§ 10.4 Emergencies

In an emergency affecting safety of persons or property, the Design-Builder shall act, at the Design-Builder's discretion, to prevent threatened damage, injury or loss.

§ 10.5 Site Visits

Anyone other than the Owner's designated representatives and other consultants visiting the job site who is not employed by a Design-Builder shall be required to register with the Design-Builder's site office before proceeding onto the job site.

ARTICLE 11 UNCOVERING AND CORRECTION OF WORK

§ 11.1 Uncovering of Work

The Owner may request to examine a portion of the Work that the Design-Builder has covered to determine if the Work has been performed in accordance with the Design-Build Documents. If such Work is in accordance with the Design-Build Documents, the Owner and Design-Builder shall execute a Change Order to adjust the Contract Time and Contract Sum, as appropriate. If such Work is not in accordance with the Design-Build Documents, the costs of uncovering and correcting the Work shall be at the Design-Builder's expense and the Design-Builder shall not be entitled to a change in the Contract Time unless the condition was caused by the Owner or a separate contractor in which event the Owner shall be responsible for payment of such costs and the Contract Time will be adjusted as appropriate.

§ 11.2 Correction of Work

§ 11.2.1 Before or After Substantial Completion. The Design-Builder shall promptly correct Work rejected by the Owner or failing to conform to the requirements of the Design-Build Documents, whether discovered before or after Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, specifically including but not limited to additional testing and inspections, the cost of uncovering and replacement, replacement the cost of any additional supervision, material, labor, equipment, rental charges, home office overhead, and other expenditures necessitated to both rectify the non-complying conditions, protect adjacent Work of both the Design-Builder and the Project, and restore Work by the Design-Builder and others necessarily damaged in the course of rectifying the non-complying conditions; as well as, and compensation for any design consultant employed by the Owner whose expenses and compensation were made necessary thereby, shall be at the Design-Builder's expense.

§ 11.2.1.1 If prior to the date of Substantial Completion the Design-Builder, a Subcontractor, or anyone for whom either is responsible uses or damages any portion of the Work, including, without limitation, mechanical, electrical, plumbing, and other building systems, machinery, equipment, or other mechanical device, the Design-Builder shall cause such item to be restored to "like new" condition at no expense to the Owner. In addition, the Design-Builder shall promptly remedy damage and loss arising in conjunction with the Project caused in whole or in part by the Design-Builder, a Subcontractor, a Sub-subcontractor, supplier, or anyone directly or indirectly employed by any of them, or anyone for whose acts they may be liable or for which the Design-Builder is otherwise responsible.

§ 11.2.2 After Substantial Completion

§ 11.2.2.1 In addition to the Design-Builder's obligations under Section 3.1.12, if, within one year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.9.1, or by terms of an applicable special warranty required by the Design-Build Documents, or within such longer period as may be prescribed by law, any of the Work is found not to be in accordance with the requirements of the Design-Build Documents, the Design-Builder shall correct it promptly after receipt of written notice from the Owner to do so unless the Owner has previously given the Design-Builder a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. ~~During~~ If the condition is reasonably discoverable, during the one-year period for correction of the Work, ~~if and~~ the Owner fails to notify the Design-Builder and give the Design-Builder an opportunity to make the correction, the Owner waives the rights to require correction by the Design-Builder and to make a claim for breach of warranty. If the Design-Builder fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner, the Owner may correct it in accordance with ~~Section 7.9.~~ Section 7.9, and charge the reasonable costs to the Design-Builder.

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

~~§ 11.2.2.3 The one-year period for correction of Work shall not be extended by corrective Work performed by the Design-Builder pursuant to this Section 11.2.~~

~~§ 11.2.3 The Design-Builder shall remove from the site portions of the Work that are not in accordance with the requirements of the Design-Build Documents and are neither corrected by the Design-Builder nor accepted by the Owner.~~ Section 11.2, but only with respect to the corrected portions of the Work.

§ 11.2.2.3 Not Used.

§ 11.2.3 Not Used.

§ 11.2.4 The Design-Builder shall bear the ~~cost~~ costs of correcting destroyed or damaged construction of the Owner or separate contractors, whether completed or partially completed, caused by the Design-Builder's correction or removal of Work that is not in accordance with the requirements of the Design-Build Documents. These costs specifically include, but are not limited to such additional supervision, material, labor, equipment rental charges, home office overhead, and other expenditures necessitated to both rectify the non-complying conditions, protect adjacent Work, and restore Work by the Design-Builder and others necessarily damaged in the course of rectifying the non-complying conditions.

§ 11.2.5 Nothing contained in this Section 11.2 shall be construed to establish a period of limitation with respect to other obligations the Design-Builder has under the Design-Build Documents. Establishment of the one-year period for correction of Work as described in Section 11.2.2 relates only to the specific obligation of the Design-Builder to correct the Work, and has no relationship to the time within which the obligation to comply with the Design-Build Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Design-Builder's liability with respect to the Design-Builder's obligations other than specifically to correct the Work.

§ 11.2.6 The Design-Builder's obligations under this Section 11.2 shall, without limitation, survive acceptance of the Work under the Contract and termination of the Contract.

§ 11.3 Acceptance of Nonconforming Work

If the Owner prefers to accept Work that is not in accordance with the requirements of the Design-Build Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made. In the event final payment has been made by the Owner subsequent to accepting such non-conforming Work, the Design-Builder shall pay the Owner, the reduction in the Contract Sum occasioned by such acceptance.

ARTICLE 12 COPYRIGHTS AND LICENSES OWNERSHIP & USE OF DRAWINGS, SPECIFICATIONS, & OTHER DESIGN DOCUMENTS

§ 12.1 Drawings, specifications, and other documents furnished by the Design-Builder, including those in electronic form, are Instruments of Service. The Design-Builder, and the Architect, Consultants, Contractors, and any other person or entity providing services or work for any of them, shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and shall retain all common law, statutory and other reserved rights, including copyrights. Submission or distribution of Instruments of Service to meet official regulatory requirements, or for similar purposes in connection with the Project, is not to be construed as publication in derogation of the reserved rights of the Design-Builder and the Architect, Consultants, and Contractors, and any other person or entity providing services or work for any of them. are Design Documents. Design Documents are the product of work made for hire. These are and shall remain the sole property of the Owner. The Design-Builder assigns to Owner all remaining proprietary rights that the Design-Builder may possess in the Design Documents including, without limitation, all copyright and other intellectual property rights. Disputes between the parties shall not impact this transfer of ownership, neither will a termination of this Agreement. In the event of a dispute between the parties regarding payment for Basic or Additional Services, the Design-Builder is not obligated to deliver additional Design Documents or services for which it claims that it has not been paid, but the Owner's right to use the Design Documents and other services in its possession shall not be restricted.

§ 12.2 The Design-Builder and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project. Project is the property of the Owner, and, without limitation, the Design-Builder may not use the Design Documents for any purpose not related to the Project without the Owner's prior written consent.

§ 12.3 Upon execution of the Agreement, the Design-Builder grants to the Owner a limited, irrevocable and non-exclusive license to use the Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner substantially performs its obligations, including prompt payment of all sums when due, under the Design-Build Documents. The license granted under this section permits the Owner to authorize its consultants and separate contractors to reproduce applicable portions of the Instruments of Service solely and exclusively for use in performing services or construction for the Project. If the Design-Builder rightfully terminates this Agreement for cause as provided in Section 13.1.4 or 13.2.1 the license granted in this Section 12.3 shall terminate. Design-Builder, the Architect, Consultants, Subcontractor and any other person or entity providing services or work for any of them are authorized to use and reproduce the Design Documents provided to them solely and exclusively for execution of the Work. All copies made under this authorization shall bear the copyright notice, if any, shown on the Design Documents. The Design-Builder, Architect, Consultants, Subcontractor and any other person or entity providing services or work for any of them may not use the Design Documents on other projects or for additions to this Project outside the scope of the Work without the specific written consent of the Owner.

§ 12.3.1 The Design-Builder shall obtain non-exclusive licenses from include in its agreements with the Architect, Consultants, and Contractors, Subcontractors, commitments that will allow the Design-Builder to satisfy its obligations to the Owner under this Article 12. The Design-Builder's licenses from the Architect and its Consultants and Contractors shall also allow the Owner, in the event this Agreement is terminated for any reason other than the default of the Owner or in the event the Design-Builder's Architect, Consultants, or Contractors terminate their agreements with the Design-Builder for cause, to obtain a limited, irrevocable and non-exclusive license solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner (1) agrees to pay to the Architect, Consultant or Contractor all amounts due, and (2) provide the Architect, Consultant or Contractor with the Owner's written agreement to indemnify and hold harmless the Architect, Consultant or Contractor from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's alteration or use of the Instruments of Service.

