State of Ohio Standard Requirements for Public Facility Construction

~~2010~~(Multiple-Prime Contract)

2012 Edition (~~September 2011~~June 2012)

Including Standard Form Documents of
Division 00 – Procurement and Contracting Requirements
and Sections of Division 01 – General Requirements

OhioDAS General Services Division | State Architect's Office
Service · Support · Solutions

4200 Surface Road
Columbus, Ohio 43228-1395
v: 614.466.4761
e: StateArchOff@das.state.oh.us
w: http://ohio.gov/sao

OAKS Capital Improvements

Version Control Document

v: 614.644.6625 | 888.644.6625
w: http://ci.oaks.ohio.gov

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These instructions are for the A/E's use only. DO NOT incorporate them into the Project Manual.

A. General Instructions and Supplementary Documents

The Architect/Engineer ("A/E") shall incorporate into the Project Manual, in the order listed in the Table of Contents, any Supplementary Instructions or Supplementary Conditions approved by the Department, the current wage rates for the Project location, Project geotechnical or environmental data if any; and the A/E's Specifications.

The A/E shall edit and modify the Table of Contents, Solicitation, Bid Form, Contract Form, and the provided Sections of Division 01 to clearly describe the Project-specific requirements and information. The A/E shall copy all other portions of the Standard Requirements, modified only by Supplementary Instructions and Supplementary Conditions written by the Contracting Authority and approved by the Department.

The A/E shall not incorporate the Cover Sheet, the Instructions to the Architect/Engineer (this document), or the Version Control Document into the Project Manual. These documents are provided for guidance to the A/E and are not intended for use in Contract Document packages. The A/E shall select the Bid Form, Contract Form, and General Conditions documents that are appropriate for the Project. Consult with your Project Manager if there are any questions regarding which type of standard documents to be used.

Supplementary Instructions that amend the Instructions to Bidders and Supplementary Conditions that amend or modify the General Conditions must be authorized by the ~~Department~~State Architect prior to submitting documents to the Building Authority. The authorized Supplementary Instruction and Supplementary Conditions for each agency and institution of higher education shall be posted to the SAO ~~Web~~web site as they become available. The A/E shall submit Unit Prices, Alternates, Allowances, single source Specifications, and any other unusual requirements to the Contracting Authority for review prior to the submission of the Contract Documents for review. The Department requires early development and notice of these requirements.

B. Prevailing Wage Rates

The Contracting Authority shall access the Ohio Department of Commerce, Wage and Hour Bureau, ~~Web~~web site http://www.com.state.oh.us and provide the wage rates to the A/E via overnight mail or electronic transmission within 7 business days of the planned first advertisement date. The A/E shall coordinate the timing of issuing wage rates with the Contracting Authority. If the wage rates expire on or before the bid date, the Contracting Authority shall provide new wage rates to the A/E who shall issue them by Addendum.

C. Lead Contractor

For Multiple-Prime Contract Projects without a Construction Manager, the A/E shall determine which Contractor shall be responsible for scheduling the Project, coordinating the Contractors, and providing other services identified in the Contract Documents (the "Lead Contractor"). The A/E shall identify the Lead Contractor by trade in the Solicitation and on the Bid Form.

D. Approval for Bidding/Public Bid Advertisement

In order to schedule a bid date, the Department requires:

- One cover sheet of the Drawings bearing evidence of the approval of the Ohio Department of Commerce, Division of Industrial Compliance;
- One cover sheet of the Specifications bearing evidence of the approval of the Ohio Department of Commerce, Division of Industrial Compliance;
- The first plumbing sheet in the sequence bearing evidence of the approval of the Ohio Department of Health;
- One copy of the final Document 00 10 00 ~~–~~- "Solicitation" and the final Document 00 41 00 ~~–~~- "Bid Form" forwarded to the Contracting Authority via electronic mail or OAKS CI just prior to advertising. The Solicitation and Bid Form are documents critical to the proper preparation of the Public Bid Advertisement, and the bidding process. The A/E shall make every effort to avoid modifications to these documents by Addendum;
- One copy of the Detailed Estimate of Construction Cost for each separate Contract or bid item, and for each and every Alternate;
- The Owner's written acceptance of the Contract Documents; and

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- The A/E's written response to the Contracting Authority's review comments and its constructability consultant's review comments, if any.

As part of distributing the Contract Documents to prospective Bidders, the A/E shall provide to the Contracting Authority a complete set of Contract Documents, and Addenda when issued.

The Contracting Authority shall prepare the Public Bid Advertisement and advertise for Bids for construction for three consecutive weeks in a newspaper of general circulation in the county where the Project is located and in such other newspapers as determined by the Contracting Authority. The last publication shall be at least 8 days before the bid opening. Each of the three dates of publication must be on the same day of the week, with a full calendar week between publication. For example, if the advertisement appears on day 1, for the shortest possible schedule, it must also appear on days 8 and 15, with bids then opened on day 23.

The advertisement shall state that the Contract Documents are on file at the office of the Contracting Authority and other designated locations. The advertisement shall also include date, time, and location Bids shall be received.

If any or all Bids are rejected by the Contracting Authority and the Work is re-bid, the Public Bid Advertisement shall be published one additional time, not less than 5 days before the bid opening.

E. Specification Provisions

Whenever any building product, equipment, or service is specified by brand name, e.g., by manufacturer, supplier, or trade name, the intent is to establish a standard of quality. The component listed first is the "Basis of Design" and the remaining listed components are "Acceptable."

Specifications listing manufacturers, suppliers or trade names are known as proprietary specifications. The A/E must provide a minimum of 3 manufacturers or trade names (sources) and include the listing of model or series numbers of the proposed product, equipment, or service for each manufacturer or trade name listed. The A/E may make provisions for "Substitutions" in proprietary specifications; however, other products shall only be considered as provided in ~~paragraph~~Section 2.5 of Document 00 21 13 ~~–~~- "Instructions to Bidders."

Performance Specifications are also acceptable. This type of Specifications shall be written by the A/E describing requirements that a minimum of 3 sources are capable of bidding. Performance Specifications that only a single manufacturer, supplier, or trade name is capable of bidding are considered single source Specifications, see the following:

Prior to specifying single source products, equipment or services without provision for Approved Substitutions, the A/E shall submit written justification for such Specification sections and products for Contracting Authority approval. A proposal for a single source Specification shall be made to the Contracting Authority not later than the time when Construction Documents are 50 percent complete. The A/E shall not incorporate single source Specifications into the Contract Documents without the Contracting Authority's prior written approval.

Construction Schedule and Milestones

The State Architect's Office has provided, on its ~~Web~~web site, a Division 01 specification named Section 01 32 16 ~~–~~- "Construction Progress Schedule," which is required for use on projects if the estimated Construction Budget is greater than $500,000.

On complex projects, the State Architect's Office recommends the development of a target or default Construction Schedule, which may include Milestone dates in the Contract Documents. The State Architect's Office has consultants available to assist in developing a target or default Construction Schedule. At its sole option, the Contracting Authority may include this service as part of its Constructability Review.

The A/E, in consultation with the Owner and the Contracting Authority, shall consider developing and listing Milestone dates based upon Project-specific requirements. The following are examples of Projects in which Milestone dates may be appropriate.

- Example 1: A renovation/addition Project, which requires the addition to be completed before the renovation can proceed would likely have a Milestone date for the completion of the addition.
- Example 2: A renovation in which only one floor of a building would be renovated at a time would likely have a Milestone date for the completion of each floor.
- Example 3: As part of a larger Project, a parking lot is being constructed, which the Owner needs before the anticipated completion of the total Project, would likely have a Milestone date for the parking lot.
- Example 4: Large scale new construction Projects may have Milestone dates for the completion of major Project activities such as completion of caissons,

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completion of structural steel frame erection or cast-in-place concrete frame erection, roofing completion, and temporary or permanent building enclosure.

As part of the development of Milestone dates, the A/E shall consider whether or not Statutory Delay Forfeiture ("SDF") shall be associated with failing to meet the dates. The SDF for the entire Contract may be distributed across Milestones and the Contract Completion date on a percentage basis, or by fixed amounts. If SDF is to be applied to any date other than Contract Completion, the A/E shall indicate the dates to which SDF apply on the Contract Form, and carefully review this matter with the Contracting Authority and the Owner.

Combined Bid

If the Project is bidding only one item or trade, the Combined Bid option does not exist and shall not be listed. If there are only two items being bid, the A/E shall indicate that combination as the only Combined Bid. If there are more than two items being bid, the A/E shall list all Items and Titles, and the Bidder shall be instructed to circle the Items it is bidding on in the Combined Bid as described on the Bid Form.

Unit Prices

The use of Unit Price bidding may be considered for certain environmental remediation, site civil, and building foundation work where Project conditions do not allow for the scope of Work to be adequately described in the Base Bid. The Contracting Authority shall only approve the use of Unit Prices if they are competitively bid and are included in the Base Bid. If Unit Prices are approved by the Contracting Authority, the A/E shall use the format described on the Bid Form and insert it directly above the Base Bid Item in which the Unit Price Work occurs. The A/E shall develop a table of Unit Price Work, a Subtotal of All Unit Price Extensions, and instruct the Bidder to include the Subtotal of All Unit Price Extensions to establish the Base Bid and the Contract amount. The A/E shall also develop a Division 01 Specification named Unit Prices, which shall explain in sufficient detail the basis of the Bid and the intended scope of Work.

Unit pricing shall not be allowed from a quantity of one (the first unit of Work required) because it is not practical for a Contractor to reasonably bid the first unit of Work due to mobilization, start-up, overhead, profit, and related costs. The A/E is required to establish the estimated range and quantity of units required in order to establish a reasonable basis upon which the Bidder can base their Unit Price bid. The Unit Price Specification shall establish a range, the State Architect's Office recommends 20 percent, above and below the A/E estimated quantity of units. Unit Price Work within that range shall be completed for the Bidder's Unit Price bid. If the scope of Unit Price Work falls outside of this range, then the Work falling outside of the range shall only be subject to a renegotiation in the cost of the Unit Price Work. Normally, greater quantities cost less per Unit Price, and lesser quantities cost more per Unit Price.

For example, if 100 cubic yards ("CY") of rock removal are expected to be encountered in the foundations, the Bidder's Unit Price would only be good for quantities between 80 CY and 120 CY. If only 50 CY of rock was encountered, the Unit Price bid would not apply other than as an allowance towards the cost of the work, which would have to be renegotiated, presumably higher than the Unit Price bid. If 150 CY of rock were encountered, 120 CY would be paid for at the Unit Price bid, and the last 30 CY would be paid for at a negotiated price, presumably lower than the Unit Price bid. This additional 30 CY, since it exceeds funds available in the Contract, would have to be covered by a Change Order. Rock removal is a good example of the difficulty of properly specifying Unit Price Work. The A/E would also need to develop in Division 01 of the Specifications under Unit Prices a description of the type of rock expected to be encountered and/or the type of equipment that the Bidder may assume will be capable of dislodging and/or excavating it. Soil borings alone are not enough to accomplish this with rock. The difference in the Unit Price of rock removal between fractured shale and solid granite are substantial in cost and in the type of equipment required. Without addressing these issues correctly, the A/E should expect their Unit Price approach to be unworkable, other than as an allowance. If this is the case, the A/E shall use an Allowance in lieu of Unit Prices.

The intent of this approach and these instructions is to create a "level playing field" for Bidders on Unit Price Work. Unless properly specified, Unit Prices will not achieve the intended goal. If the A/E plans Unit Price Work, they are to bring it to the attention of the Contracting Authority early, coordinate with the Project Manager, and establish the provisions on the Bid Form and in the Specifications for Contracting Authority review by the time that the Construction Documents are 50 percent complete.

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F. Distribution of Contract and Conformed Documents

A prospective Bidder may purchase the Contract Documents at the locations indicated in the Advertisement for Bids.

The A/E shall distribute an electronic (PDF) set or deliver a printed set of the Contract Documents, without charge, to the plan rooms listed in Document 00 10 00 ~~–~~- "Solicitation" for review by prospective Bidders. Electronic Contract Documents may be distributed via an FTP site. Further instructions on this process are available from the Project Manager.

The A/E, with the cooperation of its printing company, shall maintain a Plan Holder's List that indicates prospective Bidders, listed by trade, that have received Contract Documents.

After Bids are opened, the A/E shall incorporate all Addenda and accepted Alternates into the Conformed Documents. The A/E shall provide each Contractor with Conformed Documents as required in Document 00 72 NN ~~–~~- "General Conditions," ~~subparagraph~~Section 1.4.3. The A/E shall also provide one copy of Conformed Documents to the Owner, the Contracting Authority, and the CM, if applicable.

G. Bid Tabulation Form

The Contracting Authority shall prepare the Bid Tabulation Form which is used to record information at the bid opening. Within 7 business days of the bid opening the A/E shall forward, via facsimile, a current copy of the Plan Holder's list to the Project Coordinator. Plan Holders who may be prospective Prime Bidders shall be listed by trade on the Bid Tabulation Form to save time recording the names during the bid opening.

The A/E may be asked to assist the Contracting Authority with this form at the bid opening. Completed copies of this form shall be offered to Bidders in attendance following the bid opening, and the form shall be sent via facsimile to the public plan rooms, and to the Owner if they are not in attendance. For off site bid openings, the A/E and the Owner may be requested to assist and coordinate with the Contracting Authority for Bid opening, handling, and recording responsibilities.

H. *The SAO Manual*

The A/E shall refer to, and become familiar with, the Department's *The SAO Manual*, which may be revised from time to time, and coordinate with the Project Manager for additional information. *The SAO Manual* is written in chronological order of a construction Project, beginning with Concept Development, through construction administration and Project closeout. *The SAO Manual*, certain forms, and Department policies and procedures are available on the State Architect's ~~Web~~web site, see item "J" in the Instructions to the Architect/Engineer.

I. State Architect's Construction Bid Announcements

The Department shall post Project bid information on the OAKS Capital Improvements ("OAKS CI") ~~Web~~web site at the following address: http://ci.oaks.ohio.gov.

This site is accessible to all prospective Bidders. On the first day of posting the A/E shall review the posted Project information for accuracy and updates and notify the Project Coordinator if changes are needed during the bid period. This ~~Web~~web site is also available for Owners to post their local administration bid information which is strongly encouraged by the Department.

J. SAO Web Site

The Department reserves the right to modify its policy, procedures, and forms at any time. The A/E shall periodically review the State Architect's Office ~~Web~~web site: http://ohio.gov/sao.

Also see Requests for Qualifications ("RFQs") and archived monthly Ohio Register issues on the OAKS Capital Improvements ~~Web~~web site: http://ci.oaks.ohio.gov for possible changes to the Department's policies and procedures.

The Department requires the use of its forms in their latest, most recent edition, where noted in the Contract Documents. The forms are available at its ~~Web~~web site. Click on "Forms" or "Standard Requirements" under the "Documents" menu.

For Projects utilizing ~~the~~ OAKS CI ~~Web~~web-based project management ~~system~~software, the Department authorizes the use of OAKS CI ~~Web~~web forms, reports, and custom print documents in lieu of its paper forms.

END OF DOCUMENT

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~~A/E:~~ *Edit the Table of Contents for each Project by modifying the document per the instructions in shaded boxes, and then deleting the instructions.*

PROCUREMENT AND CONTRACTING REQUIREMENTS GROUP

Division 00 – Procurement and Contracting Requirements

Introductory Information
00 01 10..... Table of Contents

Procurement Requirements
00 10 00..... Solicitation
00 21 13..... Instructions to Bidders

Insert the Owner's Supplementary Instructions below, if any.

00 22 00..... Supplementary Instructions

Expand the Table of Contents, listing geotechnical or environmental data here (00 3N NN), if any.

00 41 00..... Bid Form
00 43 13..... Bid Security Form
00 45 13..... Bidder's Qualifications
00 45 39..... EDGE Affidavit

Contracting Requirements
00 52 00..... Contract Form
00 61 13..... Performance and Payment Bond Form
00 71 00..... Contracting Definitions
~~00 72 13..... General Conditions – Stipulated Sum (Single-Prime Contract)~~

~~The item above may only be used IF (1) the estimated cost for each branch or class of work (i.e., plumbing and gas fitting; steam and hot water heating equipment, ventilating apparatus, and steam power plant; electrical equipment) is less than $5,000 OR (2) the total cost of the Project is less than $50,000. Generally use one of the items below for multiple-prime contracts. Refer to ORC 153.50-153.52.~~

00 72 16..... General Conditions ~~– Stipulated Sum~~ (Multiple-Prime Contract)

~~Generally use~~*Use the item above or if a construction manager is involved, use the item below and delete the unused item.*

00 72 26..... General Conditions ~~– Construction Manager~~ (Multiple-Prime ~~Contract~~/ CM Advisor)

Insert the Owner's Supplementary Conditions below, if any.

00 73 00..... Supplementary Conditions
00 73 43..... Wage Rate Requirements

Use the item above if the Project will be constructed entirely with state or local funds. If the Project is constructed using federal funds in any amount, use the item below and contact SAO to develop supplementary documents to comply with Davis-Bacon wage requirements. Insert prevailing wage rates after the appropriate Wage Rate Requirements document.

00 73 43.50..... Wage Rate Requirements (Federal Funded Project)

SPECIFICATIONS GROUP

Expand the Table of Contents below, list each specification Section by number and title – Large Project Manuals should be divided into two or three volumes in a logical manner.

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GENERAL REQUIREMENTS SUBGROUP

Division 01 – General Requirements
01 21 00..... Allowances
01 32 16..... Construction Progress Schedule

FACILITY CONSTRUCTION SUBGROUP

Division 02 – Existing Conditions
Division 03 – Concrete
Division 04 – Masonry
Division 05 – Metals
Division 06 – Wood, Plastics, and Composites
Division 07 – Thermal and Moisture Control
Division 08 – Openings
Division 09 – Finishes
Division 10 – Specialties
Division 11 – Equipment
Division 12 – Furnishings
Division 13 – Special Construction
Division 14 – Conveying Equipment
Divisions 15 through 19 – Not Used

FACILITY SERVICES SUBGROUP

Division 20 – Not Used
Division 21 – Fire Suppression
Division 22 – Plumbing
Division 23 – Heating, Ventilating, and Air Conditioning
Division 24 – Not Used
Division 25 – Integrated Automation
Division 26 – Electrical
Division 27 – Communications
Division 28 – Electronic Safety and Security
Division 29 – Not Used

SITE AND INFRASTRUCTURE SUBGROUP

Division 30 – Not Used

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Division 31 – Earthwork

Division 32 – Exterior Improvements

Division 33 – Utilities

Division 34 – Transportation

Division 35 – Waterway and Marine

Divisions 36 through 39 – Not Used

PROCESS EQUIPMENT SUBGROUP

Division 40 – Process Integration

Division 41 – Material Processing and Handling Equipment

Division 42 – Process Heating, Cooling, and Drying Equipment

Division 43 – Process Gas and Liquid Handling Equipment

Division 44 – Pollution Control Equipment

Division 45 – Industry-Specific Manufacturing Equipment

Division 46 – Water and Wastewater Equipment

Division 47 – Not Used

Division 48 – Electrical Power Generation

Division 49 – Not Used

END OF DOCUMENT

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~~A/E:~~ After reviewing the changes from previous version of the Standard Requirements, accept all changes in the document and edit the Solicitation for each Project by modifying the document per the instructions in shaded boxes, and then ~~removing~~delete the instructions. The Contracting Authority may publish an abbreviated version of this notice in the Public Bid Advertisement. Modify the paragraphs below to indicate the location of the bid opening, project identification, and the A/E's contact information.

Sealed bids will be received by:

~~[~~«State Architect's Office~~]~~»
~~[~~«4200 Surface Road~~]~~»
~~[~~«Columbus, Ohio 43228-1395~~]~~»

for the following Project:

Project ~~[~~«AGY-FYNNNN~~]~~»
~~[~~«Project Name~~]~~»
~~[~~«Owner~~]~~»
~~[~~«City, County~~]~~»

in accordance with the Contract Documents prepared by:

~~[~~«A/E name~~]~~»
~~[~~«Address~~]~~»
~~[~~«Phone number~~]~~»
~~[~~«Facsimile number~~]~~»
~~[~~«Contact name~~]~~»
~~[~~«Contact email~~]~~»
~~[~~«Internet address~~]~~»

Bidders may submit requests for consideration of a proposed Substitution for a specified product, equipment, or service to the Architect/Engineer ("A/E") no later than 10 days prior to the bid opening. Additional products, equipment, and services may be accepted as approved Substitutions only by written Addendum.

From time to time, the State Architect's Office issues new editions of the "State of Ohio Standard Requirements for Public Facility Construction" and may issue interim changes. Bidders must submit Bids that comply with the version of the Standard Requirements included in the Contract Documents.

Prevailing Wage rates and Equal Employment Opportunity requirements are applicable to this Project.

This Project is subject to the State of Ohio's Encouraging Diversity, Growth, and Equity ("EDGE") Business Development Program. A Bidder is required to submit with its Bid and with its Bidder's Qualifications form, certain information about the certified EDGE Business Enterprise(s) participating on the Project with the Bidder. Refer to subparagraph 6.1.12 of the Instructions to Bidders.

The EDGE Participation Goal for the Project is ~~[~~**«5.0~~]~~»** **percent**.

The percentage is determined by the contracted value of goods, services, materials, and labor that are provided by EDGE-certified business(es). The participation is calculated on the total amount of each awarded contract. For more information about EDGE, contact the State of Ohio EDGE Certification Office at http://das.ohio.gov/eod, or at its physical location: 30 E. Broad St., 18th Floor, Columbus, Ohio 43215-3414; or by telephone at (614) 466-8380.

The Bidder may be subject to a Pre-Award Affirmative Action Compliance Review in accordance with Section 123:2-5-01 of the Ohio Administrative Code including a review of the Bidder's employment records and an on-site review.

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The Bidder must indicate on the Bid Form, the locations where its services will be performed in the spaces provided or by attachment in accordance with the requirements of Executive Order 2011-12K related to providing services only within the United States. Failure to do so may cause the Bid to be rejected as non-responsive.

DOMESTIC STEEL USE REQUIREMENTS AS SPECIFIED IN OHIO REVISED CODE SECTION 153.011 APPLY TO THIS PROJECT. COPIES OF OHIO REVISED CODE SECTION 153.011 CAN BE OBTAINED FROM ANY OF THE OFFICES OF THE OHIO DEPARTMENT OF ADMINISTRATIVE SERVICES.

Bidders are encouraged to be enrolled in and to be in good standing in a Drug-Free Safety Program ("DFSP") approved by the Ohio Bureau of Workers' Compensation ("OBWC") prior to submitting a Bid and provide, on the Bid Form with its Bid, certain information relative to their enrollment in such a program; and, if awarded a Contract, shall comply with other DFSP criteria described in General Conditions Paragraph 1.10 – Drug Free Safety Program Participation.

Bidders entering into a contract greater than $2,000,000 are required to submit their bid information into escrow. Refer to subparagraph 6.1.10 of the Instructions to Bidders.

Separate bids will be received for:

Trade	Estimate
[**«General Trades Contract**]	[» **«Contract Cost Estimate**]»
[«Alternate G-1]	[» «Alternate Cost Estimate]»
[«Alternate G-2».....	«Alternate Cost Estimate»
«Plumbing and Fire Protection Contract].....	[» **«Contract Cost Estimate**]»
[«Alternate P-1].....	[» «Alternate Cost Estimate]»
«Alternate P-2».....	«Alternate Cost Estimate»

The A/E and Contracting Authority should review the need for a separate Fire Protection Contract when the amount of the Contract may result in sufficient Bidder interest.

[**«HVAC Contract**]	[» **«Contract Cost Estimate**]»
[«Alternate H-1]	[» «Alternate Cost Estimate]»
[«Alternate H-2».....	«Alternate Cost Estimate»
«Electrical Contract].....	[» **«Contract Cost Estimate**]»
[«Alternate E-1].....	[» «Alternate Cost Estimate]»
«Alternate E-2».....	«Alternate Cost Estimate»

Indicate the date and time for the Bid Opening below.

until [ ], «_____», **20**[ ], «__», at [ ] [ ]. «_____» «_»**.m.**, when all Bids will be opened and read aloud.

Indicate the date and time, building name, room number, and address information for the Pre-Bid Meeting below.

All Bidders are strongly encouraged to attend the Pre-Bid Meeting on [ ], «_____», **20**[ ], «__», at [ ] [ ]. «_____» «_»**.m.** [«until approximately [ ] [ ]. «_____» «_»**.m.**], .», at the following location:

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Identify which trade will have the responsibilities of the "Lead Contractor" below. Delete the paragraph in its entirety if ~~(1)~~ a Construction ~~manager~~Manager is involved and will perform these duties ~~or (2) the Single-Prime Contract method is being used~~.

The ~~[~~«General Trades~~]~~» Contractor is the Lead Contractor for the Project and is the Contractor responsible for scheduling the Project, coordinating the Contractors, and providing other services identified in the Contract Documents.

The Contract Documents are available for purchase from [insert company name, address, phone number, facsimile number, contact name and E-Mail address] at the non-refundable cost of $[XXX] per set, plus shipping, if requested.

Remove the paragraph in brackets below for locally administered projects. At this time, only SAO-administered projects are available on its Web site. If the local Contracting Authority is using an FTP or Web site to distribute electronic documents, that address may be substituted.

~~[~~«The Contract Documents may be downloaded as electronic PDF files from the OAKS Capital Improvements website at http://ci.oaks.ohio.gov at no charge. A free PDF viewer with takeoff measurement and area calculation tools is also available from this location~~.]~~.»

The Contract Documents may be reviewed for bidding purposes without charge during business hours at the office of the A/E~~, [~~«, the ~~Construction Manager,][~~CM,»«, the State Architect's Office ~~],~~.» and the following locations:

One complete set of Contract Documents must be transmitted to the following plans rooms in either electronic PDF on CD-ROM or through a web or FTP site or paper format for public review regardless of project location. The type of documents each plan room can accommodate is indicated in square brackets beside the first contact name. If the electronic files are distributed through a Web or FTP site, please send an e-mail to the plan room contact advising them that the documents are available along with instructions to access them. If the text in square brackets indicates "None" they receive documents from an affiliated plan room. Please note: We are working with the remaining plan rooms that wish to receive paper documents to encourage them to move to PDF format as soon as possible.

Allied Construction Industries
3 Kovach Drive
Cincinnati, Ohio 45215
Phone: (513) 221-8020
Fax: (513) 221-8023
Contact: Candi Oakley ~~[PDF]~~
E-mail: coakley@aci-construction.org
Website: www.aci-construction.org

BB-Bid Plan Room
Contractor's Register
800 East Main Street
Jefferson Valley, NY 10535
Phone: (800) 431-2584 Ext 3618
Fax: (914) 243-0287
Contact: Gabriel Rivera ~~[PDF]~~
E-mail: plans@thebluebook.com
Website: www.thebluebook.com

The Builder's Exchange, Inc. (Cleveland)
9555 Rockside Rd., Suite 300
Valley View, Ohio 44125
Phone: (216) 393-6300 Ext 39 / (866) 907-6300
Fax: (216) 393-6304 / (866) 907-6304
Contact: Debbie Bielinski ~~[PDF]~~
E-mail: dbielinski@bxohio.com
Website: www.bxcleve.com

The Builder's Exchange, Inc. (Dayton)
2077 Embury Park Road
Dayton, Ohio 45414
Phone: (937) 278-5723
Fax: (937) 278-3843
Contact: John Grandetti [None]
E-mail: jgrandetti@bxohio.com
Website: www.bxohio.com

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The Builder's Exchange, Inc. (Toledo)
5555 Airport Highway, Suite 140
Toledo, Ohio 43615
Phone: (419) 865-3833 Ext 201
Fax: (419) 865-8014
Contact: Sarah Skiver ~~[PDF]~~
E-mail: sskiver@bxohio.com
Website: www.bxohio.com

Builder's Exchange of East Central Ohio
5080 Aultman Road
North Canton, Ohio 44720
Phone: (330) 452-8039 Ext 203
Fax: (330) 452-4323
Contact: Chris Zimmerman ~~[PDF]~~
E-mail: czimmerman@buildersexchange.org
Website: www.buildersexchange.org

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E-mail: aab3@cncnewsonline.com
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Fax: (~~800) 229-4626~~614) 486-0544
Contact: ~~Ted Blaicher [PDF]~~Puna Johnson
E-mail: Dodge_ReocMW@mcgraw-hill.com
Website: www.dodge.construction.com~~E-mail:~~
~~aab3@cncnewsonline.com~~
~~Web site: www.cncnewsonline.com~~

Builder's Exchange of East Central Ohio
495 Wolf Ledges Parkway
Akron, Ohio 44311
Phone: (330) 434-5165 Ext 12
Fax: (330) 434-6088
Contact: Julie Thornberry ~~[PDF]~~
E-mail: jthornberry@buildersexchange.org
Website: www.buildersexchange.org

Cincinnati Builders Exchange
4350 Glendale-Milford Road, Suite 120
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END OF DOCUMENT

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ARTICLE 1 - GENERAL INSTRUCTIONS

1.1 APPLICABLE LAW AND FORUM

1.1.1 The rights of any Bidder or any party to a subsequent Contract shall be governed by the laws of the state of Ohio and only Ohio courts shall have jurisdiction over any action or proceeding related to the Bid or any subsequent Contract. The Bidder irrevocably consents to such jurisdiction.

1.2 PROJECT SCHEDULING AND COORDINATION

1.2.1 When the Contract Documents refer to a period of time by a number of days, it excludes the first day and includes the last day of the period. If the last day of the period falls on a Saturday, Sunday, or a legal holiday, that day shall be omitted and the period shall end on the next day which is not a Saturday, Sunday, or legal holiday.

1.2.2 The time for completion of the Project indicated on the Bid Form is the time for Contract Completion applicable to the Bidder.

1.2.3 The State may assign all or any portion of its interest in a Contract with one or more of the successful Bidders to another successful Bidder as an agreed condition for an award of the Contract for the respective Bid. The assignment may include, without limitation, the duty to schedule, coordinate, and administer the Contracts.

1.2.4 The Lead Contractor, or ~~Construction Manager~~CM if applicable, is responsible for scheduling the Project, coordinating the Contractors, and providing other services identified in the Contract Documents.

1.2.5 The award of separate Contracts for the Project requires sequential, coordinated, and otherwise interrelated Contractor operations and may involve interference, disruption, hindrance, or delay in the progress of any individual Contractor's Work. Each Contractor shall cooperate with the Lead Contractor, or ~~Construction Manager~~CM if applicable, the ~~Architect/Engineer (“~~A/E~~”)~~, the Contracting Authority, the Owner, and Separate Contractors to minimize interference, disruption, hindrance, or delay of the Project.

1.2.6 By submitting its Bid, the Bidder indicates its understanding that the Contract Sum, based on its Bid and as amended by Change Orders, includes all costs that the Contracting Authority owes the Bidder.

1.3 WRITTEN NOTICE

1.3.1 Notice under the Contract Documents shall be validly given if:

1.3.1.1 ~~Delivered~~delivered personally to a member of the organization for whom the notice is intended;

1.3.1.2 ~~Delivered~~delivered, or sent by registered or certified mail, to the last known business address of the organization; or

1.3.1.3 ~~Sent~~sent by facsimile, email, or ~~Web~~web-based project management software, provided the original signed document is delivered within 3 business days after the date of the electronic transmission.

1.3.2 Notices provided to one Project Participant from another shall be simultaneously copied to the prospective Bidders, the Owner, the Contracting Authority, the A/E, and, if applicable, the ~~Construction Manager~~CM.

ARTICLE 2 ~~-~~ BIDDING PROCEDURES

2.1 EXAMINATION OF CONTRACT DOCUMENTS AND THE SITE

2.1.1 Before submitting a Bid, the Bidder shall examine all Contract Documents, including, but not limited to, the Drawings, Specifications, and Addenda for all divisions of Work for the Project, noting in particular all requirements which may affect its Work in any way.

2.1.2 The Bidder's failure to become acquainted with the extent and nature of Work required to complete any portion of the Work in conformity with the requirements of the Contract Documents, shall not be a basis for additional compensation.

2.1.3 Before submitting a Bid, the Bidder should not only examine and evaluate the Site and related Project conditions where the Work will be performed, but shall also consider when the Work will be performed including, but not limited to, the following:

2.1.3.1 ~~The~~the condition, layout, and nature of the Site and surrounding area;

2.1.3.2 ~~The~~the availability and cost of labor;

2.1.3.3 ~~The~~the availability and cost of materials, supplies, and equipment;

2.1.3.4 ~~The~~the cost of temporary utilities required in the Bid;

2.1.3.5 ~~The~~the cost of any permit or license required by a local or regional authority having jurisdiction over the Project;

2.1.3.6 ~~The~~the usual weather conditions of the Project location;

2.1.3.7 ~~Conditions~~conditions bearing upon transportation, disposal, handling, and storage of equipment, materials, and waste; and

2.1.3.8 ~~Subsurface~~subsurface and concealed physical conditions and related information provided in the Contract Documents.

2.2 PRE-BID MEETING

2.2.1 The Bidder is encouraged to attend the pre-bid meeting, where the A/E, the Contracting Authority, and the Owner will receive questions regarding the Contract Documents. If not given in Document 00 10 00 ~~–~~- "Solicitation," the A/E shall issue notice of the time and place of any pre-bid meeting to each registered Plan Holder.

2.2.2 The A/E shall prepare minutes of the pre-bid meeting for the Project record. If questions raised by the prospective Bidders require changes to, or clarifications of, the Contract Documents, the A/E shall issue the changes by written Addendum, along with a list of pre-bid meeting attendees.

2.2.3 Additional compensation shall not be based upon the Bidder's failure to attend the pre-bid meeting, which results in the Bidder's incomplete knowledge and familiarity of the Project requirements.

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2.3 REQUEST FOR INTERPRETATION

2.3.1 If the Bidder finds any perceived ambiguity, conflict, error, omission, or discrepancy within the Contract Documents, including the Drawings, Specifications, and Addenda, or between any of the Contract Documents and Applicable Law, the Bidder shall submit a written Request for Interpretation ("RFI") to the A/E for an interpretation or clarification.

2.3.1.1 The Bidder is responsible for prompt delivery of the RFI.

2.3.1.2 The A/E shall respond to RFIs received more than 7 days before the bid opening.

2.3.2 The A/E shall issue Addenda in response to RFIs that modify or clarify the Contract Documents. Any Addenda issued within 72 hours before any bid opening (excluding Saturdays, Sundays, and legal holidays) shall extend the bid opening date by 7 days pursuant to ~~subparagraph~~ Section 3.3.1.

2.3.2.1 The Addenda may be delivered via facsimile or e-mail, posted to a ~~Web~~web or FTP site, or otherwise furnished to each registered Plan Holder.

2.3.3 Any interpretation or clarification of the Contract Documents made by any Person other than the A/E, in any manner other than a written Addendum, shall not be binding, and the Bidder shall not rely upon the interpretation or clarification.

2.3.4 The successful Bidder shall not be compensated for a claim alleging insufficient data, incomplete, ambiguous, conflicting, or erroneous Contract Documents or proposed Contract Documents, or assumed conditions regarding the nature, extent, or character of the Work, if the Bidder did not submit a related RFI prior to the bid opening.

2.4 BASIS OF DESIGN AND ACCEPTABLE COMPONENTS

2.4.1 The Contract Documents may list components produced by specific manufacturers to denote kind, quality, or performance requirements.

2.4.2 The component listed first is the Basis of Design Component.

2.4.3 Other listed components are Acceptable Components.

2.4.3.1 If the Bidder includes an Acceptable Component in its Bid, the Bidder is responsible for the costs of coordination and modification required.

2.5 SUBSTITUTIONS PRIOR TO BID OPENING

2.5.1 If the Bidder proposes to use an article, device, material, equipment, form of construction, fixture, or item other than the Basis of Design or Acceptable Components named in the Specifications, the Bidder shall certify that the proposed item is equal in quality and all aspects of performance and appearance, to the item specified.

2.5.1.1 If approval of a Substitution requires changes to the Contract Documents or affects the work of other trades, the Bidder is responsible for the additional costs, including, but not limited to, changes to the design by the A/E.

2.5.2 The Bidder shall submit its request for Substitution to the A/E no later than 10 days prior to the bid opening, which must include:

2.5.2.1 ~~The~~the name and complete description of the proposed Substitution, including Drawings, performance and test data, and other information necessary for a complete evaluation; and

2.5.2.2 ~~A~~a statement setting forth any changes that the Proposed Substitution will require in the Contract Documents or the Project.

2.5.3 If the A/E approves the Proposed Substitution, the A/E shall issue an Addendum~~.~~.

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2.5.4 If the A/E does not approve the Proposed Substitution, the A/E shall inform the Bidder of its decision, which is final. The A/E may reject a proposed Substitution because the Bidder failed to provide sufficient information to enable the A/E to completely evaluate the Proposed Substitution without causing a delay in the scheduled bid opening.

2.5.5 Proposed Substitutions received by the A/E less than 10 days prior to the bid opening shall not be considered.

2.6 BID FORM

2.6.1 Each Bid shall be submitted on the Bid Form and sealed in an envelope clearly marked as containing a Bid, indicating the Contracting Authority's Project number and name, construction trade of the Bid, and the date and time of the bid opening on the envelope. Refer to ~~subparagraph~~Section 3.1.2 for requirements related to envelope markings.

2.6.1.1 Any change, alteration, omission, or addition in the wording of the Bid Form shall cause the Bid to be rejected as non-responsive.

2.6.1.2 All pages of the Bid Form, including a completed "Bidder Affirmation and Disclosure" page acknowledging that the Bidder affirms, understands, and will abide by the requirements of Executive Order ~~2010-09S~~2011-12K, and a completed "Commitment to Participate in the EDGE Business Assistance Program" page, shall be submitted with the Bid. Failure to do so may cause the Bid to be rejected as non-responsive.

.1 If the names, locations, and service locations of Subcontractors are not known at the time of the Bid Opening, the Bidder must provide the information requested with its Subcontractor and Material Supplier Declaration form.

2.6.1.3 Unless the Bidder withdraws the Bid as provided in Article 4, the Bidder is required to comply with all requirements of the Contract Documents, regardless of whether the Bidder had actual knowledge of the requirements and regardless of any statement or omission made by the Bidder that might indicate a contrary intention.

2.6.2 The Bidder shall fill in all relevant blank spaces on the Bid Form by printing in ink or by typewriting, and not in pencil.

2.6.2.1 The Bidder shall show all bid amounts in both words and figures. In the case of a conflict between the words and figures, the amount shown in words shall govern, where the words are not ambiguous. When the Bidder's intention and the meaning of the words are clear, omissions, or misspellings of words shall not render the words ambiguous.

2.6.2.2 The Bidder shall initial alteration or erasure of items filled in on the Bid Form.

2.6.3 If the Bidder is a corporation, partnership, or sole proprietorship, an officer, partner or principal of the Bidder shall print or type the legal name of the Bidder on the line provided, and sign the Bid Form. If the Bidder is a joint venture, an officer, partner or principal, as applicable, of each member of the joint venture shall print or type the legal name of the applicable member on the line provided, and sign the Bid Form on behalf of that member. All signatures must be original.

2.7 ALLOWANCES

2.7.1 If Allowances are provided on the Bid Form, the amount of each Allowance shall be included in the Base Bid amount. Allowances shall be used solely for the purpose of determining the adjustment to the Contract Sum for the difference between the amount of the Allowance and the actual cost of the related Work provided.

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2.8 UNIT ~~PRICES~~PRICES

2.8.1 If Unit Prices are requested on the Bid Form, the amount of the scheduled quantities shall be included in the Base Bid amount. Unit prices shall be used solely for the purpose of determining the adjustment to the Contract Sum for the difference between the estimated quantities on the Bid Form and the actual quantities provided.

2.8.2 Unit Prices shall include all materials, equipment, labor, delivery, installation, overhead, profit, and any other cost or expense, in connection with, or incidental to, the performance of that portion of the Work. The Bidder shall submit Unit Prices for all items listed.

2.9 ALTERNATES

2.9.1 If an Alternate is listed on the Bid Form, the Bidder shall fill in the applicable blank with an increased or decreased bid amount and indicate which by circling the word “ADD” or the word “DEDUCT” as applicable. The Contracting Authority reserves the right to accept or reject any or all bid amounts for Alternates, in whole or in part, and in any order.

2.9.1.1 If no change in the bid amount is required, indicate "No Change" or “$0.”

2.9.1.2 Failure to make an entry or an entry of "No Bid,” “N/A," or similar entry on any Alternate shall cause the Bid to be rejected as non-responsive if that Alternate is selected.

2.9.1.3 Failure to indicate a negative number by circling “DEDUCT,” preceding the number by a minus sign, or enclosing the number in parentheses will indicate the Bidder’s intent to increase the Base Bid by the amount entered in the applicable blank.

2.9.1.4 If an Alternate is not selected, an entry as listed in ~~subparagraph~~ Section 2.9.1.2 on that Alternate shall not, by itself, render a Bid non-responsive.

2.9.1.5 In a Combined Bid, a blank entry or an entry of “No Bid,” “N/A,” or similar entry on an Alternate shall cause the Contracting Authority to reject the Bid as non-responsive if that Alternate applies to the Combined Bid and that Alternate is selected.

2.10 SUBMITTALS WITH BID FORM

2.10.1 The Contracting Authority shall reject a Bid as non-responsive if the Bidder fails to submit the following with the Bid Form in a sealed envelope:

2.10.1.1 A Bid Guaranty as provided in Article 5, meeting the requirements of Ohio Revised Code (“~~O.R.C.”)~~ORC”) Sections 153.54 and 153.571.

2.10.2 If the apparent low Bidder does not submit a valid Power of Attorney of the agent signing for the Surety with its Bid, the Contracting Authority shall direct the apparent low Bidder to deliver a valid and appropriate Power of Attorney to the Contracting Authority within a period determined by the Contracting Authority. The Contracting Authority shall not enter into a Contract without a valid Power of Attorney.

2.10.3 The Bidder is encouraged to submit background information with its Bid using the Bidder’s Qualifications form and including, but not limited to, the information listed in this ~~paragraph 2.10.~~Section 2.10. If the apparent low Bidder does not submit the Bidder's Qualifications form and related information with its Bid, the Bidder shall provide it upon request in accordance with ~~subparagraph~~Section 3.5.4, including, but not limited to:

2.10.3.1 ~~The~~the overall experience of the Bidder, including number of years in business under present and former business names;

2.10.3.2 ~~A~~a complete listing of all the Bidder’s ongoing construction projects and a listing of construction projects which are similar in cost and type to the Project completed by the Bidder in the last 5 years. Include information of the scope of work and value of each contract, a description of Encouraging

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Diversity Growth and Equity ("EDGE") participation and performance, and a project name/contact Person/address/phone number for the owner and the architect or engineer for each project;

2.10.3.3 ~~A~~a Certificate of Compliance with Affirmative Action Programs, issued pursuant to ~~O.R.C.~~ORC Section 9.47, by the Equal Opportunity Coordinator of the Department of Administrative Services;

2.10.3.4 ~~A~~a complete listing of Affirmative Action and EDGE program violations in the last 5 years;

2.10.3.5 ~~A~~a complete listing of Prevailing Wage, EPA, OSHA, or other regulatory entity issues or violations in the last 5 years;

2.10.3.6 ~~A~~a complete listing of judgments, claims, arbitration proceedings or suits pending or outstanding in the last 5 years;

2.10.3.7 ~~A~~a complete listing of Drug-Free Workplace Program and Drug-Free Safety Program ("DFSP") violations in the last 5 years;

2.10.3.8 ~~Upon~~upon request of the Contracting Authority, the apparent low Bidder shall submit the following information, which is not a public record under ~~O.R.C.~~ORC Section 149.43; and shall remain confidential, except under proper order of a court:

.1 ~~An~~an annual financial statement prepared within the 12 months prior to the bid opening by an independent licensed accounting firm; and the name, address, contact Person, and phone number of the bank normally used by the Bidder for its primary banking; or

.2 ~~A~~a financial report generated within 30 days prior to the bid opening from Standard and Poor, Dun and Bradstreet or a similar company acceptable to the Contracting Authority documenting the financial condition of the Bidder; and the name, address, contact Person, and phone number of the bank normally used by the Bidder for its primary banking~~;~~.

2.10.3.9 ~~A~~a description of the Bidder's relevant facilities and major equipment, whether leased or owned;

2.10.3.10 ~~A~~a description of the management experience of the Bidder's project manager(s) and superintendent(s) and a comprehensive resume for each;

2.10.3.11 ~~A~~a description of the EDGE-certified Business Enterprises the Bidder proposes as Subcontractors and Material Suppliers for this Project by attaching a fully completed EDGE Affidavit for each EDGE-certified Business Enterprise;

2.10.3.12 ~~To~~to support a Bond, a current and signed Certificate of Compliance issued by the Ohio Department of Insurance, showing the Surety is licensed to do business as a surety in Ohio;

2.10.3.13 ~~A~~a current Ohio Workers' Compensation Certificate;

2.10.3.14 ~~If~~if the Bidder is a foreign corporation not incorporated under the laws of Ohio, a Certificate of Good Standing from the Ohio Secretary of State; or, if the Bidder is a foreign person or partnership, evidence that the Bidder filed, with the Ohio Secretary of State, a Power of Attorney designating the Ohio Secretary of State as the Bidder's agent for the purpose of accepting service of summons in any action brought under ~~O.R.C.~~ORC Section 153.05 or under ~~O.R.C.~~ORC Sections 4123.01 to 4123.94, inclusive;

2.10.3.15 ~~Evidence~~evidence that the Bidder is enrolled in, and in good standing in, a DFSP approved by the Ohio Bureau of Workers' Compensation ("OBWC"); and

2.10.3.16 ~~Any~~any other data or information which the A/E may request concerning the responsibility of the Bidder, including a complete list of major Subcontractors with an estimated contract value of $~~150~~200,000 or more, which the Bidder proposes to employ on the Project.

2.11 CHANGES IN THE BID AMOUNT

2.11.1 Any change to a previously submitted Bid shall be in writing and received by the Contracting Authority before the time scheduled for the bid opening.

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2.11.2 Changes shall provide an amount to be added to, or subtracted from, the bid amount, so that the final bid amount may be determined only after the sealed envelope is opened.

2.11.3 If the Bidder's written instruction reveals the bid amount in any way prior to the bid opening, the Contracting Authority may, in its sole discretion, reject the Bid as non-responsive.

2.12 COMBINED BIDS

2.12.1 If only 2 items are listed on the Bid Form, the Bidder may only submit 1 combined Bid with the combination of those 2 items.

2.12.2 If more than 2 items are listed on the Bid Form, the Bidder may, as described on the Bid Form, submit a combined Bid by circling the items on which the Bidder is bidding in the combined Bid.

2.12.2.1 The Bidder may only submit 1 combined Bid on a Bid Form.

2.12.2.2 The Bidder may submit multiple combined Bids by submitting separate Bids in accordance with the Contract Documents.

.1 If the Bidder submits multiple combined Bids with a single Bid, that Bid shall be rejected as non-responsive, in accordance with ~~subparagraph~~ Section 2.6.1.1.

ARTICLE 3 -- BID OPENING AND EVALUATION

3.1 DELIVERY OF BID

3.1.1 The Bidder shall submit its Bid to the Contracting Authority at the location indicated in Document 00 10 00 ~~–~~ - "Solicitation" prior to the time scheduled for the bid opening.

3.1.2 If the sealed bid envelope is enclosed in another envelope for the purpose of delivery, the exterior envelope shall also be clearly marked as containing a Bid with the Project name and Project number, construction trade of the Bid, and the date and time of the bid opening shown on the envelope.

3.1.3 Bids that arrive at the location designated in Document 00 10 00 ~~–~~ - "Solicitation" after the time set for the bid opening shall not be opened or considered.

3.2 BID OPENING

3.2.1 Sealed Bids shall be received at the location designated in Document 00 10 00 ~~–~~ - "Solicitation" until the time stated when all Bids shall be opened, read aloud, and the tabulation made public.

3.2.2 The public opening and reading of Bids is for informational purposes only and is not to be construed as an acceptance or rejection of any Bid submitted.

3.2.3 The contents of the bid envelope are public records and open for inspection, upon request, at any time after the bid opening, except for any information that is not defined as a public record under Ohio law.

3.3 BID OPENING EXTENSION

3.3.1 If an Addendum is issued within 72 hours prior to the published time for the bid opening, excluding Saturdays, Sundays and legal holidays, the bid opening shall be extended 7 days. If the Contracting Authority approves, the bid opening may be extended for more than 7 days, and consideration for additional advertising may be recommended~~.~~

3.3.2 As part of issuing any Addendum earlier than 72 hours prior to the published time for the bid opening, excluding Saturdays, Sundays and legal holidays, only the Contracting Authority may approve a revised bid opening date or additional advertising.

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3.4 BID EVALUATION CRITERIA

3.4.1 The Contracting Authority reserves the right to accept or reject any or all Bids, in whole or in part, and reserves the right to award the Contract to any remaining Bidder the Contracting Authority determines, in its sole discretion, to have submitted the lowest responsive and responsible Bid.

3.4.2 The Contracting Authority reserves the right to accept or reject any or all Alternates. Alternates may be accepted or rejected in any order.

3.4.3 If any Bidder has engaged in collusive bidding, the Contracting Authority shall reject that Bidder's Bid as non-responsible for the Contract. A collusive bidder may also be debarred from future State Contracts.

3.4.4 The Contracting Authority reserves the right to waive, or to allow any Bidder a reasonable opportunity to cure a minor irregularity or technical deficiency in a Bid, provided the irregularity or deficiency does not affect the bid amount, or otherwise give the Bidder a competitive advantage. Noncompliance with any material requirements of the Contract Documents shall cause a Bid to be rejected as non-responsive.

3.4.5 If, in the opinion of the Owner, the award of the Contract to the lowest Bidder is not in the best interest of the State, with the written consent of the Contracting Authority, the Owner may accept, in its discretion, another Bid so opened, or the Contracting Authority may reject all Bids and advertise for other Bids. The advertisement shall be for the period, in the form, and in the publications directed by the Contracting Authority.

3.5 BID EVALUATION PROCEDURE

3.5.1 The Contract shall be awarded to the lowest responsive and responsible Bidder as determined in the discretion of the Contracting Authority, or all Bids may be rejected in accordance with Applicable Law.

3.5.1.1 In determining which Bid is the lowest, the Contracting Authority shall consider the Base Bid and the bid amounts for any Alternate, or Alternates, which the Owner decides, in its sole discretion, to accept.

3.5.1.2 The total of the bid amounts for the accepted Alternate(s) shall be added to, or deducted from, the Base Bid, as applicable, for determining the lowest Bidder.

3.5.1.3 If two Bidders submit the same bid amount and both are determined to be responsive and responsible, the Contracting Authority may select one Bidder by the flip of a coin, which shall be conducted in the presence of both Bidders and shall be final.

.1 If one of the Bidders refuses to participate in, or fails to be present at, the flip of a coin, the remaining Bidder shall be selected.

3.5.2 A Bidder for a Contract shall be considered responsive if the Bidder's Bid responds to the Contract Documents in all material respects and contains no irregularities or deviations from the Contract Documents that would affect the amount of the Bid or otherwise give the Bidder a competitive advantage.

3.5.2.1 A Bid shall be rejected as non-responsive if the Bid contains a Bid Guaranty executed by a Surety not licensed in Ohio or a Bid Guaranty that is otherwise determined to be insufficient by the Contracting Authority.

3.5.2.2 The Bidder may be subject to a Pre-Award Affirmative Action Compliance Review pursuant to OAC Section 123:2-5-01~~ of the Ohio Administrative Code ("O.A.C")~~ including a review of the Bidder's employment records and an on-site review.

.1 The Bidder must submit the information requested no later than 10 days after receipt of the request. Failure to timely respond to this request for records may result in the Bidder being found non-responsive.

3.5.2.3 If the lowest Bidder is non-responsive, the Bidder shall be notified according to ~~paragraph~~ Section 3.6.

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3.5.3 In determining whether a Bidder is responsible, factors to be considered include, without limitation:

3.5.3.1 ~~Preferences~~preferences required by law, where applicable;

3.5.3.2 ~~The~~the experience of the Bidder;

3.5.3.3 ~~The~~the financial condition of the Bidder;

3.5.3.4 ~~The~~the conduct and performance of the Bidder on previous Contracts, including compliance with Equal Employment Opportunity in the Construction Industry Administrative Rules, OSHA and Prevailing Wage laws, and demonstration of good faith effort to participate in the EDGE Business Development program, or actual participation in the EDGE Business Development program, or both, as indicated in the ~~O.R.C.~~ORC and the ~~O.A.C~~Ohio Administrative Code;

3.5.3.5 ~~The~~the facilities of the Bidder;

3.5.3.6 ~~The~~the management skills of the Bidder; and

3.5.3.7 ~~The~~the Bidder's ability to execute the Contract properly, including past performance of the Bidder and the Subcontractors that the Bidder proposes to use on the Project.

3.5.4 The A/E shall obtain from the lowest responsive Bidder any information the Contracting Authority determines appropriate to consideration of factors showing responsibility. If the lowest responsive Bidder is responsible, the Contract shall be awarded to that Bidder, unless all Bids are rejected. The Bidder shall provide all requested information within 3 days of a request from the A/E, or a longer period, if the Contracting Authority consents in writing.

3.5.5 If the lowest responsive Bidder is not responsible, the Contracting Authority shall evaluate the next lowest Bidder according to the procedures set forth in this ~~paragraph 3.5~~Section 3.5 until the Contract is awarded, all Bids are rejected, or all responsive Bidders are determined to be not responsible.

3.6 REJECTION OF BID

3.6.1 If the lowest Bidder is not responsive or responsible, the Contracting Authority shall reject the Bid and notify the Bidder in writing by Certified Mail of the finding and the reasons for the finding.

3.6.2 Ten Percent Rule~~:~~.

3.6.2.1 If the lowest responsive and responsible Bid for the Contract, including the Base Bid and accepted Alternates if any, exceeds an amount 10 percent greater than the published Estimated Construction Cost for the Contract, the Contracting Authority shall reject all Bids.

3.6.2.2 If the Project includes multiple contracts, the aggregate total price of all contracts awarded for the phases to date of the Project shall not exceed an amount 10 percent over the aggregate estimate of the contracts awarded, including the Base Bid and accepted Alternates, if any.

3.6.3 A Bidder notified in accordance with ~~subparagraph 3.6.1~~Section 3.6.1 may object to its rejection by filing a written protest, which must be received by the Contracting Authority within 5 days of the notification provided pursuant to ~~subparagraph 3.6.1~~Section 3.6.1.

3.6.4 Upon receipt of a timely protest, the Contracting Authority shall meet with the protesting Bidder to hear its objections. ~~O.R.C.~~ORC Chapter 119 administrative hearing requirements are not applicable to the bid protest meeting.

3.6.4.1 No Contract award shall become final until after the Contracting Authority has met with all Bidders who have timely filed protests and the award of the Contract is affirmed by the Contracting Authority.

3.6.4.2 If all protests are rejected, the Contract shall be awarded to the lowest responsive and responsible Bidder, or all Bids shall be rejected.

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3.7 NOTICE OF INTENT TO AWARD

3.7.1 The Contracting Authority shall notify the apparent successful Bidder that upon satisfactory compliance with all conditions precedent for execution of the Contract, within the time specified, the Bidder shall be awarded the Contract.

3.7.2 The Contracting Authority reserves the right to rescind any Notice of Intent to Award if the Contracting Authority determines it issued the Notice of Intent to Award in error, or if the conditions precedent for execution of Contract set forth in Article 6 are not met.

ARTICLE 4 -- WITHDRAWAL OF BID

4.1 WITHDRAWAL PRIOR TO BID OPENING

4.1.1 A Bidder may withdraw a Bid after the Contracting Authority receives the Bid, provided the Bidder makes a request in writing and the Contracting Authority receives the request prior to the time of the bid opening, as determined by the Contracting Authority.

4.2 WITHDRAWAL AFTER BID OPENING

4.2.1 The Bid shall remain valid and open for acceptance for a period of 60 days after the bid opening; provided, however, a Bidder may withdraw a Bid from consideration after the bid opening if the bid amount was substantially lower than the amounts of other Bids, providing the Bid was submitted in good faith, and the reason for the bid amount being substantially lower was a clerical mistake, as opposed to a judgment mistake, and was actually due to an unintentional and substantial arithmetic error or an unintentional omission of a substantial quantity of Work, labor, or material made directly in the compilation of the bid amount.

4.2.1.1 Notice of a request to withdraw a Bid shall be made in writing filed with the Contracting Authority within 2 business days after the bid opening. The Contracting Authority reserves the right to request the Bidder to submit evidence substantiating the Bidder's request to withdraw the Bid.

4.2.1.2 No Bid may be withdrawn under ~~subparagraph~~ Section 4.2.1 which would result in awarding a Contract involving the same item on another Bid to the same Bidder.

4.2.2 If a Bidder withdraws its Bid under ~~subparagraph 4.2.1~~Section 4.2.1, the Contracting Authority may award the Contract to the next lowest responsive and responsible Bidder, or reject all Bids and advertise for other Bids. In the event the Contracting Authority advertises for other Bids, the withdrawing Bidder shall pay the costs, in connection with the re-bidding, of printing new Contract Documents, required advertising, and printing and mailing of notices to prospective Bidders, if the Contracting Authority finds that these costs would not have been incurred but for the withdrawal.

4.2.3 A Bidder may withdraw the Bidder's Bid at any time after the 60-day period described in ~~subparagraph 4.2.1~~Section 4.2.1 by giving written notice to the Contracting Authority.

4.3 REFUSAL TO ACCEPT WITHDRAWAL

4.3.1 If the Contracting Authority contests the right of a Bidder to withdraw a Bid pursuant to ~~subparagraph 4.2.1~~Section 4.2.1, a hearing shall be held within 10 days after the bid opening and the Contracting Authority shall issue an order allowing or denying the claim of this right within 5 days after the hearing is concluded. The Contracting Authority shall give the withdrawing Bidder timely notice of the time and place of the hearing.

4.3.1.1 The Contracting Authority shall make a stenographic record of all testimony, other evidence, and rulings on the admissibility of evidence presented at the hearing. The Bidder shall pay the costs of the hearing.

4.3.1.2 Pursuant to ~~O.R.C.~~ORC Section 119.12, the Bidder may appeal the order of the Contracting Authority required by ~~subparagraph 4.3.1~~Section 4.3.1.

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4.4 REFUSAL TO PERFORM

4.4.1 In the event the Contracting Authority denies the request for withdrawal and the Bidder refuses to perform the Contract, the Contracting Authority may reject all Bids or award the Contract to the next lowest responsive and responsible Bidder.

4.5 EFFECT OF WITHDRAWAL

4.5.1 A Bidder, who is permitted to withdraw a Bid under ~~subparagraph 4.2.1~~Section 4.2.1, shall not supply material or labor to, or perform a subcontract or other work for, the Person to whom the Contract is awarded; or otherwise benefit, directly or indirectly, from the performance of the Project for which the withdrawn Bid was submitted; without the Contracting Authority's prior written consent.

ARTICLE 5 -- BID GUARANTY ~~AND BOND~~ AND BOND

~~Article 5~~5.1 BID GUARANTY

~~5.1 BID GUARANTY~~

5.1.1 The Bidder shall submit a Bid Guaranty with the Bidder's Bid, payable to the Contracting Authority, in the form of either:

5.1.1.1 ~~The~~the signed Document 00 43 13 - "Bid Security Form" contained in the Contract Documents for the amount of the Base Bid plus all additive Alternates; or

5.1.1.2 ~~A~~a certified check, cashier's check, or letter of credit, for 10 percent of the Base Bid, plus all additive Alternates~~. A~~ – a letter of credit shall expressly provide that it is revocable only by the Contracting Authority.

5.1.2 The Bid Guaranty shall be in form and substance satisfactory to the Contracting Authority and shall serve as an assurance that upon acceptance of the Bid, the Bidder shall comply with all conditions precedent for Contract execution, within the time specified by the Contracting Authority.

5.1.3 If the blank line on the Bid Guaranty and Contract Bond is not filled in, the penal sum shall be the full amount of the Base Bid plus all additive Alternates. If the blank line is filled in, the amount shall not be less than the full amount of the Base Bid plus all additive Alternates, stated in dollars and cents. A percentage is not acceptable. In the event the blank line is filled in for an amount less than the full amount of the Base Bid plus all additive alternates, the Bid shall be rejected as non-responsive.

5.1.4 An authorized agent must sign the Bid Security Form, and the Bidder shall provide a Power of Attorney from the Surety. A Surety authorized by the Ohio Department of Insurance to transact business in Ohio must issue the Bid Security Form.

5.1.5 The requirements of ~~O.R.C.~~ORC Section 3901.86 may be applicable requiring an Ohio resident agent countersign the Bid Guaranty and Contract Bond. The Bidder shall determine the applicability of this provision.

5.1.6 Bid Guaranties in the form of a certified check, cashier's check, or letter of credit shall be returned to unsuccessful Bidders 60 days after the bid opening. Bid Guaranties in the form of a certified check, cashier's check, or letter of credit shall be returned to the successful Bidder upon providing Document 00 61 13 - "Performance and Payment Bond Form" from a Surety satisfactory to the Contracting Authority.

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5.2 FORFEITURE OF BID GUARANTY

5.2.1 If for any reason, other than as authorized by ~~subparagraph~~ Sections 4.2.1 or ~~paragraph~~ 5.3, the Bidder fails to execute the ~~Contract Form~~Agreement, and the Contracting Authority awards the Contract to another Bidder, which the Contracting Authority determines is the lowest responsive and responsible Bidder:

5.2.1.1 The Bidder who failed to execute the ~~Contract Form~~Agreement is liable to the State for the difference between its Bid and the Bid of the next lowest responsive and responsible Bidder, or for a penal sum not to exceed ten percent of the bid amount, whichever is less.

5.2.2 If the Contracting Authority then awards a Contract to another Bidder, which the Contracting Authority determines is the lowest responsive and responsible Bidder and that Bidder fails or refuses to execute the ~~Contract Form~~Agreement:

5.2.2.1 The liability of the lowest responsive and responsible Bidder shall be the difference between the bid amount of the lowest responsive and responsible Bidder and another Bidder which the Contracting Authority determines is the lowest responsive and responsible Bidder, except as provided in ~~paragraph 5.3~~Section 5.3, but not in excess of the liability specified in ~~subparagraph 4.2.2~~Section 4.2.2;

5.2.2.2 The liability on account of an award to the lowest responsive and responsible Bidder beyond the third lowest responsive and responsible Bidder shall be determined in like manner.

5.2.3 If the Contracting Authority does not award the Contract to another Bidder under ~~subparagraph 5.2.2~~Section 5.2.2, but submits the Project for re-bidding:

5.2.3.1 The Bidder failing or refusing to execute the ~~Contract Form~~Agreement is liable to the State for a penal sum not to exceed 10 percent of the Bidder's bid amount or the costs in connection with the resubmission of printing new Contract Documents, required advertising, and printing and mailing notices to prospective Bidders, whichever is less, except as provided in ~~paragraph~~ Section 5.3.

5.3 EXCEPTION TO FORFEITURE

5.3.1 A Bidder for a Contract with the State costing less than $500,000 may withdraw its Bid from consideration if its Bid for another Contract with the State for less than $500,000 has already been accepted if:

5.3.1.1 ~~The~~the Bidder certifies in good faith that the total amount of its current contracts is less than $500,000; and

5.3.1.2 ~~The~~the Bidder's Surety certifies in good faith that the Bidder is unable to perform the subsequent Contract because such performance would exceed the Bidder's bonding capacity.

5.3.2 If a Bid is withdrawn pursuant to ~~subparagraph~~ Section 5.3.1:

5.3.2.1 ~~The~~the Contracting Authority may award the Contract to another Bidder which the Contracting Authority determines is the lowest responsive and responsible Bidder or reject all Bids and submit the Project for re-bidding; and

5.3.2.2 ~~Neither~~neither the withdrawing Bidder nor the Bidder's Surety shall be liable for the difference between the Bidder's Bid and that of the next lowest responsive and responsible Bidder for a penal sum, or for the costs of printing new Contract Documents, required advertising, and printing and mailing notices to prospective Bidders.

5.4 BOND

5.4.1 Prior to signing the ~~Contract Form~~Agreement, the Bidder shall provide the Bond required by law in form and substance satisfactory to the Contracting Authority, and from a Surety licensed to do business in the state of Ohio and satisfactory to the Contracting Authority.

5.4.1.1 If the Bidder provided Document 00 43 13 - "Bid Security Form," described in ~~subparagraph 5.1.1.1~~Section 5.1.1.1, as its Bid Guaranty then that form shall be the Bond.

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5.4.1.2 If the Bidder provided another form of Bid Guaranty, described in ~~subparagraph 5.1.1.2~~Section 5.1.1.2, then Document 00 61 13 - "Performance and Payment Bond Form," described in ~~subparagraph 5.1.6~~Section 5.1.6, shall be the Bond.

5.4.1.3 The Bidder shall not be required to provide both forms described above.

5.4.2 The Bond must be in the full amount of the Contract to indemnify the State against all direct and consequential damages suffered by failure of the Contractor to perform according to the provisions of the Contract and in accordance with the Plans, Specifications, details, and bills of material therefore and pay all lawful claims of Subcontractors, Material Suppliers, and laborers for labor performed or materials furnished in performing and completing the Contract.

ARTICLE 6 ~~-~~- CONTRACT AWARD AND EXECUTION

6.1 CONDITIONS PRECEDENT FOR EXECUTION OF CONTRACT

6.1.1 The successful Bidder must submit the items in this ~~paragraph 6.1~~Section 6.1 to the Contracting Authority before executing the ~~Contract Form~~Agreement.

6.1.2 Bond, and to support the Bond, a Certificate of Compliance issued by the Ohio Department of Insurance, showing the Surety is licensed to do business in the state of Ohio.

6.1.3 Ohio Workers' Compensation Certificate

6.1.4 Certificate of Compliance with Affirmative Action Programs, issued by the Equal Opportunity Coordinator. The form must be submitted through the Ohio Business Gateway: http://business.ohio.gov/efiling/.

6.1.5 Certificate of Insurance (ACORD form is acceptable) and copy of additional insured or loss payee endorsement. The Contracting Authority reserves the right to request and receive a certified copy of the Contractor's insurance policies.

6.1.6 If a Bidder is a foreign corporation, e.g., not incorporated under the laws of Ohio, it must submit a Certificate of Good Standing from the Ohio Secretary of State showing the right of the Bidder to do business in the state of Ohio.

6.1.7 If a Bidder is an individual or partnership, nonresident of the State, it must submit a Power of Attorney designating the Ohio Secretary of State as the Bidder's agent for accepting service of summons in any action brought under ~~O.R.C.~~ORC Section 153.05 or under ~~O.R.C.~~ORC Sections 4123.01 to 4123.94, inclusive.

6.1.8 Plumbing~~,~~; electrical~~,~~; hydronics~~,~~; refrigeration~~,~~; and heating, ventilating and air conditioning ("HVAC") Contractors must submit proof of current licensing ~~by~~pursuant to Applicable Law.

6.1.9 Evidence that the Bidder is enrolled in, and in good standing in, a DFSP approved by the OBWC.

6.1.10 Bid Information Escrow~~:~~.

~~6.1.10.1~~ Scope and Purpose:

~~.1~~6.1.10.1 The purpose of this requirement is to preserve, for any Contract of $2,000,000 or more, the Bid Information as defined in ~~subparagraph 6.1.10.2~~Section 6.1.10.2 of the successful Bidder for use by the Contracting Authority in any claim or litigation arising out of the Contract. The Bidder shall submit to the Contracting Authority a legible copy of all Bid Information used to prepare the Bidder's Bid for the Contract. The Contracting Authority shall place the documentation in escrow with a bonded storage facility.

6.1.10.2 Bid Information:

.1 "Bid Information" as used in this section includes all writings, working papers, computer printouts, charts and any and all other documentation or data compilations which contain or

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reflect information, data and calculations used by the Bidder to prepare or determine the Bid submitted by the Bidder for the Project. Bid Information includes, but is not limited to, the Bidder's equipment rates, profit margins, overhead rates, labor rates, efficiency or productivity factors, arithmetic extensions, and quotations from Subcontractors and Material Suppliers to the extent that the rates and quotations were used by the Bidder in determining its Bid. Bid Information also includes any manuals or computer programs used by the Bidder in determining its Bid. The manuals or programs may be included in the Bid Information by reference, which shall include the name and date of the publication, publisher, or program where the manuals or programs are readily available to the Contracting Authority. Bid Information shall not include anything provided by the Contracting Authority for use in submitting a Bid.

.2 The Bidder agrees that the Bid Information constitutes all information used by Bidder in the calculation, preparation, or determination of its Bid. The Bidder agrees that it may not rely upon any other pre-bid information in making or pursuing claims. Bidder also understands and agrees that nothing in the Bid Information will change or modify the provisions of the Contract Documents.

~~6.1.10.3~~ Submittal of Bid Information:

~~.1~~6.1.10.3 Within 10 days of the Notice of Intent to Award, the successful Bidder for any Contract of $2,000,000 or more shall submit its Bid Information to the Bid Information Escrow agent approved by the Contracting Authority sealed in a container or envelope. The Bidder shall address the sealed container or envelope to itself and in the upper left corner indicate "Bid Documentation," the date of submittal, and the Contracting Authority's Project Number. Failure to submit the Bid Information on a timely basis shall cause the Bid to be rejected and awarded to the next lowest responsive and responsible Bidder. The Bidder shall also attach the Bid Information Escrow Agreement and Affidavit signed by the Bidder to the outside of the container or envelope, attesting that the Bidder has personally examined the Bid Information and that it contains all the documentation used by Bidder in calculating, preparing and determining its Bid.

~~6.1.10.4~~ Duration and Use:

~~.1~~6.1.10.4 The Contracting Authority shall not execute the Contract and the Bidder may not commence work until the Bid Information has been received. The Bid Information shall remain in escrow during the term of the Contract or until the Bidder files a claim or initiates litigation against the Contracting Authority related to the Contract. Receipt of the Bidder's claim, or of a complaint initiating litigation against the Contracting Authority, shall entitle the Contracting Authority to obtain the release and custody of the Bid Information for purposes of review. If no claim or litigation is received and the Bidder has otherwise released claims against the State, the Contracting Authority shall instruct the bonded document storage facility to release the sealed container to the Bidder.

~~6.1.10.5~~ Refusal or Failure to Provide Bid Information:

~~.1~~6.1.10.5 Failure or refusal to provide the Bid Information within the approved time shall constitute a refusal to execute the Contract. If the **B**idder refuses to execute the Contract, the Contracting Authority may enforce the Bid Guaranty and award the Contract to the next lowest responsive and responsible Bidder.

~~6.1.10.6~~ Confidentiality of Bid Information:

~~.1~~6.1.10.6 The Bid Information in escrow is a trade secret if the Bidder certifies it as a trade secret in the Bid Information Escrow Agreement and Affidavit. The Bid Information shall remain the property of the Bidder, unless the Contractor certifies a claim or initiates litigation against the State. In the event of a claim or litigation, the Bid Information shall become the property of the Contracting Authority. The Contracting Authority shall keep the Bid Information confidential, to the fullest extent permitted by law. In the event any dispute arises with any other Person about whether the other Person should be given access to the Bid Information, the Contractor agrees to indemnify the Contracting Authority and the

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Owner against all costs, expenses, and damages, including attorney fees, incurred or paid due to the request for disclosure.

6.1.10.7 Bid Information Escrow Agreement and Affidavit:

.16.1.10.7 The Bidder shall sign the Bid Information Escrow Agreement and Affidavit provided with the Notice of Intent to Award, and attach it to the outside of the sealed Bid Information envelope. If the Bidder refuses to sign the agreement, the Contracting Authority may enforce the Bid Guaranty.

6.1.11 Required Notice of Unresolved Findings for Recovery:.

6.1.11.1 By submitting its Bid, the Bidder warrants that it is not subject to an unresolved findings for recovery under O.R.C.ORC Section 9.24. O.R.C.ORC Section 9.24 prohibits the State from awarding a Contract to any Bidder against whom the Auditor of State has issued a finding for recovery if the finding for recovery is unresolved at the time of award. If the Contract is awarded to a Bidder subject to an unresolved finding for recovery under O.R.C.ORC Section 9.24, the Contract is void on its face and the Contractor shall immediately repay to the Owner any funds paid under the Contract.

6.1.12 EDGE Program – Supporting Documentation Required:.

6.1.12.1 The Bidder shall provide evidence acceptable to the Contracting Authority of the Bidder's participation in the EDGE Program by contracting with EDGE-certified Business Enterprise(s) for the Project by submitting a fully completed EDGE Affidavit for each EDGE-certified Business Enterprise, by requesting a waiver or partial waiver of the advertised EDGE Program participation goal for the Project on the Bidder's company letterhead including full documentation of the Bidder's good faith effort to contract with EDGE-certified Business Enterprise(s) for this Project, or both.

6.1.13 Declaration Regarding Material Assistance/Non-Assistance to a Terrorist Organization ("DMA"):").

6.1.13.1 The Bidder shall be registered with the Ohio Business Gateway ("OBG") to file for DMA pre-certification; if the Bidder is not registered, it shall:

.1 Registerregister with the OBG at http://business.ohio.gov/efiling/;

.2 Reviewreview the terrorist Exclusion List at http://www.publicsafety.ohio.gov/links/terrorist_exclusion_list.pdf; and

.3 Provideprovide the Contracting Authority its completed DMA form as published by the Department of Public Safety, to certify that it does not provide material assistance to any organization on the United States Department of State's terrorist exclusion list. The DMA form and the terrorist exclusion list are available at http://homelandsecurity.ohio.gov/dma/dma_forms.asp.

6.1.14 Registered Apprentices – Supporting Documentation Required:.

6.1.14.1 The Bidder shall provide evidence acceptable to the Contracting Authority of the registration of all apprentices who the Bidder or its Subcontractors intend to employ on the Project pursuant to O.R.C.ORC Section 4115.05.

6.2 NON-COMPLIANCE WITH CONDITIONS PRECEDENT

6.2.1 The award of the Contract and execution of the Contract FormAgreement require the Contractor to comply with:

6.2.1.1 All conditions precedent for execution of the Contract within 10 days of the date of the Notice of Intent to Award; and

6.2.1.2 The Bidder's Qualifications form, including a fully completed EDGE Affidavit for each EDGE-certified Business Enterprise, not previously provided within 3 business days of receiving the Contracting Authority's request.

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6.2.2 Non-compliance with the conditions precedent for execution of the Contract as stated in ~~paragraph 6.1~~Section 6.1 within the timelines stated in ~~subparagraph 6.2.1~~Section 6.2.1 following the date of the Notice of Intent to Award shall be sufficient cause to permit the Contracting Authority to cancel the Notice of Intent to Award, for the Bidder's lack of responsibility and award the Contract to another Bidder, which the Contracting Authority determines is the lowest responsive and responsible Bidder; or the Contracting Authority may re-bid the Work at its sole discretion.

6.2.3 The Contracting Authority may extend the time for complying with the conditions precedent for execution of the Contract for good cause. The extension is not a waiver of the conditions precedent for execution of the Contract.

6.3 TIME LIMITS

6.3.1 The Contracting Authority's failure to award the Contract and execute the ~~Contract Form~~Agreement within 60 days of the bid opening invalidates the entire bid process and all Bids submitted, unless the time is extended by written consent of the apparent lowest responsive and responsible Bidder and the Contracting Authority.

6.3.1.1 If the Contracting Authority awards the Contract within 60 days of the bid opening, increases in material, labor, and subcontract costs shall be borne by the Bidder.

6.3.1.2 If failure to execute the Contract within 60 days of the bid opening is due to matters for which the State is solely responsible, the Contractor is entitled to a Change Order authorizing payment of verifiable increased costs in materials, labor, or subcontracts. This increase shall not exceed the difference in price between the successful Bidder and the price of the next lowest responsive and responsible Bidder.

6.3.1.3 If failure to execute the Contract within 60 days of the bid opening is due to matters for which the Contractor is responsible, the Contracting Authority shall not grant a request for increased costs.

6.4 NOTICE TO PROCEED

6.4.1 The Contracting Authority shall issue a Notice to Proceed to the Contractor, which establishes the date for commencement and the calendar days allocated for Contract Completion. Within 10 days of the date of the Notice to Proceed, or other period as mutually agreed by the Contractor and the Contracting Authority, the Contractor shall furnish the following submittals to the A/E:

6.4.1.1 Schedule of Values;

6.4.1.2 ~~Preliminary~~preliminary schedule of Shop Drawings and other Submittals;

6.4.1.3 Subcontractor and Material Supplier Declaration form, with completed Bidder Affirmation and Disclosure forms acknowledging that the Contractor affirms, understands, and will abide by the requirements of Executive Order ~~2010-09S~~2011-12K for Subcontractors that were not identified in the Bid Form;

6.4.1.4 ~~Qualifications~~qualifications of proposed project manager(s) and superintendent(s) and a comprehensive resume of each; and

6.4.1.5 ~~Evidence~~evidence that an authorization agreement for automatic deposit of state warrants has been submitted to Ohio Shared Services using the electronic funds transfer form provided on the Internet at http://ohiosharedservices.ohio.gov/Vendors.aspx?Page=2.

6.5 WAGE RATES

6.5.1 The Bidder shall base its Bid upon the prevailing rates of wages as ascertained by the Ohio Department of Commerce, Wage and Hour Bureau for the Project as provided in ~~O.R.C.~~ORC Sections 4115.03 through 4115.14. Refer to Document 00 73 43 ~~–~~- "Wage Rate Requirements" for related information and the Project's prevailing rates of wages with an appropriate ratio of registered apprentices.

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6.5.2 The Bidder shall not be entitled to an increase in the Contract Sum on account of an increase in prevailing wage rates, except as otherwise provided by Applicable Law. The Bidder is responsible for compliance of its Subcontractors with prevailing wage requirements.

6.5.3 Within 10 days of the date of the Notice to Proceed, the Contractor shall provide the Contracting Authority's Prevailing Wage Coordinator with a schedule of dates during the term of the Contract when the Contractor shall pay wages to its employees for the Project.

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~~Agency or Institution:~~ *Edit this sample document to include instructions specific to ~~your~~the agency's or institution's projects.*

Certifications

These Supplementary Instructions amend and supplement the Instructions to Bidders and other provisions of the Contract Documents as indicated below. All provisions not amended remain in full force and effect. The terms in these Supplementary Instructions defined in the Contracting Definitions or the Instructions to Bidders shall have the meanings assigned to them in those documents.

These Supplementary Instructions are authorized for use on the Contracting Authority's Projects by the Ohio Department of Administrative Services:

By: _____ Date: _____

~~Robert Blair, *Director*~~
~~Ohio Department of Administrative Services~~
~~by~~ Lane J. Beougher, *State Architect*

Insert the name and relevant general contact information for the agency or institution below.

Contracting Authority

~~[State Architect's Office]~~
~~[General Services Division]~~
~~[Department of Administrative Services]~~
~~[4200 Surface Road]~~
~~[Columbus, Ohio 43228-1395]~~
~~[Phone 614.466.4761]~~
~~[http://ohio.gov/sao]~~

«insert Contracting Authority name»
«insert street address»
«insert city, state zip code»
«insert phone number»
«insert website»

Insert ~~Modifications~~modifications to the Instructions to Bidders that are applicable for projects specific to the agency or institution below. ~~Modifications~~Prior to use on any project, modifications must be reviewed and authorized by the State ~~Architect's Office and~~Architect in consultation with the Attorney General's Office ~~prior to use. SAO~~. The State Architect's Office will post authorized Supplementary Instructions on its website, which must be downloaded from that location. A link to that location may be included on the agency's or institution's website.

MODIFICATIONS TO INSTRUCTIONS TO BIDDERS

Insert ~~paragraph~~Sections X.X ~~and subparagraphs~~, X.X.X, X.X.X.X, and X.X.X.X.X as follows:

X.X ~~[~~ «Paragraph ~~]~~»

X.X.X ~~[~~ «Subparagraph ~~]~~»

X.X.X.X ~~[~~ «Clause ~~]~~»

.X ~~[~~ «Sub-clause ~~]~~»

In ~~subparagraph~~Section X.X.X, replace the first sentence with the following:

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Replace ~~subparagraph~~Section X.X.X with the following:

Delete ~~subparagraph~~Section X.X.X.

Insert Supplementary Instructions that are applicable to projects by the agency or institution below.

Insert Article 7 with associated ~~paragraphs and subparagraphs~~Sections as follows in its entirety:

ARTICLE 7 - MISCELLANEOUS SUPPLEMENTARY INSTRUCTIONS

7.1 ~~[~~«Paragraph~~]~~»

7.1.1 ~~[~~«Subparagraph~~]~~»

7.1.1.1 ~~[~~«Clause~~]~~»

.1 ~~[~~«Sub-clause~~]~~»

END OF DOCUMENT

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~~A/E:~~ Develop this form for each Project in consultation with the Contracting Authority and the Owner. Before issuing, modify the document per the instructions within the shaded boxes and remove those instructions. The Project number and name in the headers may be edited. For bids that will be received by DAS at an Owner location, insert the Owner agency or institution name, building name, room number, and address. For bids that will be received by another Contracting Authority, modify the form accordingly. Text in [square brackets] must be edited and the brackets removed.

Sealed bids will be received by the ~~[~~ «Department of Administrative Services, General Services Division, State Architect's Office~~]~~» at ~~[~~ «4200 Surface Road, Columbus, Ohio 43228-1395~~]~~» for:

Project ~~[~~ «AGY-FYNNNN~~]~~»
~~[~~ «Project ~~name]~~Name»

at

~~[~~ «Project street address of location~~]~~»
~~[~~ «Project city or township, Project county~~]~~»

for the

~~[~~ «Owner's name~~]~~»

The time for Contract Completion is ~~[nnn]~~ «NNN» consecutive days from the Notice to Proceed.

Having read and examined the proposed Contract Documents prepared by the Architect/Engineer for the above-referenced Project and the following Addenda:

Addendum Number	Date Received
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

The undersigned Bidder proposes to perform all Work for the applicable Contract in accordance with the proposed Contract Documents, for the following sum(s):

Revise Bid Packages to be project specific, the items listed below and their titles; the Alternates, their numbers and titles. Number should be based on the Phase and Contract being bid. Single Phase, First Contract is usually 01-01, or Bid Package 101. List each Allowance and Unit Price under the appropriate item. Coordinate the Lead Contract, if applicable, with the appropriate item.

ITEM 1. Bid Package 101 – GENERAL TRADES [(LEAD)] CONTRACT

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Allowances require prior written approval of the Contracting Authority. The Schedule Consultant and Partnering Facilitator may each require an Allowance, usually in the Lead Contract, if applicable. Duplicate lines below for additional Allowances. If not bid under this item, delete the Allowances below.

ALLOWANCES (Include Allowance amounts in the General Trades Base Bid below~~)~~. The Contractor's Fee and costs for unloading and handling on the Site, labor, installation costs, and other expenses contemplated for the Allowances are included in the Base Bid and not in the Allowance.)

Description	Section	Amount
~~[Describe~~«describe scope of ~~Allowance]~~	~~[XX XX XX]~~ «NN NN NN»	~~$ [XX,XXX.XX]~~ allowance» $«NN,NNN.NN»
~~[Describe~~«describe scope of ~~Allowance]~~	~~[XX XX XX]~~ «NN NN NN»	~~$ [XX,XXX.XX]~~ allowance» $«NN,NNN.NN»
~~[Describe~~«describe scope of ~~Allowance]~~	~~[XX XX XX]~~ «NN NN NN»	~~$ [XX,XXX.XX]~~ allowance» $«NN,NNN.NN»

Unit Price bids require the prior written approval of the Contracting Authority. Duplicate lines below for additional Unit Prices. If not bid under this item, delete the Unit Prices below.

UNIT PRICES (Include the subtotal of Unit Price extensions in the General Trades Base Bid below. Unit prices shall be used solely for the purpose of determining the adjustment to the Contract Sum for differences between the estimated quantities on the Bid Form and the actual quantities provided. The Contractor's Fee on account of Unit Price Work is included in the Base Bid and not in the Unit Price.)

Description	Estimated Quantity	Unit Price	Unit of Measure	Extension
~~[Insert]~~	~~[Insert]~~	~~$ _____ /~~	~~[Insert]~~	~~$ _____~~
~~[Insert]~~	~~[Insert]~~	~~$ _____ /~~	~~[Insert]~~	~~$ _____~~
~~[Insert]~~	~~[Insert]~~ «insert»	~~$ _____ /~~ $ _____	~~[Insert]~~ «insert»	«insert» $ _____ /
«insert»	«insert»	$ _____ /	«insert»	$ _____
«insert»	«insert»	$ _____ /	«insert»	$ _____

SUBTOTAL OF UNIT PRICE EXTENSIONS: $ _____

GENERAL TRADES BASE BID (Including Allowances and Subtotal of Unit Price Extensions above):

ALL LABOR AND MATERIALS, for the sum of $ _____

Sum in words: _____

_____and _____ /100 dollars.

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Alternates require the prior written approval of the Contracting Authority. Duplicate lines below for additional Alternates. If not bid under this item, delete the Alternate below.

~~ALTERNATE [~~ «alternate G-1, ~~Title]~~alternate title» (Circle appropriate choice below and insert amount)

If Alternate is accepted, ADD TO / DEDUCT FROM Base Bid: $ _____

Sum in words: _____and _____ /100 dollars.

ITEM 2. Bid Package 102 – PLUMBING AND FIRE PROTECTION CONTRACT

Duplicate lines below for additional Allowances. If not bid under this item, delete the Allowances below.

ALLOWANCES (Include Allowance amounts in the Plumbing and Fire Protection Base Bid below~~)~~. The Contractor's Fee and costs for unloading and handling on the Site, labor, installation costs, and other expenses contemplated for the Allowances are included in the Base Bid and not in the Allowance.)

Description	Section	Amount
~~[Describe~~«describe scope of ~~Allowance]~~	~~[XX XX XX]~~ «NN NN NN»	~~$ [XX,XXX.XX]~~allowance» $«NN,NNN.NN»
~~[Describe~~«describe scope of ~~Allowance]~~	~~[XX XX XX]~~ «NN NN NN»	~~$ [XX,XXX.XX]~~allowance» $«NN,NNN.NN»

Duplicate lines below for additional Unit Prices. If not bid under this item, delete the Unit Prices below.

UNIT PRICES (Include the Subtotal of Unit Price Extensions in the Plumbing and Fire Protection Base Bid below. Unit prices shall be used solely for the purpose of determining the adjustment to the Contract Sum for differences between the estimated quantities on the Bid Form and the actual quantities provided. The Contractor's Fee on account of Unit Price Work is included in the Base Bid and not in the Unit Price.)

Description	Estimated Quantity	Unit Price	/	Unit of Measure	Extension
~~[Insert]~~	~~[Insert]~~	~~$ _____~~	~~/~~	~~[Insert]~~	~~$ _____~~
~~[Insert]~~	~~[Insert]~~ «insert»	~~$ _____~~ $ _____	~~/~~	~~[Insert]~~«insert»	«insert»$ _____ /
«insert»	«insert»	$ _____	/	«insert»	$ _____

SUBTOTAL OF UNIT PRICE EXTENSIONS: $ _____

PLUMBING AND FIRE PROTECTION BASE BID (Including Allowances and Subtotal of Unit Price Extensions above):

ALL LABOR AND MATERIALS, for the sum of $ _____

Sum in words: _____

_____and _____ /100 dollars.

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Duplicate lines below for additional Alternates. If not bid under this item, delete the Alternate below.

~~ALTERNATE [~~ «alternate P-1, ~~Title]~~alternate title» (Circle appropriate choice below and insert amount)

If Alternate is accepted, ADD TO / DEDUCT FROM Base Bid: $ _____

Sum in words: _____and _____ /100 dollars.

Review and consider a separate Fire Protection Contract; then adjust the Bid item list accordingly to optimize bid interest.

ITEM 3. Bid Package 103 – HVAC CONTRACT

Duplicate lines below for additional Allowances. If not bid under this item, delete the Allowances below.

ALLOWANCES (Include Allowance amounts in the HVAC Base Bid below~~)~~. The Contractor's Fee and costs for unloading and handling on the Site, labor, installation costs, and other expenses contemplated for the Allowances are included in the Base Bid and not in the Allowance.)

Description	Section	Amount
~~[Describe~~«describe scope of ~~Allowance]~~	~~[XX XX XX]~~ «NN NN NN»	~~$ [XX,XXX.XX]~~allowance» $«NN,NNN.NN»
~~[Describe~~«describe scope of ~~Allowance]~~	~~[XX XX XX]~~ «NN NN NN»	~~$ [XX,XXX.XX]~~allowance» $«NN,NNN.NN»

Duplicate lines below for additional Unit Prices. If not bid under this item, delete the Unit Prices below.

UNIT PRICES (Include the Subtotal of Unit Price Extensions in the HVAC Base Bid below. Unit prices shall be used solely for the purpose of determining the adjustment to the Contract Sum for differences between the estimated quantities on the Bid Form and the actual quantities provided. The Contractor's Fee on account of Unit Price Work is included in the Base Bid and not in the Unit Price.)

Description	Estimated Quantity	Unit Price	/	Unit of Measure	Extension
«insert»	«insert»	$ _____	/	«insert»	$ _____
«insert»	«insert»	$ _____	/	«insert»	
~~Description~~	~~Estimated Quantity~~	~~Unit Price~~	~~/~~	~~Unit of Measure~~	~~Extension~~
~~[Insert]~~	~~[Insert]~~	~~$ _____~~	~~/~~	~~[Insert]~~	~~$ _____~~
~~[Insert]~~	~~[Insert]~~	~~$ _____~~	~~/~~	~~[Insert]~~	$ _____

SUBTOTAL OF UNIT PRICE EXTENSIONS: $ _____

HVAC BASE BID (Including Allowances and Subtotal of Unit Price Extensions above):

ALL LABOR AND MATERIALS, for the sum of $ _____

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Sum in words: _____

_____and _____ /100 dollars.

Duplicate lines below for additional Alternates. If not bid under this item, delete the Alternate below.

~~ALTERNATE [~~ «alternate H-1, ~~Title]~~alternate title» (Circle appropriate choice below and insert amount)

If Alternate is accepted, ADD TO / DEDUCT FROM Base Bid: $ _____

Sum in words: _____and _____ /100 dollars.

ITEM 4. Bid Package 104 – ELECTRICAL CONTRACT

Duplicate lines below for additional Allowances. If not bid under this item, delete the Allowances below.

ALLOWANCES (Include Allowance amounts in the Electrical Base Bid below~~)~~. The Contractor's Fee and costs for unloading and handling on the Site, labor, installation costs, and other expenses contemplated for the Allowances are included in the Base Bid and not in the Allowance.)

Description	Section	Amount
~~[Describe~~«describe scope of ~~Allowance]~~	~~[XX XX XX]~~ «NN NN NN»	~~$ [XX,XXX.XX]~~allowance» $«**NN**,NNN.NN»
~~[Describe~~«describe scope of ~~Allowance]~~	~~[XX XX XX]~~ «**NN** NN NN»	~~$ [XX,XXX.XX]~~allowance» $«**NN**,NNN.NN»

Duplicate lines below for additional Unit Prices. If not bid under this item, delete the Unit Prices below.

UNIT PRICES (Include the Subtotal of Unit Price Extensions in the Electrical Base Bid below. Unit prices shall be used solely for the purpose of determining the adjustment to the Contract Sum for differences between the estimated quantities on the Bid Form and the actual quantities provided. The Contractor's Fee on account of Unit Price Work is included in the Base Bid and not in the Unit Price.)

Description	Estimated Quantity	Unit Price	/	Unit of Measure	Extension
~~[Insert]~~	~~[Insert]~~	~~$ _____~~	~~/~~	~~[Insert]~~	~~$ _____~~
~~[Insert]~~	~~[Insert]~~ «insert»	~~$ _____~~ $ _____	~~/~~	~~[Insert]~~«insert»	«insert»$ _____ /
«insert»	«insert»	$ _____	/	«insert»	$ _____

SUBTOTAL OF UNIT PRICE EXTENSIONS: $ _____

ELECTRICAL BASE BID (Including Allowances and Subtotal of Unit Price Extensions above):

ALL LABOR AND MATERIALS, for the sum of: $ _____

Sum in words: _____

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_____and _____ /100 dollars.