§ 12.3.2 In the event the Owner alters the Instruments of Service-Design Documents without the author's written authorization or uses the Instruments of Service-Design Documents without retaining the authors of the Instruments of Service-Design Documents, the Owner releases the Design-Builder, Architect, Consultants, Contractors and any other person or entity providing services or work for any of them, from all claims and causes of action arising from or related to such uses. The Owner, to the extent permitted by law, further agrees to indemnify and hold harmless the Design-Builder, Architect, Consultants, Contractors and any other person or entity providing services or work for any of them, from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's alteration or use of the Instruments of Service under this Section 12.3.2. The terms of this Section 12.3.2 shall not apply if the Owner rightfully terminates this Agreement for cause under Sections 13.1.4 or 13.2.2.

§ 12.4 When requested by the Owner, the Design-Builder shall furnish to the Owner the most current Design Documents, to include, without limitation all the most current drawings, design and engineering calculations, specifications, and any other information which the Design-Builder, Architect or the Design-Builder's Consultant(s) have created in connection with or for the Project. At a minimum this information shall be provided in electronic format compatible with the most recent versions of the industry standard software for such information. Specifically, drawings shall be compatible with AutoCADD; design and engineering calculations compatible with MS Excel; and specifications with MS Word. All layers and information shall be fully accessible (not "PDF", "protected", or "plot" files).

§ 12.5 Submittal or distribution of the Design Documents or any portion thereof to meet official regulatory requirements or for other purposes in connection with this Project is not to be construed as publication in derogation of the Owner's reserved rights.

§ 12.6 The Design-Builder, at any time upon the request of the Owner, shall immediately return and surrender to the Owner, without limitation, all electronic and hard copies of any Project-related materials, records, notices, memoranda, recordings, drawings, specifications, mock-ups and any other documents furnished by the Architect to the Design-Builder.

§ 12.7 The representations and warranties contained in the Design-Build Documents shall survive the complete performance of the Work or earlier termination of this Agreement.

ARTICLE 13 TERMINATION OR SUSPENSION

§ 13.1 Termination or Suspension Prior to Execution of the Design-Build Amendment

§ 13.1.1 If the Owner fails to make payments to the Design-Builder for Work prior to execution of the Design-Build Amendment in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Design-Builder's option, cause for suspension of performance of services under this Agreement. If the Design-Builder elects to suspend the Work, the Design-Builder shall give seven (7) days' written notice to the Owner before suspending the Work. In the event of a suspension of the Work, the Design-Builder shall have no liability to the Owner for delay or damage caused by the suspension of the Work. Before resuming the Work, the Design-Builder shall be paid all sums due prior to suspension and any verifiable expenses reasonably and properly incurred in the interruption and resumption of the Design-Builder's Work. The Design-Builder's compensation for, and time to complete, the remaining Work shall be equitably adjusted.

§ 13.1.2 If the Owner suspends the Project, the Design-Builder shall be compensated for the Work performed prior to notice of such suspension. When the Project is resumed, the Design-Builder shall be compensated for verifiable expenses reasonably and properly incurred in the interruption and resumption of the Design-Builder's Work. The Design-Builder's compensation for, and time to complete, the remaining Work shall be equitably adjusted as mutually agreed upon in writing by the Owner and Design-Builder.

§ 13.1.3 If the Owner suspends the Project for more than ~~90~~ninety (90) cumulative days for reasons other than the fault of the Design-Builder, the Design-Builder may terminate this Agreement by giving not less than seven (7) days' written notice.

§ 13.1.4 Either party may terminate this Agreement upon not less than seven (7) days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

§ 13.1.5 The Owner may terminate this Agreement upon not less than seven (7) days' written notice to the Design-Builder for the Owner's convenience and without cause.

§ 13.1.6 In the event of termination not the fault of the Design-Builder, the Design-Builder shall be compensated for Work performed prior to termination, together with Reimbursable Expenses then due and any other expenses directly attributable to termination for which the Design-Builder is not otherwise compensated. In no event shall the Design-Builder's compensation under this Section 13.1.6 be greater than the compensation set forth in Section 2.1.

§ 13.2 Termination or Suspension Following Execution of the Design-Build Amendment

§ 13.2.1 Termination by the Design-Builder

§ 13.2.1.1 The Design-Builder may terminate the Contract if the Work is stopped for a period of ~~30~~ thirty (30) consecutive days through no act or fault of the Design-Builder, the Architect, a Consultant, or a Contractor, or their agents or employees, or any other persons or entities performing portions of the Work under direct or indirect contract with the Design-Builder, for any of the following reasons:

- .1 Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;
- .2 An act of government, such as a declaration of national emergency that requires all Work to be stopped; or
- .3 Because the Owner has not issued a Certificate for Payment and has not notified the Design-Builder of the reason for withholding certification as provided in Section 9.5.1, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Design-Build Documents; or Documents.
- ~~.4 The Owner has failed to furnish to the Design-Builder promptly, upon the Design-Builder's request, reasonable evidence as required by Section 7.2.7.~~

§ 13.2.1.2 The Design-Builder may terminate the Contract if, through no act or fault of the Design-Builder, the Architect, a Consultant, a Contractor, or their agents or employees or any other persons or entities performing portions of the Work under direct or indirect contract with the Design-Builder, repeated suspensions, delays or interruptions of the entire Work by the Owner as described in Section 13.2.3 constitute in the aggregate more than ~~400 percent one hundred percent (100%)~~ of the total number of days scheduled for completion, or 120 days in any 365 day one hundred and twenty (120) days in any three hundred and sixty-five (365) day period, whichever is less.

§ 13.2.1.3 If one of the reasons described in Section 13.2.1.1 or 13.2.1.2 exists, the Design-Builder may, upon seven (7) days' written notice to the Owner, terminate the Contract and recover from the Owner payment for Work executed, including reasonable overhead and profit, costs incurred by reason of such termination, and damages.

§ 13.2.1.4 If the Work is stopped for a period of ~~60~~ sixty (60) consecutive days through no act or fault of the Design-Builder or any other persons or entities performing portions of the Work under contract with the Design-Builder because the Owner has repeatedly failed to fulfill the Owner's obligations under the Design-Build Documents with respect to matters important to the progress of the Work, the Design-Builder may, upon seven (7) additional days' written notice to the Owner, terminate the Contract and recover from the Owner as provided in Section 13.2.1.3.

§ 13.2.2 Termination by the Owner For Cause

§ 13.2.2.1 The Owner may terminate the Contract if the Design-Builder

- .1 fails to submit the Proposal by the date required by this Agreement, or if no date is indicated, within a reasonable time consistent with the date of Substantial Completion;
- .2 ~~repeatedly~~ refuses or fails to supply an Architect, or enough properly skilled Consultants, Contractors, or workers or proper materials;
- .3 fails to make payment to the Architect, Consultants, or Contractors for services, materials or labor in accordance with their respective agreements with the Design-Builder;
- .4 ~~repeatedly~~ disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or
- .5 is otherwise guilty of substantial breach of a provision of the Design-Build Documents.

§ 13.2.2.2 When any of the above reasons exist, the Owner may without prejudice to any other rights or remedies of the Owner and after giving the Design-Builder and the Design-Builder's surety, if any, seven (7) days' written notice, terminate employment of the Design-Builder and may, subject to any prior rights of the surety:

- .1 Exclude the Design-Builder from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Design-Builder;
- .2 Accept assignment of the Architect, Consultant and Contractor agreements pursuant to Section 3.1.15; and
- .3 Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Design-Builder, the Owner shall furnish to the Design-Builder a detailed accounting of the costs incurred by the Owner in finishing the Work.

§ 13.2.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 13.2.2.1, the Design-Builder shall not be entitled to receive further payment until the Work is finished.

§ 13.2.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Design-Builder. If such costs and damages exceed the unpaid balance, the Design-Builder shall pay the difference to the Owner. The obligation for such payments shall survive termination of the Contract.

§ 13.2.3 Suspension by the Owner for Convenience

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

§ 13.2.3.2 The Contract Sum and Contract Time shall be adjusted for increases in the cost and time caused by suspension, delay or interruption as described in Section 13.2.3.1. Adjustment of the Contract Sum shall ~~include~~ be as specified in Article 7 profit. No adjustment shall be made to the extent

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

§ 13.2.4 Termination by the Owner for Convenience

§ 13.2.4.1 The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause.

§ 13.2.4.2 Upon receipt of written notice from the Owner of such termination for the Owner's convenience, the Design-Builder shall

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

§ 13.2.4.3 ~~In case of~~ Upon such termination for the Owner's convenience, the Design-Builder 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 recover as its sole remedy~~ payment for Work properly performed in connection with the terminated portion of the Work prior to the effective date of termination and for items properly and timely fabricated off the Project site, delivered and stored in accordance with the Design-Build Documents and Owner's further instructions. The Design-Builder waives and forfeits all other claims for payment and damages, including, without limitation, anticipated profits, lost opportunity costs, and potential and actual unabsorbed overhead costs. The Owner shall be credited for (1) payments previously made to the Design-Builder for the terminated portion of the Work; (2) claims that the Owner has against the Design-Builder under the Contract; and (3) the value of the materials, supplies, equipment, or other items that are to be disposed of by the Design-Builder that are part of the Contract.

ARTICLE 14 CLAIMS AND DISPUTE RESOLUTION

§ 14.1 Claims

§ 14.1.1 Definition. A Claim is a demand or assertion by one of the parties seeking, as a matter of right, payment of money, or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Design-Builder arising out of or relating to the Contract. The responsibility to substantiate Claims shall rest with the party making the Claim.

§ 14.1.2 Time Limits on Claims. The Owner and Design-Builder shall commence all claims and causes of action, whether in contract, tort, breach of warranty or otherwise, against the other, arising out of or related to the Contract in accordance with the requirements of the binding dispute resolution method selected in Section 1.3, within the time period specified by applicable law, ~~but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Design-Builder waive all claims and causes of action not commenced in accordance with this Section 14.1.2 law.~~

§ 14.1.3 Notice of Claims

§ 14.1.3.1 Prior To Final Payment. Prior to Final Payment, Claims by either the Owner or Design-Builder must be initiated by written notice to the other party within ~~21~~twenty-one (21) days after occurrence of the event giving rise to such Claim or within ~~21~~twenty-one (21) days after the claimant first recognizes the condition giving rise to the Claim, whichever is later. The claimant shall use its best efforts to furnish the Initial Decision Maker and the other party, as expeditiously as possible, with notice of any Claim including, without limitation, those in connection with concealed or unknown conditions, once such claim is recognized, and shall cooperate with the party against whom the claim is made in any effort to mitigate the alleged or potential damages, delay, or other adverse consequences arising out of the condition that is the cause of such a Claim.

§ 14.1.3.2 Claims Arising After Final Payment. After Final Payment, Claims by either the Owner or Design-Builder that have not otherwise been waived pursuant to Sections 9.10.4 or 9.10.5, must be initiated by ~~prompt written notice to the other party. The notice requirement in Section 14.1.3.1 and the Initial Decision requirement as a condition precedent to mediation in Section 14.2.1 shall not apply within one hundred and eighty (180) days from the date of Final Payment by written notice to the Owner as a condition precedent to the Design-Builder's right to sue on the Contract.~~

§ 14.1.4 Continuing Contract Performance. Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 13, the Design-Builder shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Design-Build Documents.

§ 14.1.5 Claims for Additional Cost. If the Design-Builder intends to make a Claim for an increase in the Contract Sum, written notice as provided herein shall be given before proceeding to execute the portion of the Work that relates to the Claim. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4.

§ 14.1.6 Claims for Additional Time

§ 14.1.6.1 If the Design-Builder intends to make a Claim for an increase in the Contract Time, written notice as provided herein shall be given. ~~The Design-Builder's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay, only one Claim is necessary in Section 8.3.4 and 8.3.5 shall be given.~~

§ 14.1.6.2 If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented ~~by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated, and had an adverse effect on the scheduled construction in accordance with Section 8.3.5.~~

§ 14.1.7 Claims for Consequential Damages

The Design-Builder and Owner waive Claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver ~~includes~~includes, but is not limited to:

1. damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and
2. damages incurred by the Design-Builder for principal office expenses including but not limited to the compensation of personnel stationed there, for losses of financing, business and reputation, impairment to or loss of bonding capacity, loss of business opportunities unabsorbed home office overhead, and for loss of profit except anticipated profit arising directly from the properly completed Work.

This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 13. Nothing contained in this Section 14.1.7 shall be deemed to preclude an award of liquidated damages, when applicable, in accordance with the requirements of the Design-Build Documents.

§ 14.2 Initial Decision

§ 14.2.1 An initial decision shall be required as a condition precedent to mediation of all Claims between the Owner and Design-Builder initiated prior to the date final payment is due, ~~excluding those arising under Sections 10.3 and 10.4 of the Agreement and Sections B.3.2.9 and B.3.2.10 of Exhibit B to this Agreement, unless 30 unless thirty (30) days have passed after the Claim has been initiated with no decision having been rendered. Unless otherwise mutually agreed in writing, the~~ The Owner shall render the initial decision on Claims.

§ 14.2.2 Procedure

§ 14.2.2.1 **Claims Initiated by the Owner.** If the Owner initiates a Claim, the Design-Builder shall provide a written response to Owner within ten (10) days after receipt of the notice required under Section 14.1.3.1. Thereafter, the Owner shall render an initial decision within ten (10) days of receiving the Design-Builder's response: (1) withdrawing the Claim in whole or in part, (2) approving the Claim in whole or in part, or (3) suggesting a compromise.

§ 14.2.2.2 **Claims Initiated by the Design-Builder.** If the Design-Builder initiates a Claim, the Owner will take one or more of the following actions within ten (10) days after receipt of the notice required under Section 14.1.3.1: (1) request additional supporting data, (2) render an initial decision rejecting the Claim in whole or in part, (3) render an initial decision approving the Claim, (4) suggest a compromise or (5) indicate that it is unable to render an initial decision because the Owner lacks sufficient information to evaluate the merits of the Claim.

§ 14.2.3 In evaluating Claims, the Owner may, but shall not be obligated to, consult with or seek information from persons with special knowledge or expertise who may assist the Owner in rendering a decision. The retention of such persons shall be at the Owner's expense.

§ 14.2.4 If the Owner requests the Design-Builder to provide a response to a Claim or to furnish additional supporting data, the Design-Builder shall respond, within ten (10) days after receipt of such request, and shall either (1) provide a response on the requested supporting data, (2) advise the Owner when the response or supporting data will be furnished or (3) advise the Owner that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Owner will either reject or approve the Claim in whole or in part.

§ 14.2.5 The Owner's initial decision shall (1) be in writing; (2) state the reasons therefor; and (3) identify any change in the Contract Sum or Contract Time or both. The initial decision shall be final and binding on the parties but subject to mediation and, if the parties fail to resolve their dispute through mediation, to binding dispute resolution.

§ 14.2.6 Either party may file for mediation of an initial decision or request another method of alternative dispute resolution (ADR) other than mediation, as the parties may agree in writing at any time, subject to the terms of Section 14.2.6.1. Section 14.2.6.1, except that under no circumstances shall the agreed upon ADR include binding arbitration or binding mediation.

§ 14.2.6.1 Either party may, within ~~30~~ thirty (30) days from the date of an initial decision, demand in writing that the other party file for mediation ~~within 60 or join in another method of ADR within sixty (60) days of the initial decision.~~ If such a demand is made and the party receiving the demand fails to file for mediation agree to ADR within the time required, then both parties waive their rights to mediate or pursue ~~binding dispute resolution~~ ADR proceedings with respect to the initial ~~decision.~~ decision, and will default to litigation.

§ 14.2.7 In the event of a Claim against the Design-Builder, the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Design-Builder's default, the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

§ 14.2.8 If a Claim relates to or is the subject of a mechanic's lien, the party asserting such Claim may proceed in accordance with applicable law to comply with the lien notice or filing deadlines.

§ 14.3 Mediation

§ 14.3.1 Claims, disputes, or other matters in controversy arising out of or related to the Contract, ~~except those waived as provided for in Sections 9.10.4, 9.10.5, and 14.1.7, shall be subject to mediation as a condition precedent to binding dispute resolution.~~ Contract may be subject to nonbinding mediation or other ADR as mutually agreed by the parties.