Duplicate lines below for additional Alternates. If not bid under this item, delete the Alternate below.

~~ALTERNATE [~~ «alternate E-1, ~~Title]~~alternate title» (Circle appropriate choice below and insert amount)

If Alternate is accepted, ADD TO / DEDUCT FROM Base Bid: $ _____

Sum in words: _____and _____ /100 dollars.

ITEM 5. COMBINED BID

Any Bidder submitting a Combined Bid is encouraged, but not required, to also bid the Items separately. If the Bidder is submitting multiple Combined Bids, it must submit each combination of Items on a separate Bid Form as a separate Bid.

Bidder has CIRCLED THE ITEMS BELOW for which it is submitting a Combined Bid:

Modify list below to match previous Item title changes.

ITEM 1. Bid Package 101 – GENERAL TRADES CONTRACT

ITEM 2. Bid Package 102 – PLUMBING AND FIRE PROTECTION CONTRACT

ITEM 3. Bid Package 103 – HVAC CONTRACT

ITEM 4. Bid Package 104 – ELECTRICAL CONTRACT

If Allowances will be bid for any item listed above, the same Allowances must be listed in this Combined Bid, in this format, and directly above the Combined Base Bid below. Duplicate lines below for additional Allowances. If not bid under any other item, delete the Allowances below.

ALLOWANCES (If this item is included in the Combined Bid, include the following Allowance amounts in the Combined Base Bid below~~)~~. The Contractor's Fee and costs for unloading and handling on the Site, labor, installation costs, and other expenses contemplated for the Allowances are included in the Base Bid and not in the Allowance.)

Description	Section	Amount
~~[Describe~~«describe scope of ~~Allowance]~~	~~[XX XX XX]~~ «NN NN NN»	~~$ [XX,XXX.XX]~~allowance» $«**NN**,NNN.NN»
~~[Describe~~«describe scope of ~~Allowance]~~	~~[XX XX XX]~~ «**NN** NN NN»	~~$ [XX,XXX.XX]~~allowance» $«**NN**,NNN.NN»
~~[Describe scope of Allowance]~~	~~[XX XX XX]~~	~~$ [XX,XXX.XX]~~

If Unit Prices will be bid for any item listed above, the same Unit Prices must be listed in this Combined Bid, in this format, and directly above the Combined Base Bid below. Duplicate lines below for additional Unit Prices. If not bid under any other item, delete the Unit Prices below.

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UNIT PRICES (If this item is included in the Combined Bid, include the following Subtotal of Unit Price Extensions in the Combined Base Bid below. Unit prices shall be used solely for the purpose of determining the adjustment to the Contract Sum for differences between the estimated quantities on the Bid Form and the actual quantities provided. The Contractor's Fee on account of Unit Price Work is included in the Base Bid and not in the Unit Price.)

~~Description~~	~~Estimated Quantity~~	~~Unit Price~~	~~/~~	~~Unit of Measure~~	~~Extension~~

Description	Estimated Quantity	Unit Price	/	Unit of Measure	Extension
~~[Insert]~~	~~[Insert]~~	~~$ _____~~	~~/~~	~~[Insert]~~	~~$ _____~~
~~[Insert]~~	~~[Insert]~~	~~$ _____~~	~~/~~	~~[Insert]~~	~~$ _____~~
~~[Insert]~~	~~[Insert]~~	~~$ _____~~	~~/~~	~~[Insert]~~	«insert» «insert» $ _____ / «insert» $ _____
«insert»	«insert»	$ _____	/	«insert»	$ _____

SUBTOTAL OF UNIT PRICE EXTENSIONS: $ _____

COMBINED BASE BID (Including the applicable Allowances and Subtotal(s) of Unit Price Extensions above for each item included in the Combined Bid below):

ALL LABOR AND MATERIALS, for the sum of $ _____

Sum in words: _____

_____and _____ /100 dollars.

If Alternates will be bid for any Item listed above, the same Alternates must be listed in this Combined Bid, in this format, and directly below the Combined Base Bid above. Duplicate lines below for additional Alternates. If not bid under any other Item, delete the Alternate below.

~~ALTERNATE [~~ «alternate C-1, ~~Title]~~alternate title» (Circle appropriate choice below and insert amount)

If Alternate is accepted, ADD TO / DEDUCT FROM Base Bid: $ _____

Sum in words: _____and _____ /100 dollars.

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BIDDER AFFIRMATION AND DISCLOSURE

Bidder acknowledges that by signing the Bid Form on the Bidder Signature and Information page, that it affirms, understands, and will abide by the requirements of Executive Order 2011-12K. If awarded a Contract, the Bidder will become the Contractor and affirms that both the Contractor and its Subcontractors shall perform no services requested under this Contract outside of the United States.

The Bidder shall provide the locations where services under this Contract will be performed in the spaces provided below or by attachment. Failure to provide this information as part of its Bid may cause the Bidder to be deemed non-responsive and no further consideration will be given to its Bid. If the Bidder will not be using Subcontractors, indicate "Not Applicable" in the appropriate spaces.

1. Principal business location of Contractor:

   _____ _____
   Address City, State, Zip

2. Location where services will be performed by Contractor:

   _____ _____
   Address City, State, Zip

   Locations where services will be performed by Subcontractors, if known at time of Bid Opening:

   _____ _____
   Address City, State, Zip

   _____ _____
   Address City, State, Zip

   _____ _____
   Address City, State, Zip

3. Location where state data will be stored, accessed, tested, maintained, or backed-up, by Contractor:

   _____ _____
   Address City, State, Zip

   Locations where state data will be stored, accessed, tested, maintained, or backed-up by Subcontractors, if known at time of Bid Opening:

   _____ _____
   Address City, State, Zip

   _____ _____
   Address City, State, Zip

   _____ _____
   Address City, State, Zip

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COMMITMENT TO PARTICIPATE
IN THE
EDGE BUSINESS ASSISTANCE PROGRAM

Bidder: Mark only one option.

Use "✓" or "*X*" to mark option included in Bid

If marking Option B, also show percentage of proposed participation.

___ **Option A**

Bidder commits to *meet or exceed* the advertised EDGE Participation Goal of **the Contract award amount,** calculated as a portion of the Base Bid plus all accepted Alternates, by using certified EDGE Business Enterprise(s).

Bidder agrees that if selected for consideration of the Contract, it shall provide (if not provided with the Bidder's Bid) to the Contracting Authority, at the location required and within 3~~-~~ business days after receiving notice from the Contracting Authority, its fully-completed ***Bidder's Qualification Form***, including ~~a *Certified Statement of Intent To Contract and To Perform*~~an ***EDGE Affadavit*** form for each certified EDGE Business Enterprise proposed for use by the Bidder if awarded the Contract for this Project.

___ **Option B (also indicate percentage -- see text)**

Bidder *does not meet* the advertised EDGE Participation Goal percentage, but, if awarded the Contract for this Project, *commits to provide* _____ ~~**%**~~ **percent of the Contract award amount**, calculated as a portion of the Base Bid plus all accepted Alternates, by using certified EDGE Business Enterprise(s).

Bidder acknowledges it understands the requirement for it to provide and agrees to provide to the Contracting Authority, if selected for consideration of the Contract, within 3 business days after notice from the Contracting Authority, a detailed ***Demonstration of Good Faith*** form describing its efforts undertaken prior to submitting its Bid to meet the advertised EDGE Participation Goal percentage for the Contract for this Project.

Bidder commits to provide to the Contracting Authority at the location required, and within 3 days after receiving notice from the Contracting Authority, its fully-completed ***Bidder's Qualification Form***, including ~~a *Certified Statement of Intent To Contract and To Perform*~~an ***EDGE Affadavit*** form for each certified EDGE Business Enterprise proposed for use by the Bidder if awarded the Contract for this Project.

___ **Option C**

Bidder declares that the Bidder is a certified EDGE Business Enterprise and that if awarded this Contract, the EDGE Participation percentage will be 100~~%~~ percent of the Contract award amount.

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BIDDER'S CERTIFICATIONS

The Bidder hereby acknowledges that the following representations in this Bid are material and not mere recitals:

1. The Bidder has read and understands the proposed Contract Documents and agrees to comply with all requirements of the proposed Contract Documents, regardless of whether the Bidder has actual knowledge of the requirements and regardless of any statement or omission made by the Bidder, which might indicate a contrary intention.

2. The Bidder represents that the Bid is based upon the Basis of Design and Acceptable Components specified by the proposed Contract Documents.

3. The Bidder has visited the Site, become familiar with local conditions, and has correlated personal observations about the requirements of the proposed Contract Documents. The Bidder has no outstanding questions regarding the interpretation or clarification of the proposed Contract Documents.

4. The Bidder understands that the ~~award of separate Contracts for~~execution of the Project will require sequential, coordinated, and interrelated operations, which may involve interference, disruption, hindrance, or delay in the progress of the Bidder's Work. The Bidder agrees that the Contract Sum, as amended from time to time, shall cover all amounts due from the State resulting from interference, disruption, hindrance, or delay that is not caused by the State or ~~between Contractors or their~~its agents and employees. The Bidder agrees that any such interference, disruption, hindrance, or delay is within the contemplation of the Bidder and the State and that the Contractor's sole remedy from the State for any such interference, disruption, hindrance, or delay shall be an extension of time in accordance with the proposed Contract Documents.

5. During the performance of the Contract, the Bidder agrees to comply with Ohio Administrative Code ("OAC") Chapters 123:2-3 through 123:2-9 and agrees to incorporate the monthly reporting provisions of ~~Ohio Administrative Code~~OAC Section 123:2-9-01 into all subcontracts on the Project, regardless of tier. The Bidder understands the ~~State~~State's Equal Opportunity ~~Division~~Coordinator or the Contracting Authority may conduct pre-award and post-award compliance reviews to determine if the Bidder maintains nondiscriminatory employment practices, maintains an affirmative action program, and is exerting good faith efforts to accomplish the goals of the affirmative action program. For a full statement of the rules regarding Equal Employment Opportunity in the Construction Industry, see ~~Ohio Administrative Code~~OAC Chapters 123:2-1 through 123:2-9.

6. The Bidder and each Person signing on behalf of the Bidder certifies, and in the case of a Bid by a joint venture each member thereof certifies as to such member's entity, under penalty of perjury, that to the best of the undersigned's knowledge and belief: (a) the Base Bid, any Unit Prices, and any Alternate bid in the Bid have been arrived at independently without collusion, consultation, communication or agreement, for the purpose of restricting competition as to any matter relating to such Base Bid, Unit Prices or Alternate bid with any other Bidder; (b) unless otherwise required by law, the Base Bid, any Unit Prices and any Alternate bid in the Bid have not been knowingly disclosed by the Bidder and shall not knowingly be disclosed by the Bidder prior to the bid opening, directly or indirectly, to any other Bidder who would have any interest in the Base Bid, Unit Prices or Alternate bid; (c) no attempt has been made or shall be made by the Bidder to induce any other Person to submit or not to submit a Bid for the purpose of restricting competition.

7. The Bidder understands that the Contract is subject to all the provisions, duties, obligations, remedies and penalties of Ohio Revised Code Chapter 4115 and that the Bidder shall pay any wage increase in the locality during the term of the Contract.

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8. The Bidder shall execute the ~~Contract Form~~Agreement with the Contracting Authority, if a Contract is awarded on the basis of this Bid, and if the Bidder does not execute the ~~Contract Form~~Agreement for any reason, other than as authorized by law, the Bidder and the Bidder's Surety are liable to the State as provided in Article~~-~~ 5 of the Instructions to Bidders.

9. The Bidder certifies that the upon the award of a Contract, as the Contractor it shall make a good faith effort to ensure that all of the Contractor's employees, while working on the Site, shall not purchase, transfer, use, or possess illegal drugs or alcohol or abuse prescription drugs in any way.

10. The Bidder acknowledges that it read all of the Instructions to Bidders, and in particular, ~~Paragraph~~ Section 2.10 ~~–~~- Submittals With Bid Form, and by submitting its Bid certifies that it has read the Instructions to Bidders and it understands and agrees to the terms and conditions stated in them.

11. The Bidder agrees to furnish any information requested by the Contracting Authority or the Architect/Engineer to evaluate the responsibility of the Bidder.

12. The Bidder agrees to furnish the submittals required by Section 6.1 of the Instructions to Bidders ~~Paragraph 6.1~~ for execution of the ~~Contract Form~~Agreement within 10~~-~~ days of the date of the Notice of Intent to Award.

13. When the Bidder is a corporation, partnership or sole proprietorship, an officer, partner or principal of the Bidder, as applicable, shall print or type the legal name of the Bidder on the line provided, and **sign the Bid Form**.

14. When the Bidder is a joint venture, an officer, partner or principal, as applicable, of each member of the joint venture shall print or type the legal name of the applicable member on the line provided, and **sign the Bid Form**.

15. Bidder acknowledges that by signing the Bid Form on the following Bidder Signature and Information page that it is signing the actual Bid and when submitted as a part of its bid package, shall serve as the Bidder's authorization for the further consideration and activity in the bidding and contract process.

16. All signatures must be original.

-- remainder of page left blank intentionally --

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BIDDER SIGNATURE AND INFORMATION

Bidder's Authorized Signature: _____

Please print or type the following:

Name of Bidder's Authorized Signatory _____

Title: _____

Company Name: _____

Mailing Address: _____

_____

Telephone Number: _____

Facsimile Number: _____

E-Mail Address: _____

Where Incorporated: _____

Federal Tax Identification Number: _____

Date enrolled in an OBWC-approved DFSP (month/date/year): _____ / _____ / _____

Contact person for Contract processing: _____

President's or Chief Executive Officer's Name / Title: _____

JOINT VENTURE ADDITIONAL BIDDER SIGNATURE & INFORMATION

Joint Venture Bidder's Authorized Signature: _____

Please print or type the following:

Name of Joint Venture Bidder's Authorized Signatory _____

Title: _____

Company Name: _____

Mailing Address: _____

_____

Telephone Number: _____

Facsimile Number: _____

E-Mail Address: _____

Where Incorporated: _____

Federal Tax Identification Number: _____

Date enrolled in an OBWC-approved DFSP (month/date/year): _____ / _____ / _____

Contact person for Contract processing: _____

President's or Chief Executive Officer's Name / Title: _____

END OF DOCUMENT

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(Form of combined Bid Guaranty and Bond prescribed by Ohio Revised Code Section 153.571)

KNOW ALL PERSONS BY THESE PRESENTS, that we, the undersigned

_____, as Principal,

at _____ (Address)

and _____ as Surety, are hereby held and firmly bound unto the State of Ohio, as Obligee, in the penal sum of the dollar amount of the Bid submitted by the Principal to the Obligee on _____ (date) to undertake the Project known as:

Project Number: _____

Project Name: _____

Contract Description: _____
(e.g., General Trades, Plumbing, HVAC, Electrical)

The penal sum, referred to herein, shall be the dollar amount of the Principal's Bid to the Obligee, incorporating any additive alternate Bids made by the Principal on the date referred to above to the Obligee, which are accepted by the Obligee. In no case shall the penal sum exceed the amount of dollars ($_____). (If the preceding line is left blank, the penal sum will be the full amount of the Principal's Bid, including add alternates. Alternatively, if completed, the amount stated shall not be less than the full amount of the Bid, including Alternates, in dollars and cents. A percentage is not acceptable.) For the payment of the penal sum well and truly to be made, we hereby jointly and severally bind ourselves, our heirs, executors, administrators, successors and assigns.

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH, that whereas the above-named Principal has submitted a Bid for the above referenced Project;

NOW, THEREFORE, if the Obligee accepts the Bid of the Principal, and the Principal fails to enter into a proper contract in accordance with the Contract bid, Plans, Specifications, details and bills of material; and in the event the Principal pays to the Obligee the difference, not to exceed ten percent of the penal sum hereof between the amount specified in the Bid and such larger amount for which the Obligee may in good faith contract with the Bidder determined by the Obligee to be the next lowest responsive and responsible to perform the Work covered by the Bid; or in the event the Obligee does not award the Contract to such next lowest responsive and responsible Bidder and resubmits the Project for bidding, the Principal pays to the Obligee the difference not to exceed ten percent of the penal sum hereof between the amount specified in the Bid, or the costs, in connection with the resubmission, of printing new Contract Documents, required advertising and printing and mailing notices to prospective Bidders, whichever is less, then this obligation shall be null and void, otherwise to remain in full force and effect. If the Obligee accepts the Bid of the Principal, and the Principal, within 10 days after the awarding of the Contract, enters into a proper Contract and executes the Contract Form in accordance with the Contract Documents, including without limitation the Bid, Plans, Specifications, details, and bills of material, which said Contract is made a part of this Bond the same as though set forth herein; and

NOW ALSO, IF THE SAID Principal shall well and faithfully perform each and every condition of such Contract; and indemnify the Obligee against all damage suffered by failure to perform such Contract according to the provisions thereof and in accordance with the Contract Documents, including without limitation Plans, Specifications, details, and bills of material therefore; and shall pay all lawful claims of Subcontractors, Material

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Suppliers and laborers for labor performed and materials furnished in the carrying forward, performing or completing of said Contract; we, agreeing and assenting that this undertaking shall be for the benefit of any Subcontractor, Material Suppliers or laborer having a just claim, as well as for the Obligee herein; then this obligation shall be void; otherwise the same shall remain in full force and effect; it being expressly understood and agreed that the liability of the Surety for any and all claims hereunder shall in no event exceed the penal amount of this obligation as herein stated.

THE SAID Surety hereby stipulates and agrees that no modifications, omissions or additions, in or to the terms of said Contract, the Work thereunder or the Contract Documents, including without limitation the Plans and Specifications, therefore, shall in any way affect the obligations of said Surety on its bond, and it does hereby waive notice of any such modifications, omissions or additions in or to the terms of the Contract, the Work, or the Contract Documents, including without limitation the Plans and Specifications.

SIGNED AND SEALED this _____ day of _____, _____.

PRINCIPAL:

x _____

By: _____

Title: _____

SURETY:

x _____

By: _____
Attorney-in-Fact

SURETY INFORMATION:

_____
Street

_____
City State Zip

_____
Telephone Number

SURETY AGENT'S INFORMATION:

_____
Agency Name

_____
Street

_____
City State Zip

_____
Telephone Number

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Project: _____

Project Name: _____

1. **Company Name**: _____

   Physical Address: _____
   Street, Building, Unit

   _____
   City, State, Zip

   Mailing Address (if different): _____
   P.O. Box

   _____
   City, State, Zip

   Telephone Number (w/ Area Code): (_____) _____

   Fax Number (w/ Area Code): (_____) _____

   Email address: _____

2. **Overall Experience.** Indicate Bidder's overall experience performing the trades bid, including the years in business performing the trade under present and former business names.

3. **Financial.** The apparent low Bidder shall submit, upon request of the Contracting Authority, either:

   a) An annual financial statement prepared within the 12 months prior to the bid opening by an independent licensed accounting firm; and the name, address, contact person and phone number of the bank normally used by the Bidder for its primary banking; or,

   b) A financial report generated within 30 days prior to the bid opening from Standard and Poor, Dun and Bradstreet or a similar company acceptable to the Contracting Authority documenting the financial condition of the Bidder; and the name, address, contact person and phone number of the bank normally used by the Bidder for its primary banking;

   This information is not a public record under Ohio Revised Code Section 149.43; and shall remain confidential, except under proper order of a court.

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4. **Facilities & Equipment**. Indicate Bidder's relevant facilities and major equipment (leased or owned).

5. **Ongoing & Relevant Projects.** List all ongoing projects and projects completed in the last 5 years, which are similar in cost and type to the Project being bid. Include scope of Work, Contract value, a description of EDGE participation and performance, and project name/contact person/address/phone number for each owner and the architect or engineer for each project.

6. **Regulatory / Contractual.** Indicate all occurrences of the following in the last 5 years (indicate if none). For verification, attach documentation, and/or provide sufficient and appropriate detail information such as: project name, owner, contact person and phone number, amount of contract, etc.

   a) State or federal Prevailing Wage violations or judgments

   b) Affirmative Action and EDGE program violations (Attach Certificate of Compliance with Affirmative Action Programs, issued pursuant to ~~O.R.C.~~Ohio Revised Code Section 9.47)

   c) Contract abandonment, contract termination, as either a prime- or sub-contractor, or Surety takeover

   d) Debarment by state, federal, or local jurisdictions

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e) EPA/OSHA violations

f) Liquidated damages and Statutory Delay Forfeiture assessed

g) Drug-Free Safety Program and Drug Free Workplace Program violations

7. Management. Identify individuals assigned to this Project.

Principal _____ Years with firm _____ Total Exp._____

Project Manager _____ Years with firm _____ Total Exp._____

Field Superintendent _____ Years with firm _____ Total Exp._____

8. EDGE Participation. Identify EDGE-certified Business Enterprises proposed as Subcontractors and Material Suppliers for this Project. Attach a fully completed Document 00 45 39 - "EDGE Affidavit" for each EDGE-certified Business Enterprise.

9. Certification. I hereby certify that the information in this entire Bidder's Qualifications form, including all attachments and referenced information, is factual and complete.

Company Name _____

Authorized Official (please print or type) _____

Signature of Authorized Official _____ Date _____

END OF DOCUMENT

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EDGE PARTICIPATION

Certified Statement of Intent to Contract and Perform

Bidder: Submit one fully completed form for each EDGE-certified Business Enterprise

Project: _____

Project Name: _____

A. Bidder's Company Name: _____

B. EDGE-certified Business Enterprise information (for project contract at ANY tier)

Mark all that apply:

__ Bidder __ Subcontractor __ Material Supplier __ Professional Services __ Goods/Services

EDGE Business Name: _____

EDGE Business Address: _____

_____

EDGE Business Federal Tax I.D. _____ E-mail: _____

Contact Person: _____ Phone: (____) _____

Insert a brief description of materials, supplies, labor, etc. to be provided (may use industry codes)

_____

_____

C. Certification of Intent

By signing below, Bidder certifies that it intends to contract with the certified EDGE-certified Business Enterprise for the portion of the Contract described above related to the Contract for this Project and for the estimated cost shown below. By signing below, the certified EDGE-certified Business Enterprise certifies that it intends to contract with the Bidder and intends to provide the portion of the Contract described above related to the Contract for this Project for the *estimated cost* of:

_____ and _____ /100 dollars ($_____).

In the event the named Bidder is NOT the successful Bidder, this Statement shall be null and void.

EDGE-certified Business Enterprise	***Bidder***
_____	_____
Authorized representative name, title (print or type)	Authorized representative name, title (print or type)
_____	_____
Signature of authorized representative	Signature of authorized representative

END OF DOCUMENT

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This ~~Contract, as evidenced by this Contract Form,~~Agreement is made ~~by and~~ as of the date set forth below between~~:~~

~~**[Contractor]**~~

~~(the "Contractor") and~~ the State of Ohio ~~(the "State"),~~ , acting by and through the ~~[Insert Agency or Institution] (the "~~Contracting Authority~~"), serving as the authorized contracting agent for [Insert Owner] (the "Owner").~~, and the Contractor in connection with the Project.

~~In consideration of the mutual promises herein contained, the Contracting Authority and the Contractor agree as set forth below:~~

~~NATURE~~

Project Number:	**«insert number»**
Project Name:	**«insert name»**
Site Address:	«insert street address»
	«insert city, county»
Owner:	**«insert name»**
Owner's Representative:	«insert name»
Address:	«insert street address»
	«insert city, state zip code»
Contracting Authority:	**«insert name»**
Project Manager:	«insert name»
Address:	«insert street address»
	«insert city, state zip code»
Contractor:	**«insert name»**
Contractor's Principal Contact:	«insert name»
Address:	«insert street address»
	«insert city, state zip code»
Architect/Engineer ("A/E"):	**«insert name»**
A/E's Principal Contact:	«insert name»
Address:	«insert street address»
	«insert city, state zip code»

ARTICLE 1 - SCOPE OF ~~CONTRACT~~WORK; EDGE COMMITMENT

1.1 The Contractor shall perform and provide all of the ~~entire~~ Work described in the Contract ~~Documents and reasonably inferable as necessary to produce the results intended by the Contract Documents for:~~.

~~Contract [AGY-FYNNNN-NN-NN]~~
~~[Insert Type] Contract~~
~~[Project Name]~~
~~[Location]~~

1.2 The Contractor shall contract with EDGE-certified Business Enterprise(s) for no less than «insert Contractor's EDGE commitment» percent of the Contract Sum.

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ARTICLE 2 - COMPENSATION

2.1 The Owner shall pay the Contractor the Contract Sum for the Contractor's proper, timely, and complete performance of ~~this~~the Contract~~,~~. The Contract Sum is **$«insert amount»**, subject to additions and deductions as provided in the Contract Documents~~, the~~. The Contract Sum ~~of [Insert Contract Sum],~~is comprised of the following:

2.1.1 Base Bid~~..... $ [~~ : $«Insert Base Bid Amount~~]~~»

2.1.2 Alternate ~~[~~ «Insert Alternates Awarded~~]..... $ [~~»: $«Insert Alternate ~~Amounts]~~Amount»

2.1.3 ~~The Owner shall pay the Contractor upon receiving Contractor Payment Requests certified by the Architect/Engineer and recommended by~~Alternate «Insert Alternates Awarded»: $«Insert Alternate Amount»

2.1.4 Alternate «Insert Alternates Awarded»: ..... $«Insert Alternate Amount»

2.1.5 Alternate «Insert Alternates Awarded»: ..... $«Insert Alternate Amount»

ARTICLE 3 - CONTRACT TIMES

~~2.2~~ The Contract Times are the ~~Contracting Authority as provided in the Contract Documents.~~

~~ARTICLE 3 - TIME OF PERFORMANCE~~

~~3.1 The Contractor shall diligently prosecute and complete all Work such that Final Acceptance occurs in [nnn] consecutive days, following the date of the Notice to Proceed, unless an extension~~periods of time ~~is granted by the Contracting Authority in accordance with the Contract Documents. The period~~ established in ~~this paragraph is referred to as the Contract Time.~~

~~3.2 The Contractor must perform and complete all Work under the Contract within the established Contract Time, and each applicable portion of the Work must be completed upon its respective Milestone date, unless the Contractor timely requests, and the Contracting Authority grants, an extension of time in accordance with the Contract Documents.~~

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~~3.3~~3.1 ~~The Contractor's failure to complete all Work within the period of time specified, or failure to have the applicable portion of the Work completed upon any Milestone date, shall entitle the Contracting Authority to retain or recover from the Contractor, as Statutory Delay Forfeiture, the applicable amount set forth in~~ the following table for ~~each and every calendar day thereafter until Contract Completion or the date of completion of the applicable portion of the Work, unless the Contractor timely requests, and the Contracting Authority grants, an extension of time in accordance with these Contract Documents. The Statutory Delay Forfeiture amount is applicable to Milestone dates only when so stated in this Contract Form.~~the achievement of the associated Milestones:

~~STATUTORY DELAY FORFEITURE SCHEDULE~~

~~Contract Sum~~	~~Amount per day~~
~~Less than $50,000~~	~~$150~~
~~From $50,000.01 to $150,000~~	~~$250~~
~~From $150,000.01 to $500,000~~	~~$500~~
~~From $500,000.01 to $2,000,000~~	~~$1,000~~
~~From $2,000,000.01 to $5,000,000~~	~~$2,000~~
~~From $5,000,000.01 to $10,000,000~~	~~$2,500~~
~~More than $10,000,000~~	~~$3,000~~

~~3.4 The Contracting Authority's right to recover the Statutory Delay Forfeiture amount does not preclude any right of recovery for actual damages.~~

~~ARTICLE 4 - CONTRACT DOCUMENTS~~

~~4.1 The Contract Documents embody the entire understanding of the parties and form the basis of the Contract between the Contracting Authority and the Contractor.~~

~~4.2 The Contract and any modifications, amendments, or alterations thereto shall be governed, construed, and enforced by and under the laws of the State of Ohio.~~

~~4.3 If any term or provision of the Contract, or the application thereof to any Person or circumstance, is finally determined, to be invalid or unenforceable by a court of competent jurisdiction, the remainder of the Contract or the application of such term or provision to other Persons or circumstances, shall not be affected thereby, and each term and provision of the Contract shall be valid and enforced to the fullest extent permitted by law.~~

~~4.4 The Contract shall be binding on the Contractor and Contracting Authority, their successors and assigns, in respect to all respective covenants and obligations contained in the Contract Documents, but the Contractor may not assign the Contract without the prior written consent of the Contracting Authority.~~

~~ARTICLE 5 - EFFECTIVENESS~~

Construction Stage Milestone	**Contract Time**
«insert description of interim Milestone – add more rows if necessary – delete of none»	«insert number of calendar days» days
Final Acceptance of all Work	«insert number of calendar days» days

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ARTICLE 4 - KEY PERSONNEL

4.1 The Contractor's Key Personnel for the Project are:

4.1.1 «insert name», Project Manager;

4.1.2 «insert name», Lead Scheduling Engineer;

4.1.3 «insert name», General Superintendent.

Edit the above list as appropriate for the project.

ARTICLE 5 - GENERAL PROVISIONS

5.1 Effectiveness.

~~5.1~~5.1.1 It is expressly understood by the Contractor that none of the rights, duties, and obligations described in the Contract Documents shall be valid and enforceable unless the Director of the Office of Budget and Management first certifies that there is a balance in the Owner's appropriation not already encumbered to pay existing obligations.

~~5.2~~5.1.2 ~~The~~Subject to Section 5.1.1, the Contract shall become binding and effective upon execution by the Contracting Authority, the Owner, and ~~approval by~~ the Contractor, and Attorney General approval.

~~5.3~~5.1.3 This ~~Contract Form has been~~Agreement may be executed in several counterparts, each of which shall constitute a complete original ~~Contract Form~~Agreement, which may be introduced in evidence or used for any other purpose without production of any other counterparts.

~~5.4 Any signatory hereto may deliver a copy of its counterpart signature page to this Contract Form via fax, e-mail, or the State's Web-based project management system ("OAKS CI"). Each signatory hereto shall be entitled to rely upon a signature of any other signatory delivered in such a manner as if such signature were an original.~~

~~ARTICLE 6 - REPRESENTATIONS~~

5.2 Representations.

~~6.1~~5.2.1 The Contractor represents and warrants that it is not subject to an unresolved finding for recovery under Ohio Revised Code ("~~O.R.C.")~~ORC") Section 9.24. If this representation and warranty is found to be false, the Contract is void, and the Contractor shall immediately repay to the Owner any funds paid under this Contract.

~~6.2~~5.2.2 The Contractor hereby certifies that neither the Contractor nor any of the Contractor's partners, officers, directors, shareholders nor the spouses of any such person have made contributions in excess of the limitations specified in ~~O.R.C.~~ORC Section 3517.13.

~~6.3~~5.2.3 The Contractor, by signature on this ~~Contract Form~~Agreement, certifies that it is currently in compliance with, and will continue to adhere to, the requirements of Ohio ethics laws and conflict of interest laws and will take no action inconsistent with those laws.

~~6.4~~5.2.4 The Contractor affirms to have read and understands Executive Order 2011-12K and shall abide by those requirements in the performance of this Contract. Notwithstanding any other terms of this Contract, the State reserves the right to recover any funds paid for services the Contractor performs outside of the United States for which it did not receive a waiver. The State does not waive any other rights and remedies provided the State in this Contract.

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~~6.5~~5.2.5 The Contractor represents and warrants that it has not provided any material assistance, as that term is defined in ~~O.R.C.~~ORC Section 2909.33(C), to an organization that is identified by, and included on, the United States Department of State Terrorist Exclusion List and that it has truthfully answered "no" to every question on the "Declaration Regarding Material Assistance/Non-assistance to a Terrorist Organization ("DMA")." The Contractor further represents and warrants that it has either (1)~~-~~ registered with the Ohio Business Gateway ~~("OBG")~~ to file for DMA pre-certification or (2)~~-~~ has provided or shall provide its DMA to the Contracting Authority prior to execution of this ~~Contract Form~~Agreement. If these representations and warranties are found to be false, the Contract is void and the Contractor shall immediately repay to the Owner any funds paid under this Contract.

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~~SIGNATURE PAGE~~

~~Contract [AGY-FYNNNN-NN-NN]~~
~~[Insert Type] Contract~~
~~[Project Name]~~
~~[Location]~~

SIGNATURES

IN WITNESS WHEREOF, the parties hereto have executed this ~~Contract Form.~~

~~**[Insert CONTRACTOR]**~~

~~By: _____~~
~~(Authorized Signature)~~

~~_____~~
~~(Print or type Signatory Name)~~

~~_____~~
~~(Print or type Signatory Title)~~

~~**STATE OF OHIO**~~

~~By: _____~~
~~[Insert Name, *Title*]~~
~~[Insert Contracting Authority]~~
~~[by Name, *Title*]~~

~~**OHIO ATTORNEY GENERAL**~~

~~Approved~~Agreement as ~~to form~~of the date set forth below:

~~By: _____~~
~~Assistant Attorney General~~

~~Date: _____~~

«INSERT CONTRACTOR'S NAME»	**STATE OF OHIO**
_____	_____
Signature	*Signature*
_____	_____

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Printed Name

Title

OWNER'S CONCURRENCE

«INSERT OWNER'S NAME»

Signature

Printed Name

Title

Printed Name

Title

ATTORNEY GENERAL APPROVAL

OHIO ATTORNEY GENERAL

Signature

Printed Name

Title

Date

END OF DOCUMENT

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Acceptable Component	A component listed in the Specifications after the Basis of Design Component.
Addenda or Addendum	Written or graphic instrument issued prior to the bid opening which modifies or interprets the proposed Contract Documents by additions, deletions, clarifications, or corrections. Addenda become part of the Contract Documents when the ~~Contract Form~~Agreement is executed.
A/E	See "Architect/Engineer"
Agreement	The form furnished by the Contracting Authority (including all of its exhibits) that, when completed and signed by the Contractor and the Contracting Authority evidences entry into the Contract.
Allowance	A sum stipulated in the Contract Documents~~, included in the Base Bid, which includes overhead and profit~~ for a defined scope of the Work that may not be completely defined at the time of bidding.
Alternate	A change in the proposed Project scope, which may include but is not limited to alternate materials or methods of construction, and an amount stated on the Bid form to be added to or deducted from the Base Bid if the corresponding Alternate is incorporated into the Contract.
Alternative Dispute Resolution	A voluntary and non-binding process for the administrative review, consideration, and attempted settlement of a dispute, without resort to judicial process, including but not limited to partnering, negotiation, mediation, impartial fact-finding, dispute review board, and mini-trials, but shall not include arbitration.
Applicable Law	All federal, state, and local codes, statutes, ordinances, and regulations that apply to the performance of the Work on the Project.
Architect/Engineer~~ or A/E~~	The Person responsible for providing professional design services and construction contract administration for the Project as provided in the Contract Documents. The A/E shall be (1)~~-~~ a registered architect holding a license and certificate of authorization issued by the Ohio Architects Board pursuant to ~~O.R.C.~~Ohio Revised Code ("ORC") Chapter 4703, (2)~~-~~ a landscape architect holding a license and certificate of authorization issued by the Ohio Landscape Architects Board pursuant to ~~O.R.C.~~ORC Chapter 4703, or (3)~~-~~ a professional engineer or professional surveyor holding a license and certificate of authorization issued by the Ohio Engineers and Surveyors Board pursuant to ~~O.R.C.~~ORC Chapter 4733.
As-Built Documents	Documents, including, but not limited to, Drawings, Addenda, Specifications, executed Change Orders, and other elements of the Contract Documents which the Contractor annotates and otherwise modifies to indicate changes made during the construction process, the location of concealed and buried items, and other information useful to the Owner throughout the life of the completed Project.
Base Bid	The amount stated in a Bid as the sum for which the Bidder offers to perform the Work in a particular trade or other category, which is described in the Contract Documents, excluding Alternates.

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Basis of Design ~~or BOD~~	A document that records the concepts, calculations, decisions, and product selections used to meet the Owner's Project Requirements and to satisfy applicable regulatory requirements, standards, and guidelines. The document includes both narrative descriptions and lists of individual items that support the design process.
Basis of Design Component	A component listed first in the Specifications.
Bid	A written proposal to perform a Contract, submitted on a completed Bid Form, accompanied by other required documents.
Bidder	A Person that submitted a Bid.
BIM	See "Building Information Model"
Bid Form	A form furnished by the Contracting Authority with the proposed Contract Documents that is to be completed, signed, and submitted containing the Bidder's Bid.
Bid Guaranty	A bid bond or other instrument of security authorized by ~~Ohio Revised Code~~ORC Section 153.54 submitted with the Bid to provide assurance that the Bidder will execute the ~~Contract Form~~Agreement.
Bond	A performance and payment bond in the format specified by ~~Ohio Revised Code~~ORC Section 153.57 submitted by the Contractor to provide assurance that the Contractor will perform the Work of the Contract, including making required payments to Subcontractors and Materials Suppliers.
Building Information Model ~~or BIM~~	A digital representation of physical and functional characteristics of a facility; a shared knowledge resource for information about a facility forming a reliable basis for decisions during its life-cycle, which is defined as existing from earliest conception to demolition~~. The term BIM~~; electronic files used to design and coordinate the Project; and may be used ~~as a *noun*~~ to describe a single model or multiple models used in the aggregate~~. The term BIM may also be used as a *verb* in the context of Building Information Modeling or Management, the process of creating, maintaining, and querying the model~~.
Certification of Contract Completion	A form used to document that the Contractor's Work is complete, and the Contractor has complied with all conditions precedent to final payment and release of retainage. This form may also be used to document partial completion.
~~Certified~~ Change Directive	A written document prepared by the A/E and executed by the Contracting Authority that directs a change in the Work.
Change Order	A document recommended by the A/E and executed by the Contracting Authority and the Contractor that modifies the Contract.
Claim	A demand or assertion, initiated by written notice, certified by one of the parties to the Contract seeking, as a matter of right, adjustment or interpretation of Contract terms, payment of money, extension of time, or other relief with respect to the terms of the Contract.
~~Change Order~~	~~A document recommended by the Architect/Engineer and executed by the Contracting Authority that modifies the Contract.~~

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Claim Affidavit	A sworn document used in conjunction with filing a lien, which contains a claim on the funds that are due to a Contractor, in favor of a Person supplying labor, materials, or services for the value of labor, materials, or services supplied.
CM	See "Construction Manager"
Combined Bid	A Bid that combines bid items for separate Contracts stated on the Bid Form.
Commissioning Agent ~~or CxA~~	The Person identified by the Contracting Authority who leads, plans, schedules, and coordinates the commissioning team to implement the Commissioning Process for the Project.
Commissioning Plan	A document that outlines the organization, schedule, allocation of resources, and documentation requirements of the Commissioning Process.
Commissioning Process	A quality-focused process for enhancing the delivery of a project. The process focuses on verifying and documenting that the facility and all of its systems are planned, designed, installed, tested, operated, and maintained to meet the Owner's Project Requirements.
Commissioning Report	A document that records the activities and results of the Commissioning Process. The Commissioning Report is developed from the final Commissioning Plan with its attached appendices.
Conformed Documents	Contract Documents with all Addenda items and accepted Alternates incorporated by the ~~Architect/Engineer~~A/E, published, and issued to a successful Bidder for its use during performance of the Contract.
Construction Manager ~~or CM~~	A Person responsible, under the ~~Construction Manager~~Multiple-Prime / CM Advisor version of the Department's General Conditions, for providing administration, management, and related services as required for scheduling the Project, coordinating the Contractors, and providing other services as provided in the Contract Documents.
Construction Progress Schedule	The critical path schedule for performance of the Contract; showing the time for completing the Work within the Contract ~~Time~~Times; the planned sequence for performing the various components of the Work; the interrelationship between the activities of the Contractors, the ~~Architect/Engineer~~A/E, the ~~Construction Manager~~CM if any, the Contracting Authority, and the Owner; and the Contractors' resource and cost loading information; as periodically updated during the performance of the Work.
Contract	The state of legal obligation entered into by the State and the Contractor, whereby they have agreed to an exchange of certain acts, materials, equipment, and services for certain monetary consideration, under all terms and conditions specified in the Contract Documents, which shall remain in full force and effect until such time as all obligations under the Contract have been lawfully and completely discharged, or the Contract is terminated under other conditions specified in the Contract Documents.

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Contract Completion The schedule Milestone in the progress of any Phase when the Work is completed in accordance with the terms of the Contract Documents and Contractor has satisfied all of its other obligations under the Contract Documents, including, but not limited to, (~~a~~1) all governmental authorities have given final, written approval of the Work, (~~b~~2) a final unconditional certificate of occupancy has been granted and issued to the Owner by the appropriate governmental authorities, (~~c)~~ 3) the Contractor's Work is 100- percent complete, and (~~d~~4) all Punch List items have been completed or corrected, and (~~e)~~ 5) the Contractor has complied with conditions precedent to final payment and release of retained funds.

Contract Documents Collectively, the documents that constitute the substance of the Contract including, but not limited to, Drawings, Specifications, Addenda if any, General and Supplementary Conditions of the Contract, Bid Form, Wage Rates; and the executed ~~Contract Form~~Agreement, Bid Guaranty and Contract Bond, and Change Orders if any.

~~**Contract Form** The form furnished by the Contracting Authority that, when completed and signed by the Contractor and the Contracting Authority, and approved by the Attorney General, evidences entry into the Contract.~~

Contractor Documents All Project-related documents, including those in electronic form, prepared by the Contractor and Subcontractors.

Contract Sum The ~~amount stipulated in the~~ Contract ~~Form that~~Sum is the ~~total amount payable to the Contractor~~ Contractor's entire compensation for the Contractor's proper, timely, and complete performance of the Work~~, including adjustments authorized by executed Change Orders.~~

~~**Contract Time** The period stipulated~~ and is subject to adjustment as provided in the Contract ~~Form for performance of the Work~~.

Contract Times The periods stipulated in the Agreement for the achievement of associated Milestones, in consecutive days, beginning and ending on the dates established by the Notice to Proceed, including adjustments authorized by executed Change Orders.

Contracting Authority The party identified in the Agreement, which may be the Ohio Department of Administrative Services, acting by and through the General Services Division, State Architect's Office; ~~or the director of~~ an agency of the state of Ohio ~~with the approval of the Department for local administration of a specific Project; or the chief executive officer of~~; an Institution of Higher Education ~~certified by the Department to perform local administration~~or division thereof; or the legislative body of a political subdivision.

Contractor A ~~Person~~firm, which is party to the Contract for the performance of Work on the Project in ~~cooperation with Separate Contractors and Persons, and in~~ accordance with the Contract Documents.

Contractor's Fee The portion of the Contract Sum attributable to the aggregate of the Contractor's profit and home-office overhead related to the Contractor's proper, timely, and complete performance of the Work.

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Contractor Payment Request	The form furnished by the Department that is to be used by the Contractor in requesting payments and which, when signed by the Contractor, shall serve as an affidavit that payments requested are in proportion to the Work completed as shown on the Schedule of Values.
Contractor's Punch List	A document prepared by the Contractor that consists of a list of items of Work to be completed or corrected by the Contactor as a condition precedent to the ~~Architect/Engineer and Construction Manager~~A/E and the CM issuing the Punch List.
Coordination Drawings	Drawings and electronic files prepared by the ~~Contractors~~Contractor to demonstrate how multiple-system and interdisciplinary work will be coordinated. Clash reports generated by BIM authoring software may be included in the Coordination Drawing submittals if applicable.
~~Costs~~Correction Period	A period of ~~Recovery Costs incurred by a Contractor for acceleration~~one year commencing on the date of Final Acceptance of the Work ~~in order to recover from a delay~~ or ~~other impact in~~ a designated portion of the Work which the ~~Work falls behind the approved Construction Progress Schedule~~Owner has agreed to accept separately.
CxA	See "Commissioning Agent"
Date of Commencement	The date established in a Notice to Proceed issued by the Contracting Authority to the Contractor to mark the start of the Work and the beginning of the running of the Contract Times.
day	A calendar day of 24 hours measured from midnight to midnight, unless otherwise expressly specified to mean a business day.
Defective Work	Work that does not conform to the Contract Documents; or does not meet the requirements of any applicable statute, rule or regulation, inspection, reference standard, test or approval; or has been damaged prior to the ~~Architect/Engineer's and Construction Manager's~~A/E's recommendation of final payment, unless responsibility for the protection thereof has been expressly assumed by the Owner; or that is not free from defects in workmanship, materials or equipment during the period of any warranty or guarantee.
Department	The Ohio Department of Administrative Services, the authorized contracting agent for public improvement Projects in accordance with ~~Ohio Revised Code~~ORC Chapters 123 and 153, acting by and through the General Services Division, State Architect's Office.
Differing Site Condition	Either (1) a subsurface or otherwise concealed physical condition encountered at the Site that differs materially from the conditions indicated in the Contract Documents or (2) an unknown physical condition of an unusual nature encountered at the Site that differs materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents.

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Dispute Review Board	A form of Alternative Dispute Resolution that is typically comprised of three members, selected jointly by the Contractor and the Contracting Authority, to monitor the progress of construction and provide recommended resolutions to disputes that are brought before them.
Drawings	Graphic portions of the ~~-~~Contract Documents, showing the design, type of construction, location, dimension, and character of the Work to be provided by the Contractor, which generally includes plans, elevations, sections, details, schedules, diagrams, notes, and text.
Enclosure, Permanent	The condition in which the permanent exterior walls and roofs are in place, insulated and ~~weather tight~~weathertight, and permanent windows and entrances are in place.
Enclosure, Temporary	The condition in which the permanent exterior walls and roofs are in place, insulated and ~~weather tight~~weathertight, and windows and entrances are provided with suitable temporary enclosures.
~~Equal Opportunity Coordinator~~	~~The public official, identified in O.R.C. Section 124.04 as the equal employment opportunity coordinator, who exercises the duties and responsibilities of the position, including but not limited to, issuing certificates of compliance with the State's affirmative action program and certifications for the EDGE program.~~
Estimated Construction Cost	The sum of the Estimated Contract Cost amounts published in the Solicitation, as modified by Addenda, for a phase of the Project.
Estimated Contract Cost	The estimated amount for the Contract published in the Solicitation, including the Base Bid estimate and the estimates of selected Alternates, if any, as modified by Addenda.
Extra Materials	Materials required by the Contract Documents that are not incorporated into the Project but are given to the Owner to be used for future maintenance or repairs.
~~Field Work Order~~	~~A written document prepared by the Architect/Engineer and executed by the Contracting Authority, the Owner, and the Architect/Engineer that directs a change in the Work.~~
Final Acceptance	The Contracting Authority's acceptance of the Work performed by the Contractor after certification by the ~~Architect/Engineer, and Construction Manager, if any,~~A/E of Contract Completion.
Final Inspection	The final review of the Work of the Contractor by the ~~Architect/Engineer, and Construction Manager, if any,~~A/E to determine whether issuance of the Certificate of Contract Completion is appropriate.
furnish	Supply and deliver to the Site, or other specified location, ready for installation.
General Conditions	The State's Standard General Conditions currently in effect, which may be modified by the Department from time to time.

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General Conditions Costs	General Conditions Costs include only the Contractor's costs to provide the general conditions Work including without limitation the costs of all of the following Site-related items: scheduling and coordinating the Work. telephone, telephone charges, facsimile, telegrams, postage, photos, photocopying, hand tools, simple scaffolds (one level high), tool breakage, tool repairs, tool replacement, tool blades, tool bits, and pre-approved travel, lodging, and parking costs. General Conditions Costs also include (1) Bond premiums and (2) builder's risk insurance premiums if the Contractor purchases the builder's risk policy for the Project.
Hazardous Materials	Any material, substance, pollutant, or contaminant that is defined, regulated, referenced, or classified in the Comprehensive Environmental Response, Compensation and Liability Act, the Federal Water Pollution Control Act, the Resource Conservation and Recovery Act, the Clean Air Act, the Hazardous Materials Transportation Uniform Safety Act, the Toxic Substances Control Act, or any other Applicable Law relating to any hazardous, toxic, or dangerous waste, substance, or material. Any substance or material that, after release into the environment or upon exposure, ingestion, inhalation, or assimilation, either directly from the environment or directly by ingestion through food chains, will, or may reasonably be anticipated to, cause death, disease, behavior abnormalities, cancer or genetic abnormalities and specifically includes, but is not limited to, asbestos, polychlorinated biphenyls ("PCBs"), radioactive materials, including radon and naturally occurring radio nuclides, natural gas, natural gas liquids, liquefied natural gas, synthetic gas, oil, petroleum and petroleum-based derivatives and urea formaldehyde.
Indemnified Parties	The Contracting Authority, the Owner, the A/E, other Separate Consultants, and their respective officials, officers, consultants, agents, representatives, and employees, in both individual and official capacities.
install	Put into use or place in final position, complete and ready for intended service or use.
Institutional Designee	The party identified in the Agreement empowered with a level of authority similar to the State Architect, which may be the university architect or engineer, director of capital facilities, or an institution vice president.
Institution of Higher Education	Any state of Ohio university or college, community college, state of Ohio community college, technical college, university branch, community college district, technical college district, university branch district, and the applicable board of trustees or, in the case of a university branch district, any other managing authority.
Lead Contractor	The Contractor identified by the Architect/Engineer, under the ~~Stipulated Sum~~Multiple-Prime version of the Department's General Conditions, when a ~~Construction Manager~~CM is not involved in the Project, responsible for scheduling the Project, coordinating the Contractors, and providing other services identified in the Contract Documents.

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Liquidated Damages	A sum established in the Contract Documents, pursuant to the statutory delay forfeiture authorized under ORC Section 153.19, to be paid to the Owner due to the Contractor's failure to complete the Work within the Contract Time for achievement of Final Acceptance, or any applicable portion of the work on or prior to any Milestone date stated on the Agreement.
Material Supplier	A Person ~~who furnishes~~under a contract with the Contractor to furnish materials or supplies ~~on the Project~~in furtherance of the Work, including all such Persons in any tier. The term "Material Supplier" does not include any Separate Contractor unless expressly assigned in writing to the Contractor by the Owner and accepted by the Contractor.
mediation	A voluntary process in which a neutral third party meets with the parties who have a disagreement or dispute and attempts to facilitate a mutually satisfactory resolution.
Milestone	A significant date or event in the development of the Work identified in the Contract Documents and illustrated on the Construction Progress Schedule.
Modification	A (1) written amendment to the Contract signed by both parties, (2) Change Order, (3) Change Directive, or (4) an order for a minor change in the Work.
negotiation	A form of Alternative Dispute Resolution in which all parties involved are represented by those invested with the authority to agree to a determination of an adjustment in the Contract Sum, Contract ~~Time~~Times, or both.
Notice of Commencement	A notice prepared by the Contracting Authority identifying the Project, the Contractors, the Surety for each Contractor, and the name of the Contracting Authority's representative upon whom a Claim Affidavit may be served.
Notice of Intent to Award	A written notice provided by the Contracting Authority to the apparent successful Bidder stating that upon satisfactory compliance with all conditions precedent for execution of a Contract within the time specified, the Contracting Authority intends to execute a Contract with the Bidder.
Notice to Proceed	A written notice provided by the Contracting Authority authorizing the Contractor to proceed with the Work and establishing the dates for commencement and completion of the Work.
OAKS Capital Improvements ~~or OAKS CI~~	The State's Web-based capital program and project management information system, based on Unifier software licensed to the State by Skire, Inc., hosted on State servers.
OAKS	See "Ohio Administrative Knowledge System ~~or OAKS~~"
OAKS CI	See "OAKS Capital Improvements"

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Ohio Administrative Knowledge System	The State's Enterprise Resource Planning system, known as the Ohio Administrative Knowledge System. OAKS Capital Improvements is one of several modules of the total OAKS system.
Owner	The state of Ohio agency, university, college, or other instrumentality for whom the Project is being constructed.
Owner's Project Requirements ~~or OPR~~	A written document that details the functional requirements of the Project and the expectations of how it will be used and operated. These include project goals, measureable performance criteria, cost considerations, benchmarks, success criteria, and supporting information.
Partial Occupancy	The condition that occurs when the Owner occupies or uses a portion of the Project prior to Contract Completion, temporary occupancy is approved by authorities having jurisdiction, and items of Work cannot be completed until a subsequent date.
partnering	A voluntary dispute prevention process involving team building activities to help define common goals, improve communication, and foster a problem solving attitude among a group of contracting parties that must work together throughout Contract performance to be less adversarial and more cooperative.
Person	An individual, corporation, business trust, estate, partnership, association, or other public or private entity.
Phase	A separation in the Work of the Project by sequence or time intervals, which may include ~~Separate Contractors~~separate contractors for each Phase.
Plan Holder	A prospective Bidder that received a set of Contract Documents prior to the bid opening.
Product Data	Manufacturer's standard illustrations, schedules, diagrams, performance charts, instructions, and brochures that illustrate physical appearance, size, and other characteristics of materials and equipment.
Project	A public improvement, of which the Work performed under the Contract Documents may be the whole or a part.
Project Manager	A permanent employee of the Contracting Authority assigned to the Project and authorized to perform specific responsibilities.
Project Manual	That part of Construction Documents which consists of bound volume(s) of primarily written material which generally contain Division 00 ~~–~~- "Procurement and Contracting Requirements," and Divisions 01 through 49 ~~–~~- "Specifications," and other documents pertaining to the Project.
Proposal	The offer of a Contractor to perform the Work set forth in a Proposal Request.
Proposal Request	A document issued after execution of the Contract requesting a Proposal from the Contractor(s), which may initiate a Change Order to modify the Contract.
provide	Furnish and install, complete and ready for intended use.

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Punch List	A document listing items of Work requiring correction or completion by the Contractor as a condition precedent to Contract Completion.
Record Documents	Electronic files and printed documents of all nature prepared by the ~~Architect/Engineer~~A/E, which incorporate the information shown on the Contractor's As-Built Documents. They consist of the "Record Drawings" and "Record Project Manual," the Certification of Contract Completion (as complete), Contractor's Warranty, Manufacturers' Warrantees, Certificate(s) of Occupancy, approved shop drawings and other action submittals, ~~Field Work Orders~~Change Directives, Proposal Requests, Requests for Interpretation, Addenda, Change Orders, Balancing Reports, and the final version of the approved Construction Progress Schedule.
Record Drawings	The Drawings, which have been revised by the A/E to show the changes made during the construction process, conformed to represent the Work as executed by the Contractor.
Record Model	The Building Information Model, which has been revised by the A/E to show the changes made during the construction process, conformed to represent the Work as executed by the Contractor.
Record Project Manual	The Project Manual of the Contract Documents, which has been revised by the ~~Architect/Engineer~~A/E to show the changes made during the construction process, based on the As-Built Project Manual furnished by the Contractor.
Request for Change Order	A written notice from the Contractor accompanied by a Proposal for a change in the Work.
Request for Interpretation	A written request to the ~~Architect/Engineer~~A/E seeking an interpretation or clarification of the Contract Documents.
RFI	See "Request for Interpretation"
Samples	Physical examples, color selection items, field samples, and mock-ups furnished by the Contractor to illustrate functional and aesthetic characteristics of products, materials, equipment, or workmanship and establish criteria by which the Work shall be judged.
Schedule Consultant	If the Project does not involve a ~~Construction Manager~~CM, the Person qualified to create and keep current the Construction Progress Schedule and schedule of submittals for the Project provided by the Lead Contractor.
Schedule of Values	A full, accurate, and detailed statement furnished by the Contractor reflecting a defined breakdown of the Contract Sum.

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Schedule Manager — The Person responsible to create and keep current the Construction Progress Schedule and schedule of submittals for the Project~~. If the Project is being constructed under the Single-Prime contracting model, the Contractor is the Schedule Manager. If the Project is being constructed~~ under the Multiple-Prime ~~contracting model and~~version of the Standard Requirements. If the Estimated Construction Cost for the Project is less than $500,000, the Lead Contractor ~~is~~shall be the Schedule Manager. If ~~the Project is being constructed under the Multiple-Prime contracting model and~~ the Estimated Construction Cost for the Project is $500,000 or more, the Schedule Consultant ~~is the Schedule Manager. If the Project is being constructed under the Construction Manager contracting model, the Construction Manager is the Schedule Manager.~~ shall be the Schedule Manager. If the Contracting Authority ~~has~~ contracted with a Schedule Consultant either directly or through the A/E, the Schedule Consultant is the Schedule Manager.

Separate ~~Contractor~~Consultant — A ~~contractor,~~Person engaged by the Owner or the Contracting Authority to provide Project-related professional services other than the services under this Contract. The term includes the Separate Consultant's authorized representatives, successors, assigns, and subconsultants regardless of tier.

Separate Contract — The contract between the Owner or the Contracting Authority and a Separate Consultant or a Separate Contractor.

Separate Contractor~~, that is performing~~ — A Person under contract with the Owner or the Contracting Authority to provide Project-related work ~~on the Project~~other than the Work under this Contract. The term includes the Separate Contractor's authorized representatives, successors, assigns, and subcontractors regardless of tier.

Shop Drawings — Drawings, diagrams, illustrations, and schedules specifically prepared for the Project provided by the Contractor~~,~~ or a Subcontractor~~, or a Material Supplier~~ to illustrate some portion of the Work. Shop Drawings are not Contract Documents. Shop Drawings on equipment shall include a written statement from the manufacturer of the equipment certifying the equipment is in compliance with the Contract Documents.

Site — The location designated for the Project.

Specifications — Those portions of the Contract Documents consisting of detailed written administrative, procedural, and technical requirements, included in Divisions~~-~~ 01 through 49, for the construction of the Work, whether physically on the Drawings or bound in separate volumes, including identification of acceptable materials, methods, equipment, quality, and workmanship.

Stage — A distinct period in the life cycle of a facility from concept through construction, to use and deconstruction or demolition. Typical Stages include ~~Predesign~~Program Verification, Schematic Design, Design Development, Construction Documents, Bidding and Award~~,~~ stages; and the Construction~~,~~ Stage, which includes Construction and Closeout activities.

Standard Requirements — The brief name of the "State of Ohio Standard Requirements for Public Facility Construction," including but not limited to ~~Instructions to Bidders,~~ General Conditions, and other Division~~-~~ 00 Documents and Division~~-~~ 01 Sections; currently in effect, which the Department may modify from time to time.

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~~State~~	~~The state of Ohio, acting by and through the Ohio Department of Administrative Services, General Services Division, State Architect's Office, on behalf of the Owner, which Department serves as the contracting agent as authorized by Ohio Revised Code Chapters 123 and 153; or an agency of the state of Ohio with the approval of the Department for local administration of a specific Project; or an Institution of Higher Education of the state of Ohio certified by the Department to perform local administration; or the legislative body of a political subdivision of the state of Ohio.~~
State	The government of Ohio, including any organized body, office, or agency established by the laws of this state for the exercise of any function of state government or any state institution of higher education as defined in ORC Section 3345.011.
State Architect	The public official who exercises the duties and responsibilities of the position of the State Architect and who administers the State Architect's Office.
State Architect's Office ~~or SAO~~	An office in the Ohio Department of Administrative Services which acts under the authority of the Director of Administrative Services to administer capital improvement Projects.
~~Statutory Delay Forfeiture~~	~~A sum established in the Contract Documents, pursuant to Ohio Revised Code Section 153.19, to be paid to the Owner due to the Contractor's failure to complete the Work within the Contract Time, or any applicable portion of the work on or prior to any Milestone date stated on the Contract Form.~~
Subcontract	Any contract or agreement between the Contractor and a Subcontractor for performance of a portion of the Work.
Subcontractor	A Person who undertakes to perform any part of the Work on the Project under a contract with a Contractor or with any Person other than the State, including all such Persons in any tier. The term "Subcontractor" includes Material Suppliers, but does not include any Separate Contractor unless expressly assigned in writing to the Contractor by the Owner and accepted by the Contractor.
Substitution	An article, device, material, equipment, form of construction, or other item, proposed by a prospective Bidder prior to the bid opening and approved by the ~~Architect/Engineer~~A/E by Addendum, for incorporation or use in the Work as being functionally and qualitatively equivalent to essential attributes of a Basis of Design or Acceptable Component specified in the proposed Contract Documents.

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Supplementary Conditions Amendments to the General Conditions, issued as a separate document, which describe conditions of the Contract unique to a particular Owner or Project, which may include provisions regarding the assignment of responsibility for refuse removal, safety and security precautions and programs, temporary Project facilities and utilities, weather and fire protection, scaffolding and equipment, materials and services to be used commonly by ~~Contractors~~the Contractor and Subcontractors and requiring ~~Contractors~~the Contractor to provide assistance in the utilization of any applicable equipment system, preparation of operation and maintenance manuals, and training of Owner personnel for operation and maintenance of the Project. The General Conditions ~~govern, take precedence over, and~~ shall not be superseded or amended by Drawings and Specifications, unless so provided in Supplementary ~~Conditions~~Instructions prepared by the Contracting Authority and approved by the ~~Department.~~ State Architect.

Supplementary Instructions Amendments to the Instructions to Bidders, issued as a separate document, which describe instructions unique to a particular Owner or Project. The Instructions to Bidders shall not be superseded or amended by Drawings and Specifications, unless so provided in Supplementary Instructions prepared by the Contracting Authority and approved by the ~~Department~~State Architect.

Surety A Person providing a Bid Guaranty or a Bond to a Bidder or a Contractor, as applicable, to indemnify the State against all direct and consequential damages suffered by failure of the Bidder to execute the Contract, or of the Contractor to perform the Contract and to pay all lawful claims of Subcontractors, Material Suppliers and laborers, as applicable.

Systems Manual A system focused composite document that includes the operation manual, maintenance manual, and additional information of use to the Owner after they begin using the facility.

Unit Price The cost of providing a unit of Work including labor, materials, services, ~~overhead, profit,~~ and associated expenses~~, which is included in the Base Bid of a Contract~~.

Work The labor, materials, equipment, and services, individually or collectively which are required by the Contract Documents, to be performed or provided by the Contractor for the Project. The furnishing of all material, labor, detailing, layout, supplies, plants, tools, scaffolding, transportation, temporary construction, superintendence, demolition, and all other services, facilities and items reasonably necessary for the full and proper performance and completion of the requirements of the Project as set forth in the Contract Documents, and items reasonably inferable therefrom and consistent therewith for the proper execution and completion of the construction and other services required by the Contract Documents, whether provided or to be provided by the Contractor or a Subcontractor, or any other entity for whom the Contractor is responsible, and whether or not performed or located on or off of the Site.

END OF DOCUMENT

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~~Article 1 - GENERAL PROVISIONS~~

~~1.1 Application and Governing Law~~

~~1.1.1 The Contract and the rights of the parties thereunder shall be governed by the laws of the state of Ohio and only Ohio courts shall have jurisdiction over any action or proceeding concerning the Contract and/or performance thereunder. The Contractor irrevocably consents to such jurisdiction.~~

~~1.1.2~~1.1.1 ~~The parties to the Contract shall comply with Applicable Law.~~

~~1.1.3 Other rights and responsibilities of the Contractor, the Architect/Engineer ("A/E"), the Contracting Authority, and the Owner are set forth throughout the Contract Documents and included under different titles, articles, and paragraphs for convenience.~~

~~1.2 Conditions of the Contract~~

~~1.2.1 These General Conditions govern, take precedence over, and shall not be superseded or amended by Drawings and Specifications, unless so provided in Supplementary Conditions prepared by the Contracting Authority and approved by the Department.~~

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ARTICLE 1 - CONTRACTOR'S RESPONSIBILITIES

1.1 Nondiscrimination~~:~~

~~1.2.2~~1.1.1 The Contractor shall comply with Applicable Law regarding equal employment opportunity, including Ohio Revised Code ("~~O.R.C.")~~ORC") Section 153.59 and all Executive Orders issued by the Governor of the state of Ohio.

1.1.1.1 ~~In~~As required under ORC Section 153.59, the Contractor agrees to both of the following:

~~1.2.2.1~~.1 "in the hiring of employees for the performance of ~~the Work~~work under ~~any Contract~~the contract or ~~Subcontract~~any subcontract, no ~~Contractor or Subcontractor,~~contractor, subcontractor, or any ~~Person~~person acting on ~~the Contractor's~~a contractor's or ~~Subcontractor's~~subcontractor's behalf, ~~shall,~~ by reason of race, creed, sex, disability~~,~~ or military status as defined in section 4112.01 of the Revised Code, or color, shall discriminate against any citizen of the state in the employment of labor or workers who is qualified and available to perform the work to which the employment relates~~.~~; and"

~~1.2.2.2~~.2 ~~No Contractor or Subcontractor,~~"no contractor, subcontractor, or any ~~Person acting~~person on a ~~Contractor's~~contractor's or ~~Subcontractor's~~subcontractor's behalf ~~shall~~, in any manner, shall discriminate against or intimidate any employee hired for the performance of ~~Work~~work under the ~~Contract~~contract on account of race, creed, sex, disability~~,~~ or military status as defined in section 4112.01 of the Revised Code, or color~~.~~."

~~1.2.2.3~~1.1.1.2 The Contractor shall cooperate fully with the ~~state~~State's Equal Opportunity Coordinator ("EOC"), with any other official or agency of the state or federal government, which seeks to eliminate unlawful employment discrimination, and with all other state and federal efforts to assure equal employment practices under the Contract.

~~1.2.2.4~~1.1.1.3 In the event the Contractor fails to comply with these nondiscrimination clauses, the Contracting Authority shall deduct from the amount payable to the Contractor a forfeiture of the statutory penalty pursuant to ~~O.R.C.~~ORC 153.60 for each person who is discriminated against or intimidated in violation of this ~~subparagraph~~ Section 1.1.

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~~1.2.2.5~~1.1.1.4 The Contract may be terminated or suspended in whole or in part by the Contracting Authority and all money to become due hereunder may be forfeited in the event of a subsequent violation of this ~~subparagraph~~ Section 1.1.

~~1.2.3~~1.1.2 Hiring Under State Public Improvement Contracts~~:~~.

~~1.2.3.1~~1.1.2.1 Any provision of a hiring hall contract or agreement which obligates ~~a~~the Contractor to hire, if available, only employees referred to the Contractor by a labor organization shall be void as against public policy and unenforceable with respect to employment under any public improvement ~~Contract~~contract unless at the date of execution of the hiring hall contract or agreement, or within 30 days thereafter, the labor organization has procedures in effect for referring qualified employees for hire without regard to race, color, religion, national origin, military status as defined in ORC Section 4112.01, or ancestry and unless the labor organization includes in its apprentice and journeyperson's membership, or otherwise has available for job referral without discrimination, qualified employees, both whites and non-whites (including African-Americans).

~~1.2.4~~1.1.3 Affirmative Action~~:~~.

~~1.2.4.1~~1.1.3.1 The Contractor and Subcontractors shall comply with the ~~state's~~State's Equal Employment Opportunity requirements described under Ohio Administrative Code ("OAC") Sections 123:2-3 through 123:2-9 that include, without limitation, the requirements described under this ~~subparagraph~~ Section 1.1.3.

~~1.2.4.2~~1.1.3.2 The Contractor shall demonstrate its good faith efforts to comply with the utilization goals currently established for minority and women employees and submit documentation to the ~~Equal Opportunity Coordinator~~EOC.

~~1.2.4.3~~1.1.3.3 By the ~~tenth~~ 10th day of each month, the Contractor and Subcontractors shall submit to the ~~Equal Opportunity Coordinator~~EOC via the internet a completed Ohio Construction Contract Information Report ~~–~~- Input Form 29 (I-29) for the preceding month. The form ~~must~~shall be submitted through the Ohio Business Gateway: http://business.ohio.gov/efiling/.

~~1.2.5~~1.2 Prevailing Wages~~:~~

~~1.2.5.1~~1.2.1 The Contractor shall comply with the prevailing wage requirements described under ~~O.R.C.~~ORC Chapter 4115 that include, without limitation, the requirements described under this ~~subparagraph 1.2.5~~Section 1.2.

~~1.2.5.2~~1.2.2 The Contractor shall pay to laborers and mechanics performing Work on the Project the prevailing wage rates of the Project locality, as determined by the Ohio Department of Commerce, Wage~~,~~ and Hour Bureau.

~~1.2.5.3~~1.2.3 The Contractor shall post in a prominent place readily accessible by all workers on the Site, a legible listing of the current classifications of laborers, workers, and mechanics employed under this Contract. The Contractor shall ensure that the rates posted are current and remain posted in legible condition during the period of the Contract.

~~1.2.5.4~~1.2.4 The Contractor shall not be entitled to an increase in the Contract Sum on account of an increase in prevailing wage rates, except as otherwise provided by Applicable Law. The Contractor may access the Ohio Department of Commerce, Wage & Hour Bureau at its ~~Web site~~website, http://198.234.41.198/w3/webwh.nsf/pages/PrevailingWageBid, to obtain the current wage rates.

~~1.2.6 Notice of Commencement:~~

~~1.2.6.1 The Contracting Authority shall prepare a Notice of Commencement and make it available as required under O.R.C. Section 1311.252.~~

~~1.2.6.2 Upon request, the Contracting Authority or the Contractor shall furnish the Notice of Commencement to Subcontractors and Material Suppliers, or any other member of the public.~~

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~~1.3~~1.1 ~~Written Notice~~

~~1.3.1~~1.1.1 ~~Notice under the Contract Documents shall be validly given if:~~

~~1.3.1.1 Delivered personally to a member of the organization for whom the notice is intended;~~

~~1.3.1.2 Delivered, or sent by registered or certified mail, to the last known business address of the organization; or~~

~~1.3.1.3~~1.1.1.1 ~~Sent by facsimile, email, or Web-based project management software, provided the original, signed document is delivered within 3 business days after the date of the electronic transmission.~~

~~1.3.2~~1.1.1 ~~When the Owner, the Contracting Authority, the A/E, or the Contractor gives notice to one of the other 3, it shall also simultaneously send a copy of that notice to the others.~~

~~1.4 Contract Documents~~

~~1.4.1 Ownership:~~

~~1.4.1.1 The Owner alone owns the Contract Documents and every right, title, and interest therein from the moment of creation.~~

~~1.4.1.2 The Contractor may retain copies, including reproducible copies, of the Contract Documents for information, reference, and performance of the Work.~~

~~1.4.1.3 The submission or distribution of the Contract Documents to meet official regulatory requirements or for similar purposes in connection with the Project is not a waiver of the Owner's reserved rights in the Contract Documents. Any unauthorized use of the Contract Documents shall be at the sole risk of the entity making the unauthorized use.~~

~~1.4.2 Intent:~~

~~1.4.2.1~~1.1.1.1 ~~The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor.~~

~~1.4.2.2~~1.1.1.1 ~~The Contract Documents are complementary, and what is required by one is binding as if required by all.~~

~~1.4.2.3~~1.1.1.1 ~~The Contractor shall provide all labor and materials necessary for the entire completion of the Work described in the Contract Documents and reasonably inferable to produce the intended results.~~

~~1.4.2.4~~1.1.1.1 ~~The Drawings govern dimensions, details, and locations of the Work. The Specifications govern quality of materials and workmanship.~~

~~1.4.2.5~~1.1.1.1 ~~The organization of the Specifications in divisions, sections, and articles, and the arrangement of Drawings shall not restrict the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade.~~

~~1.4.2.6~~1.1.1.1 ~~In the event of inconsistency or conflict within the Contract Documents, the Contractor shall provide the better quality or greater quantity of Work, and comply with the stricter requirement.~~

~~1.4.2.7~~1.1.1.1 ~~Unless otherwise defined in the Contract Documents, words that have well-known technical or construction industry meanings are used in accordance with those recognized meanings.~~

~~1.4.2.8 The Sections of Division 01 – "General Requirements" govern the performance of the Work of all Sections of the Specifications.~~

~~1.4.3 Copies of Approved and Conformed Documents:~~

~~1.4.3.1 The A/E shall furnish the Lead Contractor, without charge, a complete set of Plan Approval Documents bearing annotations, and the Certificate of Plan Approval, from the Ohio Department of Commerce, Industrial Compliance Division or its authorized representative(s). The Lead Contractor shall keep and protect these documents, neatly consolidated, in a secure environment at the Site, maintain them during the course of the Project, and make them available upon request.~~

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~~1.4.3.2 If the amount of the Contract is $500,000 or less, the A/E shall furnish 5 sets of Conformed Documents to the Contractor. If the amount of the Contract is greater than $500,000, the A/E shall furnish 7 sets of Conformed Documents to the Contractor.~~

~~1.4.3.3 The Contractor may purchase additional copies of the Conformed Documents.~~

~~1.4.3.4 The Conformed Documents are furnished solely for the Contractor's convenience. In the event of any conflict between the Contract Documents modified by Addenda and the Conformed Documents, the Contract Documents take precedence.~~

~~1.4.4 As-Built Documents:~~

~~1.4.4.1 The Contractor shall maintain in good order at the Site a complete copy of all Contract Documents; Shop Drawings, Product Data, Samples and similar required submittals; manufacturer operating and maintenance instructions; certificates; Warranties; Requests for Interpretation and responses thereto; and other Project-related documents, all marked currently and accurately to record field changes and selections made during construction and to show actual installation where installation varies from Work as originally shown, including the exact location and depth of underground utility lines.~~

~~1.4.4.2~~1.1.1.1 ~~Before submitting each Contractor Payment Request, the Contractor shall record all changes on the Contract Documents, neatly in a contrasting color, noting new information not shown on the original Contract Documents. Failure to record all changes may cause payment to be withheld or delayed by the Contracting Authority.~~

~~1.4.4.3~~1.1.1.1 ~~If the Contractor uses Shop Drawings to indicate as-built conditions, the Contractor shall cross-reference the Shop Drawing sheet numbers to the corresponding sheet numbers on the Contract Documents. The Contractor shall note related numbers where applicable.~~

~~1.4.4.4~~1.1.1.1 ~~The Contractor shall keep a record of changes made to the Specifications, noting particularly any approved variation from manufacturer's installation instructions and recommendations.~~

~~1.4.5 Access to Documents:~~

~~1.4.5.1 The Lead Contractor shall maintain, in a secure location at the Site, a set of Drawings and Specifications, approved by the Ohio Department of Commerce, Division of Industrial Compliance, and the records required by subparagraph 4.2.9.~~

~~1.4.5.2 The Lead Contractor shall at all times permit access to the documents described in subparagraph 1.4.5.1 to authorized representatives of the State, local authorities having jurisdiction, the Contracting Authority, the Owner, and the A/E.~~

~~1.4.5.3 The Contractor shall at all times permit access to the documents described in subparagraph 1.4.4 to authorized representatives of the State, local authorities having jurisdiction, the Contracting Authority, the Owner, the Lead Contractor, and the A/E.~~

~~1.5~~1.1 ~~Taxes~~

~~1.5.1~~1.1.1 ~~Only those materials that ultimately become a part of the completed structure or improvement which constitutes the Project shall be exempt from state sales tax and state use tax.~~

~~1.5.2 The purchase, lease, or rental of material, equipment, parts, or expendable items as concrete form lumber, tools, oils, greases, and fuels, which are used in connection with the Work, are subject to the application of state sales tax and state use tax.~~

~~1.6~~1.3 Royalties and Patents

~~1.6.1~~1.3.1 The Contractor shall pay all royalties, license fees, and assume all costs incident to the use, in the performance of the Work or the incorporation in the Work, of any invention, design, process, product, or device that is the subject of patent rights or copyrights held by others.

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~~1.6.2 If a particular invention, design, process, product, or device is specified in the Contract Documents and if, to the knowledge of the A/E, use of the specified item is subject to patent rights or copyrights calling for the payment of a license fee or royalty to others, the A/E shall disclose the existence of the rights in the Contract Documents.~~

~~1.6.2.1~~1.3.2 If the Contractor has reason to believe that use of the specified item is subject to patent or copyright protection, the Contractor shall immediately notify the Contracting Authority.

~~1.7~~1.4 Assignment of Antitrust Claims

~~1.7.1~~1.4.1 By signing the ~~Contract Form~~Agreement, the Contractor assigns, conveys and transfers to the Contracting Authority any right, title, and interest to any claims or causes of action it may have or acquire under state or federal antitrust laws relating to any goods, products, or services purchased, procured, or rendered to the State pursuant to the Contract~~.~~.

~~1.8~~1.5 Use of Domestic Steel

~~1.8.1~~1.5.1 The Contractor is required by law to supply domestically produced steel products used for load bearing structural purposes on all projects funded in whole or in part with State funds.

~~1.8.2~~1.5.2 The A/E, Contractors, and Subcontractors~~, and Material Suppliers~~ shall comply with the requirements of the Department of Administrative Services' policy regarding the specification and use of domestically produced steel products, including furnishing the required certifications. This policy is available on the Department's ~~Web site~~website at http://das.ohio.gov (click on "DAS Statewide Policies" under the Hot Links menu). Scroll down and then click on Directive GS-D-07 "Required Use of Domestic Steel~~."~~."

~~1.9 Bond Reduction~~

~~1.9.1 Upon notice and consent of the Contractor's Surety, the Contracting Authority may reduce the Bond by 25 percent of the total amount of the Bond after at least 50 percent of the Work has been completed, and by 50 percent after at least 75 percent of the Work has been completed, if all of the following conditions are met:~~

~~1.9.1.1 The Contracting Authority determines that the percentage of Work completed at the time of determination has been satisfactorily performed and meets the terms of the Contract Documents, including a provision in regard to the time when the whole, or any specified portion, of the Work shall be completed;~~

~~1.9.1.2 The Contracting Authority determines that no disputed claim caused by the Contractor exists or remains unresolved; and~~

~~1.9.1.3 The Bid upon which the Contract is based was not more than 10 percent below the next lowest Bid or not more than 10 percent below the cost estimate for the Work as published in the Advertisement for Bids.~~

~~1.10~~1.6 Drug Free Safety Program Participation

~~1.10.1~~1.6.1 ~~During the Contract Time,~~Throughout the performance of the Work, the Contractor shall be enrolled in and remain in good standing in the Ohio Bureau of Workers' Compensation ("OBWC") Drug-Free Safety Program ("DFSP") or a comparable program approved by the OBWC that meets the requirements specified in ~~O.R.C.~~ORC Section 153.03 ("OBWC-approved DFSP").

1.6.2 ~~If the Contractor provides Subcontractors that provide labor on the Site, the Subcontractors~~As required under ORC Section 153.03(E):

~~1.10.2~~1.6.2.1 "Each contractor shall require all subcontractors with whom the contractor is in contract for the public improvement to be enrolled in and be in good standing in the ~~OBWC DFSP~~ Bureau of Workers' Compensation's Drug-Free Workplace Program or ~~an OBWC~~ a comparable program approved

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~~DFSP.~~ by the Bureau that meets the requirements specified in section 153.03 of the Revised Code prior to a subcontractor providing labor at the project site of the public improvement."

~~1.10.2.1~~1.6.2.2 ~~Each Subcontractor~~"Each subcontractor shall require all lower-tier ~~Subcontractors~~subcontractors with whom the ~~Subcontractor~~subcontractor is in contract for the ~~Work~~public improvement to be enrolled in and be in good standing in the ~~OBWC DFSP~~ Bureau of Workers' Compensation's Drug-Free Workplace Program or ~~an OBWC~~ a comparable program approved ~~DFSP~~by the Bureau that meets the requirements specified in section 153.03 of the Revised Code prior to a lower-tier ~~Subcontractor~~subcontractor providing labor at the ~~Site.~~project site of the public improvement."

~~1.10.2.2~~1.6.2.3 "Failure of ~~the Contractor~~a contractor to require a ~~Subcontractor~~subcontractor to be enrolled in and be in good standing in the ~~OBWC DFSP~~ Bureau of Workers' Compensation's Drug-Free Workplace Program or ~~an OBWC~~ a comparable program approved ~~DFSP~~by the Bureau that meets the requirements specified in section 153.03 of the Revised Code prior to the time that the ~~Subcontractor~~subcontractor provides labor at the ~~Site shall~~project site will result in the ~~Contractor~~contractor being found in breach of the ~~Contract~~contract and that breach shall be used in the responsibility analysis of that ~~Contractor,~~contractor or the ~~Subcontractor~~subcontractor who was not enrolled in a program~~,~~ for future contracts with the State for ~~five~~ 5 years after the date of the breach~~.~~."

~~1.10.2.3~~1.6.2.4 "Failure of a ~~Subcontractor~~subcontractor to require a lower-tier ~~Subcontractor~~subcontractor to be enrolled in and be in good standing in the ~~OBWC DFSP~~ Bureau of Workers' Compensation's Drug-Free Workplace Program or ~~an OBWC~~ a comparable program approved ~~DFSP~~by the Bureau that meets the requirements specified in section 153.03 of the Revised Code prior to the time that the lower-tier ~~Subcontractor~~subcontractor provides labor at the ~~Site shall~~project site will result in the ~~Subcontractor~~subcontractor being found in breach of the ~~Contract~~contract and that breach shall be used in the responsibility analysis of that ~~Subcontractor,~~subcontractor or the lower-tier ~~Subcontractor~~subcontractor who was not enrolled in a program~~,~~ for future contracts with the State for ~~five~~ 5 years after the date of the breach~~.~~."

~~1.10.2.4~~1.6.3 Prior to authorizing a Subcontractor to commence Work on the ~~Project~~Site, the Contractor shall obtain the Contracting Authority's approval, and shall also submit written confirmation of the Subcontractor's enrollment on the ~~Declaration of Subcontractors~~Subcontractor and Material Supplier~~s~~ Declaration form to the A/E.

~~1.10.3~~1.6.4 In addition to OBWC-approved DFSP Basic requirements, the Department requires each Contractor and Subcontractor that provides labor on the Site to ~~perform~~participate in a pool that performs random drug testing of at least 5 percent of its employees who perform labor on the Site. The random drug testing percentage shall also include the on-site supervisors of the ~~Contractors~~Contractor and ~~Subcontractors.~~Subcontractor. Basic random drug testing shall otherwise comply with the same testing guidelines and criteria as required for OBWC-approved ~~Advanced~~advanced testing. The Contractor and Subcontractor shall provide evidence of required testing to the Contracting Authority upon request.

1.7 Web-Based Project Management Software

1.7.1 If the Contracting Authority decides, at any time and in its sole discretion, to utilize the State's web-based project management software, known as the OAKS Capital Improvements ("OAKS CI") module, for the Project, the Contractor shall use OAKS CI for all compatible services required under this Contract.

1.7.2 All costs for the Contractor's use of OAKS CI for the Project shall be included in the Contract Sum, and additional compensation shall not be provided. If the Contractor is unfamiliar with the proper use of OAKS CI, the Contractor shall provide its employees for training without additional compensation.

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~~1.11~~1.8 EDGE Participation and Reporting

~~1.11.1~~1.8.1 The Contractor shall participate in the "Encouraging Diversity Growth and Equity" ("EDGE") Program by ~~contracting~~subcontracting with, and using one or more, businesses certified as an EDGE Business Enterprise ("EDGE-certified business", "certified EDGE business") by the ~~Equal Opportunity Coordinator as proposed for each contract by the Contractor and as approved by the Contracting Authority for use on each contract.~~EOC.

~~1.11.1.1~~1.8.1.1 If the Contractor is an EDGE-certified~~-~~ business, the Contractor may include its own ~~contract amount~~compensation under this Contract in the reporting.

~~1.11.1.2~~1.8.1.2 The amount of EDGE participation cannot exceed 100 percent of the ~~Contractor's contract amount.~~Contract Sum.

~~1.11.2~~1.8.2 The Contractor shall provide an EDGE Participation Report with each Contractor Payment Request.

~~1.11.2.1~~1.8.2.1 The Contractor shall provide status reports, produced by the Contractor and each applicable EDGE-certified business for the ~~contract,~~Contract, indicating:

.1 ~~The~~the name of each EDGE-certified business;

.2 ~~The~~the federal tax identification number of each EDGE-certified business;

.3 ~~The~~the date of the EDGE-certified business contract, subcontract, or purchase order;

.4 ~~The~~the projected and actual start and end dates of the EDGE-certified business contract, subcontract, or purchase order;

.5 ~~The~~the original amount of the EDGE-certified business contract or purchase order with the Contractor;

.6 ~~The~~the current amount of the EDGE-certified business contract or purchase order;

.7 ~~The~~the amount invoiced to date;

.8 ~~The~~the amount paid to date;

.9 ~~The~~the status of the EDGE-certified business contract or purchase order (active, complete, or void); and

.10 ~~A~~a statement describing any substantive product or performance deficiencies.

~~1.11.2.2~~1.8.2.2 The Contractor shall provide reports for each EDGE-certified business; however, the reports may be consolidated and submitted as ~~a singular~~one document.

~~1.11.3~~1.8.3 The Contractor shall provide an EDGE Participation Final Report simultaneously with its final Contractor Payment Request.

~~1.11.3.1~~1.8.3.1 The Contractor and each certified EDGE Business Enterprise shall provide in the report certification that the submitted document is a true and accurate accounting of the original contract amount paid to, and received by, each EDGE Certified Business.

~~1.11.4~~1.8.4 The Contractor shall provide the EDGE Participation Reports in detail and form acceptable to the Contracting Authority.

~~1.11.4.1~~1.8.4.1 Failure to timely submit EDGE Participation Reports may result in withholding payment in accordance with ~~subparagraph~~ Section 9.8.2.

~~1.11.5~~1.8.5 If the Project is administered using OAKS CI, the Contractor shall submit its EDGE Participation Reports, using the ~~OAKS CI~~ "Contractor Pay ~~Requests~~Request" business process.

~~1.11.6~~1.8.6 The Contractor shall cooperate fully with requests for additional EDGE information and documentation from the ~~Equal Opportunity Coordinator~~EOC or the Contracting Authority.

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~~1.12 Offshore Services~~

~~1.12.1 The Contractor affirms to have read and understands Executive Order 2011-12K and shall abide by those requirements in the performance of this Contract. Notwithstanding any other terms of this Contract, the State reserves the right to recover any funds paid for services the Contractor performs outside of the United States for which it did not receive a waiver. The State does not waive any other rights and remedies provided the State in this Contract.~~

~~Article 2 - THE CONTRACTOR~~

1.9 Owner Work Rules

1.9.1 The Contractor shall consult with the Owner to obtain full knowledge of the Owner's rules, regulations, or requirements affecting the Project.

1.10 Emergency

1.10.1 In the event of an emergency affecting the safety of the Project, other property, or individuals, the Contractor, without special instruction or authorization, shall act to prevent the threatened damage, injury, or loss.

1.10.2 If the Contractor believes that it is entitled to an adjustment of the Contract Sum or Contract Times, or both, on account of its actions in response to an emergency, the Contractor may request an adjustment to the Contract by giving written notice under Section 7.4.11.

1.11 Contractor's Standard of Care

1.11.1 The Contractor shall perform the Work in a workmanlike manner, consistent with the standards of skill and care exercised by entities licensed to perform (where required under Applicable Law) and regularly performing comparable work in the same or similar locality under the same or similar circumstances.

1.12 Limit of Contractor's Responsibility

1.12.1 The Contractor is not responsible for the A/E's negligence or the A/E's failure to properly perform the A/E's contract.

1.13 Sustainability Requirements

1.13.1 This Project shall be designed and constructed in accordance with the requirements of Am. Sub. H.B. 251 of the 126th General Assembly and the resulting rules, policy, and procedures adopted by the Department establishing Sustainability Requirements for Capital Improvements Projects.

1.13.2 If the Project is designed and constructed under the Leadership in Energy and Environmental Design ("LEED") Rating System developed by the U.S. Green Building Council or another rigorous rating system used to facilitate achievement of sustainability goals for the Project, the Contractor shall provide submittals certifying achievement of sustainable design rating system criteria for verification by the Green Building Certification Institute or other third party in accordance with the Contract Documents.

ARTICLE 2 - STATE'S RIGHTS AND RESPONSIBILITIES

2.1 Contracting Authority

2.1.1 The Contracting Authority shall designate a Project Manager for the Project. The Project Manager is authorized to act on behalf of the Contracting Authority to perform specific responsibilities under the Contract.

2.1.2 The Contracting Authority shall furnish information and services required of it in a timely manner.

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2.1.3 The Contracting Authority shall have access to the Work at all times, whenever the Project is in preparation or progress.

2.1.4 The Department requires the use of its forms where noted in the Contract Documents. The party responsible for initiating forms shall utilize the latest edition obtained from the Department's website: http://ohio.gov/sao. The Department may make modifications to its forms at any time.

2.1.4.1 The Contractor shall not modify any form provided by the Department or the Contracting Authority.

2.1.4.2 For projects that are locally administered, the agency or institution administering the Project may modify the Department's forms to include the agency's or institution's logo and contact information and may publish the modified forms on its website. The party responsible for initiating forms shall coordinate with the Contracting Authority.

2.1.4.3 If the Project is administered using OAKS CI, the Contractor shall utilize the web-based forms and reports within the applicable business process. OAKS CI is sponsored by the Department, and such web-based forms and reports are acceptable to the Department in lieu of its paper forms.

2.1.5 The Contracting Authority is not responsible for construction means, methods, manners, techniques, sequences, procedures, or for safety precautions and programs in connection with the Work, or for the Contractor's failure to carry out the Work in conformity with the Contract Documents.

2.2 Owner

2.2.1 The Owner shall designate a representative authorized to act on the behalf of the Owner during the Project.

2.2.2 The Owner shall furnish information and services required of it in a timely manner.

2.2.3 The Owner shall have access to the Work at all times whenever the Project is in preparation or progress.

2.2.4 Upon issuance of the Notice to Proceed, the Owner shall provide the Site to the Contractor in a condition to permit the Contractor to perform the Work.

2.2.5 The Owner may request a change in the Work if the A/E recommends and the Contracting Authority approves the change.

2.2.6 The Owner shall communicate with the Contractor through the Contracting Authority.

2.2.7 The Owner is not responsible for construction means, methods, manners, techniques, sequences, procedures, or for safety precautions and programs in connection with the Work, or for the Contractor's failure to carry out the Work in conformity with the Contract Documents.

2.3 Owner's Right to Partial Occupancy

2.3.1 The Owner may occupy or use a portion of the Project prior to Contract Completion if:

2.3.1.1 the building authority with jurisdiction over the Project issues a temporary or partial certificate of occupancy permit for the portion of the Project the Owner intends to occupy;

2.3.1.2 the A/E with the Owner's assistance has provided written notice of the Partial Occupancy to the insurers providing property insurance for the Project; and

2.3.1.3 the Contracting Authority has received notice of the Partial Occupancy from the A/E and has consented to it.

2.3.2 Before the Owner commences Partial Occupancy, the Owner, Contracting Authority, A/E and Contractor shall proceed as described under Sections 6.26.3.1 and 6.30 for the area designated for Partial Occupancy.

2.3.3 From the date of execution of the Partial Certification of Contract Completion by the Contracting Authority, the Contractor shall be relieved of the obligation to maintain the occupied portion of the Work, but

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shall remain obligated to complete and correct the Work and to carry the insurance required by the Contract Documents during performance of any such Work.

2.3.4 The Owner's Partial Occupancy does not constitute acceptance of any Defective Work, nor does it relieve the Contractor of liability for any express or implied warranties or responsibility for Defective Work.

2.4 Approval of Owner, Contracting Authority, and State

2.4.1 The Owner's, Contracting Authority's, or State's review and approval of the Work and any information the Contractor submits to them is for the sole purpose of determining whether the Work and information are generally consistent with the Contract's intent, and will not relieve the Contractor of its sole responsibility for the performance, preparation, completeness, and accuracy of the Work and information.

2.5 Contractor Performance Evaluation

2.5.1 The Contracting Authority shall evaluate the Contractor's performance during the progress of the Work, at completion of a phase of the Project, completion of the Project, or any of the foregoing. The Contracting Authority shall retain the evaluation(s).

2.5.1.1 The Contractor may request a copy of the completed evaluation(s). If the Contractor wishes to comment or take exception to any rating or remark, the Contractor shall send a response in writing to the Contracting Authority within 30 days of receiving the evaluation(s).

2.5.1.2 The Contracting Authority may use the evaluation(s) in determining the responsibility of the Contractor for award of future contracts.

2.5.1.3 The Contracting Authority may request information from the Contractor for use in evaluating the A/E's performance. If information is requested, the Contractor shall comply in a timely and responsive manner.