§ 14.3.2 The parties shall endeavor to resolve their Claims by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of binding dispute resolution proceedings but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration proceeding is stayed pursuant to this Section 14.3.2, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings. ~~Not Used.~~

§ 14.3.3 The parties shall share the mediator's fee and any filing fees equally. ~~The mediation or ADR's costs and fees and any filing fees equally if such process is utilized. The mediation or ADR shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction.~~

§ 14.4 Arbitration

§ 14.4.1 If the parties have selected arbitration as the method for binding dispute resolution in Section 1.3, any Claim subject to, but not resolved by, mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of the Agreement. A demand for arbitration shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the arbitration. The party filing a notice of demand for arbitration must assert in the demand all Claims then known to that party on which arbitration is permitted to be demanded.

§ 14.4.1.1 A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the Claim would be barred by the applicable statute of limitations or statute of repose. For statute of limitations or statute of repose purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the Claim.

§ 14.4.2 The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction.

§ 14.4.3 The foregoing agreement to arbitrate, and other agreements to arbitrate with an additional person or entity duly consented to by parties to the Agreement, shall be specifically enforceable under applicable law in any court having jurisdiction thereof.

§ 14.4.4 Consolidation or Joinder

§ 14.4.4.1 Either party, at its sole discretion, may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation, (2) the arbitrations to be consolidated substantially involve common questions of law or fact, and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

§ 14.4.4.2 Either party, at its sole discretion, may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.

§ 14.4.4.3 The Owner and Design-Builder grant to any person or entity made a party to an arbitration conducted under this Section 14.4, whether by joinder or consolidation, the same rights of joinder and consolidation as the Owner and Design-Builder under this Agreement.

ARTICLE 15—MISCELLANEOUS PROVISIONS

§ 14.4.4.3

ARTICLE 15 MISCELLANEOUS PROVISIONS**§ 15.1 Governing Law**

The Contract shall be governed by the law of the place where the Project is located except that, if the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 14.4. This Agreement and all of the rights and obligations of the parties hereto and all of the terms and conditions hereof shall be construed, interpreted and applied in accordance with and governed by and enforced under the laws of the State of Texas. The exclusive venue for contract disputes and all other matters related to this Agreement shall be in a state district court having jurisdiction in Denton County, Texas.

§ 15.2 Successors and Assigns

§ 15.2.1 The Owner and Design-Builder, respectively, bind themselves, their partners, successors, assigns and legal representatives to the covenants, agreements and obligations contained in the Design-Build Documents. Except as provided in Section 15.2.2, neither party to the Contract shall assign the ~~Contract as a whole without Contract~~, or any rights under the contract, in whole or in part without the written consent of the other. If either party attempts to make such an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

§ 15.2.2 The Owner may, without consent of the Design-Builder, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner's rights and obligations under the Design-Build Documents. The Design-Builder shall execute all consents reasonably required to facilitate such assignment.

§ 15.2.3 If the Owner requests the Design-Builder, Architect, Consultants, or ~~Contractors~~ Subcontractors to execute certificates, other than those required by Section 3.1.10, the Owner shall submit the proposed language of such certificates for review at least ~~14~~ fourteen (14) days prior to the requested dates of execution. ~~If the Owner requests the Design-Builder, Architect, Consultants, or Contractors to execute consents reasonably required to facilitate assignment to a lender, the Design-Builder, Architect, Consultants, or Contractors shall execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to them for review at least 14 fourteen (14) days prior to execution. The Design-Builder, Architect, Consultants, and Contractors shall not be required to execute certificates or consents that would require knowledge, services or responsibilities beyond the scope of their services.~~

§ 15.3 Written Notice

Written notice shall be deemed to have been duly served if delivered in person to the individual, to a member of the firm or entity, or to an officer of the corporation for which it was intended; or if delivered at, or sent by registered or certified mail or by courier service providing proof of delivery to, the last business address known to the party giving notice.

§ 15.4 Rights and Remedies

§ 15.4.1 Duties and obligations imposed by the Design-Build Documents, and rights and remedies available thereunder, shall be in addition to and not a limitation of duties, obligations, rights and remedies otherwise imposed or available by law.

§ 15.4.2 No action or failure to act by the Owner or Design-Builder shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed in writing.

§ 15.5 Tests and Inspections**§ 15.5 Tests and Inspections, and Quality Management**

§ 15.5.1 Tests, inspections and approvals of portions of the Work shall be made as required by the Design-Build Documents and by applicable laws, statutes, ordinances, codes, rules and regulations or lawful orders of public authorities. Unless otherwise provided, the Design-Builder shall make arrangements for such tests, inspections and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections and approvals. The Design-Builder shall give the Owner timely notice of when and where tests and inspections are to be made so that the Owner may be present for such procedures. The Owner shall bear costs of (1) tests, inspections or approvals that do not become requirements until after bids are received or negotiations concluded, and (2) tests, inspections or approvals where building codes or applicable laws or regulations prohibit the Owner from delegating their cost to the Design-Builder. As required by the provisions of Texas Government Code, Section 2269.058(a), the Owner shall provide or contract for the construction

materials engineering, testing, and inspection services and the verification testing services necessary for acceptance of the facility by the Owner. To the extent that any of the provisions of this Section 15.5 or other provisions of this Agreement conflict with any of the provisions of Section 2269.058(a) such conflict is unintentional, and the provisions of the Texas Government Code shall control.

§ 15.5.2 If the Owner determines that portions of the Work require additional testing, inspection or approval not included under Section 15.5.1, the Owner will instruct the Design-Builder to make arrangements for such additional testing, inspection or approval by an entity acceptable to the Owner, and the Design-Builder shall give timely notice to the Owner of when and where tests and inspections are to be made so that the Owner may be present for such procedures. Such costs, except as provided in Section 15.5.3, shall be at the Owner's expense.

§ 15.5.3 If such procedures for testing, inspection or approval under Sections 15.5.1 and 15.5.2 reveal failure of the portions of the Work to comply with requirements established by the Design-Build Documents, all costs made necessary by such failure including those of repeated procedures and compensation for the Architect's services and expenses and all costs specified in Section 11.2 shall be at the Design-Builder's expense. The Design-Builder also agrees the cost of testing, inspection, and approval services required for the convenience of the Design-Builder in scheduling and performance of the Work, and the cost of such similar services related to remedial operations performed to correct deficiencies in the Work shall be borne by the Design-Builder.

§ 15.5.4 Required certificates of testing, inspection or approval shall, unless otherwise required by the Design-Build Documents, be secured by the Design-Builder and promptly delivered to the Owner.

§ 15.5.5 If the Owner is to observe tests, inspections or approvals required by the Design-Build Documents, the Owner will do so promptly and, where practicable, at the normal place of testing.

§ 15.5.6 Tests or inspections conducted pursuant to the Design-Build Documents shall be made promptly to avoid unreasonable delay in the Work.

§ 15.5.7 It is the intent of the Design-Build Documents to require the Design-Builder to control the quality of the Work using the processes specified in the Design-Builder's Quality Management, Commissioning and Turnover Plan contained within the most recent Construction Management Plan approved by the Owner. Tests or inspections conducted pursuant to the Design-Build Documents shall be made promptly to avoid unreasonable delay in the Work., and shall conform to the most recently approved Design-Builder's Construction Schedule.

§ 15.5.8 The responsibility for implementing the Quality Management, Commissioning and Turnover Plan is the Design-Builder's, as is the obligation to provide the Work and a complete and functional project per the Design-Build Documents. Notwithstanding anything herein, or in subsequently approved Quality Management, Commissioning and Turnover Plans, the Owner's approval of such plan(s) does not relieve the Design-Builder in any way of this responsibility.

§ 15.5.9 The Design-Builder shall be in charge of testing and inspections of the Work, including but not limited to, the services of a certified testing laboratory which shall be contracted to and paid for by the Owner and which will perform the tests as called for in the Design-Build Documents. The conditions that apply to materials testing and inspections include, but are not limited to the following:

- .1 The frequency and type of Quality Control testing shall be established by the Design-Builder, and shall be sufficient to insure the delivery of the Work and a complete and functional project per the Design-Build Documents. The type and amount of testing required by the Design-Build Documents shall be seen as the minimum required, and shall be increased, if in the opinion of the Design-Builder, more testing is needed to meet the above requirements of the Design-Builder.
- .2 The Design-Builder shall concurrently provide the Owner copies of all test results it receives within three (3) business days of receipt of same.
- .3 The Owner shall provide such Quality Assurance testing as it deems adequate for its own needs. The Owner shall distribute the results of its own Quality Assurance tests as it, at its sole discretion, deems appropriate. The provision of Quality Assurance testing by the Owner, or lack thereof shall in no manner affect the responsibilities of the Design-Builder under this Agreement.