2.5.1.4 If a breach of the Contract is committed by the Contractor or is attributable to a Subcontractor, that breach shall be used in the responsibility analysis of the Contractor and the Subcontractor (where applicable) for future contracts with the State or subcontracts on State projects for 5 years after the date of the breach.

2.5.1.5 If the Project is administered using OAKS CI, the Contractor shall receive and review the Contracting Authority's evaluation of the Contractor's performance and respond with its comments, using the "Contractor Evaluation" business process.

ARTICLE 3 - ARCHITECT/ENGINEER'S RESPONSIBILITIES

3.1 The A/E's Contract Administration Duties

3.1.1 The A/E shall administer the Contracts for the Project as provided in the Contract Documents and the Architect/Engineer Agreement, including, but not limited to, the performance of the functions described as follows:

3.1.1.1 The A/E shall attend and conduct progress meetings. The A/E shall prepare an agenda and produce a written report of each progress meeting, and distribute the report to the Contracting Authority, the Owner, and the Contractor within 3 business days after the meeting. The A/E shall not delegate the duty to prepare the agenda and written reports of any progress meeting.

3.1.1.2 The A/E may authorize minor changes or alterations in the Work that are consistent with the intent of the Contract Documents and do not involve adjustment of the Contract Sum or the Contract Times, or both. The A/E has no authority to authorize the Contractor to perform additional or extra Work for which the Contractor may seek adjustment of the Contract Sum or the Contract Times, or both.

3.1.1.3 The A/E shall review and recommend, certify, or approve applicable forms required under the Contract Documents.

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3.1.1.4 The A/E shall render decisions in connection with the Contractor's responsibilities under the Contract Documents, and submit recommendations to the Contracting Authority for enforcement of the Contract as necessary.

3.1.2 The A/E is the initial interpreter of all requirements of the Contract Documents. All decisions of the A/E are subject to final determination by the Contracting Authority.

3.2 Site Visits and Observation

3.2.1 The A/E shall notify, advise, and consult with the Contracting Authority and the Owner and protect the State against Defective Work throughout the completion of the Project, which includes the Correction Period.

3.2.1.1 The A/E shall designate a field representative, subject to the Contracting Authority's approval, to attend to the Project as required by the Architect/Engineer Agreement, to observe and check the progress and quality of the Work, and to take action as necessary or appropriate to achieve conformity with the Contract Documents.

3.2.1.2 The A/E shall have its consultants attend to the Project at the intervals required by its agreement or the Contracting Authority.

3.2.2 The A/E is authorized to disapprove or reject Defective Work. The A/E shall immediately notify the Contracting Authority any time the A/E disapproves or rejects an item of Work.

3.2.3 The A/E is not responsible for construction means, methods, manners, techniques, sequences, procedures, or for safety precautions and programs in connection with the Work, or for the Contractor's failure to carry out the Work in conformity with the Contract Documents.

3.3 Testing and Inspection Services

3.3.1 Unless otherwise specified in the Contract Documents, the A/E shall apply for, secure, and pay for the costs of structural testing and special inspections under Chapter 17 of the Ohio Building Code; testing including geotechnical analysis, environmental testing and analysis, concrete, masonry, structural steel, reinforcing steel, welding, bolts, steel connections, HVAC systems and controls, plumbing and piping, air and water balancing and testing, or other testing; or approval required by Applicable Law.

3.4 Approval of A/E

3.4.1 The A/E's review and approval of the Work and any information the Contractor submits to the A/E is for the sole purpose of determining whether the Work and information are generally consistent with the Contract's intent, and will not relieve the Contractor of its sole responsibility for the performance, preparation, completeness, and accuracy of the Work and information.

3.5 Limitation of A/E's Authority

3.5.1 Under no circumstances is the A/E authorized to:

3.5.1.1 bind the Owner or Contracting Authority to any authorizations under, modifications of, or amendments to any contract;

3.5.1.2 accept any defective or non-conforming services, Work, or vendor-furnished items;

3.5.1.3 make any settlements on behalf of the Owner or Contracting Authority; or

3.5.1.4 assume any responsibilities of the Contractor or Subcontractors.

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ARTICLE 4 - SUBCONTRACTORS

4.1 Evaluation and Approval

4.1.1 Within 10 days after the Notice to Proceed, or other period as mutually agreed by the Contractor and the Contracting Authority, the Contractor shall submit to the A/E a Subcontractor and Material Supplier Declaration form through which the Contractor identifies its Subcontractors.

4.1.2 The Contractor's failure to timely submit the information regarding a proposed Subcontractor may result in withholding payment in accordance with Section 9.8.

4.1.3 After receiving the Subcontractor and Material Supplier Declaration form, the A/E shall verify that it is complete and deliver it to the Contracting Authority and the Owner. If the A/E finds the form incomplete, the A/E shall return it to the Contractor and identify the incomplete information.

4.1.4 If the Contracting Authority rejects any proposed Subcontractor, the Contractor shall propose a replacement Subcontractor with no adjustment of the Contract Sum. The proposed replacement Subcontractor will be evaluated as described above.

4.1.5 If the Project is administered using OAKS CI, the Contractor shall submit its proposed Subcontractors through the "Subcontractor Supplier Declaration" business process.

4.2 Replacement of Subcontractors

4.2.1 The Contractor shall not replace any Subcontractor after execution of the Subcontract without the prior written approval of the Contracting Authority.

4.3 Contractor's Responsibility

4.3.1 The Contractor is fully responsible for all acts and omissions of its Subcontractors and is responsible for scheduling and coordinating the Work of its Subcontractors.

4.3.1.1 The Contractor is fully responsible for any delay, interference, disruption, or hindrance attributable to the Contractor's Subcontractors.

4.3.1.2 The Contractor shall require that each of its Subcontractors have a competent supervisor at the Site whenever the Subcontractor is performing Work.

4.3.1.3 The Contractor shall bind its Subcontractors to the terms of the Contract Documents, so far as applicable to the Work of the Subcontractor, and shall not agree to any provision, which seeks to bind the State to terms inconsistent with, or at variance from the Contract Documents.

4.3.2 The Contractor will not be relieved of its full responsibility for Subcontractors and their performance of the Work by (1) the participation of the Owner, the Contracting Authority, and the A/E in the processes described under this Article 4 or other related provisions of the Contract Documents or (2) the Contracting Authority's rejection of a Subcontractor or failure to reject a Subcontractor under Section 4.1.

4.4 Contingent Assignment of Subcontracts

4.4.1 The Contractor hereby assigns its agreement with each Subcontractor to the Contracting Authority provided that the assignment is effective only after termination of the Contract by the Contracting Authority and only for those agreements which the Contracting Authority accepts by notifying the Contractor and applicable Subcontractor in writing. The Contracting Authority may re-assign accepted agreements.

4.5 Prompt Payment

4.5.1 The Contractor shall make payments to Subcontractors in accordance with Applicable Law, including ORC Section 4113.61 that include, without limitation, the requirements described under this Section 4.5.1.

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4.5.1.1 If a Subcontractor requests payment in time to allow the Contractor to include the request in its Contractor Payment Request, the Contractor shall pay within 10 days after receipt of payment from the State:

.1 To a Subcontractor other than a Material Supplier, an amount equal to the percent of completion allowed by the Contracting Authority for the Subcontractor's Work.

.2 To a Material Supplier, an amount equal to all or that portion of the Contractor Payment Request that represents the materials furnished by the Material Supplier.

4.5.2 The Contractor may reduce the amount paid to a Subcontractor pursuant to Section 4.5.1 at a rate equal to the percentage retained from the Contractor and may withhold amounts necessary to (1) resolve disputed liens or Claims involving the Work of the Subcontractor or (2) account for the failure of the Subcontractor to perform its obligations under its agreement with the Contractor.

4.5.2.1 Labor Payments.

.1 Partial payments to the Subcontractor for labor performed under either a Unit Price or lump sum Subcontract shall be made at the rate of 92 percent of the amount invoiced through the Subcontractor's request for payment that shows the Work of the Subcontractor is 50 percent complete, as evidenced by payments in the amount of at least 50 percent of the original amount due under the Subcontract.

.2 After the Work of the Subcontractor is 50 percent complete, as evidenced by payments in the amount of at least 50 percent of the original amount due under the Subcontract, no additional funds shall be retained from payments for labor.

4.5.2.2 Material Payments.

.1 The Contractor shall pay the Subcontractor at the rate of 100 percent of the scheduled value for materials incorporated into the Project.

.2 The Contractor shall pay the Subcontractor at the rate of 92 percent of the invoice cost, not to exceed the scheduled value in a Unit Price or lump sum Subcontract, for materials delivered to the Site, or other off-site storage location approved by the A/E, provided the Subcontractor provides the information required by Sections 9.6.2.1 and 9.6.2.2 with its request for payment.

4.5.3 If the Contractor fails to comply with this Section 4.5, the Contractor shall pay to the applicable Subcontractor 18 percent interest, compounded annually, on any unpaid amount beginning on the 11th day after receipt of payment from the State.

4.5.4 In order to establish lien rights, Subcontractors shall comply with Applicable Law, including ORC Sections 1311.26, 1311.261, and 1311.29.

4.5.5 If the Contracting Authority receives a Claim Affidavit from a Subcontractor, it shall proceed as required by Applicable Law, including ORC Sections 153.63 and 1311.31.

4.5.6 Laborers, Subcontractors, and Material Suppliers may secure payment rights in accordance with Applicable Law, including ORC Section 153.56.

ARTICLE 5 - PROJECT MANAGEMENT AND COORDINATION

5.1 Partnering

5.1.1 The formation of a cohesive, mutually beneficial partnering arrangement among the Contractor, all Separate Contractors, the Contracting Authority, the A/E, and the Owner will accomplish the construction of the Project most effectively and efficiently. This arrangement draws on their collective strengths, skills, and knowledge to achieve a Project of the intended quality, within budget, and on schedule. To achieve that objective, participation in a partnering session is required for the following key stakeholders:

5.1.1.1 Contracting Authority: Project Manager

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5.1.1.2 Owner: Primary representative

5.1.1.3 A/E: Principal-in-charge, project manager, field representative, major consultants

5.1.1.4 Contractor: Principal-in-charge, project manager, and superintendent

5.1.1.5 Separate Contractors: Principal-in-charge, project manager, and superintendent

5.1.1.6 Major Subcontractors (e.g., masonry, fire protection): Principal-in-charge, project manager or superintendent

5.1.1.7 Schedule Consultant, if applicable

5.1.1.8 CxA, if applicable

5.1.2 The purpose of the partnering arrangement is to build cooperative relationships between the Project's key stakeholders, avoid or minimize disputes, and nurture a more collaborative ethic characterized by trust, cooperation and teamwork. This arrangement is intended to produce a voluntary, non-binding, but formally structured agreement among the Project's key stakeholders, leading to an attitude that fosters risk sharing.

5.1.3 To create and implement the partnering arrangement, the Project's key stakeholders shall meet prior to the construction of the Project for developing a partnering agreement. The agreement should be comprehensive and focus on all issues necessary for successful completion of the Project, and shall identify common goals and objectives, develop a problem solution process, an Alternative Dispute Resolution ("ADR") strategy in accordance with Section 8.11, and an implementation plan for the partnering arrangement.

5.1.4 Formal contractual relations, responsibilities, and liabilities are not affected by any partnering arrangement. The cost associated with establishing this partnership shall be included in an allowance in the Lead Contractor's bid. The Contractor shall include in its base bid the resources necessary to participate in the partnering session.

5.1.5 Partnering services may extend over the entire period of performance of the Contract and may include intervention or project realignment services to be utilized if serious disputes arise. The Project's key stakeholders should agree, during the initial partnering session, to the types of situations and circumstances in which intervention or realignment services shall be utilized.

5.1.5.1 If realignment or intervention services are utilized, partnering facilitators shall not be called as witnesses in any litigation, mediation, or quasi-judicial proceeding.

5.2 Building and Trade Permits and Licenses

5.2.1 Plan Approval.

5.2.1.1 The A/E shall secure the required structural, plumbing, HVAC, and electrical plan approvals from the Ohio Department of Commerce, Division of Industrial Compliance.

.1 If the Project is not on State property, the A/E shall secure the plan approvals from the local certified building department with jurisdiction.

5.2.1.2 The Contractor shall schedule and attend all intermediate and final inspections required for any permit applicable to its Work. The Lead Contractor shall schedule the State Fire Marshal or local fire authority for the life safety inspection for occupancy permits. The Contractor shall give the A/E, the Contracting Authority, and the Owner reasonable notice of the dates and times arranged for inspections.

.1 The Contractor shall pay for any reinspections required as a result of the Contractor's failure to receive approval of its Work.

5.2.2 Trade Permits and Licenses.

5.2.2.1 The Contractor shall obtain, maintain, and pay for any permit, inspection, or license applicable to the Contractor's particular trade.

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5.2.3 Local Permits.

5.2.3.1 The Contractor shall secure and pay the fees for any permits, inspections, licenses, capacity charges, or tap fees required by local authorities having jurisdiction over the Project. The Contractor shall give the A/E, the Contracting Authority, and the Owner reasonable notice of the date arranged for inspections.

5.2.4 National Pollutant Discharge Elimination System ("NPDES") Storm Water General Permit.

5.2.4.1 The A/E shall secure the NPDES general permit by submitting a Notice of Intent ("NOI") application form to the Ohio Environmental Protection Agency at least 45 days prior to the start of construction. The Contractor shall be a "co-permitee" if required under Applicable Law.

5.2.4.2 The A/E shall prepare and certify a storm water pollution prevention plan to provide sedimentation and erosion controls at the Project.

5.2.4.3 The A/E shall prepare and process the required Notice of Termination ("NOT") prior to Contract Completion.

ARTICLE 6 - CONSTRUCTION AND CLOSEOUT

6.1 Commencement of Work on the Site

6.1.1 Unless the Contracting Authority agrees otherwise in writing, the Construction Stage will commence with the Contracting Authority's issuance of the Notice to Proceed and will terminate upon Final Acceptance of the Project.

6.2 Responsibility of the Contractor

6.2.1 The Contractor shall complete portions of the Work in the sequence and time in the Construction Progress Schedule.

6.2.2 The Contractor shall supervise the Work in coordination with the Lead Contractor.

6.2.3 The Contractor must perform the Work so as not to interfere with, disturb, hinder, or delay the services of Separate Consultants or the work of Separate Contractors. The Contractor must cooperate and coordinate fully with all Separate Consultants and Separate Contractors and must freely share all of the Contractor's Project-related information with them to facilitate the timely and proper performance of the Work and of the services and work of the Separate Consultants and Separate Contractors.

6.2.4 The Contractor must afford every Separate Consultant and Separate Contractor proper and safe access to the Site and a reasonable opportunity for the introduction and storage of materials and equipment and the execution of their services and work, and shall properly connect and coordinate the Work with the Separate Contractors' work.

6.2.5 If the Contractor damages the property or work of any Separate Consultant or Separate Contractor, or by failure to perform the Work with due diligence, delays, interferes with, hinders, or disrupts the services of any Separate Consultant or the work of any Separate Contractor who suffers additional expense and damage as a result, the Contractor is responsible for that damage, injury, or expense.

6.2.6 The intent of Sections 6.2.3 through 6.2.5 is to benefit the Separate Consultants and Separate Contractors, and to demonstrate that the Separate Consultants and Separate Contractors are intended third-party beneficiaries of the Contractor's obligations under the Contract.

6.2.7 If the proper execution or results of any part of the Work depends upon work performed or services provided by the Owner, a Separate Consultant, or a Separate Contractor, the Contractor must inspect that other work and appropriate instruments of service, and promptly report to the Contracting Authority in writing any defects or deficiencies in that other work or services that render it unavailable or unsuitable for

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the proper execution and results of the Work. The Contractor's failure so to report will constitute an acceptance of the other work and services as fit and proper for integration with the Contractor's Work except for defects and deficiencies in the other work or services that were not reasonably discoverable at the time of the Contractor's inspection.

6.2.8 The Contractor shall not delay the Work on account of any claim, dispute, or action between the Contractor and a Separate Consultant or Separate Contractor.

6.2.9 The Contractor shall coordinate the Work with the activities and responsibilities of the Owner, the A/E, the Lead Contractor, and the Contracting Authority to complete the Project in accordance with the Contract Documents.

6.2.10 In the event of default of the Contractor, the Contractor shall cooperate with the A/E, the Contracting Authority, and the Contractor's Surety to achieve the Contract Completion date.

~~2.1~~6.3 Construction Procedures

~~2.1.1~~6.3.1 The Contractor is solely responsible for and has control over all construction means, methods, manners, techniques, sequences, and procedures, for safety precautions and programs in connection with the Work, and for coordinating all portions of the Work.

~~2.1.1.1~~6.3.1.1 If the Contract Documents give instructions that affect construction means, methods, manners, techniques, sequences, or procedures, the Contractor shall evaluate the jobsite safety of them and, except as stated below, shall be fully and solely responsible for the jobsite safety of the means, methods, manners, techniques, sequences, or procedures.

~~2.1.1.2~~6.3.1.2 If the Contractor determines that the means, methods, manners, techniques, sequences, or procedures may not be safe, the Contractor shall give timely written notice to the Owner, the A/E, and the Contracting Authority. The Contractor shall not proceed with that portion of the Work without further written instructions from the A/E. Any modification of the Contract shall be in accordance with Article 7.

~~2.1.2~~6.3.2 The Contractor shall lay out and coordinate all lines, levels, elevations, and measurements for all the Work, coordinate and verify existing conditions, and notify the A/E of discrepancies and conflicts before proceeding with installation or excavation.

~~2.1.3~~6.3.3 The Contractor shall perform all cutting, fitting, or patching required for the Work and shall not endanger the Project by cutting, excavating, or otherwise altering the Project, or any part of it.

~~2.1.3.1~~6.3.3.1 If the Contractor requires sleeves for the Work, the Contractor shall furnish and ~~coordinate installation of~~install the sleeves ~~in the work of others~~. The Contractor is responsible for the exact location and size of all holes and openings required to be formed or built for the Work~~, and shall coordinate with any work performed by others~~.

~~2.1.3.2 The Contractor shall coordinate and allow sufficient time for installation of work by others before covering or closing the applicable portion of the Work.~~

~~2.1.3.3~~6.3.3.2 The Contractor's patching shall match and blend with the existing or adjacent surface(s).

~~2.1.4~~6.3.4 The Contractor shall comply with ~~O.R.C.~~ORC Sections 3781.25 through 3781.32. In addition, before starting excavation or trenching, the Contractor shall determine the location of any underground utilities and notify any public authority or utility having jurisdiction over the Project and secure any required approval.

~~2.1.4.1~~6.3.4.1 The Contractor shall give notice at least 2 business days in advance of excavation to the owners of underground utilities registered with the Ohio Underground Utility Protection Services ("OUPS" at http://oups.org, phone 811 or 800-362-2764), and the owners of underground utilities shown on the plans and specifications who are not registered members of OUPS. The owner of an underground utility is required within 48 hours notice to stake, mark, or otherwise designate the location of its utilities in the construction area together with its approximate depth. In the event that any underground utility

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owner fails to timely perform, the Contractor shall notify the A/E and contact the owner of the underground utility.

2.1.56.3.5 The Contractor shall install all Work in accordance with the Contract Documents and any installation recommendations of the manufacturer, including required temperature and humidity limits for installation of the various materials.

2.1.66.3.6 The Contractor shall comply with all requirements and conditions of the National Pollutant Discharge Elimination System ("NPDES") general permit,NPDES general permit, including, but not limited to, implementing and maintaining the sedimentation and erosion control measures specified in the storm water pollution prevention plan prepared by the A/E pursuant to subparagraph 2.9.4Section 5.2.4, which are related to the Work, maintaining records of its construction activities, removing materials no longer required, and taking proper action if there is a reportable quantity spill.

2.1.76.3.7 The Contractor shall communicate with the Contracting Authority and the Owner through the A/E.

2.1.81.1.1 If the Contracting Authority decides, at any time and in its sole discretion, to utilize the State's Web-based project management system, known as the OAKS Capital Improvements ("OAKS CI") module, for the Project, the Contractor shall use OAKS CI for all compatible services required under this Contract. All costs for the Contractor's use of OAKS CI for the Project shall be included in the Contract Sum, and additional compensation shall not be provided. If the Contractor is unfamiliar with the proper use of OAKS CI, the Contractor shall provide its employees for training without additional compensation.

2.21.1 Review of Contract Documents and Field Conditions

2.2.11.1.1 Before starting each portion of the Work, the Contractor shall carefully study and compare the various Contract Documents relative to that portion of the Work, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the Site affecting it.

2.2.21.1.1 If the Contractor finds any perceived ambiguity, conflict, error, omission, or discrepancy on or between any of the Contract Documents, or between any of the Contract Documents and any Applicable Law, the Contractor, before proceeding with the Work, shall promptly submit a Request for Interpretation ("RFI") to the A/E for an interpretation or clarification.

2.2.2.11.1.1.1 Before submitting any RFI to the A/E, the Contractor shall carefully review the Contract Documents to ensure that the Contract Documents do not answer the RFI.

2.2.2.21.1.1.1 The A/E shall respond to an RFI within 3 days of receiving the RFI.

2.2.2.31.1.1.1 Any interpretation or clarification of the Contract Documents made by any Person other than the A/E, or in any manner other than writing, shall not be binding and the Contractor shall not rely upon it.

2.2.2.4 If the Project is administered using OAKS CI, the Contractor shall submit RFIs to the A/E through the OAKS CI "Request for Interpretations" business process.

2.2.3 If the Contractor believes that it is entitled to an adjustment of the Contract Sum or Contract Time, or both, on account of clarifications or instructions issued by the A/E in response to a RFI, the Contractor may request an adjustment to the Contract by giving written notice under subparagraph 7.2.3 within 7 days of receiving the A/E's RFI response.

2.2.4 If the Contractor does not notify the A/E per subparagraph 2.2.3, the Contractor will have accepted the RFI response without an adjustment to the Contract Sum or Contract Time.

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~~2.3~~6.4 Construction Supervision

~~2.3.1~~6.4.1 Unless waived by the Contracting Authority in writing, the Contractor shall provide continuous supervision at the Site by a competent superintendent when any Work is being performed and the Contractor's superintendent shall not be involved with any work other than the Project.

~~2.3.2~~6.4.2 The Contractor's project manager and superintendent shall each have the responsibility and authority to act on behalf of the Contractor. All communications to the Contractor's project manager or superintendent shall be binding as if given directly to the Contractor.

~~2.3.3~~6.4.3 The Contractor shall submit an outline of the qualifications and experience of the ~~Contractor's~~Contractor's proposed project manager and proposed superintendent, including references, to the ~~A/E within~~Contracting Authority no less than 10 days of the Notice to Proceed~~.~~. For all Subcontracts in excess of $200,000, and for all other Subcontracts on request from the Contracting Authority, the Contractor shall submit an outline of the qualifications and experience of the Subcontractor's proposed project manager and proposed superintendent, including references, to the Contracting Authority no less than 10 days before the Subcontractor is scheduled to begin Work on the Site.

~~2.3.3.1~~6.4.3.1 The Contracting Authority ~~reserves the right to~~ may reject the ~~Contractor's proposed project manager~~ Contractor's or the Subcontractor's proposed project manager or proposed superintendent. ~~Failure to~~If the Contracting Authority does not notify the Contractor of the rejection within 30 days ~~of~~after receiving the required information, it shall indicate that the Contracting Authority has no objection, but does not affect the Contracting Authority's rights under Section 6.13.2 or any other provision relative to that project manager or superintendent.

~~2.3.3.2~~6.4.3.2 If the Contracting Authority rejects the ~~Contractor's~~Contractor's or the Subcontractor's proposed project manager or proposed superintendent, the Contractor shall replace, or cause the Subcontractor to replace, the project manager or superintendent (as appropriate) with someone acceptable to the Contracting Authority at no additional cost.

~~2.3.4~~6.4.4 The Contractor and its Subcontractors subject to Section 6.4.3 shall not replace ~~its~~ their respective project ~~manager~~managers or ~~superintendent~~superintendents without prior written approval of the Contracting Authority.

~~2.3.4.1~~6.4.4.1 If the Contractor or a Subcontractor subject to Section 6.4.3 proposes to change its project manager or superintendent, the Contractor shall submit written justification for the change to the ~~A/E~~Contracting Authority, along with the name and qualifications of the ~~Contractor's~~ proposed replacement.

~~2.3.4.2~~6.4.4.2 The procedure provided in ~~subparagraph 2.3.3~~Section 6.4.3 shall be conducted to evaluate the Contractor's or Subcontractor's (as applicable) proposed replacement project manager or superintendent.

~~2.4~~1.1 ~~Protection of the Project~~

~~2.4.1~~1.1.1 ~~The Contractor shall protect the Work from weather and maintain the Work and all materials, apparatus, and fixtures free from injury or damage until Final Acceptance, or Partial Occupancy if applicable.~~

~~2.4.1.1~~1.1.1.1 ~~The Contractor shall at all times cover or protect the Work.~~

~~2.4.1.2~~1.1.1.1 ~~The Contractor, at its expense, shall remove, and replace with new, any Work damaged as a result of Contractor's failure to provide coverage or protection.~~

~~2.4.1.3~~1.1.1.1 ~~The Contractor, at its expense, shall repair or replace any adjacent property, including, but not limited to, roads, walks, shrubbery, plants, trees, or turf, damaged during performance of the Work.~~

~~2.4.1.4~~1.1.1.1 ~~After the date of Final Acceptance, or Partial Occupancy if applicable, the Owner is responsible for protecting and maintaining all materials, apparatus, and fixtures for the occupied portion of the Project free from injury or damage.~~

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2.4.21.1.1 The Lead Contractor shall protect the Project and existing or adjacent property from damage at all times and shall erect and maintain necessary barriers, furnish and keep lighted necessary danger signals at night, and take reasonable precautions to prevent injury or damage to individuals or property.

2.4.31.1.1 The Contractor shall not load, nor permit any part of the Project to be loaded, in any manner that endangers the Project, or any portion thereof. The Contractor shall not subject any part of the Project or existing or adjacent property to stress or pressure that endangers the Project or property.

2.4.41.1.1 The Contractor shall provide all temporary bracing, shoring, and other structural support required for safety of the Project and proper execution of the Work.

2.4.5 Vibration, Noise, and Dust Control

2.4.5.1 In occupied buildings, vibrations, noise and dust control shall be provided. The Lead Contractor or other Separate Contractor responsible for creating dust shall install dust barriers as required by the construction operations.

2.4.5.2 Exhaust of unfiltered air, dust, construction debris or other undesirable products released into the exterior atmosphere or into occupied areas of the building outside the Site will not be permitted. The Project Manager reserves the right to limit or stop the continuation of work if proper air quality standards are not maintained.

2.4.5.3 In certain occupied buildings, tasks might be of such a nature that noise and vibration cannot be tolerated. In such spaces, work shall be scheduled for other than normal working hours. The Contractor is cautioned that weekend or overtime work, if required, shall be performed at no additional cost. Permission to work other than standard hours shall be received from the Contracting Authority prior to the occurrence. Weekend and overtime work shall be reflected in the Construction Progress Schedule.

2.4.5.41.1.1.1 Vibration control and control of transmission of noise are the responsibility of the Contractor whose operations are creating the conditions. Principal considerations which shall be given to noise and vibration control are:

.1 Noise control in compliance with Occupational Safety and Health Administration ("OSHA") requirements for the health and safety of building occupants; control shall be for all areas of the facility, including equipment rooms, boiler rooms, and fan rooms.

.2 Vibration control to limit sound produced by construction equipment, and for protection of the equipment existing in a building and the building structure.

.3 Vibration control to provide for maximum usefulness of the facility by keeping levels of vibration within ranges, which are conducive to study and work or other uses for which the facility is designed.

2.51.1 Materials and Equipment

2.5.11.1.1 The Contractor shall provide new materials and equipment of the quality specified in the Contract Documents.

2.5.2 The Contractor shall bring to, or store at, the Site only the materials and equipment required in the Work.

2.5.2.11.1.1.1 The Contractor shall properly store and protect all materials and equipment it provides to the Project.

2.5.2.21.1.1.1 The Contractor shall timely remove from the Site any materials or equipment no longer required for the Work.

2.5.31.1.1 The Contractor shall not allow materials or equipment to damage the Project or adjacent property, nor to endanger any individual at, or near, the Site.

2.5.41.1.1 If the Contractor provides an Acceptable Component, the Contractor shall be solely responsible for the costs of coordination and modification required.

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2.5.5 If the Contractor provides approved Substitutions that require changes to the Contract Documents or affects the work of Separate Contractors, the Contractor shall be solely responsible for the additional costs incurred as a result, including, but not limited to, changes to the design by the A/E.

2.5.61.1.1 The A/E shall consider Requests for Substitutions after the bid opening only when the Contractor can conclusively demonstrate to the A/E the following conditions:

2.5.6.1 The specified Basis of Design Components, Acceptable Components, or previously-approved Substitutions, through no fault of the Contractor or the Contractor's Subcontractors and Material Suppliers, are not available; or

2.5.6.2 The specified Basis of Design Components, Acceptable Components, or previously-approved Substitutions will not perform as designed or intended.

2.5.7 The Contractor's incorporation of unapproved Substitutions in the Work shall constitute Defective Work.

2.6 Labor

2.6.11.1.1 The Contractor shall maintain a sufficient workforce and enforce good discipline and order among its employees and the employees of its Subcontractors and Material Suppliers. The Contractor shall not permit employment of individuals not skilled in tasks assigned to them.

2.6.2 The Contractor shall dismiss from the Project any individual employed by the Contractor, or the Contractor's Subcontractors and Material Suppliers, who the Contracting Authority finds, in its sole discretion, to be incompetent, guilty of misconduct, or detrimental to the Project.

2.6.3 The Contractor shall employ all legal efforts to minimize the likelihood or effect of any strike, work stoppage, or other labor disturbance. Informational pickets shall not justify any work stoppage.

2.6.4 All State buildings are smoke free. Smoking will not be permitted in any indoor area. The ban on tobacco products will be observed in all indoor and outdoor areas and parking areas on all State owned and leased property. The Contractor shall enforce these restrictions on any individual employed by the Contractor, or the Contractor's Subcontractors and Material Suppliers.

2.71.1 Safety Precautions

2.7.11.1.1 The Contractor shall take reasonable precautions to ensure the safety of individuals on the Project.

2.7.1.1 Each contractor is responsible for designing and implementing its own safety program, including compliance with OSHA regulations. The Contractor's safety plans, such as fall protection, hazards, communications, competent person, etc., shall meet or exceed the Owner's safety plan.

2.7.21.1.1 The Contractor shall pay any fine or cost incurred because of the Contractor's violation, or alleged violation, of Applicable Law.

2.7.3 Before starting any Work:

2.7.3.1 The Contractor shall submit to the Contracting Authority and the Lead Contractor a copy of the Contractor's site-specific safety plan and safety manuals.

2.7.3.21.1.1 The Lead Contractor shall provide and inform the Contractor and each Separate Contractor of methods and equipment for protecting the Project, other property, and individuals from fire damage in accordance with Applicable Law.

2.7.41.1.1 The Contractor shall not introduce Hazardous Materials to the Project or burn any fires on the Site.

2.7.4.11.1.1 The Contractor shall notify the Project Manager 24 hours before the start of non-routine or non-recurring hot-work. Use of sources of fire, flame or sparks and flammable materials shall be kept to an absolute minimum. At the beginning of the Project the Contractor shall inform the Project Manager of its intent to use blowtorches, welding apparatus or similar exposed flame and sparking devices. Similar notice shall be given in regard to the use of flammable liquids, adhesives, and cleaners.

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2.7.4.2 Each Contractor shall furnish an appropriate number of fire extinguishers (minimum of 1), which shall be within the immediate areas where work is being done at all times. The extinguisher shall be adequate and suitable for the class of fire likely to be caused by the Contractor's operations.

2.7.5 Work Stoppage Due to Hazardous Materials:

2.7.5.1 If the Contractor encounters material the Contractor reasonably believes to be, or contain, a Hazardous Material, which has not been rendered harmless, the Contractor shall immediately stop Work in the affected area and verbally report the condition to the Contracting Authority and the A/E, and within 1 business day deliver written notice of the condition to the Contracting Authority and the A/E. A licensed abatement Contractor shall issue a report of the condition to the Contracting Authority and the A/E in writing and remove the material or render it harmless as directed.

2.7.5.2 The Contractor shall resume Work in the affected area upon written notice from the A/E that (1) the suspect material was evaluated and found not to be or contain a Hazardous Material, or (2) the suspect material has been removed or rendered harmless.

2.7.5.31.1.1.1 If the Contractor knowingly or negligently proceeds with the Work in an area where a Hazardous Material exists and has not been rendered harmless, the Contractor shall be solely responsible for all related claims, damages, losses, and expenses, including, but not limited to, attorneys fees, arising out of or resulting from performing the Work in the affected area.

2.7.5.41.1.1.1 The term "rendered harmless" means that the level of exposure is less than any applicable exposure standards set forth in Applicable Law.

2.7.6 Material Safety Data Sheets:

2.7.6.11.1.1.1 The Contractor shall identify any material it uses at the Site with a Material Safety Data Sheet ("MSDS").

2.7.6.21.1.1.1 Before starting any Work or bringing materials to the Site, the Contractor shall submit to the Lead Contractor a notebook containing all of its applicable MSDS.

2.7.6.3 The Lead Contractor shall maintain all MSDS notebooks at the Site for the duration of the Project.

2.8 Construction Facilities, Utilities, and Equipment

2.8.1 Facilities:

2.8.1.1 The Contractor shall provide and maintain in a clean condition suitable temporary facilities, equipment, services, and enclosed storage for its use at the Site.

2.8.1.21.1.1.1 The Lead Contractor shall provide and maintain in a clean condition:

.1 Suitable facilities, equipment, and services for use by the A/E and the Contracting Authority;

.2 Adequate space, equipment, and furnishings to conduct progress meetings, and store approved documents and permits; and

.3 Adequate sanitary facilities for use by all Persons at the Site.

2.8.2 Environmental Controls:

2.8.2.11.1.1.1 The Contractor shall protect its Work and materials from weather and damage from heat, cold, and humidity.

2.8.2.21.1.1.1 Until the permanent HVAC system is complete and available for use:

.1 The Contractor responsible for the permanent HVAC system ("HVAC Contractor") shall make arrangements and pay for installation and maintenance of temporary heating and ventilating systems; and

.2 The Lead Contractor shall pay the cost of energy consumed in operating temporary heating and ventilating systems.

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2.8.2.31.1.1.1 When the permanent HVAC system is complete and available for use:

.1 The HVAC Contractor shall start up and maintain operation of the permanent HVAC system, including filters, and promptly remove temporary heating and ventilating systems.

.2.1 If the Project consists entirely of new construction, the Lead Contractor shall pay the costs of energy consumed in operating the permanent HVAC system until Final Acceptance, or Partial Occupancy if applicable.

.3.1 If the Project is a renovation of an existing building or structure, addition(s) to an existing building or structure, or any combination of new construction and renovation work that does not allow separate metering of utilities, the Owner shall pay the costs of energy consumed in operating the permanent HVAC system.

2.8.2.41.1.1.1 From the date of Final Acceptance, or Partial Occupancy if applicable, the Owner shall pay the cost of operating the permanent HVAC system for the occupied portion of the Project.

2.8.2.5 If the permanent HVAC system is used during construction, the HVAC Contractor shall furnish an extended warranty and service contract in effect until the expiration of the Correction Period described in paragraph 2.19.

2.8.3 Water and Drainage:

2.8.3.11.1.1.1 The Contractor shall provide water necessary for the Work until the permanent plumbing system is available for use.

2.8.3.2 The Contractor shall provide temporary drainage and dewatering necessary for the Work and shall employ pumps, trenches, drains, sumps, and other necessary elements required to provide satisfactory working conditions for the protection, execution, and completion of the Project.

2.8.3.31.1.1.1 The Contractor responsible for the permanent plumbing system ("Plumbing Contractor") shall make arrangements and pay for installation and maintenance of temporary plumbing systems until the permanent plumbing system is available for use.

2.8.3.41.1.1.1 When the permanent plumbing system is complete and available for use:

.1 The Plumbing Contractor shall start up and maintain operation of the permanent plumbing system, and make arrangements and pay for removal of temporary plumbing systems.

.2.1 If the Project consists entirely of new construction, the Lead Contractor shall pay the costs of water consumed and sewerage charges until Final Acceptance, or Partial Occupancy if applicable.

.3.1 If the Project is a renovation of an existing building or structure, addition(s) to an existing building or structure, or any combination of new construction and renovation work that does not allow separate metering of utilities, the Owner shall pay the costs of water consumed and sewerage charges.

2.8.3.51.1.1.1 From the date of Final Acceptance, or Partial Occupancy if applicable, the Owner shall pay the costs of water consumed and sewerage charges for the occupied portion of the Project.

2.8.3.6 If the permanent plumbing system is used during construction, the Plumbing Contractor shall furnish an extended warranty and service contract in effect until the expiration of the Correction Period described in paragraph 2.19.

2.8.4 Electric Service:

2.8.4.1 The Contractor responsible for the permanent electric service ("Electrical Contractor") shall provide temporary light and power; pay the charges for temporary electric service installation, and removal if required.

.1 The Electrical Contractor shall not be responsible for electric service requirements of other Contractors related to temporary hoists, cranes, welding equipment, or elevators.

.2.1 A Contractor requiring these services shall subcontract with a licensed contractor for the service requirements and shall pay the costs of the services.

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2.8.4.21.1.1.1 If the Project consists entirely of new construction, the Lead Contractor shall pay the cost of energy consumed until Final Acceptance of the Project, or Partial Occupancy if applicable.

2.8.4.31.1.1.1 If the Project is a renovation of an existing building or structure, addition(s) to an existing building or structure, or any combination of new construction and renovation work that does not allow separate metering of utilities, the Owner shall pay the cost of energy consumed.

2.8.4.41.1.1.1 From the date of Final Acceptance, or Partial Occupancy if applicable, the Owner shall pay the cost of energy consumed for the occupied portions of the Project.

2.8.4.5 If the permanent electrical system is used during construction, the Electrical Contractor shall furnish an extended warranty and service contract in effect until the expiration of the Correction Period described in paragraph 2.19.

2.8.5 Hoisting Facilities:

2.8.5.1 Each Contractor shall erect and maintain any hoisting equipment required for its Work in coordination with the Lead Contractor and the Electrical Contractor.

2.8.5.2 If the electric service requirements of hoisting facilities differ from that available at the Site, the Contractor requiring use of the hoisting facilities shall provide and pay for all necessary connections.

2.8.5.3 A Contractor requiring use of hoisting facilities, after the Project is enclosed, shall transport Persons and materials required for its Work.

2.8.5.4 If a permanent elevator is identified in the Contract Documents to be used for hoisting materials or personnel during construction, the Contractor responsible for the elevator shall furnish an extended warranty and service contract in effect until the expiration of the Correction Period described in paragraph 2.19.

2.9 Building and Trade Permits and Licenses

2.9.1 Plan Approval:

2.9.1.11.1.1.1 The A/E shall secure the required structural, plumbing, HVAC, and electrical plan approvals from the Ohio Department of Commerce, Division of Industrial Compliance.

.1 If the Project is not on State property, the A/E shall secure the plan approvals from the local certified building department with jurisdiction.

2.9.1.2 The Contractor shall schedule and attend all intermediate and final inspections required for any permit applicable to the Work. The Contractor shall schedule the State Fire Marshal or local fire authority for the life safety inspection for occupancy permits. The Contractor shall give the A/E, the Contracting Authority, and the Owner reasonable notice of the dates and times arranged for inspections.

.1 The Contractor shall pay for any reinspections required as a result of the Contractor's failure to receive approval of its Work.

2.9.2 Trade Permits and Licenses:

2.9.2.1 The Contractor shall obtain, maintain, and pay for any permit, inspection, or license applicable to the Contractor's particular trade.

2.9.3 Local Permits:

2.9.3.11.1.1.1 The Contractor shall secure and pay the fees for any permits, inspections, licenses, capacity charges, or tap fees required by local authorities having jurisdiction over the Project. The Contractor shall give the A/E, the Contracting Authority, and the Owner reasonable notice of the date arranged for inspections.

2.9.4 National Pollutant Discharge Elimination System ("NPDES") Storm Water General Permit:

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2.9.4.1 The A/E shall secure the NPDES general permit by submitting a Notice of Intent ("NOI") application form to the Ohio Environmental Protection Agency at least 45 days prior to the start of construction.

2.9.4.21.1.1.1 The A/E shall prepare and certify a storm water pollution prevention plan to provide sedimentation and erosion controls at the Project.

2.9.4.31.1.1.1 The A/E shall prepare and process the required Notice of Termination ("NOT") prior to Contract Completion.

2.10 Tests and Inspections

2.10.11.1.1 Unless otherwise specified in the Contract Documents, the A/E shall apply for, secure, and pay for the costs of structural testing and special inspections under Chapter 17 of the Ohio Building Code; testing including geotechnical analysis, environmental testing and analysis, concrete, masonry, structural steel, reinforcing steel, welding, bolts, steel connections, HVAC systems and controls, plumbing and piping, air and water balancing and testing, or other testing; or approval required by Applicable Law.

2.10.2 If the A/E determines that any portion of the Work requires special inspection, testing, or approval not otherwise required under the Contract Documents, the A/E shall order such inspection, testing, or approval.

2.10.2.1 If the special inspection, testing, or approval reveals Defective Work, the Contractor shall pay all associated costs. Those costs may include, but are not limited to:

.1 The cost of the special inspection, testing, or approval;

.2 The cost of additional special inspections, testing, or approvals to evaluate remedial Work;

.3 The cost of correcting the Defective Work; and

.4 All related Owner-incurred fees and charges of engineers, architects, attorneys, and other professionals.

2.10.2.2 The Contracting Authority may deduct the costs described under subparagraph 2.10.2.1 from payments then or thereafter due the Contractor. If payments then or thereafter due the Contractor are not sufficient to cover those amounts, the Contractor shall immediately pay the amount of the insufficiency to the Contracting Authority.

2.10.2.3 If the special inspection, testing, or approval reveals that the Work complies with the Contract Documents, the Owner shall pay the Contractor for all associated costs by appropriate Contract modification.

2.10.3 If the Contractor is aware of a need for inspection, testing, or approval, or of a need to have any inspection, testing, or approval completed by a particular time to avoid delay, then the Contractor shall timely communicate such information to the A/E.

2.10.41.1.1 Except as described under subparagraph 2.10.2, the Owner shall pay for any inspection, testing, or approval that did not become a requirement until after it awarded the Contract.

2.10.51.1.1 The Contractor shall coordinate with and give the A/E, the Contracting Authority, and the Owner reasonable notice of the anticipated dates of all inspections, testing, or approvals.

2.10.61.1.1 Within 5 days after completion of an inspection, testing, or approval, the A/E shall provide an original report/certificate of the inspection, testing, or approval to the Contractor and the Contracting Authority with a recommendation for or against acceptance of the results therein.

2.10.71.1.1 Neither the observations of the A/E in the administration of the Contract, nor any inspection, test, or approval by Persons other than the Contractor shall relieve the Contractor from the Contractor's obligation to perform the Work in conformity with the Contract Documents.

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2.111.1 Progress Cleaning

2.11.11.1.1 The Contractor shall remove all waste materials, rubbish, and mud attributable to the Work to an appropriate disposal location provided by the Lead Contractor at, or near, the Site.

2.11.21.1.1 The Lead Contractor shall perform weekly broom cleaning of hard flooring surfaces in the area of the Work.

2.11.3 The Lead Contractor shall remove, once each working day or as appropriate for the Project, all waste materials, and rubbish from the disposal location at, or near, the Site.

2.11.4 The Lead Contractor shall remove, as appropriate for the Project or as the A/E directs, any waste materials or rubbish from areas adjacent to the Project.

2.11.4.1 The Lead Contractor shall dispose of waste materials, rubbish, and construction debris and in a lawful manner in approved recycling facilities or landfills.

2.11.5 If the Contractor fails to clean up during the progress of the Work, the Contracting Authority may clean up on behalf of the Contractor and at the Contractor's expense. If the Contractor fails to maintain the areas adjacent to the Project clean and free of waste materials and rubbish, the Contracting Authority may also direct the local jurisdiction responsible for the area to have the area cleaned to its satisfaction at the Contractor's expense.

2.11.5.1 The State may deduct the cleaning costs from payments then or thereafter due the Contractor. If payments then or thereafter due the Contractor are not sufficient to cover those amounts, the Contractor shall immediately pay the amount of the insufficiency to the State.

2.11.5.2 If the A/E determines that the cleaning is attributable to the Contractor and to one or more Separate Contractors, the A/E shall also allocate the cleaning costs as the A/E deems appropriate. If the A/E cannot or does not allocate the costs, the Contracting Authority shall allocate the costs as the Contracting Authority deems appropriate in its sole discretion.

2.11.6 The Contractor shall remove excavated material and spoil to a suitable off-site location approved by the Contracting Authority.

2.11.6.1 If the Owner designates a location on its property for disposal or storage of clean topsoil and/or subsoil in the Contract Documents, the Contractor shall remove such materials to the designated location.

2.12 Use of Premises

2.12.1 Contractors shall use corridors, stairs, and elevators as designated by the Contracting Authority. Extreme care shall be exercised to not exceed the carrying capacity of elevators nor to damage the cab interior in any way.

2.12.2 Loitering or wandering through interior of buildings or exterior grounds outside the limits of the Work will not be permitted.

2.12.3 The Contractor shall confine its apparatus, materials, and the operations of its workers to the limits indicated by law, ordinances, permits and the directions of the A/E or the Project Manager. If possible, materials and equipment should be installed in their final positions when brought to the Site. Short-term storage of equipment shall be scheduled by the Project Manager.

2.12.41.1.1 No signs or advertising of any kind will be permitted on or about the Site, except those appearing on trucks and trailers.

2.12.5 Site Logistics Plan:

2.12.5.11.1.1.1 The Lead Contractor shall prepare, in coordination with all Separate Contractors, a plan of the Site indicating how the Contractors intend to use the Site. The plan should illustrate, as an example, areas to be used for lay down of material and equipment; office and storage trailer locations; vehicular

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~~access gates with ingress and egress routes; locations of wheel wash and concrete truck wash out activities; and offloading and hoisting locations.~~

~~2.13 Interruption of Existing Services~~

~~2.13.1 Whenever it becomes necessary to interrupt existing services in use by the Owner or its tenants, including but not limited to sewer, water, gas, and steam lines, electric, telephone, and cable service, the Contractor shall continue the associated Work on a non-stop 24 hour per day basis until that Work is completed and the service restored, or at an alternate time required by the Contracting Authority.~~

~~2.13.2 Before beginning that Work, the Contractor shall apply in writing to, and receive approval in writing from, the Owner, through the A/E, to establish a time when interruption of the service will cause a minimum of interference with the activities of the Owner and its tenants.~~

~~2.14 Explosives and Blasting~~

~~2.14.1 The Contractor shall not conduct blasting on, or bring explosives to, the Site without the prior written approval of the Contracting Authority, the Owner, and other authorities with jurisdiction.~~

~~2.14.2 The Contractor shall perform all blasting, storing, and handling of explosives as required under Applicable Law.~~

~~2.14.2.11.1.1.1 The Contractor shall carry appropriate liability insurance coverage, as required by the Contract Documents, for its blasting and explosives storage and handling operations. Immediately upon request, the Contractor shall deliver evidence of that insurance to the Contracting Authority.~~

~~2.151.1 Emergency~~

~~2.15.11.1.1 In the event of an emergency affecting the safety of the Project, other property, or individuals, the Contractor, without special instruction or authorization, shall act to prevent the threatened damage, injury, or loss.~~

~~2.15.2 If the Contractor believes that it is entitled to an adjustment of the Contract Sum or Contract Time, or both, on account of its actions in response to an emergency, the Contractor may request an adjustment to the Contract by giving written notice under subparagraph 7.2.2.11.~~

~~2.161.1 Building Commissioning~~

~~2.16.1 If applicable, the Contractor shall participate in the Building Commissioning process, as prescribed in the Contract Documents.~~

~~2.16.2 The Contractor shall permit the A/E, or the Commissioning Agent ("CxA") if applicable, access to commission performance based equipment, fixtures, and/or systems (e.g., HVAC, fire protection, smoke evacuation, fume hoods, emergency power, etc.), prior to Final Acceptance, or Partial Occupancy if applicable.~~

~~2.16.3 The A/E, or the CxA if applicable, shall promptly notify, in writing, the Contractor responsible for the fixture, equipment, and/or system, of any deficiency identified during the commissioning process.~~

~~2.171.1 Warranty~~

~~2.17.11.1.1 The Contractor warrants to the Contracting Authority and the Owner that all materials and equipment furnished under the Contract shall be new and of good quality unless otherwise required or permitted by the Contract Documents, that the Work shall be free from defects not inherent in the quality required or permitted, and that the Work shall conform to the requirements of the Contract Documents. Work not conforming to those requirements, including Substitutions not properly approved and authorized, may be considered Defective Work. If required by the A/E, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.~~

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2.17.2 Notwithstanding any other provision of the Contract Documents, Partial Occupancy pursuant to paragraph 5.4, partial or final payments made pursuant to Article 9, and Partial or Final Acceptance pursuant to paragraph 10.8, constitutes neither acceptance of any Defective Work, nor a waiver of any rights set forth in the Contract Documents or otherwise provided by Applicable Law.

2.181.1 Uncovering the Work

2.18.1 If the Contractor covers Work contrary to the requirements of the Contract Documents or contrary to the written request of the A/E, the Contractor shall, if the A/E requests in writing, uncover that Work for observation, correct it if not in conformity with the Contract Documents, and recover it at the Contractor's expense and without adjustment of the Contract Time.

2.18.2 If the Contractor covers Work in accordance with the Contract Documents and not contrary to a request from the A/E for an opportunity to observe the Work prior to covering, the Contractor shall, if the A/E requests in writing, uncover that Work.

2.18.2.1 If the uncovered Work is Defective Work, the Contractor shall pay the costs of uncovering, correcting, and recovering the Work and shall not be entitled to an adjustment of the Contract Time.

2.18.2.2 If the uncovered Work is not Defective Work and the Contractor believes that it is entitled to an adjustment of the Contract Sum or Contract Time, or both, on account of the uncovering and recovering of the Work, the Contractor may request an adjustment to the Contract by giving written notice under subparagraph 7.2.2.11.

2.191.1 Correction of the Work

2.19.1 The Contractor shall promptly correct any Work rejected by the A/E or Work that is Defective Work, whether discovered before or after Final Completion and whether or not fabricated, installed, or completed. The A/E shall specify in a written notice to the Contractor the time within which the Contractor shall correct the Work.

2.19.2 After Final Completion:

2.19.2.1 In addition to the Contractor's other obligations under the Contract Documents, if within 1 year after the date of Final Completion of the Work any of the Work is found to be Defective Work, the Contractor shall correct it promptly after receipt of written notice from the A/E, the Contracting Authority, or the Owner to do so, unless the Contracting Authority and the Owner have previously acknowledged and accepted the Defective Work in writing.

2.19.2.2 If the Contractor fails to correct the Defective Work promptly after receiving the notice to do so, the Owner may correct it without giving further notice to the Contractor.

2.19.2.3 The 1-year period for correction of Work ("Correction Period") shall not be extended by corrective Work performed by the Contractor under this subparagraph 2.19.2.

2.19.2.4 The Correction Period:

.1 Relates only to the Contractor's specific obligation to correct the Work;

.2 Does not establish a period of limitation with respect to any of the Contractor's other obligations under the Contract Documents;

.3 Has no relationship to the time within which the State or Owner may seek to enforce the Contract; and

.4 Does not establish a period of limitation within respect to the commencement of litigation to establish the Contractor's liability under the Contract or otherwise.

2.19.3 Responsibility for Costs of Correction:

2.19.3.1 The Contractor shall pay all of the costs and damages associated with the correction of the Work. Those costs and damages may include, but are not limited to, the related fees and charges of engineers,

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architects, attorneys, and other professionals; the cost of correcting or replacing adjacent work; and any consequential damages. The State may deduct the costs and damages it incurs from payments then or thereafter due the Contractor. If payments then or thereafter due the Contractor are not sufficient to cover those amounts, the Contractor shall immediately pay the amount of the insufficiency to the State.

Article 3 - CONTRACT ADMINISTRATION

3.11.1 Site Visits and Observation

3.1.11.1.1 The A/E shall notify, advise, and consult with the Contracting Authority and the Owner and protect the State against Defective Work throughout the completion of the Project, which includes the Correction Period.

3.1.1.11.1.1.1 The A/E shall designate a field representative, subject to the Contracting Authority's approval, to attend to the Project as required by the Architect/Engineer Agreement, to observe and check the progress and quality of the Work, and to take action as necessary or appropriate to achieve conformity with the Contract Documents.

3.1.1.2 The A/E shall have its consultants attend the Project at the intervals required by its agreement or the Contracting Authority.

3.1.21.1.1 The A/E is authorized to disapprove or reject any item of Work that is Defective, or that it believes will not produce a Project that conforms to the Contract Documents or will prejudice the integrity of the design concept of the Project as a functioning whole as indicated by the Contract Documents. The A/E shall immediately notify the Contracting Authority any time the A/E disapproves or rejects an item of Work.

3.1.3 The A/E is not responsible for construction means, methods, manners, techniques, sequences, procedures, safety precautions, and programs in connection with the Work, or for the Contractor's failure to carry out the Work in conformity with the Contract Documents.

3.2 The Architect/Engineer's Contract Administration Duties

3.2.1 The A/E shall provide administration of the Contracts for the Project as provided in the Contract Documents and the Architect/Engineer Agreement, including, but not limited to, the performance of the functions described as follows:

3.2.1.11.1.1.1 The A/E shall attend and conduct progress meetings. The A/E shall prepare an agenda and produce a written report of each progress meeting, and distribute the report to the Contracting Authority, the Owner, and the Contractor within 3 working days after the meeting. The A/E shall not delegate the duty to prepare the agenda and written reports of any progress meeting.

3.2.1.2 The A/E may authorize minor changes or alterations in the Work that are consistent with the intent of the Contract Documents and do not involve adjustment of the Contract Sum or the Contract Time, or both. The A/E has no authority to authorize the Contractor to perform additional or extra Work for which the Contractor may seek adjustment of the Contract Sum or the Contract Time, or both.

3.2.1.31.1.1.1 The A/E shall review and recommend, certify, or approve applicable forms required under the Contract Documents.

3.2.1.4 The A/E shall render decisions in connection with the Contractor's responsibilities under the Contract Documents, and submit recommendations to the Contracting Authority for enforcement of the Contract as necessary.

3.2.21.1.1 The A/E is the initial interpreter of all requirements of the Contract Documents. All decisions of the A/E are subject to final determination by the Contracting Authority.

3.3 Reserved

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~~Article 4 - CONSTRUCTION COORDINATION~~

~~4.1 Responsibility of the Contractor~~

~~4.1.11.1.1 The Contractor shall allow Separate Contractors reasonable opportunity for the introduction and storage of materials and equipment and the execution of their work, and shall properly connect and coordinate the Work with the Separate Contractors' work. The Contractor shall complete portions of the Work in the sequence and time in the Construction Progress Schedule.~~

~~4.1.2 The Contractor shall perform the Work so as not to interfere with, disturb, hinder or delay the Separate Contractors' work. To the fullest extent permitted by law, the State's liability to the Contractor for any injury, damage or expense resulting from interference, hindrance, disruption or delay attributable to a Separate Contractor or a Person for whom a Separate Contractor is legally responsible is limited to an extension of the Contract Time.~~

~~4.1.2.1 If the Contractor, its Subcontractor, or its Material Supplier damages or injures the property or work of a Separate Contractor, or by failure to perform the Work with due diligence delays, interferes with, hinders, or disrupts a Separate Contractor, the Contractor shall be responsible to the Separate Contractor for the damage, injury, or expense.~~

~~4.1.2.2 The intent of subparagraph 4.1.2.1 is to bind each Separate Contractor as an intended third-party beneficiary of the Contract.~~

~~4.1.2.3 The Contractor shall not delay completion of the Work on account of claims, disputes, or actions between the Contractor and Separate Contractors concerning damage, injury, or expense.~~

~~4.1.3 If a Separate Contractor's work precedes any part of the Work, the Contractor shall inspect the preceding work before commencing the Work, and immediately report in writing to the Lead Contractor and the A/E any defects that render the preceding work unsuitable for the Work.~~

~~4.1.3.1 Failure of the Contractor to make the inspection and report required by subparagraph 4.1.3 constitutes acceptance of the preceding work as fit and proper for the reception of the Work, except as to defects that a reasonable inspection would not disclose.~~

~~4.1.41.1.1 The Contractor shall supervise the Work in coordination with the Lead Contractor.~~

~~4.1.5 The Contractor shall cooperate with the A/E and the Lead Contractor so as not to interfere with, disturb, hinder, or delay the work of Separate Contractors or the responsibilities of the A/E and the Lead Contractor.~~

~~4.2~~6.5 Responsibility and Authority of the Lead Contractor

~~4.2.1~~6.5.1 The Lead Contractor shall consult with the Owner to obtain full knowledge of the Owner's rules, regulations, or requirements affecting the Project. The Lead Contractor shall establish the Project's regular working hours, subject to approval by the A/E and the Owner.

~~4.2.2~~6.5.2 The Lead Contractor shall coordinate the Work with the work of all Separate Contractors and with the activities and responsibilities of the Owner, the A/E, and the Contracting Authority to complete the Project in accordance with the Contract Documents.

~~4.2.2.1~~6.5.2.1 The Lead Contractor's coordination activities shall not relieve the Contractor from the Contractor's duty to supervise and direct the Work in accordance with the Contract Documents.

~~4.2.3~~6.5.3 If the Estimated Construction Cost for the Project is $500,000 or more, the Lead Contractor shall engage a Schedule Consultant, who shall be the Schedule Manager, to develop and keep current the Construction Progress Schedule in accordance with ~~paragraph~~ Section 1.1, and prepare and keep current a schedule of submittals that is coordinated with the Construction Progress Schedule, for the A/E and Contracting Authority's acceptance.

~~4.2.3.1~~6.5.3.1 Within 3 days after issuance of the Notice to Proceed, the Lead Contractor shall submit to the Contracting Authority a list of 3 qualified and independent consulting firms that the Lead Contractor

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recommends to be the Schedule Manager. The Contracting Authority shall have the opportunity to object to any of the recommended firms to serve as the Schedule Manager. The Lead Contractor shall select and engage one of the firms with which the Contracting Authority has no objection.

4.2.3.26.5.3.2 If the Estimated Construction Cost for the Project is less than $500,000, the Lead Contractor, who shall be the Schedule Manager, to develop and keep current the Construction Progress Schedule for the Project in accordance with paragraph 4.3Section 1.1.1, and prepare and keep current a schedule of submittals that is coordinated with the Construction Progress Schedule, for the A/E and Contracting Authority's acceptance.

4.2.46.5.4 The Construction Schedule shall not exceed the time limits current under the Contract Documents, shall provide for reasonable, efficient, and economical execution of the Project, and shall relate to the entire Project to the extent required by the Contract Documents.

4.2.56.5.5 The Lead Contractor shall use the Construction Progress Schedule to plan, organize, and execute the Project, record and report actual performance and progress, and show how it plans to coordinate and complete all remaining work by the Contract Completion date.

4.2.66.5.6 The Lead Contractor shall monitor the progress of the Work for conformance with the Construction Progress Schedule and shall initiate revisions as required by subparagraphSection 1.1.1.1.

4.2.76.5.7 In the event of default of the Contractor or any Separate Contractor, the Lead Contractor shall cooperate with the A/E, the Contracting Authority, and the defaulted contractor's Surety to achieve the Contract Completion date.

4.2.86.5.8 The Lead Contractor shall remove all snow and ice as may be required for reasonably safe access to the Project including, but not limited to, building entries, driveways, parking lots, and sidewalks.

4.2.96.5.9 The Lead Contractor shall keep a daily log containing a record of weather, number of workers on Site for the Contractor and each Separate Contractor, identification of equipment, Work accomplished, problems encountered, and other similar relevant data.

4.36.6 Construction Progress Schedule

4.3.16.6.1 The Contractor and each Separate Contractor shall provide information to the Schedule Manager as the basis of the Construction Progress Schedule for the Project. If the Estimated Construction Cost for the Project is $500,000 or more, the Schedule Manager shall provide a resource-loaded precedence or an arrow diagram schedule. If the Estimated Construction Cost is less than $500,000, the Schedule Manager may provide a bar chart schedule with a logical sequence of events and sufficient detail to properly anticipate and monitor construction progress. If the Estimated Construction Cost for the Project is $500,000 or more, the Schedule Manager shall prepare and maintain a resource-loaded Construction Progress Schedule that provides the following information:

6.6.1.1 a graphic presentation of the sequence of the Work for the Project in the media and format required for the Project;

6.6.1.2 identification of each stage of the Work and any Milestone dates;

6.6.1.3 identification of activities and durations for review and approval of Shop Drawings and other action submittals, fabrication and review of mock-up Work, product review and procurement, fabrication, shop inspection, and delivery, including, but not limited to, lead time, coordination drawing delivery, Punch List, Punch List Correction, Project close-out requirements, Contract Completion, and occupancy requirements;

6.6.1.4 identification of disruptions and shutdowns due to other operations;

6.6.1.5 identification of the critical path of the Work;

6.6.1.6 identification of the crew size and total resource hours for each activity in the schedule; and

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6.6.1.7 the Contractor's signature and date indicating approval.

6.6.2 The Contractor shall develop the Construction Progress Schedule using commercially available, personal computer software that is acceptable to the Contracting Authority and shall submit all baseline and updated schedules to the A/E in electronic format.

4.3.1.16.6.2.1 Within 7 days of the date of the Notice to Proceed, the Schedule Manager shall distribute a preliminary construction schedule to the Contractor and each Separate Contractor.

4.3.1.26.6.2.2 Within 7 days after receiving the preliminary construction schedule, the Contractor shall submit to the Schedule Manager the the Contractor's comments on the preliminary construction schedule, the Contractor's proposed plan and schedule to coordinate with Separate Contractors, and all other information requested and required by the Schedule Manager to prepare the Construction Progress Schedule.

4.3.1.36.6.2.3 Within 7 days after receiving the Contractor's proposed plan and schedule, the Schedule Manager shall provide comments to the Contractor on the Contractor's proposed plan and schedule.

4.3.1.46.6.2.4 Within 7 days after receiving the Schedule Manager's comments, the Contractor shall revise its proposed plan and schedule to incorporate those comments and submit the revised plan and schedule to the Schedule Manager.

4.3.2 The Contractor shall cooperate with the Schedule Manager to prepare aThe Construction Progress Schedule by providing the following:

4.3.2.1 A graphic presentation of the sequence of the Work for the Project in the media and format required for the Project;

4.3.2.2 Identification of each phase of the Work and any Milestone dates;

4.3.2.3 Identification of activities and durations for review and approval of Shop Drawings and other action submittals, fabrication and review of mock-up Work, product review and procurement, fabrication, shop inspection, and delivery, including, butshall not limited to, lead exceed the time, coordination drawing delivery, Punch List, Punch List Correction, Project close-out requirements, limits current under the Contract Completion, and occupancy requirements;

4.3.2.4 Identification of disruptions and shutdowns due to other operations;

4.3.2.5 Identification of the critical path of the Work;

4.3.2.6 Identification of the crew size and total resource hours for each activity in the schedule; and

4.3.2.7 The Contractor's signature and date indicating approval.

4.3.36.6.3 The Schedule Manager shall develop the Construction Progress Schedule using commercially available, personal computer software that is acceptable to the Contracting AuthorityDocuments, shall provide for reasonable, efficient, and economical execution of the Project, and shall provide final copies in color, in full size and 11 by 17 inches. The Schedule Manager shall submit all baseline and updated schedules to the A/E in electronic formatrelate to the entire Project to the extent required by the Contract Documents.

4.3.46.6.4 The Project participants shall use the Construction Progress Schedule to plan, organize, and execute the Project, record and report actual performance and progress, and show how it plans to coordinate and complete all remaining Work within applicable Milestones. The Project participants shall use the Construction Progress Schedule as a tool for scheduling and reporting sequenced progress of the Work. The Schedule Manager shall provide a clear graphics legend and other data including, but not limited to, Milestone dates, constraints, and other items required by the Project, the A/E, the Contracting Authority, and the Owner. Each submission shall show the Contracting Authority'sAuthority's Project number and Project name, and provide a signature approval and date line for all Contractors.

4.3.56.6.5 The Schedule Manager shall provide in each schedule: Activity identification and description for each activity broken down to a maximum duration that is appropriate for the activity, responsibility of eachthe

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Contractor, Contractor's resources and crew size for each activity, provide early start, early finish, late start, late finish. Each schedule shall show predecessor activities and successor activities for each activity, entry free float, total float, and percentage of completion, and identify the appropriate predecessors and successors for all related activities.

4.3.66.6.6 The Construction Progress Schedule shall show all submittal dates, coordination drawing preparation, shop drawingsShop Drawings submittals, and mock-up review and approval durations.

4.3.7 The Schedule Manager shall submit the Construction Progress Schedule in graphic and tabular form. Provide a 2- to 6-week look-ahead schedule, as appropriate for the Project, for each progress meeting and provide, with each monthly schedule update, a list of all changes to the previously approved baseline schedule or monthly updated schedule.

4.3.8 The Construction Progress Schedule shall be managed using early start dates and early finish dates. Free float and total float are resources of the Project, and the use of float associated with an activity is not permitted without the concurrence of the A/E, the Owner, the Contracting Authority, and all other contractors.

4.3.96.6.7 Within 30 days of the date of the Notice to Proceed, the Lead Contractor shall submit to the A/E a proposed Construction Progress Schedule approved by all Contractors. If the Project is $4 million total construction cost or more, the Lead Contractor may submit an intermediate Bar Chart Schedule for the first 120 days to the A/E within 30 days of the date of the Notice to Proceed; followed by the complete resource-loaded precedence or arrow diagram schedule within 90 days of the date of the Notice to Proceed.

6.6.7.1 The Lead Contractor shall submit the initial and all updates of the Construction Progress Schedule in graphic and tabular form to the A/E. With each monthly schedule update, the Schedule Manager shall include a list of all changes to the previously approved baseline schedule or monthly updated schedule.

4.3.9.16.6.7.2 Upon receipt of the proposed Construction Progress Schedule, the A/E shall review and submit a copy of the Construction Progress Schedule and schedule of submittals to the Contracting Authority and the Owner for review and acceptance, or reject it, and return it to the Lead Contractor with recommendations for revisions.

4.3.9.2 Failure to timely approve a Construction Progress Schedule may result in withholding payment in accordance with subparagraph 9.6.2.

4.3.9.36.6.7.3 If the Project is administered using OAKS- CI, the Contractor shall receive the original schedule from the Schedule Manager, review, approve, and distribute it all Contractors shall create, approve, and submit the initial and all updates of the Construction Progress Schedule to the A/E, the Contracting Authority, and the Owner through the OAKS CI "Schedule Approvals" business process.

6.6.8 The Construction Progress Schedule shall be managed using early start dates and early finish dates. The Contractor shall exhaust existing float before claiming additional time for a Change Order, or show that it is not possible to use float to cover the time requirements of the Change Order.

6.6.9 The Contractor's failure to timely submit and properly maintain an approved Construction Progress Schedule may result in withholding payment in accordance with Section 9.8.

6.6.10 For each progress meeting, the Contractor shall provide a 2- to 6-week look-ahead schedule, as appropriate for the Project.

4.3.106.6.11 On a weekly basis, the Contractor shall prepare and submit to the Lead Contractor and the A/E a written report describing:

4.3.10.16.6.11.1 Activitiesactivities begun or finished during the preceding week;

4.3.10.26.6.11.2 Activitiesactivities in progress and expected completion;

4.3.10.36.6.11.3 Activitiesactivities to be started or finished in the upcoming 2 weeks, including but not limited to, the Contractor's workforce size and total resource hours associated with those activities; and

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~~4.3.10.4~~6.6.11.4 ~~Other~~other information requested by the Lead Contractor or the A/E.

~~4.3.11~~6.6.12 The A/E shall attach the above information to the minutes of the weekly progress meetings.

~~4.3.12~~6.6.13 The Lead Contractor shall provide monthly ~~progress reports~~Progress Status Reports to the Contracting Authority, the A/E, and the Owner, which shall include recommendations for adjusting the Construction Progress Schedule to meet Milestone dates and the Contract Completion date.

~~4.3.12.1~~6.6.13.1 If it is apparent to the Lead Contractor or the A/E that the Contractor may be unable to meet critical path activities, Milestone completion dates, or the Contract Completion date; the Lead Contractor or the A/E shall direct the applicable Contractor to submit within 3 days a recovery plan to avoid or minimize the delay to the Project.

~~4.3.12.2~~6.6.13.2 A recovery plan shall include, but is not limited to, adjustments to one or more of the following:

~~.1 Workforce~~

.1 ~~Hours~~workforce

.2 hours per shift

.3 ~~Shifts~~shifts per workday

.4 ~~Workdays~~workdays per week

.5 ~~Equipment~~equipment

.6 ~~Activity~~activity logic

~~4.3.12.3~~6.6.13.3 If the ~~Lead~~Contractor and all of the Separate Contractor~~ and all of the contractors~~s approve the recovery plan, the Schedule Manager shall prepare a revised Construction Progress Schedule that shall be ~~signed and~~ approved in accordance with ~~subparagraph 4.3.9.~~Section 6.6.7.2. If the ~~Lead~~ Contractor or ~~the other contractors fail to~~any Separate Contractor does not approve a time recovery plan, the ~~Lead~~ Contractor~~ or other contractors, as applicable,~~ shall submit within 3 days an alternate recovery plan to the A/E~~ and the other contractors~~ in writing for review and approval in accordance with ~~subparagraph 4.3.9~~Section 6.6.7.2.

~~4.3.12.4 Failure to timely approve an updated Construction Progress Schedule may result in withholding payment in accordance with subparagraph 9.6.2.~~

~~4.3.13~~6.6.14 The Schedule Manager shall update the Construction Progress Schedule on a monthly basis, or other interval approved by the Contracting Authority, ~~with the approval of all Contractors,~~ in accordance with ~~subparagraph 4.3.9~~Section 6.6.7.2.

~~4.3.13.1~~6.6.14.1 The updated Construction Progress Schedule ~~signed~~approved by the Contractor shall serve as an affirmation that the Contractor can meet the requirements of the updated Construction Progress Schedule.

~~4.3.13.2~~6.6.14.2 ~~The Schedule Manager~~The Contractor shall submit a tabular copy showing all changes to the previously approved schedule including, but not limited to, logic, float, and actual start date of activities. The original or initially approved Construction Progress Schedule and all subsequent Construction Progress Schedules ~~signed~~submitted by the Contractor,~~ the Lead Contractor,~~ and accepted by the A/E, shall serve as an affirmation that the ~~Lead~~ Contractor ~~and the Contractor agree~~agrees to and can meet the applicable requirements of the updated Construction Progress Schedule.

~~4.3.13.3~~6.6.15 ~~Failure~~The Contractor's failure to timely ~~approve~~submit an approved, updated Construction Progress Schedule may result in withholding payment in accordance with ~~subparagraph~~ Section 9.8.

~~4.3.13.4 If the Project is administered using OAKS CI, the Contractor shall receive revised schedules from the Schedule Manager, review, approve, and distribute them to the A/E, the Contracting Authority, and the Owner through the OAKS CI "Schedule Approvals" business process.~~

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~~4.4~~1.1 ~~Partnering~~

~~4.4.1~~1.1.1 ~~The formation of a cohesive, mutually beneficial partnering arrangement among the Contractor, all Separate Contractors, the Contracting Authority, the A/E, and the Owner will accomplish the construction of the Project most effectively and efficiently. This arrangement draws on their collective strengths, skills, and knowledge to achieve a Project of the intended quality, within budget, and on schedule. To achieve that objective, participation in a partnering session is required for the following key stakeholders:~~

~~4.4.1.1 Contracting Authority – Project Manager~~

~~4.4.1.2 Owner – Primary representative~~

~~4.4.1.3 A/E – Principal-in-charge, project manager, field representative, major consultants~~

~~4.4.1.4 Contractor – Principal-in-charge, project manager, and superintendent~~

~~4.4.1.5~~1.1.1.1 ~~Separate Contractors – Principal-in-charge, project manager, and superintendent~~

~~4.4.1.6 Major Subcontractors (e.g., masonry, fire protection) – Principal-in-charge, project manager or superintendent~~

~~4.4.1.7~~1.1.1.1 ~~Schedule Consultant, if applicable~~

~~4.4.1.8~~1.1.1.1 ~~CxA, if applicable~~

~~4.4.2~~1.1.1 ~~The purpose of the partnering arrangement is to build cooperative relationships between the Project's key stakeholders, avoid or minimize disputes, and nurture a more collaborative ethic characterized by trust, cooperation, and teamwork. This arrangement is intended to produce a voluntary, non-binding, but formally structured agreement among the Project's key stakeholders, leading to an attitude that fosters risk sharing.~~

~~4.4.3 To create and implement the partnering arrangement, the Project's key stakeholders shall meet prior to the construction of the Project for developing a partnering agreement. The agreement should be comprehensive and focus on all issues necessary for successful completion of the Project, and shall identify common goals and objectives, develop a problem solution process, an Alternative Dispute Resolution ("ADR") strategy in accordance with paragraph 8.11, and an implementation plan for the partnering arrangement.~~

~~4.4.4~~1.1.1 ~~Formal contractual relations, responsibilities, and liabilities are not affected by any partnering agreement. The cost associated with establishing this partnership shall be included in an allowance in the Lead Contractor's bid. The Contractor shall include in its base bid the resources necessary to participate in the partnering session.~~

~~4.4.5~~1.1.1 ~~Partnering services may extend over the entire period of performance of the Contract and may include intervention or project realignment services to be utilized if serious disputes arise. The Project's key stakeholders should agree, during the initial partnering session, to the types of situations and circumstances in which intervention or realignment services shall be utilized.~~

~~4.4.5.1~~1.1.1.1 ~~If realignment or intervention services are utilized, partnering facilitators shall not be called as witnesses in any litigation, mediation, or quasi-judicial proceeding.~~

~~4.5~~6.7 Progress Meetings

~~4.5.1~~6.7.1 The A/E shall schedule a weekly progress meeting for the Contractor, all Separate Contractors, and other Persons involved in the Project. The purpose of the progress meeting is to review progress on the Project during the previous week, discuss anticipated progress during the following weeks, review critical operations, and discuss critical problems.

~~4.5.2~~6.7.2 The Contractor shall be represented at every progress meeting by a Person authorized with signature authority to make decisions regarding possible modification of the Contract Documents or Construction Progress Schedule.

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~~4.5.2.1~~6.7.2.1 The A/E shall notify the Contractor and other Persons involved in the Project of the time and place of the progress meeting that shall thereafter be the same day and hour of the week for the duration of the Project, unless the A/E notifies the Contractor and other Persons involved in the Project of a different day and hour at least 2 days in advance.

~~4.5.2.2~~6.7.2.2 The Contractor shall have any of its Subcontractors~~ and Material Suppliers~~ attend the progress meeting as determined advisable by the Contractor, or as requested by the A/E.

~~4.5.3~~6.7.3 The A/E shall prepare a written report of each progress meeting and distribute the report to the Contracting Authority, the Owner, and the Contractor. The A/E shall not delegate the duty to prepare a written report of any progress meeting.

~~4.5.3.1~~6.7.3.1 If any Person in attendance objects to anything in a report of a progress meeting, the Person shall notify the A/E, the Contracting Authority, and any other affected Person in writing explaining the objection within 5 days.

~~4.5.3.2~~6.7.3.2 The report of each progress meeting shall reflect any objection made to the report of the previous progress meeting and any response.

~~4.5.3.3~~6.7.3.3 If the Project is administered using OAKS- CI, the Contractor shall receive written reports of progress meetings from the A/E through the ~~OAKS CI "Meeting Minutes~~"Meeting Minutes" business process and issues identified during progress meetings that require resolution by one or more construction participants, shall be documented through the "Action Items" business process.

~~.1 Issues identified during progress meetings that require resolution by one or more construction participants, shall be documented through the OAKS CI "Action Items" business process.~~

~~4.6~~6.8 Project Coordination ~~Meetings~~

~~4.6.1~~6.8.1 The Lead Contractor shall schedule and conduct a weekly coordination meeting for the Contractor and all Separate Contractors and appropriate Subcontractors and Material Suppliers ("Coordination Participants").

~~4.6.1.1~~6.8.1.1 The purpose of the coordination meeting is to discuss the sequence of construction and its relationship with the approved Construction Progress Schedule; to establish the intended location of equipment, pipe, duct, conduit, and other components of the Project; and to coordinate the appropriate shared use of available construction space; especially interstitial spaces, chases and mechanical rooms; and construction storage space.

~~4.6.1.2~~6.8.1.2 Each Coordination Participant shall be knowledgeable about the Project and the scope of its work. One individual from each Coordination Participant shall have authority to make decisions regarding the coordination process and drawings.

~~4.6.1.3~~6.8.1.3 Each Coordination Participant shall come to the coordination meetings prepared to demonstrate and furnish documentation that it has anticipated the work of other Persons, and planned its installation. Each Coordination Participant shall coordinate its installation with the work of other Persons.

~~4.6.1.4~~6.8.1.4 Each Coordination Participant shall utilize documentation and information provided by other Coordination Participants to verify that the utility requirements, physical size, and characteristics of planned equipment are compatible with related or connected equipment, existing or planned building components, and existing or planned utilities.

~~4.6.1.5~~6.8.1.5 The Coordination Participants shall utilize the documentation and information provided by each of them in determining the actual placement and positioning of equipment and devices to avoid interference with the work of other Persons, building finishes, and architectural details.

~~4.6.1.6~~6.8.1.6 The Coordination Participants shall utilize the documentation and information provided by each of them to coordinate space requirements and installation considerations to maximize accessibility to equipment and devices for purposes of maintenance, repairs, and replacement.

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4.6.1.76.8.1.7 The Lead Contractor shall prepare a written report of each coordination meeting and distribute the report within 3 business days of the meeting to the A/E, the Contracting Authority, the Owner, the Contractor, the Separate Contractors, and other Coordination Participants. The Lead Contractor shall not delegate the duty to prepare a written report of any coordination meeting.

4.6.1.8 If the Project is administered using OAKS- CI, the Contractor shall receive written reports of coordinationprogress meetings from the Lead Contractor through the OAKS CI "Meeting Minutes" business process.

.16.8.1.8 Issues and issues identified during progress meetings that require resolution by one or more construction participants, shall be documented through the OAKS CI "Action Items" business process.

4.7 Coordination Drawings

4.7.16.8.2 The contractor responsible for the permanent HVAC system ("HVAC Contractor") shall prepare drawings (the "Preliminary Coordination Drawings") after the Coordination Participants (1) determine the sequence of the Project, (2) complete the activities described under subparagraph 4.6.1, (3) identify the areas requiring special attention ("Coordination Areas"), and (4) 3) determine the need for a coordination drawing for any Coordination Area. The HVAC Contractor shall prepare the Preliminary Coordination Drawings at one-quarter-inch equals one-foot scale, with CAD or BIM software acceptable to the Contracting Authority. The Preliminary Coordination Drawings shall show the sheet metal work with plan and elevation dimensions, which specifically locate all HVAC ductwork, HVAC equipment, and HVAC piping for each Coordination Area based upon the information, discussion, and resulting consensus of the Coordination Participants during the coordination meetings..

6.8.2.1 The HVAC Contractor shall provide the Preliminary Coordination Drawings to all Coordination Participants. Each Coordination Participant shall use the Preliminary Coordination Drawings as a baseline to develop drawings of its work within each applicable Coordination Area to specifically locate equipment, devices, piping, conduits, and other work as discussed and agreed at the coordination meetings.

6.8.2.2 Each Coordination Participant with work within a Coordination Area shall return its drawings to the HVAC Contractor marked to show the location of the Coordination Participant's equipment, devices, piping, conduits, and other work for the HVAC Contractor's preparation of detailed and final coordination drawings ("Coordination Drawings").

6.8.2.3 Any Coordination Participant with no work in any Coordination Area may return the applicable Preliminary Coordination Drawings to the HVAC Contractor with a statement on the drawings signed by an authorized representative of the Coordination Participant certifying that it has no work within that Coordination Area.

4.7.1.11.1.1.1 The HVAC Contractor shall provide the Preliminary Coordination Drawings to all Coordination Participants. Each Coordination Participant shall use the Preliminary Coordination Drawings as a baseline to develop drawings of its work within each applicable Coordination Area to specifically locate equipment, devices, piping, conduits, and other work as discussed and agreed at the coordination meetings.

4.7.1.21.1.1.1 Each Coordination Participant with work within a Coordination Area shall return its drawings to the HVAC Contractor marked to show the location of the Coordination Participant's equipment, devices, piping, conduits, and other work for the HVAC Contractor's preparation of detailed and final coordination drawings ("Coordination Drawings").

4.7.1.31.1.1.1 Any Coordination Participant with no work in any Coordination Area may return the applicable Preliminary Coordination Drawings to the HVAC Contractor with a statement on the drawings signed by an authorized representative of the Coordination Participant certifying that it has no work within that Coordination Area.

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4.7.1.46.8.2.4 After the HVAC Contractor completes the Coordination Drawings, the HVAC Contractor shall forward a copy of the Coordination Drawings to the A/E, the Contracting Authority, and the Owner,, the Contractor, the Separate Contractors, and other Coordination Participants with work within the limits of a Coordination Area. The Contractor shall report discrepancies in the drawings, in writing, to the HVAC Contractor within 7 days after receiving the drawings. .

6.8.2.5 The A/E shall review the Coordination Drawings to determine whether the Coordination Participants achieved the goals listed in Section 6.8.1. The A/E shall report any concerns, in writing, to the Coordination Participants within 14 days after receiving the drawings.

4.7.1.51.1.1.1 subparagraph 4.6.1. The A/E shall report any concerns, in writing, to the Coordination Participants within 14 days after receiving the drawings.

4.7.1.66.8.2.6 If the Project is administered using OAKS- CI, the HVAC Contractor shall submit the Coordination Drawings to the Lead Contractor, the A/E, and the CxA if applicable, through the OAKS CI "Submittals" business process.

4.7.26.8.3 If installed Work causes or contributes to interference with subsequent work of a Separate Contractor, the A/E shall determine the needed modifications to the installed Work to accommodate the subsequent work. The A/E's decision is final, subject to If installed Work causes or contributes to interference with subsequent work of a Separate Contractor, the A/E shall determine the needed modifications to the installed Work to accommodate the subsequent work. The A/E's decision is final, subject to Article 8.Article 8. The Contractor shall pay the cost of any such modifications.

Article 5 - THE STATE

5.11.1 Contracting Authority

5.1.11.1.1 The Contracting Authority shall designate a Project Manager for the Project. The Project Manager is authorized to act on behalf of the Contracting Authority to perform specific responsibilities under the Contract.

5.1.21.1.1 The Contracting Authority shall furnish information and services required of it in a timely manner.

5.1.31.1.1 The Contracting Authority shall have access to the Work at all times, whenever the Project is in preparation or progress.

6.9 TheAdditional Tests and Inspections

5.1.4 If the A/E or the Contracting Authority determines that any portion of the Work requires special inspection, testing, or approval not otherwise required under the Contract Documents, the A/E shall communicate with the Contractor through the A/E.

5.1.51.1.1 The Department requires the use of its forms where noted in the Contract Documents. The party responsible for initiating forms shall utilize the latest edition obtained from the Department's Web site: http://ohio.gov/gno. The Department may make modifications to its forms at any time.

5.1.5.11.1.1.1 The Contractor shall not modify any form provided by the Department or the Contracting Authority.

5.1.5.21.1.1.1 For projects that are locally administered, the agency or institution administering the Project may modify the Department's forms to include the agency's or institution's logo and contact information and may publish the modified forms on its Web site. The party responsible for initiating forms shall coordinate with the Contracting Authority.

5.1.5.36.9.1 If the Project is administered using OAKS CI, the Contractor shall utilize the Web-based forms and reports within the applicable business process. OAKS CI is sponsored by the Department, andorder such

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~~Web-based forms and reports are acceptable to the Department in lieu of its paper forms~~inspection, testing, or approval.

~~5.1.6 The Contracting Authority is not responsible for construction means, methods, manners, techniques, sequences, procedures, safety precautions, and programs in connection with the Work, or for the Contractor's failure to carry out the Work in conformity with the Contract Documents.~~

~~5.21.1 Owner~~

~~5.2.11.1.1 The Owner shall designate a representative authorized to act on the behalf of the Owner during the Project.~~

~~5.2.21.1.1 The Owner shall furnish information and services required of it in a timely manner.~~

~~5.2.31.1.1 The Owner shall have access to the Work at all times whenever the Project is in preparation or progress.~~

~~5.2.41.1.1 Upon issuance of the Notice to Proceed, the Owner shall provide the Site to the Contractor in a condition to permit the Contractor to perform the Work.~~

~~5.2.51.1.1 The Owner may request a change in the Work if the A/E recommends and the Contracting Authority approves the change.~~

~~5.2.6 The Owner shall communicate with the Contractor through the A/E.~~

~~5.2.7 The Owner is not responsible for construction means, methods, manners, techniques, sequences, procedures, safety precautions, and programs in connection with the Work, or for the Contractor's failure to carry out the Work in conformity with the Contract Documents.~~

~~5.3 State's Right to Perform Work and Back-charge Contractor~~

~~5.3.1~~ If the ~~Contractor provides~~special inspection, testing, or approval reveals Defective Work~~ or fails or neglects to perform the Work in accordance with the Construction Progress Schedule, the Contracting Authority may issue a written notice providing 3 days for the Contractor to begin to correct Defective Work or to recover schedule deficiencies as set forth in subparagraph 5.3.2 ("72-Hour Notice") to the Contractor.~~

~~5.3.1.1 A copy of the 72-Hour Notice shall be issued to the Contractor's Surety.~~

~~5.3.2 If the Contractor fails or refuses to commence and continue to correct the Defective Work or recover the schedule deficiencies with diligence and promptness within three business days after receiving the 72-Hour Notice, the Contracting Authority may, without jeopardizing other remedies, take any action the Contracting Authority deems appropriate to correct the Defective Work or to recover the schedule deficiencies, including but not limited to exercising its termination rights under paragraph 12.3.~~

6.9.1.1 ~~If the Contracting Authority proceeds as described under subparagraph 5.3.2~~, the Contractor shall pay all ~~resulting~~associated costs and ~~damages.~~will not be entitled to any related adjustment of the Contract Times. Those costs ~~and damages~~may include, but are not limited to~~,~~:

.1 the ~~reasonable~~cost of the special inspection, testing, or approval;

.2 the cost of additional special inspections, testing, or approvals to evaluate remedial Work;

.3 the cost of correcting the Defective Work~~ or recovering the schedule deficiencies~~; and~~ the~~

.4 all related Owner-incurred fees and charges of contractors, engineers, architects, attorneys, and other professionals.

~~5.3.2.1~~ The Contracting Authority~~ shall~~ may deduct the costs ~~and damages~~ described under Section 1.1.1 from payments then or thereafter due the Contractor~~ by Change Order.~~

~~5.3.2.2~~6.9.1.2 . If~~ the~~ payments then or thereafter due the Contractor are not sufficient to cover those amounts, the Contractor shall immediately pay the amount of the insufficiency to the ~~Contracting Authority~~Owner.

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6.9.1.3 ~~If~~If the special inspection, testing, or approval reveals that the Work complies with the Contract Documents, and the Contractor believes that it is entitled to an adjustment of the Contract Sum or Contract Times, or both, on account of the special inspection, testing, or approval, the Contractor may request an adjustment to the Contract by giving written notice under Section 7.3.2.

6.9.2 If the Contractor is aware of a need for inspection, testing, or approval, or of a need to have any inspection, testing, or approval completed by a particular time to avoid delay, then the Contractor shall timely communicate such information to the A/E and the Contracting Authority.

6.9.3 Except as described under Section 1.1.1, the Owner shall pay for any inspection, testing, or approval that did not become a requirement until after it awarded the Contract.

6.9.4 The Contractor shall coordinate with and give the A/E, the Contracting Authority, and the Owner reasonable notice of the anticipated dates of all inspections, testing, or approvals.

6.9.5 Within 5 days after completion of an inspection, testing, or approval, the A/E shall provide an original report/certificate of the inspection, testing, or approval to the Contractor and the Contracting Authority with a recommendation for or against acceptance of the results therein.

6.9.6 Neither the observations of the A/E in the administration of the Contract, nor any inspection, test, or approval by Persons other than the Contractor shall relieve the Contractor from the Contractor's obligation to perform the Work in conformity with the Contract Documents.

6.10 Review of Contract Documents and Field Conditions

6.10.1 Before starting each portion of the Work, the Contractor shall carefully study and compare the various Contract Documents relative to that portion of the Work, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the Site affecting it.

6.10.2 If the Contractor finds any perceived ambiguity, conflict, error, omission, or discrepancy on or between any of the Contract Documents, or between any of the Contract Documents and any Applicable Law, the Contractor, before proceeding with the Work, shall promptly submit a Request for Interpretation ("RFI") to the A/E for an interpretation or clarification.

6.10.2.1 Before submitting any RFI to the A/E, the Contractor shall carefully review the Contract Documents to ensure that the Contract Documents do not answer the RFI.

6.10.2.2 The A/E shall respond to an RFI within 3 days of receiving the RFI.

6.10.2.3 Any interpretation or clarification of the Contract Documents made by any Person other than the A/E, or in any manner other than writing, shall not be binding and the Contractor shall not rely upon it.

6.10.2.4 ~~the Contracting Authority wrongfully exercised its rights under subparagraph 5.3.2~~If the Project is administered using OAKS CI, the Contractor shall submit RFIs to the A/E through the "Request for Interpretations" business process.

~~5.3.2.3~~6.10.3 If the Contractor believes that it is entitled to an adjustment of the Contract Sum or Contract Times, or both, on account of clarifications or instructions issued by the A/E in response to a RFI, the Contractor may request an adjustment to the Contract by giving written notice under ~~subparagraph 7.2.3.~~Section 7.3.2 within 7 days of receiving the A/E's RFI response.

6.10.4 If the Contractor does not notify the A/E per Section 6.10.3, the Contractor will have accepted the RFI response without an adjustment to the Contract Sum or Contract Times.

6.11 Protection of the Project

6.11.1 The Contractor shall protect the Work from weather and maintain the Work and all materials, apparatus, and fixtures free from injury or damage until Final Acceptance, or Partial Occupancy if applicable.

6.11.1.1 The Contractor shall at all times cover or protect the Work.

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6.11.1.2 The Contractor, at its expense, shall remove, and replace with new, any Work damaged as a result of Contractor's failure to provide coverage or protection.

6.11.1.3 The Contractor, at its expense, shall repair or replace any adjacent property, including, but not limited to, roads, walks, shrubbery, plants, trees, or turf, damaged during performance of the Work.

6.11.1.4 After the date of Final Acceptance, or Partial Occupancy if applicable, the Owner is responsible for protecting and maintaining all materials, apparatus, and fixtures for the occupied portion of the Project free from injury or damage.

6.11.2 The Lead Contractor shall protect the Project and existing or adjacent property from damage at all times and shall erect and maintain necessary barriers, furnish and keep lighted necessary danger signals at night, and take reasonable precautions to prevent injury or damage to individuals or property.

6.11.3 The Contractor shall not load, or permit any part of the Project to be loaded, in any manner that endangers the Project, or any portion thereof. The Contractor shall not subject any part of the Project or existing or adjacent property to stress or pressure that endangers the Project or property.

6.11.4 The Contractor shall provide all temporary bracing, shoring, and other structural support required for safety of the Project and proper execution of the Work.

6.11.5 Vibration, Noise, and Dust Control.

6.11.5.1 The Lead Contractor, Contractor, or Separate Contractor responsible for creating dust shall provide controls/barriers for vibrations, noise, and dust control in occupied buildings as required by the construction operations.

6.11.5.2 The Contractor will not be permitted to exhaust or release unfiltered air, dust, construction debris, or other undesirable products into the exterior atmosphere or into occupied areas of the building outside the Site. The Project Manager may limit or stop the Work if the Contractor does not maintain proper air-quality standards.