§ 15.5.10 The Design-Builder shall facilitate and conduct weekly (or more frequent if necessary) meetings on site for the coordination of all mechanical, electrical and special systems installation activities and possible interference(s) above ceilings, in mechanical rooms, etc. The mechanical trades shall typically have preference in the event of conflicts, and therefore the mechanical contractor's coordinator will usually lead each meeting, unless the Design-Builder decides another trade or the Design-Builder should take the lead. The Owner shall be informed of the meetings at least seven (7) days in advance, and the appropriate Owner's consultants should be invited to attend by the Design-Builder, as supplemented and coordinated by the Owner.

§ 15.5.11 The Design-Builder's Quality Management, Commissioning and Turnover Plan shall specify that prior to completion and acceptance of any building system or phase, consistent with the Contract and applicable codes, Design-Builder will review, in detail, the steps for completing testing of all building systems with the Owner. This plan shall be coordinated with and shall be made part of the Design-Builder's Construction Schedule. All testing shall be of each complete system, before covering, or of individually separable larger portions of each system and shall be performed in the presence of the appropriate Owner's consultant(s), representatives of the Owner, and at its option.

§ 15.5.12 When heating, air conditioning, ventilating, exhaust, or other items of mechanical, electrical or other similar equipment are installed, or other systems or equipment requiring testing as may be specified in the Design-Builder's Quality Management, Commissioning and Turnover Plan, it shall be the responsibility of the Design-Builder, Subcontractor or Sub-subcontractor installing such equipment to operate it for a period of time satisfactory to the Owner prior to acceptance and before the start of Warranty. The duration of such operation shall be as the Owner, Owner's consultant(s), Owner's employees and other Owner's representatives (the Turnover Team) shall reasonably require for proper testing of the respective system and thorough instruction of the Owner's operating personnel.

§ 15.5.13 All equipment, testing instruments, instruction materials and incidentals required for proper testing of such systems and thorough instruction of the Owner's operating personnel on each system's operations and maintenance shall be provided by the Design-Builder, Subcontractor or Sub-subcontractor responsible for providing and installing the equipment. Such tests and instruction shall be in meetings held solely for this purpose (the Turnover Meetings), which shall be coordinated and managed by the Design-Builder, who shall show their dates in the Design-Builder's Construction Schedule at least sixty (60) days prior to occurrence. The Design-Builder shall schedule the Turnover Meetings at times reasonably convenient for the Owner's consultant(s), Owner's employees and other Owner's representatives that the Owner agrees are necessary to attend for each system. The Owner may attend such Turnover Meetings at its discretion.

§ 15.5.14 The Design-Builder shall provide a digital video record to the Owner, with copies to the Owner of all meetings for the purpose of Owner operational staff instruction or training; as well as commissioning of equipment. These videos will become a permanent part of all Operations and Maintenance manuals as applicable.

§ 15.5.15 The Design-Builder shall prepare a digital video record of the project for the Owner at such stages as shall be indicated by the Owner for the purpose of documenting the location of piping, conduit, equipment, or other construction to be concealed at a later date; recording key inspections and tests; providing evidence of unforeseeable conditions encountered by the Design-Builder on site; and other construction issues as the Owner may reasonably require from time to time.

§ 15.5.16 The Design-Builder shall layout and mark any plantings, shrubs and trees which will require removal a minimum of five (5) business days prior to their removal. The Design-Builder shall notify the Owner in writing immediately upon completion of this marking, and the Owner will have the location of these marked plantings, shrubs and trees reviewed and approved (if correct) by the Owner. The Owner will then give permission for removal in writing to the Design-Builder. Plantings, shrubs, and trees shall not be removed or damaged without such permission.

§ 15.6 Confidential Information

If the Owner or Design-Builder transmits Confidential Information, the transmission of such Confidential Information constitutes a warranty to the party receiving such Confidential Information that the transmitting party is authorized to transmit the Confidential Information. If a party receives Confidential Information, the receiving party shall keep the Confidential Information strictly confidential and shall not disclose it to any other person or entity except as set forth in Section 15.6.1.

§ 15.6.1 A party receiving Confidential Information may disclose the Confidential Information as required by law or court order, including a subpoena or other form of compulsory legal process issued by a court or governmental entity. A party receiving Confidential Information may also disclose the Confidential Information to its employees, consultants or contractors in order to perform services or work solely and exclusively for the Project, provided those employees, consultants and contractors are subject to the restrictions on the disclosure and use of Confidential Information as set forth in this Contract.

§ 15.6.2 See Exhibit "J" – Confidentiality of the Project for more direction on confidentiality.

§ 15.7 Capitalization

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

§ 15.8 Interpretation

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

§ 15.8.2 Unless otherwise stated in the Design-Build Documents, words which have well-known technical or construction industry meanings are used in the Design-Build Documents in accordance with such recognized meanings.

§ 15.9 Release of Retainage at Substantial Completion

Notwithstanding any other provision in the Design-Build Documents to the contrary, upon Substantial Completion of the Work the Owner shall be entitled to retain from the Contract Sum due to the Design-Builder an amount equal to the greater of: (a) the product obtained by multiplying eight (8) times the total cost of completion of the Punch List items as estimated by the Owner; or (b) twenty-five thousand dollars (\$25,000).

§ 15.10 Measurement

Before ordering any material or doing any Work, the Design-Builder shall verify all measurements for Work completed at the Project and shall be responsible for their accuracy. Any differences found shall be submitted to the Owner for consideration before proceeding with the Work. The Design-Builder shall use its utmost efforts to identify discrepancies in dimensions in a timely fashion and notify the Owner of these prior to commencing any Work affected by the ambiguous dimensions. No extra charge or compensation shall be allowed because of differences between actual measurements and the dimensions indicated on the drawings.

§ 15.11 Expediting Materials

The Design-Builder shall immediately, after receipt of Notice to Proceed and approval of the list of subcontractors and material suppliers, place orders for all equipment, materials, and supplies required for the Work, and shall submit to the Owner evidence that such orders have been placed in accordance with the Design-Builder's Construction Schedule.

§ 15.12 Addressing the Owner's Additional Needs and Concerns

§ 15.12.1 Notwithstanding the above, the Owner has a unique set of stakeholders and organizational structure that creates special challenges the Design-Builder must completely and successfully address to the satisfaction of the Owner in the performance of the Work under this Agreement. The actions that shall be taken to address these special challenges include, but are not limited to, the following:

- .1 The Design-Builder shall provide the superintendent once per month for a scheduled meeting with the Owner for a progress update on the project if requested by the Owner. A walk-through of the site may be held as a part of this meeting, which shall be scheduled for 4pm or shortly thereafter on a standard business day.
- .2 The Design-Builder may be required to provide the superintendent for one meeting per month with the Owner in preparing a newsletter for distribution to the Project stakeholders. The actual preparation and distribution of the newsletter shall be performed by the Owner.
- .3 In addition to the meetings required to complete the Project, it is anticipated the Owner may request

tours from time to time of the project and the site. The Design-Builder shall indicate in writing when such activity will be permitted and when the site is off limits. These requirements shall be coordinated through the Owner.

§ 15.13 Additional Provisions

§ 15.13.1 In the event that any provision herein is held to be unlawful or against public policy, or a violation of the Charter of Ordinances of Denton, Texas, such provision shall be modified to make it valid, or if modification is not possible, such provision shall be deleted and the remainder of this Agreement shall remain in full force and effect.

§ 15.13.2 Each party hereto agrees to, without limitation, perform all acts; provide all services, material, equipment, labor and supervision; and to make, execute, and deliver such written instruments, as shall from time to time be reasonably required to carry out the terms and provisions of the Design-Build Documents.

§ 15.13.3 All exhibits referred to in the Design-Build Documents are, by reference, incorporated herein for all purposes.

§ 15.13.4 The captions of the paragraphs are set forth only for convenience and reference, and are not intended in any way to define, limit, or describe the scope or intent of the Design-Build Documents.