6.11.5.3 In certain occupied buildings, tasks might be of such a nature that noise and vibration cannot be tolerated. In such spaces, Work shall be scheduled for other than normal working hours. The Contractor is cautioned that weekend or overtime work, if required, shall be performed at no additional cost. Permission to work other than standard hours shall be received from the Contracting Authority prior to the occurrence. Weekend and overtime Work shall be reflected in the Construction Progress Schedule.

6.11.5.4 The Contractor or Separate Contractor, whose operations are creating the conditions, is responsible for vibration control and control of transmission of noise arising from the Work. Principal considerations which shall be given to noise and vibration control are:

.1 Noise control in compliance with Occupational Safety and Health Administration ("OSHA") requirements for the health and safety of building occupants; control shall be for all areas of the facility, including equipment rooms, boiler rooms, and fan rooms.

.2 Vibration control to limit sound produced by construction equipment, and for protection of the equipment existing in a building and the building structure.

.3 Vibration control to provide for maximum usefulness of the facility by keeping levels of vibration within ranges which are conducive to study and work or other uses for which the facility is designed.

6.12 Materials and Equipment

6.12.1 The Contractor shall provide new materials and equipment of the quality specified in the Contract Documents.

6.12.2 The Contractor shall bring to, or store at, the Site only the materials and equipment required in the Work. If possible, materials and equipment should be installed in their final positions when brought to the Site.

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6.12.2.1 The Contractor shall properly store and protect all materials and equipment it provides to the Project.

6.12.2.2 The Contractor shall timely remove from the Site any materials or equipment no longer required for the Work.

6.12.3 The Contractor shall not allow materials or equipment to damage the Project or adjacent property, nor to endanger any individual at, or near, the Site.

6.12.4 If the Contractor provides an Acceptable Component, the Contractor shall be solely responsible for the costs of coordination and modification required.

6.12.5 If the Contractor provides approved Substitutions that require changes to the Contract Documents, the Contractor shall be solely responsible for the additional costs incurred as a result, including, but not limited to, changes to the design by the A/E.

6.12.6 The A/E shall consider Requests for Substitutions after the bid opening only when the Contractor can conclusively demonstrate to the A/E the following conditions:

6.12.6.1 the specified Basis of Design Components, Acceptable Components, or previously-approved Substitutions, through no fault of the Contractor or a Subcontractor, are not available; or

6.12.6.2 the specified Basis of Design Components, Acceptable Components, or previously-approved Substitutions will not perform as designed or intended.

6.12.7 The Contractor's incorporation of unapproved Substitutions in the Work shall constitute Defective Work.

6.13 Labor

6.13.1 The Contractor shall maintain a sufficient workforce and enforce good discipline and order among its employees and the employees of its Subcontractors. The Contractor shall not permit employment of individuals not skilled in tasks assigned to them.

6.13.2 The Contractor shall dismiss from the Project any individual employed by the Contractor, or a Subcontractor, who the Contracting Authority finds, in its sole discretion, to be incompetent, guilty of misconduct, or detrimental to the Project.

6.13.3 The Contractor shall employ all legal efforts to minimize the likelihood or effect of any strike, Work stoppage, or other labor disturbance. Informational pickets shall not justify any Work stoppage.

6.14 Safety Precautions

6.14.1 The Contractor shall take reasonable precautions to ensure the safety of individuals on the Project.

6.14.1.1 The Contractor is responsible for designing and implementing its own safety program, including compliance with OSHA regulations. The Contractor's safety plans, such as fall protection, hazards, communications, competent person, etc., shall meet or exceed the Owner's safety plan (if any).

6.14.2 The Contractor shall pay any fine or cost incurred because of the Contractor's violation, or alleged violation, of Applicable Law.

6.14.3 Before starting any Work, the Contractor shall submit to the Contracting Authority and the Lead Contractor a copy of the Contractor's site-specific safety plan and safety manuals. The Lead Contractor shall provide and inform the Contractor and each Separate Contractor of methods and equipment for protecting the Project, other property, and individuals from fire damage in accordance with Applicable Law.

6.14.4 The Contractor shall not introduce Hazardous Materials to the Project or burn any fires on the Site.

6.14.4.1 The Contractor shall notify the Project Manager 24 hours before the start of non-routine or non-recurring hot-work. Use of sources of fire, flame or sparks and flammable materials shall be kept to an

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absolute minimum. At the beginning of the Project, the Contractor shall inform the Project Manager of its intent to use blowtorches, welding apparatus or similar exposed flame and sparking devices. Similar notice shall be given in regard to the use of flammable liquids, adhesives, and cleaners.

6.14.4.2 The Contractor shall furnish an appropriate number of fire extinguishers (minimum of 1), which shall be within the immediate areas where work is being done at all times. The extinguisher shall be adequate and suitable for the class of fire likely to be caused by the Contractor's operations.

6.14.5 Work Stoppage Due to Hazardous Materials.

6.14.5.1 If the Contractor encounters material the Contractor reasonably believes to be, or contain, a Hazardous Material, which has not been rendered harmless, the Contractor shall immediately stop Work in the affected area and verbally report the condition to the Contracting Authority and the A/E, and within 1 business day deliver written notice of the condition to the Contracting Authority and the A/E.

6.14.5.2 The Contracting Authority will promptly determine the necessity of the Owner retaining a qualified environmental consultant to evaluate the suspected Hazardous Material and to issue a related written report. Where appropriate, the Owner will engage a licensed abatement contractor to remove the material or render it harmless as directed.

6.14.5.3 The Contractor shall resume Work in the affected area upon written notice from the A/E that (1) the suspect material was evaluated and found not to be or contain a Hazardous Material, or (2) the suspect material has been removed or rendered harmless.

6.14.5.4 If the Contractor knowingly or negligently proceeds with the Work in an area where a Hazardous Material exists and has not been rendered harmless, the Contractor shall be solely responsible for all related claims, damages, losses, and expenses, including, but not limited to, attorneys fees, arising out of or resulting from performing the Work in the affected area.

6.14.5.5 The term "rendered harmless" means that the level of exposure is less than any applicable exposure standards set forth in Applicable Law.

6.14.6 Material Safety Data Sheets.

6.14.6.1 The Contractor shall identify any material it uses at the Site with a Material Safety Data Sheet ("MSDS").

6.14.6.2 Before starting any Work or bringing materials to the Site, the Contractor shall submit to the Lead Contractor a notebook containing all of its applicable MSDS.

6.14.6.3 The Lead Contractor shall maintain all MSDS notebooks at the Site for the duration of the Project.

6.15 Construction Facilities, Utilities, and Equipment

6.15.1 Facilities.

6.15.1.1 The Contractor shall provide and maintain in a clean condition suitable temporary facilities, equipment, services, and enclosed storage for its use at the Site.

6.15.1.2 The Lead Contractor shall provide and maintain in a clean condition:

.1 suitable facilities, equipment, and services for use by the A/E and the Contracting Authority;

.2 adequate space, equipment, and furnishings to conduct progress meetings, and store approved documents and permits; and

.3 adequate sanitary facilities for use by all Persons at the Site.

6.15.2 Environmental Controls.

6.15.2.1 The Contractor shall protect its Work and materials from weather and damage from heat, cold, and humidity.

6.15.2.2 Until the permanent HVAC system is complete and available for use:

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.1 the HVAC Contractor shall make arrangements and pay for installation and maintenance of temporary heating and ventilating systems; and

.2 the Lead Contractor shall pay the costs incurred in operating the temporary heating and ventilating systems.

6.15.2.3 When the permanent HVAC system is complete and available for use:

.1 The HVAC Contractor shall start up and maintain operation of the permanent HVAC system, including filters, and promptly remove temporary heating and ventilating systems.

.2 If the Project consists entirely of new construction, the Lead Contractor shall pay the costs of energy consumed in operating the permanent HVAC system until Final Acceptance, or Partial Occupancy if applicable.

.3 If the Project is a renovation of an existing building or structure, addition(s) to an existing building or structure, or any combination of new construction and renovation work that does not allow separate metering of utilities, the Owner shall pay the costs of energy consumed in operating the permanent HVAC system.

6.15.2.4 From the date of Final Acceptance, or Partial Occupancy if applicable, the Owner shall pay the cost of operating the permanent HVAC system for the occupied portion of the Project.

6.15.2.5 If the permanent HVAC system is used during construction, the HVAC Contractor shall furnish an extended warranty and service contract in effect until the expiration of the Correction Period.

6.15.3 Water and Drainage.

6.15.3.1 The Contractor shall provide water necessary for the Work until the permanent plumbing system is available for use.

6.15.3.2 The Contractor shall provide temporary drainage and dewatering necessary for the Work and shall employ pumps, trenches, drains, sumps, and other necessary elements required to provide satisfactory working conditions for the protection, execution, and completion of the Project.

6.15.3.3 The contractor responsible for the permanent plumbing system ("Plumbing Contractor") shall make arrangements and pay for installation and maintenance of temporary plumbing systems until the permanent plumbing system is available for use.

6.15.3.4 When the permanent plumbing system is complete and available for use:

.1 The Plumbing Contractor shall start up and maintain operation of the permanent plumbing systems, and make arrangements and pay for removal of temporary plumbing systems.

.2 If the Project consists entirely of new construction, the Lead Contractor shall pay the costs of water consumed and sewerage charges until Final Acceptance, or Partial Occupancy if applicable.

.3 If the Project is a renovation of an existing building or structure, addition(s) to an existing building or structure, or any combination of new construction and renovation work that does not allow separate metering of utilities, the Owner shall pay the costs of water consumed and sewerage charges.

6.15.3.5 From the date of Final Acceptance, or Partial Occupancy if applicable, the Owner shall pay the costs of water consumed and sewerage charges for the occupied portion of the Project.

6.15.3.6 If the permanent plumbing system is used during construction, the Plumbing Contractor shall furnish an extended warranty and service contract in effect until the expiration of the Correction Period.

6.15.4 Electric Service.

6.15.4.1 The contractor responsible for the permanent electric service ("Electrical Contractor") shall provide temporary light and power and pay the charges for temporary electric service installation and removal if required.

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.1 The Electrical Contractor shall not be responsible for electric service requirements of contractors related to temporary hoists, cranes, welding equipment, or elevators.

.2 A contractor requiring these services shall subcontract with a licensed contractor for the service requirements and shall pay the costs of the services.

6.15.4.2 If the Project consists entirely of new construction, the Lead Contractor shall pay the cost of energy consumed until Final Acceptance of the Project, or Partial Occupancy if applicable.

6.15.4.3 If the Project is a renovation of an existing building or structure, addition(s) to an existing building or structure, or any combination of new construction and renovation work that does not allow separate metering of utilities, the Owner shall pay the cost of energy consumed.

6.15.4.4 From the date of Final Acceptance, or Partial Occupancy if applicable, the Owner shall pay the cost of energy consumed for the occupied portions of the Project.

6.15.4.5 If the permanent electrical system is used during construction, the Electrical Contractor shall furnish an extended warranty and service contract in effect until the expiration of the Correction Period.

6.15.5 Hoisting Facilities.

6.15.5.1 Each Contractor shall erect and maintain any hoisting equipment required for its Work in coordination with the Lead Contractor and the Electrical Contractor.

6.15.5.2 If the electric service requirements of hoisting facilities differ from that available at the Site, the contractor requiring use of the hoisting facilities shall provide and pay for all necessary connections.

6.15.5.3 If a permanent elevator is identified in the Contract Documents to be used for hoisting materials or personnel during construction, the contractor responsible for the elevator shall furnish an extended warranty and service contract in effect until the expiration of the Correction Period.

6.16 Progress Cleaning

6.16.1 The Contractor shall remove all waste materials, rubbish, and mud attributable to the Work to an appropriate disposal location provided by the Lead Contractor at, or near, the Site.

6.16.2 The Lead Contractor shall perform weekly broom cleaning of hard flooring surfaces in the area of the Work.

6.16.3 The Lead Contractor shall remove, once each working day or as appropriate for the Project, all waste materials and rubbish from the disposal location at, or near, the Site.

6.16.4 The Lead Contractor shall remove, as appropriate for the Project or as the A/E or Owner directs, any waste materials or rubbish from areas adjacent to the Project.

6.16.4.1 The Lead Contractor shall dispose of waste materials, rubbish, and construction debris and in a lawful manner in approved recycling facilities or landfills.

~~5.4~~ If the Contractor fails to clean up during the progress of the Work, the Contracting Authority may clean up on behalf of the Contractor and at the Contractor's expense. ~~Owner's Right to Partial Occupancy~~

~~5.4.1 The Owner may occupy or use a portion of the Project prior to Contract Completion if:~~

~~5.4.1.1 The building authority with jurisdiction over the Project issues a temporary occupancy permit for the area in question;~~

~~5.4.1.2 The insurers providing property insurance have been provided written notice of the Partial Occupancy; and~~

6.16.5 ~~The~~If the Contractor fails to maintain the areas adjacent to the Project clean and free of waste materials and rubbish, the Contracting Authority may also direct the local jurisdiction responsible for the area to have the area cleaned to its satisfaction at the Contractor's expense.

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6.16.5.1 The Contracting Authority may deduct the cleaning costs from payments then or thereafter due the Contractor. If payments then or thereafter due the Contractor are not sufficient to cover those amounts, the Contractor shall immediately pay the amount of the insufficiency to the Owner.

6.16.5.2 If the Lead Contractor determines that the cleaning is attributable to the Contractor and to one or more Separate Contractors, the Lead Contractor shall also allocate the cleaning costs as the Lead Contractor deems appropriate. If the Lead Contractor cannot or does not allocate the costs, the Contracting Authority shall allocate the costs as the Contracting Authority deems appropriate in its sole discretion.

~~5.4.1.3~~6.16.6 The Contractor shall remove excavated material and spoil to a suitable off-site location approved by the Contracting Authority~~ has received notice of the Partial Occupancy from the A/E and has consented to it.~~.

6.16.6.1 ~~Before~~If the Owner ~~commences Partial Occupancy,~~designates a location on its property for disposal or storage of clean topsoil and/or subsoil in the Contract Documents, the Contractor shall remove such materials to the designated location.

6.17 Use of Premises

6.17.1 The Contractor shall use corridors, stairs, and elevators as designated by the Contracting Authority. The Contractor shall exercise extreme care to not exceed the carrying capacity of elevators or damage the cab interior in any way.

6.17.2 Loitering or wandering through interior of buildings or exterior grounds outside the limits of the Work will not be permitted.

6.17.3 The Contractor shall confine its apparatus, materials, and the operations of its workers to the limits indicated by law, ordinances, permits and the directions of the A/E or the Project Manager.

6.17.4 No signs or advertising of any kind will be permitted on or about the Site, except those appearing on trucks and trailers.

6.17.5 Site Logistics Plan.

6.17.5.1 The Lead Contractor shall prepare, in coordination with the Contractor and all Separate Contractors, a plan of the Site indicating how the contractors intend to use the Site. The plan should illustrate, as an example, areas to be used for lay down of material and equipment; office and storage trailer locations; vehicular access gates with ingress and egress routes; locations of wheel wash and concrete truck wash out activities; and offloading and hoisting locations.

6.17.6 Smoking and Tobacco Products.

6.17.6.1 All State buildings are smoke free. Smoking will not be permitted in any indoor area. The ban on tobacco products will be observed in all indoor and outdoor areas and parking areas on all State-owned and leased property. The Contractor shall enforce these restrictions on any individual employed by the Contractor, or a Subcontractor.

6.18 Interruption of Existing Services

6.18.1 Whenever it becomes necessary to interrupt existing services in use by the Owner or its tenants, including but not limited to sewer, water, gas, and steam lines, electric, telephone, and cable service, the Contractor shall continue the associated Work on a non-stop 24-hour per day basis until that Work is completed and the service restored, or at an alternate time required by the Contracting Authority.

6.18.2 Before beginning that Work, the Contractor shall apply in writing to, and receive approval in writing from, the Owner, through the A/E, to establish a time when interruption of the service will cause a minimum of interference with the activities of the Owner and its tenants.

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6.19 Explosives and Blasting

6.19.1 The Contractor shall not conduct blasting on, or bring explosives to, the Site without the prior written approval of the Contracting Authority, the Owner, and other authorities with jurisdiction.

6.19.2 The Contractor shall perform all blasting, storing, and handling of explosives as required under Applicable Law.

6.19.2.1 The Contractor shall carry appropriate liability insurance coverage, as required by the Contract Documents, for its blasting and explosives storage and handling operations. Immediately upon request, the Contractor shall deliver evidence of that insurance to the Contracting Authority.

6.20 Building Commissioning

6.20.1 If the Project scope includes building commissioning, the Contractor shall participate in the Commissioning Process, as prescribed in the Contract Documents.

6.20.2 The Contractor shall permit the A/E, or a third-party Commissioning Agent ("CxA") if applicable, access to commission performance based equipment, fixtures, and/or systems (e.g., HVAC, fire protection, smoke evacuation, fume hoods, emergency power, etc.), prior to Final Acceptance, or Partial Occupancy if applicable.

6.20.3 The A/E, or the CxA if applicable, shall promptly notify, in writing, the Contractor of any deficiency identified during the Commissioning Process.

6.20.4 To facilitate the Commissioning Process, the Contractor shall submit 4 sets of Operation and Maintenance Manuals for dynamic and engineered systems to the A/E, and the CxA if applicable, for approval. This submission shall occur within 30 days following approval of all related Contractor submittals required by the Contract Documents.

6.21 Action Submittals

6.21.1 Submittal Description. Shop Drawings, Product Data, Samples, and other submittals for the A/E's review and action shall be provided by the Contractor for any item required by the Contract Documents but not fully described in the Contract Documents, unless waived by the A/E, and include, but are not limited to:

6.21.1.1 construction of the various parts, method of joinery, type of materials, grade, quality and thickness of materials, alloy of materials, profiles of all sections, reinforcement, method of hanging doors or installing windows, anchorage, and type and grade of finish;

6.21.1.2 capacities, types of materials and performance charts that are pertinent to the materials, and performance charts that are pertinent to the equipment item; and

6.21.1.3 wiring diagrams, control diagrams, schematic diagrams, working and erection dimensions, arrangement and specifications.

6.21.2 Form of Submittals. The Contractor shall provide a transmittal letter, review and stamp its approval, and transmit the submittals to the A/E in accordance with a schedule established by the A/E and the Contractor.

6.21.2.1 The Contractor shall submit a minimum of 1 reproducible and 3 copies of Shop Drawings, and a minimum of 4 copies of any other submittal, except when using OAKS CI under Section 6.21.2.4.

6.21.2.2 The data shown on the Shop Drawings shall be complete with respect to quantities, dimensions, specified performance and design criteria, materials, and similar data to communicate to the A/E the materials and equipment which the Contractor proposes to provide.

6.21.2.3 Each Sample shall be identified clearly as to materials, supplier, pertinent data as catalog numbers, the intended use, and other uses as the A/E may require enabling the A/E to review the submittal.

6.21.2.4 ~~shall~~ If the Project is administered using OAKS CI, the Contractor shall submit electronic files of its submittals to the A/E, and the CxA if applicable, for review, using the "Submittals" business process.

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6.21.3 Variation from Contract Documents. If the submittals show variations from the requirements of the Contract Documents, the Contractor shall specifically and clearly identify the variations in its letter of transmittal.

6.21.3.1 Variations which may affect the construction quality, cost or timeline shall be submitted by the A/E to the Contracting Authority for review, and if approved, shall be incorporated into the Work by Change Order.

6.21.3.2 The Contractor shall not be relieved of responsibility for deviations from the Contract Documents by the A/E's approval of submittals.

6.21.3.3 Submittals are not Contract Documents. In the event of conflicts between submittals and the Contract Documents, the Contract Documents take precedence and govern the Work.

6.21.4 Contractor's Submittal Review. The Contractor shall review and stamp "approved" all submittals before forwarding them to the A/E. If it is apparent to the A/E that the Contractor has not reviewed the submittals, or has conducted an incomplete review, the A/E may reject the submittals.

6.21.4.1 The Contractor shall field verify conditions as necessary and make corrections of dimensions, locations of various items, encroachments of work of Separate Contractors, or variations from the requirements of the Contract Documents.

6.21.4.2 If required by the Contract Documents or Applicable Law, the Contractor shall have Shop Drawings or other submittals prepared by Persons possessing expertise and experience in an appropriate trade or profession or by a registered architect, professional engineer, or other professional.

6.21.4.3 By approving and submitting submittals, the Contractor represents that the Contractor has determined and verified materials, field measurements, and field construction criteria related to the associated Work, or shall do so, and has checked and coordinated the information contained within the submittals with the requirements of the Work and of the Contract Documents.

6.21.5 A/E's Submittal Review. The A/E shall review submittals for conformity with design intent within 14 days of receiving them or in accordance with the approved submittal schedule, or other period as mutually agreed by the A/E and the Contractor. The A/E's review of submittals is to determine if the items covered by the submittals will, after installation and incorporation into the Work, conform to the Contract Documents and be compatible with the design concept of the Project as a functioning whole.

6.21.5.1 The Contractor shall make corrections required by the A/E and resubmit the required number of corrected copies of submittals until approved, which resubmission shall be acted upon by the A/E within 14 days of receiving them, or other period as is mutually agreed by the A/E and the Contractor.

6.21.5.2 When resubmitting corrected submittals, the Contractor shall direct the A/E's attention to revisions made by noting revisions on the resubmittal.

6.21.5.3 The Contractor shall pay all reasonable costs of the A/E, the Owner, and the Contracting Authority for attendant delay, interference, hindrance or disruption of the Project due to excessive resubmittals without fault of the A/E, the Owner, or the Contracting Authority. Resubmittals in excess of 2 without fault of the A/E, the Owner or the Contracting Authority may be determined excessive by the Contracting Authority.

6.21.5.4 The A/E may hold Samples and other submittals used to coordinate finishes, colors, patterns, textures, or other characteristics until submittals for adjacent materials are available. The A/E shall issue a written notice to the Contractor stating that the submittal is being held, within 7 days of receiving it.

6.21.5.5 If coordinating submittals are not received within the period required for action on previously received submittals that are held in accordance with Section 6.21.5.4, review of the previously received submittals shall be delayed.

6.21.5.6 The A/E's review shall not extend to means, methods, manners, techniques, sequences, nor procedures of construction, or to safety precautions or incident programs.

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6.21.5.7 The review and approval of a separate item shall not indicate approval of the assembly in which the item functions.

6.21.6 Risk of Nonpayment. The Contractor shall not commence any portion of the Work requiring Shop Drawings, Product Data, Samples, or other submittals until the submittal has been approved by the A/E. If the Contractor starts Work before the A/E's final approval of the submittal, the Contractor does so at its own risk that payment shall not be approved by the Contracting Authority or made by the Owner for the related Work.

6.21.7 Equipment Statement. Shop Drawings on equipment shall include the following written statement from the manufacturer of the equipment:

6.21.7.1 "This equipment submitted for approval shall perform as specified when installed by the Contractor in the arrangement shown on this drawing and in the Contract Documents and in conjunction with all other accessories as flues, breechings, piping, controls, and equipment not furnished by this manufacturer, but required as an accessory or supplement to this equipment, providing that the accessory or supplementary items perform as specified and are installed as shown in the Contract Documents."

.1 The Contractor will be deemed to have included the above statement as required even if the associated Shop Drawing does not actually contain the statement.

6.21.7.2 This equipment statement shall not be required for Samples, Product Data, and other standard submittals that are not created specifically for this Project.

6.22 Warranty

6.22.1 The Contractor warrants to the Contracting Authority and the Owner that all materials and equipment furnished under the Contract shall be new and of good quality unless otherwise required or permitted by the Contract Documents, that the Work shall be free from defects not inherent in the quality required or permitted, and that the Work shall conform to the requirements of the Contract Documents. Work not conforming to those requirements, including Substitutions not properly approved and authorized, may be considered Defective Work. If required by the A/E, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

6.22.1.1 If the Contractor or a Subcontractor recommends a particular product, material, system, or item of equipment for incorporation into the Project and the Owner accepts that recommendation, the above warranty includes a warranty from the Contractor to the Owner that the recommended product, material, system, or item of equipment is fit and appropriate for the associated purpose.

6.23 Uncovering the Work

6.23.1 If the Contractor covers Work contrary to the requirements of the Contract Documents or contrary to the written request of the Contracting Authority or the A/E, the Contractor shall, if the Contracting Authority or A/E requests in writing, uncover that Work for observation, correct it if not in conformity with the Contract Documents, and recover it at the Contractor's expense and without adjustment of the Contract Times.

6.23.2 If the Contractor covers Work in accordance with the Contract Documents and not contrary to a request from the A/E or the Contracting Authority for an opportunity to observe the Work prior to covering, the Contractor shall, if the A/E requests in writing, uncover that Work.

6.23.2.1 If the uncovered Work is Defective Work, the Contractor shall pay the costs of uncovering, correcting, and recovering the Work and shall not be entitled to an adjustment of the Contract Times.

6.23.2.2 If the uncovered Work is not Defective Work and the Contractor believes that it is entitled to an adjustment of the Contract Sum or Contract Times, or both, on account of the uncovering and recovering of the Work, the Contractor may request an adjustment to the Contract by giving written notice under Section 7.3.2.

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6.24 Correction of the Work

6.24.1 ~~a~~Before Final Acceptance.

6.24.1.1 If the Contractor provides Defective Work or fails or neglects to perform the Work in accordance with the Construction Progress Schedule, the Contracting Authority or the A/E may issue a written notice to the Contractor and the Contractor's Surety directing the Contractor to correct the Defective Work or to recover schedule deficiencies. Unless otherwise specified in that written notice, the Contractor shall begin to correct the Defective Work and recover the schedule deficiencies within no more than three days after receiving the written notice ("72-Hour Notice").

6.24.2 After Final Acceptance.

6.24.2.1 In addition to the Contractor's other obligations under the Contract Documents, if during the Correction Period any of the Work is found to be Defective Work, the Contractor shall correct it promptly after receipt of written notice from the A/E, the Contracting Authority, or the Owner to do so, unless the Contracting Authority and the Owner have previously acknowledged and accepted the Defective Work in writing. The A/E, the Contracting Authority, or the Owner may send a copy of the written notice to the Contractor's Surety, but are not obligated to do so.

6.24.2.2 The 1-year period for correction of Work ("Correction Period") shall not be extended by corrective Work performed by the Contractor under this Section 6.24.2.

6.24.2.3 The Correction Period:

.1 relates only to the Contractor's specific obligation and opportunity to correct the Work during the Correction Period;

.2 does not establish a period of limitation with respect to any of the Contractor's other obligations under the Contract Documents;

.3 has no relationship to the time within which the State or Owner may seek to enforce the Contract; and

.4 does not establish a period of limitation within respect to the commencement of litigation to establish the Contractor's liability under the Contract or otherwise.

6.24.2.4 If the Contractor fails to promptly commence and diligently pursue correction of Defective Work under Section 6.24.1 or 6.24.2 after receiving notice to do so, the Owner may correct the Defective Work without giving further notice to the Contractor or the Contractor's Surety.

6.24.2.5 Notwithstanding any other provision of the Contract to the contrary, if in the Contracting Authority's or Owner's opinion the Defective Work presents a threat of imminent harm or danger to people, property, or the environment, the Contracting Authority or Owner may order the Contractor to immediately correct Defective Work or the Owner may correct the Defective Work itself without prior notice to the Contractor or the Contractor's Surety.

6.24.3 Responsibility for Costs of Correction.

6.24.3.1 The Contractor shall pay all of the costs and damages associated with the correction of Defective Work and the recovery of schedule deficiencies. Those costs and damages may include, but are not limited to, the related fees and charges of contractors, engineers, architects, attorneys, and other professionals; the cost of correcting or replacing adjacent work; and any consequential damages. The Contracting Authority may deduct those costs and damages from payments then or thereafter due the Contractor. If payments then or thereafter due the Contractor are not sufficient to cover those amounts, the Contractor shall immediately pay the amount of the insufficiency to the Owner.

6.25 Acceptance of Defective Work

6.25.1 The Owner may accept any Defective Work instead of requiring its removal or correction, in which case the Contract Sum must be equitably reduced as described under 6.30.3.

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6.25.1.1 The Owner may only accept Defective Work though a deduct Change Order which makes explicit reference to this Section 6.25.

6.25.2 None of the following will constitute (1) acceptance of Defective Work, (2) a release of the Contractor's obligation to perform the Work in accordance with the Contract, or (3) a waiver of any rights set forth in the Contract or otherwise provided by Applicable Law:

6.25.2.1 observations or inspections by the Owner, the Contracting Authority, or the A/E;

6.25.2.2 the making of any payment;

~~5.4.2~~6.25.2.3 Final Acceptance or the issuance of a Partial or Final Certification of Contract Completion ~~for the designated area listing incomplete or Defective Work under the Contract for approval of the Contracting Authority.~~;

6.25.2.4 the Owner's use or occupancy of the Work or any part of it;

6.25.2.5 any review or approval of a submittal;

6.25.2.6 any inspection, test, or approval by other Persons; or

6.25.2.7 any correction of Defective Work by the Owner.

6.26 Final Cleaning

6.26.1 Before requesting the A/E's Punch List review, the Lead Contractor shall clean the Site, remove waste materials and rubbish attributable to the Project, and restore the property to its original condition so that upon Contract Completion, the premises are ready for occupancy by the Owner.

6.26.2 If the Contractor performs any Work after final cleaning, the Contractor shall clean the affected area as provided above so that upon Contract Completion, the premises are ready for occupancy by the Owner.

6.26.3 Final cleaning shall be done to the reasonable satisfaction of the A/E and the Contracting Authority.

6.26.3.1 If a dispute arises among the Contractor and Separate Contractors as to responsibility for final cleaning, the A/E may authorize the Contractor or a Separate Contractor, or engage a qualified cleaning company, to perform final cleaning and deduct the cost from amounts due to those contractors responsible, as the A/E recommends and the Contracting Authority determines to be appropriate.

6.26.3.2 If the A/E cannot determine the responsible contractor, the costs shall be shared by the contractors actively working on the Project as determined at the sole discretion of the Contracting Authority.

6.27 Punch List

6.27.1 Contractor's Punch List.

6.27.1.1 When the Contractor considers the Work, or a designated portion thereof, nearly complete the Contractor shall inspect the Work and prepare a list of Defective Work and incomplete or unacceptable Work ("Contractor's Punch List"). The Contractor shall list all items of Work not in compliance with the Contract Documents, including items the Contractor is requesting to be deferred.

.1 The Contractor shall proceed to correct all items listed on the Contractor's Punch List and certify that the incomplete items listed on the Contractor's Punch List are to its knowledge an accurate and complete list by signing said Punch List.

.2 The Contractor's failure to include an item on the Contractor's Punch List shall not alter the Contractor's responsibility to complete the Work in accordance with the Contract Documents.

.3 The Contractor shall submit the signed Contractor's Punch List to the A/E, together with a request for the A/E's Review of the Work.

6.27.1.2 If the Project is administered using OAKS CI, the Contractor shall submit the Contractor's Punch List, using the "Punch List" business process.

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6.27.2 A/E's Review of the Work.

6.27.2.1 Within 3 business days of receipt of the request for the A/E's Review of the Work, the A/E shall notify the Contractor of acceptance or rejection of the request, stating reasons for any rejection.

.1 Within 7 days of its acceptance of the Contractor's request, the A/E shall conduct the A/E's Review to determine whether the Work, or the designated portion, is in conformity with the Contract Documents. The A/E shall notify the Contractor, the Contracting Authority, and the Owner of the scheduled time of the A/E's Review.

.2 Within 3 business days after the A/E's Review, the A/E shall provide to the Contractor a list of Defective, incomplete, or unacceptable Work ("A/E's Punch List"). The A/E shall include comments from the Contracting Authority and the Owner in the A/E's Punch List.

.3 The A/E's failure to include an item on the A/E's Punch List shall not alter the Contractor's responsibility to complete the Work in accordance with the Contract Documents.

.4 If the A/E accepts the request and subsequently determines that the Work is not in conformity with the Contract Documents, the A/E may request compensation for expenses related to excessive Punch List activities. The Contracting Authority may deduct that additional compensation to the A/E from payments then or thereafter due the Contractor. If payments then or thereafter due the Contractor are not sufficient to cover those amounts, the Contractor shall immediately pay the amount of the insufficiency to the ~~From~~Owner.

6.27.3 Completion of Punch List Items.

6.27.3.1 Within 30 days after receipt of the notice required by Section 6.27.2.1.2 and before the date of Final Contract Completion, the Contractor shall complete all items on the A/E's Punch List. After completing all items on the A/E's Punch List, the Contractor shall provide a written request for Final Inspection of the Work to the A/E.

.1 If Work on the A/E's Punch List cannot be timely completed, the Contractor shall justify in writing to the reasonable satisfaction of the A/E the reasons the items cannot be completed, and the Contractor may propose, for the A/E's approval, a time when the Contractor shall complete those items.

.2 Within 3 business days of receipt of the Contractor's notice that all Punch List items have been completed, the A/E shall complete a Final Inspection of the Work for compliance with the Contract Documents.

.3 If multiple inspections of items on the A/E's Punch List are required due to the Contractor's failure to properly and timely complete them, the Contractor shall pay any additional costs incurred by the A/E, the Owner, and the Contracting Authority resulting from any attendant delay. The Contracting Authority may deduct those additional costs from payments then or thereafter due the Contractor. If payments then or thereafter due the Contractor are not sufficient to cover those amounts, the Contractor shall immediately pay the amount of the insufficiency to the Owner.

6.27.3.2 If the Project is administered using OAKS CI, the Contractor shall receive the A/E's Punch List and submit its written request for Final Inspection of the Work, using the "Punch List" business process.

6.28 Project Document Maintenance and Submittal

6.28.1 During Construction.

6.28.1.1 The Contractor shall maintain in good order at a secure location on the Site:

.1 a complete copy of all Contract Documents; Shop Drawings, Product Data, Samples and similar required submittals; manufacturer operating and maintenance instructions; certificates; warranties; RFIs and responses thereto; and other Project-related documents, all marked currently and accurately to record field changes and selections made during construction and to show actual

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installation where installation varies from Work as originally shown, including the exact location and depth of underground utility lines.

6.28.1.2 The Lead Contractor shall maintain in good order at a secure location on the Site:

.1 a set of Drawings and Specifications, approved by the Ohio Department of Commerce, Division of Industrial Compliance, or its authorized representative, and the records required by Section 6.5.9.

6.28.1.3 Before submitting each Contractor Payment Request, the Contractor shall record all changes on the Contract Documents, neatly in a contrasting color, noting new information not shown on the original Contract Documents. Failure to record all changes may cause payment to be withheld or delayed by the Contracting Authority.

6.28.1.4 The Contractor shall keep a record of changes made to the Specifications, noting particularly any approved variation from manufacturer's installation instructions and recommendations.

6.28.1.5 If the Contractor uses Shop Drawings to indicate as-built conditions, the Contractor shall cross-reference the Shop Drawing sheet numbers to the corresponding sheet numbers on the Contract Documents. The Contractor shall note related numbers where applicable.

6.28.2 The Contractor shall at all times permit access to the documents described in this Section 6.28.1 to authorized representatives of the State, local authorities having jurisdiction, the Contracting Authority, the Owner, and the A/E.

6.28.3 Before Final Acceptance.

6.28.3.1 The Contractor, as a condition precedent to execution of the Certification of Contract Completion ~~by the Contracting Authority, the Contractor shall be relieved~~, release of ~~the obligation to maintain the occupied portion of the Work, but shall remain obligated to complete~~retained funds, and ~~correct the Work~~final payment, shall organize the As-Built Documents into manageable sets, bind the sets with durable paper cover sheets, and deliver the As-Built Documents to the A/E.

6.28.3.2 The Contractor's As-Built Documents submission shall include, but is not limited to:

.1 Certificate of Occupancy;

.2 inspection certificates for pressure piping, elevator, boiler, electrical, plumbing or piping purification, etc.;

.3 Letter of Approval from the local fire authority or State Fire Marshal for the fire suppression system;

.4 Operation and Maintenance Manuals, organized into suitable sets of manageable size. Indexed data bound in individual binders, with pocket folders for folded sheet information and appropriate identification marked on the front and the spine of each binder;

.5 ~~to carry the insurance required by the~~neatly and accurately marked sets of As-Built Documents, and other Contract Documents ~~during performance of~~ reflecting the actual construction of the Project;

~~5.4.3.~~6 detailed Drawings reflecting the exact location of any ~~such Work.~~concealed utilities, mechanical or electrical systems, and components;

.7 ~~The~~ assignment to the Owner of all warranties and guarantees, including the most-recent address and telephone number of any Subcontractors or manufacturers;

.8 an affidavit to certify that all Subcontractors have been paid in full for all Work performed or materials furnished for the Project;

.9 final certified payroll reports; and

.10 an affidavit to certify that the Contractor and each of its Subcontractors, regardless of tier, have complied with all requirements of ORC Chapter 4115.

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6.28.3.3 By submitting the As-Built Documents to the A/E, the Contractor certifies that the As-Built Documents are complete, correct, and accurate.

6.28.3.4 If the Project is administered using OAKS CI, the Contractor shall document submission of its As-Built Documents to the A/E, using the "Transmittals" business process.

6.28.4 Record Documents.

6.28.4.1 The A/E shall revise the original Contract Documents and related electronic files with the information contained on the As-Built Documents. The A/E shall label the revised original Contract Documents and related electronic files as "Record Documents" and reflect the date of the A/E's incorporation of the As-Built Documents.

6.28.4.2 The Owner may thereafter use the Record Documents for any purpose relating to the Project including, but not limited to, additions to or completion of the Project.

6.29 Demonstration and Training, Operating Appurtenances

6.29.1 The Contractor, as a condition precedent to execution of the Certification of Contract Completion, release of retained funds, and final payment, shall perform demonstration and training of the Owner's maintenance personnel as specified in the Contract Documents.

6.29.2 The Contractor, as a condition precedent to execution of the Certification of Contract Completion, release of retained funds, and final payment, shall organize and submit operating appurtenances and loose items related to the operation and maintenance of the completed Project to the Owner, including, but not limited to:

6.29.2.1 keys to door and window hardware, panels, and other devices not directly provided to the Owner from the manufacturer;

6.29.2.2 operating handles, levers, cranks, specialized wrenches or drivers, remote controls, and similar items; and

6.29.2.3 extra materials (e.g., attic stock).

6.29.3 If the Project is administered using OAKS CI, the Contractor shall document submission of its operating appurtenances to the Owner, using the "Transmittals" business process.

6.30 Certification of Contract Completion

6.30.1 Partial Completion.

6.30.1.1 When items of Work cannot be completed until a subsequent date, the A/E may recommend that these items be deferred and the Contracting Authority may release payment to the Contractor, as determined in the sole discretion of the Contracting Authority. The A/E shall list deferred items on a Partial Certification of Contract Completion with the dates the items are to be completed.

6.30.1.2 The date that the Contracting Authority executes the Partial Certification of Contract Completion is the date that the Correction Period commences, and retained funds may be released for that portion of the Work. Partial Acceptance is subject to Section 6.25.

6.30.2 Final Acceptance.

6.30.2.1 When all items on the A/E's Punch List have been completed to the satisfaction of the A/E, all requirements of the Contract Documents have been completed, and the provisions of Sections 6.25 through 6.29 have been fulfilled, the A/E shall prepare and recommend execution of a Final Certification of Contract Completion.

6.30.2.2 The date that the Contracting Authority executes the Final Certification of Contract Completion is the date that the Work of the Contract is accepted ("Final Acceptance"). If a Partial Certification of Contract Completion was not executed for the Contract, the date that the Contracting Authority executes

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the Final Certification of Contract Completion is the date that the Correction Period commences, and retained funds may be released. Final Acceptance is subject to Section 6.25.

6.30.2.3 If the Contractor escrowed its Bid Information, the Contracting Authority shall instruct the bonded storage facility to return the sealed container directly to the Contractor.

6.30.3 ~~'s Partial Occupancy does not constitute~~ Notwithstanding any other provision of the Contract Documents, Partial Completion or Final Acceptance pursuant to this Section 6.30 constitutes neither acceptance of any Defective Work, nor a waiver of any rights set forth in the Contract Documents or otherwise provided by Applicable Law.

ARTICLE 7 - CONTRACT MODIFICATIONS

7.1 General

7.1.1 The Contracting Authority may order changes in the Work without invalidating the Contract. Subject to the limitations stated in this Article 7 and elsewhere in the Contract Documents, a change in the Work may be accomplished by a Change Order, Change Directive, or an order for a minor change in the Work.

7.1.1.1 The Contractor shall proportionately increase the amount of the Bond whenever the Contract Sum is increased.

7.1.1.2 If notice of any change affecting the Contract is required by the provision of any Bond, the giving of the notice is the ~~does it relieve the Contractor of liability for any express or implied warranties or~~contractor's responsibility, and the amount of each applicable Bond shall be adjusted accordingly.

7.1.2 The Contractor shall not proceed with any change in the Work without the Contracting Authority's prior written authorization except as provided under Sections 1.10 and 7.5.

7.1.2.1 Except as provided in Section 1.10, the Contractor's failure to obtain prior written authorization for a change in the Work constitutes a waiver by the Contractor of an adjustment to the Contract Sum or Contract Times, or both, for the related Work.

7.1.3 The Contractor shall perform all changes in the Work under the applicable provisions of the Contract Documents, and the Contractor shall proceed promptly with the change unless otherwise provided in the Change Order, Change Directive, or order for a minor change in the Work

7.1.4 Paperwork Consolidation.

7.1.4.1 Related Contract modifications, with the same or similar justification (e.g., Owner Request or field resolution), may be consolidated into the same change-related document.

7.1.4.2 Add and deduct Contract modifications, with the same or similar justification, may be included on the same Change Order.

7.1.4.3 Contract modifications resulting from errors or omissions shall not be combined with other modifications for which the A/E will receive a fee.

7.1.5 Change Order Numbering.

7.1.5.1 The A/E shall assign a number to each Modification, which shall uniquely identify it.

7.1.5.2 The A/E shall not duplicate or reuse any number throughout the Project or reuse assigned numbers for Proposal Requests that are initiated but cancelled in process.

7.1.5.3 The number for each Change Order shall be coordinated with any associated Proposal Request or Change Directive.

7.1.6 Change Order Log.

7.1.6.1 The A/E shall create and maintain a Change Order Log for the Project, which shall contain the following minimum information:

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.1 number of the Modification;

.2 a brief description of the Modification;

.3 cost of the Modification;

.4 schedule impact of the Modification; and

.5 dates sent to, and received from, the parties.

7.1.7 Reconciliation of Unit Price Items.

7.1.7.1 The Contracting Authority may increase, decrease, or delete entirely the scheduled quantities of Work to be performed and materials to be furnished by Change Order.

7.1.7.2 The A/E shall issue a Change Order to reconcile the difference between the scheduled and actual quantities of Work performed and materials furnished.

7.1.7.3 If the actual quantity of a Unit Price item differs from the scheduled quantity by 20 percent or more, so that application of the Unit Price to the quantities of Work proposed would create an undue hardship on either the Owner or the Contractor, the A/E shall issue a Proposal Request and subsequent Change Order to adjust the Unit Price.

7.1.7.4 If the actual quantity of a Unit Price item exceeds the scheduled quantity by 20 percent or more, the Contractor shall immediately notify the A/E, who shall issue a Change Directive and subsequent Change Order to authorize an adjustment in the scheduled quantity.

7.2 Change Order Procedure

7.2.1 A Change Order is a written instrument prepared by the A/E and executed by the Contracting Authority and the Contractor, stating their agreement upon all of the following:

7.2.1.1 a change in the Work;

7.2.1.2 the amount of the adjustment of the Contract Sum, if any; and

7.2.1.3 the extent of the adjustment of the Contract Times, if any.

7.2.2 Except with the Contracting Authority's written consent as explicitly provided under Section 7.4.8, the Contractor is not entitled to reserve any rights or take other similar action with respect to a Change Order if the effect or intent of the reservation or action would be to accommodate a further adjustment of the Contract Sum or Contract Times, or both, after the Contractor signs the Change Order. By signing a Change Order, the Contractor irrevocably certifies that the elements of a Change Order described in Section 7.2.1 are completely satisfied, and waives all rights, if any, to seek further adjustment of the Contract Sum or Contract Times, or both, at a later date with respect to the associated change in the Work including without limitation on account of the "cumulative impact" of the associated change in the Work in combination with one or more other changes in the Work.

7.2.3 The A/E shall prepare each Change Order form, attach the supporting documentation, and issue the Change Order to the Contractor for signature.

7.2.4 If the Contractor is in agreement with the Change Order under Section 7.2.1, the Contractor shall sign and return the Change Order to the A/E within 3 days of receiving it.

7.2.4.1 If the Project is administered using OAKS CI, the Contractor shall indicate its agreement with the Change Order using the "Change Order" business process.

7.2.5 When the A/E receives the Change Order signed by the Contractor, the A/E shall recommend approval by signing the form and transmitting the Change Order and the revised Change Order Log to the Owner.

7.2.6 When the Owner receives the Change Order, the Owner shall sign the form accepting the Change Order, attach certification of funding, and transmit the Change Order to the Contracting Authority; or, if the Owner does not accept the Change Order, the Owner shall reject it and return it to the A/E.

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7.2.7 When the Contracting Authority receives the Change Order, the Contracting Authority shall sign the form approving the Change Order, and transmit the fully executed Change Order to all signers; or, if the Contracting Authority does not accept the Change Order, the Contracting Authority shall reject it and return it to the A/E.

7.2.8 When the Change Order is signed by the Contractor, the A/E, the Owner, and the Contracting Authority, the fully executed Change Order modifies the Contract Documents and authorizes and directs the Contractor to proceed, and the Contractor shall promptly proceed with the associated change in the Work.

7.3 Initiation of Change Orders

7.3.1 Proposal Request.

7.3.1.1 The A/E shall prepare and issue a Proposal Request to the Contractor to obtain the Contractor's Proposal for the adjustment of the Contract Sum or the Contract Times, or both, associated with a contemplated Modification.

.1 In any Proposal for an adjustment of the Contract Sum, the Contractor shall specifically identify the items set forth in Section 7.7.

.2 In any Proposal for an adjustment of the Contract Times, the Contractor shall specifically identify the items set forth in Section 7.8.

.3 The Contractor's cost of preparing and providing Proposals is included in the Contract Sum.

7.3.1.2 The Contractor shall respond with a Proposal to the A/E and the Contracting Authority within 14 days after receiving the Proposal Request. The allowable time for the Contractor's response may be extended by written agreement of the Contractor and the A/E.

7.3.1.3 The Contractor shall hold the Proposal valid and open for acceptance for at least 45 days. The acceptance period may be adjusted by mutual consent of the Contractor and the Contracting Authority. The time limits described under this Section 7.3.1.3 apply only to Proposals submitted in response to a Proposal Request.

7.3.1.4 A Proposal may be accepted by the Contracting Authority only through a Change Order. A Proposal Request does not authorize the Contractor to proceed with a change in the Work.

7.3.1.5 If the Contractor does not timely submit a Proposal within the time required in Section 7.3.1.3, the Contractor waives its right to an adjustment to the Contract Sum or Contract Times, or both, associated with the contemplated change in the Work.

7.3.1.6 If the Project is administered using OAKS CI, the Contractor shall respond to a Proposal Request issued by the A/E with its Proposal using the "Change Order" business process.

7.3.2 Request for Change Order.

7.3.2.1 The Contractor may initiate a change in the Work by submitting written notice to the A/E accompanied by a Proposal meeting the requirements of Section 7.3.1.

7.3.2.2 If the Project is administered using OAKS CI, the Contractor shall initiate its Request for Change Order using the "Change Order" business process with the "Request for Change Order" workflow.

7.4 Change Directives

7.4.1 A Change Directive is a written order prepared by the A/E and executed by the Contracting Authority directing a change in the Work and may, if necessary:

7.4.1.1 state a proposed basis for adjustment, if any, in the Contract Sum or Contract Times, or both; or

7.4.1.2 limit the scope of the change in the Work on a time and materials basis, not to exceed a fixed adjustment of the Contract Sum.

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7.4.2 If a change in the Work must start immediately to avoid an imminent impact to the schedule of the Project, the A/E may prepare a Change Directive for the Contracting Authority's and Owner's signatures pursuant to Section 7.4.1, authorizing the Contractor to proceed.

7.4.3 A Change Directive shall be used to direct a change in the Work in the absence of total agreement on the terms of a Change Order.

7.4.3.1 For the purposes of clarity, the Contract refers to a Change Directive as if it is only to be used in the absence of total agreement on the terms of a Change Order concerning the associated change of the Work. A Change Directive may also be used in the absence of agreement as to whether the subject of the Change Directive actually constitutes a change in the Work; such as in the situation described under Section 7.5.3.

7.4.4 Upon receipt of a Change Directive, the Contractor shall promptly proceed with the change in the Work involved.

7.4.5 The Contractor may sign the Change Directive to accept the proposed basis for adjustment, if any, of the Contract Sum or Contract Times, or both. Thereafter, the A/E shall prepare and the A/E, Contracting Authority, Owner, and Contractor shall promptly execute an associated Change Order as described under Section 7.2.

7.4.6 Within 14 days after receiving the Change Directive, the Contractor shall respond with a Proposal meeting the requirements of Section 7.3.1 to the A/E and the Contracting Authority for adjustment of the Contract Sum or Contract Times, or both, on account of the change, unless the Change Directive is performed on a time and materials basis under Section 7.4.1.2. If the Change Directive is performed on a time and materials basis, the Contractor shall submit its Proposal within 7 days after completing the Work.

7.4.6.1 The Proposal for the adjustment of the Contract Sum, if any, shall include: (1) written documentation as described under Section 7.7; and (2) a written statement from the Contractor that the proposed adjustment is the entire adjustment in the Contract Sum associated with the change.

7.4.6.2 The Proposal for the change in the Contract Times, if any, shall include: (1) written documentation as described under Section 7.8; and (2) a written statement from the Contractor that the proposed adjustment is the entire adjustment of the Contract Times associated with the change.

7.4.7 If the Contractor does not respond to a Change Directive as required under Section 7.4.5, the Contracting Authority shall determine the adjustments, if any, of the Contract Sum and Contract Times. If the Contractor does not agree with the Contracting Authority's determination, the Contractor shall initiate a Claim under Article 8 within 10 days of the date on which the Contracting Authority issues its determination, and the Contractor's failure to do so shall constitute an irrevocable waiver of the Claim.

7.4.8 Pending final determination of the total adjustment of the Contract Times on account of a Change Directive, the period of time not in dispute for that change in the Work may be included in the Construction Progress Schedule accompanied by a Change Order indicating the parties' agreement with part or all of the time adjustment.

7.4.9 If the Contracting Authority, Owner, and Contractor agree on the adjustments of the Contract Sum and Contract Times associated with a Change Directive, the A/E shall prepare an appropriate Change Order within 7 days after receiving the Contractor's Proposal. The A/E, Contracting Authority, Owner, and Contractor shall promptly sign the Change Order as described under Section 7.2.

7.4.10 If the Contracting Authority, Owner, and Contractor do not agree on the adjustments of the Contract Sum and Contract Times associated with a Change Directive within 60 days after the Change Directive is issued, the Contracting Authority shall determine the adjustments, if any, of the Contract Sum and Contract Times. If the Contractor does not agree with the Contracting Authority's determination, the Contractor shall initiate a Claim under Article 8 within 10 days of the date on which the Contracting Authority issues its determination, and the Contractor's failure to do so shall constitute an irrevocable waiver of the Claim.

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7.4.11 If the Project is administered using OAKS CI, the Contractor shall respond to a Change Directive issued by the A/E with its Proposal using the "Change Order" business process.

7.5 Minor Changes in the Work

7.5.1 The A/E may order minor changes in the Work not involving adjustment of the Contract Sum or extension of the Contract Times and not inconsistent with the intent of the Contract Documents. Those changes shall be effected by written order issued to the Contractor.

7.5.2 The Contractor shall promptly carry out each order for a minor change in the Work if the Contractor agrees that the order does not involve adjustment of the Contract Sum or Contract Times, or both.

7.5.3 If the Contractor reasonably believes that it would be entitled to an adjustment of the Contract Sum or Contract Times, or both, on account of an order for a minor change in the Work, the Contractor, within 3 business days after receiving the order, shall give the Contracting Authority and the A/E written notice of the Contractor's position, and not proceed with the subject Work without first receiving a Change Directive or Change Order related to it.

7.5.4 The Contractor waives its right to an adjustment of the Contract Sum or Contract Times on account of an order for a minor change in the Work by:

7.5.4.1 starting the Work which is the subject of the order for a minor change in the Work; or

7.5.4.2 failing to give the notice described under Section 7.5.3 within 3 business days after receiving the order for a minor change in the Work.

7.5.5 If the Project is administered using OAKS CI, the order for a minor change in the Work shall be documented through the "Action Items" business process.

7.6 Differing Site Conditions

7.6.1 "If the Contractor encounters a Differing Site Condition, the Contractor shall stop Work on that Differing Site Condition and give immediate written notice of the condition to the A/E and the Contracting Authority.

7.6.1.1 The Contractor's failure to give notice of the Differing Site Condition as required under this Section 7.6.1 shall constitute an irrevocable waiver of any associated Claim.

7.6.1.2 The written notice of a Differing Site Condition under this Section 7.6.1 shall be required before the notice of Claim under Article 8.

7.6.2 Promptly after receiving notice from the Contractor under Section 7.6.1, the A/E shall investigate to determine whether the Contractor has encountered a Differing Site Condition. The A/E shall give written notice of its determination to the Contracting Authority and the Contractor within 10 days after completing the investigation.

7.6.2.1 If the A/E determines that the Contractor has encountered a Differing Site Condition, the A/E shall process an appropriate Change Order.

7.6.2.2 If the A/E determines that the Contractor has not encountered a Differing Site Condition and the Contractor does not agree with that determination, the Contractor must initiate a Claim under Article 8 within 10 days of the date on which the A/E issues its determination.

7.7 Change Order Cost or Credit Determination

7.7.1 General.

7.7.1.1 The maximum cost or credit resulting from a change in the Work shall be determined as described below.

.1 Proposals shall include the information required by Section 7.7.1.4.

.2 A Unit Price Proposal shall only be valid when incorporated into the Contract by Change Order.

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.3 The maximum cost or credit includes all compensation for impact costs. Additional costs for impacts shall not be allowed.

7.7.1.2 The Contractor shall not assign any portion of the Work to another Person whereby the Contractor would benefit directly or indirectly from the double application of charges for overhead or profit.

7.7.1.3 The Contracting Authority may require notarized invoices for material costs and may audit the records of the Contractor and Subcontractors.

7.7.1.4 For each change in the Work, the Contractor shall furnish a detailed Proposal itemized on the Change Order Estimate Summary form published by the Department through which the Contractor shall document the related changes in the Contract Sum as described under Section 7.7.2. Any Subcontractor pricing shall also be itemized on the Change Order Estimate Summary form.

7.7.1.5 Section 7.7.2 establishes the exclusive and maximum amount that the Owner shall pay for any Change Order, including, but not limited to, all amounts for interference with, delay, hindrance, disruption, or impact of the Work ("Pricing Criteria"). These Pricing Criteria also govern the value of deduct Change Orders and the Contractor's entitlement to additional compensation or damages through the Claims and dispute resolution processes on account of changes in the Work. In order to expedite the review and approval process, Proposals shall be prepared in the categories and order listed in Section 7.7.2.

7.7.2 Pricing Criteria.

7.7.2.1 Contractor Personnel Costs: The Contractor's on-Site management (including supervision and administrative personnel) not subject to prevailing wage under to ORC Chapter 4115. These costs will be calculated on an hourly basis according to the rates acceptable to the Contracting Authority.

7.7.2.2 Labor: Field labor directly involved in the Work based upon the actual rate of pay to the worker according to the relevant classification of labor as established in the applicable prevailing wage determination for the Project locality, as determined by the Ohio Department of Commerce, Wage and Hour Bureau.

.1 The cost for supervision above the level of working foremen (such as general foremen, superintendent, project manager, etc.) is included in the adjustment under Section 7.7.2.1 for the Contractor and under Section 7.7.2.10 for Subcontractors.

7.7.2.3 Fringes: Fringe benefit credit for labor provided under Section 7.7.2.2 is only allowable for prevailing wage fringe benefits pursuant to ORC Chapter 4115, including, but not limited to, Health and Welfare, vacation, apprenticeship training, and certain types of pension plans. The parties shall defer to the Ohio Department of Commerce's policy on which benefits are granted fringe benefit credit. Each fringe benefit for which credit is requested shall be calculated on an hourly basis and listed as a separate line item. The Contractor shall submit documentation supporting the calculation of the amounts for each fringe benefit for each worker classification, including labor provided by Subcontractors.

7.7.2.4 Allowable Payroll Expenses: Allowable payroll expenses for labor provided under Section 7.7.2.2 including payroll taxes as well as other benefits that are required by Applicable Law, such as federal and state Unemployment and Workers' Compensation shall each be a separate line item and shall not be credited for compliance with ORC Chapter 4115.

7.7.2.5 Equipment Rentals: All charges for certain non-owned heavy or specialized equipment at up to 100 percent of the documented rental cost. No rental charges shall be allowed for hand tools, minor equipment, simple scaffolds, etc. Downtime due to repairs, maintenance and weather delays shall not be allowed. Contractor shall submit copies of actual paid invoices to substantiate rental costs.

7.7.2.6 Owned Equipment: All charges for certain heavy or specialized equipment owned by the Contractor or the Subcontractor performing the Work at up to 100 percent of the cost listed by the current edition of the Associated Equipment Dealers *Green Book* rental rates and specifications for construction equipment. No recovery shall be allowed for hand tools, minor equipment, simple scaffolds, etc. The

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longest period of time that the equipment is to be required for the Work shall be the basis for the pricing. Downtime due to repairs, maintenance, and weather delays shall not be allowed.

7.7.2.7 Trucking: A reasonable delivery charge or per-mile trucking charge for delivery of required materials or equipment. Charges for use of a pick-up truck shall not be allowed.

7.7.2.8 Materials: The actual cost (including all discounts, rebates or related credits) of all materials incorporated into the changed Work. Documentation shall show costs, quantities, or Unit Prices of all items, as appropriate.

.1 The cost or credit for reusable materials (e.g., concrete form lumber, shoring, or temporary enclosures) shall be limited to 33 percent of the material cost for each use.

7.7.2.9 Contractor's General Conditions Costs: The Contractor's General Conditions Costs to the extent attributable to an associated change in the Contract Time for achievement of Final Acceptance resulting from the change in the Work.

.1 In no event shall the Contract Sum adjustment per day of Contract Time adjustment exceed an amount equal to (1) the sum of the General Conditions Costs line items in the Contractor's Schedule of Values approved by the Contracting Authority, (2) divided by the total number of days of the original Contract Time for achievement of Final Acceptance.

.2 The Contractor shall (1) exclude the Bond premium from the Schedule of Values for the purposes of the calculation under Section 7.7.2.9.1, and (2) include the actual adjustment of the Bond premium attributable to an associated change in the Contract Sum.

.3 If the Contractor purchases the Builder's Risk insurance for the Project, the Contractor shall (1) exclude the Builder's Risk insurance premium from the Schedule of Values for the purposes of the calculation under Section 7.7.2.9.1, and (2) include the actual adjustment of the Builder's Risk insurance premium attributable to an associated change in the Contract Sum.

7.7.2.10 Subcontractor Overhead and Profit: Adjustment of the Contract Sum on account of a change in Subcontractor-performed Work shall include the Subcontractor's aggregate overhead and profit allowance equal to 15 percent of the sum of the Subcontractor's costs described under Sections 7.7.2.2 through 7.7.2.8 that are associated with that changed Work.

.1 The allowance applies to each Subcontractor tier.

.2 The allowance covers: the costs required to schedule and coordinate the Work, telephone, telephone charges, facsimile, telegrams, postage, photos, photocopying, hand tools, simple scaffolds (one level high), tool breakage, tool repairs, tool replacement, tool blades, tool bits, home office estimating and expediting, home office clerical and accounting support, home office labor (management, supervision, engineering), all other home office expense, legal services, travel, and parking expenses.

.3 An exception is allowed for shop or engineering labor on items in Section 7.7.2.10.2, which shall not be subject to Prevailing Wage rates for steel fabricators, sheet metal fabricators, and sprinkler system fabricators performing work off-site. Recovery for these matters shall be allowed on an hourly basis under items in Sections 7.7.2.2, 7.7.2.3, and 7.7.2.4 of these Pricing Criteria.

.4 An exception is allowed for field supervision labor on items in Section 7.7.2.10.2, for those portions of the Change Order Work that will be performed, or was performed, at times when the superintendent is not required to be on site under Section 1.1.1, including but not limited to overtime hours due to acceleration and extensions of the Contract Times. Recovery for this matter will be allowed on an hourly basis under items in Sections 7.7.2.2, 7.7.2.3, and 7.7.2.4 of these Pricing Criteria.

7.7.2.11 Contractor's Fee: Adjustment of the Contract Sum on account of a change in the Work shall include an allowance for the Contractor's Fee equal to 10 percent of the sum of the costs described under Section 7.7.2.1 through 7.7.2.10 that are associated with that changed Work.

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7.7.2.12 Miscellaneous: Adjustment of the Contract Sum on account of a change in Work may include the following costs with no allowance for Contractor's Fee under Section 7.7.2.11 or Subcontractor overhead and profit under Section 7.7.2.10.

.1 The premium portion only for approved overtime (labor and fringes). The straight time portion is included in items in Sections 7.7.2.2, 7.7.2.3, and 7.7.2.4.

7.7.2.13 State sales tax shall be allowed on items as defined by Section 12.7.

7.7.3 Costs that shall not be reimbursed for Change Order Work include the following:

7.7.3.1 Voluntary employee deductions including, but not limited to, deductions for charitable donations or U.S. savings bonds.

7.7.3.2 Employee profit sharing.

7.8 Time Extension

7.8.1 Every adjustment of the Contract Times associated with any change in the Work shall be determined as provided in this Section 7.8, which establishes the Contractor's maximum entitlement for any change in the Work, including without limitation all adjustments for interference, delay, hindrance, or disruption of the Work. This Section 7.8 also governs time adjustments for deduct Change Orders and the Contractor's entitlement to additional time through the claims and dispute resolution processes on account of changes in the Work.

7.8.2 The Contractor shall substantiate all changes in the Contract Times with:

7.8.2.1 a written description of the nature of the interference, disruption, hindrance or delay;

7.8.2.2 identification of Persons and events responsible for the interference, disruption, hindrance or delay;

7.8.2.3 date, or anticipated date, of commencement of the interference, disruption, hindrance or delay;

7.8.2.4 identification of activities by schedule activity number and name on the Construction Progress Schedule, which may be affected by the interference, disruption, hindrance or delay, or new activities created by the interference, disruption, hindrance or delay and the relationship with existing activities;

7.8.2.5 anticipated duration of the interference, disruption, hindrance or delay and of any remobilization period;

7.8.2.6 specific number of days of extension requested and specific number of days for remobilization requested;

7.8.2.7 recommended action to avoid or minimize any future interference, disruption, hindrance or delay; and

7.8.2.8 a detailed written proposal as described under Section 7.7 for an increase in the Contract Sum which would fully compensate the Contractor for all costs of acceleration of the Work needed to completely overcome the associated delay, if any.

7.8.3 A Change Order may authorize extension of the Contract Times for specific elements, while maintaining Milestone dates for unaffected elements. Such a Change Order may also authorize an appropriate adjustment to Liquidated Damages.

7.8.4 Critical Path. Time extensions shall depend upon the extent to which the Work on the critical path of the Construction Progress Schedule is affected, if applicable.

7.8.4.1 A Change Order granting a time extension may provide that the Contract Times shall be extended for only those specific elements so interfered with, disrupted, hindered, or delayed and related remobilization and that remaining Milestone dates shall not be altered and may further provide for adjustment of Liquidated Damages.

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7.9 Examination and Audit of Contractor's Records

7.9.1 The Contracting Authority and the Owner may examine all books, records, documents and other data of the Contractor and of all Subcontractors related to the bidding, pricing, or performance of the Work for the purpose of evaluating any Proposal or Claim.

7.9.2 The above referenced materials shall be made available at the office of the Contractor or Subcontractor, as applicable, at all reasonable times for inspection, audit, and reproduction until the expiration of 6 years after the date of Final Acceptance of the Project.

7.9.2.1 The Contractor shall maintain, and require all Subcontractors to maintain, complete and accurate business records at its principal place of business. If the principal place of business is greater than 50 miles from the Site, the Contractor shall timely make records available, and shall require its Subcontractors to timely make records available, at the office of the Contracting Authority or the Owner upon request for the records.

7.9.3 To the extent that the Contractor or Subcontractor, as applicable, informs the Contracting Authority or the Owner in writing that any documents provided to the Contracting Authority or the Owner are trade secrets, the Contracting Authority or the Owner shall treat these documents, to the extent permitted by law, as trade secrets of the Contractor or Subcontractor, as applicable.

7.9.3.1 If a dispute arises with any other Person about whether that Person should be given access to the documents, the Contractor or Subcontractor as applicable, shall indemnify the Contracting Authority and the Owner against all costs, expenses, and damages, including, but not limited to, attorney fees, incurred or paid by reason of that dispute.

7.9.4 The right of inspection, audit, and reproduction extends to all documents necessary to permit adequate evaluation of the cost of pricing data submitted along with the computations and projections used therein.

7.9.5 If the Contract has been terminated, in whole or in part, the records relating to the Work terminated shall be made available to the Contracting Authority or Owner for a period of 6 years from the date of any applicable final settlement or payment, as applicable.

7.9.6 Records that relate to disputes, litigation, or settlement of Claims arising out of the performance of the Work shall be made available until the dispute, litigation or Claims have been finally decided or settled.

ARTICLE 8 - DISPUTE RESOLUTION

8.1 Initiation of a Claim

8.1.1 Every Claim shall accrue upon the date of occurrence of the event giving rise to the Claim.

8.1.2 Except as provided under Section 1.10, the Contractor shall initiate every Claim by giving written notice of the Claim to the A/E and the Contracting Authority within 10 days after occurrence of the event giving rise to the Claim, with the following exceptions:

8.1.2.1 The 10-day time limit on initiating a Claim arising from a determination of the Contracting Authority concerning a Change Directive begins to run on the date on which the Contracting Authority issues its determination under Section 7.4.7 or 7.4.10, as applicable.

8.1.2.2 The 10-day time limit on initiating a Claim arising from the response of the A/E to a Request for Interpretation begins to run on the date on which the A/E issues the A/E's response to the Request for Interpretation.

8.1.2.3 The 10-day time limit on initiating a Claim arising from the A/E's determination concerning a Differing Site Condition begins to run on the date on which the A/E issues the A/E's determination under Section 7.6.

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8.1.3 The Contractor's written notice of a Claim shall provide the following information to permit timely and appropriate evaluation of the Claim, determination of responsibility, and opportunity for mitigation:

8.1.3.1 nature and anticipated amount of the impact, including all costs for any interference, disruption, hindrance, or delay, which shall be calculated in accordance with Section 7.7 and be a fair and reasonably accurate assessment of the damages suffered or anticipated by the Contractor;

8.1.3.2 identification of the circumstances responsible for causing the impact, including, but not limited to, the date or anticipated date, of the commencement of any interference, disruption, hindrance, delay;

8.1.3.3 identification of activities on the Construction Progress Schedule which will be affected by the impact or new activities which may be created and the relationship with existing activities;

8.1.3.4 anticipated impacts and anticipated duration of any interference, disruption, hindrance, delay, or impact, and any remobilization period; and

8.1.3.5 recommended action to avoid or minimize any interference, disruption, hindrance, delay, or impact.

8.1.4 The Contractor's failure to initiate a Claim as and when required under this Section 8.1 shall constitute the Contractor's irrevocable waiver of the Claim.

8.1.5 The A/E, in consultation with the Contracting Authority, shall respond to the written notice of the Claim within a reasonable time of receipt, but not to exceed 10 days.

8.2 Substantiation of Claims

8.2.1 Within 30 days after the initiation of a Claim, the Contractor shall submit 4 copies of all information and statements required to substantiate a Claim as provided in this Article 8 and all other information which the Contractor believes substantiates the Claim. The Contractor shall file the 4 copies by delivery of 1 copy to the A/E, 1 copy to the Owner, and 2 copies to the Contracting Authority.

8.2.2 The Contractor shall substantiate all of its Claims by providing the following minimum information:

8.2.2.1 a narrative of the circumstances, which gave rise to the Claim, including, without limitation, the start date of the event or events and the actual, or anticipated, finish date;

8.2.2.2 detailed identification of the Work (e.g., activity codes from the Construction Progress Schedule) affected by the event giving rise to the Claim;

8.2.2.3 copies of the Lead Contractor's daily log (Section 6.5.9) for each day of impact;

8.2.2.4 copies of relevant correspondence and other information regarding or supporting Contractor entitlement;

8.2.2.5 copies of the Contractor's most recent income statement, including segregated general and administrative expenses for the most recent reporting period, and for the period of the Contract, if available, and similar information for any Subcontractor Claim included; and

8.2.2.6 the notarized certification described under Section 8.5.1.1;

8.2.3 The Contractor's failure to comply with the requirements of this Section 8.2 shall constitute an irrevocable waiver of any related Claim.

8.3 Substantiation of Claims for Increase of the Contract Sum

8.3.1 The Contractor shall substantiate each Claim for an increase of the Contract Sum with:

8.3.1.1 written documentation as described under Section 7.7 of the actual additional direct and indirect costs to the Contractor due to the event giving rise to the Claim;

8.3.1.2 a written statement from the Contractor that the increase requested is the entire increase in the Contract Sum associated with the Claim; and

8.3.1.3 the general substantiation documentation described under Section 8.2.

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8.3.2 The Contractor's failure to comply with the requirements of this Section 8.3 shall constitute an irrevocable waiver of any related Claim.

8.4 Substantiation of Claims for Extension of the Contract Times

8.4.1 The Contractor shall substantiate each Claim for an extension of the Contract Times with:

8.4.1.1 written documentation as described under Section 7.8 of the actual delay to the critical path of the Construction Progress Schedule due to the event giving rise to the Claim;

8.4.1.2 a detailed written Proposal as described under Section 7.7 for an increase in the Contract Sum which would fully compensate the Contractor for all costs of acceleration of the Work needed to completely overcome the associated delay together with a statement consistent with Section 8.3.1.2;

8.4.1.3 a written statement from the Contractor that the extension requested is the entire extension of the Contract Times associated with the Claim; and

8.4.1.4 the general substantiating documentation described under Section 8.2.

8.4.2 In addition to the requirements of Section 8.4.1, if adverse weather conditions are the basis for a Claim for additional time, the Contractor shall document the Claim with data substantiating that weather conditions were abnormal for the period, could not have been reasonably anticipated, and had an adverse effect on a critical element of the scheduled construction. The support for and evaluation of all adverse weather Claims shall be based upon average weather conditions during the 10 years immediately preceding the dates at issue in the Claim as those weather conditions were recorded at the government-controlled weather-recording facility nearest to the Site.

8.4.3 The Contractor's failure to comply with the requirements of this Section 8.4 shall constitute an irrevocable waiver of any related Claim.

8.5 Certification of the Claim

8.5.1 The Contractor shall certify each Claim within 30 days after initiating the Claim under Section 8.1 or before Contract Completion, whichever is earlier, by providing the notarized certification specified in Section 8.5.1.1, signed and dated by the Contractor:

8.5.1.1 "The undersigned Contractor certifies that the Claim is made in good faith; that the supporting data is accurate and complete to the best of the Contractor's knowledge and belief; that the amount requested is a fair, reasonable, and necessary adjustment for which the Contractor believes the State is liable; and that the undersigned is duly authorized to certify the Claim on behalf of the Contractor."

8.5.2 The date that the Contractor's certified and fully substantiated Claim is received by the Contracting Authority, or the date on which the Contractor is required to certify and fully substantiate a Claim pursuant to Sections 8.2.1 and 8.5.1, shall trigger the 120-day period for exhaustion of administrative remedies pursuant to ORC Section 153.16(B).

8.5.3 The Contractor's failure to comply with the requirements of this Section 8.5 shall constitute an irrevocable waiver of any related Claim.

8.6 Delay and Delay Damage Limitations; Derivative Claims

8.6.1 Subject to other provisions of the Contract, the Contractor will be entitled to an extension of the Contract Times on account of delay in the commencement or progress of Work on the critical path of the Construction Progress Schedule caused by acts of Nature or the public enemy, acts of the government not arising from the Contractor's failure to comply with Applicable Law, fires, floods, epidemics, weather, and labor disputes beyond the Contractor's control.

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8.6.2 Notwithstanding any other provision of the Contract Documents to the contrary, the Contractor shall not be entitled to an increase in the Contract Sum, or an extension of the Contract Times, or both:

8.6.2.1 on account of the impact of any normal adverse weather on any of the Work or on account of the impact of any abnormal adverse weather on Work not on the critical path;

8.6.2.2 to the extent that a delay occurs concurrently with a delay attributable to the Contractor; or

8.6.2.3 on account of the delay of any Work not on the critical path.

8.6.3 Notwithstanding any other provision of the Contract Documents to the contrary, the Contractor shall not be entitled to an increase in the Contract Sum or any type of damages on account of a delay in the commencement or progress of Work on the critical path unless (1) the delay is caused by the Owner and (2) the delay was not authorized or permitted under the Contract.

8.6.4 Notwithstanding any other provision of the Contract Documents to the contrary, the Contractor shall not be entitled to an increase in the Contract Sum or any type of damages arising from a delay in the commencement or progress of any of the Work caused by the occurrence or non-occurrence of an event beyond the Owner's control such as acts of Nature or the public enemy, acts of the government, fires, floods, epidemics, labor disputes, unusual delivery delays, weather, or damages caused by the Contractor.

8.6.5 Notwithstanding any other provision of the Contract to the contrary, if the Owner prosecutes a claim, suit, or appeal against a Separate Consultant or a Separate Contractor to recover damages the Contractor suffers on account of the acts or neglects of a Separate Consultant or a Separate Contractor or a person or entity for whom either is legally responsible, the Owner's liability to the Contractor will not exceed the amount the Owner actually recovers from the Separate Consultant or the Separate Contractor on account of those damages less the costs the Owner incurs recovering them. The Owner is not obligated to prosecute any such claim, suit, or appeal.

8.7 Liquidated Damages

8.7.1 If the Contractor fails to achieve a Milestone within the associated Contract Time, it would be difficult, if not impossible, to determine the Owner's resulting damages. Therefore, if the Contractor fails to achieve a Milestone within the associated Contract Time, the Contractor shall (at the Owner's option) pay to or credit the Owner the Liquidated Damages per day sum determined according to the following schedule for each day that the Contractor fails to achieve a Milestone within the associated Contract Time.

Contract Sum	Liquidated Damages per day
Less than $1,000,000	$500
From $1,000,000.01 to $2,000,000	$1,000
From $2,000,000.01 to $5,000,000	$2,000
From $5,000,000.01 to $10,000,000	$5,000
From $10,000,000.01 to $20,000,000	$10,000
From $20,000,000.01 to $50,000,000	$20,000
More than $50,000,000	$50,000

8.7.2 If the Contractor simultaneously fails to achieve two or more Milestones, the Owner shall be entitled to recover the sum of the associated Liquidated Damages per day rates.

8.7.3 The Liquidated Damages described in this Section 8.7 are only intended to compensate the Owner for the direct damages it incurs as a result of the Contractor's failure to achieve the Milestones within their associated Contract Times.

8.7.4 The Liquidated Damages described in this Section 8.7 are not intended to compensate the Owner for any damages the Owner incurs on account of (1) any claims attributable to the Contractor that are brought by others including Separate Consultants and Separate Contractors or (2) any failure of the Contractor to timely,

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properly, and completely perform the Contract other than the failure to achieve the Milestones within their associated Contract Times.

8.7.5 The parties acknowledge that the above-listed Liquidated Damages per day sums are not penalties, and they each irrevocably waive the right (if any) to challenge the validity and enforceability of those Liquidated Damages per day sums. Notwithstanding any other provision of the Contract Documents to the contrary, if a court determines that the Liquidated Damages per day sums or their application are void and unenforceable, the Owner shall be entitled to recover the actual damages that it incurs on account of the Contractor's failure to achieve one or more of the Milestones within the Contract Times.

8.7.6 Nothing contained in this Section 8.7 shall preclude the Owner's recovery from the Contractor of actual damages.

8.7.7 In addition to other rights that the Owner may have relative to the Liquidated Damages, the Contracting Authority may deduct the Liquidated Damages from the Contract Sum as the damages accrue. If payments then or thereafter due the Contractor are not sufficient to cover such amounts, the Contractor shall immediately pay the amount of the insufficiency to the Owner.

8.8 Review of the Claim

8.8.1 The A/E shall review the Claim and prepare a written analysis of its content, which shall include:

8.8.1.1 a narrative of the A/E's examination of the facts giving rise to the Claim;

8.8.1.2 identification of relevant Contract Documents and language;

8.8.1.3 an analysis of whether the Contractor complied with the requirements of the Contract Documents pertaining to Claim initiation and substantiation including, without limitation, the issues of entitlement to, and calculation of, adjustments of the Contract Sum, Contract Times, or both;

8.8.1.4 an analysis of claimed additional labor, materials, and equipment for the scope of the Work items described;

8.8.1.5 an analysis of any time extension for any interference, disruption, hindrance, impact, or delay claimed (to include the calculation of any concurrent delays affecting entitlement);

8.8.1.6 a concluding opinion regarding Contractor entitlement to, and the appropriateness and reasonableness of all, or any part of, the Claims; and

8.8.1.7 an appendix containing copies of contemporaneous documentation supporting the concluding opinion.

8.8.2 The A/E shall submit the written analysis to the Project Manager no more than 30 days after receiving the Contractor's substantiated and certified Claim.

8.9 Claim Decision

8.9.1 The Project Manager shall examine the Contractor's Claim and the A/E's analysis.

8.9.2 The Project Manager shall approve or deny all, or any part, of the Contractor's Claim and forward a written decision to the Contractor, the A/E, the Owner, and the State Architect within 14 days after receiving the A/E's analysis.

8.9.2.1 If the Contractor escrowed its bid information into a bonded storage facility pursuant to Article 6 of the Instructions to Bidders ("Bid Information"), the Project Manager may examine the contents of the Contractor's Bid Information in evaluating any Claim of the Contractor for a change in compensation or for mitigation of Liquidated Damages.

8.9.2.2 The Project Manager may employ independent resources to assist in its review, or refer evaluation of the Claim to a consultant.

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8.9.3 If the Contractor and the Owner agree with the Project Manager's decision, the decision shall be incorporated into a Change Order.

8.9.4 Any Claim remaining unresolved after completion of the process described under this Section 8.9 shall be subject to Claim decision review as described under Section 8.10.

8.10 Claim Decision Review

8.10.1 The Contractor may request review of the Project Manager's decision by written notice delivered by certified mail within 14 days of the Project Manager's decision.

8.10.1.1 If the Project is administered by the Department through the State Architect's Office or locally administered by authority granted to an agency by the Department, the written notice shall be delivered to the State Architect.

8.10.1.2 If the Project is locally administered by an Institution of Higher Education under ORC Section 3345.50 or ORC Section 3345.51, the written notice shall be delivered to the Institutional Designee who will review the Project Manager's decision instead of the State Architect.

8.10.2 The State Architect or Institutional Designee, if applicable, shall schedule and conduct a meeting within 30 days after receiving the Contractor's request for review.

8.10.2.1 If the Contractor escrowed its Bid Information, the State Architect or Institutional Designee, if applicable, may examine the contents of the Bid Information in conjunction with its review.

8.10.2.2 The Contracting Authority may employ independent resources to assist in the meeting and review.

8.10.3 The State Architect or Institutional Designee, if applicable, shall determine the final disposition of the Contractor's request for review and provide a written decision to the Contractor and the Owner within 14 days after the meeting.

8.10.4 The decision of the State Architect or Institutional Designee is the final administrative decision of the Contracting Authority as described under ORC Section 153.12(B).

8.10.5 If the Contractor and the Owner agree with the State Architect's or Institutional Designee's decision, the decision shall be incorporated into a Change Order.

8.10.6 Any Claim remaining unresolved after completion of the process described under this Section 8.10 shall be subject to litigation, which may be preceded by Alternative Dispute Resolution ("ADR") as described under Section 8.11.

8.11 Alternative Dispute Resolution

8.11.1 The intent of the ADR process is to resolve disputes quickly and equitably in a manner agreed upon by all parties to the dispute.

8.11.2 The ADR procedure shall be accepted by all of the Project's key stakeholders.

8.11.3 The accepted ADR methods shall not include binding arbitration; alter any of the requirements for Claim initiation, certification, and substantiation; or alter the administrative process described under this Article 8.

8.11.4 The following forms of non-binding ADR may be considered:

8.11.4.1 Negotiation: If negotiation is warranted, the parties to the dispute may agree to a progressive level of negotiators, invested with the authority to agree to a determination of an adjustment in the Contract Sum, Contract Times, or both.

8.11.4.2 Mediation: If mediation is the accepted ADR procedure, or the process to follow when negotiations are unsuccessful, the parties to the dispute shall accept a neutral third party to mediate the dispute. The costs of mediation shall be shared equally among the parties to the dispute.

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8.11.4.3 Another ADR procedure accepted by all of the Project's key stakeholders.

8.12 Audit of the Claim

8.12.1 All Claims shall be subject to audit at any time following the filing of the Claim, whether or not the Claim is part of a lawsuit.

8.12.2 The audit may be performed by employees of the Contracting Authority or by a consultant engaged by the Contracting Authority.

8.12.3 The audit may begin upon 10 days notice to the affected Contractor or affected Subcontractor.

8.12.4 The Contractor shall cooperate with the request.

8.12.5 Failure of the Contractor or Subcontractor to produce sufficient records to allow the Contracting Authority to audit and verify a Claim shall constitute an irrevocable waiver of the Claim or the portion of the Claim that could not be completely audited.

8.12.6 The Contractor shall make available to the Contracting Authority all Contractor and Subcontractor documents related to the Claim including, without limitation, the following documents:

8.12.6.1 daily time sheets and superintendent's daily reports;

8.12.6.2 union agreements, if any, and employer agreements;

8.12.6.3 insurance, welfare, fringes, and benefits records;

8.12.6.4 payroll register;

8.12.6.5 earnings records;

8.12.6.6 payroll tax returns;

8.12.6.7 material invoices, purchase orders, Subcontractor contracts, and all material and supply acquisition contracts;

8.12.6.8 material cost distribution worksheets;

8.12.6.9 equipment records (list of Contractor equipment, rates, etc.);

8.12.6.10 vendor rental agreements and Subcontractor invoices;

8.12.6.11 Subcontractor payment certificates;

8.12.6.12 canceled checks (payroll and vendors);

8.12.6.13 job cost report;

8.12.6.14 job payroll ledger;

8.12.6.15 general ledger, general journal, (if used) and all subsidiary ledgers and journals together with all supporting documentation pertinent to entries made in these ledgers and journals;

8.12.6.16 cash disbursements journal;

8.12.6.17 financial statements for all years reflecting operations on the Project;

8.12.6.18 income tax returns for all years reflecting operations on the Project;

8.12.6.19 depreciation records on all equipment utilized whether the records are maintained by the Contractor, its accountant, or others;

8.12.6.20 if a source other than depreciation records is used to develop costs for the Contractor's internal purposes in establishing the actual cost of owning and operating equipment, all other source documents;

8.12.6.21 all documents which reflect the Contractor's actual profit and overhead during the years the Project was being performed;

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8.12.6.22 all documents related to the preparation of the Contractor's Bid, including the final calculations on which the Bid was based, unless the documents are placed in escrow under provisions of the Instructions to Bidders;

8.12.6.23 all documents which relate to the Claim together with all documents which support the amount of damages as to the Claim;

8.12.6.24 worksheets used to prepare the Claim establishing the cost components for items of the Claim including, but not limited to, labor, fringes, benefits and insurance, materials, equipment, Subcontractors, and all documents which establish the time periods, individuals involved, the hours and rate of pay for the individuals; and

8.12.6.25 all other documents required by the Contracting Authority to reasonably review the Claim.

8.13 False Certification of the Claim

8.13.1 If the Contractor falsely certifies all, or any part, of a Claim, the portion of the Claim falsely certified shall be denied, and may be sufficient cause for the State to debar the Contractor from future State contracting opportunities as permitted by law.

8.14 Performance and Payment

8.14.1 The Contractor shall proceed with the Work during any dispute resolution process, unless otherwise agreed by the Contractor and the Contracting Authority in writing.

8.14.2 The Contracting Authority shall continue to make payment of any undisputed amounts in accordance with the Contract Documents pending final resolution of a Claim, unless otherwise agreed by the Contractor and the Contracting Authority in writing.

ARTICLE 9 - COMPENSATION AND PAYMENT

9.1 Allowances

9.1.1 The Contract Sum includes the Allowances (if any) identified in the Contract.

9.1.2 All Allowances include the cost to the Contractor (less any applicable trade discounts) of materials and equipment required by the Allowances to be delivered at the Site, and all applicable taxes.

9.1.3 Except as explicitly set forth in the Contract, the Contractor's Fee and the Contractor's costs for unloading and handling on the Site, labor, installation costs, and other expenses contemplated for the Allowances are included in the Contract Sum and not in the Allowances.

9.1.4 Before final payment, an appropriate Change Order will be issued to reflect actual amounts due to the Contractor on account of Work covered by Allowances, and the Contract Sum will be correspondingly adjusted.

9.2 Unit Prices

9.2.1 Where the Contract provides that all or part of the Work is to be Unit Price Work, initially the Contract Sum will include for all Unit Price Work an amount equal to the sum of the established Unit Prices for each separately identified item of Unit Price Work times the estimated quantity of each item as indicated in the Contract. The estimated quantities of items of Unit Price Work are not guaranteed and are solely for the purpose of comparison of Bids and determining an initial Contract Sum. The Contracting Authority will determine the actual quantities and classifications of Unit Price Work performed by Contractor.

9.2.2 Except as explicitly set forth in the Contract, the Contractor's Fee on account of Unit Price Work is included in the Contract Sum and not in the Unit Price.

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9.3 Schedule of Values

9.3.1 Within 10 days of receipt of the Notice to Proceed, or other period as mutually agreed by the Contractor and the Contracting Authority, the Contractor shall submit to the A/E a Schedule of Values on a form published by the Department, with separate amounts shown for labor and materials for each branch of Work, following the numbers and titles of the Construction Specifications Institute's *MasterFormat* for individual work results, or *UniFormat* for assemblies in place.

9.3.1.1 The Contractor shall clearly indicate on the Schedule of Values, the amount(s) allocated, including amounts for overhead and profit, for each certified EDGE Business Enterprise used in the performance of the Work. The amount(s) shall indicate labor and materials, as appropriate.

9.3.2 The grand total shown on the Schedule of Values shall equal the total Contract Sum. The Contracting Authority may use the approved Schedule of Values to determine the cost or credit to the Owner resulting from any change in the Work.

9.3.2.1 The first items shall be a breakdown of General Conditions Costs.

9.3.2.2 The amounts for labor and materials shall accurately reflect the cost for each item.

9.3.2.3 If the material allocation exceeds 55 percent of the Contract Sum, the Contractor shall provide, upon request, sufficient information to support the higher percentage.

9.3.2.4 Subcontract Work shall show amounts for labor and materials. Fringe benefits shall be shown as a part of labor costs.

9.3.2.5 When more than one major structure is included in the Work, the Contractor shall subdivide the Schedule of Values accordingly, with cost details for each structure shown separately.

9.3.2.6 The line items shall be coordinated with line items in the Project Schedule, which may require division of items of Work by area of the Project by floor, phase, or other appropriate area.

9.3.2.7 Mechanical and electrical Work shall be included in separate line items for all major pieces of equipment, and group smaller equipment items by type.

9.3.2.8 Line items shall be included for each Allowance, Contractor's Fee, Punch List Work, Project Record Document Submittals, delivery of attic stock, and specified demonstrations and training.

9.3.3 The A/E may return the Schedule of Values to the Contractor for re-submittal if it does not meet the requirements or contains insufficient items or details of the Work, or approve the Schedule of Values if the A/E determines that it conforms to this Section 9.3.

9.3.4 No payment shall be made until the A/E has approved the Contractor's Schedule of Values.

9.3.5 If the Project is administered using OAKS CI, the Contractor shall submit its Schedule of Values, using the "Contract Schedule of Values" business process.

9.4 Contractor Payment Request

9.4.1 The Contractor may submit a Contractor Payment Request for Work performed based upon the Schedule of Values to the A/E each month or upon another interval approved by the Contracting Authority. When the rate of Work and amount involved is sufficient that it is considered appropriate by the Contracting Authority, the Contractor may submit Contractor Payment Requests twice a month.

9.4.1.1 The Contractor shall support each Contractor Payment Request with documentation substantiating the Contractor's right to payment. The Contractor shall supply additional documentation as the A/E may request in connection with each payment to the Contractor.

9.4.1.2 The Contracting Authority may require proof of the renewal of required insurance as a condition precedent to payment.

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9.4.1.3 The Contractor shall attach certified payroll reports for the relevant period to 1 copy of each Contractor Payment Request, see Document 00 73 43 - "Prevailing Wage Requirements."

9.4.1.4 The Contractor may list on the Contractor Payment Request any Change Orders approved and performed prior to submission of the Contractor Payment Request.

9.4.1.5 The Contractor shall submit its application for payment using the Contractor Payment Request form or forms current at the time of each application and as provided by the Contracting Authority in the manner prescribed by the Contracting Authority.

.1 If the Project is not administered using OAKS CI, the Contractor shall submit 1 draft copy of its Contractor Payment Request ("Pencil Copy") to the A/E not less than 1 week prior to submitting multiple copies of its Contractor Payment Request.

.2 The A/E shall review the Pencil Copy and provide comments to the Contractor within 3 days of receiving it.

.3 The Contractor shall incorporate the A/E's comments into its Contractor Payment Request prior to submitting multiple copies for payment.

9.4.1.6 The Contractor shall clearly indicate on the Contractor Payment Request, the amount(s) requested for each certified EDGE Business Enterprise used in the performance of the Contract. The amount(s) shall indicate labor and materials, as appropriate.

9.4.1.7 The Contractor shall submit an electronic copy of the Contractor Payment Request to the A/E with its paper copies of the Contractor Payment Request for collection and reporting of information used for contract compliance evaluation and statistical purposes. The Contractor may issue the copy in any electronic media acceptable to the Contracting Authority.

9.4.2 Payments, except for lump sum items, in Unit Price Contracts shall be made to the Contractor only for the authorized actual quantities of Work performed or materials furnished in accordance with the Contract Documents.

9.4.3 Subject to Section 9.8, the Owner shall pay an approved Contractor Payment Request within 30 days from the date the A/E recommends acceptance of the Contractor Payment Request.

9.4.3.1 Payments due and not paid to the Contractor, through no fault of the Contractor, within the 30 day period shall, from the date payment is due, bear simple interest at the applicable statutory rate.

~~5.4.4~~9.4.4 ~~for~~Notwithstanding any other provision of the Contract Documents, partial payments made pursuant to this Section 9.4 constitutes neither acceptance of any Defective Work~~.~~, nor a waiver of any rights set forth in the Contract Documents or otherwise provided by Applicable Law.

9.4.5 If the Project is administered using OAKS CI, the Contractor shall submit its Contractor Payment Request, using the "Contractor Pay Request" business process.

9.5 Labor Payments

9.5.1 Partial payments to the Contractor for labor performed under either a Unit Price or lump sum Contract shall be made at the rate of 92 percent of the amount invoiced through the Contractor Payment Request that shows the Work is 50 percent complete, as evidenced by payments in the amount of at least 50 percent of the original Contract Sum.

9.5.2 After the Work is 50 percent complete, as evidenced by payments in the amount of at least 50 percent of the original Contract Sum to the Contractor, no additional funds shall be retained from payments for labor.

9.6 Material Payments

9.6.1 The Owner shall pay the Contractor at the rate of 100 percent of the scheduled value for materials incorporated into the Project.

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9.6.2 The Owner shall pay the Contractor at the rate of 92 percent of the invoice cost, not to exceed the scheduled value in a Unit Price or lump sum Contract, for materials delivered to the Site, or other off-site storage location approved by the A/E, provided the Contractor provides the following information with the Contractor Payment Request:

9.6.2.1 a list of the fabricated materials consigned to the Project, giving the place of storage, together with copies of invoices, in order to verify quantity and cost; and

9.6.2.2 a certification of materials stored off-site, prepared by the Contractor and signed by the A/E to evidence that the materials are in conformity with the Specifications and have been tagged with the Project name and number for delivery to the Project. The Contractor shall directly reimburse the A/E for all costs incurred to visit a storage site, other than the areas adjacent to the Project.

The Owner shall pay the balance of the scheduled value when the materials are incorporated into and become a part of the Project.

9.6.3 When payment is allowed for materials delivered to the Site or other approved off-site storage location but not yet incorporated into the Project, the materials are the property of the Owner.

9.6.3.1 The Owner may, at its sole discretion, retain any material not ultimately incorporated into the Project or return it to the Contractor for credit of an amount proportionate to the value of the extra materials.

9.7 Retainage

9.7.1 If the total Contract Sum is $15,000 or more, when the Contract is 50 percent complete, as evidenced by payments in the amount of at least 50 percent of the Contract Sum to the Contractor, all funds retained for the faithful performance of the Work, in accordance with Section 9.5.1, shall be deposited in an escrow account with a bank in the state in accordance with the terms and conditions provided in an escrow agreement executed by the Contractor, the Contracting Authority, and the applicable bank.

9.7.2 When the major portion of the Work is occupied or in use, and there is no other reason to retain funds, including, but not limited to, compliance with Section 6.30; upon request of the Contractor, the funds retained in connection with that Work shall be released from escrow and paid to the Contractor, withholding only that amount necessary to assure faithful completion in the sole discretion of the Contracting Authority.

9.7.2.1 Any reduction or release of retained funds, or portion thereof, shall not be a waiver of the Contracting Authority's right to retain funds in connection with other payments to the Contractor, or any other right or remedy the Contracting Authority has under the Contract Documents at law or in equity.

9.7.2.2 Funds in the escrow account not previously paid shall be authorized for release to the Contractor within 30 days of the Contracting Authority's approval of a final Contractor Payment Request and Payment Release Affidavit furnished by the Contractor, and execution of the Certification of Contract Completion by the Contracting Authority.

9.7.3 Upon consent by the Contractor's Surety, the Contracting Authority may reduce the amount of funds retained for the faithful performance of Work by 50 percent of the amount of funds required to be retained, provided the Contractor's Surety remains responsible for all damages that may be caused due to default by the Contractor, including, but not limited to, the following:

9.7.3.1 completion of the Work;

9.7.3.2 all interference, disruption, hindrance and delay claims;

9.7.3.3 all Liquidated Damages; and

9.7.3.4 all additional expenses incurred by the State.

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9.8 Payments Withheld

9.8.1 The A/E and the Lead Contractor may recommend to the Contracting Authority that payments be withheld from, or the Liquidated Damages be assessed against, a Contractor Payment Request.

9.8.2 The Contracting Authority may decline to approve any Contractor Payment Request or part thereof, or nullify any previous Contractor Payment Request, in whole or in part, to the extent necessary in the Contracting Authority's sole opinion to protect the Owner from loss because of:

9.8.2.1 Defective Work not remedied;

9.8.2.2 damage caused by the Contractor;

9.8.2.3 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;

9.8.2.4 reasonable evidence that the Work will not be completed within the Contract Times, and that the unpaid balance would not be adequate to cover damages under the Contract Documents for the anticipated delay;

9.8.2.5 failure to comply with Applicable Law including, but not limited to, the requirements of ORC Chapter 4115;

9.8.2.6 failure to timely submit EDGE Participation Reports in accordance with Section 1.8.2;

9.8.2.7 failure to timely approve a Construction Progress Schedule in accordance with Section 1.1.1;

9.8.2.8 failure to timely submit the Contractor's list of proposed Subcontractors in accordance with Section 4.1;

9.8.2.9 failure to carry out the Work in accordance with the Contract Documents; or

9.8.2.10 that which is permitted under other provisions of the Contract Documents.

9.8.3 If the Contractor remedies the basis for withholding payment under Section 9.8.2 to the Contracting Authority's satisfaction, the Owner shall pay the amounts withheld.

9.9 Final Contractor Payment Request

9.9.1 The Contractor, as a condition precedent to execution of the Certification of Contract Completion and to final payment, shall complete all requirements of the Contract Documents.

9.9.1.1 The Contractor and each of its Subcontractors, regardless of tier, shall execute a Payment Release Affidavit to certify that the Contractor and each of its Subcontractors, regardless of tier, have complied with all requirements of ORC Chapter 4115, and to certify that all of its Subcontractors have been paid in full for all Work performed or materials furnished for the Project.

9.9.2 The Owner shall pay the final Contractor Payment Request within 30 days from the date the A/E recommends acceptance of the final Contractor Payment Request.

9.9.2.1 Payments due and not paid to the Contractor within the 30 day period shall bear interest from the date payment is due under the Contract Documents at the applicable statutory rate.

9.9.3 The acceptance of final payment by the Contractor or a Subcontractor constitutes the payee's waiver of all claims against the State except those previously made in writing under Article 8 and identified by that payee as unsettled at the time of the final Contractor Payment Request.

9.9.4 Notwithstanding any other provision of the Contract Documents, final payment made pursuant to this Section 9.9 constitutes neither acceptance of any Defective Work, nor a waiver of any rights set forth in the Contract Documents or otherwise provided by Applicable Law.

9.9.5 If the Project is administered using OAKS CI, the Contractor shall submit its final Contractor Payment Request, using the "Contractor Pay Request" business process.

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ARTICLE 10 - BONDS, INSURANCE, AND INDEMNIFICATION

10.1 Payment and Performance Bonds

10.1.1 Before signing the Agreement, the Contractor shall provide the Bond as required under Applicable Law and below:

10.1.1.1 If the Contractor provided Document 00 43 13 - "Bid Security Form" as its Bid Guaranty then that form shall be the Bond.

10.1.1.2 If the Contractor provided another form of Bid Guaranty, then Document 00 61 13 - "Performance and Payment Bond Form" shall be the Bond.

10.1.1.3 Each Surety under the Bond shall be licensed to do business in Ohio and satisfactory to the Contracting Authority.

10.1.1.4 If there is more than one Surety under the Bond, each of them shall be jointly and severally liable as surety under the Bond.

10.1.1.5 The penal sum of the Bond, when initially submitted, shall be equal to one-hundred percent of the Contract Sum.

10.1.2 The Contractor shall submit with the executed Bond (1) a certified copy of the authority to act (power of attorney) of the agent signing the Bond on behalf of the Surety and (2) a current and signed Certificate of Compliance under ORC Section 9.311 issued by the Ohio Department of Insurance showing the Surety is licensed to do business in Ohio.

10.1.3 If the Contract Sum increases at any time such that it exceeds the penal sum of the Bond, the Contractor shall cause the penal sum of the Bond to be increased such that the penal sum equals one-hundred percent of the increased Contract Sum.

10.1.4 Any time the Contractor increases the penal sum of the Bond under Section 10.1.3, the Contractor shall deliver to the Contracting Authority written consent of the affected Surety or Sureties confirming the increased penal sum. The Contracting Authority's receipt of that written consent is a condition precedent to the Owner's obligation to pay the Contractor for any portion of the Work associated with the increase.

10.1.5 If notice of any change affecting the Contract is required by any Surety or by the provision of any Bond, the Contractor shall provide that notice.

10.2 Contractor's General Insurance Requirements

10.2.1 Throughout the performance of the Work or longer as may be described below, the Contractor shall obtain, pay for, and keep in force, the minimum insurance coverage described in this Article 10.

10.2.1.1 Each requirement of this Article 10 applies to Subcontractors just as it applies to the Contractor.

10.2.1.2 If a Subcontractor's usual insurance coverage does not meet the minimum coverage requirements, before entering into an agreement with that Subcontractor, the Contractor shall submit to the Contracting Authority (1) a certificate of insurance evidencing the insurance the Subcontractor will carry without additional compensation and (2) if the Contracting Authority requests, a written proposal from the Subcontractor to provide coverage which meets the minimum coverage requirements. The Contracting Authority will decide whether to accept the non-conforming insurance coverage or the proposal to provide conforming coverage.

10.2.1.3 On a case-by-case basis, the Contracting Authority and the Contractor may agree to adjust the below requirements for any particular Subcontractor.

10.2.2 Before starting the Work on the Site, upon renewal of any policy, and upon a change of any insurance carrier, the Contractor shall deliver to the Contracting Authority certificates evidencing that the required insurance is in force.

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10.2.3 With the exception of government-controlled workers compensation coverage:

10.2.3.1 the Contractor shall place the insurance with companies that (1) are satisfactory to the Contracting Authority, (2) hold an A.M. Best Rating of A-, X, or higher, and (3) are authorized to conduct business in Ohio;

10.2.3.2 if the certificate(s) of insurance is not on the ACORD 25 (2009/09 or more recent) form, it (1) shall provide or be endorsed to provide that coverage will not be cancelled or not renewed until at least 30-days' prior written notice (10-day notice for nonpayment of premium) has been given to the Contracting Authority, and (2) shall have the words "endeavor to" and "but failure to do so shall impose no obligation or liability of any kind upon insurer, its agents or representatives" and any like provisions crossed out or deleted; and

10.2.3.3 within 30 days of the Contracting Authority's request, the Contractor shall submit insurance-company certified copies of the policies, the policy endorsements, or both.

10.2.4 The Contractor shall pay all deductibles, or self-insured retentions, or both contained in the Contractor's policies of insurance required or provided in connection with the Project. The Contracting Authority reserves the right to approve or reject all levels of self-insured retention, captive insurance programs, or other alternative risk financing the Contractor may use to comply with any insurance requirement.

10.2.5 The Contractor shall pay a proportionate share of the deductibles, or self-insured retentions, or both contained in any insurance policy the Contracting Authority purchases for the Project. The Contractor's proportionate share will derive from the percentage of the associated claim or loss attributable to the alleged or actual negligence of the Contractor or a Subcontractor.

10.2.6 The Contracting Authority and Owner do not represent that required coverage or limits are adequate to protect the Contractor.

10.2.7 Failure of the Contracting Authority to demand a certificate or other evidence of full compliance with the insurance requirements or failure of Contracting Authority to identify a deficiency from evidence that is provided shall not be construed as a waiver of the Contractor's obligation to maintain the required insurance.

10.2.8 The Contracting Authority may terminate the Contract for cause on account of the Contractor's failure to maintain the required insurance.

10.3 Contractor's Minimum Coverage Requirements

10.3.1 Workers Compensation. The Contractor shall maintain workers compensation coverage meeting the requirements of Applicable Law.

10.3.2 Employers Liability Coverage. The Contractor shall maintain employers liability coverage with (1) an each-accident limit of not less than $1,000,000, (2) a disease each-employee limit of not less than $1,000,000, and (3) a disease policy limit of not less than $1,000,000.

10.3.3 Commercial General Liability. The Contractor shall maintain commercial general liability ("CGL") coverage which provides (1) an each-occurrence limit of not less than $1,000,000, (2) a general-aggregate limit of not less than $2,000,000, and (3) a products and completed-operations aggregate limit of not less than $2,000,000.

10.3.3.1 The CGL insurance shall be written on ISO occurrence form CG 00 01 10 01 or a substitute form, providing at least equivalent coverage for liability arising from premises, operations, independent contractors, products/completed-operations, personal and advertising injury, and liability assumed under an insured contract.

10.3.3.2 The Contractor shall include the State, the Contracting Authority, the Owner, and the A/E as additional insureds under the CGL policy using ISO endorsement CG 20 10 11 85 or a substitute form(s) providing equivalent coverage.

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10.3.3.3 The CGL policy shall be endorsed using ISO endorsement CG 25 03 or a substitute form providing equivalent coverage to provide that the general aggregate limit applies separately to each of the insured's projects.

10.3.3.4 The CGL insurance shall apply as primary and non-contributory insurance with respect to any other insurance or self-insurance programs which cover the additional insured(s).

10.3.3.5 The CGL policy shall not exclude coverage to the additional insured(s) for bodily injury or property damage arising out of the products/completed-operations hazard.

10.3.3.6 The Contractor shall maintain the CGL insurance in effect for no less than 5 years after the earlier of the termination the Contract or Final Acceptance of all Work.

10.3.4 Business Automobile Liability. The Contractor shall maintain business automobile ("BA") coverage written on ISO form CA 00 01 10 01 or a substitute form, providing at least equivalent coverage with a limit of not less than $1,000,000 each accident.

10.3.4.1 The coverage shall extend to any auto.

10.3.4.2 The Contractor shall include the State, the Contracting Authority, the Owner, and the A/E as additional insureds under the BA policy.

10.3.5 Umbrella/Excess Liability.

10.3.5.1 The Contractor may employ an umbrella/excess liability policy to achieve the above-required minimum coverage.

10.3.5.2 The Contractor shall maintain umbrella/excess liability coverage with a limit of not less than $2,000,000 (in addition to the above-required limits) if the Work (or the Work to performed by the Subcontractor) includes any of the following:

.1 brick/block masonry;
.2 exterior caulking/sealant;
.3 cast-in-place or precast concrete;
.4 curtain wall;
.5 dampproofing/waterproofing;
.6 electrical;
.7 elevator;
.8 exterior glass and/or glazing;
.9 exterior marble, granite, and/or other stonework;
.10 miscellaneous metals;
.11 plaster/stucco;
.12 plumbing;
.13 HVAC;
.14 roofing and/or sheet metal;
.15 scaffolding;
.16 spray-on fireproofing;
.17 sprinkler and/or fire protection; or
.18 structural steel and/or metal deck.

10.3.5.3 The Contractor shall maintain umbrella/excess liability coverage with a limit of not less than $5,000,000 (in addition to the above-required limits) if the Work (or the Work to performed by the Subcontractor) includes any of the following:

.1 caissons and/or piles;
.2 demolition;

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.3 excavation and/or utility work;

.4 sheeting, shoring, and/or underpinning;

.5 window washing equipment; or

.6 wrecking.

10.3.6 Contractor's Pollution Liability. If the Work includes environmentally sensitive, hazardous types of activities (such as demolition, exterior insulation finish systems, Asbestos abatement, storage-tank removal, or similar activities), or involves Hazardous Materials, the Contractor shall maintain a contractor's pollution liability ("CPL") policy with (1) a per-claim limit of not less than $1,000,000 and (2) an annual-aggregate limit of not less than $1,000,000, covering the acts, errors and/or omissions of the Contractor for damages (including from mold) sustained by the Contracting Authority by reason of the Contractor's performance of the Work.

10.3.6.1 The CPL policy shall have an effective date, which is on or before the date on which the Contractor first started to perform any Project-related services.

10.3.6.2 Upon submission of the associated certificate of insurance and at each policy renewal, the Contractor shall advise the Contracting Authority in writing of any actual or alleged claims which may erode the CPL policy's limits.

10.3.6.3 The Contractor shall maintain the CPL insurance in effect for no less than 5 years after the earlier of the termination the Contract or Final Acceptance of all Work.

10.3.7 Professional Liability—Contractor. The Contractor shall maintain professional liability insurance with a per-claim limit of not less than $1,000,000 and an annual aggregate limit of not less than $2,000,000.

10.3.7.1 The professional liability policy shall have an effective date which is on or before the date on which the Contractor first started to provide any Project-related services.

10.3.7.2 Upon submission of the associated certificate of insurance and at each policy renewal, the Contractor shall advise the Contracting Authority in writing of any actual or alleged claims which may erode the professional liability policy's limits.

10.3.7.3 The Contractor shall maintain the professional liability insurance in effect for no less than 5 years after the earlier of the termination the Contract or Final Acceptance of all Work.

10.3.8 Professional Liability—Subcontractors. If the Work to be performed by a Subcontractor includes any professional design services (including without limitation sprinkler and/or fire protection and other design-build work) the Subcontractor shall maintain professional liability insurance without design-build exclusions with limits not less than as identified in the following table:

Subcontract Sum	Each Claim	Annual Aggregate
Up to $10,000,000	$1,000,000	$2,000,000
From $10,000,000.01 to $25,000,000	$3,000,000	$3,000,000
From $25,000,000.01 to $50,000,000	$5,000,000	$5,000,000
More than $50,000,000	$10,000,000	$10,000,000

10.3.8.1 The professional liability policy shall have an effective date which is on or before the date on which the Subcontractor first started to provide any Project-related services.

10.3.8.2 Upon submission of the associated certificate of insurance and at each policy renewal, the Contractor shall advise the Contracting Authority in writing of any actual or alleged claims which may erode the Subcontractor's professional liability policy's limits.

10.3.8.3 The Subcontractor shall maintain the professional liability insurance in effect for no less than 5 years after the earlier of the termination the Contract or Final Acceptance of all Work.

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10.3.8.4 If the Subcontractor is not authorized under Applicable Law to directly provide professional design services, the Subcontractor may satisfy the requirements of this Section 10.3.8 by providing a contractor's professional liability insurance policy.

10.3.9 Aviation Liability. If the Contractor or a Subcontractor uses aircraft, including helicopters, in the performance of the Work, the Contractor shall maintain aircraft or aviation liability coverage in an amount of no less than $10,000,000. The Contracting Authority and Owner will not be liable for any damage to any aircraft owned, leased, rented, or borrowed by the Contractor or a Subcontractor.

10.3.10 Watercraft Liability. If the Contractor or a Subcontractor uses watercraft in the performance of the Work, the Contractor shall maintain watercraft liability coverage including protection and indemnity insurance in an amount of no less than $5,000,000. The Contracting Authority and Owner will not be liable for any damage to any watercraft owned, leased, rented, or borrowed by the Contractor or a Subcontractor.

10.3.11 Equipment Coverage. The Contracting Authority and Owner will not insure or be liable for damage to any Contractor or Subcontractor owned, leased, rented, or borrowed tools, equipment, or vehicles. The Contractor and Subcontractors are solely responsible for maintaining all insurance necessary to cover their tools, equipment, and vehicles.

10.3.12 Ocean Marine Insurance. If the shipment of equipment or materials for the Work will not be covered by the Builder's Risk insurance required under Section 10.4, the Contractor shall maintain ocean marine insurance to the Site including cost, insurance, and freight with limits of not less than an amount equal to the full replacement cost of the equipment/materials shipped to final destination point. The insurance shall include the following minimum requirements:

10.3.12.1 all-risk basis including war risk and all forms of terrorism;

10.3.12.2 coverage for general average and salvage charges;

10.3.12.3 "on deck" coverage;

10.3.12.4 warehouse-to-warehouse coverage;

10.3.12.5 coverage to include losses from strikes, riots, and civil commotions ("SR&CC coverage");

10.3.12.6 coverage to include losses from free of capture and seizure warranty ("FC&S Warranty coverage");

10.3.12.7 "Inchmaree" clause;

10.3.12.8 sue and labor;

10.3.12.9 "both-to-blame" coverage;

10.3.12.10 free of particular average;

10.3.12.11 inland coverage including on-land shipment, port storage, and barge transit upon inland waterways; and

10.3.12.12 damage by saltwater and rainwater perils and cargo sweat.

10.3.13 Additional Property Insurance. For any demolition, blasting, excavating, tunneling, shoring, or similar operations, the Contractor shall provide and maintain Property Damage Liability insurance with a limit of liability equal to the limit as specified in the applicable sections of Article 10.

10.4 Builder's Risk Insurance

10.4.1 The Lead Contractor shall provide and maintain, during the progress of the Work and until the execution of the final Certification of Contract Completion by the Contracting Authority, a Builder's Risk insurance policy to cover all Work in the course of construction including false-work, temporary buildings and structures, and materials used in the construction process, stored on or off-site, or while in transit. This insurance shall be on a special cause of loss form, which provides coverage on an open perils basis insuring

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against the direct physical loss of, or damage to, covered property including, but not limited to, theft, vandalism, malicious mischief, earthquake, tornado, lightning, explosion, breakage of glass, flood, collapse, water damage, and hot and cold testing. This insurance shall be written on a replacement cost basis and shall also include debris removal, and/or demolition occasioned by enforcement of Applicable Law.

10.4.1.1 The amount of coverage shall be not less than the total completed value of the Project, including the value of permanent fixtures and decorations, with a deductible of not more than $25,000 per occurrence. Any deductible over the amount specified shall be authorized in writing by the Owner and the Contracting Authority.

10.4.1.2 Coverage shall include a provision to pay the reasonable extra costs of acceleration and expediting temporary and permanent repairs to, or permanent replacement of, damaged property. This shall include overtime wages and the extra cost of "express" or other means for rapidly transporting materials and supplies necessary to the repair or replacement.

10.4.1.3 Coverage shall include “soft cost endorsement” including, but not limited to, the reasonable extra costs of the A/E and reasonable Contractor extension or acceleration costs.

10.4.1.4 Coverage shall include material in transit or stored off-site and identified for the Project.

10.4.1.5 Coverage shall waive all rights between the Owner, the Contracting Authority, the Contractor, and Subcontractors at any tier, for damages caused by fire or any other perils to the extent of actual recovery of any insurance proceeds under the policy.

10.4.1.6 Coverage shall include appropriate sub-limits for installation coverage.

10.4.1.7 Coverage shall include provisions for mechanical or electrical breakdown, or boiler system testing.

10.4.1.8 Coverage shall include temporary structures and scaffolding, along with collapse coverage.

10.4.1.9 Coverage shall be primary to all other applicable insurance.

10.4.1.10 The Builder's Risk policy shall specifically permit and allow for Partial Occupancy by the Owner prior to execution of the final Certification of Contract Completion by the Contracting Authority and coverage shall remain in effect until all punch list items are completed.

10.4.1.11 The Contractor’s tools and equipment shall not be covered under the Builder’s Risk policy. It is the Contractor’s sole responsibility to maintain such coverage, which shall be included in its Overhead and not included as a separate item in the Contractor’s Schedule of Values.

10.4.2 If the Contractor is involved solely in the installation of material and equipment and not in new building construction, the Contractor shall purchase and maintain a Builder's Risk, Builder's Risk-Renovations, or Installation Floater insurance policy. The policy shall comply with the provisions of Section 10.4.1.

10.5 Waivers of Subrogation

10.5.1 To the fullest extent permitted by Applicable Law, the Contractor waives all rights against the Owner, the Contracting Authority, and their agents and employees for damages to the extent covered by any insurance, except rights to the proceeds of that insurance. All policies shall accomplish the waiver of subrogation by endorsement or otherwise.

10.5.2 The Owner, the Contracting Authority, and the Contractor waive all rights against each other for damages caused by fire or other perils to the extent of actual recovery of any insurance proceeds under any property insurance, inland marine insurance, or Builder’s Risk insurance applicable to the Work.

10.6 Indemnification for Injury or Damage

10.6.1 To the fullest extent permitted by Applicable Law, the Contractor shall indemnify, defend, and hold harmless the Indemnified Parties from and against all claims, costs, damages, losses, fines, penalties, and expenses (including but not limited to all fees and charges of contractors, engineers, architects, attorneys, and

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other professionals and all court, arbitration, or other dispute-resolution costs) arising out of or in connection with the Project, provided that any such claim, cost, damage, loss, fine, penalty, or expense (all of which may be direct, indirect, or consequential) is attributable to:

10.6.1.1 bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property but only to the extent caused by the negligent acts, errors, or omissions of the Contractor or a person or entity for whom the Contractor may be liable;

10.6.1.2 infringement of patent rights or copyrights by the Contractor or a person or entity for whom the Contractor may be liable; or

10.6.1.3 a violation of Applicable Law but only to the extent attributable to the Contractor or a person or entity for whom the Contractor may be liable.

10.6.2 The Contractor's indemnification obligation under Section 10.5.1 exists regardless of whether or not and the extent to which the claim, damage, loss, fine, penalty, or expense is caused in part by a party indemnified under Section 10.5.1. But nothing in Section 10.5.1 obligates the Contractor to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.

10.6.3 The Contractor's obligations under Section 10.5.1 shall not extend to the liability of the A/E, the A/E's consultants, agents, representatives, or employees for negligent preparation or approval of Drawings, Specifications, Change Orders, opinions, and any other responsibility of the A/E, except to the extent covered by the Contractor's insurance.

10.6.4 In claims against an Indemnified Party by any direct or indirect employee (or the survivor or personal representative of that employee) of the Contractor or a person or entity for whom the Contractor may be liable, the indemnification obligation under Section 10.5.1 will not be limited by a limitation on the amount or type of damages, compensation, or benefits payable under workers' compensation acts, disability benefit acts, or other employee benefit acts.

10.6.5 The Contractor's indemnification obligation under Section 10.5.1 will not be limited by any insurance policy provided or required in connection with the Project.

10.6.6 The Contractor's obligations under Section 10.5.1 shall not negate, abridge, or reduce other rights or obligations of indemnity, which would otherwise exist as to an Indemnified Party.

10.6.7 The Contractor's indemnification obligation under Section 10.5.1 will survive termination of the Contract and Final Acceptance of the Work.

10.6.8 The Contracting Authority may deduct from the Contract Sum the claims, damages, losses, fines, penalties, and expenses for which the Contractor is liable under Section 10.5.1. If those claims, damages, losses, fines, penalties, and expenses exceed the unpaid balance of the Contract Sum, the Contractor shall immediately pay the difference to the Owner.

10.7 Indemnification for Use of Electronic Files

10.7.1 To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Indemnified Parties from and against all claims, damages, losses, and expenses (including, but not limited to, the fees and charges of contractors, engineers, architects, attorneys, and other professionals) arising out of, or related to the Contractor's, or any other Person's use of electronic files, including, but not limited to, CAD or BIM files (collectively "Electronic Files").

10.7.1.1 These Electronic Files are provided solely for the Contractor's convenience and use related to the Project. Any use of the Electronic Files shall be at the sole risk of the Contractor.

10.7.1.2 The Owner alone owns the Electronic Files and every right, title, and interest therein from the moment of creation.

10.7.1.3 The Electronic Files are not products.

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10.7.1.4 The Contractor shall not use the Electronic Files for any purpose other than as a convenience for preparing Shop Drawings, Coordination Drawings, Record Drawings, or fabrication data for components, systems, and assemblies intended solely for use on the Project.

10.7.1.5 The State and the A/E make no warranties, either express or implied, of the merchantability or fitness of the Electronic Files for any particular purpose.

10.7.1.6 The Contractor understands and accepts that the Electronic Files may deteriorate or be inadvertently or otherwise modified without authorization of the State or the A/E.

10.7.1.7 The State and the A/E make no representations as to compatibility, usability, or readability of the Electronic Files resulting from the use of software, application packages, operating systems, or computer hardware differing from those used to create the Electronic Files.

10.7.1.8 In the event of a conflict between the Contract Documents and the Electronic Files, the Contract Documents shall control, take precedence over, and govern the Electronic Files.

10.7.1.9 The Contractor alone is responsible to check, verify, and otherwise confirm the accuracy of data on the Electronic Files.

10.7.1.10 The Contractor shall not make any claims and hereby waives, to the fullest extent permitted by law, any claims or causes of action of any nature against the Indemnified Parties, which may arise out of, or in connection with, the use of the Electronic Files.

ARTICLE 11 - SUSPENSION AND TERMINATION

11.1 Suspension of the Work

11.1.1 The Contracting Authority, without cause and without prejudice to any other right or remedy it may have, may order the Contractor in writing to suspend, delay, or interrupt the performance of the Work in whole or in part for such period as the Contracting Authority may determine.

11.1.1.1 If the Contracting Authority suspends the Work under this Section 11.1.1 and the Contractor complies with Article 8, the Contract Sum and Contract Times shall be adjusted for increases in the cost and time caused by the suspension, delay, or interruption. The adjustment of the Contract Sum, however, shall not include profit.

11.1.1.2 Notwithstanding the foregoing, no adjustment shall be made to the Contract Sum or Contract Times to the extent that:

.1 performance was, or could have been, suspended, delayed, or interrupted by a cause for which the Contractor is responsible; or

.2 an equitable adjustment is made or denied under another provision of the Contract.

11.1.1.3 If the Contracting Authority suspends the Work under this Section 11.1.1 and the Contractor submits a proper Contractor Payment Request, but subject to all other provisions of the Contract Documents, the Contractor shall be entitled to payment of compensation due under the Contract Documents for Work performed before the suspension based upon the Schedule of Values.

11.1.2 The Contracting Authority, without prejudice to any other right or remedy it may have, may order the Contractor in writing to suspend, delay, or interrupt the performance of the Work in whole or in part for such period of time as the Contracting Authority may determine for any of the following reasons: (1) Defective Work; (2) the Contractor is causing undue risk of damage to any part of the Project or adjacent area; (3) the Contractor fails to furnish or perform the Work in such a way that the complete Work will conform to the requirements of the Contract Documents; or (4) any other cause the Contracting Authority reasonably believes justifies a suspension.

11.1.2.1 The Contracting Authority's exercise of its right to suspend the Work under this Section 11.1.2 shall not entitle the Contractor to any adjustment of the Contract Sum, Contract Times, or both.

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11.1.2.2 If the Contracting Authority is adjudged to have improperly suspended the Work under this Section 11.1.2, the suspension shall be deemed to have been a suspension under Section 11.1.1.

11.1.3 Upon receipt of notice of suspension under this Section 11.1, the Contractor shall cease Work on the suspended activities and take all necessary or appropriate steps to limit disbursements and minimize respective costs. The Contractor shall furnish a report to the Contracting Authority, within 5 days of receiving the notice of suspension, describing the status of the Work, including, but not limited to, results accomplished, resulting conclusions, and other information as the Contracting Authority may require.

11.1.4 The Contracting Authority's right to stop the Work shall not give rise to any duty to exercise the right for the benefit of the Contractor or any other party, and the Contracting Authority's exercise or failure to exercise the right shall not prejudice any of the Contracting Authority's other rights.

11.2 Termination for Convenience

11.2.1 The Contracting Authority may, at any time, terminate the Contract in whole or in part for the Owner's convenience and without cause, at any time upon 10 days written notice to the Contractor.

11.2.2 Upon receipt of the notice of termination for convenience, the Contractor shall immediately proceed with performance of the following duties in accordance with instructions from the Contracting Authority:

11.2.2.1 cease operation as specified in the notice;

11.2.2.2 place no further orders and enter into no further subcontracts for materials, labor, services, or facilities, except as necessary to complete continued portions of the Project;

11.2.2.3 terminate all subcontracts and orders to the extent they relate to the Work terminated;

11.2.2.4 proceed with Work not terminated; and

11.2.2.5 take actions that may be necessary, or that the Contracting Authority may direct, for the protection and preservation of the terminated Work.

11.2.3 Upon termination, the Contracting Authority shall pay the Contractor in accordance with the Schedule of Values for Work completed, including any retained funds, and the value of materials ordered and delivered, less any salvage credit the Contractor may receive for them.

11.2.3.1 All materials, equipment, facilities, and supplies at the Site or stored off-site, for which the Contractor has received payment, shall become the property of the Owner.

11.2.3.2 The Contractor is entitled to a fair and reasonable profit for Work performed and reasonable expenses directly attributable to the termination of the Contract. In no event shall the Contractor be entitled to (1) overhead and profit on Work not performed or (2) compensation in excess of the total Contract Sum.

11.2.4 If the Contracting Authority terminates the Work under this Section 11.2, the termination shall not affect the rights or remedies of the State against the Contractor then existing or which may thereafter accrue.

11.2.5 Notwithstanding Section 11.2.3, if the Contracting Authority terminates the Work under this Section 11.2, but there exists an event of the Contractor's default, the Contractor shall be entitled to receive only such sums as it would be entitled to receive following the occurrence of an event of default as provided in Section 11.3.

11.3 Termination for Cause

11.3.1 The Contracting Authority may terminate all or a portion of the Contract if the Contractor commits a material breach of the Contract including but not limited to:

11.3.1.1 failure to prosecute the Work with the necessary force or in a timely manner;

11.3.1.2 refusal to remedy Defective Work;

11.3.1.3 failure to supply enough properly skilled workers or proper materials;

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11.3.1.4 failure to properly make payment to Subcontractors or Consultants;

11.3.1.5 performance of any services outside of the United States;

11.3.1.6 permitting its Subcontractors or Consultants to perform any services outside of the United States; or

11.3.1.7 disregarding laws, ordinances, or rules, regulations, or orders of a public authority with jurisdiction over the Project.

11.3.2 If the Contracting Authority intends to exercise its termination rights under this Section 11.3, the Contracting Authority shall issue not less than 5 days' written notice to the Contractor and the Contractor's Surety in accordance with ORC Section 153.17 ("5-Day Notice").

11.3.3 If the Contractor fails to satisfy the requirements set forth in the 5-Day Notice within 15 days of receipt of the 5-Day Notice, the Contracting Authority may declare the Contractor in default, terminate the Contract, and employ upon the Work the additional force or supply materials or either as appropriate, and remove Defective Work.

11.3.4 If the Contract is terminated, the Contractor's Surety may perform the Contract. If the Contractor's Surety does not commence performance of the Contract within 10 days of the date of Contract termination, the Contracting Authority may complete the Work by means the Contracting Authority determines appropriate. The Contracting Authority may take possession of and use all materials, facilities, and equipment at the Site or stored off-site, for which the State has paid.

11.3.5 If the Contract is terminated, the Contractor shall not be entitled to further payment. If the unpaid balance of the Contract Sum exceeds the costs of finishing the Work, including without limitation the fees and charges of engineers, architects, attorneys, and other professionals and court costs, and other damages incurred by the Owner and not expressly waived, the Contractor or Surety shall immediately pay the amount of the insufficiency to the Owner. This obligation for payment shall survive termination of the Contract.

11.3.6 If the Contractor's Surety performs the Work, the provisions of the Contract Documents govern the Surety's performance, with the Surety in place of the Contractor in all provisions including, but not limited to, provisions for payment for the Work, and provisions of the right of the Contracting Authority to complete the Work.

11.3.7 If the Contracting Authority terminates the Contract under this Section 11.3, the termination shall not affect any rights or remedies of the State against the Contractor then existing or which may thereafter accrue. The Contracting Authority's retention or payment of funds due the Contractor shall not release the Contractor or the Contractor's Surety from liability for performance of the Work in accordance with the requirements of the Contract Documents.

11.3.8 If the Contracting Authority is adjudged to have improperly terminated the Contract under this Section 11.3, the termination will be deemed to have been a termination under Section 11.2.

11.4 Contractor Insolvency

11.4.1 Bankruptcy of Contractor.

11.4.1.1 If the Contractor files a voluntary petition in bankruptcy or has an involuntary petition in bankruptcy filed against it, the Contractor, the Contractor as the debtor-in-possession, or the trustee of the Contractor's bankruptcy estate shall file a motion to assume or reject the Contract under Bankruptcy Code §365, 11 U.S.C. §365, within 20 days after the filing of the voluntary petition or involuntary petition and shall diligently prosecute that motion to conclusion so as to obtain an order granting or denying that motion within 45 days after the filing of the voluntary or involuntary petition. The failure to file and prosecute that motion within the time frames provided by this Section 11.4 shall constitute a material breach of the Contract as time is of the essence with respect to Contractor's performance of all terms of this Contract. Contractor agrees to the granting of relief from the automatic stay of the Bankruptcy Code,

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11 U.S.C. §362(a), to permit the Contracting Authority to terminate the Contract for cause in such instance and issue and serve all notices necessary to terminate the Contract or arising out of the termination of the Contract and to take any and all other action necessary to terminate the Contract.

11.4.2 Receivership or Assignment for the Benefit of Creditors.

11.4.2.1 If the Contractor makes a general assignment for the benefit of creditors or if a receiver is appointed for all or a substantial part of the Contractor's business or property, the Contracting Authority shall serve written notice on the Contractor and the Contractor's Surety stating that any failure of the Contractor to provide adequate assurance of continued performance shall be considered a rejection of the Contract, which shall result in termination of the Contract for cause. Such termination of the Contract need not be evidenced by an order of any court.

ARTICLE 12 - GENERAL PROVISIONS

12.1 Contractor's Documents and Contract Documents

12.1.1 Ownership.

12.1.1.1 The Owner alone owns the Contractor's Documents and the Contract Documents and every right, title, and interest therein from the moment of creation.

.1 The Contractor must execute and deliver and cause its employees and agents and all Subcontractors and Consultants to execute and deliver, to the Owner any transfers, assignments, documents, or other instruments (if any) necessary to vest in the Owner complete right, title, interest in and ownership of the Contractor's Documents and the Contract Documents.

12.1.1.2 The Contractor may retain copies, including reproducible copies, of the Contractor's Documents and the Contract Documents for information, reference, and performance of the Work.

12.1.1.3 The submission or distribution of the Contractor's Documents or the Contract Documents to meet official regulatory requirements or for similar purposes in connection with the Project is not a waiver of the Owner's reserved rights in the Contractor's Documents and the Contract Documents. Any unauthorized use of the Contractor's Documents or the Contract Documents shall be at the sole risk of the entity making the unauthorized use.

12.1.2 Intent.

12.1.2.1 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor.

12.1.2.2 The Contract Documents are complementary, and what is required by one is binding as if required by all.

12.1.2.3 The Contractor shall provide all labor and materials necessary for the entire completion of the Work described in the Contract Documents and reasonably inferable to produce the intended results.

12.1.2.4 The Drawings govern dimensions, details, and locations of the Work. The Specifications govern quality of materials and workmanship.

12.1.2.5 The organization of the Specifications in divisions, sections, and articles, and the arrangement of Drawings shall not restrict the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade.

12.1.2.6 In the event of inconsistency or conflict within the Contract Documents, the Contractor shall provide the better quality or greater quantity of Work, and comply with the stricter requirement.

12.1.2.7 Unless otherwise defined in the Contract Documents, words that have well-known technical or construction industry meanings are used in accordance with those recognized meanings.

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12.1.2.8 The Sections of Division 01 - "General Requirements" govern the performance of the Work of all Sections of the Specifications.

12.2 Public Relations

12.2.1 Publicity prior to completion of the Project. Prior to completion of the Project, public relations or publicity about the Project shall be solely within the control, and with the consent of, the Owner.

12.2.2 Publicity after completion of the Project. After completion of the Project, the Contractor may exercise reasonable public relations and marketing efforts related to the Project, provided the Contractor properly identifies the Owner and the Contracting Authority, and their participation in the Project.

12.2.3 Professional Photography. If the Contractor commissions photography of the completed Project, the Contractor shall include in its photography agreements a release for unrestricted and unlimited use of photographs by the Owner and the Contracting Authority, and shall provide the Owner and the Contracting Authority with a reasonable quantity of photographs for use in the Owner's and the Contracting Authority's marketing and awareness activities, including, but not limited to, profiles of the Project on their respective websites.

12.2.4 Craft Awards and Other Recognition.

12.2.4.1 If the Contractor submits the Project for craft awards or other similar venues for recognition of the Project, the Contractor shall properly identify the Owner and the Contracting Authority, and their participation in the Project.

12.2.4.2 In addition, if the Project receives any craft award or other recognition, the Contractor shall provide duplicate copies of the award plaque or other memento of the award to the Owner and the Contracting Authority.

12.3 Application and Governing Law

12.3.1 The Contract and the rights of the parties thereunder shall be governed by the laws of the state of Ohio and only Ohio courts shall have jurisdiction over any action or proceeding concerning the Contract and/or performance thereunder. The Contractor irrevocably consents to such jurisdiction.

12.3.2 The parties to the Contract shall comply with Applicable Law.

12.3.3 Other rights and responsibilities of the Contractor, the A/E, the Contracting Authority, and the Owner are set forth throughout the Contract Documents and included under different titles, articles, and paragraphs for convenience.

12.4 Conditions of the Contract

12.4.1 These General Conditions govern, take precedence over, and shall not be superseded or amended by Drawings and Specifications, unless so provided in Supplementary Conditions prepared by the Contracting Authority and approved by the State Architect.

12.5 Notice of Commencement.

12.5.1 The Contracting Authority shall prepare a Notice of Commencement and make it available as required under ORC Section 1311.252.

12.5.2 Upon request, the Contracting Authority or the Contractor shall furnish the Notice of Commencement to Subcontractors or any other member of the public.

12.6 Written Notice

12.6.1 Notice under the Contract Documents shall be validly given if:

12.6.1.1 delivered personally to a member of the organization for whom the notice is intended;

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12.6.1.2 delivered, or sent by registered or certified mail, to the last known business address of the organization; or

12.6.1.3 sent by facsimile, email, or web-based project management software, provided the original, signed document is delivered within 3 business days after the date of the electronic transmission.

12.6.2 When the Owner, the Contracting Authority, the A/E, or the Contractor gives notice to one of the other 3, it shall also simultaneously send a copy of that notice to the others.

12.6.3 A copy of all notices, certificates, requests, or other communications to the Contracting Authority shall be sent to the Project Manager.

12.6.4 For convenience of communication only, notices, certificates, requests, or other communications hereunder, may be sent by facsimile, email, or web-based project management software, provided the original, signed document is delivered within 3 business days after the date of the electronic transmission.

12.6.4.1 Notices, certificates, requests, or other communications sent by facsimile transmission shall be validly given provided a counterpart is delivered or mailed in accordance with Section 12.6.1.

12.6.4.2 Requests for payment may be sent to the Contracting Authority by facsimile only upon the Contracting Authority's prior specific written direction.

12.6.5 In the event of an emergency involving the Project, including, but not limited to, a fatality, serious injury, fire, collapse, flood, utility, or power loss to occupied facilities, explosion, or environmental damage, the Contractor shall immediately notify the A/E, the Contracting Authority, and the Owner by telephone.

12.6.6 The Contracting Authority, the Owner, the A/E, or the Contractor may, by written notice given hereunder, designate addresses, telephone numbers, email addresses, or facsimile numbers to which notices, certificates, requests, or communications shall be sent.

12.7 Taxes

12.7.1 Only those materials that ultimately become a part of the completed structure or improvement which constitutes the Project shall be exempt from state sales tax and state use tax.

~~Article 6 - TIME~~

12.7.2 The purchase, lease, or rental of material, equipment, parts, or expendable items as concrete form lumber, tools, oils, greases, and fuels, which are used in connection with the Work, are subject to the application of state sales tax and state use tax.

~~6.1~~12.8 Computing Time

~~6.1.1~~12.8.1 When the Contract Documents refer to a period of time by a number of days, the period shall be computed to exclude the first and include the last day of the period. If the last day of the period falls on a Saturday, Sunday, or a legal holiday, that day shall be omitted from the computation and the period shall end on the next succeeding day that is not a Saturday, Sunday, or legal holiday.

~~6.1.2~~12.8.2 Except as excluded under ~~subparagraph 6.1.1~~Section 12.8.1, the Contract ~~Time~~Times and all other time periods referred to in the Contract Documents includes Saturdays, Sundays, and all days defined as legal holidays by ~~subparagraph 6.1.4~~Section 12.8.4.

~~6.1.3~~12.8.3 The standard workdays for State projects are Monday through Friday, excluding legal holidays.

~~6.1.4~~12.8.4 Legal holidays are as follows:

~~6.1.4.1~~12.8.4.1 New Year's Day – First Day in January;

~~6.1.4.2~~12.8.4.2 Martin Luther King Jr. Day – Third Monday in January;

~~6.1.4.3~~12.8.4.3 Washington-Lincoln (President's) Day – Third Monday in February;

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~~6.1.4.4~~12.8.4.4 Memorial Day – Last Monday in May;

~~6.1.4.5~~12.8.4.5 Independence Day – Fourth day of July;

~~6.1.4.6~~12.8.4.6 Labor Day – First Monday in September;

~~6.1.4.7~~12.8.4.7 Columbus Day – Second Monday in October;

~~6.1.4.8~~12.8.4.8 Veteran's Day – Eleventh Day of November;

~~6.1.4.9~~12.8.4.9 Thanksgiving Day – Fourth Thursday of November; and

~~6.1.4.10~~12.8.4.10 Christmas Day – Twenty-fifth day of December.

~~6.1.5~~12.8.5 If a legal holiday falls on a Saturday, it is observed on the preceding Friday. If a legal holiday falls on a Sunday, it is observed on the following Monday.

~~6.2~~12.9 Time of the Essence

~~6.2.1~~12.9.1 Time limits stated in the Contract Documents are of the essence of the Contract and all obligations under the Contract. By signing the ~~Contract Form~~Agreement, the Contractor acknowledges that the Contract ~~Time is~~Times are reasonable, taking into consideration the usual weather and other conditions prevailing in the locality of the Project. By signing the Construction Schedule, the Contractor acknowledges that the specified Milestone dates are reasonable, taking into consideration the usual weather and other conditions prevailing in the locality of the Project.

~~6.2.1.1~~12.9.1.1 The Notice to Proceed establishes the date for commencement of the Work.

~~6.2.1.2~~12.9.1.2 The Contractor acknowledges that the Owner has entered into, or may enter into, agreements for use of all or part of the premises where the Work is to be completed based upon the Contractor achieving Contract Completion within the Contract ~~Time~~Times.

~~6.2.1.3~~12.9.1.3 The Contractor shall perform the Work in a reasonable, efficient, and economical sequence, ~~in cooperation with the Separate Contractors~~ and in the order and time as provided in the Construction Progress Schedule.

~~6.2.1.4~~12.9.1.4 The Contractor acknowledges that it may be subject to interference, disruption, hindrance, or delay in the progress of the Work from any cause. The sole remedy for such interference, disruption, hindrance, or delay shall be an extension of the Contract ~~Time~~Times under ~~Article 8,~~Article 8, unless otherwise required by ~~O.R.C.~~ORC Section 4113.62.

~~6.3 Critical Path~~

~~6.3.1~~1.1.1 ~~Time extensions shall depend upon the extent to which the Work on the critical path of the Construction Progress Schedule is affected, if applicable.~~

~~6.3.2 A Change Order granting a time extension may provide that the Contract Time shall be extended for only those specific elements so interfered with, disrupted, hindered, or delayed and related remobilization and that remaining Milestone dates shall not be altered and may further provide for adjustment of Statutory Delay Forfeiture.~~

~~Article 7 - CONTRACT MODIFICATIONS~~

~~7.1~~1.1 ~~General~~

12.10 ~~The Contracting Authority may order changes in the Work without invalidating the Contract.~~ ~~Subject~~Successors and Assigns

12.10.1 The Contracting Authority and the Contractor each bind themselves, their successors, assigns, and legal representatives, to the ~~limitations stated in~~other party to this ~~Article 7 and elsewhere in the~~ Contract ~~Documents, a change in~~ and to the ~~Work may be accomplished by a Change Order, Field Work Order, or an~~

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~~order for a minor change in the Work~~successors, assigns, and legal representatives of the other party with respect to all terms of this Contract.

~~7.1.1~~12.10.2 The Contracting Authority and the Contractor each acknowledge that the Owner is an intended third-party beneficiary of this Contract.

~~7.1.1.1~~1.1.1.1 ~~The Contractor shall proportionately increase the amount of the Bond whenever the Contract Sum is increased.~~

~~7.1.1.2 If notice of any change affecting the Contract is required by the provision of any Bond, the giving of the notice is the Contractor's responsibility, and the amount of each applicable Bond shall be adjusted accordingly.~~

~~7.1.2~~12.10.3 The Contractor shall not ~~proceed with~~assign, or transfer any ~~change~~right, title, or interest in ~~the Work~~this Contract without the Contracting Authority's prior written ~~authorization~~consent.

~~7.1.2.1 Except as provided in paragraph 2.15, the Contractor's failure to obtain prior written authorization for a change in the Work constitutes a waiver by the Contractor of an adjustment to the Contract Sum or Contract Time, or both, for the related Work.~~

12.11 ~~The Contractor shall perform all changes in the Work under the applicable~~Extent of Contract

12.11.1 Entire Contract. The Contract Documents represent the entire and integrated agreement between the Contracting Authority and the Contractor and supersede all prior negotiations, representations, or agreements, either written or oral.

12.11.2 Multiple Counterparts. This Contract may be executed in any number of counterparts, each of which shall be regarded as an original and all of which shall constitute but one and the same instrument.

12.11.3 Captions. The captions and headings in this Contract are for convenience only and in no way define, limit, or describe the scope or intent of any provisions or sections hereof.

~~7.1.3~~12.11.4 Precedence. If there are any inconsistencies between the provisions of the Contract Documents~~, and the Contractor shall proceed promptly with the change unless otherwise provided in the Change Order, Field Work Order, or order for a minor change in the Work~~ and the provisions of the Contract, the provisions of this Contract shall prevail.

~~7.1.4 Paperwork Consolidation:~~

~~7.1.4.1 Related Contract modifications, with the same or similar justification (e.g., Owner Request or Field Condition), may be consolidated into the same change-related document.~~

~~7.1.4.2~~1.1.1.1 ~~Add and deduct Contract modifications, with the same or similar justification, may be included on the same Change Order.~~

~~7.1.4.3~~1.1.1.1 ~~Contract modifications resulting from errors or omissions shall not be combined with other modifications for which the A/E will receive a fee.~~

~~7.1.5 Change Order Numbering:~~

~~7.1.5.1 The A/E shall assign a number to each Contract modification, which shall uniquely identify it.~~

~~7.1.5.2 The A/E shall not duplicate or reuse any number throughout the Project or reuse assigned numbers for Proposal Requests that are initiated but cancelled in progress.~~

~~7.1.5.3 The number for each Change Order shall be coordinated with any associated Proposal Request or Field Work Order.~~

~~7.1.5.4 The same sequence of numbers may be utilized for multiple Contracts, if the associated change in Work involves multiple trades.~~

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7.1.6 Change Order Log:

7.1.6.11.1.1.1 The A/E shall create and maintain a Change Order Log for the Project, which shall contain the following minimum information:

.1 Number of the modification;

.2 A brief description of the modification;

.3 Affected trade(s);

.4 Cost of the modification; and

.5 Dates sent to, and received from, the parties.

7.1.7 Reconciliation of Unit Price Items:

7.1.7.11.1.1.1 The Contracting Authority may increase, decrease, or delete entirely the scheduled quantities of Work to be performed and materials to be furnished by Change Order.

7.1.7.21.1.1.1 The A/E shall issue a Change Order to reconcile the difference between the scheduled and actual quantities of Work performed and materials furnished.

7.1.7.3 If the actual quantity of a Unit Price item differs from the scheduled quantity by 20 percent or more, so that application of the Unit Price to the quantities of Work proposed would create an undue hardship on either the State or the Contractor, the A/E shall issue a Proposal Request and subsequent Change Order to adjust the Unit Price.

7.1.7.4 If the actual quantity of a Unit Price item exceeds the scheduled quantity by 20 percent or more, the Contractor shall immediately notify the A/E, who shall issue a Field Work Order and subsequent Change Order to authorize an adjustment in the scheduled quantity.

7.21.1 Initiation of Change Orders

7.2.1 Proposal Request:

7.2.1.1 The A/E shall prepare and issue a Proposal Request to the Contractor to obtain the Contractor's Proposal for the adjustment of the Contract Sum or the Contract Time, or both, associated with a Contract modification.

.1 In any Proposal for an adjustment of the Contract Sum, the Contractor shall specifically identify the items set forth in paragraph 7.6.

12.12 In any Proposal for an adjustment of Severability

12.12.1 If any term or provision of this Contract or the application thereof to any Person or circumstance, is finally determined to be invalid or unenforceable by a court of competent jurisdiction, the remainder of this Contract or the application of such term or provision to other Persons or circumstances, shall not be affected thereby, and each term and provision of this Contract shall be valid and enforced to the fullest extent permitted by Applicable Law.

12.13 Facsimile Signatures

12.13.1 Any party hereto may deliver a copy of its counterpart signature page to this Contract via fax, e-mail, or web-based project management software. Each party hereto shall be entitled to rely upon a facsimile signature of any other party delivered in such a manner as if such signature were an original.

12.14 No Third-Party Interest

12.14.1 Except as expressly provided under Sections 6.2.3 through 6.2.5 and Section 12.10.2, (1) no person or entity, other than the Contracting Authority and Contractor, will have any right or interest under the Contract, and (2) the Contract does not create a contractual relationship of any kind between any people or entities other than the Contracting Authority and the Contractor.

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12.15 No Waiver

12.15.1 The failure of the Contracting Authority or the Contractor to insist in any one or more instances upon the strict performance of any one or more of the provisions of the Contract or to exercise any rights under the Contract or provided by law will not be construed as a waiver or relinquishment of that provision or right or of the right to subsequently demand strict performance or exercise the right and the rights will continue unchanged and remain in full force and effect.

12.16 Rights and Remedies

~~.2 The duties, obligations, rights, and remedies under~~ the Contract ~~Time, the Contractor shall specifically identify the items set forth in paragraph 7.7.~~

~~.3 The Contractor's cost of preparing and providing Proposals is included in the Contract Sum.~~

~~7.2.1.2 The Contractor shall respond with a Proposal to the A/E and the Contracting Authority within 14 days after receiving the Proposal Request. The allowable time for the Contractor's response may be extended by written agreement of the Contractor and the A/E.~~

~~7.2.1.3 The Contractor shall hold the Proposal valid and open for acceptance for at least 45 days. The acceptance period may be adjusted by mutual consent of the Contractor and the Contracting Authority. The time limits described under this subparagraph 7.2.1.3 apply only to Proposals submitted in response to a Proposal Request.~~

~~7.2.1.4 A Proposal may be accepted by the Contracting Authority only through a Change Order. A Proposal Request does not authorize the Contractor to proceed with a change in the Work.~~

~~7.2.1.5 If the Contractor does not timely submit a Proposal within the time required in subparagraph 7.2.1.3, the Contractor waives its right to an adjustment to the Contract Sum or Contract Time, or both, associated with the contemplated change in the Work.~~

~~7.2.1.6 If the Project is administered using OAKS CI, the Contractor shall respond to a Proposal Request issued by the A/E with its Proposal using the OAKS CI "Change Order" business process.~~

~~7.2.2 Field Work Order:~~

~~7.2.2.1 A Field Work Order is a written order prepared by the A/E and signed by the Contracting Authority, the Owner, and the A/E, directing a change in the Work and may, if necessary:~~

~~.1 State a proposed basis for adjustment, if any, in the Contract Sum or Contract Time, or both; or~~

~~.2 Limit the scope of the change in the Work on a time and materials basis, not to exceed a fixed adjustment of the Contract Sum.~~

~~7.2.2.2 If a change in the Work must start immediately to avoid an imminent impact to the schedule of the Project, the A/E may prepare a Field Work Order, for the Contracting Authority's and Owner's signatures pursuant to subparagraph 7.2.2.1, authorizing the Contractor to proceed.~~

~~7.2.2.3 A Field Work Order shall be used to direct a change in the Work in the absence of total agreement on the terms of a Change Order.~~

~~7.2.2.4 Upon receipt of a Field Work Order, the Contractor shall promptly proceed with the change in the Work involved.~~

~~7.2.2.5 The Contractor may sign the Field Work Order to accept the proposed basis for adjustment, if any, of the Contract Sum or Contract Time, or both.~~

~~7.2.2.6 Within 14 days after receiving the Field Work Order, the Contractor shall respond with a Proposal meeting the requirements of subparagraph 7.2.1 to the A/E and the Contracting Authority for adjustment of the Contract Sum or Contract Time, or both, on account of the change, unless the Field Work Order is performed on a time and materials basis under subparagraph 7.2.2.1.2. If the Field Work Order is performed on a time and materials basis, the Contractor shall submit its Proposal within 7 days after completing the Work.~~

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.1 The Proposal for the adjustment of the Contract Sum, if any, shall include: (1) Written documentation as described under paragraph 7.6; and (2) A written statement from the Contractor that the proposed adjustment is the entire adjustment in the Contract Sum associated with the change.

.2 The Proposal for the change in the Contract Time, if any, shall include: (1) Written documentation as described are in addition to and not a limitation of the duties, obligations, rights, and remedies otherwise imposed by or available under paragraph 7.7; and (2) A written statement from the Contractor that the proposed adjustment is the entire adjustment of the Contract Time associated with the change.

7.2.2.7 If the Contractor does not respond to a Field Work Order as required under subparagraph 7.2.2.5, the Contracting Authority shall determine the adjustments, if any, of the Contract Sum and Contract Time. If the Contractor does not agree with the Contracting Authority's determination, the Contractor shall initiate a claim under Article 8 within 10 days of the date on which the Contracting Authority issues its determination, and the Contractor's failure to do so shall constitute an irrevocable waiver of the Claim.

7.2.2.8 Pending final determination of the total adjustment of the Contract Time on account of a Field Work Order, the period of time not in dispute for that change in the Work may be included in the Construction Schedule accompanied by a Change Order indicating the parties' agreement with part or all of the time adjustment.

7.2.2.9 If the Contracting Authority, Owner, and Contractor agree on the adjustments of the Contract Sum and Contract Time associated with a Field Work Order, the A/E shall prepare an appropriate Change Order within 7 days after receiving the Contractor's Proposal. The A/E, Contracting Authority, Owner, and Contractor shall promptly sign the Change Order.

7.2.2.10 If the Contracting Authority, Owner, and Contractor do not agree on the adjustments of the Contract Sum and Contract Time associated with a Field Work Order within 60 days after the Field Work Order is issued, the Contracting Authority shall determine the adjustments, if any, of the Contract Sum and Contract Time. If the Contractor does not agree with the Contracting Authority's determination, the Contractor shall initiate a claim under Article 8 within 10 days of the date on which the Contracting Authority issues its determination, and the Contractor's failure to do so shall constitute an irrevocable waiver of the claim.

7.2.2.11 If the Project is administered using OAKS CI, the Contractor shall respond to a Field Work Order issued by the A/E with its Proposal using the OAKS CI "Change Order" business process.

7.2.3 Request for Change Order:

7.2.3.1 The Contractor may initiate a change in the Work by submitting written notice to the A/E accompanied by a Proposal meeting the requirements of subparagraph 7.2.1.

7.2.3.2 If the Project is administered using OAKS CI, the Contractor shall initiate its Request for Change Order using the OAKS CI "Change Order" business process with the "Request for Change Order" workflow.

7.31.1 Change Order Procedure

7.3.1 A Change Order is a written instrument prepared by the A/E and signed by the Contracting Authority, the Owner, the A/E, and the Contractor, stating their agreement upon all of the following:

7.3.1.1 A change in the Work;

7.3.1.2 The amount of the adjustment of the Contract Sum, if any; and

7.3.1.3 The extent of the adjustment of the Contract Time, if any.

7.3.2 In no event shall the Contractor be entitled to reserve any rights or take other similar action with respect to a Change Order if the effect or intent of the reservation or action would be to accommodate a further

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adjustment of the Contract Sum or Contract Time, or both, after the Contractor signs the Change Order. By signing a Change Order, the Contractor irrevocably certifies that the elements of a Change Order described in subparagraph 7.3.1 are completely satisfied, and waives all rights, if any, to seek further adjustment of the Contract Sum or Contract Time, or both, at a later date with respect to the associated change in the Work including without limitation on account of the "cumulative impact" of the associated change in the Work in combination with one or more other changes in the Work.

7.3.31.1.1 The A/E shall prepare each Change Order form, attach the supporting documentation, and issue the Change Order to the Contractor for signature.

7.3.4 If the Contractor is in agreement with the Change Order under subparagraph 7.3.1, the Contractor shall sign and return the Change Order to the A/E within 3 days of receiving it.

7.3.4.1 If the Project is administered using OAKS CI, the Contractor shall indicate its agreement with the Change Order using the OAKS CI "Change Order" business process.

7.3.51.1.1 When the A/E receives the Change Order signed by the Contractor, the A/E shall recommend approval by signing the form and transmitting the Change Order and the revised Change Order Log to the Owner.

7.3.61.1.1 When the Owner receives the Change Order, the Owner shall sign the form accepting the Change Order, attach certification of funding, and transmit the Change Order to the Contracting Authority; or, if the Owner does not accept the Change Order, the Owner shall reject it and return it to the A/E.

7.3.71.1.1 When the Contracting Authority receives the Change Order, the Contracting Authority shall sign the form approving the Change Order, and transmit the fully executed Change Order to all signers; or, if the Contracting Authority does not accept the Change Order, the Contracting Authority shall reject it and return it to the A/E.

7.3.81.1.1 When the Change Order is signed by the Contractor, the A/E, the Owner, and the Contracting Authority, the fully executed Change Order modifies the Contract Documents and authorizes and directs the Contractor to proceed, and the Contractor shall promptly proceed with the associated change in the Work.

7.41.1 Minor Changes in the Work

7.4.11.1.1 The A/E may, with the Contracting Authority's approval, order minor changes in the Work not involving adjustment of the Contract Sum or extension of the Contract Time and not inconsistent with the intent of the Contract Documents. Those changes shall be effected by written order issued to the Contractor.

7.4.2 The Contractor shall promptly carry out each order for a minor change in the Work if the Contractor agrees that the order does not involve adjustment of the Contract Sum or Contract Time, or both.

7.4.3 If the Contractor reasonably believes that it would be entitled to an adjustment of the Contract Sum or Contract Time, or both, on account of an order for a minor change in the Work, the Contractor, within 3 business days after receiving the order, shall give the Contracting Authority and the A/E written notice of the Contractor's position, and not proceed with the subject Work without first receiving a Field Work Order or Change Order related to it.

7.4.4 The Contractor waives its right to an adjustment of the Contract Sum or Contract Time on account of an order for a minor change in the Work by:

7.4.4.1 Starting the Work which is the subject of the order for a minor change in the Work; or

7.4.4.2 Failing to give the notice described under subparagraph 7.4.3 within 3 business days after receiving the order for a minor change in the Work.

7.4.5 If the Project is administered using OAKS CI, the order for a minor change in the Work shall be documented through the OAKS CI "Action Items" business process.

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7.51.1 Differing Site Conditions

7.5.1 "Differing Site Conditions" are either (1) subsurface or otherwise concealed physical conditions encountered at the Site that differ materially from the conditions indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature encountered at the Site that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents.

7.5.2 If the Contractor encounters a Differing Site Condition, the Contractor shall stop Work on that Differing Site Condition and give immediate written notice of the condition to the A/E and the Contracting Authority.

7.5.2.1 The Contractor's failure to give notice of the Differing Site Condition as required under this subparagraph 7.5.2 shall constitute an irrevocable waiver of any associated claim.

7.5.2.2 The written notice of a Differing Site Condition under this subparagraph 7.5.2 shall be required in addition to the notice of claim under Article 8.

7.5.31.1.1 Promptly after receiving notice from the Contractor under subparagraph 7.5.2, the A/E shall investigate to determine whether the Contractor has encountered a Differing Site Condition. The A/E shall give written notice of its determination to the Contracting Authority and the Contractor within 10 days after completing the investigation.

7.5.3.1 If the A/E determines that the Contractor has not encountered a Differing Site Condition and the Contractor does not agree with that determination, the Contractor must initiate a claim under Article 8 within 10 days of the date on which the A/E issues its determination.

7.5.3.2 If the A/E determines that the Contractor has encountered a Differing Site Condition, the A/E shall process an appropriate Change Order.

7.6 Change Order Cost or Credit Determination

7.6.11.1.1.1 The maximum cost or credit resulting from a change in the Work shall be determined as described below.

7.6.1.1 Proposals shall include the information required by subparagraph 7.6.4.

7.6.1.2 A Unit Price Proposal shall only be valid when incorporated into the Contract by Change Order except for Unit Price Work included on the Bid Form.

7.6.1.3 The percentages allowed for overhead and profit include all Contractor Project costs relating to field or home office operations. Additional costs for overhead or profit shall not be allowed.

7.6.1.4.1 The maximum cost or credit includes all compensation for impact costs. Additional costs for impacts shall not be allowed.

7.6.21.1.1.1 The Contractor shall not assign any portion of the Work to another Person whereby the Contractor would benefit directly or indirectly from the double application of charges for overhead or profit.

7.6.3 The Contracting Authority may require notarized invoices for material costs and may audit the records of the Contractor and the Contractor's Subcontractors and Material Suppliers.

7.6.4 For each change in the Work, the Contractor shall furnish a detailed Proposal itemized on the Change Order Estimate Summary form published by the Department. Any Subcontractor or Material Supplier pricing shall also be itemized on the Change Order Estimate Summary form.

7.6.5 The following criteria establish the exclusive and maximum amount that the Owner shall pay for any Change Order, including, but not limited to, all amounts for interference with, delay, hindrance, disruption, or impact of the Work ("Pricing Criteria"). These Pricing Criteria also govern the value of deduct Change Orders and the Contractor's entitlement to additional compensation or damages through the claims and dispute

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resolution processes on account of changes in the Work. In order to expedite the review and approval process, Proposals shall be prepared in the categories and order listed below:

7.6.5.1 LABOR - The Contractor shall pay to laborers and mechanics performing Work on the Project not less than the prevailing wage rates of the Project locality, as determined by the Ohio Department of Commerce, Wage and Hour Bureau.

7.6.5.21.1.1.1 FRINGES - Fringe benefit credit for labor provided under subparagraph 7.6.5.1 is only allowable for prevailing wage fringe benefits pursuant to O.R.C. Chapter 4115, including, but not limited to, Health and Welfare, vacation, apprenticeship training, and certain types of pension plans. The parties shall defer to the Ohio Department of Commerce's policy on which benefits are granted fringe benefit credit. Each fringe benefit for which credit is requested shall be calculated on an hourly basis and listed as a separate line item. The Contractor shall submit documentation supporting the calculation of the amounts for each fringe benefit for each worker classification, including labor provided by Subcontractors.

7.6.5.312.16.1 ALLOWABLE PAYROLL EXPENSES - Allowable payroll expenses including payroll taxes as well as other benefits that are required by Applicable Law, such as federal and state Unemployment and Workers' Compensation shall each be a separate line item and shall not be credited for compliance with O.R.C. Chapter 4115.Applicable Law.

7.6.5.41.1.1.1 EQUIPMENT RENTALS - All charges for certain non-owned heavy or specialized equipment at up to 100 percent of the documented rental cost. No rental charges shall be allowed for hand tools, minor equipment, simple scaffolds, etc. Downtime due to repairs, maintenance and weather delays shall not be allowed. Contractor shall submit copies of actual paid invoices to substantiate rental costs.

7.6.5.51.1.1.1 OWNED EQUIPMENT - All charges for certain Contractor-owned heavy or specialized equipment at up to 100 percent of the cost listed by the current edition of the Associated Equipment Dealers *Green Book* rental rates and specifications for construction equipment. No recovery shall be allowed for hand tools, minor equipment, simple scaffolds, etc. The longest period of time that the equipment is to be required for the Work shall be the basis for the pricing. Downtime due to repairs, maintenance, and weather delays shall not be allowed.

7.6.5.61.1.1.1 TRUCKING - A reasonable delivery charge or per-mile trucking charge for delivery of required materials or equipment. Charges for use of a pick-up truck shall not be allowed.

12.17 OVERHEAD - Overhead on items in subparagraphs 7.6.5.1, 7.6.5.2, 7.6.5.3, 7.6.5.4, 7.6.5.5,Survival of Obligations

7.6.5.7 All representations, indemnity obligations, warranties, guarantees, and 7.6.5.6: up to 15 percent, which includes costs required to schedule the Work and coordinate with other contractors.

.1 Overhead includes, but is not limited to, telephone, telephone charges, facsimile, telegrams, postage, photos, photocopying, hand tools, simple scaffolds (one level high), tool breakage, tool repairs, tool replacement, tool blades, tool bits, home office estimating and expediting, home office clerical and accounting support, home office labor (management, supervision, engineering), all other home office expense, legal services, travel, and parking expenses.

.2 An exception is allowed for shop or engineering labor on items in subparagraph 7.6.5.7.1, which shall not be subject to Prevailing Wage rates for steel fabricators, sheet metal fabricators, and sprinkler system fabricators performing work off-site. Recovery for these matters shall be allowed under items in subparagraphs 7.6.5.1 and 7.6.5.2 of these Pricing Criteria.

.3 An exception is allowed for field supervision labor on items in subparagraph 7.6.5.7.1, for those portions of the Change Order Work that will be performed, or was performed, at times when the superintendent is not required to be on site under paragraph 2.3, including but not limited to overtime hours due to acceleration and extensions of necessarily continuing obligations under the Contract Time. Recovery for this matter will be allowed under items in subparagraphs 7.6.5.1 and 7.6.5.2 of these Pricing Criteria.

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.4 If the Contract Sum is adjusted on account of an adjustment of Contract Time only (i.e., the adjustment of Contract Sum does not include any of the items described under subparagraphs 7.6.5.1 through 7.6.5.6 or subparagraph 7.6.5.8), the adjustment shall be based upon actual "general conditions" costs incurred or a reasonable estimate of the "general conditions" costs actually avoided. In no event shall the Contract Sum adjustment per day of Contract Time adjustment exceed an amount equal to the sum of the "general conditions" line items in the Contractor's first approved Schedule of Values divided by the total number of days of original Contract Time.

7.6.5.8 MATERIALS:

.1 All materials purchased by the Contractor and incorporated into the changed Work, showing costs, quantities, or Unit Prices of all items, as appropriate. Reimbursement of material costs shall only be allowed in the amount of the Contractor's actual cost, including any and all discounts, rebates or related credits.

.2 Up to 33 percent of the cost of reusable materials for each use (e.g., concrete form lumber, shoring, or temporary enclosures).

7.6.5.9 PROFIT - Profit on items in subparagraphs 7.6.5.1, 7.6.5.2, 7.6.5.3, 7.6.5.4, 7.6.5.5, 7.6.5.6, 7.6.5.7, and 7.6.5.8: Up to 10 percent.

7.6.5.10 SUBCONTRACTOR - The reasonable cost of labor and materials provided by a Subcontractor whose pricing is included and which complies with these Pricing Criteria.

7.6.5.11 CONTRACTOR MARK-UP ON SUBCONTRACTOR - Mark-up on item in subparagraph 7.6.5.10: Up to 5 percent.

7.6.5.12 MISCELLANEOUS - The following items are allowable at the cost of the Work, with no overhead or profit.

.1 The cost of extending the Bond and the cost of extending liability, property damage, or specialty coverage insurance.

.2 The premium portion only for approved overtime (labor and fringes). The straight time portion is included in items in subparagraphs 7.6.5.1 and 7.6.5.2.

.3 Fees for permits, licenses, inspections, tests, etc.

7.6.5.13 State sales tax shall be allowed on items as defined by subparagraph 1.5.2.

7.6.6 Costs that shall not be reimbursed for Change Order Work include the following:

7.6.6.1 Voluntary employee deductions including, but not limited to, deductions for charitable donations or U.S. savings bonds.

7.6.6.2 Employee profit sharing.

7.7 Time Extension

7.7.1 Every adjustment of the Contract Time associated with any change in the Work shall be determined as provided in this paragraph 7.7, which establishes the Contractor's maximum entitlement for any change in the Work, including without limitation all adjustments for interference, delay, hindrance, or disruption of the Work. This paragraph 7.7 also governs time adjustments for deduct Change Orders and the Contractor's entitlement to additional time through the claims and dispute resolution processes on account of changes in the Work.

7.7.2 The Contractor shall substantiate all changes in the Contract Time with:

7.7.2.1 A written description of the nature of the interference, disruption, hindrance or delay;

7.7.2.2 Identification of Persons and events responsible for the interference, disruption, hindrance or delay;

7.7.2.3 Date, or anticipated date, of commencement of the interference, disruption, hindrance or delay;

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~~7.7.2.4 Identification of activities by schedule activity number and name on the Construction Progress Schedule, which may be affected by the interference, disruption, hindrance or delay, or new activities created by the interference, disruption, hindrance or delay and the relationship with existing activities;~~

~~7.7.2.5 Anticipated duration of the interference, disruption, hindrance or delay and of any remobilization period;~~

~~7.7.2.6 Specific number of days of extension requested and specific number of days for remobilization requested;~~

~~7.7.2.7 Recommended action to avoid or minimize any future interference, disruption, hindrance or delay;~~

~~7.7.2.8 A detailed written proposal as described under paragraph 7.6 for an increase in the Contract Sum which would fully compensate the Contractor for all costs of acceleration of the Work needed to completely overcome the associated delay, if any.~~

~~7.7.3 A Change Order may authorize extension of the Contract Time for specific elements, while maintaining Milestone dates for unaffected elements. Such a Change Order may also authorize an appropriate adjustment to Statutory Delay Forfeiture.~~

~~7.8 Examination and Audit of Contractor's Records~~

~~7.8.1 The Contracting Authority and the Owner may examine all books, records, documents and other data of the Contractor and of the Contractor's Subcontractors and Material Suppliers related to the bidding, pricing or performance of the Work for the purpose of evaluating any Proposal or claim.~~

~~7.8.2 The above referenced materials shall be made available at the office of the Contractor, Subcontractor, or Material Supplier, as applicable, at all reasonable times for inspection, audit, and reproduction until the expiration of 6 years after the date of Final Acceptance of the Project.~~

~~7.8.2.1 The Contractor shall maintain, and require all Subcontractors and Material Suppliers to maintain, complete and accurate business records at its principal place of business. If the principal place of business is greater than 50 miles from the Site, the Contractor shall timely make records available, and shall require its Subcontractors and Material Suppliers to timely make records available, at the office of the Contracting Authority or the Owner upon request for the records.~~

~~7.8.3 To the extent that the Contractor, Subcontractor or Material Supplier, as applicable, informs the Contracting Authority or the Owner in writing that any documents provided to the Contracting Authority or the Owner are trade secrets, the Contracting Authority or the Owner shall treat these documents, to the extent permitted by law, as trade secrets of the Contractor, Subcontractor or Material Supplier, as applicable.~~

~~7.8.3.1 If a dispute arises with any other Person about whether that Person should be given access to the documents, the Contractor, Subcontractor, or Material Supplier as applicable, shall indemnify the Contracting Authority and the Owner against all costs, expenses, and damages, including, but not limited to, attorney fees, incurred or paid by reason of that dispute.~~

~~7.8.4 The right of inspection, audit, and reproduction extends to all documents necessary to permit adequate evaluation of the cost of pricing data submitted along with the computations and projections used therein.~~

~~7.8.5 If the Contract has been terminated, in whole or in part, the records relating to the Work terminated shall be made available to the Contracting Authority or Owner for a period of 3 years from the date of any applicable~~, will survive final ~~settlement or~~ payment, ~~as applicable.~~

~~7.8.6 Records that relate to disputes, litigation, or settlement of claims arising out of the performance of the Work shall be made available until the dispute, litigation or claims have been finally decided or settled.~~

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~~Article 8~~ARTICLE 1 - DISPUTE RESOLUTION

~~8.1 Initiation of a Claim~~

~~8.1.1 Every claim shall accrue upon the date of occurrence of the event giving rise to the claim.~~

~~8.1.2 Except as provided under paragraph 2.15, the Contractor shall initiate every claim by giving written notice of the claim to the A/E and the Contracting Authority within 10 days after occurrence of the event giving rise to the claim, with the following exceptions:~~

~~8.1.2.1 The 10 day time limit on a claim arising from a determination of the Contracting Authority concerning a Field Work Order begins to run on the date on which the Contracting Authority issues its determination under subparagraph 7.2.2.7 or subparagraph 7.2.2.10, as applicable.~~

~~8.1.2.2 The 10 day time limit on a claim arising from the response of the A/E to a Request for Interpretation begins to run on the date on which the A/E issues the A/E's response to the Request for Interpretation.~~

~~8.1.2.3 The 10 day time limit on a claim arising from the A/E's determination concerning a Differing Site Condition begins to run on the date on which the A/E issues the A/E's determination under subparagraph 7.4.5.~~

~~8.1.3 The Contractor's written notice of a claim shall provide the following information to permit timely and appropriate evaluation of the claim, determination of responsibility, and opportunity for mitigation:~~

~~8.1.3.1 Nature and anticipated amount of the impact, including all costs for any interference, disruption, hindrance, or delay, which shall be calculated in accordance with paragraph 7.6 and be a fair and reasonably accurate assessment of the damages suffered or anticipated by the Contractor.~~

~~8.1.3.2 Identification of the circumstances responsible for causing the impact, including, but not limited to, the date or anticipated date, of the commencement of any interference, disruption, hindrance, delay;~~

~~8.1.3.3 Identification of activities on the Construction Progress Schedule which will be affected by the impact or new activities which may be created and the relationship with existing activities;~~

~~8.1.3.4 Anticipated impacts and anticipated duration of any interference, disruption, hindrance, delay, or impact, and any remobilization period; and~~

~~8.1.3.5 Recommended action to avoid or minimize any interference, disruption, hindrance, delay, or impact.~~

~~8.1.4 The Contractor's failure to initiate a claim as and when required under this paragraph 8.1 shall constitute the Contractor's irrevocable waiver of the claim.~~

~~8.1.5 The A/E, in consultation with the Contracting Authority, shall respond to the written notice of the claim within a reasonable time of receipt, but not to exceed 10 days.~~

~~8.2 Substantiation of Claims~~

~~8.2.1~~1.1.1 ~~Within 30 days after the initiation of a Claim, the Contractor shall submit 4 copies of all information and statements required to substantiate a claim as provided in this Article 8 and all other information which the Contractor believes substantiates the claim. The Contractor shall file the 4 copies by delivery of 1 copy to the A/E, 1 copy to the Owner, and 2 copies to the Contracting Authority.~~

~~8.2.2 The Contractor shall substantiate all of its claims by providing the following minimum information:~~

~~8.2.2.1 A narrative of the circumstances, which gave rise to the claim, including, without limitation, the start date of the event or events and the actual, or anticipated, finish date;~~

~~8.2.2.2 Detailed identification of the Work (e.g., activity codes from the Construction Progress Schedule) affected by the event giving rise to the claim;~~

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8.2.2.3 Copies of the Lead Contractor's daily log (subparagraph 4.2.9) for each day of impact;

8.2.2.4 Copies of relevant correspondence and other information regarding or supporting Contractor entitlement;

8.2.2.5 Copies of the Contractor's most recent income statement, including segregated general and administrative expenses for the most recent reporting period, and for the period of the Contract, if available, and similar information for any Subcontractor claim included;

8.2.2.6 The notarized certification described under subparagraph 8.5.1.1;

8.2.3 The Contractor shall submit a fully executed Contractor Claim Submission Checklist, signifying compliance with all of the requirements listed in subparagraph 8.2.2 with each copy of the claim.

8.2.4 The Contractor's failure to comply with the requirements of this paragraph 8.2 shall constitute an irrevocable waiver of any related claim.

8.3 Substantiation of Claims for Increase of the Contract Sum

8.3.1 The Contractor shall substantiate each claim for an increase of the Contract Sum with:

8.3.1.1 Written documentation as described under paragraph 7.6 of the actual additional direct and indirect costs to the Contractor due to the event giving rise to the claim;

8.3.1.2 A written statement from the Contractor that the increase requested is the entire increase in the Contract Sum associated with the claim; and

8.3.1.3 The general substantiation documentation described under paragraph 8.2.

8.3.2 The Contractor's failure to comply with the requirements of this paragraph 8.3 shall constitute an irrevocable waiver of any related claim.

8.4 Substantiation of Claims for Extension of the Contract Time

8.4.1 The Contractor shall substantiate each claim for an extension of the Contract Time with:

8.4.1.1 Written documentation as described under paragraph 7.7 of the actual delay to the critical path of the Construction Schedule due to the event giving rise to the claim;

8.4.1.2 A detailed written Proposal as described under paragraph 7.6 for an increase in the Contract Sum which would fully compensate the Contractor for all costs of acceleration of the Work needed to completely overcome the associated delay together with a statement consistent with subparagraph 8.3.1.2;

8.4.1.3 A written statement from the Contractor that the extension requested is the entire extension of the Contract Time associated with the claim; and

8.4.1.4 The general substantiating documentation described under paragraph 8.2.

8.4.2 In addition to the requirements of subparagraph 8.4.1, if adverse weather conditions are the basis for a claim for additional time, the Contractor shall document the claim with data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated, and had an adverse effect on a critical element of the scheduled construction. The support for and evaluation of all adverse weather claims shall be based upon average weather conditions during the 10 years immediately preceding the dates at issue in the claim as those weather conditions were recorded at the government-controlled weather-recording facility nearest to the Site.

8.4.3 The Contractor's failure to comply with the requirements of this paragraph 8.4 shall constitute an irrevocable waiver of any related claim.

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~~8.5 Certification of the Claim~~

~~8.5.1 The Contractor shall certify each claim within 30 days after initiating the claim under paragraph 8.1 or before Contract Completion, whichever is earlier, by providing the notarized certification specified in subparagraph 8.5.1.1, signed and dated by the Contractor:~~

~~8.5.1.1 "The undersigned Contractor certifies that the claim is made in good faith; that the supporting data is accurate and complete to the best of the Contractor's knowledge and belief; that the amount requested is a fair, reasonable, and necessary adjustment for which the Contractor believes the State is liable; and that the undersigned is duly authorized to certify the claim on behalf of the Contractor."~~

~~8.5.2 The date that the Contractor's certified and fully substantiated claim is received by the Contracting Authority, or the date on which the Contractor is required to certify and fully substantiate a claim pursuant to subparagraphs 8.2.1 and 8.5.1, shall trigger the 120 day period for exhaustion of administrative remedies pursuant to O.R.C. Section 153.16(B).~~

~~8.5.3 The Contractor's failure to comply with the requirements of this paragraph 8.5 shall constitute an irrevocable waiver of any related claim.~~

~~8.6 Delay and Delay Damage Limitations; Derivative Claims~~

~~8.6.1 Notwithstanding any other provision of the Contract Documents to the contrary, the Contractor shall not be entitled to an increase in the Contract Sum, or an extension of the Contract Time, or both:~~

~~8.6.1.1 On account of the impact of any normal adverse weather on any of the Work or on account of the impact of any abnormal adverse weather on Work not on the critical path;~~

~~8.6.1.2 To the extent that a delay occurs concurrently with a delay attributable to the Contractor; or~~

~~8.6.1.3 On account of the delay of any Work not on the critical path.~~

~~8.6.2~~1.1.1 ~~Notwithstanding any other provision of the Contract Documents to the contrary, the Contractor shall not be entitled to an increase in the Contract Sum or any type of damages on account of a delay in the commencement or progress of Work on the critical path unless (1) the delay is caused by the Owner and (2) the delay was not authorized or permitted under the Contract.~~

~~8.6.3 Notwithstanding any other provision of the Contract Documents to the contrary, the Contractor shall not be entitled to an increase in the Contract Sum or any type of damages arising from a delay in the commencement or progress of any of the Work caused by the occurrence or non-occurrence of an event beyond the Owner's control such as acts of Nature or the public enemy, acts of the government, fires, floods, epidemics, labor disputes, unusual delivery delays, weather, damages caused by a Separate Contractor, or damages caused by the Contractor.~~

~~8.6.4 Notwithstanding any other provision of the Contract Documents to the contrary, the Contractor is solely responsible for prosecuting against a Separate Contractor any claim, suit, or appeal necessary to recover from the Separate Contractor damages caused by the Separate Contractor.~~

~~8.6.5 If the Contractor makes a claim seeking other than an extension of the Contract Time from the Owner on account of the acts or neglects of a Separate Contractor, the Owner may pursue the claim against the Separate Contractor in the joint interest of the Owner and the Contractor. The Owner is not obligated to prosecute any such claim, suit, or appeal.~~

~~8.7 Statutory Delay Forfeiture~~

~~8.7.1 If the Contractor fails to achieve one or more of the Completion Milestones set forth in the Contract Documents, the Contractor shall pay to or credit the Owner the associated statutory delay per-diem sum(s) set forth in the Contract Documents for each day that the Contractor fails to achieve one or more of the Completion Milestones.~~

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~~8.7.2 Notwithstanding any other provision of the Contract Documents to the contrary, if a court determines that the statutory delay per-diem sum(s) or their application are void and unenforceable, the Owner shall be entitled to recover the actual damages (even if listed in paragraph 8.8) that it incurs on account of the Contractor's failure to achieve one or more of the Completion Milestones.~~

~~8.7.2.1 If the Contractor fails to achieve two or more Completion Milestones, the Owner shall be entitled to recover the sum of the associated per diem rates.~~

~~8.7.3 Nothing contained in this paragraph 8.7 shall preclude the Owner's recovery from the Contractor of actual damages.~~

~~8.7.4 In addition to other rights that the Owner may have relative to the Statutory Delay Forfeiture, the Owner may deduct the Statutory Delay Forfeiture from the Contract Sum as the damages accrue. If payments then or thereafter due the Contractor are not sufficient to cover such amounts, the Contractor shall immediately pay the amount of the insufficiency to the Owner.~~

~~8.8 Review of the Claim~~

~~8.8.1 The A/E shall review the claim and prepare a written analysis of its content, which shall include:~~

~~8.8.1.1 A narrative of the A/E's examination of the facts giving rise to the claim;~~

~~8.8.1.2 Identification of relevant Contract Documents and language;~~

~~8.8.1.3 An analysis of whether the Contractor complied with the requirements of the Contract Documents pertaining to claim initiation and substantiation including, without limitation, the issues of entitlement to, and calculation of, adjustments of the Contract Sum, Contract Time, or both;~~

~~8.8.1.4 An analysis of claimed additional labor, materials, and equipment for the scope of the Work items described;~~

~~8.8.1.5 An analysis of any time extension for any interference, disruption, hindrance, impact, or delay claimed (to include the calculation of any concurrent delays affecting entitlement);~~

~~8.8.1.6 A concluding opinion regarding Contractor entitlement to, and the appropriateness and reasonableness of all, or any part of, the claims; and~~

~~8.8.1.7 An appendix containing copies of contemporaneous documentation supporting the concluding opinion.~~

~~8.8.2 The A/E shall submit the written analysis to the Project Manager no more than 30 days after receiving the Contractor's substantiated and certified claim.~~

~~8.9 Claim Decision~~

~~8.9.1 The Project Manager shall examine the Contractor's claim and the A/E's analysis.~~

~~8.9.2 The Project Manager shall approve or deny all, or any part, of the Contractor's claim and forward a written decision to the Contractor, the A/E, the Owner, and the State Architect within 14 days after receiving the A/E's analysis.~~

~~8.9.2.1 If the Contractor escrowed its bid information into a bonded storage facility pursuant to Article 6 of the Instructions to Bidders ("Bid Information"), the Project Manager may examine the contents of the Contractor's Bid Information in evaluating any claim of the Contractor for a change in compensation or for mitigation of Statutory Delay Forfeiture.~~

~~8.9.2.2 The Project Manager may employ independent resources to assist in its review, or refer evaluation of the claim to a consultant.~~

~~8.9.3~~1.1.1 ~~If the Contractor and the Owner agree with the Project Manager's decision, the decision shall be incorporated into a Change Order.~~

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8.9.4 Any claim remaining unresolved after completion of the process described under this paragraph 8.9 shall be subject to claim decision review as described under paragraph 8.10.

8.10 Claim Decision Review

8.10.1 The Contractor may request review of the Project Manager's decision by written notice delivered by certified mail within 14 days of the Project Manager's decision.

8.10.1.1 If the Project is administered by the Department through the State Architect's Office or locally administered by authority granted to an agency by the Department, the written notice shall be delivered to the State Architect.

8.10.1.21.1.1.1 If the Project is locally administered by an Institution of Higher Education under O.R.C. Section 3345.50 or O.R.C. Section 3345.51, the written notice shall be delivered to the Institutional Designee who will review the Project Manager's decision instead of the State Architect.

8.10.21.1.1 The State Architect or Institutional Designee, if applicable, shall schedule and conduct a meeting within 30 days after receiving the Contractor's request for review.

8.10.2.11.1.1.1 If the Contractor escrowed its Bid Information, the State Architect or Institutional Designee, if applicable, may examine the contents of the Bid Information in conjunction with its review.

8.10.2.21.1.1.1 The Contracting Authority may employ independent resources to assist in the meeting and review.

8.10.31.1.1 The State Architect or Institutional Designee, if applicable, shall determine the final disposition of the Contractor's request for review and provide a written decision to the Contractor and the Owner within 14 days after the meeting.

8.10.4 The decision of the State Architect or Institutional Designee is the final administrative decision of the Contracting Authority as described under O.R.C. Section 153.12(B).

8.10.51.1.1 If the Contractor and the Owner agree with the State Architect's or Institutional Designee's decision, the decision shall be incorporated into a Change Order.

8.10.612.17.1 Any claim remaining unresolved afterand acceptance of the Work, and termination or completion of the process described under this paragraph 8.10 shall be subject to litigation, which may be preceded by Alternative Dispute Resolution ("ADR") as described under paragraph 8.11.Contract.

8.111.1 Alternative Dispute Resolution

8.11.11.1.1 The intent of the ADR process is to resolve disputes quickly and equitably in a manner agreed upon by all parties to the dispute.

8.11.2 The ADR procedure shall be accepted by all of the Project's key stakeholders .

8.11.3 The accepted ADR methods shall not include binding arbitration; alter any of the requirements for claim initiation, certification, and substantiation; or alter the administrative process described under this Article 8.

8.11.41.1.1 The following forms of non-binding ADR may be considered:

8.11.4.1 Negotiation: If negotiation is warranted, the parties to the dispute may agree to a progressive level of negotiators, invested with the authority to agree to a determination of an adjustment in the Contract Sum, Contract Time, or both, which may include the following:

.1 Contractor's superintendent negotiating with another Contractor's superintendent.

.2 Contractor's superintendent negotiating with the A/E's field representative.

.3 Contractor's project manager negotiating with the A/E's project manager.

.4 Contractor's principal-in-charge negotiating with the A/E's principal-in-charge and the Contracting Authority's Project Manager.

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.5 Contractor's principal-in-charge negotiating with the Owner's representative and the Project Manager's supervisor.

8.11.4.2 Mediation: If mediation is the accepted ADR procedure, or the process to follow when negotiations are unsuccessful, the parties to the dispute shall accept a neutral third party to mediate the dispute. The costs of mediation shall be shared equally among the parties to the dispute.

8.11.4.3 Another ADR procedure accepted by all of the Project's key stakeholders.

8.12 Audit of the Claim

8.12.1 All claims shall be subject to audit at any time following the filing of the claim, whether or not the claim is part of a lawsuit.

8.12.21.1.1 The audit may be performed by employees of the Contracting Authority or by a consultant engaged by the Contracting Authority.

8.12.3 The audit may begin upon 10 days notice to the affected Contractor, Subcontractor, or Material Supplier.

8.12.41.1.1 The Contractor shall cooperate with the request.

8.12.5 Failure of the Contractor, Subcontractor, or Material Supplier to produce sufficient records to allow the Contracting Authority to audit and verify a claim shall constitute an irrevocable waiver of the claim or the portion of the claim that could not be completely audited.

8.12.6 The Contractor shall make available to the Contracting Authority all Contractor, Subcontractor, and Material Supplier documents related to the claim including, without limitation, the following documents:

8.12.6.1 Daily time sheets and superintendent's daily reports;

8.12.6.2 Union agreements, if any, and employer agreements;

8.12.6.3 Insurance, welfare, fringes, and benefits records;

8.12.6.4 Payroll register;

8.12.6.5 Earnings records;

8.12.6.6 Payroll tax returns;

8.12.6.7 Material invoices, purchase orders, Subcontractor contracts, and all material and supply acquisition contracts;

8.12.6.8 Material cost distribution worksheets;

8.12.6.9 Equipment records (list of Contractor equipment, rates, etc.);

8.12.6.10 Vendor rental agreements and Subcontractor invoices;

8.12.6.11 Subcontractor payment certificates;

8.12.6.12 Canceled checks (payroll and vendors);

8.12.6.13 Job cost report;

8.12.6.14 Job payroll ledger;

8.12.6.15 General ledger, general journal, (if used) and all subsidiary ledgers and journals together with all supporting documentation pertinent to entries made in these ledgers and journals;

8.12.6.16 Cash disbursements journal;

8.12.6.17 Financial statements for all years reflecting operations on the Project;

8.12.6.18 Income tax returns for all years reflecting operations on the Project;

8.12.6.19 Depreciation records on all equipment utilized whether the records are maintained by the Contractor involved, its accountant, or others;

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8.12.6.20 If a source other than depreciation records is used to develop costs for the Contractor's internal purposes in establishing the actual cost of owning and operating equipment, all other source documents;

8.12.6.21 All documents which reflect the Contractor's actual profit and overhead during the years the Project was being performed;

8.12.6.22 All documents related to the preparation of the Contractor's Bid, including the final calculations on which the Bid was based, unless the documents are placed in escrow under provisions of the Instructions to Bidders;

8.12.6.23 All documents which relate to the claim together with all documents which support the amount of damages as to the claim;

8.12.6.24 Worksheets used to prepare the claim establishing the cost components for items of the claim including, but not limited to, labor, fringes, benefits and insurance, materials, equipment, Subcontractors, and all documents which establish the time periods, individuals involved, the hours and rate of pay for the individuals; and

8.12.6.25 All other documents required by the Contracting Authority to reasonably review the claim.

8.13 False Certification of the Claim

8.13.11.1.1 If the Contractor falsely certifies all, or any part, of a claim, the portion of the claim falsely certified shall be denied, and may be sufficient cause for the State to debar the Contractor from future State contracting opportunities as permitted by law.