§ 15.13.5 Any specific requirement in this Agreement that require responsibilities or obligations of the Design-Builder also apply to a Subcontractor is added for emphasis and is also hereby deemed to include a Subcontractor, Sub-subcontractor or supplier of any tier. The omission of a reference to a Subcontractor in connection with any of the Design-Builder's responsibilities or obligations shall not be construed to diminish, abrogate, or limit any responsibilities or obligations of a Subcontractor, Sub-subcontractor or supplier of any tier under the Design-Build Documents or the applicable subcontract.

§ 15.13.6 The provisions of the Design-Build Documents shall not be changed, amended, waived, or otherwise modified in any respect except by a written document signed by Owner. No person is authorized on behalf of Owner to orally change, amend, waive, or otherwise modify the terms of the Design-Build Documents or any of the Design-Builder's duties or obligations under or arising out of the Design-Build Documents. Any change, waiver, approval, or consent granted to the Design-Builder shall be limited to the specific material restated in the written document signed by Owner, and shall not relieve Design-Builder of any other of the duties and obligations under the Design-Build Documents. No "constructive" changes under any Agreement with the Owner shall be allowed.

§ 15.13.7 The Design-Builder shall provide and file, as required by law, all notices required or permitted by the laws of the state in which the Project is located for protection of Owner from liens and claims of lien if permitted or required by applicable law. Design-Builder shall be responsible for filing in the appropriate court or other governmental office records all such notices as required or permitted by the laws of the state in which the Project is located.

§ 15.13.8.1 The Design-Builder shall provide Owner with copies of all notices received by Design-Builder from Subcontractors, Sub-subcontractors, and/or suppliers to Design-Builder.

§ 15.13.8.2 Notices. All legal notices, consents, approvals, demands, requests or other communications provided for or permitted to be given under any of the provisions of this Agreement shall be in writing and shall be deemed to have been duly given or served when delivered by hand delivery or when deposited in the U.S. mail by registered or certified mail, return receipt requested, postage prepaid, and addressed as follows:

If to Owner:

[Owner's Signatory's Name]

City of Denton

215 East McKinney Street

Denton, TX 76201

Main

With a copy to Owner's staff point of contact:

[City's Staff Member Point of Contact]

City of Denton

215 East McKinney Street
 Denton, TX 76201
[Email Address]
[Phone Number]

And with a copy to Owner's Independent Representative:
[Owner's Independent Representative's Name]
[Owner's Independent Representative's Street Address]
[Owner's Independent Representative's City, State and Zip Code]
[Owner's Independent Representative's Phone Number] Main

If to Design-Builder:
[Design-Builder's Name]
[Design-Builder's Street Address]
[Design-Builder's City, State and Zip Code]
[Design-Builder's Phone Number] Main

§15.13.9 Owner affirmatively represents that its governing body has duly appropriated such sums which are equal to or in excess of the contract amount, and that such contract amount may be lawfully paid by Owner to Design-Builder subject to the terms and conditions of the Design-Build Documents. In the event that Owner approves a Change Order, Construction Change Directive or other additional compensable Work to be performed by Design-Builder, (other than that contemplated by the Design-Build Documents under any remedy-granting provision), Owner will issue a written assurance at the time of such approval that such additional compensation to be paid has also been duly appropriated by the Owner's governing body.

§15.13.10 Design-Builder shall comply with the requirements in Texas Government Code Sec. 2252.032.

§ 15.13.11 In the event the Owner is required to further advertise the completion of the Work or the Project under any local, state or Federal law, the Design-Builder shall notify the Owner of such requirement(s) in writing not less than thirty (30) days in advance, and attach a copy of the specific advertising and noticing required.

§15.13.12 The Design-Builder shall, in addition to compliance with the requirements of Section 5.5.5 and Section 5.5.6 and without limitation, not knowingly employ or contract with an illegal alien to perform any of the Work under this Agreement. The Design-Builder shall not knowingly contract with a Subcontractor that (i) knowingly employs or contracts with an illegal alien to perform work under this Agreement or (ii) fails to certify to the Design-Builder that the Subcontractor will not knowingly employ or contract with an illegal alien to perform work under this Agreement.

§15.13.12.1 The Design-Builder has verified or attempted to verify through participation in the basic pilot program of the State of Texas ("Basic Pilot Program") that the Design-Builder does not employ any illegal aliens or the Design-Builder verifies that the Design-Builder has not been accepted into the Basic Pilot Program prior to entering into this Agreement. The Design-Builder further verifies that if the Design-Builder has not been accepted into the Basic Pilot Program, the Design-Builder will apply to participate in the Basic Pilot Program every three months until the Design-Builder is accepted or this Agreement is completed, whichever is earlier. If the Basic Pilot Program is discontinued, this Section 15.13.12.1 shall not be required or be effective.

§15.13.12.2 The Design-Builder shall not use Basic Pilot Program procedures to undertake pre-employment screening of job applicants while performing under this Agreement.

§15.13.12.3 The Design-Builder shall comply with any reasonable request of the Texas Workforce Commission made in the course of an investigation pursuant to state law.

§15.13.12.4 In addition to any other legal or equitable remedy, and notwithstanding anything to the contrary in the Design-Build Document the Owner may be entitled to for a breach of the Agreement, if the Owner terminates this Agreement, in whole or in part, due to Design-Builder's breach of the obligations set forth above in this Section 15.13.12 Design-Builder shall be liable for actual and consequential damages to the Owner.

§ 15.13.13 It is the express intention of the parties that this Agreement is not to be construed as a waiver of any

immunities or defenses of the Owner under Texas law.

§ 15.13.14 This Agreement is and shall be subject to those provisions required of political subdivisions by the laws of the State of Texas. The Design-Builder understands that the Owner is a Texas home rule municipality and that the project is subject to applicable provisions of Texas law including bid requirements, bonding, and final settlement provisions.

§ 15.13.15 Design-Builder understands that certain information, including this Agreement, are public records available for public inspection and copying under the Texas Open Records Act., Texas Government Code Ch. 552, as amended, and other applicable laws.

§ 15.13.16 Design-Builder certifies and warrants that no gratuities, kickbacks or contingency fees were paid in connection with this Agreement, nor were any fees, commissions, gifts or other considerations made contingent upon the award of this Agreement. Design-Builder warrants that to the best of Design-Builder's knowledge, there exists no actual or potential conflict of interest, and no financial or substantial interest as may be prohibited by Texas law, the Charter, or Code of Ethics of the City of Denton between Design-Builder and Owner. In recognition of this requirement, the Design-Builder has attested to this fact in Exhibit R – Ethics Affidavit.

§ 15.13.17 Design-Builder shall comply with the disclosure and reporting requirements in Local Government Code Chapters 171 and 176, and Texas Government Code Sec. 2252.908. Under Sec. 2252.908, if City Council approval is required to award this Agreement or if this Agreement has a value of at least \$1,000,000, the City may not enter into the Agreement unless the Design-Builder submits a disclosure of interested parties to the City at the time the executed Agreement is presented to the City. The disclosure must be made on the form prescribed by the Texas Ethics Commission and the City is required to submit a copy of the disclosure statement to the Texas Ethics Commission not later than the thirtieth (30th) day after the disclosure is received by the City.

§ 15.13.18 The Owner is a Texas home-rule municipality and as such is generally exempt from taxation under Texas law, which may include the purchase of items, materials, or supplies purchased on behalf of the Owner for this public works project. Design-Builder shall confirm that the Owner is exempt before paying taxes for items, materials, or supplies that may not be lawfully charged to the Owner.

§ 15.13.19 Some or all of the Owner's duties, approvals and actions required under this Agreement may be provided by third parties by mutual agreement of the Owner and such third parties. When notified in writing of the specific duties and responsibilities of such third party, the Design-Builder will recognize the actions and approvals of the third party as sufficient to fulfill the Owner's responsibilities under this Agreement.

§ 15.13.20 The Design-Builder shall provide sufficient supporting documentation in form and with a level of detail wholly acceptable to the Owner and Design-Builder to substantiate any Application for Payment, request for Change to the Contract Sum or Contract Time, and all contract Allowances provided within the Design-Builder's Contract Sum for this scope of work. Failure to timely provide all supporting documentation, in and of itself, may result in rejection of the Application for Payment or requested change to the Contract Sum or Contract Time, or payment for work charged to the Allowance(s).