8.141.1 Performance and Payment

8.14.11.1.1 The Contractor shall proceed with the Work during any dispute resolution process, unless otherwise agreed by the Contractor and the Contracting Authority in writing.

8.14.2 The Contracting Authority shall continue to make payment of any undisputed amounts in accordance with the Contract Documents pending final resolution of a claim, unless otherwise agreed by the Contractor and the Contracting Authority in writing.

Article 9 - CONTRACTOR PAYMENT

9.11.1 Schedule of Values

9.1.11.1.1 Within 10 days of receipt of the Notice to Proceed, or other period as mutually agreed by the Contractor and the Contracting Authority, the Contractor shall submit to the A/E a Schedule of Values on a form published by the Department, with separate amounts shown for labor and materials for each branch of Work, following the numbers and titles of the Construction Specifications Institute's *MasterFormat* for individual work results, or *UniFormat* for assemblies in place.

9.1.1.11.1.1.1 The Contractor shall clearly indicate on the Schedule of Values, the amount(s) allocated, including amounts for overhead and profit, for each certified EDGE Business Enterprise used in the performance of the Work. The amount(s) shall indicate labor and materials, as appropriate.

9.1.21.1.1 The grand total shown on the Schedule of Values shall equal the total Contract Sum. The Contracting Authority may use the approved Schedule of Values to determine the cost or credit to the Owner resulting from any change in the Work.

9.1.2.1 The first items shall be actual costs of Bond, insurance, permits, and tests required for the Project.

9.1.2.2 The amounts for labor and materials shall accurately reflect the cost for each item. Separate items shall not be shown for overhead or profit, except when Work is performed or materials are supplied by a certified EDGE Business Enterprise, pursuant to subparagraph 9.1.1.1. Overhead and profit shall be included in the totals for labor and materials.

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9.1.2.31.1.1.1 If the material allocation exceeds 55 percent of the Contract Sum, the Contractor shall provide, upon request, sufficient information to support the higher percentage.

9.1.2.41.1.1.1 Subcontract Work shall show amounts for labor and materials. Fringe benefits shall be shown as a part of labor costs.

9.1.2.51.1.1.1 When more than one major structure is included in the Work, the Contractor shall subdivide the Schedule of Values accordingly, with cost details for each structure shown separately.

9.1.2.6 The line items shall be coordinated with line items in the Project Schedule, which may require division of items of Work by area of the Project by floor, phase, or other appropriate area.

9.1.2.7 Mechanical and Electrical contractors shall include separate line items for all major pieces of equipment, and group smaller equipment items by type.

9.1.2.8 Line items shall be included for each Allowance, Punch List work, Project Record Document Submittals, delivery of attic stock, and specified demonstrations and training.

9.1.3 The A/E may return the Schedule of Values to the Contractor for re-submittal if it does not meet the requirements or contains insufficient items or details of the Work, or approve the Schedule of Values if the A/E determines that it conforms to this paragraph 9.1.

9.1.4 No payment shall be made until the A/E has approved the Contractor's Schedule of Values.

9.1.5 If the Project is administered using OAKS CI, the Contractor shall submit its Schedule of Values, using the OAKS CI "Contract Schedule of Values" business process.

9.21.1 Contractor Payment Request

9.2.11.1.1 The Contractor may submit a Contractor Payment Request for Work performed based upon the Schedule of Values to the A/E each month or upon another interval approved by the Contracting Authority. When the rate of Work and amount involved is sufficient that it is considered appropriate by the Contracting Authority, the Contractor may submit Contractor Payment Requests twice a month.

9.2.1.11.1.1.1 The Contractor shall support each Contractor Payment Request with documentation substantiating the Contractor's right to payment. The Contractor shall supply additional documentation as the A/E may request in connection with each payment to the Contractor.

9.2.1.21.1.1.1 The Contracting Authority may require proof of the renewal of required insurance as a condition precedent to payment.

9.2.1.3 The Contractor shall attach certified payroll reports for the relevant period to 1 copy of each Contractor Payment Request, see Document 00 73 43 – "Prevailing Wage Requirements."

9.2.1.41.1.1.1 The Contractor may list on the Contractor Payment Request any Change Orders approved and performed prior to submission of the Contractor Payment Request.

9.2.1.51.1.1.1 The Contractor shall submit its application for payment using the Contractor Payment Request form or forms current at the time of each application and as provided by the Contracting Authority in the manner prescribed by the Contracting Authority.

.1 If the Project is not administered using OAKS CI, the Contractor shall submit 1 draft copy of its Contractor Payment Request ("Pencil Copy") to the A/E not less than 1 week prior to submitting multiple copies of its Contractor Payment Request.

.2 The A/E shall review the Pencil Copy and provide comments to the Contractor within 3 days of receiving it.

.3.1 The Contractor shall incorporate the A/E's comments into its Contractor Payment Request prior to submitting multiple copies for payment.

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9.2.1.61.1.1.1 The Contractor shall clearly indicate on the Contractor Payment Request, the amount(s) requested for each certified EDGE Business Enterprise used in the performance of the Contract. The amount(s) shall indicate labor and materials, as appropriate.

9.2.1.71.1.1.1 The Contractor shall submit an electronic copy of the Contractor Payment Request to the A/E with its paper copies of the Contractor Payment Request for collection and reporting of information used for contract compliance evaluation and statistical purposes. The Contractor may issue the copy in any electronic media acceptable to the Contracting Authority.

9.2.2 Payments, except for lump sum items, in Unit Price Contracts shall be made to the Contractor only for the authorized actual quantities of Work performed or materials furnished in accordance with the Contract Documents.

9.2.31.1.1 Subject to paragraph 9.6, the Owner shall pay an approved Contractor Payment Request within 30 days from the date the A/E recommends acceptance of the Contractor Payment Request.

9.2.3.11.1.1.1 Payments due and not paid to the Contractor, through no fault of the Contractor, within the 30 day period shall, from the date payment is due, bear simple interest at the applicable statutory rate.

9.2.4 Notwithstanding any other provision of the Contract Documents, partial payments made pursuant to this paragraph 9.2 constitutes neither acceptance of any Defective Work, nor a waiver of any rights set forth in the Contract Documents or otherwise provided by Applicable Law.

9.2.5 If the Project is administered using OAKS CI, the Contractor shall submit its Contractor Pay Request, using the OAKS CI "Contractor Pay Requests" business process.

9.3 Labor Payments

9.3.1 Partial payments to the Contractor for labor performed under either a Unit Price or lump sum Contract shall be made at the rate of 92 percent of the amount invoiced through the Contractor Payment Request that shows the Work is 50 percent complete, as evidenced by payments in the amount of at least 50 percent of the original Contract Sum.

9.3.2 After the Work is 50 percent complete, as evidenced by payments in the amount of at least 50 percent of the original Contract Sum to the Contractor, no additional funds shall be retained from payments for labor.

9.4 Material Payments

9.4.1 The Owner shall pay the Contractor at the rate of 100 percent of the scheduled value for materials incorporated into the Project.

9.4.2 The Owner shall pay the Contractor at the rate of 92 percent of the invoice cost, not to exceed the bid amount in a Unit Price or lump sum Contract, for materials delivered to the Site, or other off-site storage location approved by the A/E, provided the Contractor provides the following information with the Contractor Payment Request:

9.4.21 A list of the fabricated materials consigned to the Project, giving the place of storage, together with copies of invoices, in order to verify quantity and cost.

9.4.2.21.1.1.1 A certification of materials stored off-site, prepared by the Contractor and signed by the A/E to evidence that the materials are in conformity with the Specifications and have been tagged with the Project name and number for delivery to the Project. The Contractor shall directly reimburse the A/E for all costs incurred to visit a storage site, other than the areas adjacent to the Project.

9.4.2.3 The Owner shall pay the balance of the scheduled value when the materials are incorporated into and become a part of the Project.

9.4.31.1.1 When payment is allowed for materials delivered to the Site or other approved off-site storage location but not yet incorporated into the Project, the materials are the property of the Owner.

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9.4.3.11.1.1.1 The Owner may, at its sole discretion, retain any material not ultimately incorporated into the Project or return it to the Contractor for credit of an amount proportionate to the value of the extra materials.

9.51.1 Retainage

9.5.1 If the total Contract Sum is $15,000 or more, when the Contract is 50 percent complete, as evidenced by payments in the amount of at least 50 percent of the Contract Sum to the Contractor, all funds retained for the faithful performance of the Work, in accordance with subparagraph 9.3.1, shall be deposited in an escrow account with a bank in the state in accordance with the terms and conditions provided in an escrow agreement executed by the Contractor, the Contracting Authority, and the applicable bank.

9.5.21.1.1 When the major portion of the Work is occupied or in use, and there is no other reason to retain funds, including, but not limited to, compliance with Article 10; upon request of the Contractor, the funds retained in connection with that Work shall be released from escrow and paid to the Contractor, withholding only that amount necessary to assure faithful completion in the sole discretion of the Contracting Authority.

9.5.2.11.1.1.1 Any reduction or release of retained funds, or portion thereof, shall not be a waiver of the Contracting Authority's right to retain funds in connection with other payments to the Contractor, or any other right or remedy the Contracting Authority has under the Contract Documents at law or in equity.

9.5.2.21.1.1.1 Funds in the escrow account not previously paid shall be authorized for release to the Contractor within 30 days of the Contracting Authority's approval of a final Contractor Payment Request and Payment Release Affidavit furnished by the Contractor, and execution of the Certification of Contract Completion by the Contracting Authority.

9.5.3 Upon consent by the Contractor's Surety, the Contracting Authority may reduce the amount of funds retained for the faithful performance of Work by 50 percent of the amount of funds required to be retained, provided the Contractor's Surety remains responsible for all damages that may be caused due to default by the Contractor, including, but not limited to, the following:

9.5.3.1 Completion of the Work;

9.5.3.2 All interference, disruption, hindrance and delay claims;

9.5.3.3 All Statutory Delay Forfeiture; and

9.5.3.41.1.1.1 All additional expenses incurred by the State.

9.61.1 Payments Withheld

9.6.1 The A/E and the Lead Contractor may recommend to the Contracting Authority that payments be withheld from, or the Statutory Delay Forfeiture be assessed against, a Contractor Payment Request.

9.6.21.1.1 The Contracting Authority may decline to approve any Contractor Payment Request or part thereof, or nullify any previous Contractor Payment Request, in whole or in part, to the extent necessary in the Contracting Authority's sole opinion to protect the Owner from loss because of:

9.6.2.11.1.1.1 Defective Work not remedied;

9.6.2.2 Damage caused by the Contractor;

9.6.2.3 Reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;

9.6.2.4 Reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover damages under the Contract Documents for the anticipated delay;

9.6.2.5 Failure to comply with Applicable Law including, but not limited to, the requirements of O.R.C. Chapter 4115;

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9.6.2.6 Failure to timely submit EDGE Participation Reports in accordance with subparagraph 1.11.2;

9.6.2.7 Failure to timely approve a Construction Progress Schedule in accordance with paragraph 4.3;

9.6.2.8 Failure to timely submit the Contractor's list of proposed Subcontractors and Material Suppliers in accordance with paragraph 14.1;

9.6.2.9 Failure to carry out the Work in accordance with the Contract Documents; or

9.6.2.10 That which is permitted under other provisions of the Contract Documents.

9.6.3 If the Contractor remedies the basis for withholding payment under subparagraph 9.6.2 to the Contracting Authority's satisfaction, the Owner shall pay the amounts withheld.

9.71.1 Final Contractor Payment Request

9.7.11.1.1 The Contractor, as a condition precedent to execution of the Certification of Contract Completion and to final payment, shall complete all requirements of the Contract Documents.

9.7.1.1 The Contractor and each of its Subcontractors, regardless of tier, shall execute a Payment Release Affidavit to certify that the Contractor and each of its Subcontractors, regardless of tier, have complied with all requirements of O.R.C. Chapter 4115, and to certify that all of its Subcontractors and Material Suppliers have been paid in full for all Work performed or materials furnished for the Project.

9.7.2 The Owner shall pay the final Contractor Payment Request within 30 days from the date the A/E recommends acceptance of the final Contractor Payment Request.

9.7.2.1 The inability of a Contractor to complete Project closeout requirements within the time specified by the A/E shall not be grounds for withholding final payment to another contractor.

9.7.2.21.1.1.1 Payments due and not paid to the Contractor within the 30 day period shall bear interest from the date payment is due under the Contract Documents at the applicable statutory rate.

9.7.3 The acceptance of final payment by the Contractor, a Subcontractor, or a Material Supplier constitutes the payee's waiver of all claims against the State except those previously made in writing under Article 8 and identified by that payee as unsettled at the time of the final Contractor Payment Request.

9.7.4 Notwithstanding any other provision of the Contract Documents, final payment made pursuant to this paragraph 9.7 constitutes neither acceptance of any Defective Work, nor a waiver of any rights set forth in the Contract Documents or otherwise provided by Applicable Law.

9.7.5 If the Project is administered using OAKS CI, the Contractor shall submit its final Contractor Pay Request, using the OAKS CI "Contractor Pay Requests" business process.

Article 10 - CONTRACT COMPLETION

10.11.1 Final Cleaning

10.1.11.1.1 Before requesting the A/E's Punch List review, the Lead Contractor shall clean the Site, remove waste materials and rubbish attributable to the Project, and restore the property to its original condition so that upon Contract Completion, the premises are ready for occupancy by the Owner.

10.1.21.1.1 If the Contractor performs any Work after final cleaning, the Contractor shall clean the affected area as provided above so that upon Contract Completion, the premises are ready for occupancy by the Owner.

10.1.31.1.1 Final cleaning shall be done to the reasonable satisfaction of the A/E and the Contracting Authority.

10.1.3.11.1.1.1 If a dispute arises among the Contractor and Separate Contractors as to responsibility for final cleaning, the A/E may authorize a Separate Contractor, or engage a qualified cleaning company, to perform final cleaning and deduct the cost from amounts due to those contractors responsible, as the A/E recommends and the Contracting Authority determines to be appropriate.

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~~10.1.3.21.1.1.1 If the A/E cannot determine the responsible contractor, the costs shall be shared by the contractors actively working on the Project as determined at the sole discretion of the Contracting Authority.~~

~~10.2 Contractor's Punch List~~

~~10.2.11.1.1.1 When the Contractor considers the Work, or a designated portion thereof, nearly complete the Contractor shall inspect the Work and prepare a list of defective, incomplete, or unacceptable Work ("Contractor's Punch List"). The Contractor shall list all items of Work not in compliance with the Contract Documents, including items the Contractor is requesting to be deferred.~~

~~10.2.1.1.1 The Contractor shall proceed to correct all items listed on the Contractor's Punch List and certify that the incomplete items listed on the Contractor's Punch List are to its knowledge an accurate and complete list by signing said Punch List.~~

~~10.2.1.2.1 The Contractor's failure to include an item on the Contractor's Punch List shall not alter the Contractor's responsibility to complete the Work in accordance with the Contract Documents.~~

~~10.2.1.3.1 The Contractor shall submit the signed Contractor's Punch List to the A/E, together with a request for the A/E's Review of the Work.~~

~~10.2.2 If the Project is administered using OAKS CI, the Contractor shall submit the Contractor's Punch List, using the OAKS CI "Punch List" business process.~~

~~10.3 Architect/Engineer's Review of the Work~~

~~10.3.11.1.1.1 Within 3 business days of receipt of the request for the A/E's Review of the Work, the A/E shall notify the Contractor of acceptance or rejection of the request, stating reasons for any rejection.~~

~~10.3.1.1 Within 7 days of its acceptance of the Contractor's request, the A/E shall conduct the A/E's Review to determine whether the Work, or the designated portion, is in conformity with the Contract Documents. The A/E shall notify the Contractor, the Contracting Authority, and the Owner of the scheduled time of the A/E's Review.~~

~~.1 The A/E shall include comments from the Contracting Authority and the Owner in the A/E's Review.~~

~~10.3.1.2 Within 3 business days after the A/E's Review, the A/E shall provide to the Contractor a list of defective, incomplete, or unacceptable Work ("A/E's Punch List").~~

~~10.3.1.3.1 The A/E's failure to include an item on the A/E's Punch List shall not alter the Contractor's responsibility to complete the Work in accordance with the Contract Documents.~~

~~10.3.1.4 If the A/E accepts the request and subsequently determines that the Work is not in conformity with the Contract Documents, the A/E may request compensation for expenses related to excessive Punch List activities. The Contracting Authority may deduct that additional compensation to the A/E from payments then or thereafter due the Contractor. If payments then or thereafter due the Contractor are not sufficient to cover those amounts, the Contractor shall immediately pay the amount of the insufficiency to the Contracting Authority.~~

~~10.4 Completion of Punch List Items~~

~~10.4.1 Within 30 days after receipt of the notice required by subparagraph 10.3.1.2 and before the date of Final Contract Completion, the Contractor shall complete all items on the A/E's Punch List. After completing all items on the Punch List, the Contractor shall provide a written request for Final Inspection of the Work to the A/E.~~

~~10.4.1.1.1 If completion of the Work on the A/E's Punch List cannot be timely completed, the Contractor shall justify in writing to the reasonable satisfaction of the A/E the reasons the items cannot be completed, and the Contractor may propose, for the A/E's approval, a time when the Contractor shall complete those items.~~

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~~10.4.1.2.1 Within 3 business days of receipt of the Contractor's notice that all Punch List items have been completed, the A/E shall complete a Final Inspection of the Work for compliance with the Contract Documents.~~

~~10.4.1.3 If multiple inspections of items on the A/E's Punch List are required due to the Contractor's failure to properly and timely complete them, the Contractor shall pay any additional costs incurred by Separate Contractors, the A/E, the Owner, and the Contracting Authority resulting from any attendant delay. The Contracting Authority may deduct those additional costs from payments then or thereafter due the Contractor. If payments then or thereafter due the Contractor are not sufficient to cover those amounts, the Contractor shall immediately pay the amount of the insufficiency to the Contracting Authority.~~

~~10.4.2 Notwithstanding any other provision of the Contract Documents, the Final Inspection of the Work or the issuance of Final Acceptance constitutes neither an acceptance of any Defective Work, nor a waiver of any rights set forth in the Contract Documents or otherwise provided by Applicable Law.~~

~~10.4.3 If the Project is administered using OAKS CI, the Contractor shall receive the A/E's Punch List and submit its written request for Final Inspection of the Work, using the OAKS CI "Punch List" business process.~~

~~10.5 Project Record Document Submittals~~

~~10.5.1 The Contractor, as a condition precedent to execution of the Certification of Contract Completion, release of retained funds, and final payment, shall provide all Project Record Documents to the A/E for approval, including, but not limited to:~~

~~10.5.1.1.1 Certificate of Occupancy;~~

~~10.5.1.2 Inspection Certificates for Pressure Piping, Elevator, Boiler, Electrical, Plumbing or Piping Purification, etc.;~~

~~10.5.1.3.1 Letter of Approval from the local fire authority or State Fire Marshal for the fire suppression system;~~

~~10.5.1.4.1 Operation and Maintenance Manuals, organized into suitable sets of manageable size. Indexed data bound in individual binders, with pocket folders for folded sheet information and appropriate identification marked on the front and the spine of each binder;~~

~~10.5.1.5 Neatly and accurately marked sets of As-Built Documents, and other Contract Documents reflecting the actual construction of the Project;~~

~~10.5.1.6 Detailed Drawings reflecting the exact location of any concealed utilities, mechanical or electrical systems, and components;~~

~~10.5.1.7 Assignment to the Owner of all Warranties and Guarantees, including the most recent address and telephone number of any Subcontractors, Material Suppliers, or manufacturers;~~

~~10.5.1.8 An affidavit to certify that all Subcontractors and Material Suppliers have been paid in full for all Work performed or materials furnished for the Project;~~

~~10.5.1.9 Final certified payroll reports; and~~

~~10.5.1.10 An affidavit to certify that the Contractor and each of its Subcontractors, regardless of tier, have complied with all requirements of O.R.C. Chapter 4115.~~

~~10.6 As-Built and Record Documents~~

~~10.6.1 Upon Final Completion of the Work, the Contractor shall organize the As-Built Documents into manageable sets, bind the sets with durable paper cover sheets, and deliver the As-Built Documents to the A/E.~~

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10.6.1.1 By submitting the As-Built Documents to the A/E, the Contractor certifies that the As-Built Documents are complete, correct, and accurate.

10.6.21.1.1.1 The A/E shall revise the original Contract Documents and related electronic files with the information contained on the As-Built Documents. The A/E shall label the revised original Contract Documents and related electronic files as "Record Documents" and reflect the date of the A/E's incorporation of the As-Built Documents.

10.6.31.1.1.1 The Owner may thereafter use the Record Documents for any purpose relating to the Project including, but not limited to, additions to or completion of the Project.

10.71.1 Demonstration and Training, Operating Appurtenances

10.7.11.1.1 The Contractor, as a condition precedent to execution of the Certification of Contract Completion, release of retained funds, and final payment, shall perform demonstration and training of the Owner's maintenance personnel as specified in the Contract Documents.

10.7.21.1.1 The Contractor, as a condition precedent to execution of the Certification of Contract Completion, release of retained funds, and final payment, shall organize and submit operating appurtenances and loose items related to the operation and maintenance of the completed Project to the Owner, including, but not limited to:

10.7.2.1 Keys to door and window hardware, panels, and other devices not directly provided to the Owner from the manufacturer;

10.7.2.2 Operating handles, levers, cranks, specialized wrenches or drivers, remote controls, and similar items; and

10.7.2.3 Extra materials (e.g., attic stock).

10.7.3 If the Project is administered using OAKS CI, the Contractor shall document submission of its operating appurtenances to the Owner, using the OAKS CI "Transmittals" business process.

10.81.1 Certification of Contract Completion

10.8.1 Partial Completion:

10.8.1.11.1.1.1 When items of Work cannot be completed until a subsequent date, the A/E may recommend that these items be deferred and the Contracting Authority may release payment to the Contractor, as determined in the sole discretion of the Contracting Authority. The A/E shall list deferred items on a Partial Certification of Contract Completion with the dates the items are to be completed.

10.8.1.2 The date that the Contracting Authority executes the Partial Certification of Contract Completion is the date that the warranty period commences, and retained funds may be released for that portion of the Work.

10.8.2 Final Completion:

10.8.2.1 When all items on the A/E's Punch List have been completed to the satisfaction of the A/E, all requirements of the Contract Documents have been completed, and the provisions of paragraphs 10.1 through 10.7 have been fulfilled, the A/E shall prepare and recommend execution of a Final Certification of Contract Completion.

10.8.2.2 The date that the Contracting Authority executes the Final Certification of Contract Completion is the date that the Work of the Contract is accepted ("Final Acceptance"). If a Partial Certificate of Contract Completion was not executed for the Contract, the date that the Contracting Authority executes the Final Contract Completion Certificate is the date that the warranty period commences, and retained funds may be released.

10.8.2.31.1.1.1 If the Contractor escrowed its Bid Information, the Contracting Authority shall instruct the bonded storage facility to return the sealed container directly to the Contractor.

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10.8.3 Notwithstanding any other provision of the Contract Documents, Final Acceptance pursuant to this paragraph 10.8 constitutes neither acceptance of any Defective Work, nor a waiver of any rights set forth in the Contract Documents or otherwise provided by Applicable Law.

10.91.1 Contractor Performance Evaluation

10.9.11.1.1 The Contracting Authority shall evaluate the Contractor's performance during the progress of the Work, at completion of a phase of the Project, completion of the Project, or any of the foregoing. The Contracting Authority shall retain the evaluation(s).

10.9.1.11.1.1.1 The Contractor may request a copy of the completed evaluation(s). If the Contractor wishes to comment or take exception to any rating or remark, the Contractor shall send a response in writing to the Contracting Authority within 30 days of receiving the evaluation(s).

10.9.1.2 The Contracting Authority may use the evaluation(s) in determining the responsibility of the Contractor for award of future Contracts.

10.9.1.31.1.1.1 The Contracting Authority may request information from the Contractor for use in evaluating the A/E's performance. If information is requested, the Contractor shall comply in a timely and responsive manner.

10.9.1.4 If the Project is administered using OAKS CI, the Contractor shall receive and review the Contracting Authority's evaluation of the Contractor's performance and respond with its comments, using the OAKS CI "Contractor Evaluation" business process.

Article 11 - INSURANCE AND INDEMNIFICATION

11.1 Contractor's Liability Insurance

11.1.1 The Contractor shall purchase and maintain liability and other insurance as will protect the Contractor from claims set forth below, which may arise out of, or result from, the Contractor's performance or obligations under the Contract Documents, whether due to action or inaction by the Contractor or any Person for whom the Contractor is responsible.

11.1.1.1 Claims under workers' compensation, occupational sickness or disease, disability benefit, and other similar employee benefit acts;

11.1.1.2 Claims for damages because of bodily injury, disease, illness, death, or personal injury, and other claims usually covered by bodily injury liability insurance;

11.1.1.3 Claims for damages because of injury to, or destruction of, property and other claims usually covered by property damage liability insurance.

11.1.2 The Contractor shall purchase and maintain a Commercial General Liability policy and Business Automobile Liability policy to provide insurance and limits as indicated below. An Umbrella or Excess Liability policy may be used to reach the required limits.

Policy Limits – Commercial General Liability

$2,000,000	General Aggregate (minimum – see below)
$2,000,000	Products/Completed Operations Aggregate
$1,000,000	Occurrence Limit (minimum – see below)
$1,000,000	Personal and Advertising Injury Limit
$100,000	Fire Legal Liability Limit
$10,000	Medical Payments

Policy Limits – Business Automobile

$500,000	Combined Single Limit

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~~11.1.2.1 Contracts in the amount of $100,000 or less require coverage in the amount of not less than $2 million general aggregate and $1 million per occurrence.~~

~~11.1.2.2 Contracts in excess of $100,000, but not more than $5 million, require coverage in the amount of not less than $3 million general aggregate and $3 million per occurrence.~~

~~11.1.2.3 Contracts exceeding the amount of $5 million require coverage in an amount to be determined by the Contracting Authority and identified in the Supplementary Conditions, but in no case less than $5 million general aggregate and $5 million per occurrence.~~

~~.1 Policies shall be endorsed to provide that the General Aggregate Limit applies separately to each of the insured Contractor's projects.~~

~~11.1.3 For any demolition, blasting, excavating, tunneling, shoring, or similar operations, the Contractor shall provide and maintain Property Damage Liability insurance with a limit of liability equal to the limit as specified in the applicable sections of subparagraph 11.1.2.~~

~~11.2 Builder's Risk Insurance~~

~~11.2.1~~1.1.1 ~~The Lead Contractor shall provide and maintain, during the progress of the Work and until the execution of the final Certification of Contract Completion by the Contracting Authority, a Builder's Risk insurance policy to cover all Work in the course of construction including falsework, temporary buildings and structures, and materials used in the construction process, stored on or off-site, or while in transit. This insurance shall be on a special cause of loss form, which provides coverage on an open perils basis insuring against the direct physical loss of, or damage to, covered property including, but not limited to, theft, vandalism, malicious mischief, earthquake, tornado, lightning, explosion, breakage of glass, flood, collapse, water damage, and hot and cold testing. This insurance shall be written on a replacement cost basis and shall also include debris removal, and/or demolition occasioned by enforcement of Applicable Law.~~

~~11.2.1.1~~ ~~The amount of coverage shall be not less than the total completed value of the Project, including the value of permanent fixtures and decorations, with a deductible of not more than $25,000 per occurrence. Any deductible over the amount specified must be authorized in writing by the Owner and the Contracting Authority.~~

~~11.2.1.2~~1.1.1.1 ~~Coverage shall include a provision to pay the reasonable extra costs of acceleration and expediting temporary and permanent repairs to, or permanent replacement of, damaged property. This shall include overtime wages and the extra cost of "express" or other means for rapidly transporting materials and supplies necessary to the repair or replacement.~~

~~11.2.1.3~~1.1.1.1 ~~Coverage shall include "soft cost endorsement" including, but not limited to, the reasonable extra costs of the AE and reasonable Contractor extension or acceleration costs.~~

~~11.2.1.4~~1.1.1.1 ~~Coverage shall include material in transit or stored off-site and identified for the Project.~~

~~11.2.1.5~~1.1.1.1 ~~Coverage shall waive all rights between the Owner, the Contracting Authority, the Contractor, and Subcontractors at any tier, for damages caused by fire or any other perils to the extent of actual recovery of any insurance proceeds under the policy.~~

~~11.2.1.6~~1.1.1.1 ~~Coverage shall include appropriate sub-limits for installation coverage.~~

~~11.2.1.7~~1.1.1.1 ~~Coverage shall include provisions for mechanical or electrical breakdown, or boiler system testing.~~

~~11.2.1.8~~1.1.1.1 ~~Coverage shall include temporary structures and scaffolding, along with collapse coverage.~~

~~11.2.1.9~~1.1.1.1 ~~Coverage shall be primary to all other applicable insurance.~~

~~11.2.1.10~~1.1.1.1 ~~The Builder's Risk policy shall specifically permit and allow for Partial Occupancy by the Owner prior to execution of the final Certification of Contract Completion by the Contracting Authority and coverage shall remain in effect until all punch list items are completed.~~

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~~11.2.1.11 The Contractor's tools and equipment shall not be covered under the Builder's Risk policy. It is the Contractor's sole responsibility to maintain such coverage, which shall be included in its overhead and not included as a separate item in the Contractor's Schedule of Values.~~

~~11.2.2 If the Contractor is involved solely in the installation of material and equipment and not in new building construction, the Contractor shall purchase and maintain a Builder's Risk, Builder's Risk Renovations, or Installation Floater insurance policy. The policy must comply with the provisions of subparagraph 11.2.1.~~

~~11.3 Insurance Policy Requirements~~

~~11.3.1 Each policy of insurance required to be purchased and maintained by the Contractor shall name the State as an additional insured or loss payee, as applicable; provided, however, this designation shall not cause any claim between the Contractor and the State to be waived, except as set forth in paragraph 11.4.~~

~~11.3.1.1 Each such certificate of insurance shall expressly provide that the insurer will endeavor to provide no less than 30 days' written notice to the Contracting Authority in the event of cancellation of the coverage evidenced by the certificate.~~

~~11.3.1.2 For each insurance policy required by this Contract, the Contractor shall provide the Contracting Authority with 30 days' prior written notice of cancellation or non-renewal. Failure to comply with these reporting provisions shall constitute grounds for the Contracting Authority's termination of the Contract for cause pursuant to paragraph 12.3.~~

~~11.3.2 The Contractor shall furnish the Contracting Authority, when requested, a certified copy of any insurance or additional insured or loss payee endorsement required to be purchased or maintained by the Contract Documents. In no event shall failure of the Contracting Authority to demand a certified copy of any required insurance or endorsement be construed as a waiver of the obligation of the Contractor to obtain required insurance.~~

~~11.3.3 The Contractor shall maintain insurance in the required amounts, without interruption, from the date of execution of the Contract until the date of approval of the Certification of Contract Completion by the Contracting Authority. Failure to maintain the required insurance during the time specified shall be cause for termination of the Contract.~~

~~11.3.4 Insurance policies required to be purchased and maintained by the Contractor may include a reasonable loss deductible, which shall be the responsibility of the Contractor to pay in the event of loss.~~

~~11.3.5 The prompt repair or reconstruction of the Work resulting from an insured loss or damage is the Contractor's responsibility and shall be accomplished at no additional cost to the State.~~

~~11.4 Waivers of Subrogation~~

~~11.4.1 The Owner, the Contracting Authority, and the Contractor waive all rights against each other for damages caused by fire or other perils to the extent of actual recovery of any insurance proceeds under any property insurance, inland marine insurance, or builder's risk insurance applicable to the Work.~~

~~11.5~~1.1 ~~Indemnification for Injury or Damage~~

~~11.5.1 To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Contracting Authority, the Owner, the A/E, and their respective officials, officers, consultants, agents, representatives, and employees, in both individual and official capacities (individually "Indemnified Party"; collectively "Indemnified Parties"), from and against all claims, damages, losses, and expenses (including the fees and charges of engineers, architects, construction managers, attorneys, and other professionals), direct, indirect, or consequential arising out of or in connection with the Project.~~

~~11.5.1.1 In the event of any injury, death, loss, damage, or related claims, the Contractor shall give prompt written notice to the Contracting Authority and the Owner.~~

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~~11.5.2 The Contractor's obligations under subparagraph 11.5.1 shall not extend to the liability of the A/E, the A/E's consultants, agents, representatives, or employees for negligent preparation or approval of Drawings, Specifications, Change Orders, opinions, and any other responsibility of the A/E, except to the extent covered by the Contractor's insurance.~~

~~11.5.3 The Contractor's obligations under subparagraph 11.5.1 shall not negate, abridge, or reduce other rights or obligations of indemnity, which would otherwise exist as to an Indemnified Party.~~

~~11.5.4 The Contractor's obligations under subparagraph 11.5.1 shall not be limited by a limitation on the amount or type of damages, compensation, or benefits payable under workers' compensation acts, disability benefit acts or other employee benefit acts, or any insurance policy provided or required in connection with the Project.~~

~~11.6 Indemnification for Patent or Copyright Use~~

~~11.6.1 To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Indemnified Parties from and against all claims, damages, losses, and expenses (including the fees and charges of engineers, architects, construction managers attorneys, and other professionals), direct, indirect, or consequential arising out of the Contractor's infringement of patent rights or copyrights.~~

~~11.7~~1.1 ~~Indemnification for Use of Electronic Files~~

~~11.7.1 To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Indemnified Parties from and against all claims, damages, losses, and expenses (including, but not limited to, the fees and charges of engineers, architects, attorneys, and other professionals) arising out of, or related to the Contractor's, or any other Person's use of electronic files, including, but not limited to, Computer-Aided Design ("CAD") or Building Information Modeling ("BIM") files (collectively "Electronic Files").~~

~~11.7.1.1~~1.1.1.1 ~~These Electronic Files are provided solely for the Contractor's convenience and use related to the Project. Any use of the Electronic Files shall be at the sole risk of the Contractor.~~

~~11.7.1.2~~1.1.1.1 ~~The Owner alone owns the Electronic Files and every right, title, and interest therein from the moment of creation.~~

~~11.7.1.3~~1.1.1.1 ~~The Electronic Files are not products.~~

~~11.7.1.4~~1.1.1.1 ~~The Contractor shall not use the Electronic Files for any purpose other than as a convenience for preparing Shop Drawings, Coordination Drawings, Record Drawings, or fabrication data for components, systems, and assemblies intended solely for use on the Project.~~

~~11.7.1.5~~1.1.1.1 ~~The State and the A/E make no warranties, either express or implied, of the merchantability or fitness of the Electronic Files for any particular purpose.~~

~~11.7.1.6~~1.1.1.1 ~~The Contractor understands and accepts that the Electronic Files may deteriorate or be inadvertently or otherwise modified without authorization of the State or the A/E.~~

~~11.7.1.7~~1.1.1.1 ~~The State and the A/E make no representations as to compatibility, usability, or readability of the Electronic Files resulting from the use of software, application packages, operating systems, or computer hardware differing from those used to create the Electronic Files.~~

~~11.7.1.8 In the event of a conflict between the Contract Documents and the Electronic Files, the Contract Documents shall control, take precedence over, and govern the Electronic Files.~~

~~11.7.1.9~~1.1.1.1 ~~The Contractor alone is responsible to check, verify, and otherwise confirm the accuracy of data on the Electronic Files.~~

~~11.7.1.10~~1.1.1.1 ~~The Contractor shall not make any claims and hereby waives, to the fullest extent permitted by law, any claims or causes of action of any nature against the Indemnified Parties, which may arise out of, or in connection with, the use of the Electronic Files.~~

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~~Article 12 - CONTRACT SUSPENSION AND TERMINATION~~

~~12.1 Suspension of the Work~~

~~12.1.1 The Contracting Authority, without cause and without prejudice to any other right or remedy it may have, may order the Contractor in writing to suspend, delay, or interrupt the performance of the Work in whole or in part for such period of time as the Contracting Authority may determine.~~

~~12.1.1.1 If the Contracting Authority suspends the Work under this subparagraph 12.1.1 and the Contractor complies with Article 8, the Contract Sum and Contract Time shall be adjusted for increases in the cost and time caused by the suspension, delay, or interruption. The adjustment of the Contract Sum, however, shall not include profit.~~

~~12.1.1.2 Notwithstanding the foregoing, no adjustment shall be made to the Contract Sum or Contract Time to the extent that:~~

~~.1 Performance was, or could have been, suspended, delayed, or interrupted by a cause for which the Contractor is responsible; or~~

~~.2 An equitable adjustment is made or denied under another provision of the Contract.~~

~~12.1.1.3 If the Contracting Authority suspends the Work under this subparagraph 12.1.1 and the Contractor submits a proper Contractor Payment Request, but subject to all other provisions of the Contract Documents, the Contractor shall be entitled to payment of compensation due under the Contract Documents for Work performed before the suspension based upon the Schedule of Values.~~

~~12.1.2 The Contracting Authority, without prejudice to any other right or remedy it may have, may order the Contractor in writing to suspend, delay, or interrupt the performance of the Work in whole or in part for such period of time as the Contracting Authority may determine for any of the following reasons: (1) Defective Work; (2) the Contractor is causing undue risk of damage to any part of the Project or adjacent area; (3) the Contractor fails to furnish or perform the Work in such a way that the complete Work will conform to the requirements of the Contract Documents; or (4) any other cause the Contracting Authority reasonably believes justifies a suspension.~~

~~12.1.2.1 The Contracting Authority's exercise of its right to suspend the Work under this subparagraph 12.1.2 shall not entitle the Contractor to any adjustment of the Contract Sum, Contract Time, or both.~~

~~12.1.2.2 If the Contracting Authority is adjudged to have improperly suspended the Work under this subparagraph 12.1.2, the suspension shall be deemed to have been a suspension under subparagraph 12.1.1.~~

~~12.1.3~~1.1.1 ~~Upon receipt of notice of suspension under this paragraph 12.1, the Contractor shall cease Work on the suspended activities and take all necessary or appropriate steps to limit disbursements and minimize respective costs. The Contractor shall furnish a report to the Contracting Authority, within 5 days of receiving the notice of suspension, describing the status of the Work, including, but not limited to, results accomplished, resulting conclusions, and other information as the Contracting Authority may require.~~

~~12.1.4 In the event of suspension under this paragraph 12.1, the Contractor may be entitled to payment of compensation due under the Contract Documents, upon submission of a proper invoice, for the Work performed prior to receipt of notice of suspension, which shall be payable based upon the Schedule of Values.~~

~~12.1.5~~1.1.1 ~~The Contracting Authority's right to stop the Work shall not give rise to any duty to exercise the right for the benefit of the Contractor or any other party, and the Contracting Authority's exercise or failure to exercise the right shall not prejudice any of the Contracting Authority's other rights.~~

~~12.2~~1.1 ~~Termination for Convenience~~

~~12.2.1~~1.1.1 ~~The Contracting Authority may, at any time, terminate the Contract in whole or in part for the Owner's convenience and without cause, at any time upon 10 days written notice to the Contractor.~~

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12.2.21.1.1 Upon receipt of the notice of termination for convenience, the Contractor shall immediately proceed with performance of the following duties in accordance with instructions from the Contracting Authority:

12.2.2.1 Cease operation as specified in the notice;

12.2.2.2 Place no further orders and enter into no further subcontracts for materials, labor, services, or facilities, except as necessary to complete continued portions of the Project;

12.2.2.3 Terminate all subcontracts and orders to the extent they relate to the Work terminated;

12.2.2.4 Proceed with Work not terminated; and

12.2.2.51.1.1.1 Take actions that may be necessary, or that the Contracting Authority may direct, for the protection and preservation of the terminated Work.

12.2.31.1.1 Upon termination, the Contracting Authority shall pay the Contractor in accordance with the Schedule of Values for Work completed, including any retained funds, and the value of materials ordered and delivered, less any salvage credit the Contractor may receive for them.

12.2.3.11.1.1.1 All materials, equipment, facilities, and supplies at the Site or stored off site, for which the Contractor has received payment, shall become the property of the Owner.

12.2.3.2 The Contractor is entitled to a fair and reasonable profit for Work performed and reasonable expenses directly attributable to the termination of the Contract. In no event shall the Contractor be entitled to (1) overhead and profit on Work not performed or (2) compensation in excess of the total Contract Sum.

12.2.4 If the Contracting Authority terminates the Work under this paragraph 12.2, the termination shall not affect the rights or remedies of the State against the Contractor then existing or which may thereafter accrue.

12.2.5 Notwithstanding subparagraph 12.2.3, if the Contracting Authority terminates the Work under this paragraph 12.2, but there exists an event of the Contractor's default, the Contractor shall be entitled to receive only such sums as it would be entitled to receive following the occurrence of an event of default as provided in paragraph 12.3.

12.31.1 Termination for Cause

12.3.1 The Contracting Authority may terminate all or a portion of the Contract if the Contractor:

12.3.1.1 Fails to prosecute the Work with the necessary force or in a timely manner;

12.3.1.2 Refuses to remedy Defective Work;

12.3.1.3 Fails to supply enough properly skilled workers or proper materials;

12.3.1.4 Fails to properly make payment to Subcontractors or Material Suppliers;

12.3.1.5 Performs any services outside of the United States;

12.3.1.6 Permits its Subcontractors to perform any services outside of the United States; or

12.3.1.7 Disregards laws, ordinances, or rules, regulations, or orders of a public authority with jurisdiction over the Project.

12.3.2 If the Contracting Authority intends to exercise its termination rights under this paragraph 12.3, the Contracting Authority shall issue not less than 5 days' written notice to the Contractor and the Contractor's Surety in accordance with O.R.C. Section 153.17 ("5-Day Notice").

12.3.31.1.1 If the Contractor fails to satisfy the requirements set forth in the 5-Day Notice within 15 days of receipt of the 5-Day Notice, the Contracting Authority may declare the Contractor in default, terminate the Contract, and employ upon the Work the additional force or supply materials or either as appropriate, and remove Defective Work.

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12.3.41.1.1 If the Contract is terminated, the Contractor's Surety may perform the Contract. If the Contractor's Surety does not commence performance of the Contract within 10 days of the date of Contract termination, the Contracting Authority may complete the Work by means the Contracting Authority determines appropriate. The Contracting Authority may take possession of and use all materials, facilities, and equipment at the Site or stored off-site, for which the State has paid.

12.3.51.1.1 If the Contract is terminated, the Contractor shall not be entitled to further payment. If the unpaid balance of the Contract Sum exceeds the costs of finishing the Work, including without limitation the fees and charges of engineers, architects, attorneys, and other professionals and court costs, and other damages incurred by the Owner and not expressly waived, the Contractor or Surety shall immediately pay the amount of the insufficiency to the Owner. This obligation for payment shall survive termination of the Contract.

12.3.6 If the Contractor's Surety performs the Work, the provisions of the Contract Documents govern the Surety's performance, with the Surety in place of the Contractor in all provisions including, but not limited to, provisions for payment for the Work, and provisions of the right of the Contracting Authority to complete the Work.

12.3.71.1.1 If the Contracting Authority terminates the Work under this paragraph 12.3, the termination shall not affect any rights or remedies of the State against the Contractor then existing or which may thereafter accrue. The Contracting Authority's retention or payment of funds due the Contractor shall not release the Contractor or the Contractor's Surety from liability for performance of the Work in accordance with the requirements of the Contract Documents.

12.3.8 If the Contracting Authority is adjudged to have improperly terminated the Work under this paragraph 12.3, the termination will be deemed to have been a termination under paragraph 12.2.

12.41.1 Contractor Insolvency

12.4.1 Bankruptcy of Contractor:

12.4.1.11.1.1.1 If the Contractor files a voluntary petition in bankruptcy or has an involuntary petition in bankruptcy filed against it, the Contractor, the Contractor as the debtor-in-possession, or the trustee of the Contractor's bankruptcy estate shall file a motion to assume or reject the Contract under Bankruptcy Code §365, 11 U.S.C. §365, within 20 days after the filing of the voluntary petition or involuntary petition and shall diligently prosecute that motion to conclusion so as to obtain an order granting or denying that motion within 45 days after the filing of the voluntary or involuntary petition. The failure to file and prosecute that motion within the time frames provided by this paragraph 12.4 shall constitute a material breach of the Contract as time is of the essence with respect to Contractor's performance of all terms of this Contract. Contractor agrees to the granting of relief from the automatic stay of the Bankruptcy Code, 11 U.S.C. §362(a), to permit the Contracting Authority to terminate the Contract for cause in such instance and issue and serve all notices necessary to terminate the Contract or arising out of the termination of the Contract and to take any and all other action necessary to terminate the Contract.

12.4.2 Receivership or Assignment for the Benefit of Creditors:

12.4.2.11.1.1.1 If the Contractor makes a general assignment for the benefit of creditors or if a receiver is appointed for all or a substantial part of the Contractor's business or property, the Contracting Authority shall serve written notice on the Contractor and the Contractor's Surety stating that any failure of the Contractor to provide adequate assurance of continued performance shall be considered a rejection of the Contract, which shall result in termination of the Contract for cause. Such termination of the Contract need not be evidenced by an order of any court.

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~~Article 13 - ACTION SUBMITTALS~~

~~13.1 Description~~

~~13.1.1 Shop Drawings, Product Data, Samples, and other submittals for the A/E's review and action shall be provided by the Contractor for any item required by the Contract Documents but not fully described in the Contract Documents, unless waived by the A/E, and include, but are not limited to:~~

~~13.1.1.1 Construction of the various parts, method of joinery, type of materials, grade, quality and thickness of materials, alloy of materials, profiles of all sections, reinforcement, method of hanging doors or installing windows, anchorage, and type and grade of finish;~~

~~13.1.1.2 Capacities, types of materials and performance charts that are pertinent to the materials, and performance charts that are pertinent to the equipment item; and~~

~~13.1.1.3 Wiring diagrams, control diagrams, schematic diagrams, working and erection dimensions, arrangement and specifications.~~

~~13.1.1.4 If the Project is designed and constructed under the Leadership in Energy and Environmental Design ("LEED") Rating System developed by the U.S. Green Building Council or another rigorous rating system used to facilitate achievement of sustainability goals for the Project, the Contractor shall provide submittals certifying achievement of sustainable design rating system criteria for verification by a third party.~~

~~13.1.1.5~~1.1.1 ~~To facilitate the Building Commissioning process, the Contractor shall submit 4 sets of Operation and Maintenance Manuals for dynamic and engineered systems to the A/E, and the CxA if applicable, for approval. This submission shall occur within 30 days following approval of all related Contractor submittals required by the Contract Documents.~~

~~13.1.2~~1.1.1.1 ~~Submittals are not Contract Documents. In the event of conflicts between submittals and the Contract Documents, the Contract Documents take precedence and govern the Work.~~

~~13.2 Form of Submittals~~

~~13.2.1~~1.1.1 ~~The Contractor shall provide a transmittal letter, review and stamp its approval, and transmit the submittals to the A/E in accordance with a schedule established by the A/E and the Contractor.~~

~~13.2.1.1 The Contractor shall submit a minimum of 1 reproducible and 3 copies of Shop Drawings, and a minimum of 4 copies of any other submittal, except when using OAKS CI under subparagraph 13.2.2.~~

~~13.2.1.2~~1.1.1.1 ~~The data shown on the Shop Drawings shall be complete with respect to quantities, dimensions, specified performance and design criteria, materials, and similar data to communicate to the A/E the materials and equipment which the Contractor proposes to provide.~~

~~13.2.1.3~~1.1.1.1 ~~Each Sample shall be identified clearly as to materials, supplier, pertinent data as catalog numbers, the intended use, and other uses as the A/E may require enabling the A/E to review the submittal.~~

~~13.2.2 If the Project is administered using OAKS CI, the Contractor shall submit electronic files of its submittals to the A/E, and the CxA if applicable, for review, using the OAKS CI "Submittals" business process.~~

~~13.3 Variation from Contract Documents~~

~~13.3.1~~1.1.1 ~~If the submittals show variations from the requirements of the Contract Documents, the Contractor shall specifically and clearly identify the variations in its letter of transmittal.~~

~~13.3.1.1~~1.1.1.1 ~~Variations which may affect the construction quality, cost or timeline shall be submitted by the A/E to the Contracting Authority for review, and if approved, shall be incorporated into the Work by Change Order.~~

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~~13.3.1.21.1.1.1 The Contractor shall not be relieved of responsibility for deviations from the Contract Documents by the A/E's approval of submittals.~~

~~13.4 Contractor's Submittal Review~~

~~13.4.11.1.1 The Contractor shall review and stamp "approved" all submittals before forwarding them to the A/E. If it is apparent to the A/E that the Contractor has not reviewed the submittals, or has conducted an incomplete review, the A/E may reject the submittals.~~

~~13.4.1.1 The Contractor shall field verify conditions as necessary and make corrections of dimensions, locations of various items, encroachments of work of other contractors, or variations from the requirements of the Contract Documents.~~

~~13.4.1.2 If required by the Contract Documents or Applicable Law, the Contractor shall have Shop Drawings or other submittals prepared by Persons possessing expertise and experience in an appropriate trade or profession or by a licensed architect, registered engineer, or other professional.~~

~~13.4.21.1.1.1 By approving and submitting submittals, the Contractor represents that the Contractor has determined and verified materials, field measurements, and field construction criteria related to the associated Work, or shall do so, and has checked and coordinated the information contained within the submittals with the requirements of the Work and of the Contract Documents.~~

~~13.5 Reserved~~

~~13.6 Architect/Engineer's Submittal Review~~

~~13.6.1 The A/E shall review submittals for conformity with design intent within 14 days of receiving them or in accordance with the approved submittal schedule, or other period as mutually agreed by the A/E and the Contractor.~~

~~13.6.1.1 The Contractor shall make corrections required by the A/E and resubmit the required number of corrected copies of submittals until approved, which re-submission shall be acted upon by the A/E within 14 days of receiving them, or other period as is mutually agreed by the A/E and the Contractor.~~

~~13.6.1.21.1.1.1 When resubmitting corrected submittals, the Contractor shall direct the A/E's attention to revisions made by noting revisions on the resubmittal.~~

~~13.6.1.31.1.1.1 The Contractor shall pay all reasonable costs of the A/E, Separate Contractors, the Owner, and the Contracting Authority for attendant delay, interference, hindrance or disruption of the Project due to excessive resubmittals without fault of the A/E, Separate Contractors, the Owner, or the Contracting Authority. Resubmittals in excess of 2 without fault of the A/E, Separate Contractors, the Owner or the Contracting Authority may be determined excessive by the Contracting Authority.~~

~~13.6.1.41.1.1.1 The A/E may hold Samples and other submittals used to coordinate finishes, colors, patterns, textures, or other characteristics until submittals for adjacent materials are available. The A/E shall issue a written notice to the Contractor stating that the submittal is being held, within 7 days of receiving it.~~

~~13.6.1.5 If coordinating submittals are not received within the period required for action on previously received submittals that are held in accordance with subparagraph 13.6.1.4, review of the previously received submittals shall be delayed.~~

~~13.6.2 The A/E's review of submittals is to determine if the items covered by the submittals will, after installation and incorporation into the Work, conform to the Contract Documents and be compatible with the design concept of the Project as a functioning whole.~~

~~13.6.2.11.1.1.1 The A/E's review shall not extend to means, methods, manners, techniques, sequences, nor procedures of construction, or to safety precautions or incident programs.~~

~~13.6.2.21.1.1.1 The review and approval of a separate item shall not indicate approval of the assembly in which the item functions.~~

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13.7 Risk of Nonpayment

13.7.11.1.1 The Contractor shall not commence any portion of the Work requiring Shop Drawings, Product Data, Samples, or other submittals until the submittal has been approved by the A/E. If the Contractor starts Work before the A/E's final approval of the submittal, the Contractor does so at its own risk that payment shall not be approved by the Contracting Authority or made by the Owner for the related Work.

13.8 Equipment Statement

13.8.11.1.1 Shop Drawings on equipment shall include the following written statement from the manufacturer of the equipment:

13.8.1.11.1.1.1 "This equipment submitted for approval shall perform as specified when installed by the Contractor in the arrangement shown on this drawing and in the Contract Documents and in conjunction with all other accessories as flues, breechings, piping, controls, and equipment not furnished by this manufacturer, but required as an accessory or supplement to this equipment, providing that the accessory or supplementary items perform as specified and are installed as shown in the Contract Documents."

13.8.21.1.1.1 This equipment statement shall not be required for Samples, Product Data, and other standard submittals that are not created specifically for this Project.

Article 14 - SUBCONTRACTORS AND MATERIAL SUPPLIERS

14.1 Evaluation and Approval

14.1.1 Within 10 days after the Notice to Proceed, or other period as mutually agreed by the Contractor and the Contracting Authority, the Contractor shall submit to the A/E, on forms provided by the Contracting Authority, 4 copies of the Contractor's list of proposed Subcontractors and Material Suppliers. The Contractor shall include and indicate on the list, appropriate information about the certified EDGE Business Enterprise(s) that it intends to use to fulfill its commitment to contract with and use certified EDGE Business(es) to meet or exceed the approved EDGE Business Participation Goal for the Contract related to the Project.

14.1.1.1 Failure to timely submit the list of proposed Subcontractors and Material Suppliers may result in withholding payment in accordance with subparagraph 9.6.2.

14.1.1.2 If the Project is administered using OAKS CI, the Contractor shall submit its proposed Subcontractors and Material Suppliers through the OAKS CI "Subcontractor Supplier Declaration" business process.

14.1.2 Within 3 business days after receiving the Subcontractor and Material Supplier Declaration forms, the A/E shall verify that the forms are complete and deliver them to the Contracting Authority. If the A/E finds the forms are incomplete, the A/E shall return them to the Contractor with no action and identify corrective action the Contractor shall perform prior to resubmitting the forms. If the A/E returns such incomplete forms to the Contractor, the Contractor, within 10 days of receipt thereof, shall resubmit the forms with revisions complying with the corrective action identified by the A/E.

14.1.3 Upon receipt of the forms, the Contracting Authority, in consultation with the A/E and the Owner, shall perform an initial review of each Subcontractor and Material Supplier listed. Within 10 days after receiving the forms, the Contracting Authority shall make an initial determination of the status of each Subcontractor and Material Supplier listed, and provide a written notice to the A/E and the Contractor. The status of each Subcontractor and Material Supplier shall be one of the following.

14.1.3.1 Approved, indicating that the Subcontractor or Material Supplier is approved for use on the Project.

14.1.3.2 Extended Review, indicating that the Contracting Authority may have an objection or concern regarding a listed Subcontractor or Material Supplier. The Contracting Authority, in consultation with the

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A/E and the Owner, shall then undertake an extended review for which an additional 10 days beyond the original deadline shall be automatically provided.

.1 Upon completing the extended review, the Contracting Authority shall issue a written notice to the A/E and the Contractor confirming the status of the Subcontractor or Material Supplier as either approved or rejected.

14.1.3.3 Rejected, indicating that the Contracting Authority does not approve a listed Subcontractor or Material Supplier for use on the Project. Before making a determination to reject any listed Subcontractor or Material Supplier, the Contracting Authority shall complete a review similar to the review provided by the Instructions to Bidders, which includes written documentation as to the reason or reasons that the Subcontractor or Material Supplier was rejected.

14.1.4 If the Contracting Authority rejects any Subcontractor or Material Supplier, the Contractor shall replace the Subcontractor or Material Supplier, within 10 days of the receipt of the rejection, at no additional cost to the State.

14.2 Replacement and Corrections

14.2.1 The Contractor shall not replace any Subcontractor or Material Supplier after execution of the Contract without the prior written approval of the Contracting Authority.

14.2.1.1 The Contractor shall submit to the A/E amended Subcontractor and Material Supplier Declaration forms and written justification for additions to or changes in their list of Subcontractors and Material Suppliers.

14.2.1.2 The Contractor shall submit amended forms to the A/E whenever any listed information changes for the Contractor's Subcontractors or Material Suppliers.

14.2.1.3 Upon submission of such amended forms, the Contractor, the A/E, and the Contracting Authority shall follow the procedure outlined in subparagraphs 14.1.2, 14.1.3, and 14.1.4.

14.3 Contractor's Responsibility

14.3.1 The Contractor is fully responsible for all acts and omissions of its Subcontractors and Material Suppliers and is responsible for scheduling and coordinating the Work of its Subcontractors and Material Suppliers with the Lead Contractor.

14.3.1.1 The Contractor is fully responsible for any delay, interference, disruption, or hindrance attributable to the Contractor's Subcontractors or Material Suppliers.

14.3.1.21.1.1.1 The Contractor shall require that each of its Subcontractors have a competent supervisor at the Site whenever the Subcontractor is performing Work.

14.3.1.3 The Contractor shall bind its Subcontractors and Material Suppliers to the terms of the Contract Documents, so far as applicable to the Work of the Subcontractor or Material Supplier, and shall not agree to any provision, which seeks to bind the State to terms inconsistent with, or at variance from the Contract Documents.

14.4 Warranty and Guarantee

14.4.1 The Contractor shall require each Subcontractor and Material Supplier to fully warrant and guarantee, for the benefit of the Owner, the effectiveness, fitness for the purpose intended, quality, and merchantability of any Work performed or item provided or installed by the Subcontractor or Material Supplier.

14.51.1 Contingent Assignment of Subcontracts

14.5.1 The Contractor hereby assigns its agreement with each Subcontractor and Material Supplier to the Owner provided that the assignment is effective only after termination of the Contract by the Contracting

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~~Authority for cause and only for those agreements which the Owner accepts by notifying the Contractor and applicable Subcontractor or Material Supplier in writing.~~

~~14.61.1 Prompt Payment~~

~~14.6.1 The Contractor shall make payments to Subcontractors and Material Suppliers in accordance with Applicable Law, including O.R.C. Section 4113.61 that include, without limitation, the requirements described under this subparagraph 14.6.1.~~

~~14.6.1.1 If a Subcontractor or Material Supplier requests payment in time to allow the Contractor to include the request in its Contractor Payment Request, the Contractor shall pay within 10 days after receipt of payment from the State:~~

~~.1 To a Subcontractor, an amount equal to the percent of completion allowed by the Contracting Authority for the Subcontractor's Work.~~

~~.2 To a Material Supplier, an amount equal to all or that portion of the Contractor Payment Request that represents the materials furnished by the Material Supplier.~~

~~14.6.1.2 The Contractor may reduce the amount to be paid to a Subcontractor or Material Supplier pursuant to subparagraph 14.6.1.1 by the amount of any funds retained from the Contractor and may withhold amounts necessary to resolve disputed liens or claims involving the Work of the Subcontractor or Material Supplier.~~

~~14.6.1.3 If the Contractor fails to comply with this subparagraph 14.6.1, the Contractor shall pay to the applicable Subcontractor or Material Supplier 18 percent interest, compounded annually, on any unpaid amount beginning on the 11th day after receipt of payment from the State.~~

~~14.6.2 In order to establish lien rights, Subcontractors and Material Suppliers shall comply with Applicable Law, including O.R.C. Sections 1311.26, 1311.261, and 1311.29.~~

~~14.6.3 In the event that the Contracting Authority receives a Claim Affidavit from a Subcontractor or Material Supplier, it shall proceed as required by Applicable Law, including O.R.C. Sections 153.63 and 1311.31.~~

~~14.6.4 Laborers, Subcontractors, and Material Suppliers may secure payment rights in accordance with Applicable Law, including O.R.C. Section 153.56.~~

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~~Article 1 - GENERAL PROVISIONS~~

~~1.1Application and Governing Law~~

~~1.1.1The Contract and the rights of the parties thereunder shall be governed by the laws of the state of Ohio and only Ohio courts shall have jurisdiction over any action or proceeding concerning the Contract and/or performance thereunder. The Contractor irrevocably consents to such jurisdiction.~~

~~1.1.21.1.1The parties to the Contract shall comply with Applicable Law.~~

~~1.1.3 Other rights and responsibilities of the Contractor, the Architect/Engineer ("A/E"), the Construction Manager ("CM"), the Contracting Authority, and the Owner are set forth throughout the Contract Documents and included under different titles, articles, and paragraphs for convenience.~~

~~1.2 Conditions of the Contract~~

~~1.2.1 These General Conditions govern, take precedence over, and shall not be superseded or amended by Drawings and Specifications, unless so provided in Supplementary Conditions prepared by the Contracting Authority and approved by the Department.~~

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ARTICLE 1 - CONTRACTOR'S RESPONSIBILITIES

1.1 Nondiscrimination~~:~~

~~1.2.2~~1.1.1 The Contractor shall comply with Applicable Law regarding equal employment opportunity, including Ohio Revised Code ("~~O.R.C.")~~ORC") Section 153.59 and all Executive Orders issued by the Governor of the state of Ohio.

1.1.1.1 ~~In~~As required under ORC Section 153.59, the Contractor agrees to both of the following:

~~1.2.2.1~~.1 "in the hiring of employees for the performance of ~~the Work~~work under ~~any Contract~~the contract or ~~Subcontract~~any subcontract, no ~~Contractor or Subcontractor,~~contractor, subcontractor, or any ~~Person~~person acting on ~~the Contractor's~~a contractor's or ~~Subcontractor's~~subcontractor's behalf, ~~shall,~~ by reason of race, creed, sex, disability~~,~~ or military status as defined in section 4112.01 of the Revised Code, or color, shall discriminate against any citizen of the state in the employment of labor or workers who is qualified and available to perform the work to which the employment relates~~.~~; and"

~~1.2.2.2~~.2 ~~No Contractor or Subcontractor,~~"no contractor, subcontractor, or any ~~Person acting~~person on a ~~Contractor's~~contractor's or ~~Subcontractor's~~subcontractor's behalf ~~shall~~, in any manner, shall discriminate against or intimidate any employee hired for the performance of ~~Work~~work under the ~~Contract~~contract on account of race, creed, sex, disability~~,~~ or military status as defined in section 4112.01 of the Revised Code, or color~~.~~."

~~1.2.2.3~~1.1.1.2 The Contractor shall cooperate fully with the ~~state~~State's Equal Opportunity Coordinator ("EOC"), with any other official or agency of the state or federal government, which seeks to eliminate unlawful employment discrimination, and with all other state and federal efforts to assure equal employment practices under the Contract.

~~1.2.2.4~~1.1.1.3 In the event the Contractor fails to comply with these nondiscrimination clauses, ~~-~~the Contracting Authority shall deduct from the amount payable to the Contractor a forfeiture of the statutory penalty pursuant to ~~O.R.C.~~ORC 153.60 for each person who is discriminated against or intimidated in violation of this ~~subparagraph~~ Section 1.1.

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~~1.2.2.5~~1.1.1.4 The Contract may be terminated or suspended in whole or in part by the Contracting Authority and all money to become due hereunder may be forfeited in the event of a subsequent violation of this ~~subparagraph~~ Section 1.1.

~~1.2.3~~1.1.2 Hiring Under State Public Improvement Contracts~~:~~.

~~1.2.3.1~~1.1.2.1 Any provision of a hiring hall contract or agreement which obligates ~~a~~the Contractor to hire, if available, only employees referred to the Contractor by a labor organization shall be void as against public policy and unenforceable with respect to employment under any public improvement ~~Contract~~contract unless at the date of execution of the hiring hall contract or agreement, or within 30 days thereafter, the labor organization has procedures in effect for referring qualified employees for hire without regard to race, color, religion, national origin, military status as defined in ORC Section 4112.01, or ancestry and unless the labor organization includes in its apprentice and journeyperson's membership, or otherwise has available for job referral without discrimination, qualified employees, both whites and non-whites (including African-Americans).

~~1.2.4~~1.1.3 Affirmative Action~~:~~.

~~1.2.4.1~~1.1.3.1 The Contractor and Subcontractors shall comply with the ~~state's~~State's Equal Employment Opportunity requirements described under Ohio Administrative Code ("OAC") Sections 123:2-3 through 123:2-9 that include, without limitation, the requirements described under this ~~subparagraph~~ Section 1.1.3.

~~1.2.4.2~~1.1.3.2 The Contractor shall demonstrate its good faith efforts to comply with the utilization goals currently established for minority and women employees and submit documentation to the ~~Equal Opportunity Coordinator~~EOC.

~~1.2.4.3~~1.1.3.3 By the ~~tenth~~ 10th day of each month, the Contractor and Subcontractors shall submit to the ~~Equal Opportunity Coordinator~~EOC via the internet a completed Ohio Construction Contract Information Report ~~–~~- Input Form 29 (I-29) for the preceding month. The form ~~must~~shall be submitted through the Ohio Business Gateway: http://business.ohio.gov/efiling/.

~~1.2.5~~1.2 Prevailing Wages~~:~~

~~1.2.5.1~~1.2.1 The Contractor shall comply with the prevailing wage requirements described under ~~O.R.C.~~ORC Chapter 4115 that include, without limitation, the requirements described under this ~~subparagraph 1.2.5~~Section 1.2.

~~1.2.5.2~~1.2.2 The Contractor shall pay to laborers and mechanics performing Work on the Project the prevailing wage rates of the Project locality, as determined by the Ohio Department of Commerce, Wage and Hour Bureau.

~~1.2.5.3~~1.2.3 The Contractor shall post in a prominent place readily accessible by all workers on the Site, a legible listing of the current classifications of laborers, workers, and mechanics employed under this Contract. The Contractor shall ensure that the rates posted are current and remain posted in legible condition during the period of the Contract.

~~1.2.5.4~~1.2.4 The Contractor shall not be entitled to an increase in the Contract Sum on account of an increase in prevailing wage rates, except as otherwise provided by Applicable Law. The Contractor may access the Ohio Department of Commerce, Wage & Hour Bureau at its ~~Web site~~website, http://198.234.41.198/w3/webwh.nsf/pages/PrevailingWageBid, to obtain the current wage rates.

~~1.2.6 Notice of Commencement:~~

~~1.2.6.1 The Contracting Authority shall prepare a Notice of Commencement and make it available as required under O.R.C. Section 1311.252.~~

~~1.2.6.2 Upon request, the Contracting Authority, the CM, or the Contractor shall furnish the Notice of Commencement to Subcontractors and Material Suppliers, or any other member of the public.~~

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1.31.1Written Notice

1.3.11.1.1Notice under the Contract Documents shall be validly given if:

1.3.1.1 Delivered personally to a member of the organization for whom the notice is intended;

1.3.1.2 Delivered, or sent by registered or certified mail, to the last known business address of the organization; or

1.3.1.3 Sent by facsimile, email, or Web-based project management software, provided the original, signed document is delivered within 3 business days after the date of the electronic transmission.

1.3.2 When the Owner, the Contracting Authority, the A/E, the CM, or the Contractor gives notice to one of the other 4, it shall also simultaneously send a copy of that notice to the others.

1.4 Contract Documents

1.4.1 Ownership:

1.4.1.1 The Owner alone owns the Contract Documents and every right, title, and interest therein from the moment of creation.

1.4.1.2 The Contractor may retain copies, including reproducible copies, of the Contract Documents for information, reference, and performance of the Work.

1.4.1.3 The submission or distribution of the Contract Documents to meet official regulatory requirements or for similar purposes in connection with the Project is not a waiver of the Owner's reserved rights in the Contract Documents. Any unauthorized use of the Contract Documents shall be at the sole risk of the entity making the unauthorized use.

1.4.2 Intent:

1.4.2.11.1.1.1The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor.

1.4.2.21.1.1.1The Contract Documents are complementary, and what is required by one is binding as if required by all.

1.4.2.31.1.1.1The Contractor shall provide all labor and materials necessary for the entire completion of the Work described in the Contract Documents and reasonably inferable to produce the intended results.

1.4.2.41.1.1.1The Drawings govern dimensions, details, and locations of the Work. The Specifications govern quality of materials and workmanship.

1.4.2.51.1.1.1The organization of the Specifications in divisions, sections, and articles, and the arrangement of Drawings shall not restrict the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade.

1.4.2.61.1.1.1In the event of inconsistency or conflict within the Contract Documents, the Contractor shall provide the better quality or greater quantity of Work, and comply with the stricter requirement.

1.4.2.71.1.1.1Unless otherwise defined in the Contract Documents, words that have well-known technical or construction industry meanings are used in accordance with those recognized meanings.

1.4.2.8 The Sections of Division 01 – "General Requirements" govern the performance of the Work of all Sections of the Specifications.

1.4.3 Copies of Approved and Conformed Documents:

1.4.3.1 The A/E shall furnish the CM, without charge, a complete set of Plan Approval Documents bearing annotations, and the Certificate of Plan Approval, from the Ohio Department of Commerce, Industrial Compliance Division or its authorized representative(s). The CM shall keep and protect these documents, neatly consolidated, in a secure environment at the Site, maintain them during the course of the Project, and make them available upon request.

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~~1.4.3.2 If the amount of the Contract is $500,000 or less, the A/E shall furnish 5 sets of Conformed Documents to the Contractor. If the amount of the Contract is greater than $500,000, the A/E shall furnish 7 sets of Conformed Documents to the Contractor.~~

~~1.4.3.3 The Contractor may purchase additional copies of the Conformed Documents.~~

~~1.4.3.4 The Conformed Documents are furnished solely for the Contractor's convenience. In the event of any conflict between the Contract Documents modified by Addenda and the Conformed Documents, the Contract Documents take precedence.~~

~~1.4.4 As-Built Documents:~~

~~1.4.4.1 The Contractor shall maintain in good order at the Site a complete copy of all Contract Documents; Shop Drawings, Product Data, Samples and similar required submittals; manufacturer operating and maintenance instructions; certificates; Warranties; Requests for Interpretation and responses thereto; and other Project-related documents, all marked currently and accurately to record field changes and selections made during construction and to show actual installation where installation varies from Work as originally shown, including the exact location and depth of underground utility lines.~~

~~1.4.4.2~~1.1.1.1~~Before submitting each Contractor Payment Request, the Contractor shall record all changes on the Contract Documents, neatly in a contrasting color, noting new information not shown on the original Contract Documents. Failure to record all changes may cause payment to be withheld or delayed by the Contracting Authority.~~

~~1.4.4.3~~1.1.1.1~~If the Contractor uses Shop Drawings to indicate as-built conditions, the Contractor shall cross-reference the Shop Drawing sheet numbers to the corresponding sheet numbers on the Contract Documents. The Contractor shall note related numbers where applicable.~~

~~1.4.4.4~~1.1.1.1~~The Contractor shall keep a record of changes made to the Specifications, noting particularly any approved variation from manufacturer's installation instructions and recommendations.~~

~~1.4.5 Access to Documents:~~

~~1.4.5.1 The CM shall maintain, in a secure location at the Site, a set of Drawings and Specifications, approved by the Ohio Department of Commerce, Division of Industrial Compliance, and the records required by subparagraph 4.2.9.~~

~~1.4.5.2 The CM shall at all times permit access to the documents described in subparagraph 1.4.5.1 to authorized representatives of the State, local authorities having jurisdiction, the Contracting Authority, the Owner, and the A/E.~~

~~1.4.5.3 The Contractor shall at all times permit access to the documents described in subparagraph 1.4.4 to authorized representatives of the State, local authorities having jurisdiction, the Contracting Authority, the Owner, the A/E, and the CM.~~

~~1.5~~1.1~~Taxes~~

~~1.5.1~~1.1.1~~Only those materials that ultimately become a part of the completed structure or improvement which constitutes the Project shall be exempt from state sales tax and state use tax.~~

~~1.5.2 The purchase, lease, or rental of material, equipment, parts, or expendable items as concrete form lumber, tools, oils, greases, and fuels, which are used in connection with the Work, are subject to the application of state sales tax and state use tax.~~

~~1.6~~1.3 Royalties and Patents

~~1.6.1~~1.3.1 The Contractor shall pay all royalties, license fees, and assume all costs incident to the use, in the performance of the Work or the incorporation in the Work, of any invention, design, process, product, or device that is the subject of patent rights or copyrights held by others.

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~~1.6.2 If a particular invention, design, process, product, or device is specified in the Contract Documents and if, to the knowledge of the A/E, use of the specified item is subject to patent rights or copyrights calling for the payment of a license fee or royalty to others, the A/E shall disclose the existence of the rights in the Contract Documents.~~

~~1.6.2.1~~1.3.2 If the Contractor has reason to believe that use of the specified item is subject to patent or copyright protection, the Contractor shall immediately notify the Contracting Authority.

~~1.7~~1.4 Assignment of Antitrust Claims

~~1.7.1~~1.4.1 By signing the ~~Contract Form~~Agreement, the Contractor assigns, conveys and transfers to the Contracting Authority any right, title, and interest to any claims or causes of action it may have or acquire under ~~State~~state or federal antitrust laws relating to any goods, products, or services purchased, procured, or rendered to the State pursuant to the Contract~~.~~.

~~1.8~~1.5 Use of Domestic Steel

~~1.8.1~~1.5.1 The Contractor is required by law to supply domestically produced steel products used for load bearing structural purposes on all projects funded in whole or in part with State funds.

~~1.8.2~~1.5.2 The A/E, Contractors, and Subcontractors~~, and Material Suppliers~~ shall comply with the requirements of the Department of Administrative Services' policy regarding the specification and use of domestically produced steel products, including furnishing the required certifications. This policy is available on the Department's ~~Web site~~website at http://das.ohio.gov (click on "DAS Statewide Policies" under the Hot Links menu). Scroll down and then click on Directive GS-D-07 "Required Use of Domestic Steel~~."~~."

~~1.9 Bond Reduction~~

~~1.9.1 Upon notice and consent of the Contractor's Surety, the Contracting Authority may reduce the Bond by 25 percent of the total amount of the Bond after at least 50 percent of the Work has been completed, and by 50 percent after at least 75 percent of the Work has been completed, if all of the following conditions are met:~~

~~1.9.1.1 The Contracting Authority determines that the percentage of Work completed at the time of determination has been satisfactorily performed and meets the terms of the Contract Documents, including a provision in regard to the time when the whole, or any specified portion, of the Work shall be completed;~~

~~1.9.1.2 The Contracting Authority determines that no disputed claim caused by the Contractor exists or remains unresolved; and~~

~~1.9.1.3 The Bid upon which the Contract is based was not more than 10 percent below the next lowest Bid or not more than 10 percent below the cost estimate for the Work as published in the Advertisement for Bids.~~

~~1.10~~1.6 Drug Free Safety Program Participation

~~1.10.1~~1.6.1 ~~During the Contract Time,~~Throughout the performance of the Work, the Contractor shall be enrolled in and remain in good standing in the Ohio Bureau of Workers' Compensation ("OBWC") Drug-Free Safety Program ("DFSP") or a comparable program approved by the OBWC that meets the requirements specified in ~~O.R.C.~~ORC Section 153.03 ("OBWC-approved DFSP").

1.6.2 ~~If the Contractor provides Subcontractors that provide labor on the Site, the Subcontractors~~As required under ORC Section 153.03(E):

~~1.10.2~~1.6.2.1 "Each contractor shall require all subcontractors with whom the contractor is in contract for the public improvement to be enrolled in and be in good standing in the ~~OBWC DFSP~~ Bureau of Workers' Compensation's Drug-Free Workplace Program or ~~an OBWC~~ a comparable program approved

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~~DFSP.~~ by the Bureau that meets the requirements specified in section 153.03 of the Revised Code prior to a subcontractor providing labor at the project site of the public improvement."

~~1.10.2.1~~1.6.2.2 ~~Each Subcontractor~~"Each subcontractor shall require all lower-tier ~~Subcontractors~~subcontractors with whom the ~~Subcontractor~~subcontractor is in contract for the ~~Work~~public improvement to be enrolled in and be in good standing in the ~~OBWC DFSP~~ Bureau of Workers' Compensation's Drug-Free Workplace Program or ~~an OBWC~~ a comparable program approved ~~DFSP~~by the Bureau that meets the requirements specified in section 153.03 of the Revised Code prior to a lower-tier ~~Subcontractor~~subcontractor providing labor at the ~~Site.~~project site of the public improvement."

~~1.10.2.2~~1.6.2.3 "Failure of ~~the Contractor~~a contractor to require a ~~Subcontractor~~subcontractor to be enrolled in and be in good standing in the ~~OBWC DFSP~~ Bureau of Workers' Compensation's Drug-Free Workplace Program or ~~an OBWC~~ a comparable program approved ~~DFSP~~by the Bureau that meets the requirements specified in section 153.03 of the Revised Code prior to the time that the ~~Subcontractor~~subcontractor provides labor at the ~~Site shall~~project site will result in the ~~Contractor~~contractor being found in breach of the ~~Contract~~contract and that breach shall be used in the responsibility analysis of that ~~Contractor,~~contractor or the ~~Subcontractor~~subcontractor who was not enrolled in a program~~,~~ for future contracts with the State for ~~five~~ 5 years after the date of the breach~~.~~."

~~1.10.2.3~~1.6.2.4 "Failure of a ~~Subcontractor~~subcontractor to require a lower-tier ~~Subcontractor~~subcontractor to be enrolled in and be in good standing in the ~~OBWC DFSP~~ Bureau of Workers' Compensation's Drug-Free Workplace Program or ~~an OBWC~~ a comparable program approved ~~DFSP~~by the Bureau that meets the requirements specified in section 153.03 of the Revised Code prior to the time that the lower-tier ~~Subcontractor~~subcontractor provides labor at the ~~Site shall~~project site will result in the ~~Subcontractor~~subcontractor being found in breach of the ~~Contract~~contract and that breach shall be used in the responsibility analysis of that ~~Subcontractor,~~subcontractor or the lower-tier ~~Subcontractor~~subcontractor who was not enrolled in a program~~,~~ for future contracts with the State for ~~five~~ 5 years after the date of the breach~~.~~."

~~1.10.2.4~~1.6.3 Prior to authorizing a Subcontractor to commence Work on the ~~Project~~Site, the Contractor shall obtain the Contracting Authority's approval, and shall also submit written confirmation of the Subcontractor's enrollment on the ~~Declaration of Subcontractors~~Subcontractor and Material Supplier~~s~~ Declaration form to the A/E.

~~1.10.3~~1.6.4 In addition to OBWC-approved DFSP Basic requirements, the Department requires each Contractor and Subcontractor that provides labor on the Site to ~~perform~~participate in a pool that performs random drug testing of at least 5 percent of its employees who perform labor on the Site. The random drug testing percentage shall also include the on-site supervisors of the ~~Contractors~~Contractor and ~~Subcontractors.~~Subcontractor. Basic random drug testing shall otherwise comply with the same testing guidelines and criteria as required for OBWC-approved ~~Advanced~~advanced testing. The Contractor and Subcontractor shall provide evidence of required testing to the Contracting Authority upon request.

1.7 Web-Based Project Management Software

1.7.1 If the Contracting Authority decides, at any time and in its sole discretion, to utilize the State's web-based project management software, known as the OAKS Capital Improvements ("OAKS CI") module, for the Project, the Contractor shall use OAKS CI for all compatible services required under this Contract.

1.7.2 All costs for the Contractor's use of OAKS CI for the Project shall be included in the Contract Sum, and additional compensation shall not be provided. If the Contractor is unfamiliar with the proper use of OAKS CI, the Contractor shall provide its employees for training without additional compensation.

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~~1.11~~1.8 EDGE Participation and Reporting

~~1.11.1~~1.8.1 The Contractor shall participate in the "Encouraging Diversity Growth and Equity" ("EDGE") Program by ~~contracting~~subcontracting with, and using one or more, businesses certified as an EDGE Business Enterprise ("EDGE-certified business", "certified EDGE business") by the ~~Equal Opportunity Coordinator as proposed for each contract by the Contractor and as approved by the Contracting Authority for use on each contract.~~EOC.

~~1.11.1.1~~1.8.1.1 If the Contractor is an EDGE-certified~~-~~ business, the Contractor may include its own ~~contract amount~~compensation under this Contract in the reporting.

~~1.11.1.2~~1.8.1.2 The amount of EDGE participation cannot exceed 100 percent of the ~~Contractor's contract amount.~~Contract Sum.

~~1.11.2~~1.8.2 The Contractor shall provide an EDGE Participation Report with each Contractor Payment Request.

~~1.11.2.1~~1.8.2.1 The Contractor shall provide status reports, produced by the Contractor and each applicable EDGE-certified business for the ~~contract,~~Contract, indicating:

.1 ~~The~~the name of each EDGE-certified business;

.2 ~~The~~the federal tax identification number of each EDGE-certified business;

.3 ~~The~~the date of the EDGE-certified business contract, subcontract, or purchase order;

.4 ~~The~~the projected and actual start and end dates of the EDGE-certified business contract, subcontract, or purchase order;

.5 ~~The~~the original amount of the EDGE-certified business contract or purchase order with the Contractor;

.6 ~~The~~the current amount of the EDGE-certified business contract or purchase order;

.7 ~~The~~the amount invoiced to date;

.8 ~~The~~the amount paid to date;

.9 ~~The~~the status of the EDGE-certified business contract or purchase order (active, complete, or void); and

.10 ~~A~~a statement describing any substantive product or performance deficiencies.

~~1.11.2.2~~1.8.2.2 The Contractor shall provide reports for each EDGE-certified business; however, the reports may be consolidated and submitted as ~~a singular~~one document.

~~1.11.3~~1.8.3 The Contractor shall provide an EDGE Participation Final Report simultaneously with its final Contractor Payment Request.

~~1.11.3.1~~1.8.3.1 The Contractor and each certified EDGE Business Enterprise shall provide in the report certification that the submitted document is a true and accurate accounting of the original contract amount paid to, and received by, each EDGE Certified Business.

~~1.11.4~~1.8.4 The Contractor shall provide the EDGE Participation Reports in detail and form acceptable to the Contracting Authority.

~~1.11.4.1~~1.8.4.1 Failure to timely submit EDGE Participation Reports may result in withholding payment in accordance with ~~subparagraph~~ Section 9.8.2.

~~1.11.5~~1.8.5 If the Project is administered using OAKS CI, the Contractor shall submit its EDGE Participation Reports, using the ~~OAKS CI~~ "Contractor Pay ~~Requests~~Request" business process.

~~1.11.6~~1.8.6 The Contractor shall cooperate fully with requests for additional EDGE information and documentation from the ~~Equal Opportunity Coordinator~~EOC or the Contracting Authority.

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~~1.12 Offshore Services~~

~~1.12.1 The Contractor affirms to have read and understands Executive Order 2011-12K and shall abide by those requirements in the performance of this Contract. Notwithstanding any other terms of this Contract, the State reserves the right to recover any funds paid for services the Contractor performs outside of the United States for which it did not receive a waiver. The State does not waive any other rights and remedies provided the State in this Contract.~~

~~Article 2 - THE CONTRACTOR~~

1.9 Owner Work Rules

1.9.1 The Contractor shall consult with the Owner to obtain full knowledge of the Owner's rules, regulations, or requirements affecting the Project.

1.10 Emergency

1.10.1 In the event of an emergency affecting the safety of the Project, other property, or individuals, the Contractor, without special instruction or authorization, shall act to prevent the threatened damage, injury, or loss.

1.10.2 If the Contractor believes that it is entitled to an adjustment of the Contract Sum or Contract Times, or both, on account of its actions in response to an emergency, the Contractor may request an adjustment to the Contract by giving written notice under Section 7.4.11.

1.11 Contractor's Standard of Care

1.11.1 The Contractor shall perform the Work in a workmanlike manner, consistent with the standards of skill and care exercised by entities licensed to perform (where required under Applicable Law) and regularly performing comparable work in the same or similar locality under the same or similar circumstances.

1.12 Limit of Contractor's Responsibility

1.12.1 The Contractor is not responsible for the A/E's negligence or the A/E's failure to properly perform the A/E's contract.

1.13 Sustainability Requirements

1.13.1 This Project shall be designed and constructed in accordance with the requirements of Am. Sub. H.B. 251 of the 126th General Assembly and the resulting rules, policy, and procedures adopted by the Department establishing Sustainability Requirements for Capital Improvements Projects.

1.13.2 If the Project is designed and constructed under the Leadership in Energy and Environmental Design ("LEED") Rating System developed by the U.S. Green Building Council or another rigorous rating system used to facilitate achievement of sustainability goals for the Project, the Contractor shall provide submittals certifying achievement of sustainable design rating system criteria for verification by the Green Building Certification Institute or other third party in accordance with the Contract Documents.

ARTICLE 2 - STATE'S RIGHTS AND RESPONSIBILITIES

2.1 Contracting Authority

2.1.1 The Contracting Authority shall designate a Project Manager for the Project. The Project Manager is authorized to act on behalf of the Contracting Authority to perform specific responsibilities under the Contract.

2.1.2 The Contracting Authority shall furnish information and services required of it in a timely manner.

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2.1.3 The Contracting Authority shall have access to the Work at all times, whenever the Project is in preparation or progress.

2.1.4 The Department requires the use of its forms where noted in the Contract Documents. The party responsible for initiating forms shall utilize the latest edition obtained from the Department's website: http://ohio.gov/sao. The Department may make modifications to its forms at any time.

2.1.4.1 The Contractor shall not modify any form provided by the Department or the Contracting Authority.

2.1.4.2 For projects that are locally administered, the agency or institution administering the Project may modify the Department's forms to include the agency's or institution's logo and contact information and may publish the modified forms on its website. The party responsible for initiating forms shall coordinate with the Contracting Authority.

2.1.4.3 If the Project is administered using OAKS CI, the Contractor shall utilize the web-based forms and reports within the applicable business process. OAKS CI is sponsored by the Department, and such web-based forms and reports are acceptable to the Department in lieu of its paper forms.

2.1.5 The Contracting Authority is not responsible for construction means, methods, manners, techniques, sequences, procedures, or for safety precautions and programs in connection with the Work, or for the Contractor's failure to carry out the Work in conformity with the Contract Documents.

2.2 Owner

2.2.1 The Owner shall designate a representative authorized to act on the behalf of the Owner during the Project.

2.2.2 The Owner shall furnish information and services required of it in a timely manner.

2.2.3 The Owner shall have access to the Work at all times whenever the Project is in preparation or progress.

2.2.4 Upon issuance of the Notice to Proceed, the Owner shall provide the Site to the Contractor in a condition to permit the Contractor to perform the Work.

2.2.5 The Owner may request a change in the Work if the A/E recommends and the Contracting Authority approves the change.

2.2.6 The Owner shall communicate with the Contractor through the Contracting Authority.

2.2.7 The Owner is not responsible for construction means, methods, manners, techniques, sequences, procedures, or for safety precautions and programs in connection with the Work, or for the Contractor's failure to carry out the Work in conformity with the Contract Documents.

2.3 Owner's Right to Partial Occupancy

2.3.1 The Owner may occupy or use a portion of the Project prior to Contract Completion if:

2.3.1.1 the building authority with jurisdiction over the Project issues a temporary or partial certificate of occupancy permit for the portion of the Project the Owner intends to occupy;

2.3.1.2 the A/E with the Owner's assistance has provided written notice of the Partial Occupancy to the insurers providing property insurance for the Project; and

2.3.1.3 the Contracting Authority has received notice of the Partial Occupancy from the A/E and has consented to it.

2.3.2 Before the Owner commences Partial Occupancy, the Owner, Contracting Authority, A/E and Contractor shall proceed as described under Sections 6.26.3.1 and 6.30 for the area designated for Partial Occupancy.

2.3.3 From the date of execution of the Partial Certification of Contract Completion by the Contracting Authority, the Contractor shall be relieved of the obligation to maintain the occupied portion of the Work, but

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shall remain obligated to complete and correct the Work and to carry the insurance required by the Contract Documents during performance of any such Work.

2.3.4 The Owner's Partial Occupancy does not constitute acceptance of any Defective Work, nor does it relieve the Contractor of liability for any express or implied warranties or responsibility for Defective Work.

2.4 Approval of Owner, Contracting Authority, and State

2.4.1 The Owner's, Contracting Authority's, or State's review and approval of the Work and any information the Contractor submits to them is for the sole purpose of determining whether the Work and information are generally consistent with the Contract's intent, and will not relieve the Contractor of its sole responsibility for the performance, preparation, completeness, and accuracy of the Work and information.

2.5 Contractor Performance Evaluation

2.5.1 The Contracting Authority shall evaluate the Contractor's performance during the progress of the Work, at completion of a phase of the Project, completion of the Project, or any of the foregoing. The Contracting Authority shall retain the evaluation(s).

2.5.1.1 The Contractor may request a copy of the completed evaluation(s). If the Contractor wishes to comment or take exception to any rating or remark, the Contractor shall send a response in writing to the Contracting Authority within 30 days of receiving the evaluation(s).

2.5.1.2 The Contracting Authority may use the evaluation(s) in determining the responsibility of the Contractor for award of future contracts.

2.5.1.3 The Contracting Authority may request information from the Contractor for use in evaluating the A/E's performance. If information is requested, the Contractor shall comply in a timely and responsive manner.

2.5.1.4 If a breach of the Contract is committed by the Contractor or is attributable to a Subcontractor, that breach shall be used in the responsibility analysis of the Contractor and the Subcontractor (where applicable) for future contracts with the State or subcontracts on State projects for 5 years after the date of the breach.

2.5.1.5 If the Project is administered using OAKS CI, the Contractor shall receive and review the Contracting Authority's evaluation of the Contractor's performance and respond with its comments, using the "Contractor Evaluation" business process.

ARTICLE 3 - CM'S AND A/E'S RESPONSIBILITIES

3.1 The CM's Contract Administration Duties

3.1.1 The CM shall provide administration of the Contracts for the Project as provided in the Contract Documents and the Agreement for Construction Management Services, including, but not limited to, the performance of the functions described as follows:

3.1.1.1 The CM shall attend and conduct progress meetings. The CM shall prepare an agenda and produce a written report of each progress meeting, and distribute the report to the Contracting Authority, the Owner, the A/E, and the Contractor within 3 working days after the meeting. The CM shall not delegate the duty to prepare the agenda and written reports of any progress meeting.

3.1.1.2 The CM has no authority to authorize the Contractor to perform additional or extra Work for which the Contractor may seek adjustment of the Contract Sum or the Contract Time, or both.

3.1.1.3 The CM shall review and recommend, certify, or approve applicable forms required under the Contract Documents.

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3.1.1.4 The CM, in consultation with the A/E shall render decisions in connection with the Contractor's responsibilities under the Contract Documents, and submit recommendations to the Contracting Authority for enforcement of the Contract as necessary.

3.2 The A/E's Contract Administration Duties

3.2.1 The A/E shall assist the CM to provide administration of the Contracts for the Project as provided in the Contract Documents and the Architect/Engineer Agreement, including, but not limited to, the performance of the functions described as follows:

3.2.1.1 The A/E shall attend progress meetings. The A/E shall attend coordination meetings as requested by the CM. The A/E shall assist the CM in the preparation of agendas and reports of any meetings the A/E attends.

3.2.1.2 The A/E may authorize minor changes or alterations in the Work that are consistent with the intent of the Contract Documents and do not involve adjustment of the Contract Sum or the Contract Times, or both. The A/E has no authority to authorize the Contractor to perform additional or extra Work for which the Contractor may seek adjustment of the Contract Sum or the Contract Times, or both.

3.2.1.3 The A/E shall review and recommend, certify, or approve applicable forms required under the Contract Documents.

3.2.1.4 The A/E, in consultation with the CM, shall render decisions in connection with the Contractor's responsibilities under the Contract Documents, and submit recommendations to the Contracting Authority for enforcement of the Contract as necessary.

3.2.2 The A/E is the initial interpreter of all requirements of the Contract Documents. All decisions of the A/E are subject to final determination by the Contracting Authority.