§ 15.13.21 Proof of purchase and warehouse insurance naming the Owner and Design-Builder as additional insureds, together with inspection rights for the Owner and Design-Builder is to be provided for any billed materials by the Design-Builder for the work not physically stored at the Project site.

§ 15.13.22 Time limits set out in or under this Agreement are solely for the protection and benefit of the Owner and create no third-party beneficiary rights in any other party.

§ 15.13.23 The parties agree that they will execute any further instrument or instruments, and that they will perform any act or acts, which are or may become necessary to effectuate any of the terms or provisions of this Agreement.

§ 15.13.24 Nothing contained in this Agreement shall create a contractual relationship with a cause of action in favor of a third party against either the Owner or Design-Builder.

§ 15.13.25 This Agreement has been created jointly and ambiguity cannot be construed against either party.

§ 15.13.26 Notwithstanding anything to the contrary in the Design-Build Documents, the Contract and all of its terms and conditions are subject to approval or modification by the Owner's lender or financial institution (the "Lender"), if any. The Design-Builder acknowledges that the Owner is financing the Work with a Lender, or by bonds, notes, certificates of obligation, and other obligations authorized to be issued by the Owner and will use its best efforts to comply with the requirements of such Lender, including, without limitation, making the site of the Work available at reasonable times for inspection by such Lender; curing defaults existing under the Design-Build Documents; and executing a consent to assignment of the Design-Build Documents in the form required by such Lender and any other documents such Lender may reasonably request.

§ 15.13.27 If required by the Owner or the Lender, if any, all payments to the Design-Builder shall be made through a construction escrow (hereinafter referred to as the "Escrow") established with the escrow trustee or such other entity as may be identified in Exhibit "S" – Escrow and Financing Conditions, (hereinafter referred to as the "Escrowee") mutually acceptable to the Owner, the Lender and the Design-Builder. The Lender, if any, may also impose other reasonable conditions consistent with the standards of the industry for construction financing. The Design-Builder hereby agrees to execute an escrow agreement that shall be consistent with the requirements of the Design-Build Documents, except as the standard procedures of the Escrowee may otherwise require; structured to provide that the Escrowee may disburse funds directly to Subcontractors or to the Design-Builder and Subcontractors payable jointly, if so directed by the Owner; and otherwise reasonably satisfactory to the Owner, the Architect, and the Design-Builder (the "the Escrow and Financing Conditions"). All parties thereto shall use their best efforts to cooperate with the Escrowee. After full execution, the Escrow and Financing Conditions shall be attached hereto and made part hereof as Exhibit "S" – Escrow and Financing Conditions.

§ 15.13.28 Financial obligations of the Owners payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available.

§ 15.13.29 No term or condition of the Agreement shall be construed or interpreted as a waiver, express or implied, of any of the governmental or sovereign immunities, rights, benefits, or protections of the Owner.

§ 15.13.30 Design-Builder warrants that the products, processes, techniques and methodologies provided by Design-Builder shall not infringe upon the copyright, patent or other proprietary rights of others.

§ 15.13.31 In case any provision hereof shall, for any reason, be held invalid or unenforceable in any respect, such invalidity or unenforceability shall not affect any other provision hereof, and this Contract shall be construed as if such invalid or unenforceable provision had not been included herein.

§ 15.13.32 Design-Builder understands and agrees that time is of the essence.

§ 15.13.33 This Agreement may be executed by the parties hereto in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute one and the same instrument. Each counterpart may consist of any number of copies hereof each signed by less than all, but together signed by all of the parties hereto.

§ 15.13.34 Design-Builder makes the following representations and warranties to Owner, each of which is true and correct as of the Effective Date of this Agreement:

- .1 Design-Builder is a [Insert Type of Organization, e.g. Limited Partnership] duly organized, existing and in good standing under the laws of the State of Texas; Design-Builder possesses all requisite power and authority to enter into and perform this Agreement and to carry out the transactions contemplated herein; and Design-Builder has all legal power and authority to own and use its properties and to transact the business in which it is engaged and holds or expects to obtain in a timely manner all material franchises, licenses and permits required hereunder;
- .2 Design-Builder's execution, delivery and performance of this Agreement have been duly authorized by, and are in accordance with, its limited partnership agreement; this Agreement has been duly executed and delivered for it by the signatories so authorized; and this Agreement constitutes Design-Builder's legal, valid and binding obligation;
- .3 Design-Builder is not currently in breach of, in default under, or in violation of, and the execution

and delivery of this Agreement and the performance of its obligations hereunder will not constitute or result in any breach of, default under or violation of, any Governmental Rule, or the provisions of Design-Builder's limited partnership agreement, or any franchise or license, or any provision of any indenture or any evidence of indebtedness or security therefor, lease, contract, license or other agreement by which it is bound, except for such breaches, defaults or violations as will not, either individually or in the aggregate, result in a material adverse effect on the ability of Design-Builder to perform its obligations hereunder;

- .4 No suit, claim, action, arbitration, or legal, administrative or other proceeding is pending or, to the best knowledge of Design-Builder, threatened against Design-Builder that could affect the validity or enforceability of this Agreement, the ability of Design-Builder to fulfill its commitments hereunder in any material respect, or that would result in any material adverse change in the business or financial condition of Design-Builder;
- .5 Design-Builder certifies that it (i) is a duly qualified, capable and otherwise bondable business entity, (ii) is not in receivership and does not contemplate same, (iii) has not filed for bankruptcy, and is not currently delinquent with respect to payment of property taxes to the City of Denton or within Denton County, and (iv) is duly licensed and/or registered in the State of Texas, to the extent required by the laws of the State of Texas, to perform the design-build services described or referenced in this Agreement.

§ 15.13.35 Any of the representations, warranties, covenants, and obligations of the Parties, as well as any rights and benefits of the Parties, pertaining to a period of time following the termination of this Agreement shall survive termination.

ARTICLE 16 SCOPE OF THE AGREEMENT

§ 16.1 This Agreement is comprised of the following documents listed below:

- .1 AIA Document A141™-2014, Standard Form of Agreement Between Owner and Design-Builder
- .2 AIA Document A141™-2014, Exhibit A, Design-Build Amendment, if executed
- .3 AIA Document A141™-2014, Exhibit B, Insurance and Bonds
- .4 AIA Document A141™-2014, Exhibit C, Sustainable Projects, if completed
- .5 AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, if completed, Exhibit C, Project Management Process, or the following:

N/A

- .6 Other:

Exhibit "D" – Design Criteria
Exhibit "E" – Control Estimate # 01
Exhibit "F.1" – Scheduling Requirements
Exhibit "F.2" – Design-Builder's Project Schedule
Exhibit "G" – Key Firms and Personnel
Exhibit "H" – Design-Builder's Fee & Cost Proposal
Exhibit "I" – Billing Rates
Exhibit "J" – Confidentiality of the Project
Exhibit "K" – Rental Rates
Exhibit "L" – Alternates with Costs and Expiration Dates
Exhibit "M" – Unit Costs
Exhibit "N" – Allowances
Exhibit "O" – Schedule of Values
Exhibit "P" – Disputed Work Schedule
Exhibit "Q" – Equal Opportunity Employment
Exhibit "R" – Ethics Affidavit
Exhibit "S" – Escrow and Financing Conditions
This Agreement entered into Exhibit "Z" – Schedule of Exhibits

§ 16.2 Entire Agreement

This Agreement represents the entire and integrated Agreement between Owner and Design-Builder and supersedes all prior negotiations, representations, or agreements, either oral or written.

IN WITNESS WHEREOF, intending to be bound, the Parties have entered into this Agreement as of the day and year first written above.

OWNER (Signature)

[Owner's Signatory], [Title]
(Printed name and title)

DESIGN-BUILDER (Signature)

[Design-Builder's Signatory], [Title]
(Printed name and title)

AVAILABILITY OF FUNDS CONFIRMED:

[Name], [Title] (Signature)

(Printed name and title)

APPROVED AS TO FORM:

[Attorney's Name], CITY ATTORNEY (Signature)

(Printed name and title)

**City of Denton's Development Services Building
AIA C141 Owner-Consultant Agreement
Exhibit E – Consultant's Performance Schedule**

To be Provided by 01 MAR 2020
(After Design-Builder Procurement Process is Complete
&
Design-Builder's Project Schedule is Available)

City of Denton's Development Services Building
AIA C141 Owner-Consultant Agreement
Exhibit F - Compensation & Reimbursable Expenses

#1 – Proposed Fee – Labor Lump Sum

Following is a summary of our detailed fee for tasks identified previously within our proposal response for our labor. This is based on the Preconstruction and Construction Phases as requested:

Lump Sum Fee for Preconstruction Phase	\$ 41,660.00
Lump Sum Fee for Construction Phase	<u>\$ 61,215.00</u>
Total Project Fee	\$102,875.00

#2 – Reimbursable Expenses

Our typical reimbursable expenses are as the follows and related directly to the project:

- Transportation in connection with the project
- Project Web Sites (ie Hosting)
- Permitting and other AHJ Fees
- Standard Form Documents
- Printing and Reproductions
- Deliveries and postage/shipping for document delivery
- Renderings, professional photography and models

We understand that all reimbursable expenses are to be invoiced directly with no markup.