3.3 Site Visits and Observation

3.3.1 The A/E and the CM shall notify, advise, and consult with the Contracting Authority and the Owner and protect the State against Defective Work throughout the completion of the Project, which includes the Correction Period.

3.3.1.1 The A/E and the CM shall designate a field representative, subject to the Contracting Authority's approval, to attend to the Project as required by the Architect/Engineer Agreement and the Agreement for Construction Management Services, to observe and check the progress and quality of the Work, and to take action as necessary or appropriate to achieve conformity with the Contract Documents.

3.3.1.2 The A/E and the CM shall each have their consultants attend to the Project at the intervals required by its respective agreement or the Contracting Authority.

3.3.2 The A/E and the CM are authorized to disapprove or reject Defective Work. The A/E or the CM shall immediately notify the Contracting Authority any time the A/E or the CM disapproves or rejects an item of Work.

3.3.3 Neither the A/E nor the CM are responsible for construction means, methods, manners, techniques, sequences, procedures, or for safety precautions and programs in connection with the Work, or for the Contractor's failure to carry out the Work in conformity with the Contract Documents.

3.4 Testing and Inspection Services

3.4.1 Unless otherwise specified in the Contract Documents, the A/E shall apply for, secure, and pay for the costs of structural testing and special inspections under Chapter 17 of the Ohio Building Code; testing including geotechnical analysis, environmental testing and analysis, concrete, masonry, structural steel, reinforcing steel, welding, bolts, steel connections, HVAC systems and controls, plumbing and piping, air and water balancing and testing, or other testing; or approval required by Applicable Law.

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3.5 Approval of CM and A/E

3.5.1 The CM's and A/E's review and approval of the Work and any information the Contractor submits to the CM or A/E is for the sole purpose of determining whether the Work and information are generally consistent with the Contract's intent, and will not relieve the Contractor of its sole responsibility for the performance, preparation, completeness, and accuracy of the Work and information.

3.6 Limitation of CM's and A/E's Authority

3.6.1 Under no circumstances are the CM or A/E authorized to:

3.6.1.1 bind the Owner or Contracting Authority to any authorizations under, modifications of, or amendments to any contract;

3.6.1.2 accept any defective or non-conforming services, Work, or vendor-furnished items;

3.6.1.3 make any settlements on behalf of the Owner or Contracting Authority; or

3.6.1.4 assume any responsibilities of the Contractor or Subcontractors.

ARTICLE 4 - SUBCONTRACTORS

4.1 Evaluation and Approval

4.1.1 Within 10 days after the Notice to Proceed, or other period as mutually agreed by the Contractor and the Contracting Authority, the Contractor shall submit to the CM a Subcontractor and Material Supplier Declaration form through which the Contractor identifies its Subcontractors.

4.1.2 The Contractor's failure to timely submit the information regarding a proposed Subcontractor may result in withholding payment in accordance with Section 9.8.

4.1.3 After receiving the Subcontractor and Material Supplier Declaration form, the CM shall verify that the forms are complete and deliver them to the A/E, the Contracting Authority, and the Owner. If the CM finds the form incomplete, the CM shall return it to the Contractor and identify the incomplete information.

4.1.4 If the Contracting Authority rejects any proposed Subcontractor, the Contractor shall propose a replacement Subcontractor with no adjustment of the Contract Sum. The proposed replacement Subcontractor will be evaluated as described above.

4.1.5 If the Project is administered using OAKS CI, the Contractor shall submit its proposed Subcontractors through the "Subcontractor Supplier Declaration" business process.

4.2 Replacement of Subcontractors

4.2.1 The Contractor shall not replace any Subcontractor after execution of the Subcontract without the prior written approval of the Contracting Authority.

4.3 Contractor's Responsibility

4.3.1 The Contractor is fully responsible for all acts and omissions of its Subcontractors and is responsible for scheduling and coordinating the Work of its Subcontractors.

4.3.1.1 The Contractor is fully responsible for any delay, interference, disruption, or hindrance attributable to the Contractor's Subcontractors.

4.3.1.2 The Contractor shall require that each of its Subcontractors have a competent supervisor at the Site whenever the Subcontractor is performing Work.

4.3.1.3 The Contractor shall bind its Subcontractors to the terms of the Contract Documents, so far as applicable to the Work of the Subcontractor, and shall not agree to any provision, which seeks to bind the State to terms inconsistent with, or at variance from the Contract Documents.

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4.3.2 The Contractor will not be relieved of its full responsibility for Subcontractors and their performance of the Work by (1) the participation of the Owner, the Contracting Authority, and the A/E in the processes described under this Article 4 or other related provisions of the Contract Documents or (2) the Contracting Authority's rejection of a Subcontractor or failure to reject a Subcontractor under Section 4.1.

4.4 Contingent Assignment of Subcontracts

4.4.1 The Contractor hereby assigns its agreement with each Subcontractor to the Contracting Authority provided that the assignment is effective only after termination of the Contract by the Contracting Authority and only for those agreements which the Contracting Authority accepts by notifying the Contractor and applicable Subcontractor in writing. The Contracting Authority may re-assign accepted agreements.

4.5 Prompt Payment

4.5.1 The Contractor shall make payments to Subcontractors in accordance with Applicable Law, including ORC Section 4113.61 that include, without limitation, the requirements described under this Section 4.5.1.

4.5.1.1 If a Subcontractor requests payment in time to allow the Contractor to include the request in its Contractor Payment Request, the Contractor shall pay within 10 days after receipt of payment from the State:

.1 To a Subcontractor other than a Material Supplier, an amount equal to the percent of completion allowed by the Contracting Authority for the Subcontractor's Work.

.2 To a Material Supplier, an amount equal to all or that portion of the Contractor Payment Request that represents the materials furnished by the Material Supplier.

4.5.2 The Contractor may reduce the amount paid to a Subcontractor pursuant to Section 4.5.1 at a rate equal to the percentage retained from the Contractor and may withhold amounts necessary to (1) resolve disputed liens or Claims involving the Work of the Subcontractor or (2) account for the failure of the Subcontractor to perform its obligations under its agreement with the Contractor.

4.5.2.1 Labor Payments.

.1 Partial payments to the Subcontractor for labor performed under either a Unit Price or lump sum Subcontract shall be made at the rate of 92 percent of the amount invoiced through the Subcontractor's request for payment that shows the Work of the Subcontractor is 50 percent complete, as evidenced by payments in the amount of at least 50 percent of the original amount due under the Subcontract.

.2 After the Work of the Subcontractor is 50 percent complete, as evidenced by payments in the amount of at least 50 percent of the original amount due under the Subcontract, no additional funds shall be retained from payments for labor.

4.5.2.2 Material Payments.

.1 The Contractor shall pay the Subcontractor at the rate of 100 percent of the scheduled value for materials incorporated into the Project.

.2 The Contractor shall pay the Subcontractor at the rate of 92 percent of the invoice cost, not to exceed the scheduled value in a Unit Price or lump sum Subcontract, for materials delivered to the Site, or other off-site storage location approved by the A/E, provided the Subcontractor provides the information required by Sections 9.6.2.1 and 9.6.2.2 with its request for payment.

4.5.3 If the Contractor fails to comply with this Section 4.5, the Contractor shall pay to the applicable Subcontractor 18 percent interest, compounded annually, on any unpaid amount beginning on the 11th day after receipt of payment from the State.

4.5.4 In order to establish lien rights, Subcontractors shall comply with Applicable Law, including ORC Sections 1311.26, 1311.261, and 1311.29.

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4.5.5 If the Contracting Authority receives a Claim Affidavit from a Subcontractor, it shall proceed as required by Applicable Law, including ORC Sections 153.63 and 1311.31.

4.5.6 Laborers, Subcontractors, and Material Suppliers may secure payment rights in accordance with Applicable Law, including ORC Section 153.56.

ARTICLE 5 - PROJECT MANAGEMENT AND COORDINATION

5.1 Partnering

5.1.1 The formation of a cohesive, mutually beneficial partnering arrangement among the Contractor, all Separate Contractors, the Contracting Authority, the CM, the A/E, and the Owner will accomplish the construction of the Project most effectively and efficiently. This arrangement draws on their collective strengths, skills, and knowledge to achieve a Project of the intended quality, within budget, and on schedule. To achieve that objective, participation in a partnering session is required for the following key stakeholders:

5.1.1.1 Contracting Authority: Project Manager

5.1.1.2 Owner: Primary representative

5.1.1.3 CM: Project manager, project engineer if applicable, field representative, schedule manager if applicable, and estimator if applicable.

5.1.1.4 A/E: Principal-in-charge, project manager, field representative, major consultants

5.1.1.5 Contractor: Principal-in-charge, project manager, and superintendent

5.1.1.6 Separate Contractors: Principal-in-charge, project manager, and superintendent

5.1.1.7 Major Subcontractors (e.g., masonry, fire protection): Principal-in-charge, project manager or superintendent

5.1.1.8 CxA, if applicable

5.1.2 The purpose of the partnering arrangement is to build cooperative relationships between the Project's key stakeholders, avoid or minimize disputes, and nurture a more collaborative ethic characterized by trust, cooperation and teamwork. This arrangement is intended to produce a voluntary, non-binding, but formally structured agreement among the Project's key stakeholders, leading to an attitude that fosters risk sharing.

5.1.3 To create and implement the partnering arrangement, the Project's key stakeholders shall meet prior to the construction of the Project for developing a partnering agreement. The agreement should be comprehensive and focus on all issues necessary for successful completion of the Project, and shall identify common goals and objectives, develop a problem solution process, an Alternative Dispute Resolution ("ADR") strategy in accordance with Section 8.11, and an implementation plan for the partnering arrangement.

5.1.4 Formal contractual relations, responsibilities, and liabilities are not affected by any partnering arrangement. The cost associated with establishing this partnership shall be included in an allowance in the Agreement for Construction Management Services. The Contractor shall include in its base bid the resources necessary to participate in the partnering session.

5.1.5 Partnering services may extend over the entire period of performance of the Contract and may include intervention or project realignment services to be utilized if serious disputes arise. The Project's key stakeholders should agree, during the initial partnering session, to the types of situations and circumstances in which intervention or realignment services shall be utilized.

5.1.5.1 If realignment or intervention services are utilized, partnering facilitators shall not be called as witnesses in any litigation, mediation, or quasi-judicial proceeding.

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5.2 Building and Trade Permits and Licenses

5.2.1 Plan Approval.

5.2.1.1 The A/E shall secure the required structural, plumbing, HVAC, and electrical plan approvals from the Ohio Department of Commerce, Division of Industrial Compliance.

.1 If the Project is not on State property, the A/E shall secure the plan approvals from the local certified building department with jurisdiction.

5.2.1.2 The Contractor shall schedule and attend all intermediate and final inspections required for any permit applicable to the Work. The Contractor shall schedule the State Fire Marshal or local fire authority for the life safety inspection for occupancy permits. The Contractor shall give the CM, the A/E, the Contracting Authority, and the Owner reasonable notice of the dates and times arranged for inspections.

.1 The Contractor shall pay for any reinspections required as a result of the Contractor's failure to receive approval of its Work.

5.2.2 Trade Permits and Licenses.

5.2.2.1 The Contractor shall obtain, maintain, and pay for any permit, inspection, or license applicable to the Contractor's particular trade.

5.2.3 Local Permits.

5.2.3.1 The Contractor shall secure and pay the fees for any permits, inspections, licenses, capacity charges, or tap fees required by local authorities having jurisdiction over the Project. The Contractor shall give the CM, the A/E, the Contracting Authority, and the Owner reasonable notice of the date arranged for inspections.

5.2.4 National Pollutant Discharge Elimination System ("NPDES") Storm Water General Permit.

5.2.4.1 The A/E shall secure the NPDES general permit by submitting a Notice of Intent ("NOI") application form to the Ohio Environmental Protection Agency at least 45 days prior to the start of construction. The Contractor shall be a "co-permitee" if required under Applicable Law.

5.2.4.2 The A/E shall prepare and certify a storm water pollution prevention plan to provide sedimentation and erosion controls at the Project.

5.2.4.3 The A/E shall prepare and process the required Notice of Termination ("NOT") prior to Contract Completion.

ARTICLE 6 - CONSTRUCTION AND CLOSEOUT

6.1 Commencement of Work on the Site

6.1.1 Unless the Contracting Authority agrees otherwise in writing, the Construction Stage will commence with the Contracting Authority's issuance of the Notice to Proceed and will terminate upon Final Acceptance of the Project.

6.2 Responsibility of the Contractor

6.2.1 The Contractor shall complete portions of the Work in the sequence and time in the Construction Progress Schedule.

6.2.2 The Contractor shall supervise the Work in coordination with the CM.

6.2.3 The Contractor must perform the Work so as not to interfere with, disturb, hinder, or delay the services of Separate Consultants or the work of Separate Contractors. The Contractor must cooperate and coordinate fully with all Separate Consultants and Separate Contractors and must freely share all of the Contractor's

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Project-related information with them to facilitate the timely and proper performance of the Work and of the services and work of the Separate Consultants and Separate Contractors.

6.2.4 The Contractor must afford every Separate Consultant and Separate Contractor proper and safe access to the Site and a reasonable opportunity for the introduction and storage of materials and equipment and the execution of their services and work, and shall properly connect and coordinate the Work with the Separate Contractors' work.

6.2.5 If the Contractor damages the property or work of any Separate Consultant or Separate Contractor, or by failure to perform the Work with due diligence, delays, interferes with, hinders, or disrupts the services of any Separate Consultant or the work of any Separate Contractor who suffers additional expense and damage as a result, the Contractor is responsible for that damage, injury, or expense.

6.2.6 The intent of Sections 6.2.3 through 6.2.5 is to benefit the Separate Consultants and Separate Contractors, and to demonstrate that the Separate Consultants and Separate Contractors are intended third-party beneficiaries of the Contractor's obligations under the Contract.

6.2.7 If the proper execution or results of any part of the Work depends upon work performed or services provided by the Owner, a Separate Consultant, or a Separate Contractor, the Contractor must inspect that other work and appropriate instruments of service, and promptly report to the Contracting Authority in writing any defects or deficiencies in that other work or services that render it unavailable or unsuitable for the proper execution and results of the Work. The Contractor's failure so to report will constitute an acceptance of the other work and services as fit and proper for integration with the Contractor's Work except for defects and deficiencies in the other work or services that were not reasonably discoverable at the time of the Contractor's inspection.

6.2.8 The Contractor shall not delay the Work on account of any claim, dispute, or action between the Contractor and a Separate Consultant or Separate Contractor.

6.2.9 The Contractor shall coordinate the Work with the activities and responsibilities of the Owner, the CM, the A/E, and the Contracting Authority to complete the Project in accordance with the Contract Documents.

6.2.10 In the event of default of the Contractor, the Contractor shall cooperate with the CM, the A/E, the Contracting Authority, and the Contractor's Surety to achieve the Contract Completion date.

2.16.3 Construction Procedures

2.1.16.3.1 The Contractor is solely responsible for and has control over all construction means, methods, manners, techniques, sequences, and procedures, for safety precautions and programs in connection with the Work, and for coordinating all portions of the Work.

2.1.1.16.3.1.1 If the Contract Documents give instructions that affect construction means, methods, manners, techniques, sequences, or procedures, the Contractor shall evaluate the jobsite safety of them and, except as stated below, shall be fully and solely responsible for the jobsite safety of the means, methods, manners, techniques, sequences, or procedures.

2.1.1.26.3.1.2 If the Contractor determines that the means, methods, manners, techniques, sequences, or procedures may not be safe, the Contractor shall give timely written notice to the Owner, the A/E, the CM, and the Contracting Authority. The Contractor shall not proceed with that portion of the Work without further written instructions from the CMA/E. Any modification of the Contract shall be in accordance with Article 7.

2.1.26.3.2 The Contractor shall lay out and coordinate all lines, levels, elevations, and measurements for all the Work, coordinate and verify existing conditions, and notify the A/E of discrepancies and conflicts before proceeding with installation or excavation.

2.1.36.3.3 The Contractor shall perform all cutting, fitting, or patching required for the Work and shall not endanger the Project by cutting, excavating, or otherwise altering the Project, or any part of it.

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2.1.3.16.3.3.1 If the Contractor requires sleeves for the Work, the Contractor shall furnish and coordinate installation ofinstall the sleeves in the work of others. The Contractor is responsible for the exact location and size of all holes and openings required to be formed or built for the Work, and shall coordinate with any work performed by others.

2.1.3.2 The Contractor shall coordinate and allow sufficient time for installation of work by others before covering or closing the applicable portion of the Work.

2.1.3.36.3.3.2 The Contractor's patching shall match and blend with the existing or adjacent surface(s).

2.1.46.3.4 The Contractor shall comply with O.R.C.ORC Sections 3781.25 through 3781.32. In addition, before starting excavation or trenching, the Contractor shall determine the location of any underground utilities and notify any public authority or utility having jurisdiction over the Project and secure any required approval.

2.1.4.16.3.4.1 The Contractor shall give notice at least 2 business days in advance of excavation to the owners of underground utilities registered with the Ohio Underground Utility Protection Services ("OUPS" at http://oups.org, phone 811 or 800-362-2764), and the owners of underground utilities shown on the plans and specifications who are not registered members of OUPS. The owner of an underground utility is required within 48 hours notice to stake, mark, or otherwise designate the location of its utilities in the construction area together with its approximate depth. In the event that any underground utility owner fails to timely perform, the Contractor shall notify the CM, with a copy to the A/E and contact the owner of the underground utility.

2.1.56.3.5 The Contractor shall install all Work in accordance with the Contract Documents and any installation recommendations of the manufacturer, including required temperature and humidity limits for installation of the various materials.

2.1.66.3.6 The Contractor shall comply with all requirements and conditions of the National Pollutant Discharge Elimination System ("NPDES") general permit,NPDES general permit, including, but not limited to, implementing and maintaining the sedimentation and erosion control measures specified in the storm water pollution prevention plan prepared by the A/E pursuant to subparagraph 2.9.4Section 5.2.4, which are related to the Work, maintaining records of its construction activities, removing materials no longer required, and taking proper action if there is a reportable quantity spill.

2.1.76.3.7 The Contractor shall communicate with the Contracting Authority and the Owner through the A/E and the CM..

2.1.81.1.1If the Contracting Authority decides, at any time and in its sole discretion, to utilize the State's Web-based project management system, known as the OAKS Capital Improvements ("OAKS CI") module, for the Project, the Contractor shall use OAKS CI for all compatible services required under this Contract. All costs for the Contractor's use of OAKS CI for the Project shall be included in the Contract Sum, and additional compensation shall not be provided. If the Contractor is unfamiliar with the proper use of OAKS CI, the Contractor shall provide its employees for training without additional compensation.

2.2 Review of Contract Documents and Field Conditions

2.2.1 Before starting each portion of the Work, the Contractor shall carefully study and compare the various Contract Documents relative to that portion of the Work, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the Site affecting it.

2.2.2 If the Contractor finds any perceived ambiguity, conflict, error, omission, or discrepancy on or between any of the Contract Documents, or between any of the Contract Documents and any Applicable Law, the Contractor, before proceeding with the Work, shall promptly submit a Request for Interpretation ("RFI") to the A/E, through the CM, for an interpretation or clarification.

2.2.2.1 Before submitting any RFI to the A/E, through the CM, the Contractor shall carefully review the Contract Documents to ensure that the Contract Documents do not answer the RFI.

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~~2.2.2.2 The A/E shall respond to an RFI within 3 days of receiving the RFI.~~

~~2.2.2.3 Any interpretation or clarification of the Contract Documents made by any Person other than the A/E, or in any manner other than writing, shall not be binding and the Contractor shall not rely upon it.~~

~~2.2.2.4 If the Project is administered using OAKS-CI, the Contractor shall submit RFIs to the A/E, through the CM, through the OAKS-CI "Request for Interpretations" business process.~~

~~2.2.3 If the Contractor believes that it is entitled to an adjustment of the Contract Sum or Contract Time, or both, on account of clarifications or instructions issued by the A/E, through the CM, in response to a RFI, the Contractor may request an adjustment to the Contract by giving written notice under subparagraph 7.2.3 within 7 days of receiving the A/E's RFI response.~~

~~2.2.4 If the Contractor does not notify the A/E, through the CM, per subparagraph 2.2.3, the Contractor will have accepted the RFI response without an adjustment to the Contract Sum or Contract Time.~~

~~2.3~~6.4 Construction Supervision

~~2.3.1~~6.4.1 Unless waived by the Contracting Authority in writing, the Contractor shall provide continuous supervision at the Site by a competent superintendent when any Work is being performed and the Contractor's superintendent shall not be involved with any work other than the Project.

~~2.3.2~~6.4.2 The Contractor's project manager and superintendent shall each have the responsibility and authority to act on behalf of the Contractor. All communications to the Contractor's project manager or superintendent shall be binding as if given directly to the Contractor.

~~2.3.3~~6.4.3 The Contractor shall submit an outline of the qualifications and experience of the ~~Contractor's~~Contractor's proposed project manager and proposed superintendent, including references, to the ~~CM within~~Contracting Authority no less than 10 days of the Notice to Proceed~~.~~. For all Subcontracts in excess of $200,000, and for all other Subcontracts on request from the Contracting Authority, the Contractor shall submit an outline of the qualifications and experience of the Subcontractor's proposed project manager and proposed superintendent, including references, to the Contracting Authority no less than 10 days before the Subcontractor is scheduled to begin Work on the Site.

~~2.3.3.1~~6.4.3.1 The Contracting Authority ~~reserves the right to~~ may reject the ~~Contractor's proposed project manager~~ Contractor's or the Subcontractor's proposed project manager or proposed superintendent. ~~Failure to~~If the Contracting Authority does not notify the Contractor of the rejection within 30 days ~~of~~after receiving the required information, it shall indicate that the Contracting Authority has no objection, but does not affect the Contracting Authority's rights under Section 6.13.2 or any other provision relative to that project manager or superintendent.

~~2.3.3.2~~6.4.3.2 If the Contracting Authority rejects the ~~Contractor's~~Contractor's or the Subcontractor's proposed project manager or proposed superintendent, the Contractor shall replace, or cause the Subcontractor to replace the project manager or superintendent (as appropriate) with someone acceptable to the Contracting Authority at no additional cost.

~~2.3.4~~6.4.4 The Contractor and its Subcontractors subject to Section 6.4.3 shall not replace ~~its~~ their respective project ~~manager~~managers or ~~superintendent~~superintendents without prior written approval of the Contracting Authority.

~~2.3.4.1~~6.4.4.1 If the Contractor or a Subcontractor subject to Section 6.4.3 proposes to change its project manager or superintendent, the Contractor shall submit written justification for the change to the ~~CM~~Contracting Authority, along with the name and qualifications of the ~~Contractor's~~ proposed replacement.

~~2.3.4.2~~6.4.4.2 The procedure provided in ~~subparagraph 2.3.3~~Section 6.4.3 shall be conducted to evaluate the Contractor's or Subcontractor's (as applicable) proposed replacement project manager or superintendent.

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2.41.1Protection of the Project

2.4.11.1.1The Contractor shall protect the Work from weather and maintain the Work and all materials, apparatus, and fixtures free from injury or damage until Final Acceptance, or Partial Occupancy if applicable.

2.4.1.11.1.1.1The Contractor shall at all times cover or protect the Work.

2.4.1.21.1.1.1The Contractor, at its expense, shall remove, and replace with new, any Work damaged as a result of Contractor's failure to provide coverage or protection.

2.4.1.31.1.1.1The Contractor, at its expense, shall repair or replace any adjacent property, including, but not limited to, roads, walks, shrubbery, plants, trees, or turf, damaged during performance of the Work.

2.4.1.41.1.1.1After the date of Final Acceptance, or Partial Occupancy if applicable, the Owner is responsible for protecting and maintaining all materials, apparatus, and fixtures for the occupied portion of the Project free from injury or damage.

2.4.2 The Contractor and each Separate Contractor shall protect the Project and existing or adjacent property from damage at all times and shall erect and maintain necessary barriers, furnish and keep lighted necessary danger signals at night, and take reasonable precautions to prevent injury or damage to individuals or property.

2.4.31.1.1The Contractor shall not load, nor permit any part of the Project to be loaded, in any manner that endangers the Project, or any portion thereof. The Contractor shall not subject any part of the Project or existing or adjacent property to stress or pressure that endangers the Project or property.

2.4.41.1.1The Contractor shall provide all temporary bracing, shoring, and other structural support required for safety of the Project and proper execution of the Work.

2.4.5 Vibration, Noise, and Dust Control

2.4.5.1 In occupied buildings, vibrations, noise and dust control shall be provided. The Contractor responsible for creating dust shall install dust barriers as required by the construction operations.

2.4.5.2 Exhaust of unfiltered air, dust, construction debris or other undesirable products released into the exterior atmosphere or into occupied areas of the building outside the Site will not be permitted. The Project Manager reserves the right to limit or stop the continuation of work if proper air quality standards are not maintained.

2.4.5.3 In certain occupied buildings, tasks might be of such a nature that noise and vibration cannot be tolerated. In such spaces, work shall be scheduled for other than normal working hours. The Contractor is cautioned that weekend or overtime work, if required, shall be performed at no additional cost. Permission to work other than standard hours shall be received from the Contracting Authority prior to the occurrence. Weekend and overtime work shall be reflected in the Construction Progress Schedule.

2.4.5.41.1.1.1Vibration control and control of transmission of noise are the responsibility of the Contractor whose operations are creating the conditions. Principal considerations which shall be given to noise and vibration control are:

.1 Noise control in compliance with Occupational Safety and Health Administration ("OSHA") requirements for the health and safety of building occupants; control shall be for all areas of the facility, including equipment rooms, boiler rooms, and fan rooms.

.2 Vibration control to limit sound produced by construction equipment, and for protection of the equipment existing in a building and the building structure.

.3.1 Vibration control to provide for maximum usefulness of the facility by keeping levels of vibration within ranges which are conducive to study and work or other uses for which the facility is designed.

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2.51.1Materials and Equipment

2.5.11.1.1The Contractor shall provide new materials and equipment of the quality specified in the Contract Documents.

2.5.2 The Contractor shall bring to, or store at, the Site only the materials and equipment required in the Work.

2.5.2.11.1.1.1The Contractor shall properly store and protect all materials and equipment it provides to the Project.

2.5.2.21.1.1.1The Contractor shall timely remove from the Site any materials or equipment no longer required for the Work.

2.5.31.1.1The Contractor shall not allow materials or equipment to damage the Project or adjacent property, nor to endanger any individual at, or near, the Site.

2.5.41.1.1If the Contractor provides an Acceptable Component, the Contractor shall be solely responsible for the costs of coordination and modification required.

2.5.5 If the Contractor provides approved Substitutions that require changes to the Contract Documents or affects the work of Separate Contractors, the Contractor shall be solely responsible for the additional costs incurred as a result, including, but not limited to, changes to the design by the A/E.

2.5.61.1.1The A/E shall consider Requests for Substitutions after the bid opening only when the Contractor can conclusively demonstrate to the A/E the following conditions:

2.5.6.1 The specified Basis of Design Components, Acceptable Components, or previously-approved Substitutions, through no fault of the Contractor or the Contractor's Subcontractors and Material Suppliers, are not available; or

2.5.6.2 The specified Basis of Design Components, Acceptable Components, or previously-approved Substitutions will not perform as designed or intended.

2.5.7 The Contractor's incorporation of unapproved Substitutions in the Work shall constitute Defective Work.

2.6 Labor

2.6.11.1.1The Contractor shall maintain a sufficient workforce and enforce good discipline and order among its employees and the employees of its Subcontractors and Material Suppliers. The Contractor shall not permit employment of individuals not skilled in tasks assigned to them.

2.6.2 The Contractor shall dismiss from the Project any individual employed by the Contractor, or the Contractor's Subcontractors and Material Suppliers, who the Contracting Authority finds, in its sole discretion, to be incompetent, guilty of misconduct, or detrimental to the Project.

2.6.3 The Contractor shall employ all legal efforts to minimize the likelihood or effect of any strike, work stoppage, or other labor disturbance. Informational pickets shall not justify any work stoppage.

2.6.4 All State buildings are smoke free. Smoking will not be permitted in any indoor area. The ban on tobacco products will be observed in all indoor and outdoor areas and parking areas on all State owned and leased property. The Contractor shall enforce these restrictions on any individual employed by the Contractor, or the Contractor's Subcontractors and Material Suppliers.

2.71.1Safety Precautions

2.7.11.1.1The Contractor shall take reasonable precautions to ensure the safety of individuals on the Project.

2.7.1.1 Each contractor is responsible for designing and implementing its own safety program, including compliance with OSHA regulations. The Contractor's safety plans, such as fall protection, hazards, communications, competent person, etc., shall meet or exceed the Owner's safety plan.

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2.7.21.1.1The Contractor shall pay any fine or cost incurred because of the Contractor's violation, or alleged violation, of Applicable Law.

2.7.3 Before starting any Work:

2.7.3.1 The Contractor shall submit to the Contracting Authority andResponsibility and Authority of the CM a copy of the Contractor's site-specific safety plan and safety manuals.

2.7.3.21.1.1The CM shall provide and inform the Contractor and each Separate Contractor of methods and equipment for protecting the Project, other property, and individuals from fire damage in accordance with Applicable Law.

2.7.4 The Contractor shall not introduce Hazardous Materials to the Project or burn any fires on the Site.

2.7.4.11.1.1.1The Contractor shall notify the Project Manager 24 hours before the start of non-routine or non-recurring hot-work. Use of sources of fire, flame or sparks and flammable materials shall be kept to an absolute minimum. At the beginning of the Project the Contractor shall inform the Project Manager of its intent to use blowtorches, welding apparatus or similar exposed flame and sparking devices. Similar notice shall be given in regard to the use of flammable liquids, adhesives, and cleaners.

2.7.4.2 Each Contractor shall furnish an appropriate number of fire extinguishers (minimum of 1), which shall be within the immediate areas where work is being done at all times. The extinguisher shall be adequate and suitable for the class of fire likely to be caused by the Contractor's operations.

2.7.5 Work Stoppage Due to Hazardous Materials:

2.7.5.1 If the Contractor encounters material the Contractor reasonably believes to be, or contain, a Hazardous Material, which has not been rendered harmless, the Contractor shall immediately stop Work in the affected area and verbally report the condition to the Contracting Authority, the A/E, and the CM; and within 1 business day deliver written notice of the condition to the Contracting Authority, the A/E, and the CM. A licensed abatement Contractor shall issue a report of the condition to the Contracting Authority, the A/E, and the CM in writing and remove the material or render it harmless as directed.

2.7.5.2 The Contractor shall resume Work in the affected area upon written notice from the CM that (1) the suspect material was evaluated and found not to be or contain a Hazardous Material, or (2) the suspect material has been removed or rendered harmless.

2.7.5.31.1.1.1If the Contractor knowingly or negligently proceeds with the Work in an area where a Hazardous Material exists and has not been rendered harmless, the Contractor shall be solely responsible for all related claims, damages, losses, and expenses, including, but not limited to, attorneys fees, arising out of or resulting from performing the Work in the affected area.

2.7.5.41.1.1.1The term "rendered harmless" means that the level of exposure is less than any applicable exposure standards set forth in Applicable Law.

2.7.6 Material Safety Data Sheets:

2.7.6.1 The Contractor shall identify any material it uses at the Site with a Material Safety Data Sheet ("MSDS").

2.7.6.2 Before starting any Work or bringing materials to the Site, the Contractor shall submit to the CM a notebook containing all of its applicable MSDS.

2.7.6.3 The CM shall maintain all MSDS notebooks at the Site for the duration of the Project.

2.8 Construction Facilities, Utilities, and Equipment

2.8.1 Facilities:

2.8.1.1 The Contractor shall provide and maintain in a clean condition suitable temporary facilities, equipment, services, and enclosed storage for its use at the Site.

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2.8.1.21.1.1.1The CM shall provide and maintain in a clean condition:

.1 Suitable facilities, equipment, and services for use by the A/E, the CM, and the Contracting Authority;

.2 Adequate space, equipment, and furnishings to conduct progress meetings, and store approved documents and permits; and

.3 Adequate sanitary facilities for use by all Persons at the Site.

2.8.2 Environmental Controls:

2.8.2.11.1.1.1The Contractor shall protect its Work and materials from weather and damage from heat, cold, and humidity.

2.8.2.21.1.1.1Until the permanent HVAC system is complete and available for use:

.1 The Contractor responsible for the permanent HVAC system ("HVAC Contractor") shall make arrangements and pay for installation and maintenance of temporary heating and ventilating systems; and

.2 The HVAC Contractor shall pay the costs incurred in operating temporary heating and ventilating systems.

2.8.2.31.1.1.1When the permanent HVAC system is complete and available for use:

.1 The HVAC Contractor shall start up and maintain operation of the permanent HVAC system, including filters, and promptly remove temporary heating and ventilating systems.

.21 If the Project consists entirely of new construction, the HVAC Contractor shall pay the costs of energy consumed in operating the permanent HVAC system until Final Acceptance, or Partial Occupancy if applicable.

.3 If the Project is a renovation of an existing building or structure, addition(s) to an existing building or structure, or any combination of new construction and renovation work that does not allow separate metering of utilities, the Owner shall pay the cost of energy consumed in operating the permanent HVAC system.

2.8.2.41.1.1.1From the date of Final Acceptance, or Partial Occupancy if applicable, the Owner shall pay the cost of operating the permanent HVAC system for the occupied portion of the Project.

2.8.2.5 If the permanent HVAC system is used during construction, the HVAC Contractor shall furnish an extended warranty and service contract in effect until the expiration of the Correction Period described in paragraph 2.19.

2.8.3 Water and Drainage:

2.8.3.11.1.1.1The Contractor shall provide water necessary for the Work until the permanent plumbing system is available for use.

2.8.3.2 The Contractor shall provide temporary drainage and dewatering necessary for the Work and shall employ pumps, trenches, drains, sumps, and other necessary elements required to provide satisfactory working conditions for the protection, execution, and completion of the Project.

2.8.3.31.1.1.1The Contractor responsible for the permanent plumbing system ("Plumbing Contractor") shall make arrangements and pay for installation and maintenance of temporary plumbing systems until the permanent plumbing system is available for use.

2.8.3.41.1.1.1When the permanent plumbing system is complete and available for use:

.1 The Plumbing Contractor shall start up and maintain operation of the permanent plumbing systems, and make arrangements and pay for removal of temporary plumbing systems.

.21 If the Project consists entirely of new construction, the Plumbing Contractor shall pay the costs of water consumed and sewerage charges until Final Acceptance, or Partial Occupancy if applicable.

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.3.1 If the Project is a renovation of an existing building or structure, addition(s) to an existing building or structure, or any combination of new construction and renovation work that does not allow separate metering of utilities, the Owner shall pay the costs of water consumed and sewerage charges.

2.8.3.51.1.1.1From the date of Final Acceptance, or Partial Occupancy if applicable, the Owner shall pay the costs of water consumed and sewerage charges for the occupied portion of the Project.

2.8.3.6 If the permanent plumbing system is used during construction, the Plumbing Contractor shall furnish an extended warranty and service contract in effect until the expiration of the Correction Period described in paragraph 2.19.

2.8.4 Electric Service:

2.8.4.1 The Contractor responsible for the permanent electric service ("Electrical Contractor") shall provide temporary light and power; pay the charges for temporary electric service installation, and removal if required.

.1 The Electrical Contractor shall not be responsible for electric service requirements of other Contractors related to temporary hoists, cranes, welding equipment, or elevators.

.2.1 A Contractor requiring these services shall subcontract with a licensed contractor for the service requirements and shall pay the costs of the services.

2.8.4.21.1.1.1If the Project consists entirely of new construction, the Electrical Contractor shall pay the cost of energy consumed until Final Acceptance of the Project, or Partial Occupancy if applicable.

2.8.4.31.1.1.1If the Project is a renovation of an existing building or structure, addition(s) to an existing building or structure, or any combination of new construction and renovation work that does not allow separate metering of utilities, the Owner shall pay the cost of energy consumed.

2.8.4.41.1.1.1From the date of Final Acceptance, or Partial Occupancy if applicable, the Owner shall pay the cost of energy consumed for the occupied portions of the Project.

2.8.4.5 If the permanent electrical system is used during construction, the Electrical Contractor shall furnish an extended warranty and service contract in effect until the expiration of the Correction Period described in paragraph 2.19.

2.8.5 Hoisting Facilities:

2.8.5.1 Each Contractor shall erect and maintain any hoisting equipment required for its Work in coordination with the CM and the Electrical Contractor.

2.8.5.2 If the electric service requirements of hoisting facilities differ from that available at the Site, the Contractor requiring use of the hoisting facilities shall provide and pay for all necessary connections.

2.8.5.3 A Contractor requiring use of hoisting facilities, after the Project is enclosed, shall transport Persons and materials required for its Work.

2.8.5.4 If a permanent elevator is identified in the Contract Documents to be used for hoisting materials or personnel during construction, the Contractor responsible for the elevator shall furnish an extended warranty and service contract in effect until the expiration of the Correction Period described in paragraph 2.19.

2.9 Building and Trade Permits and Licenses

2.9.1 Plan Approval:

2.9.1.11.1.1.1The A/E shall secure the required structural, plumbing, HVAC, and electrical plan approvals from the Ohio Department of Commerce, Division of Industrial Compliance.

.1 If the Project is not on State property, the A/E shall secure the plan approvals from the local certified building department with jurisdiction.

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2.9.1.2 The Contractor shall schedule and attend all intermediate and final inspections required for any permit applicable to the Work. The Contractor shall schedule the State Fire Marshal or local fire authority for the life safety inspection for occupancy permits. The Contractor shall give the A/E, the CM, the Contracting Authority, and the Owner reasonable notice of the dates and times arranged for inspections.

.1 The Contractor shall pay for any reinspections required as a result of the Contractor's failure to receive approval of its Work.

2.9.2 Trade Permits and Licenses:

2.9.2.1 The Contractor shall obtain, maintain, and pay for any permit, inspection, or license applicable to the Contractor's particular trade.

2.9.3 Local Permits:

2.9.3.1 The Contractor shall secure and pay the fees for any permits, inspections, licenses, capacity charges, or tap fees required by local authorities having jurisdiction over the Project. The Contractor shall give the A/E, the CM, the Contracting Authority, and the Owner reasonable notice of the date arranged for inspections.

2.9.4 National Pollutant Discharge Elimination System ("NPDES") Storm Water General Permit:

2.9.4.1 The A/E shall secure the NPDES general permit by submitting a Notice of Intent ("NOI") application form to the Ohio Environmental Protection Agency at least 45 days prior to the start of construction.

2.9.4.21.1.1.1The A/E shall prepare and certify a storm water pollution prevention plan to provide sedimentation and erosion controls at the Project.

2.9.4.3 The A/E shall prepare and process the required Notice of Termination ("NOT") prior to Contract Completion.

2.10 Tests and Inspections

2.10.11.1.1Unless otherwise specified in the Contract Documents, the A/E shall apply for, secure, and pay for the costs of structural testing and special inspections under Chapter 17 of the Ohio Building Code; testing including geotechnical analysis, environmental testing and analysis, concrete, masonry, structural steel, reinforcing steel, welding, bolts, steel connections, HVAC systems and controls, plumbing and piping, air and water balancing and testing, or other testing; or approval required by Applicable Law.

2.10.2 If the A/E determines that any portion of the Work requires special inspection, testing, or approval not otherwise required under the Contract Documents, the A/E shall order such inspection, testing, or approval.

2.10.2.1 If the special inspection, testing, or approval reveals Defective Work, the Contractor shall pay all associated costs. These costs may include, but are not limited to:

.1 The cost of the special inspection, testing, or approval;

.2 The cost of additional special inspections, testing, or approvals to evaluate remedial Work;

.3 The cost of correcting the Defective Work; and

.4 All related Owner-incurred fees and charges of engineers, architects, attorneys, and other professionals.

2.10.2.2 The Contracting Authority may deduct the costs described under subparagraph 2.10.2.1 from payments then or thereafter due the Contractor. If payments then or thereafter due the Contractor are not sufficient to cover those amounts, the Contractor shall immediately pay the amount of the insufficiency to the Contracting Authority.

2.10.2.3 If the special inspection, testing, or approval reveals that the Work complies with the Contract Documents, the Owner shall pay the Contractor for all associated costs by appropriate Contract modification.

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2.10.3 If the Contractor is aware of a need for inspection, testing, or approval, or of a need to have any inspection, testing, or approval completed by a particular time to avoid delay, then the Contractor shall timely communicate such information to the A/E and the CM.

2.10.4 Except as described under subparagraph 2.10.2, the Owner shall pay for any inspection, testing, or approval that did not become a requirement until after it awarded the Contract.

2.10.5 The Contractor shall coordinate with and give the A/E, the CM, the Contracting Authority, and the Owner reasonable notice of the anticipated dates of all inspections, testing, or approvals.

2.10.6 Within 5 days after completion of an inspection, testing, or approval, the A/E shall provide an original report/certificate of the inspection, testing, or approval to the Contractor, the CM, and the Contracting Authority with a recommendation for or against acceptance of the results therein.

2.10.7 Neither the observations of the A/E or the CM in the administration of the Contract, nor any inspection, test, or approval by Persons other than the Contractor shall relieve the Contractor from the Contractor's obligation to perform the Work in conformity with the Contract Documents.

2.111.1Progress Cleaning

2.11.11.1.1The Contractor shall remove all waste materials, rubbish, and mud attributable to the Work to an appropriate disposal location provided by the CM at, or near, the Site.

2.11.21.1.1The Contractor shall perform weekly broom cleaning of hard flooring surfaces in the area of the Work.

2.11.3 The Contractor shall remove, once each working day or as appropriate for the Project, all waste materials, and rubbish from the disposal location at, or near, the Site.

2.11.4 The Contractor shall remove, as appropriate for the Project or as the CM directs, any waste materials or rubbish from areas adjacent to the Project.

2.11.4.11.1.1.1The Contractor shall dispose of waste materials, rubbish, and construction debris and in a lawful manner in approved recycling facilities or landfills.

2.11.5 If the Contractor fails to clean up during the progress of the Work, the Contracting Authority may clean up on behalf of the Contractor and at the Contractor's expense. If the Contractor fails to maintain the areas adjacent to the Project clean and free of waste materials and rubbish, the Contracting Authority may also direct the local jurisdiction responsible for the area to have the area cleaned to its satisfaction at the Contractor's expense.

2.11.5.1 The State may deduct the cleaning costs from payments then or thereafter due the Contractor. If payments then or thereafter due the Contractor are not sufficient to cover those amounts, the Contractor shall immediately pay the amount of the insufficiency to the State.

2.11.5.21.1.1If the CM determines that the cleaning is attributable to the Contractor and to one or more Separate Contractors, the CM shall also allocate the cleaning costs as the CM deems appropriate. If the CM cannot or does not allocate the costs, the Contracting Authority shall allocate the costs as the Contracting Authority deems appropriate in its sole discretion.

2.11.6 The Contractor shall remove excavated material and spoil to a suitable off-site location approved by the Contracting Authority.

2.11.6.1 If the Owner designates a location on its property for disposal or storage of clean topsoil and/or subsoil in the Contract Documents, the Contractor shall remove such materials to the designated location.

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2.121.1Use of Premises

2.12.1 Contractors shall use corridors, stairs, and elevators as designated by the Contracting Authority. Extreme care shall be exercised to not exceed the carrying capacity of elevators nor to damage the cab interior in any way.

2.12.21.1.1Loitering or wandering through interior of buildings or exterior grounds outside the limits of the Work will not be permitted.

2.12.3 The Contractor shall confine its apparatus, materials, and the operations of its workers to the limits indicated by law, ordinances, permits and the directions of the CM or the Project Manager. If possible, materials and equipment should be installed in their final positions when brought to the Site. Short term storage of equipment shall be scheduled by the Project Manager.

2.12.41.1.1No signs or advertising of any kind will be permitted on or about the Site, except those appearing on trucks and trailers.

2.12.5 Site Logistics Plan:

2.12.5.11.1.1.1The CM shall prepare, in coordination with all Separate Contractors, a plan of the Site indicating how the contractors intend to use the Site. The plan should illustrate, as an example, areas to be used for lay down of material and equipment; office and storage trailer locations; vehicular access gates with ingress and egress routes; locations of wheel wash and concrete truck wash out activities; and offloading and hoisting locations.

2.131.1Interruption of Existing Services

2.13.11.1.1Whenever it becomes necessary to interrupt existing services in use by the Owner or its tenants, including but not limited to sewer, water, gas, and steam lines, electric, telephone, and cable service, the Contractor shall continue the associated Work on a non-stop 24-hour per day basis until that Work is completed and the service restored, or at an alternate time required by the Contracting Authority.

2.13.2 Before beginning that Work, the Contractor shall apply in writing to, and receive approval in writing from, the Owner, through the CM, to establish a time when interruption of the service will cause a minimum of interference with the activities of the Owner and its tenants.

2.14 Explosives and Blasting

2.14.1 The Contractor shall not conduct blasting on, or bring explosives to, the Site without the prior written approval of the Contracting Authority, the Owner, and other authorities with jurisdiction.

2.14.2 The Contractor shall perform all blasting, storing, and handling of explosives as required under Applicable Law.

2.14.2.11.1.1The Contractor shall carry appropriate liability insurance coverage, as required by the Contract Documents, for its blasting and explosives storage and handling operations. Immediately upon request, the Contractor shall deliver evidence of that insurance to the Contracting Authority.

2.151.1Emergency

2.15.11.1.1In the event of an emergency affecting the safety of the Project, other property, or individuals, the Contractor, without special instruction or authorization, shall act to prevent the threatened damage, injury, or loss.

2.15.2 If the Contractor believes that it is entitled to an adjustment of the Contract Sum or Contract Time, or both, on account of its actions in response to an emergency, the Contractor may request an adjustment to the Contract by giving written notice under subparagraph 7.2.2.11.

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~~2.16~~1.1~~Building Commissioning~~

~~2.16.1 The Contractor shall participate in the Building Commissioning process, as prescribed in the Contract Documents.~~

~~2.16.2 The Contractor shall permit the A/E, or the Commissioning Agent ("CxA") if applicable, access to commission performance based equipment, fixtures, and/or systems (e.g., HVAC, fire protection, smoke evacuation, fume hoods, emergency power, etc.), prior to Final Acceptance, or Partial Occupancy if applicable.~~

~~2.16.3 The A/E, or the CxA if applicable, shall promptly notify, in writing, the Contractor responsible for the fixture, equipment, and/or system, of any deficiency identified during the commissioning process.~~

~~2.17~~1.1~~Warranty~~

~~2.17.1~~1.1~~The Contractor warrants to the Contracting Authority and the Owner that all materials and equipment furnished under the Contract shall be new and of good quality unless otherwise required or permitted by the Contract Documents, that the Work shall be free from defects not inherent in the quality required or permitted, and that the Work shall conform to the requirements of the Contract Documents. Work not conforming to those requirements, including Substitutions not properly approved and authorized, may be considered Defective Work. If required by the A/E, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.~~

~~2.17.2 Notwithstanding any other provision of the Contract Documents, Partial Occupancy pursuant to paragraph 5.4, partial or final payments made pursuant to Article 9, and Partial or Final Acceptance pursuant to paragraph 10.8, constitutes neither acceptance of any Defective Work, nor a waiver of any rights set forth in the Contract Documents or otherwise provided by Applicable Law.~~

~~2.18~~1.1~~Uncovering the Work~~

~~2.18.1 If the Contractor covers Work contrary to the requirements of the Contract Documents or contrary to the written request of the A/E or the CM, the Contractor shall, if the A/E or the CM requests in writing, uncover that Work for observation, correct it if not in conformity with the Contract Documents, and recover it at the Contractor's expense and without adjustment of the Contract Time.~~

~~2.18.2 If the Contractor covers Work in accordance with the Contract Documents and not contrary to a request from the A/E or the CM for an opportunity to observe the Work prior to covering, the Contractor shall, if the A/E or the CM requests in writing, uncover that Work.~~

~~2.18.2.1 If the uncovered Work is Defective Work, the Contractor shall pay the costs of uncovering, correcting, and recovering the Work and shall not be entitled to an adjustment of the Contract Time.~~

~~2.18.2.2 If the uncovered Work is not Defective Work and the Contractor believes that it is entitled to an adjustment of the Contract Sum or Contract Time, or both, on account of the uncovering and recovering of the Work, the Contractor may request an adjustment to the Contract by giving written notice under subparagraph 7.2.2.11.~~

~~2.19~~1.1~~Correction of the Work~~

~~2.19.1 The Contractor shall promptly correct any Work rejected by the A/E or Work that is Defective Work, whether discovered before or after Final Completion and whether or not fabricated, installed, or completed. The A/E shall specify in a written notice to the Contractor the time within which the Contractor shall correct the Work.~~

~~2.19.2 After Final Completion:~~

~~2.19.2.1 In addition to the Contractor's other obligations under the Contract Documents, if within 1 year after the date of Final Completion of the Work any of the Work is found to be Defective Work, the~~

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Contractor shall correct it promptly after receipt of written notice from the A/E, the Contracting Authority, or the Owner to do so, unless the Contracting Authority and the Owner have previously acknowledged and accepted the Defective Work in writing.

2.19.2.2 If the Contractor fails to correct the Defective Work promptly after receiving the notice to do so, the Owner may correct it without giving further notice to the Contractor.

2.19.2.3 The 1-year period for correction of Work ("Correction Period") shall not be extended by corrective Work performed by the Contractor under this subparagraph 2.19.2.

2.19.2.4 The Correction Period:

.1 Relates only to the Contractor's specific obligation to correct the Work;

.2 Does not establish a period of limitation with respect to any of the Contractor's other obligations under the Contract Documents;

.3 Has no relationship to the time within which the State or Owner may seek to enforce the Contract; and

.4 Does not establish a period of limitation within respect to the commencement of litigation to establish the Contractor's liability under the Contract or otherwise.

2.19.3 Responsibility for Costs of Correction:

2.19.3.1 The Contractor shall pay all of the costs and damages associated with the correction of the Work. Those costs and damages may include, but are not limited to, the related fees and charges of engineers, architects, attorneys, and other professionals; the cost of correcting or replacing adjacent work; and any consequential damages. The State may deduct the costs and damages it incurs from payments then or thereafter due the Contractor. If payments then or thereafter due the Contractor are not sufficient to cover those amounts, the Contractor shall immediately pay the amount of the insufficiency to the State.

Article 3 - CONTRACT ADMINISTRATION

3.1 Site Visits and Observation

3.1.1 The A/E and the CM shall notify, advise, and consult with the Contracting Authority and the Owner and protect the State against Defective Work throughout the completion of the Project, which includes the Correction Period.

3.1.1.1 The A/E and the CM shall each designate a field representative, subject to the Contracting Authority's approval, to attend to the Project as required by the Architect/Engineer Agreement and the Agreement for Construction Management Services, to observe and check the progress and quality of the Work, and to take action as necessary or appropriate to achieve conformity with the Contract Documents.

3.1.1.2 The A/E and the CM shall each have their consultants attend the Project at the intervals required by its respective agreement or the Contracting Authority.

3.1.21.1.1The A/E and the CM are authorized to disapprove or reject any item of Work that is Defective, or that the A/E or CM believes will not produce a Project that conforms to the Contract Documents or will prejudice the integrity of the design concept of the Project as a functioning whole as indicated by the Contract Documents. The A/E or the CM shall immediately notify the Contracting Authority any time the A/E or the CM disapproves or rejects an item of Work.

3.1.3 Neither the A/E nor the CM are responsible for construction means, methods, manners, techniques, sequences, procedures, safety precautions, and programs in connection with the Work, or for the Contractor's failure to carry out the Work in conformity with the Contract Documents.

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3.2 The Architect/Engineer's Contract Administration Duties

3.2.1 The A/E shall assist the CM to provide administration of the Contracts for the Project as provided in the Contract Documents and the Architect/Engineer Agreement, including, but not limited to, the performance of the functions described as follows:

3.2.1.11.1.1.1 The A/E shall attend progress meetings. The A/E shall attend coordination meetings as requested by the CM. The A/E shall assist the CM in the preparation of agendas and reports of any meetings the A/E attends.

3.2.1.2 The A/E may authorize minor changes or alterations in the Work that are consistent with the intent of the Contract Documents and do not involve adjustment of the Contract Sum or the Contract Time, or both. The A/E has no authority to authorize the Contractor to perform additional or extra Work for which the Contractor may seek adjustment of the Contract Sum or the Contract Time, or both.

3.2.1.31.1.1.1 The A/E shall review and recommend, certify, or approve applicable forms required under the Contract Documents.

3.2.1.4 The A/E, in consultation with the CM, shall render decisions in connection with the Contractor's responsibilities under the Contract Documents, and submit recommendations to the Contracting Authority for enforcement of the Contract as necessary.

3.2.21.1.1 The A/E is the initial interpreter of all requirements of the Contract Documents. All decisions of the A/E are subject to final determination by the Contracting Authority.

3.31.1The Construction Manager's Contract Administration Duties

3.3.11.1.1The CM shall provide administration of the Contracts for the Project as provided in the Contract Documents and the Agreement for Construction Management Services, including, but not limited to, the performance of the functions described as follows:

3.3.1.11.1.1.1The CM shall attend and conduct progress meetings. The CM shall prepare an agenda and produce a written report of each progress meeting, and distribute the report to the Contracting Authority, the Owner, the A/E, and the Contractor within 3 working days after the meeting. The CM shall not delegate the duty to prepare the agenda and written reports of any progress meeting.

3.3.1.21.1.1.1The CM has no authority to authorize the Contractor to perform additional or extra Work for which the Contractor may seek adjustment of the Contract Sum or the Contract Time, or both.

3.3.1.31.1.1.1The CM shall review and recommend, certify, or approve applicable forms required under the Contract Documents.

3.3.1.41.1.1.1The CM, in consultation with the A/E shall render decisions in connection with the Contractor's responsibilities under the Contract Documents, and submit recommendations to the Contracting Authority for enforcement of the Contract as necessary.

Article 4 - CONSTRUCTION COORDINATION

4.1 Responsibility of the Contractor

4.1.11.1.1The Contractor shall allow Separate Contractors reasonable opportunity for the introduction and storage of materials and equipment and the execution of their work, and shall properly connect and coordinate the Work with the Separate Contractors' work. The Contractor shall complete portions of the Work in the sequence and time in the Construction Progress Schedule.

4.1.2 The Contractor shall perform the Work so as not to interfere with, disturb, hinder or delay the Separate Contractors' work. To the fullest extent permitted by law, the State's liability to the Contractor for any injury, damage or expense resulting from interference, hindrance, disruption or delay attributable to a Separate

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~~Contractor or a Person for whom a Separate Contractor is legally responsible is limited to an extension of the Contract Time.~~

~~4.1.2.1 If the Contractor, its Subcontractor, or its Material Supplier damages or injures the property or work of a Separate Contractor, or by failure to perform the Work with due diligence delays, interferes with, hinders, or disrupts a Separate Contractor, the Contractor shall be responsible to the Separate Contractor for the damage, injury, or expense.~~

~~4.1.2.2 The intent of subparagraph 4.1.2.1 is to bind each Separate Contractor as an intended third-party beneficiary of the Contract.~~

~~4.1.2.3 The Contractor shall not delay completion of the Work on account of claims, disputes, or actions between the Contractor and Separate Contractors concerning damage, injury, or expense.~~

~~4.1.3 If a Separate Contractor's work precedes any part of the Work, the Contractor shall inspect the preceding work before commencing the Work, and immediately report in writing to the CM and the A/E any defects that render the preceding work unsuitable for the Work.~~

~~4.1.3.1 Failure of the Contractor to make the inspection and report required by subparagraph 4.1.3 constitutes acceptance of the preceding work as fit and proper for the reception of the Work, except as to defects that a reasonable inspection would not disclose.~~

~~4.1.4~~1.1.1~~The Contractor shall supervise the Work in coordination with the CM.~~

~~4.1.5 The Contractor shall cooperate with the A/E and the CM so as not to interfere with, disturb, hinder, or delay the work of Separate Contractors or the responsibilities of the A/E and the CM.~~

~~4.2~~6.5 ~~Responsibility and Authority of the Construction Manager~~

~~4.2.1~~6.5.1 The CM shall consult with the Owner to obtain full knowledge of the Owner's rules, regulations, or requirements affecting the Project. The CM shall establish the Project's regular working hours, subject to approval by the A/E and the Owner.

~~4.2.2~~6.5.2 The CM shall coordinate the Work with the work of all Separate Contractors and with the activities and responsibilities of the Owner, the A/E, and the Contracting Authority to complete the Project in accordance with the Contract Documents.

~~4.2.2.1~~6.5.2.1 The CM's coordination activities shall not relieve the Contractor from the Contractor's duty to supervise and direct the Work in accordance with the Contract Documents.

~~4.2.3~~6.5.3 The CM shall ~~be the Schedule Manager, to~~ develop and keep current the Construction Progress Schedule in accordance with ~~paragraph 4.3~~Section 6.6, and prepare and keep current a schedule of submittals that is coordinated with the Construction Progress Schedule, for the A/E and Contracting Authority's acceptance.

~~4.2.4~~6.5.4 The Construction Schedule shall not exceed the time limits current under the Contract Documents, shall provide for reasonable, efficient, and economical execution of the Project, and shall relate to the entire Project to the extent required by the Contract Documents.

~~4.2.5~~6.5.5 The CM shall use the Construction Progress Schedule to plan, organize, and execute the Project, record and report actual performance and progress, and show how it plans to coordinate and complete all remaining work by the Contract Completion date.

~~4.2.6~~6.5.6 The CM shall monitor the progress of the Work for conformance with the Construction Progress Schedule and shall initiate revisions as required by ~~subparagraph~~ Section 1.1.1.1.

~~4.2.7~~6.5.7 In the event of default of the Contractor or any Separate Contractor, the CM shall cooperate with the A/E, the Contracting Authority, and the defaulted contractor's Surety to achieve the Contract Completion date.

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4.2.86.5.8 The CM shall remove all snow and ice as may be required for reasonably safe access to the Project including, but not limited to, building entries, driveways, parking lots, and sidewalks.

4.2.96.5.9 The CM shall keep a daily log containing a record of weather, number of workers on Site for the Contractor and each Separate Contractor, identification of equipment, Work accomplished, problems encountered, and other similar relevant data.

4.36.6 Construction Progress Schedule

6.6.1 The Contractor and each Separate Contractor shall provide information to the Schedule ManagerCM as the basis of the Construction Progress Schedule for the Project. The Schedule ManagerCM shall provide a resource-loaded precedence or an arrow diagramConstruction Progress Schedule that provides the following information:

6.6.1.1 a graphic presentation of the sequence of the Work for the Project in the media and format required for the Project;

6.6.1.2 identification of each stage of the Work and any Milestone dates;

6.6.1.3 identification of activities and durations for review and approval of Shop Drawings and other action submittals, fabrication and review of mock-up Work, product review and procurement, fabrication, shop inspection, and delivery, including, but not limited to, lead time, coordination drawing delivery, Punch List, Punch List Correction, Project close-out requirements, Contract Completion, and occupancy requirements;

6.6.1.4 identification of disruptions and shutdowns due to other operations;

6.6.1.5 identification of the critical path of the Work;

4.3.16.6.1.6 identification of the crew size and total resource hours for each activity in the schedule.; and

6.6.1.7 the Contractor's signature and date indicating approval.

6.6.2 The CM shall develop the Construction Progress Schedule using commercially available, personal computer software that is acceptable to the Contracting Authority and shall submit all baseline and updated schedules to the A/E in electronic format.

4.3.1.16.6.2.1 Within 7 days of the date of the Notice to Proceed, the Schedule ManagerCM shall distribute a preliminary construction schedule to the Contractor and each Separate Contractor.

4.3.1.26.6.2.2 Within 7 days after receiving the preliminary construction schedule, the Contractor shall submit to the Schedule ManagerCM the Contractor's comments on the preliminary construction schedule, the Contractor's proposed plan and schedule to coordinate with Separate Contractors, and all other information requested and required by the Schedule ManagerCM to prepare the Construction Progress Schedule.

4.3.1.36.6.2.3 Within 7 days after receiving the Contractor's proposed plan and schedule, the Schedule ManagerCM shall provide comments to the Contractor on the Contractor's proposed plan and schedule.

4.3.1.46.6.2.4 Within 7 days after receiving the Schedule ManagerCM's comments, the Contractor shall revise its proposed plan and schedule to incorporate those comments and submit the revised plan and schedule to the Schedule ManagerCM.

4.3.2 The Contractor shall cooperate with the Schedule Manager to prepare aThe Construction Progress Schedule by providing the following:

4.3.2.1 A graphic presentation of the sequence of the Work for the Project in the media and format required for the Project;

4.3.2.2 Identification of each phase of the Work and any Milestone dates;

4.3.2.3 Identification of activities and durations for review and approval of Shop Drawings and other action submittals, fabrication and review of mock-up Work, product review and procurement, fabrication,

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shop inspection, and delivery, including, butshall not limited to, lead exceed the time, coordination drawing delivery, Punch List, Punch List Correction, Project close-out requirements, limits current under the Contract Completion, and occupancy requirements;

4.3.2.4 Identification of disruptions and shutdowns due to other operations;

4.3.2.5 Identification of the critical path of the Work;

4.3.2.6 Identification of the crew size and total resource hours for each activity in the schedule; and

4.3.2.7 The Contractor's signature and date indicating approval.

4.3.36.6.3 The Schedule Manager shall develop the Construction Progress Schedule using commercially available, personal computer software that is acceptable to the Contracting AuthorityDocuments, shall provide for reasonable, efficient, and economical execution of the Project, and shall provide final copies in color, in full size and 11 by 17 inches. The Schedule Manager shall submit all baseline and updated schedules to the A/E in electronic formatrelate to the entire Project to the extent required by the Contract Documents.

4.3.46.6.4 The Contractor shall use the Construction Progress Schedule to plan, organize, and execute the Project, record and report actual performance and progress, and show how it plans to coordinate and complete all remaining Work within applicable Milestones. The Project participants shall use the Construction Progress Schedule as a tool for scheduling and reporting sequenced progress of the Work. The Schedule ManagerThe Contractor shall provide a clear graphics legend and other data including, but not limited to, Milestone dates, constraints, and other items required by the Project, the A/E, the Contracting Authority, and the Owner. Each submission shall show the Contracting Authority'sAuthority's Project number and Project name, and provide a signature approval and date line for all Contractorsthe Contractor.

4.3.56.6.5 The Schedule ManagerThe Contractor shall provide in each schedule: Activity identification and description for each activity broken down to a maximum duration that is appropriate for the activity, responsibility of eachthe Contractor, Contractor's resources and crew size for each activity, provide early start, early finish, late start, late finish. Each schedule shall show predecessor activities and successor activities for each activity, entry free float, total float, and percentage of completion, and identify the appropriate predecessors and successors for all related activities.

4.3.66.6.6 The Construction Progress Schedule shall show all submittal dates, coordination drawing preparation, shop drawingsShop Drawings submittals, and mock-up review and approval durations.

4.3.7 The Schedule Manager shall submit the Construction Progress Schedule in graphic and tabular form. Provide a 2- to 6-week look-ahead schedule, as appropriate for the Project, for each progress meeting and provide, with each monthly schedule update, a list of all changes to the previously approved baseline schedule or monthly updated schedule.

4.3.8 The Construction Progress Schedule shall be managed using early start dates and early finish dates. Free float and total float are resources of the Project, and the use of float associated with an activity is not permitted without the concurrence of the A/E, the CM, the Owner, the Contracting Authority, and all other contractors.

4.3.96.6.7 Within 30 days of the date of the Notice to Proceed, the CM shall submit to the A/E a proposed Construction Progress Schedule approved by all Contractors. If the Project is $4 million total construction cost or more, the CM may submit an intermediate Bar Chart Schedule for the first 120 days to the A/E within 30 days of the date of the Notice to Proceed; followed by the complete resource-loaded precedence or arrow diagram schedule within 90 days of the date of the Notice to Proceed.

6.6.7.1 The CM shall submit the initial and all updates of the Construction Progress Schedule in graphic and tabular form to the A/E. With each monthly schedule update, the CM shall include a list of all changes to the previously approved baseline schedule or monthly updated schedule.

4.3.9.16.6.7.2 Upon receipt of the proposed Construction Progress Schedule, the A/E shall review and submit a copy of the Construction Progress Schedule and schedule of submittals to the Contracting

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Authority and the Owner for review and acceptance, or reject it, and return it to the CM with recommendations for revisions.

~~4.3.9.2 Failure to timely approve a Construction Progress Schedule may result in withholding payment in accordance with subparagraph 9.6.2.~~

~~4.3.9.3~~6.6.7.3 If the Project is administered using OAKS- CI, the ~~Contractor shall receive the original schedule from the Schedule Manager, review, approve,~~CM shall create and ~~distribute it~~ submit the initial and all updates of the Construction Progress Schedule to the A/E, the Contracting Authority, and the Owner through the ~~OAKS CI~~ "Schedule Approvals" business process.

6.6.8 The Construction Progress Schedule shall be managed using early start dates and early finish dates. The Contractor shall exhaust existing float before claiming additional time for a Change Order, or show that it is not possible to use float to cover the time requirements of the Change Order.

6.6.9 The Contractor's failure to timely submit and properly maintain an approved Construction Progress Schedule may result in withholding payment in accordance with Section 9.8.

6.6.10 For each progress meeting, the CM shall provide a 2- to 6-week look-ahead schedule, as appropriate for the Project.

~~4.3.10~~6.6.11 On a weekly basis, the Contractor shall prepare and submit to the CM and the A/E a written report describing:

~~4.3.10.1~~6.6.11.1 ~~Activities~~activities begun or finished during the preceding week;

~~4.3.10.2~~6.6.11.2 ~~Activities~~activities in progress and expected completion;

~~4.3.10.3~~6.6.11.3 ~~Activities~~activities to be started or finished in the upcoming 2 weeks, including but not limited to, the Contractor's workforce size and total resource hours associated with those activities; and

~~4.3.10.4~~6.6.11.4 ~~Other~~other information requested by the ~~CM or the~~ A/E.

~~4.3.11~~6.6.12 The CM shall attach the above information to the minutes of the weekly progress meetings.

~~4.3.12~~6.6.13 The CM shall provide monthly ~~progress reports~~Progress Status Reports to the Contracting Authority, the A/E, and the Owner, which shall include recommendations for adjusting the Construction Progress Schedule to meet Milestone dates and the Contract Completion date.

~~4.3.12.1~~6.6.13.1 If it is apparent to the CM or the A/E that the Contractor may be unable to meet critical path activities, Milestone completion dates, or the Contract Completion date; the CM shall direct the ~~applicable~~ Contractor to submit within 3 days a recovery plan to avoid or minimize the delay to the Project.

~~4.3.12.2~~6.6.13.2 A recovery plan shall include, but is not limited to, adjustments to one or more of the following:

~~.1 Workforce~~

.1 ~~Hours~~workforce

.2 hours per shift

.3 ~~Shifts~~shifts per workday

.4 ~~Workdays~~workdays per week

.5 ~~Equipment~~equipment

.6 ~~Activity~~activity logic

~~4.3.12.3~~6.6.13.3 If the CM, the Contractor, and ~~all of the contractors~~each Separate Contractor approve the recovery plan, the CM shall prepare a revised Construction Progress Schedule that shall be ~~signed and~~ approved in accordance with ~~subparagraph 4.3.9.~~Section 6.6.7.2. If the CM, Contractor, or ~~the other contractors fail to~~Separate Contractor does not approve a time recovery plan, the ~~CM or other contractors,~~

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as applicable,Contractor shall submit within 3 days an alternate recovery plan to the A/E and the other contractors in writing for review and approval in accordance with subparagraph 4.3.9Section 6.6.7.2.

4.3.12.4 Failure to timely approve an updated Construction Progress Schedule may result in withholding payment in accordance with subparagraph 9.6.2.

4.3.136.6.14 The CM shall update the Construction Progress Schedule on a monthly basis, or other interval approved by the Contracting Authority, with the approval of all Contractors, in accordance with subparagraph 4.3.9Section 6.6.7.2.

4.3.13.16.6.14.1 The updated Construction Progress Schedule signedapproved by the Contractor shall serve as an affirmation that the Contractor can meet the requirements of the updated Construction Progress Schedule.

4.3.13.26.6.14.2 The CM shall submit a tabular copy showing all changes to the previously approved schedule including, but not limited to, logic, float, and actual start date of activities. The original or initially approved Construction Progress Schedule and all subsequent Construction Progress Schedules signedsubmitted by the Contractor, the CM, and accepted by the A/E, shall serve as an affirmation that the CM and the Contractor agree to and can meet the applicable requirements of the updated Construction Progress Schedule.

4.3.13.36.6.15 FailureThe Contractor's failure to timely approvesubmit an approved, updated Construction Progress Schedule may result in withholding payment in accordance with subparagraph Section 9.8.

4.3.13.4 If the Project is administered using OAKS CI, the Contractor shall receive revised schedules from the Schedule Manager, review, approve, and distribute them to the A/E, the Contracting Authority, and the Owner through the OAKS CI "Schedule Approvals" business process.

4.41.1Partnering

4.4.11.1.1The formation of a cohesive, mutually beneficial partnering arrangement among the Contractor, all Separate Contractors, the Contracting Authority, the A/E, the CM, and the Owner will accomplish the construction of the Project most effectively and efficiently. This arrangement draws on their collective strengths, skills, and knowledge to achieve a Project of the intended quality, within budget, and on schedule. To achieve that objective, participation in a partnering session is required for the following key stakeholders:

4.4.1.1 Contracting Authority – Project Manager

4.4.1.2 Owner – Primary representative

4.4.1.3 A/E – Principal-in-charge, project manager, field representative, major consultants

4.4.1.4 CM – Project manager, project engineer if applicable, field representative, schedule manager if applicable, and estimator if applicable.

4.4.1.5 Contractor – Principal-in-charge, project manager, and superintendent

4.4.1.61.1.1.1Separate Contractors – Principal-in-charge, project manager, and superintendent

4.4.1.7 Major Subcontractors (e.g., masonry, fire protection) – Principal-in-charge, project manager or superintendent

4.4.1.8 Schedule Consultant, if applicable

4.4.1.91.1.1.1CxA, if applicable

4.4.21.1.1The purpose of the partnering arrangement is to build cooperative relationships between the Project's key stakeholders, avoid or minimize disputes, and nurture a more collaborative ethic characterized by trust, cooperation and teamwork. This arrangement is intended to produce a voluntary, non-binding, but formally structured agreement among the Project's key stakeholders, leading to an attitude that fosters risk sharing.

4.4.3 To create and implement the partnering arrangement, the Project's key stakeholders shall meet prior to the construction of the Project for developing a partnering agreement. The agreement should be

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~~comprehensive and focus on all issues necessary for successful completion of the Project, and shall identify common goals and objectives, develop a problem solution process, an Alternative Dispute Resolution ("ADR") strategy in accordance with paragraph 8.11, and an implementation plan for the partnering arrangement.~~

~~4.4.4~~1.1.1~~Formal contractual relations, responsibilities, and liabilities are not affected by any partnering agreement. The cost associated with establishing this partnership shall be included in an allowance in the Agreement for Construction Management Services. The Contractor shall include in its base bid the resources necessary to participate in the partnering session.~~

~~4.4.5~~1.1.1~~Partnering services may extend over the entire period of performance of the Contract and may include intervention or project realignment services to be utilized if serious disputes arise. The Project's key stakeholders should agree, during the initial partnering session, to the types of situations and circumstances in which intervention or realignment services shall be utilized.~~

~~4.4.5.1~~1.1.1.1~~If realignment or intervention services are utilized, partnering facilitators shall not be called as witnesses in any litigation, mediation, or quasi-judicial proceeding.~~

~~4.5~~6.7 Progress Meetings

~~4.5.1~~6.7.1 The CM shall schedule a weekly progress meeting for the Contractor, all Separate Contractors, and other Persons involved in the Project. The purpose of the progress meeting is to review progress on the Project during the previous week, discuss anticipated progress during the following weeks, review critical operations, and discuss critical problems.

~~4.5.2~~6.7.2 The Contractor ~~and the A/E~~ shall be represented at every progress meeting by a Person authorized with signature authority to make decisions regarding possible modification of the Contract Documents or Construction Progress Schedule.

~~4.5.2.1~~6.7.2.1 The CM shall notify the Contractor and other Persons involved in the Project of the time and place of the progress meeting that shall thereafter be the same day and hour of the week for the duration of the Project, unless the CM notifies the Contractor and other Persons involved in the Project of a different day and hour at least 2 days in advance.

~~4.5.2.2~~6.7.2.2 The Contractor shall have any of its Subcontractors ~~and Material Suppliers~~ attend the progress meeting as determined advisable by the Contractor, or as requested by the CM or the A/E.

~~4.5.3~~6.7.3 The CM shall prepare a written report of each progress meeting and distribute the report to the Contracting Authority, the Owner, the A/E, and the Contractor. The CM shall not delegate the duty to prepare a written report of any progress meeting.

~~4.5.3.1~~6.7.3.1 If any Person in attendance objects to anything in a report of a progress meeting, the Person shall notify the CM, the A/E, the Contracting Authority, and any other affected Person in writing explaining the objection within 5 days.

~~4.5.3.2~~6.7.3.2 The report of each progress meeting shall reflect any objection made to the report of the previous progress meeting and any response.

~~4.5.3.3~~ If the Project is administered using OAKS- CI, the Contractor shall receive written reports of progress meetings from the CM, the through the ~~OAKS CI~~ "Meeting Minutes" business process~~.~~

~~.1~~6.7.3.3 ~~Issues~~ and issues identified during progress meetings that require resolution by one or more construction participants, shall be documented through the ~~OAKS CI~~ "Action Items" business process.

~~4.6~~6.8 Project Coordination ~~Meetings~~

~~4.6.1~~6.8.1 The CM shall schedule and conduct a weekly coordination meeting for the Contractor and all Separate Contractors and appropriate Subcontractors ~~and Material Suppliers~~ ("Coordination Participants").

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4.6.1.16.8.1.1 The purpose of the coordination meeting is to discuss the sequence of construction and its relationship with the approved Construction Progress Schedule; to establish the intended location of equipment, pipe, duct, conduit, and other components of the Project; and to coordinate the appropriate shared use of available construction space; especially interstitial spaces, chases and mechanical rooms; and construction storage space.

4.6.1.26.8.1.2 Each Coordination Participant shall be knowledgeable about the Project and the scope of its work. One individual from each Coordination Participant shall have authority to make decisions regarding the coordination process and drawings.

4.6.1.36.8.1.3 Each Coordination Participant shall come to the coordination meetings prepared to demonstrate and furnish documentation that it has anticipated the work of other Persons, and planned its installation. Each Coordination Participant shall coordinate its installation with the work of other Persons.

4.6.1.46.8.1.4 Each Coordination Participant shall utilize documentation and information provided by other Coordination Participants to verify that the utility requirements, physical size, and characteristics of planned equipment are compatible with related or connected equipment, existing or planned building components, and existing or planned utilities.

4.6.1.56.8.1.5 The Coordination Participants shall utilize the documentation and information provided by each of them in determining the actual placement and positioning of equipment and devices to avoid interference with the work of other Persons, building finishes, and architectural details.

4.6.1.66.8.1.6 The Coordination Participants shall utilize the documentation and information provided by each of them to coordinate space requirements and installation considerations to maximize accessibility to equipment and devices for purposes of maintenance, repairs, and replacement.

4.6.1.76.8.1.7 The CM shall prepare a written report of each coordination meeting and distribute the report within 3 business days of the meeting to the A/E, the Contracting Authority, the Owner, the Contractor, the Separate Contractors, and other Coordination Participants. The CM shall not delegate the duty to prepare a written report of any coordination meeting.

4.6.1.8 If the Project is administered using OAKS - CI, the Contractor shall receive written reports of coordinationprogress meetings from the CM through the OAKS CI "Meeting Minutes" business process.

.16.8.1.8 Issues and issues identified during progress meetings that require resolution by one or more construction participants, shall be documented through the OAKS CI "Action Items" business process.

4.7 Coordination Drawings

4.7.16.8.2 The HVAC Contractorcontractor responsible for the permanent HVAC system ("HVAC Contractor") shall prepare drawings (the "Preliminary Coordination Drawings") after the Coordination Participants (1) - determine the sequence of the Project, (2) complete the activities described under subparagraph 4.6.1.(3) - identify the areas requiring special attention ("Coordination Areas"), and (4) 3) determine the need for a coordination drawing for any Coordination Area. The HVAC Contractor shall prepare the Preliminary Coordination Drawings at one-quarter-inch equals one-foot scale, with CAD or BIM software acceptable to the Contracting Authority. The Preliminary Coordination Drawings shall show the sheet metal work with plan and elevation dimensions, which specifically locate all HVAC ductwork, HVAC equipment, and HVAC piping for each Coordination Area based upon the information, discussion, and resulting consensus of the Coordination Participants during the coordination meetings..

6.8.2.1 The HVAC Contractor shall provide the Preliminary Coordination Drawings to all Coordination Participants. Each Coordination Participant shall use the Preliminary Coordination Drawings as a baseline to develop drawings of its work within each applicable Coordination Area to specifically locate equipment, devices, piping, conduits, and other work as discussed and agreed at the coordination meetings.

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6.8.2.2 Each Coordination Participant with work within a Coordination Area shall return its drawings to the HVAC Contractor marked to show the location of the Coordination Participant's equipment, devices, piping, conduits, and other work for the HVAC Contractor's preparation of detailed and final coordination drawings ("Coordination Drawings").

6.8.2.3 Any Coordination Participant with no work in any Coordination Area may return the applicable Preliminary Coordination Drawings to the HVAC Contractor with a statement on the drawings signed by an authorized representative of the Coordination Participant certifying that it has no work within that Coordination Area.

~~4.7.1.1~~1.1.1.1~~The HVAC Contractor shall provide the Preliminary Coordination Drawings to all Coordination Participants. Each Coordination Participant shall use the Preliminary Coordination Drawings as a baseline to develop drawings of its work within each applicable Coordination Area to specifically locate equipment, devices, piping, conduits, and other work as discussed and agreed at the coordination meetings.~~

~~4.7.1.2~~1.1.1.1~~Each Coordination Participant with work within a Coordination Area shall return its drawings to the HVAC Contractor marked to show the location of the Coordination Participant's equipment, devices, piping, conduits, and other work for the HVAC Contractor's preparation of detailed and final coordination drawings ("Coordination Drawings").~~

~~4.7.1.3~~1.1.1.1~~Any Coordination Participant with no work in any Coordination Area may return the applicable Preliminary Coordination Drawings to the HVAC Contractor with a statement on the drawings signed by an authorized representative of the Coordination Participant certifying that it has no work within that Coordination Area.~~

~~4.7.1.4~~6.8.2.4 After the HVAC Contractor completes the Coordination Drawings, the ~~HVAC~~ Contractor shall forward a copy of the Coordination Drawings to the CM, the A/E, the ~~CM, the~~ Contracting Authority, and the Owner~~, the Contractor, the Separate Contractors, and other Coordination Participants with work within the limits of a Coordination Area. The Contractor shall report discrepancies in the drawings, in writing, to the HVAC Contractor within 7 days after receiving the drawings.~~.

~~4.7.1.5~~6.8.2.5 ~~The A/E and the~~ The CM and the A/E shall review the Coordination Drawings to determine whether the Coordination Participants achieved the goals listed in ~~subparagraph 4.6.1~~Section 6.8.1. The ~~A/E~~CM and the ~~CM~~A/E shall report any concerns, in writing, to the Coordination Participants within 14 days after receiving the drawings.

~~4.7.1.6~~6.8.2.6 If the Project is administered using OAKS- CI, the HVAC Contractor shall submit the Coordination Drawings to the ~~CM, the~~ A/E, and the CxA if applicable, through the ~~OAKS CI~~ "Submittals" business process.

~~4.7.2 If installed Work causes or contributes to interference with subsequent work of a Separate Contractor, the CM in consultation with the A/E shall determine the needed modifications to the installed Work to accommodate the subsequent work. The CM's decision is final, subject to Article 8. The Contractor shall pay the cost of any such modifications.~~

~~Article 5 - THE STATE~~

~~5.1~~1.1~~Contracting Authority~~

~~5.1.1~~1.1.1~~The Contracting Authority shall designate a Project Manager for the Project. The Project Manager is authorized to act on behalf of the Contracting Authority to perform specific responsibilities under the Contract.~~

~~5.1.2~~1.1.1~~The Contracting Authority shall furnish information and services required of it in a timely manner.~~

~~5.1.3~~1.1.1~~The Contracting Authority shall have access to the Work at all times, whenever the Project is in preparation or progress.~~

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6.9 ~~The~~Additional Tests and Inspections

~~5.1.4~~6.9.1 If the A/E or the Contracting Authority determines that any portion of the Work requires special inspection, testing, or approval not otherwise required under the Contract Documents, the A/E shall ~~communicate with the Contractor through the A/E and the CM.~~order such inspection, testing, or approval.

~~5.1.5~~1.1.1~~The Department requires the use of its forms where noted in the Contract Documents. The party responsible for initiating forms shall utilize the latest edition obtained from the Department's Web site: http://ohio.gov/sao. The Department may make modifications to its forms at any time.~~

~~5.1.5.1~~1.1.1.1~~The Contractor shall not modify any form provided by the Department or the Contracting Authority.~~

~~5.1.5.2~~1.1.1.1~~For projects that are locally administered, the agency or institution administering the Project may modify the Department's forms to include the agency's or institution's logo and contact information and may publish the modified forms on its Web site. The party responsible for initiating forms shall coordinate with the Contracting Authority.~~

~~5.1.5.3~~ If the ~~Project is administered using OAKS CI, the Contractor shall utilize the Web-based forms and reports within the applicable business process. OAKS CI is sponsored by the Department, and such Web-based forms and reports are acceptable to the Department in lieu of its paper forms.~~

~~5.1.6 The Contracting Authority is not responsible for construction means, methods, manners, techniques, sequences, procedures, safety precautions, and programs in connection with the Work, or for the Contractor's failure to carry out the Work in conformity with the Contract Documents.~~

~~5.2~~1.1~~Owner~~

~~5.2.1~~1.1.1~~The Owner shall designate a representative authorized to act on the behalf of the Owner during the Project.~~

~~5.2.2~~1.1.1~~The Owner shall furnish information and services required of it in a timely manner.~~

~~5.2.3~~1.1.1~~The Owner shall have access to the Work at all times whenever the Project is in preparation or progress.~~

~~5.2.4~~1.1.1~~Upon issuance of the Notice to Proceed, the Owner shall provide the Site to the Contractor in a condition to permit the Contractor to perform the Work.~~

~~5.2.5~~1.1.1~~The Owner may request a change in the Work if the A/E recommends and the Contracting Authority approves the change.~~

~~5.2.6 The Owner shall communicate with the Contractor through the A/E and the CM.~~

~~5.2.7 The Owner is not responsible for construction means, methods, manners, techniques, sequences, procedures, safety precautions, and programs in connection with the Work, or for the Contractor's failure to carry out the Work in conformity with the Contract Documents.~~

~~5.3 State's Right to Perform Work and Back-charge Contractor~~

~~5.3.1 If the Contractor provides~~special inspection, testing, or approval reveals Defective Work ~~or fails or neglects to perform the Work in accordance with the Construction Progress Schedule, the Contracting Authority may issue a written notice providing 3 days for the Contractor to begin to correct Defective Work or to recover schedule deficiencies as set forth in subparagraph 5.3.2 ("72-Hour Notice") to the Contractor.~~

~~5.3.1.1 A copy of the 72-Hour Notice shall be issued to the Contractor's Surety.~~

~~5.3.2 If the Contractor fails or refuses to commence and continue to correct the Defective Work or recover the schedule deficiencies with diligence and promptness within three business days after receiving the 72-Hour Notice, the Contracting Authority may, without jeopardizing other remedies, take any action the Contracting~~

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~~Authority deems appropriate to correct the Defective Work or to recover the schedule deficiencies, including but not limited to exercising its termination rights under paragraph 12.3.~~

6.9.1.1 ~~If the Contracting Authority proceeds as described under subparagraph 5.3.2~~, the Contractor shall pay all ~~resulting~~associated costs and ~~damages.~~will not be entitled to any related adjustment of the Contract Times. Those costs ~~and damages~~may include, but are not limited to~~,~~:

.1 the ~~reasonable~~cost of the special inspection, testing, or approval;

.2 the cost of additional special inspections, testing, or approvals to evaluate remedial Work;

.3 the cost of correcting the Defective Work ~~or recovering the schedule deficiencies~~; and ~~the~~

.4 all related Owner-incurred fees and charges of contractors, engineers, architects, attorneys, and other professionals.

~~5.3.2.1~~ The Contracting Authority ~~shall~~ may deduct the costs ~~and damages~~ described under Section 1.1.1 from payments then or thereafter due the Contractor ~~by Change Order.~~

~~5.3.2.2~~6.9.1.2 . If ~~the~~ payments then or thereafter due the Contractor are not sufficient to cover those amounts, the Contractor shall immediately pay the amount of the insufficiency to the ~~Contracting Authority~~Owner.

~~5.3.2.3~~6.9.1.3 ~~If~~ If the special inspection, testing, or approval reveals that the Work complies with the Contract Documents, and the Contractor believes that ~~the Contracting Authority wrongfully exercised its rights under subparagraph 5.3.2, the Contractor may request an adjustment to the Contract~~it is entitled to an adjustment of the Contract Sum or Contract Times, or both, on account of the special inspection, testing, or approval, the Contractor may request an adjustment to the Contract by giving written notice under ~~subparagraph~~ Section 7.3.2.

~~5.4 Owner's Right to Partial Occupancy~~

~~5.4.1 The Owner may occupy or use a portion of the Project prior~~If the Contractor is aware of a need for inspection, testing, or approval, or of a need to have any inspection, testing, or approval completed by a particular time to ~~Contract Completion if:~~

~~5.4.1.1 The building authority with jurisdiction over~~avoid delay, then the ~~Project issues a temporary occupancy permit for~~ Contractor shall timely communicate such information to the ~~area in question;~~

~~5.4.1.2 The insurers providing property insurance have been provided written notice of the Partial Occupancy;~~A/E and

~~5.4.1.3 The~~ the Contracting Authority ~~has received notice of the Partial Occupancy from the CM and has consented to it.~~

6.9.2 ~~Before~~.

6.9.3 Except as described under Section 6.9.1, the Owner shall pay for any inspection, testing, or approval that did not become a requirement until after it awarded the Contract.

6.9.4 The Contractor shall coordinate with and give the A/E, the Contracting Authority, and the Owner ~~commences Partial Occupancy,~~reasonable notice of the anticipated dates of all inspections, testing, or approvals.

6.9.5 Within 5 days after completion of an inspection, testing, or approval, the A/E shall provide an original report/certificate of the inspection, testing, or approval to the Contractor and the Contracting Authority with a recommendation for or against acceptance of the results therein.

6.9.6 Neither the observations of the A/E in the administration of the Contract, nor any inspection, test, or approval by Persons other than the Contractor shall relieve the Contractor from the Contractor's obligation to perform the Work in conformity with the Contract Documents.

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6.10 Review of Contract Documents and Field Conditions

6.10.1 Before starting each portion of the Work, the Contractor shall carefully study and compare the various Contract Documents relative to that portion of the Work, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the Site affecting it.

6.10.2 If the Contractor finds any perceived ambiguity, conflict, error, omission, or discrepancy on or between any of the Contract Documents, or between any of the Contract Documents and any Applicable Law, the Contractor, before proceeding with the Work, shall promptly submit a Request for Interpretation ("RFI") to the A/E for an interpretation or clarification.

6.10.2.1 Before submitting any RFI to the A/E, the Contractor shall carefully review the Contract Documents to ensure that the Contract Documents do not answer the RFI.

6.10.2.2 The A/E shall respond to an RFI within 3 days of receiving the RFI.

6.10.2.3 Any interpretation or clarification of the Contract Documents made by any Person other than the A/E, or in any manner other than writing, shall not be binding and the Contractor shall not rely upon it.

6.10.2.4 If the Project is administered using OAKS CI, the Contractor shall submit RFIs to the A/E through the "Request for Interpretations" business process.

6.10.3 If the Contractor believes that it is entitled to an adjustment of the Contract Sum or Contract Times, or both, on account of clarifications or instructions issued by the A/E in response to a RFI, the Contractor may request an adjustment to the Contract by giving written notice under Section 7.3.2 within 7 days of receiving the A/E's RFI response.

6.10.4 If the Contractor does not notify the A/E per Section 6.10.3, the Contractor will have accepted the RFI response without an adjustment to the Contract Sum or Contract Times.

6.11 Protection of the Project

6.11.1 The Contractor shall protect the Work from weather and maintain the Work and all materials, apparatus, and fixtures free from injury or damage until Final Acceptance, or Partial Occupancy if applicable.

6.11.1.1 The Contractor shall at all times cover or protect the Work.

6.11.1.2 The Contractor, at its expense, shall remove, and replace with new, any Work damaged as a result of Contractor's failure to provide coverage or protection.

6.11.1.3 The Contractor, at its expense, shall repair or replace any adjacent property, including, but not limited to, roads, walks, shrubbery, plants, trees, or turf, damaged during performance of the Work.

6.11.1.4 After the date of Final Acceptance, or Partial Occupancy if applicable, the Owner is responsible for protecting and maintaining all materials, apparatus, and fixtures for the occupied portion of the Project free from injury or damage.

6.11.2 The Contractor shall protect the Project and existing or adjacent property from damage at all times and shall erect and maintain necessary barriers, furnish and keep lighted necessary danger signals at night, and take reasonable precautions to prevent injury or damage to individuals or property.

6.11.3 The Contractor shall not load, or permit any part of the Project to be loaded, in any manner that endangers the Project, or any portion thereof. The Contractor shall not subject any part of the Project or existing or adjacent property to stress or pressure that endangers the Project or property.

6.11.4 The Contractor shall provide all temporary bracing, shoring, and other structural support required for safety of the Project and proper execution of the Work.

6.11.5 Vibration, Noise, and Dust Control.

6.11.5.1 The Contractor or Separate Contractor responsible for creating dust shall provide controls/barriers for vibrations, noise, and dust control in occupied buildings as required by the construction operations.

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6.11.5.2 The Contractor will not be permitted to exhaust or release unfiltered air, dust, construction debris, or other undesirable products into the exterior atmosphere or into occupied areas of the building outside the Site. The Project Manager may limit or stop the Work if the Contractor does not maintain proper air-quality standards.

6.11.5.3 In certain occupied buildings, tasks might be of such a nature that noise and vibration cannot be tolerated. In such spaces, Work shall be scheduled for other than normal working hours. The Contractor is cautioned that weekend or overtime work, if required, shall be performed at no additional cost. Permission to work other than standard hours shall be received from the Contracting Authority prior to the occurrence. Weekend and overtime Work shall be reflected in the Construction Progress Schedule.

6.11.5.4 The Contractor or Separate Contractor, whose operations are creating the conditions, is responsible for vibration control and control of transmission of noise arising from the Work. Principal considerations which shall be given to noise and vibration control are:

.1 Noise control in compliance with Occupational Safety and Health Administration ("OSHA") requirements for the health and safety of building occupants; control shall be for all areas of the facility, including equipment rooms, boiler rooms, and fan rooms.

.2 Vibration control to limit sound produced by construction equipment, and for protection of the equipment existing in a building and the building structure.

.3 Vibration control to provide for maximum usefulness of the facility by keeping levels of vibration within ranges which are conducive to study and work or other uses for which the facility is designed.

6.12 Materials and Equipment

6.12.1 The Contractor shall provide new materials and equipment of the quality specified in the Contract Documents.

6.12.2 The Contractor shall bring to, or store at, the Site only the materials and equipment required in the Work. If possible, materials and equipment should be installed in their final positions when brought to the Site.

6.12.2.1 The Contractor shall properly store and protect all materials and equipment it provides to the Project.

6.12.2.2 The Contractor shall timely remove from the Site any materials or equipment no longer required for the Work.

6.12.3 The Contractor shall not allow materials or equipment to damage the Project or adjacent property, nor to endanger any individual at, or near, the Site.

6.12.4 If the Contractor provides an Acceptable Component, the Contractor shall be solely responsible for the costs of coordination and modification required.