Our not-to-exceed amount for reimbursable expenses is \$3,500.00

City of Denton's Development Services Building
AIA C141 Owner-Consultant Agreement
Exhibit G - Hourly Rates

	D Fulwiler	S Fisher	M Smyers
Hourly Billing Rate	\$210	\$195	\$130

City of Denton's Development Services Building
AIA C141 Owner-Consultant Agreement
Exhibit H – Consultant's Current Licenses or Certifications

To be Provided by 01 MAR 2020

(Consultant Affirms it is a Registered Architect Licensed to Practice in
Texas)

CONFLICT OF INTEREST QUESTIONNAIRE

CONFLICT OF INTEREST QUESTIONNAIRE -

FORM CIQ

For vendor or other person doing business with local governmental entity

This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.

This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a).

By law this questionnaire must be filed with the records administrator of the local government entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. *See* Section 176.006(a-1), Local Government Code.

A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.

1 Name of vendor who has a business relationship with local governmental entity. Elements of Architecture, Inc.

2 ☐ **Check this box if you are filing an update to a previously filed questionnaire.**

(The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)

3 Name of local government officer about whom the information in this section is being disclosed.
Debbie Fulwiler

Name of Officer

This section, (item 3 including subparts A, B, C & D), must be completed for each officer with whom the vendor has an employment or other business relationship as defined by Section 176.001(1-a), Local Government Code. Attach additional pages to this Form CIQ as necessary.

A. Is the local government officer named in this section receiving or likely to receive taxable income, other than investment income, from the vendor?

☐

Yes

☐

No

B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer named in this section AND the taxable income is not received from the local governmental entity?

☐

Yes

☐

No

C. Is the filer of this questionnaire employed by a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership of one percent or more?

☐


Yes

☐

No

D. Describe each employment or business and family relationship with the local government officer named in this section.

4 ☒ **I have no Conflict of Interest to disclose.**

5 

Signature of vendor doing business with the governmental entity

12/19/2019

Date

City of Denton's Development Services Building
AIA C141 Owner-Consultant Agreement
Exhibit X – Consultant's Insurance Certificate

To be Provided by 14 FEB 2020

(After Signed Contract is Received by Consultant & Certificate is Approved
by the Owner's Risk Management Group)

City of Denton's Development Services Building
AIA C141 Owner-Consultant Agreement
Exhibit Y – Employing or Contracting with an Illegal Alien

To be Provided by 14 FEB 2020

(After Signed Contract is Received by Consultant & Exhibit Y is Approved
by the Owner's Legal Team)

Wood's Development Services Building
AIA C141 Owner - Consultant Agreement
Exhibit Z-Schedule of Exhibits

Updated 28 JAN 2020
 Printed: 1/28/2020 at 12:05 PM

Description	Prepared By	Date Due	Comment
Exhibit "A" – Scope of Services	Owner	Attached	From RFQ
Exhibit "B" – Design Criteria	Owner	01-Mar-20	Modifications Required
Exhibit "C" – Owner's Initial Schedule	Consultant	Attached	Using Dates Provided by Owner
Exhibit "D" – Owner Design-Builder Agreement	Owner	01-Mar-20	Pending DB Selection Process
Exhibit "E" – Consultant's Performance Schedule	Consultant	01-Mar-20	Based on DB's Project Schedule
Exhibit "F" – Compensation and Reimbursable Expenses	Consultant	Attached	From RFP Response
Exhibit "G" – Hourly Rates	Consultant	Attached	From RFP Response
Exhibit "H" – Consultant's Current Licenses or Certifications	Consultant	01-Mar-20	Consultant is Licensed Architect
Exhibit "I" – Ethics Affidavit	Consultant	Attached	With Consultant's RFQ Response
Exhibit "X" – Consultant's Insurance Certificate(s)	Consultant	01-Mar-20	Meets Agreement Requirements
Exhibit "Y" – Employing or Contracting with an Illegal Alien	Consultant	01-Mar-20	01-Mar-20
Note: "DB" Above means "Design-Builder"; Anticipated to be Selected by 25 FEB 2020			

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lori.hewell@cityofdenton.com

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Purchasing Manager

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Signature Adoption: Pre-selected Style

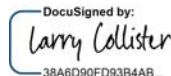
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Larry Collister



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larry.collister@cityofdenton.com

Viewed: 1/30/2020 9:01:55 AM

First Assistant City Attorney

Signed: 1/30/2020 9:02:56 AM

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Signature Adoption: Pre-selected Style

Security Level: Email, Account Authentication
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Electronic Record and Signature Disclosure:

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Debbie Fulwiler



Sent: 1/30/2020 9:02:59 AM

dfulwiler@elementsofarc.com

Resent: 1/30/2020 9:30:02 AM

Security Level: Email, Account Authentication
(None)

Viewed: 1/30/2020 9:31:29 AM

Signed: 1/30/2020 9:35:44 AM

Signature Adoption: Pre-selected Style

Using IP Address: 24.240.243.66

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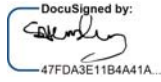
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Sara Hensley
 Sara.Hensley@cityofdenton.com
 Sara Hensley
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Signature

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Cheyenne Defee
 cheyenne.defee@cityofdenton.com
 Contract Administrator
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 Todd.Hileman@cityofdenton.com
 City Manager
 City of Denton
 Security Level: Email, Account Authentication
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Rosa Rios
 rosa.rios@cityofdenton.com
 City Secretary
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 (None)

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Electronic Record and Signature Disclosure:

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In Person Signer Events**Signature****Timestamp****Editor Delivery Events****Status****Timestamp****Agent Delivery Events****Status****Timestamp****Intermediary Delivery Events****Status****Timestamp****Certified Delivery Events****Status****Timestamp****Carbon Copy Events****Status****Timestamp**

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Chris Squadra csuada@peakprogramvalue.com Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign	COPIED	Sent: 2/6/2020 8:20:18 AM

Witness Events	Signature	Timestamp
Notary Events	Signature	Timestamp
Envelope Summary Events	Status	Timestamps

Envelope Summary Events	Status	Timestamps
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Signing Complete	Security Checked	2/6/2020 8:20:18 AM
Completed	Security Checked	2/6/2020 8:20:18 AM
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Browsers (for SIGNERS):	Internet Explorer 6.0?, Mozilla FireFox 1.0, NetScape 7.2 (or above)
Email:	Access to a valid email account
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Enabled Security Settings:	<ul style="list-style-type: none"> •Allow per session cookies •Users accessing the internet behind a Proxy Server must enable HTTP 1.1 settings via proxy connection

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 Christa.Christian@cityofdenton.com
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Signature

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Scott Gray
 scott.gray@cityofdenton.com
 Director - Airport, Facilities, Real Estate
 x
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Christa Christian
 christa.christian@cityofdenton.com
 Senior Buyer
 City of Denton
 Security Level: Email, Account Authentication (None)

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Agent Delivery Events	Status	Timestamp
Intermediary Delivery Events	Status	Timestamp
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<p>Marissa Barrett marissa.barrett@cityofdenton.com Management Analyst City of Denton Security Level: Email, Account Authentication (None)</p> <p>Electronic Record and Signature Disclosure: Not Offered via DocuSign</p>	COPIED	<p>Sent: 10/30/2020 4:27:14 PM Viewed: 10/31/2020 7:42:43 AM</p>
<p>Cheyenne Defee cheyenne.defee@cityofdenton.com Contract Administrator City of Denton Security Level: Email, Account Authentication (None)</p> <p>Electronic Record and Signature Disclosure: Not Offered via DocuSign</p>	COPIED	<p>Sent: 10/30/2020 4:27:14 PM</p>
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