6.12.5 If the Contractor provides approved Substitutions that require changes to the Contract Documents, the Contractor shall be solely responsible for the additional costs incurred as a result, including, but not limited to, changes to the design by the A/E.

6.12.6 The A/E shall consider Requests for Substitutions after the bid opening only when the Contractor can conclusively demonstrate to the A/E the following conditions:

6.12.6.1 the specified Basis of Design Components, Acceptable Components, or previously-approved Substitutions, through no fault of the Contractor or a Subcontractor, are not available; or

6.12.6.2 the specified Basis of Design Components, Acceptable Components, or previously-approved Substitutions will not perform as designed or intended.

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6.12.7 The Contractor's incorporation of unapproved Substitutions in the Work shall constitute Defective Work.

6.13 Labor

6.13.1 The Contractor shall maintain a sufficient workforce and enforce good discipline and order among its employees and the employees of its Subcontractors. The Contractor shall not permit employment of individuals not skilled in tasks assigned to them.

6.13.2 The Contractor shall dismiss from the Project any individual employed by the Contractor, or a Subcontractor, who the Contracting Authority finds, in its sole discretion, to be incompetent, guilty of misconduct, or detrimental to the Project.

6.13.3 The Contractor shall employ all legal efforts to minimize the likelihood or effect of any strike, Work stoppage, or other labor disturbance. Informational pickets shall not justify any Work stoppage.

6.14 Safety Precautions

6.14.1 The Contractor shall take reasonable precautions to ensure the safety of individuals on the Project.

6.14.1.1 The Contractor is responsible for designing and implementing its own safety program, including compliance with OSHA regulations. The Contractor's safety plans, such as fall protection, hazards, communications, competent person, etc., shall meet or exceed the Owner's safety plan (if any).

6.14.2 The Contractor shall pay any fine or cost incurred because of the Contractor's violation, or alleged violation, of Applicable Law.

6.14.3 Before starting any Work, the Contractor shall submit to the Contracting Authority and the CM a copy of the Contractor's site-specific safety plan and safety manuals. The CM shall provide and inform the Contractor and each Separate Contractor of methods and equipment for protecting the Project, other property, and individuals from fire damage in accordance with Applicable Law.

6.14.4 The Contractor shall not introduce Hazardous Materials to the Project or burn any fires on the Site.

6.14.4.1 The Contractor shall notify the Project Manager 24 hours before the start of non-routine or non-recurring hot-work. Use of sources of fire, flame or sparks and flammable materials shall be kept to an absolute minimum. At the beginning of the Project, the Contractor shall inform the Project Manager of its intent to use blowtorches, welding apparatus or similar exposed flame and sparking devices. Similar notice shall be given in regard to the use of flammable liquids, adhesives, and cleaners.

6.14.4.2 The Contractor shall furnish an appropriate number of fire extinguishers (minimum of 1), which shall be within the immediate areas where work is being done at all times. The extinguisher shall be adequate and suitable for the class of fire likely to be caused by the Contractor's operations.

6.14.5 Work Stoppage Due to Hazardous Materials.

6.14.5.1 If the Contractor encounters material the Contractor reasonably believes to be, or contain, a Hazardous Material, which has not been rendered harmless, the Contractor shall immediately stop Work in the affected area and verbally report the condition to the Contracting Authority and the A/E, and within 1 business day deliver written notice of the condition to the Contracting Authority and the A/E.

6.14.5.2 The Contracting Authority will promptly determine the necessity of the Owner retaining a qualified environmental consultant to evaluate the suspected Hazardous Material and to issue a related written report. Where appropriate, the Owner will engage a licensed abatement contractor to remove the material or render it harmless as directed.

6.14.5.3 The Contractor shall resume Work in the affected area upon written notice from the A/E that (1) the suspect material was evaluated and found not to be or contain a Hazardous Material, or (2) the suspect material has been removed or rendered harmless.

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6.14.5.4 If the Contractor knowingly or negligently proceeds with the Work in an area where a Hazardous Material exists and has not been rendered harmless, the Contractor shall be solely responsible for all related claims, damages, losses, and expenses, including, but not limited to, attorneys fees, arising out of or resulting from performing the Work in the affected area.

6.14.5.5 The term "rendered harmless" means that the level of exposure is less than any applicable exposure standards set forth in Applicable Law.

6.14.6 Material Safety Data Sheets~~and~~.

6.14.6.1 The Contractor shall identify any material it uses at the Site with a Material Safety Data Sheet ("MSDS").

6.14.6.2 Before starting any Work or bringing materials to the Site, the Contractor shall submit to the CM a notebook containing all of its applicable MSDS

6.14.6.3 The CM shall maintain all MSDS notebooks at the Site for the duration of the Project.

6.15 Construction Facilities, Utilities, and Equipment

6.15.1 Facilities.

6.15.1.1 The Contractor shall provide and maintain in a clean condition suitable temporary facilities, equipment, services, and enclosed storage for its use at the Site.

6.15.1.2 The CM shall provide and maintain in a clean condition:

.1 suitable facilities, equipment, and services for use by the CM, the A/E, and the Contracting Authority;

.2 adequate space, equipment, and furnishings to conduct progress meetings, and store approved documents and permits; and

.3 adequate sanitary facilities for use by all Persons at the Site.

6.15.2 Environmental Controls.

6.15.2.1 The Contractor shall protect its Work and materials from weather and damage from heat, cold, and humidity.

6.15.2.2 Until the permanent HVAC system is complete and available for use:

.1 the HVAC Contractor shall make arrangements and pay for installation and maintenance of temporary heating and ventilating systems; and

.2 the HVAC Contractor shall pay the costs incurred in operating the temporary heating and ventilating systems.

6.15.2.3 When the permanent HVAC system is complete and available for use:

.1 The HVAC Contractor shall start up and maintain operation of the permanent HVAC system, including filters, and promptly remove temporary heating and ventilating systems.

.2 If the Project consists entirely of new construction, the HVAC Contractor shall pay the costs of energy consumed in operating the permanent HVAC system until Final Acceptance, or Partial Occupancy if applicable.

.3 If the Project is a renovation of an existing building or structure, addition(s) to an existing building or structure, or any combination of new construction and renovation work that does not allow separate metering of utilities, the Owner shall pay the costs of energy consumed in operating the permanent HVAC system.

6.15.2.4 From the date of Final Acceptance, or Partial Occupancy if applicable, the Owner shall pay the cost of operating the permanent HVAC system for the occupied portion of the Project.

6.15.2.5 If the permanent HVAC system is used during construction, the HVAC Contractor shall furnish an extended warranty and service contract in effect until the expiration of the Correction Period.

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6.15.3 Water and Drainage.

6.15.3.1 The Contractor shall provide water necessary for the Work until the permanent plumbing system is available for use.

6.15.3.2 The Contractor shall provide temporary drainage and dewatering necessary for the Work and shall employ pumps, trenches, drains, sumps, and other necessary elements required to provide satisfactory working conditions for the protection, execution, and completion of the Project.

6.15.3.3 The contractor responsible for the permanent plumbing system ("Plumbing Contractor") shall make arrangements and pay for installation and maintenance of temporary plumbing systems until the permanent plumbing system is available for use.

6.15.3.4 When the permanent plumbing system is complete and available for use:

.1 The Plumbing Contractor shall start up and maintain operation of the permanent plumbing systems, and make arrangements and pay for removal of temporary plumbing systems.

.2 If the Project consists entirely of new construction, the Plumbing Contractor shall pay the costs of water consumed and sewerage charges until Final Acceptance, or Partial Occupancy if applicable.

.3 If the Project is a renovation of an existing building or structure, addition(s) to an existing building or structure, or any combination of new construction and renovation work that does not allow separate metering of utilities, the Owner shall pay the costs of water consumed and sewerage charges.

6.15.3.5 From the date of Final Acceptance, or Partial Occupancy if applicable, the Owner shall pay the costs of water consumed and sewerage charges for the occupied portion of the Project.

6.15.3.6 If the permanent plumbing system is used during construction, the Plumbing Contractor shall furnish an extended warranty and service contract in effect until the expiration of the Correction Period.

6.15.4 Electric Service.

6.15.4.1 The contractor responsible for the permanent electric service ("Electrical Contractor") shall provide temporary light and power and pay the charges for temporary electric service installation and removal if required.

.1 The Electrical Contractor shall not be responsible for electric service requirements of contractors related to temporary hoists, cranes, welding equipment, or elevators.

.2 A contractor requiring these services shall subcontract with a licensed contractor for the service requirements and shall pay the costs of the services.

6.15.4.2 If the Project consists entirely of new construction, the Electrical Contractor shall pay the cost of energy consumed until Final Acceptance of the Project, or Partial Occupancy if applicable.

6.15.4.3 If the Project is a renovation of an existing building or structure, addition(s) to an existing building or structure, or any combination of new construction and renovation work that does not allow separate metering of utilities, the Owner shall pay the cost of energy consumed.

6.15.4.4 From the date of Final Acceptance, or Partial Occupancy if applicable, the Owner shall pay the cost of energy consumed for the occupied portions of the Project.

6.15.4.5 If the permanent electrical system is used during construction, the Electrical Contractor shall furnish an extended warranty and service contract in effect until the expiration of the Correction Period.

6.15.5 Hoisting Facilities.

6.15.5.1 The Contractor shall erect and maintain any hoisting equipment required for its Work in coordination with the CM and the Electrical Contractor.

6.15.5.2 If the electric service requirements of hoisting facilities differ from that available at the Site, the contractor shall provide and pay for all necessary connections.

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6.15.5.3 If a permanent elevator is identified in the Contract Documents to be used for hoisting materials or personnel during construction, the contractor responsible for the elevator shall furnish an extended warranty and service contract in effect until the expiration of the Correction Period.

6.16 Progress Cleaning

6.16.1 The Contractor shall remove all waste materials, rubbish, and mud attributable to the Work to an appropriate disposal location provided by the CM at, or near, the Site.

6.16.2 The Contractor shall perform weekly broom cleaning of hard flooring surfaces in the area of the Work.

6.16.3 The CM shall remove, once each working day or as appropriate for the Project, all waste materials and rubbish from the disposal location at, or near, the Site.

6.16.4 The Contractor shall remove, as appropriate for the Project or as the CM or Owner directs, any waste materials or rubbish from areas adjacent to the Project.

6.16.4.1 The Contractor shall dispose of waste materials, rubbish, and construction debris and in a lawful manner in approved recycling facilities or landfills.

6.16.5 If the Contractor fails to clean up during the progress of the Work, the Contracting Authority may clean up on behalf of the Contractor and at the Contractor's expense. If the Contractor fails to maintain the areas adjacent to the Project clean and free of waste materials and rubbish, the Contracting Authority may also direct the local jurisdiction responsible for the area to have the area cleaned to its satisfaction at the Contractor's expense.

6.16.5.1 The Contracting Authority may deduct the cleaning costs from payments then or thereafter due the Contractor. If payments then or thereafter due the Contractor are not sufficient to cover those amounts, the Contractor shall immediately pay the amount of the insufficiency to the Owner.

6.16.5.2 If the CM determines that the cleaning is attributable to the Contractor and to one or more Separate Contractors, the CM shall also allocate the cleaning costs as the CM deems appropriate. If the CM cannot or does not allocate the costs, the Contracting Authority shall allocate the costs as the Contracting Authority deems appropriate in its sole discretion.

6.16.6 The Contractor shall remove excavated material and spoil to a suitable off-site location approved by the Contracting Authority.

6.16.6.1 If the Owner designates a location on its property for disposal or storage of clean topsoil and/or subsoil in the Contract Documents, the Contractor shall remove such materials to the designated location.

6.17 Use of Premises

6.17.1 The Contractor shall use corridors, stairs, and elevators as designated by the Contracting Authority. The Contractor shall exercise extreme care to not exceed the carrying capacity of elevators or damage the cab interior in any way.

6.17.2 Loitering or wandering through interior of buildings or exterior grounds outside the limits of the Work will not be permitted.

6.17.3 The Contractor shall confine its apparatus, materials, and the operations of its workers to the limits indicated by law, ordinances, permits and the directions of the A/E or the Project Manager.

6.17.4 No signs or advertising of any kind will be permitted on or about the Site, except those appearing on trucks and trailers.

6.17.5 Site Logistics Plan.

6.17.5.1 The CM shall prepare, in coordination with the Contractor and all Separate Contractors, a plan of the Site indicating how the contractors intend to use the Site. The plan should illustrate, as an example, areas to be used for lay down of material and equipment; office and storage trailer locations; vehicular

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access gates with ingress and egress routes; locations of wheel wash and concrete truck wash out activities; and offloading and hoisting locations.

6.17.6 Smoking and Tobacco Products.

6.17.6.1 All State buildings are smoke free. Smoking will not be permitted in any indoor area. The ban on tobacco products will be observed in all indoor and outdoor areas and parking areas on all State-owned and leased property. The Contractor shall enforce these restrictions on any individual employed by the Contractor, or a Subcontractor.

6.18 Interruption of Existing Services

6.18.1 Whenever it becomes necessary to interrupt existing services in use by the Owner or its tenants, including but not limited to sewer, water, gas, and steam lines, electric, telephone, and cable service, the Contractor shall continue the associated Work on a non-stop 24-hour per day basis until that Work is completed and the service restored, or at an alternate time required by the Contracting Authority.

6.18.2 Before beginning that Work, the Contractor shall apply in writing to, and receive approval in writing from, the Owner, through the A/E, to establish a time when interruption of the service will cause a minimum of interference with the activities of the Owner and its tenants.

6.19 Explosives and Blasting

6.19.1 The Contractor shall not conduct blasting on, or bring explosives to, the Site without the prior written approval of the Contracting Authority, the Owner, and other authorities with jurisdiction.

6.19.2 The Contractor shall perform all blasting, storing, and handling of explosives as required under Applicable Law.

6.19.2.1 The Contractor shall carry appropriate liability insurance coverage, as required by the Contract Documents, for its blasting and explosives storage and handling operations. Immediately upon request, the Contractor shall deliver evidence of that insurance to the Contracting Authority.

6.20 Building Commissioning

6.20.1 If the Project scope includes building commissioning, the Contractor shall participate in the Commissioning Process, as prescribed in the Contract Documents.

6.20.2 The Contractor shall permit the A/E, or a third-party Commissioning Agent ("CxA") if applicable, access to commission performance based equipment, fixtures, and/or systems (e.g., HVAC, fire protection, smoke evacuation, fume hoods, emergency power, etc.), prior to Final Acceptance, or Partial Occupancy if applicable.

6.20.3 The A/E, or the CxA if applicable, shall promptly notify, in writing, the Contractor of any deficiency identified during the Commissioning Process.

6.20.4 To facilitate the Commissioning Process, the Contractor shall submit 4 sets of Operation and Maintenance Manuals for dynamic and engineered systems to the A/E, and the CxA if applicable, for approval. This submission shall occur within 30 days following approval of all related Contractor submittals required by the Contract Documents.

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6.21 Action Submittals

6.21.1 Submittal Description. Shop Drawings, Product Data, Samples, and other submittals for the A/E's review and action shall be provided by the Contractor for any item required by the Contract Documents but not fully described in the Contract Documents, unless waived by the A/E, and include, but are not limited to:

6.21.1.1 construction of the various parts, method of joinery, type of materials, grade, quality and thickness of materials, alloy of materials, profiles of all sections, reinforcement, method of hanging doors or installing windows, anchorage, and type and grade of finish;

6.21.1.2 capacities, types of materials and performance charts that are pertinent to the materials, and performance charts that are pertinent to the equipment item; and

6.21.1.3 wiring diagrams, control diagrams, schematic diagrams, working and erection dimensions, arrangement and specifications.

6.21.2 Form of Submittals. The Contractor shall provide a transmittal letter, review and stamp its approval, and transmit the submittals to the A/E in accordance with a schedule established by the A/E and the Contractor.

6.21.2.1 The Contractor shall submit a minimum of 1 reproducible and 3 copies of Shop Drawings, and a minimum of 4 copies of any other submittal, except when using OAKS CI under Section 6.21.2.4.

6.21.2.2 The data shown on the Shop Drawings shall be complete with respect to quantities, dimensions, specified performance and design criteria, materials, and similar data to communicate to the A/E the materials and equipment which the Contractor proposes to provide.

6.21.2.3 Each Sample shall be identified clearly as to materials, supplier, pertinent data as catalog numbers, the intended use, and other uses as the A/E may require enabling the A/E to review the submittal.

6.21.2.4 If the Project is administered using OAKS CI, the Contractor shall submit electronic files of its submittals to the A/E, and the CxA if applicable, for review, using the "Submittals" business process.

6.21.3 Variation from Contract Documents. If the submittals show variations from the requirements of the Contract Documents, the Contractor shall specifically and clearly identify the variations in its letter of transmittal.

6.21.3.1 Variations which may affect the construction quality, cost or timeline shall be submitted by the A/E to the Contracting Authority for review, and if approved, shall be incorporated into the Work by Change Order.

6.21.3.2 The Contractor shall not be relieved of responsibility for deviations from the Contract Documents by the A/E's approval of submittals.

6.21.3.3 Submittals are not Contract Documents. In the event of conflicts between submittals and the Contract Documents, the Contract Documents take precedence and govern the Work.

6.21.4 Contractor's Submittal Review. The Contractor shall review and stamp "approved" all submittals before forwarding them to the A/E. If it is apparent to the A/E that the Contractor has not reviewed the submittals, or has conducted an incomplete review, the A/E may reject the submittals.

6.21.4.1 The Contractor shall field verify conditions as necessary and make corrections of dimensions, locations of various items, encroachments of work of Separate Contractors, or variations from the requirements of the Contract Documents.

6.21.4.2 If required by the Contract Documents or Applicable Law, the Contractor shall have Shop Drawings or other submittals prepared by Persons possessing expertise and experience in an appropriate trade or profession or by a registered architect, professional engineer, or other professional.

6.21.4.3 By approving and submitting submittals, the Contractor represents that the Contractor has determined and verified materials, field measurements, and field construction criteria related to the associated Work, or shall do so, and has checked and coordinated the information contained within the submittals with the requirements of the Work and of the Contract Documents.

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6.21.5 A/E's Submittal Review. The A/E shall review submittals for conformity with design intent within 14 days of receiving them or in accordance with the approved submittal schedule, or other period as mutually agreed by the A/E and the Contractor. The A/E's review of submittals is to determine if the items covered by the submittals will, after installation and incorporation into the Work, conform to the Contract Documents and be compatible with the design concept of the Project as a functioning whole.

6.21.5.1 The Contractor shall make corrections required by the A/E and resubmit the required number of corrected copies of submittals until approved, which resubmission shall be acted upon by the A/E within 14 days of receiving them, or other period as is mutually agreed by the A/E and the Contractor.

6.21.5.2 When resubmitting corrected submittals, the Contractor shall direct the A/E's attention to revisions made by noting revisions on the resubmittal.

6.21.5.3 The Contractor shall pay all reasonable costs of the A/E, the Owner, and the Contracting Authority for attendant delay, interference, hindrance or disruption of the Project due to excessive resubmittals without fault of the A/E, the Owner, or the Contracting Authority. Resubmittals in excess of 2 without fault of the A/E, the Owner or the Contracting Authority may be determined excessive by the Contracting Authority.

6.21.5.4 The A/E may hold Samples and other submittals used to coordinate finishes, colors, patterns, textures, or other characteristics until submittals for adjacent materials are available. The A/E shall issue a written notice to the Contractor stating that the submittal is being held, within 7 days of receiving it.

6.21.5.5 If coordinating submittals are not received within the period required for action on previously received submittals that are held in accordance with Section 6.21.5.4, review of the previously received submittals shall be delayed.

6.21.5.6 The A/E's review shall not extend to means, methods, manners, techniques, sequences, nor procedures of construction, or to safety precautions or incident programs.

6.21.5.7 The review and approval of a separate item shall not indicate approval of the assembly in which the item functions.

6.21.6 Risk of Nonpayment. The Contractor shall not commence any portion of the Work requiring Shop Drawings, Product Data, Samples, or other submittals until the submittal has been approved by the A/E. If the Contractor starts Work before the A/E's final approval of the submittal, the Contractor does so at its own risk that payment shall not be approved by the Contracting Authority or made by the Owner for the related Work.

6.21.7 Equipment Statement. Shop Drawings on equipment shall include the following written statement from the manufacturer of the equipment:

6.21.7.1 "This equipment submitted for approval shall perform as specified when installed by the Contractor in the arrangement shown on this drawing and in the Contract Documents and in conjunction with all other accessories as flues, breechings, piping, controls, and equipment not furnished by this manufacturer, but required as an accessory or supplement to this equipment, providing that the accessory or supplementary items perform as specified and are installed as shown in the Contract Documents."

1 The Contractor will be deemed to have included the above statement as required even if the associated Shop Drawing does not actually contain the statement.

6.21.7.2 This equipment statement shall not be required for Samples, Product Data, and other standard submittals that are not created specifically for this Project.

6.22 Warranty

6.22.1 The Contractor warrants to the Contracting Authority and the Owner that all materials and equipment furnished under the Contract shall be new and of good quality unless otherwise required or permitted by the Contract Documents, that the Work shall be free from defects not inherent in the quality required or permitted, and that the Work shall conform to the requirements of the Contract Documents. Work not conforming to those requirements, including Substitutions not properly approved and authorized, may be

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considered Defective Work. If required by the A/E, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

6.22.1.1 If the Contractor or a Subcontractor recommends a particular product, material, system, or item of equipment for incorporation into the Project and the Owner accepts that recommendation, the above warranty includes a warranty from the Contractor to the Owner that the recommended product, material, system, or item of equipment is fit and appropriate for the associated purpose.

6.23 Uncovering the Work

6.23.1 If the Contractor covers Work contrary to the requirements of the Contract Documents or contrary to the written request of the Contracting Authority or the A/E, the Contractor shall, if the Contracting Authority or A/E requests in writing, uncover that Work for observation, correct it if not in conformity with the Contract Documents, and recover it at the Contractor's expense and without adjustment of the Contract Times.

6.23.2 If the Contractor covers Work in accordance with the Contract Documents and not contrary to a request from the A/E or the Contracting Authority for an opportunity to observe the Work prior to covering, the Contractor shall, if the A/E requests in writing, uncover that Work.

6.23.2.1 If the uncovered Work is Defective Work, the Contractor shall pay the costs of uncovering, correcting, and recovering the Work and shall not be entitled to an adjustment of the Contract Times.

6.23.2.2 If the uncovered Work is not Defective Work and the Contractor believes that it is entitled to an adjustment of the Contract Sum or Contract Times, or both, on account of the uncovering and recovering of the Work, the Contractor may request an adjustment to the Contract by giving written notice under Section 7.3.2.

6.24 Correction of the Work

6.24.1 ~~process a~~Before Final Acceptance.

6.24.1.1 If the Contractor provides Defective Work or fails or neglects to perform the Work in accordance with the Construction Progress Schedule, the Contracting Authority or the A/E may issue a written notice to the Contractor and the Contractor's Surety directing the Contractor to correct the Defective Work or to recover schedule deficiencies. Unless otherwise specified in that written notice, the Contractor shall begin to correct the Defective Work and recover the schedule deficiencies within no more than three days after receiving the written notice ("72-Hour Notice").

6.24.2 After Final Acceptance.

6.24.2.1 In addition to the Contractor's other obligations under the Contract Documents, if during the Correction Period any of the Work is found to be Defective Work, the Contractor shall correct it promptly after receipt of written notice from the A/E, the Contracting Authority, or the Owner to do so, unless the Contracting Authority and the Owner have previously acknowledged and accepted the Defective Work in writing. The A/E, the Contracting Authority, or the Owner may send a copy of the written notice to the Contractor's Surety, but are not obligated to do so.

6.24.2.2 The 1-year period for correction of Work ("Correction Period") shall not be extended by corrective Work performed by the Contractor under this Section 6.24.2.

6.24.2.3 The Correction Period:

.1 relates only to the Contractor's specific obligation and opportunity to correct the Work during the Correction Period;

.2 does not establish a period of limitation with respect to any of the Contractor's other obligations under the Contract Documents;

.3 has no relationship to the time within which the State or Owner may seek to enforce the Contract; and

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.4 does not establish a period of limitation within respect to the commencement of litigation to establish the Contractor's liability under the Contract or otherwise.

6.24.2.4 If the Contractor fails to promptly commence and diligently pursue correction of Defective Work under Section 6.24.1 or 6.24.2 after receiving notice to do so, the Owner may correct the Defective Work without giving further notice to the Contractor or the Contractor's Surety.

6.24.2.5 Notwithstanding any other provision of the Contract to the contrary, if in the Contracting Authority's or Owner's opinion the Defective Work presents a threat of imminent harm or danger to people, property, or the environment, the Contracting Authority or Owner may order the Contractor to immediately correct Defective Work or the Owner may correct the Defective Work itself without prior notice to the Contractor or the Contractor's Surety.

6.24.3 Responsibility for Costs of Correction.

6.24.3.1 The Contractor shall pay all of the costs and damages associated with the correction of Defective Work and the recovery of schedule deficiencies. Those costs and damages may include, but are not limited to, the related fees and charges of contractors, engineers, architects, attorneys, and other professionals; the cost of correcting or replacing adjacent work; and any consequential damages. The Contracting Authority may deduct those costs and damages from payments then or thereafter due the Contractor. If payments then or thereafter due the Contractor are not sufficient to cover those amounts, the Contractor shall immediately pay the amount of the insufficiency to the Owner.

6.25 Acceptance of Defective Work

6.25.1 The Owner may accept any Defective Work instead of requiring its removal or correction, in which case the Contract Sum must be equitably reduced as described under 6.30.3.

6.25.1.1 The Owner may only accept Defective Work though a deduct Change Order which makes explicit reference to this Section 6.25.

6.25.2 None of the following will constitute (1) acceptance of Defective Work, (2) a release of the Contractor's obligation to perform the Work in accordance with the Contract, or (3) a waiver of any rights set forth in the Contract or otherwise provided by Applicable Law:

6.25.2.1 observations or inspections by the Owner, the Contracting Authority, or the A/E;

6.25.2.2 the making of any payment;

~~5.4.2~~6.25.2.3 Final Acceptance or the issuance of a Partial or Final Certification of Contract Completion ~~for the designated area listing incomplete or Defective Work under the Contract for approval of the Contracting Authority.~~;

6.25.2.4 the Owner's use or occupancy of the Work or any part of it;

6.25.2.5 any review or approval of a submittal;

6.25.2.6 any inspection, test, or approval by other Persons; or

6.25.2.7 any correction of Defective Work by the Owner.

6.26 Final Cleaning

6.26.1 Before requesting the A/E's Punch List review, the Contractor shall clean the Site, remove waste materials and rubbish attributable to the Project, and restore the property to its original condition so that upon Contract Completion, the premises are ready for occupancy by the Owner.

6.26.2 If the Contractor performs any Work after final cleaning, the Contractor shall clean the affected area as provided above so that upon Contract Completion, the premises are ready for occupancy by the Owner.

6.26.3 Final cleaning shall be done to the reasonable satisfaction of the A/E and the Contracting Authority.

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6.26.3.1 If a dispute arises among the Contractor and Separate Contractors as to responsibility for final cleaning, the CM may authorize the Contractor or a Separate Contractor, or engage a qualified cleaning company, to perform final cleaning and deduct the cost from amounts due to those contractors responsible, as the CM recommends and the Contracting Authority determines to be appropriate.

6.26.3.2 If the CM cannot determine the responsible contractor, the costs shall be shared by the contractors actively working on the Project as determined at the sole discretion of the Contracting Authority.

6.27 Punch List

6.27.1 Contractor's Punch List.

6.27.1.1 When the Contractor considers the Work, or a designated portion thereof, nearly complete the Contractor shall inspect the Work and prepare a list of Defective Work and incomplete or unacceptable Work ("Contractor's Punch List"). The Contractor shall list all items of Work not in compliance with the Contract Documents, including items the Contractor is requesting to be deferred.

.1 The Contractor shall proceed to correct all items listed on the Contractor's Punch List and certify that the incomplete items listed on the Contractor's Punch List are to its knowledge an accurate and complete list by signing said Punch List.

.2 The Contractor's failure to include an item on the Contractor's Punch List shall not alter the Contractor's responsibility to complete the Work in accordance with the Contract Documents.

.3 The Contractor shall submit the signed Contractor's Punch List to the A/E, together with a request for the A/E's Review of the Work.

6.27.1.2 If the Project is administered using OAKS CI, the Contractor shall submit the Contractor's Punch List, using the "Punch List" business process.

6.27.2 A/E's Review of the Work.

6.27.2.1 Within 3 business days of receipt of the request for the A/E's Review of the Work, the A/E, through the CM, shall notify the Contractor of acceptance or rejection of the request, stating reasons for any rejection.

.1 Within 7 days of its acceptance of the Contractor's request, the A/E in consultation with the CM shall conduct the A/E's Review to determine whether the Work, or the designated portion, is in conformity with the Contract Documents. The A/E shall notify, through the CM, the Contractor, the Contracting Authority, and the Owner of the scheduled time of the A/E's Review.

.2 Within 3 business days after the A/E's Review, the A/E shall provide to the Contractor, through the CM, a list of Defective, incomplete, or unacceptable Work ("A/E's Punch List"). The A/E shall include comments from the CM, the Contracting Authority and the Owner in the A/E's Punch List.

.3 The A/E's failure to include an item on the A/E's Punch List shall not alter the Contractor's responsibility to complete the Work in accordance with the Contract Documents.

.4 If the A/E accepts the request and subsequently determines that the Work is not in conformity with the Contract Documents, the A/E and/or the CM may request compensation for expenses related to excessive Punch List activities. The Contracting Authority may deduct that additional compensation to the A/E ~~From~~and/or the CM from payments then or thereafter due the Contractor. If payments then or thereafter due the Contractor are not sufficient to cover those amounts, the Contractor shall immediately pay the amount of the insufficiency to the Owner.

6.27.3 Completion of Punch List Items.

6.27.3.1 Within 30 days after receipt of the notice required by Section 6.27.2.1.2 and before the date of Final Contract Completion, the Contractor shall complete all items on the A/E's Punch List. After completing all items on the A/E's Punch List, the Contractor shall provide a written request for Final Inspection of the Work to the A/E, through the CM.

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.1 If Work on the A/E's Punch List cannot be timely completed, the Contractor shall justify in writing to the reasonable satisfaction of the A/E and the CM the reasons the items cannot be completed, and the Contractor may propose, for the A/E's and the CM's approval, a time when the Contractor shall complete those items.

.2 Within 3 business days of receipt of the Contractor's notice that all Punch List items have been completed, the A/E and the CM shall complete a Final Inspection of the Work for compliance with the Contract Documents.

.3 If multiple inspections of items on the A/E's Punch List are required due to the Contractor's failure to properly and timely complete them, the Contractor shall pay any additional costs incurred by the A/E, the CM, the Owner, and the Contracting Authority resulting from any attendant delay. The Contracting Authority may deduct those additional costs from payments then or thereafter due the Contractor. If payments then or thereafter due the Contractor are not sufficient to cover those amounts, the Contractor shall immediately pay the amount of the insufficiency to the Owner.

6.27.3.2 If the Project is administered using OAKS CI, the Contractor shall receive the A/E's Punch List and submit its written request for Final Inspection of the Work, using the "Punch List" business process.

6.28 Project Document Maintenance and Submittal

6.28.1 During Construction.

6.28.1.1 The Contractor shall maintain in good order at a secure location on the Site:

.1 a complete copy of all Contract Documents; Shop Drawings, Product Data, Samples and similar required submittals; manufacturer operating and maintenance instructions; certificates; warranties; RFIs and responses thereto; and other Project-related documents, all marked currently and accurately to record field changes and selections made during construction and to show actual installation where installation varies from Work as originally shown, including the exact location and depth of underground utility lines.

6.28.1.2 The CM shall maintain in good order at a secure location on the Site:

.1 a set of Drawings and Specifications, approved by the Ohio Department of Commerce, Division of Industrial Compliance, or its authorized representative, and the records required by Section 6.5.9.

6.28.1.3 Before submitting each Contractor Payment Request, the Contractor shall record all changes on the Contract Documents, neatly in a contrasting color, noting new information not shown on the original Contract Documents. Failure to record all changes may cause payment to be withheld or delayed by the Contracting Authority.

6.28.1.4 The Contractor shall keep a record of changes made to the Specifications, noting particularly any approved variation from manufacturer's installation instructions and recommendations.

6.28.1.5 If the Contractor uses Shop Drawings to indicate as-built conditions, the Contractor shall cross-reference the Shop Drawing sheet numbers to the corresponding sheet numbers on the Contract Documents. The Contractor shall note related numbers where applicable.

6.28.2 The Contractor shall at all times permit access to the documents described in this Section 6.28.1 to authorized representatives of the State, local authorities having jurisdiction, the Contracting Authority, the Owner, and the A/E.

6.28.3 Before Final Acceptance.

6.28.3.1 The Contractor, as a condition precedent to execution of the Certification of Contract Completion ~~by the Contracting Authority, the Contractor shall be relieved~~, release of ~~the obligation to maintain the occupied portion of the Work, but shall remain obligated to complete~~retained funds, and ~~correct the~~

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~~Work~~final payment, shall organize the As-Built Documents into manageable sets, bind the sets with durable paper cover sheets, and deliver the As-Built Documents to the A/E.

6.28.3.2 The Contractor's As-Built Documents submission shall include, but is not limited to:

.1 Certificate of Occupancy;

.2 inspection certificates for pressure piping, elevator, boiler, electrical, plumbing or piping purification, etc.;

.3 Letter of Approval from the local fire authority or State Fire Marshal for the fire suppression system;

.4 Operation and Maintenance Manuals, organized into suitable sets of manageable size, indexed data bound in individual binders, with pocket folders for folded sheet information and appropriate identification marked on the front and the spine of each binder;

.5 ~~to carry the insurance required by the~~neatly and accurately marked sets of As-Built Documents, and other Contract Documents ~~during performance of~~ reflecting the actual construction of the Project;

~~5.4.3~~.6 detailed Drawings reflecting the exact location of any ~~such Work.~~concealed utilities, mechanical or electrical systems, and components;

.7 ~~The~~ assignment to the Owner of all warranties and guarantees, including the most-recent address and telephone number of any Subcontractors or manufacturers;

.8 an affidavit to certify that all Subcontractors have been paid in full for all Work performed or materials furnished for the Project;

.9 final certified payroll reports; and

.10 an affidavit to certify that the Contractor and each of its Subcontractors, regardless of tier, have complied with all requirements of ORC Chapter 4115.

6.28.3.3 By submitting the As-Built Documents to the A/E, the Contractor certifies that the As-Built Documents are complete, correct, and accurate.

6.28.3.4 If the Project is administered using OAKS CI, the Contractor shall document submission of its As-Built Documents to the A/E, using the "Transmittals" business process.

6.28.4 Record Documents.

6.28.4.1 The A/E shall revise the original Contract Documents and related electronic files with the information contained on the As-Built Documents. The A/E shall label the revised original Contract Documents and related electronic files as "Record Documents" and reflect the date of the A/E's incorporation of the As-Built Documents.

6.28.4.2 The Owner may thereafter use the Record Documents for any purpose relating to the Project including, but not limited to, additions to or completion of the Project.

6.29 Demonstration and Training, Operating Appurtenances

6.29.1 The Contractor, as a condition precedent to execution of the Certification of Contract Completion, release of retained funds, and final payment, shall perform demonstration and training of the Owner's maintenance personnel as specified in the Contract Documents.

6.29.2 The Contractor, as a condition precedent to execution of the Certification of Contract Completion, release of retained funds, and final payment, shall organize and submit operating appurtenances and loose items related to the operation and maintenance of the completed Project to the Owner, including, but not limited to:

6.29.2.1 keys to door and window hardware, panels, and other devices not directly provided to the Owner from the manufacturer;

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6.29.2.2 operating handles, levers, cranks, specialized wrenches or drivers, remote controls, and similar items; and

6.29.2.3 extra materials (e.g., attic stock).

6.29.3 If the Project is administered using OAKS CI, the Contractor shall document submission of its operating appurtenances to the Owner, using the "Transmittals" business process.

6.30 Certification of Contract Completion

6.30.1 Partial Completion.

6.30.1.1 When items of Work cannot be completed until a subsequent date, the A/E may recommend that these items be deferred and the Contracting Authority may release payment to the Contractor, as determined in the sole discretion of the Contracting Authority. The A/E shall list deferred items on a Partial Certification of Contract Completion with the dates the items are to be completed.

6.30.1.2 The date that the Contracting Authority executes the Partial Certification of Contract Completion is the date that the Correction Period commences, and retained funds may be released for that portion of the Work. Partial Acceptance is subject to Section 6.25.

6.30.2 Final Acceptance.

6.30.2.1 When all items on the A/E's Punch List have been completed to the satisfaction of the A/E, all requirements of the Contract Documents have been completed, and the provisions of Sections 6.25 through 6.29 have been fulfilled, the A/E shall prepare and recommend execution of a Final Certification of Contract Completion.

6.30.2.2 The date that the Contracting Authority executes the Final Certification of Contract Completion is the date that the Work of the Contract is accepted ("Final Acceptance"). If a Partial Certification of Contract Completion was not executed for the Contract, the date that the Contracting Authority executes the Final Certification of Contract Completion is the date that the Correction Period commences, and retained funds may be released. Final Acceptance is subject to Section 6.25.

6.30.2.3 If the Contractor escrowed its Bid Information, the Contracting Authority shall instruct the bonded storage facility to return the sealed container directly to the Contractor.

6.30.3 ~~'s Partial Occupancy does not constitute~~ Notwithstanding any other provision of the Contract Documents, Partial Completion or Final Acceptance pursuant to this Section 6.30 constitutes neither acceptance of any Defective Work, nor a waiver of any rights set forth in the Contract Documents or otherwise provided by Applicable Law.

ARTICLE 7 - CONTRACT MODIFICATIONS

7.1 General

7.1.1 The Contracting Authority may order changes in the Work without invalidating the Contract. Subject to the limitations stated in this Article 7 and elsewhere in the Contract Documents, a change in the Work may be accomplished by a Change Order, Change Directive, or an order for a minor change in the Work.

7.1.1.1 The Contractor shall proportionately increase the amount of the Bond whenever the Contract Sum is increased.

7.1.1.2 If notice of any change affecting the Contract is required by the provision of any Bond, the giving of the notice is the ~~does it relieve the Contractor of liability for any express or implied warranties or~~contractor's responsibility, and the amount of each applicable Bond shall be adjusted accordingly.

7.1.2 The Contractor shall not proceed with any change in the Work without the Contracting Authority's prior written authorization except as provided under Sections 1.10 and 7.5.

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7.1.2.1 Except as provided in Section 1.10, the Contractor's failure to obtain prior written authorization for a change in the Work constitutes a waiver by the Contractor of an adjustment to the Contract Sum or Contract Times, or both, for the related Work.

7.1.3 The Contractor shall perform all changes in the Work under the applicable provisions of the Contract Documents, and the Contractor shall proceed promptly with the change unless otherwise provided in the Change Order, Change Directive, or order for a minor change in the Work

7.1.4 Paperwork Consolidation.

7.1.4.1 Related Contract modifications, with the same or similar justification (e.g., Owner Request or field resolution), may be consolidated into the same change-related document.

7.1.4.2 Add and deduct Contract modifications, with the same or similar justification, may be included on the same Change Order.

7.1.4.3 Contract modifications resulting from errors or omissions shall not be combined with other modifications for which the A/E will receive a fee.

7.1.5 Change Order Numbering.

7.1.5.1 The A/E shall assign a number to each Modification, which shall uniquely identify it.

7.1.5.2 The A/E shall not duplicate or reuse any number throughout the Project or reuse assigned numbers for Proposal Requests that are initiated but cancelled in process.

7.1.5.3 The number for each Change Order shall be coordinated with any associated Proposal Request or Change Directive.

7.1.6 Change Order Log.

7.1.6.1 The CM shall create and maintain a Change Order Log for the Project, which shall contain the following minimum information:

.1 number of the Modification;

.2 a brief description of the Modification;

.3 cost of the Modification;

.4 schedule impact of the Modification; and

.5 dates sent to, and received from, the parties.

7.1.7 Reconciliation of Unit Price Items.

7.1.7.1 The Contracting Authority may increase, decrease, or delete entirely the scheduled quantities of Work to be performed and materials to be furnished by Change Order.

7.1.7.2 The A/E shall issue a Change Order to reconcile the difference between the scheduled and actual quantities of Work performed and materials furnished.

7.1.7.3 If the actual quantity of a Unit Price item differs from the scheduled quantity by 20 percent or more, so that application of the Unit Price to the quantities of Work proposed would create an undue hardship on either the Owner or the Contractor, the A/E shall issue a Proposal Request and subsequent Change Order to adjust the Unit Price.

7.1.7.4 If the actual quantity of a Unit Price item exceeds the scheduled quantity by 20 percent or more, the Contractor shall immediately notify the A/E, who shall issue a Change Directive and subsequent Change Order to authorize an adjustment in the scheduled quantity.

7.2 Change Order Procedure

7.2.1 A Change Order is a written instrument prepared by the A/E and executed by the Contracting Authority and the Contractor, stating their agreement upon all of the following:

7.2.1.1 a change in the Work;

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7.2.1.2 the amount of the adjustment of the Contract Sum, if any; and

7.2.1.3 the extent of the adjustment of the Contract Times, if any.

7.2.2 Except with the Contracting Authority's written consent as explicitly provided under Section 7.4.8, the Contractor is not entitled to reserve any rights or take other similar action with respect to a Change Order if the effect or intent of the reservation or action would be to accommodate a further adjustment of the Contract Sum or Contract Times, or both, after the Contractor signs the Change Order. By signing a Change Order, the Contractor irrevocably certifies that the elements of a Change Order described in Section 7.2.1 are completely satisfied, and waives all rights, if any, to seek further adjustment of the Contract Sum or Contract Times, or both, at a later date with respect to the associated change in the Work including without limitation on account of the "cumulative impact" of the associated change in the Work in combination with one or more other changes in the Work.

7.2.3 The A/E shall prepare each Change Order form, attach the supporting documentation, and issue the Change Order to the Contractor for signature.

7.2.4 If the Contractor is in agreement with the Change Order under Section 7.2.1, the Contractor shall sign and forward the Change Order to the CM within 3 days of receiving it.

7.2.4.1 If the Project is administered using OAKS CI, the Contractor shall indicate its agreement with the Change Order using the "Change Order" business process.

7.2.5 If the CM is in agreement with the Change Order, the CM shall sign and return the Change Order to the A/E.

7.2.6 When the A/E receives the Change Order signed by the CM and the Contractor, the A/E shall recommend approval by signing the form and transmitting the Change Order and the revised Change Order Log to the Owner.

7.2.7 When the Owner receives the Change Order, the Owner shall sign the form accepting the Change Order, attach certification of funding, and transmit the Change Order to the Contracting Authority; or, if the Owner does not accept the Change Order, the Owner shall reject it and return it to the A/E.

7.2.8 When the Contracting Authority receives the Change Order, the Contracting Authority shall sign the form approving the Change Order, and transmit the fully executed Change Order to all signers; or, if the Contracting Authority does not accept the Change Order, the Contracting Authority shall reject it and return it to the A/E.

7.2.9 When the Change Order is signed by the Contractor, the A/E, the Owner, and the Contracting Authority, the fully executed Change Order modifies the Contract Documents and authorizes and directs the Contractor to proceed, and the Contractor shall promptly proceed with the associated change in the Work.

7.3 Initiation of Change Orders

7.3.1 Proposal Request.

7.3.1.1 The A/E shall prepare and issue a Proposal Request to the Contractor to obtain the Contractor's Proposal for the adjustment of the Contract Sum or the Contract Times, or both, associated with a contemplated Modification.

.1 In any Proposal for an adjustment of the Contract Sum, the Contractor shall specifically identify the items set forth in Section 7.7.

.2 In any Proposal for an adjustment of the Contract Times, the Contractor shall specifically identify the items set forth in Section 7.8.

.3 The Contractor's cost of preparing and providing Proposals is included in the Contract Sum.

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7.3.1.2 The Contractor shall respond with a Proposal to the CM, the A/E, and the Contracting Authority within 14 days after receiving the Proposal Request. The allowable time for the Contractor's response may be extended by written agreement of the Contractor, the CM, and the A/E.

7.3.1.3 The Contractor shall hold the Proposal valid and open for acceptance for at least 45 days. The acceptance period may be adjusted by mutual consent of the Contractor and the Contracting Authority. The time limits described under this Section 7.3.1.3 apply only to Proposals submitted in response to a Proposal Request.

7.3.1.4 A Proposal may be accepted by the Contracting Authority only through a Change Order. A Proposal Request does not authorize the Contractor to proceed with a change in the Work.

7.3.1.5 If the Contractor does not timely submit a Proposal within the time required in Section 7.3.1.3, the Contractor waives its right to an adjustment to the Contract Sum or Contract Times, or both, associated with the contemplated change in the Work.

7.3.1.6 If the Project is administered using OAKS CI, the Contractor shall respond to a Proposal Request issued by the A/E with its Proposal using the "Change Order" business process.

7.3.2 Request for Change Order.

7.3.2.1 The Contractor may initiate a change in the Work by submitting written notice to the CM accompanied by a Proposal meeting the requirements of Section 7.3.1.

7.3.2.2 If the Project is administered using OAKS CI, the Contractor shall initiate its Request for Change Order using the "Change Order" business process with the "Request for Change Order" workflow.

7.4 Change Directives

7.4.1 A Change Directive is a written order prepared by the A/E and executed by the Contracting Authority directing a change in the Work and may, if necessary:

7.4.1.1 state a proposed basis for adjustment, if any, in the Contract Sum or Contract Times, or both; or

7.4.1.2 limit the scope of the change in the Work on a time and materials basis, not to exceed a fixed adjustment of the Contract Sum.

7.4.2 If a change in the Work must start immediately to avoid an imminent impact to the schedule of the Project, the A/E may prepare a Change Directive for the CM's, Contracting Authority's, and Owner's signatures pursuant to Section 7.4.1, authorizing the Contractor to proceed.

7.4.3 A Change Directive shall be used to direct a change in the Work in the absence of total agreement on the terms of a Change Order.

7.4.3.1 For the purposes of clarity, the Contract refers to a Change Directive as if it is only to be used in the absence of total agreement on the terms of a Change Order concerning the associated change of the Work. A Change Directive may also be used in the absence of agreement as to whether the subject of the Change Directive actually constitutes a change in the Work; such as in the situation described under Section 7.5.3.

7.4.4 Upon receipt of a Change Directive, the Contractor shall promptly proceed with the change in the Work involved.

7.4.5 The Contractor may sign the Change Directive to accept the proposed basis for adjustment, if any, of the Contract Sum or Contract Times, or both. Thereafter, the A/E shall prepare and the A/E, Contracting Authority, Owner, and Contractor shall promptly execute an associated Change Order as described under Section 7.2.

7.4.6 Within 14 days after receiving the Change Directive, the Contractor shall respond with a Proposal meeting the requirements of Section 7.3.1 to the CM, A/E, and the Contracting Authority for adjustment of the Contract Sum or Contract Times, or both, on account of the change, unless the Change Directive is performed

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on a time and materials basis under Section 7.4.1.2. If the Change Directive is performed on a time and materials basis, the Contractor shall submit its Proposal within 7 days after completing the Work.

7.4.6.1 The Proposal for the adjustment of the Contract Sum, if any, shall include: (1) written documentation as described under Section 7.7; and (2) a written statement from the Contractor that the proposed adjustment is the entire adjustment in the Contract Sum associated with the change.

7.4.6.2 The Proposal for the change in the Contract Times, if any, shall include: (1) written documentation as described under Section 7.8; and (2) a written statement from the Contractor that the proposed adjustment is the entire adjustment of the Contract Times associated with the change.

7.4.7 If the Contractor does not respond to a Change Directive as required under Section 7.4.5, the Contracting Authority shall determine the adjustments, if any, of the Contract Sum and Contract Times. If the Contractor does not agree with the Contracting Authority's determination, the Contractor shall initiate a Claim under Article 8 within 10 days of the date on which the Contracting Authority issues its determination, and the Contractor's failure to do so shall constitute an irrevocable waiver of the Claim.

7.4.8 Pending final determination of the total adjustment of the Contract Times on account of a Change Directive, the period of time not in dispute for that change in the Work may be included in the Construction Progress Schedule accompanied by a Change Order indicating the parties' agreement with part or all of the time adjustment.

7.4.9 If the Contracting Authority, Owner, and Contractor agree on the adjustments of the Contract Sum and Contract Times associated with a Change Directive, the A/E shall prepare an appropriate Change Order within 7 days after receiving the Contractor's Proposal. The A/E, Contracting Authority, Owner, and Contractor shall promptly sign the Change Order as described under Section 7.2.

7.4.10 If the Contracting Authority, Owner, and Contractor do not agree on the adjustments of the Contract Sum and Contract Times associated with a Change Directive within 60 days after the Change Directive is issued, the Contracting Authority shall determine the adjustments, if any, of the Contract Sum and Contract Times. If the Contractor does not agree with the Contracting Authority's determination, the Contractor shall initiate a Claim under Article 8 within 10 days of the date on which the Contracting Authority issues its determination, and the Contractor's failure to do so shall constitute an irrevocable waiver of the Claim.

7.4.11 If the Project is administered using OAKS CI, the Contractor shall respond to a Change Directive issued by the A/E with its Proposal using the "Change Order" business process.

7.5 Minor Changes in the Work

7.5.1 The A/E may order minor changes in the Work not involving adjustment of the Contract Sum or extension of the Contract Times and not inconsistent with the intent of the Contract Documents. Those changes shall be effected by written order issued to the Contractor.

7.5.2 The Contractor shall promptly carry out each order for a minor change in the Work if the Contractor agrees that the order does not involve adjustment of the Contract Sum or Contract Times, or both.

7.5.3 If the Contractor reasonably believes that it would be entitled to an adjustment of the Contract Sum or Contract Times, or both, on account of an order for a minor change in the Work, the Contractor, within 3 business days after receiving the order, shall give the Contracting Authority and the A/E written notice of the Contractor's position, and not proceed with the subject Work without first receiving a Change Directive or Change Order related to it.

7.5.4 The Contractor waives its right to an adjustment of the Contract Sum or Contract Times on account of an order for a minor change in the Work by:

7.5.4.1 starting the Work which is the subject of the order for a minor change in the Work; or

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7.5.4.2 failing to give the notice described under Section 7.5.3 within 3 business days after receiving the order for a minor change in the Work.

7.5.5 If the Project is administered using OAKS CI, the order for a minor change in the Work shall be documented through the "Action Items" business process.

7.6 Differing Site Conditions

7.6.1 "If the Contractor encounters a Differing Site Condition, the Contractor shall stop Work on that Differing Site Condition and give immediate written notice of the condition to the A/E and the Contracting Authority.

7.6.1.1 The Contractor's failure to give notice of the Differing Site Condition as required under this Section 7.6.1 shall constitute an irrevocable waiver of any associated Claim.

7.6.1.2 The written notice of a Differing Site Condition under this Section 7.6.1 shall be required before the notice of Claim under Article 8.

7.6.2 Promptly after receiving notice from the Contractor under Section 7.6.1, the A/E shall investigate to determine whether the Contractor has encountered a Differing Site Condition. The A/E shall give written notice of its determination to the Contracting Authority and the Contractor within 10 days after completing the investigation.

7.6.2.1 If the A/E determines that the Contractor has encountered a Differing Site Condition, the A/E shall process an appropriate Change Order.

7.6.2.2 If the A/E determines that the Contractor has not encountered a Differing Site Condition and the Contractor does not agree with that determination, the Contractor must initiate a Claim under Article 8 within 10 days of the date on which the A/E issues its determination.

7.7 Change Order Cost or Credit Determination

7.7.1 General.

7.7.1.1 The maximum cost or credit resulting from a change in the Work shall be determined as described below.

.1 Proposals shall include the information required by Section 7.7.1.4.

.2 A Unit Price Proposal shall only be valid when incorporated into the Contract by Change Order.

.3 The maximum cost or credit includes all compensation for impact costs. Additional costs for impacts shall not be allowed.

7.7.1.2 The Contractor shall not assign any portion of the Work to another Person whereby the Contractor would benefit directly or indirectly from the double application of charges for overhead or profit.

7.7.1.3 The Contracting Authority may require notarized invoices for material costs and may audit the records of the Contractor and Subcontractors.

7.7.1.4 For each change in the Work, the Contractor shall furnish a detailed Proposal itemized on the Change Order Estimate Summary form published by the Department through which the Contractor shall document the related changes in the Contract Sum as described under Section 7.7.2. Any Subcontractor pricing shall also be itemized on the Change Order Estimate Summary form.

7.7.1.5 Section 7.7.2 establishes the exclusive and maximum amount that the Owner shall pay for any Change Order, including, but not limited to, all amounts for interference with, delay, hindrance, disruption, or impact of the Work ("Pricing Criteria"). These Pricing Criteria also govern the value of deduct Change Orders and the Contractor's entitlement to additional compensation or damages through the Claims and dispute resolution processes on account of changes in the Work. In order to expedite the review and approval process, Proposals shall be prepared in the categories and order listed in Section 7.7.2.

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7.7.2 Pricing Criteria.

7.7.2.1 Contractor Personnel Costs: The Contractor's on-Site management (including supervision and administrative personnel) not subject to prevailing wage under to ORC Chapter 4115. These costs will be calculated on an hourly basis according to the rates acceptable to the Contracting Authority.

7.7.2.2 Labor: Field labor directly involved in the Work based upon the actual rate of pay to the worker according to the relevant classification of labor as established in the applicable prevailing wage determination for the Project locality, as determined by the Ohio Department of Commerce, Wage and Hour Bureau.

.1 The cost for supervision above the level of working foremen (such as general foremen, superintendent, project manager, etc.) is included in the adjustment under Section 7.7.2.1 for the Contractor and under Section 7.7.2.10 for Subcontractors.

7.7.2.3 Fringes: Fringe benefit credit for labor provided under Section 7.7.2.2 is only allowable for prevailing wage fringe benefits pursuant to ORC Chapter 4115, including, but not limited to, Health and Welfare, vacation, apprenticeship training, and certain types of pension plans. The parties shall defer to the Ohio Department of Commerce's policy on which benefits are granted fringe benefit credit. Each fringe benefit for which credit is requested shall be calculated on an hourly basis and listed as a separate line item. The Contractor shall submit documentation supporting the calculation of the amounts for each fringe benefit for each worker classification, including labor provided by Subcontractors.

7.7.2.4 Allowable Payroll Expenses: Allowable payroll expenses for labor provided under Section 7.7.2.2 including payroll taxes as well as other benefits that are required by Applicable Law, such as federal and state Unemployment and Workers' Compensation shall each be a separate line item and shall not be credited for compliance with ORC Chapter 4115.

7.7.2.5 Equipment Rentals: All charges for certain non-owned heavy or specialized equipment at up to 100 percent of the documented rental cost. No rental charges shall be allowed for hand tools, minor equipment, simple scaffolds, etc. Downtime due to repairs, maintenance and weather delays shall not be allowed. Contractor shall submit copies of actual paid invoices to substantiate rental costs.

7.7.2.6 Owned Equipment: All charges for certain heavy or specialized equipment owned by the Contractor or the Subcontractor performing the Work at up to 100 percent of the cost listed by the current edition of the Associated Equipment Dealers *Green Book* rental rates and specifications for construction equipment. No recovery shall be allowed for hand tools, minor equipment, simple scaffolds, etc. The longest period of time that the equipment is to be required for the Work shall be the basis for the pricing. Downtime due to repairs, maintenance, and weather delays shall not be allowed.

7.7.2.7 Trucking: A reasonable delivery charge or per-mile trucking charge for delivery of required materials or equipment. Charges for use of a pick-up truck shall not be allowed.

7.7.2.8 Materials: The actual cost (including all discounts, rebates or related credits) of all materials incorporated into the changed Work. Documentation shall show costs, quantities, or Unit Prices of all items, as appropriate.

.1 The cost or credit for reusable materials (e.g., concrete form lumber, shoring, or temporary enclosures) shall be limited to 33 percent of the material cost for each use.

7.7.2.9 Contractor's General Conditions Costs: The Contractor's General Conditions Costs to the extent attributable to an associated change in the Contract Time for achievement of Final Acceptance resulting from the change in the Work.

.1 In no event shall the Contract Sum adjustment per day of Contract Time adjustment exceed an amount equal to (1) the sum of the General Conditions Costs line items in the Contractor's Schedule of Values approved by the Contracting Authority, (2) divided by the total number of days of the original Contract Time for achievement of Final Acceptance.

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.2 The Contractor shall (1) exclude the Bond premium from the Schedule of Values for the purposes of the calculation under Section 7.7.2.9.1, and (2) include the actual adjustment of the Bond premium attributable to an associated change in the Contract Sum.

.3 If the Contractor purchases the Builder's Risk insurance for the Project, the Contractor shall (1) exclude the Builder's Risk insurance premium from the Schedule of Values for the purposes of the calculation under Section 7.7.2.9.1, and (2) include the actual adjustment of the Builder's Risk insurance premium attributable to an associated change in the Contract Sum.

7.7.2.10 Subcontractor Overhead and Profit: Adjustment of the Contract Sum on account of a change in Subcontractor-performed Work shall include the Subcontractor's aggregate overhead and profit allowance equal to 15 percent of the sum of the Subcontractor's costs described under Sections 7.7.2.2 through 7.7.2.8 that are associated with that changed Work.

.1 The allowance applies to each Subcontractor tier.

.2 The allowance covers: the costs required to schedule and coordinate the Work, telephone, telephone charges, facsimile, telegrams, postage, photos, photocopying, hand tools, simple scaffolds (one level high), tool breakage, tool repairs, tool replacement, tool blades, tool bits, home office estimating and expediting, home office clerical and accounting support, home office labor (management, supervision, engineering), all other home office expense, legal services, travel, and parking expenses.

.3 An exception is allowed for shop or engineering labor on items in Section 7.7.2.10.2, which shall not be subject to Prevailing Wage rates for steel fabricators, sheet metal fabricators, and sprinkler system fabricators performing work off-site. Recovery for these matters shall be allowed on an hourly basis under items in Sections 7.7.2.2, 7.7.2.3, and 7.7.2.4 of these Pricing Criteria.

.4 An exception is allowed for field supervision labor on items in Section 7.7.2.10.2, for those portions of the Change Order Work that will be performed, or was performed, at times when the superintendent is not required to be on site under Section 1.1.1, including but not limited to overtime hours due to acceleration and extensions of the Contract Times. Recovery for this matter will be allowed on an hourly basis under items in Sections 7.7.2.2, 7.7.2.3, and 7.7.2.4 of these Pricing Criteria.

7.7.2.11 Contractor's Fee: Adjustment of the Contract Sum on account of a change in the Work shall include an allowance for the Contractor's Fee equal to 10 percent of the sum of the costs described under Section 7.7.2.1 through 7.7.2.10 that are associated with that changed Work.

7.7.2.12 Miscellaneous: Adjustment of the Contract Sum on account of a change in Work may include the following costs with no allowance for Contractor's Fee under Section 7.7.2.11 or Subcontractor overhead and profit under Section 7.7.2.10.

.1 The premium portion only for approved overtime (labor and fringes). The straight time portion is included in items in Sections 7.7.2.2, 7.7.2.3, and 7.7.2.4.

7.7.2.13 State sales tax shall be allowed on items as defined by Section 12.7.

7.7.3 Costs that shall not be reimbursed for Change Order Work include the following:

7.7.3.1 Voluntary employee deductions including, but not limited to, deductions for charitable donations or U.S. savings bonds.

7.7.3.2 Employee profit sharing.

7.8 Time Extension

7.8.1 Every adjustment of the Contract Times associated with any change in the Work shall be determined as provided in this Section 7.8, which establishes the Contractor's maximum entitlement for any change in the Work, including without limitation all adjustments for interference, delay, hindrance, or disruption of the Work. This Section 7.8 also governs time adjustments for deduct Change Orders and the Contractor's

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entitlement to additional time through the claims and dispute resolution processes on account of changes in the Work.

7.8.2 The Contractor shall substantiate all changes in the Contract Times with:

7.8.2.1 a written description of the nature of the interference, disruption, hindrance or delay;

7.8.2.2 identification of Persons and events responsible for the interference, disruption, hindrance or delay;

7.8.2.3 date, or anticipated date, of commencement of the interference, disruption, hindrance or delay;

7.8.2.4 identification of activities by schedule activity number and name on the Construction Progress Schedule, which may be affected by the interference, disruption, hindrance or delay, or new activities created by the interference, disruption, hindrance or delay and the relationship with existing activities;

7.8.2.5 anticipated duration of the interference, disruption, hindrance or delay and of any remobilization period;

7.8.2.6 specific number of days of extension requested and specific number of days for remobilization requested;

7.8.2.7 recommended action to avoid or minimize any future interference, disruption, hindrance or delay; and

7.8.2.8 a detailed written proposal as described under Section 7.7 for an increase in the Contract Sum which would fully compensate the Contractor for all costs of acceleration of the Work needed to completely overcome the associated delay, if any.

7.8.3 A Change Order may authorize extension of the Contract Times for specific elements, while maintaining Milestone dates for unaffected elements. Such a Change Order may also authorize an appropriate adjustment to Liquidated Damages.

7.8.4 Critical Path. Time extensions shall depend upon the extent to which the Work on the critical path of the Construction Progress Schedule is affected, if applicable.

7.8.4.1 A Change Order granting a time extension may provide that the Contract Times shall be extended for only those specific elements so interfered with, disrupted, hindered, or delayed and related remobilization and that remaining Milestone dates shall not be altered and may further provide for adjustment of Liquidated Damages.

7.9 Examination and Audit of Contractor's Records

7.9.1 The Contracting Authority and the Owner may examine all books, records, documents and other data of the Contractor and of all Subcontractors related to the bidding, pricing, or performance of the Work for the purpose of evaluating any Proposal or Claim.

7.9.2 The above referenced materials shall be made available at the office of the Contractor or Subcontractor, as applicable, at all reasonable times for inspection, audit, and reproduction until the expiration of 6 years after the date of Final Acceptance of the Project.

7.9.2.1 The Contractor shall maintain, and require all Subcontractors to maintain, complete and accurate business records at its principal place of business. If the principal place of business is greater than 50 miles from the Site, the Contractor shall timely make records available, and shall require its Subcontractors to timely make records available, at the office of the Contracting Authority or the Owner upon request for the records.

7.9.3 To the extent that the Contractor or Subcontractor, as applicable, informs the Contracting Authority or the Owner in writing that any documents provided to the Contracting Authority or the Owner are trade secrets, the Contracting Authority or the Owner shall treat these documents, to the extent permitted by law, as trade secrets of the Contractor or Subcontractor, as applicable.

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7.9.3.1 If a dispute arises with any other Person about whether that Person should be given access to the documents, the Contractor or Subcontractor as applicable, shall indemnify the Contracting Authority and the Owner against all costs, expenses, and damages, including, but not limited to, attorney fees, incurred or paid by reason of that dispute.

7.9.4 The right of inspection, audit, and reproduction extends to all documents necessary to permit adequate evaluation of the cost of pricing data submitted along with the computations and projections used therein.

7.9.5 If the Contract has been terminated, in whole or in part, the records relating to the Work terminated shall be made available to the Contracting Authority or Owner for a period of 6 years from the date of any applicable final settlement or payment, as applicable.

7.9.6 Records that relate to disputes, litigation, or settlement of Claims arising out of the performance of the Work shall be made available until the dispute, litigation or Claims have been finally decided or settled.

ARTICLE 8 - DISPUTE RESOLUTION

8.1 Initiation of a Claim

8.1.1 Every Claim shall accrue upon the date of occurrence of the event giving rise to the Claim.

8.1.2 Except as provided under Section 1.10, the Contractor shall initiate every Claim by giving written notice of the Claim to the A/E and the Contracting Authority within 10 days after occurrence of the event giving rise to the Claim, with the following exceptions:

8.1.2.1 The 10-day time limit on initiating a Claim arising from a determination of the Contracting Authority concerning a Change Directive begins to run on the date on which the Contracting Authority issues its determination under Section 7.4.7 or 7.4.10, as applicable.

8.1.2.2 The 10-day time limit on initiating a Claim arising from the response of the A/E to a Request for Interpretation begins to run on the date on which the A/E issues the A/E's response to the Request for Interpretation.

8.1.2.3 The 10-day time limit on initiating a Claim arising from the A/E's determination concerning a Differing Site Condition begins to run on the date on which the A/E issues the A/E's determination under Section 7.6.

8.1.3 The Contractor's written notice of a Claim shall provide the following information to permit timely and appropriate evaluation of the Claim, determination of responsibility, and opportunity for mitigation:

8.1.3.1 nature and anticipated amount of the impact, including all costs for any interference, disruption, hindrance, or delay, which shall be calculated in accordance with Section 7.7 and be a fair and reasonably accurate assessment of the damages suffered or anticipated by the Contractor;

8.1.3.2 identification of the circumstances responsible for causing the impact, including, but not limited to, the date or anticipated date, of the commencement of any interference, disruption, hindrance, delay;

8.1.3.3 identification of activities on the Construction Progress Schedule which will be affected by the impact or new activities which may be created and the relationship with existing activities;

8.1.3.4 anticipated impacts and anticipated duration of any interference, disruption, hindrance, delay, or impact, and any remobilization period; and

8.1.3.5 recommended action to avoid or minimize any interference, disruption, hindrance, delay, or impact.

8.1.4 The Contractor's failure to initiate a Claim as and when required under this Section 8.1 shall constitute the Contractor's irrevocable waiver of the Claim.

8.1.5 The A/E, in consultation with the Contracting Authority, shall respond to the written notice of the Claim within a reasonable time of receipt, but not to exceed 10 days.

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8.2 Substantiation of Claims

8.2.1 Within 30 days after the initiation of a Claim, the Contractor shall submit 4 copies of all information and statements required to substantiate a Claim as provided in this Article 8 and all other information which the Contractor believes substantiates the Claim. The Contractor shall file the 4 copies by delivery of 1 copy to the A/E, 1 copy to the Owner, and 2 copies to the Contracting Authority.

8.2.2 The Contractor shall substantiate all of its Claims by providing the following minimum information:

8.2.2.1 a narrative of the circumstances, which gave rise to the Claim, including, without limitation, the start date of the event or events and the actual, or anticipated, finish date;

8.2.2.2 detailed identification of the Work (e.g., activity codes from the Construction Progress Schedule) affected by the event giving rise to the Claim;

8.2.2.3 copies of the CM's daily log (Section 6.5.9) for each day of impact;

8.2.2.4 copies of relevant correspondence and other information regarding or supporting Contractor entitlement;

8.2.2.5 copies of the Contractor's most recent income statement, including segregated general and administrative expenses for the most recent reporting period, and for the period of the Contract, if available, and similar information for any Subcontractor Claim included; and

8.2.2.6 the notarized certification described under Section 8.5.1.1;

8.2.3 The Contractor's failure to comply with the requirements of this Section 8.2 shall constitute an irrevocable waiver of any related Claim.

8.3 Substantiation of Claims for Increase of the Contract Sum

8.3.1 The Contractor shall substantiate each Claim for an increase of the Contract Sum with:

8.3.1.1 written documentation as described under Section 7.7 of the actual additional direct and indirect costs to the Contractor due to the event giving rise to the Claim;

8.3.1.2 a written statement from the Contractor that the increase requested is the entire increase in the Contract Sum associated with the Claim; and

8.3.1.3 the general substantiation documentation described under Section 8.2.

8.3.2 The Contractor's failure to comply with the requirements of this Section 8.3 shall constitute an irrevocable waiver of any related Claim.

8.4 Substantiation of Claims for Extension of the Contract Times

8.4.1 The Contractor shall substantiate each Claim for an extension of the Contract Times with:

8.4.1.1 written documentation as described under Section 7.8 of the actual delay to the critical path of the Construction Progress Schedule due to the event giving rise to the Claim;

8.4.1.2 a detailed written Proposal as described under Section 7.7 for an increase in the Contract Sum which would fully compensate the Contractor for all costs of acceleration of the Work needed to completely overcome the associated delay together with a statement consistent with Section 8.3.1.2;

8.4.1.3 a written statement from the Contractor that the extension requested is the entire extension of the Contract Times associated with the Claim; and

8.4.1.4 the general substantiating documentation described under Section 8.2.

8.4.2 In addition to the requirements of Section 8.4.1, if adverse weather conditions are the basis for a Claim for additional time, the Contractor shall document the Claim with data substantiating that weather conditions were abnormal for the period, could not have been reasonably anticipated, and had an adverse effect on a critical element of the scheduled construction. The support for and evaluation of all adverse weather Claims

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shall be based upon average weather conditions during the 10 years immediately preceding the dates at issue in the Claim as those weather conditions were recorded at the government-controlled weather-recording facility nearest to the Site.

8.4.3 The Contractor's failure to comply with the requirements of this Section 8.4 shall constitute an irrevocable waiver of any related Claim.

8.5 Certification of the Claim

8.5.1 The Contractor shall certify each Claim within 30 days after initiating the Claim under Section 8.1 or before Contract Completion, whichever is earlier, by providing the notarized certification specified in Section 8.5.1.1, signed and dated by the Contractor:

8.5.1.1 "The undersigned Contractor certifies that the Claim is made in good faith; that the supporting data is accurate and complete to the best of the Contractor's knowledge and belief; that the amount requested is a fair, reasonable, and necessary adjustment for which the Contractor believes the State is liable; and that the undersigned is duly authorized to certify the Claim on behalf of the Contractor."

8.5.2 The date that the Contractor's certified and fully substantiated Claim is received by the Contracting Authority, or the date on which the Contractor is required to certify and fully substantiate a Claim pursuant to Sections 8.2.1 and 8.5.1, shall trigger the 120-day period for exhaustion of administrative remedies pursuant to ORC Section 153.16(B).

8.5.3 The Contractor's failure to comply with the requirements of this Section 8.5 shall constitute an irrevocable waiver of any related Claim.

8.6 Delay and Delay Damage Limitations; Derivative Claims

8.6.1 Subject to other provisions of the Contract, the Contractor will be entitled to an extension of the Contract Times on account of delay in the commencement or progress of Work on the critical path of the Construction Progress Schedule caused by acts of Nature or the public enemy, acts of the government not arising from the Contractor's failure to comply with Applicable Law, fires, floods, epidemics, weather, and labor disputes beyond the Contractor's control.

8.6.2 Notwithstanding any other provision of the Contract Documents to the contrary, the Contractor shall not be entitled to an increase in the Contract Sum, or an extension of the Contract Times, or both:

8.6.2.1 on account of the impact of any normal adverse weather on any of the Work or on account of the impact of any abnormal adverse weather on Work not on the critical path;

8.6.2.2 to the extent that a delay occurs concurrently with a delay attributable to the Contractor; or

8.6.2.3 on account of the delay of any Work not on the critical path.

8.6.3 Notwithstanding any other provision of the Contract Documents to the contrary, the Contractor shall not be entitled to an increase in the Contract Sum or any type of damages on account of a delay in the commencement or progress of Work on the critical path unless (1) the delay is caused by the Owner and (2) the delay was not authorized or permitted under the Contract.

8.6.4 Notwithstanding any other provision of the Contract Documents to the contrary, the Contractor shall not be entitled to an increase in the Contract Sum or any type of damages arising from a delay in the commencement or progress of any of the Work caused by the occurrence or non-occurrence of an event beyond the Owner's control such as acts of Nature or the public enemy, acts of the government, fires, floods, epidemics, labor disputes, unusual delivery delays, weather, or damages caused by the Contractor.

8.6.5 Notwithstanding any other provision of the Contract to the contrary, if the Owner prosecutes a claim, suit, or appeal against a Separate Consultant or a Separate Contractor to recover damages the Contractor suffers on account of the acts or neglects of a Separate Consultant or a Separate Contractor or a person or entity for whom either is legally responsible, the Owner's liability to the Contractor will not exceed the

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amount the Owner actually recovers from the Separate Consultant or the Separate Contractor on account of those damages less the costs the Owner incurs recovering them. The Owner is not obligated to prosecute any such claim, suit, or appeal.

8.7 Liquidated Damages

8.7.1 If the Contractor fails to achieve a Milestone within the associated Contract Time, it would be difficult, if not impossible, to determine the Owner's resulting damages. Therefore, if the Contractor fails to achieve a Milestone within the associated Contract Time, the Contractor shall (at the Owner's option) pay to or credit the Owner the Liquidated Damages per day sum determined according to the following schedule for each day that the Contractor fails to achieve a Milestone within the associated Contract Time.

Contract Sum	Liquidated Damages per day
Less than $1,000,000	$500
From $1,000,000.01 to $2,000,000	$1,000
From $2,000,000.01 to $5,000,000	$2,000
From $5,000,000.01 to $10,000,000	$5,000
From $10,000,000.01 to $20,000,000	$10,000
From $20,000,000.01 to $50,000,000	$20,000
More than $50,000,000	$50,000

8.7.2 If the Contractor simultaneously fails to achieve two or more Milestones, the Owner shall be entitled to recover the sum of the associated Liquidated Damages per day rates.

8.7.3 The Liquidated Damages described in this Section 8.7 are only intended to compensate the Owner for the direct damages it incurs as a result of the Contractor's failure to achieve the Milestones within their associated Contract Times.

8.7.4 The Liquidated Damages described in this Section 8.7 are not intended to compensate the Owner for any damages the Owner incurs on account of (1) any claims attributable to the Contractor that are brought by others including Separate Consultants and Separate Contractors or (2) any failure of the Contractor to timely, properly, and completely perform the Contract other than the failure to achieve the Milestones within their associated Contract Times.

8.7.5 The parties acknowledge that the above-listed Liquidated Damages per day sums are not penalties, and they each irrevocably waive the right (if any) to challenge the validity and enforceability of those Liquidated Damages per day sums. Notwithstanding any other provision of the Contract Documents to the contrary, if a court determines that the Liquidated Damages per day sums or their application are void and unenforceable, the Owner shall be entitled to recover the actual damages that it incurs on account of the Contractor's failure to achieve one or more of the Milestones within the Contract Times.

8.7.6 Nothing contained in this Section 8.7 shall preclude the Owner's recovery from the Contractor of actual damages.

8.7.7 In addition to other rights that the Owner may have relative to the Liquidated Damages, the Contracting Authority may deduct the Liquidated Damages from the Contract Sum as the damages accrue. If payments then or thereafter due the Contractor are not sufficient to cover such amounts, the Contractor shall immediately pay the amount of the insufficiency to the Owner.

8.8 Review of the Claim

8.8.1 The A/E shall review the Claim and prepare a written analysis of its content, which shall include:

8.8.1.1 a narrative of the A/E's examination of the facts giving rise to the Claim;

8.8.1.2 identification of relevant Contract Documents and language;

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8.8.1.3 an analysis of whether the Contractor complied with the requirements of the Contract Documents pertaining to Claim initiation and substantiation including, without limitation, the issues of entitlement to, and calculation of, adjustments of the Contract Sum, Contract Times, or both;

8.8.1.4 an analysis of claimed additional labor, materials, and equipment for the scope of the Work items described;

8.8.1.5 an analysis of any time extension for any interference, disruption, hindrance, impact, or delay claimed (to include the calculation of any concurrent delays affecting entitlement);

8.8.1.6 a concluding opinion regarding Contractor entitlement to, and the appropriateness and reasonableness of all, or any part of, the Claims; and

8.8.1.7 an appendix containing copies of contemporaneous documentation supporting the concluding opinion.

8.8.2 The A/E shall submit the written analysis to the Project Manager no more than 30 days after receiving the Contractor's substantiated and certified Claim.

8.9 Claim Decision

8.9.1 The Project Manager shall examine the Contractor's Claim and the A/E's analysis.

8.9.2 The Project Manager shall approve or deny all, or any part, of the Contractor's Claim and forward a written decision to the Contractor, the A/E, the Owner, and the State Architect within 14 days after receiving the A/E's analysis.

8.9.2.1 If the Contractor escrowed its bid information into a bonded storage facility pursuant to Article 6 of the Instructions to Bidders ("Bid Information"), the Project Manager may examine the contents of the Contractor's Bid Information in evaluating any Claim of the Contractor for a change in compensation or for mitigation of Liquidated Damages.

8.9.2.2 The Project Manager may employ independent resources to assist in its review, or refer evaluation of the Claim to a consultant.

8.9.3 If the Contractor and the Owner agree with the Project Manager's decision, the decision shall be incorporated into a Change Order.

8.9.4 Any Claim remaining unresolved after completion of the process described under this Section 8.9 shall be subject to Claim decision review as described under Section 8.10.

8.10 Claim Decision Review

8.10.1 The Contractor may request review of the Project Manager's decision by written notice delivered by certified mail within 14 days of the Project Manager's decision.

8.10.1.1 If the Project is administered by the Department through the State Architect's Office or locally administered by authority granted to an agency by the Department, the written notice shall be delivered to the State Architect.

8.10.1.2 If the Project is locally administered by an Institution of Higher Education under ORC Section 3345.50 or ORC Section 3345.51, the written notice shall be delivered to the Institutional Designee who will review the Project Manager's decision instead of the State Architect.

8.10.2 The State Architect or Institutional Designee, if applicable, shall schedule and conduct a meeting within 30 days after receiving the Contractor's request for review.

8.10.2.1 If the Contractor escrowed its Bid Information, the State Architect or Institutional Designee, if applicable, may examine the contents of the Bid Information in conjunction with its review.

8.10.2.2 The Contracting Authority may employ independent resources to assist in the meeting and review.

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8.10.3 The State Architect or Institutional Designee, if applicable, shall determine the final disposition of the Contractor's request for review and provide a written decision to the Contractor and the Owner within 14 days after the meeting.

8.10.4 The decision of the State Architect or Institutional Designee is the final administrative decision of the Contracting Authority as described under ORC Section 153.12(B).

8.10.5 If the Contractor and the Owner agree with the State Architect's or Institutional Designee's decision, the decision shall be incorporated into a Change Order.

8.10.6 Any Claim remaining unresolved after completion of the process described under this Section 8.10 shall be subject to litigation, which may be preceded by Alternative Dispute Resolution ("ADR") as described under Section 8.11.

8.11 Alternative Dispute Resolution

8.11.1 The intent of the ADR process is to resolve disputes quickly and equitably in a manner agreed upon by all parties to the dispute.

8.11.2 The ADR procedure shall be accepted by all of the Project's key stakeholders.

8.11.3 The accepted ADR methods shall not include binding arbitration; alter any of the requirements for Claim initiation, certification, and substantiation; or alter the administrative process described under this Article 8.

8.11.4 The following forms of non-binding ADR may be considered:

8.11.4.1 Negotiation: If negotiation is warranted, the parties to the dispute may agree to a progressive level of negotiators, invested with the authority to agree to a determination of an adjustment in the Contract Sum, Contract Times, or both.

8.11.4.2 Mediation: If mediation is the accepted ADR procedure, or the process to follow when negotiations are unsuccessful, the parties to the dispute shall accept a neutral third party to mediate the dispute. The costs of mediation shall be shared equally among the parties to the dispute.

8.11.4.3 Another ADR procedure accepted by all of the Project's key stakeholders.

8.12 Audit of the Claim

8.12.1 All Claims shall be subject to audit at any time following the filing of the Claim, whether or not the Claim is part of a lawsuit.

8.12.2 The audit may be performed by employees of the Contracting Authority or by a consultant engaged by the Contracting Authority.

8.12.3 The audit may begin upon 10 days notice to the affected Contractor or affected Subcontractor.

8.12.4 The Contractor shall cooperate with the request.

8.12.5 Failure of the Contractor or Subcontractor to produce sufficient records to allow the Contracting Authority to audit and verify a Claim shall constitute an irrevocable waiver of the Claim or the portion of the Claim that could not be completely audited.

8.12.6 The Contractor shall make available to the Contracting Authority all Contractor and Subcontractor documents related to the Claim including, without limitation, the following documents:

8.12.6.1 daily time sheets and superintendent's daily reports;

8.12.6.2 union agreements, if any, and employer agreements;

8.12.6.3 insurance, welfare, fringes, and benefits records;

8.12.6.4 payroll register;

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8.12.6.5 earnings records;

8.12.6.6 payroll tax returns;

8.12.6.7 material invoices, purchase orders, Subcontractor contracts, and all material and supply acquisition contracts;

8.12.6.8 material cost distribution worksheets;

8.12.6.9 equipment records (list of Contractor equipment, rates, etc.);

8.12.6.10 vendor rental agreements and Subcontractor invoices;

8.12.6.11 Subcontractor payment certificates;

8.12.6.12 canceled checks (payroll and vendors);

8.12.6.13 job cost report;

8.12.6.14 job payroll ledger;

8.12.6.15 general ledger, general journal, (if used) and all subsidiary ledgers and journals together with all supporting documentation pertinent to entries made in these ledgers and journals;

8.12.6.16 cash disbursements journal;

8.12.6.17 financial statements for all years reflecting operations on the Project;

8.12.6.18 income tax returns for all years reflecting operations on the Project;

8.12.6.19 depreciation records on all equipment utilized whether the records are maintained by the Contractor, its accountant, or others;

8.12.6.20 if a source other than depreciation records is used to develop costs for the Contractor's internal purposes in establishing the actual cost of owning and operating equipment, all other source documents;

8.12.6.21 all documents which reflect the Contractor's actual profit and overhead during the years the Project was being performed;

8.12.6.22 all documents related to the preparation of the Contractor's Bid, including the final calculations on which the Bid was based, unless the documents are placed in escrow under provisions of the Instructions to Bidders;

8.12.6.23 all documents which relate to the Claim together with all documents which support the amount of damages as to the Claim;

8.12.6.24 worksheets used to prepare the Claim establishing the cost components for items of the Claim including, but not limited to, labor, fringes, benefits and insurance, materials, equipment, Subcontractors, and all documents which establish the time periods, individuals involved, the hours and rate of pay for the individuals; and

8.12.6.25 all other documents required by the Contracting Authority to reasonably review the Claim.

8.13 False Certification of the Claim

8.13.1 If the Contractor falsely certifies all, or any part, of a Claim, the portion of the Claim falsely certified shall be denied, and may be sufficient cause for the State to debar the Contractor from future State contracting opportunities as permitted by law.

8.14 Performance and Payment

8.14.1 The Contractor shall proceed with the Work during any dispute resolution process, unless otherwise agreed by the Contractor and the Contracting Authority in writing.

8.14.2 The Contracting Authority shall continue to make payment of any undisputed amounts in accordance with the Contract Documents pending final resolution of a Claim, unless otherwise agreed by the Contractor and the Contracting Authority in writing.

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ARTICLE 9 - COMPENSATION AND PAYMENT

9.1 Allowances

9.1.1 The Contract Sum includes the Allowances (if any) identified in the Contract.

9.1.2 All Allowances include the cost to the Contractor (less any applicable trade discounts) of materials and equipment required by the Allowances to be delivered at the Site, and all applicable taxes.

9.1.3 Except as explicitly set forth in the Contract, the Contractor's Fee and the Contractor's costs for unloading and handling on the Site, labor, installation costs, and other expenses contemplated for the Allowances are included in the Contract Sum and not in the Allowances.

9.1.4 Before final payment, an appropriate Change Order will be issued to reflect actual amounts due to the Contractor on account of Work covered by Allowances, and the Contract Sum will be correspondingly adjusted.

9.2 Unit Prices

9.2.1 Where the Contract provides that all or part of the Work is to be Unit Price Work, initially the Contract Sum will include for all Unit Price Work an amount equal to the sum of the established Unit Prices for each separately identified item of Unit Price Work times the estimated quantity of each item as indicated in the Contract. The estimated quantities of items of Unit Price Work are not guaranteed and are solely for the purpose of comparison of Bids and determining an initial Contract Sum. The Contracting Authority will determine the actual quantities and classifications of Unit Price Work performed by Contractor.

9.2.2 Except as explicitly set forth in the Contract, the Contractor's Fee on account of Unit Price Work is included in the Contract Sum and not in the Unit Price.

9.3 Schedule of Values

9.3.1 Within 10 days of receipt of the Notice to Proceed, or other period as mutually agreed by the Contractor and the Contracting Authority, the Contractor shall submit to the A/E a Schedule of Values on a form published by the Department through the CM, with separate amounts shown for labor and materials for each branch of Work, following the numbers and titles of the Construction Specifications Institute's *MasterFormat* for individual work results, or *UniFormat* for assemblies in place.

9.3.1.1 The Contractor shall clearly indicate on the Schedule of Values, the amount(s) allocated, including amounts for overhead and profit, for each certified EDGE Business Enterprise used in the performance of the Work. The amount(s) shall indicate labor and materials, as appropriate.

9.3.2 The grand total shown on the Schedule of Values shall equal the total Contract Sum. The Contracting Authority may use the approved Schedule of Values to determine the cost or credit to the Owner resulting from any change in the Work.

9.3.2.1 The first items shall be a breakdown of General Conditions Costs.

9.3.2.2 The amounts for labor and materials shall accurately reflect the cost for each item.

9.3.2.3 If the material allocation exceeds 55 percent of the Contract Sum, the Contractor shall provide, upon request, sufficient information to support the higher percentage.

9.3.2.4 Subcontract Work shall show amounts for labor and materials. Fringe benefits shall be shown as a part of labor costs.

9.3.2.5 When more than one major structure is included in the Work, the Contractor shall subdivide the Schedule of Values accordingly, with cost details for each structure shown separately.

9.3.2.6 The line items shall be coordinated with line items in the Project Schedule, which may require division of items of Work by area of the Project by floor, phase, or other appropriate area.

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9.3.2.7 Mechanical and electrical Work shall be included in separate line items for all major pieces of equipment, and group smaller equipment items by type.

9.3.2.8 Line items shall be included for each Allowance, Contractor's Fee, Punch List Work, Project Record Document Submittals, delivery of attic stock, and specified demonstrations and training.

9.3.3 The CM or the A/E may return the Schedule of Values to the Contractor for re-submittal if it does not meet the requirements or contains insufficient items or details of the Work, or approve the Schedule of Values if the CM and the A/E determine that it conforms to this Section 9.3.

9.3.4 No payment shall be made until the CM and the A/E have approved the Contractor's Schedule of Values.

9.3.5 If the Project is administered using OAKS CI, the Contractor shall submit its Schedule of Values, using the "Contract Schedule of Values" business process.

9.4 Contractor Payment Request

9.4.1 The Contractor may submit a Contractor Payment Request for Work performed based upon the Schedule of Values to the A/E through the CM each month or upon another interval approved by the Contracting Authority. When the rate of Work and amount involved is sufficient that it is considered appropriate by the Contracting Authority, the Contractor may submit Contractor Payment Requests twice a month.

9.4.1.1 The Contractor shall support each Contractor Payment Request with documentation substantiating the Contractor's right to payment. The Contractor shall supply additional documentation as the A/E or the CM may request in connection with each payment to the Contractor.

9.4.1.2 The Contracting Authority may require proof of the renewal of required insurance as a condition precedent to payment.

9.4.1.3 The Contractor shall attach certified payroll reports for the relevant period to 1 copy of each Contractor Payment Request, see Document 00 73 43 - "Prevailing Wage Requirements."

9.4.1.4 The Contractor may list on the Contractor Payment Request any Change Orders approved and performed prior to submission of the Contractor Payment Request.

9.4.1.5 The Contractor shall submit its application for payment using the Contractor Payment Request form or forms current at the time of each application and as provided by the Contracting Authority in the manner prescribed by the Contracting Authority.

.1 If the Project is not administered using OAKS CI, the Contractor shall submit 1 draft copy of its Contractor Payment Request ("Pencil Copy") to the A/E through the CM not less than 1 week prior to submitting multiple copies of its Contractor Payment Request.

.2 The CM and the A/E shall review the Pencil Copy and provide comments to the Contractor within 3 days of receiving it.

.3 The Contractor shall incorporate the CM's and the A/E's comments into its Contractor Payment Request prior to submitting multiple copies for payment.

9.4.1.6 The Contractor shall clearly indicate on the Contractor Payment Request, the amount(s) requested for each certified EDGE Business Enterprise used in the performance of the Contract. The amount(s) shall indicate labor and materials, as appropriate.

9.4.1.7 The Contractor shall submit an electronic copy of the Contractor Payment Request to the A/E through the CM with its paper copies of the Contractor Payment Request for collection and reporting of information used for contract compliance evaluation and statistical purposes. The Contractor may issue the copy in any electronic media acceptable to the Contracting Authority.

9.4.2 Payments, except for lump sum items, in Unit Price Contracts shall be made to the Contractor only for the authorized actual quantities of Work performed or materials furnished in accordance with the Contract Documents.

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9.4.3 Subject to Section 9.8, the Owner shall pay an approved Contractor Payment Request within 30 days from the date the A/E recommends acceptance of the Contractor Payment Request.

9.4.3.1 Payments due and not paid to the Contractor, through no fault of the Contractor, within the 30 day period shall, from the date payment is due, bear simple interest at the applicable statutory rate.

~~5.4.4~~9.4.4 ~~for~~Notwithstanding any other provision of the Contract Documents, partial payments made pursuant to this Section 9.4 constitutes neither acceptance of any Defective Work~~.~~, nor a waiver of any rights set forth in the Contract Documents or otherwise provided by Applicable Law.

9.4.5 If the Project is administered using OAKS CI, the Contractor shall submit its Contractor Payment Request, using the "Contractor Pay Request" business process.

9.5 Labor Payments

9.5.1 Partial payments to the Contractor for labor performed under either a Unit Price or lump sum Contract shall be made at the rate of 92 percent of the amount invoiced through the Contractor Payment Request that shows the Work is 50 percent complete, as evidenced by payments in the amount of at least 50 percent of the original Contract Sum.

9.5.2 After the Work is 50 percent complete, as evidenced by payments in the amount of at least 50 percent of the original Contract Sum to the Contractor, no additional funds shall be retained from payments for labor.

9.6 Material Payments

9.6.1 The Owner shall pay the Contractor at the rate of 100 percent of the scheduled value for materials incorporated into the Project.

9.6.2 The Owner shall pay the Contractor at the rate of 92 percent of the invoice cost, not to exceed the scheduled value in a Unit Price or lump sum Contract, for materials delivered to the Site, or other off-site storage location approved by the A/E, provided the Contractor provides the following information with the Contractor Payment Request:

9.6.2.1 a list of the fabricated materials consigned to the Project, giving the place of storage, together with copies of invoices, in order to verify quantity and cost; and

9.6.2.2 a certification of materials stored off-site, prepared by the Contractor and signed by the A/E to evidence that the materials are in conformity with the Specifications and have been tagged with the Project name and number for delivery to the Project. The Contractor shall directly reimburse the A/E for all costs incurred to visit a storage site, other than the areas adjacent to the Project.

The Owner shall pay the balance of the scheduled value when the materials are incorporated into and become a part of the Project.

9.6.3 When payment is allowed for materials delivered to the Site or other approved off-site storage location but not yet incorporated into the Project, the materials are the property of the Owner.

9.6.3.1 The Owner may, at its sole discretion, retain any material not ultimately incorporated into the Project or return it to the Contractor for credit of an amount proportionate to the value of the extra materials.

9.7 Retainage

9.7.1 If the total Contract Sum is $15,000 or more, when the Contract is 50 percent complete, as evidenced by payments in the amount of at least 50 percent of the Contract Sum to the Contractor, all funds retained for the faithful performance of the Work, in accordance with Section 9.5.1, shall be deposited in an escrow account with a bank in the state in accordance with the terms and conditions provided in an escrow agreement executed by the Contractor, the Contracting Authority, and the applicable bank.

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9.7.2 When the major portion of the Work is occupied or in use, and there is no other reason to retain funds, including, but not limited to, compliance with Section 6.30; upon request of the Contractor, the funds retained in connection with that Work shall be released from escrow and paid to the Contractor, withholding only that amount necessary to assure faithful completion in the sole discretion of the Contracting Authority.

9.7.2.1 Any reduction or release of retained funds, or portion thereof, shall not be a waiver of the Contracting Authority's right to retain funds in connection with other payments to the Contractor, or any other right or remedy the Contracting Authority has under the Contract Documents at law or in equity.

9.7.2.2 Funds in the escrow account not previously paid shall be authorized for release to the Contractor within 30 days of the Contracting Authority's approval of a final Contractor Payment Request and Payment Release Affidavit furnished by the Contractor, and execution of the Certification of Contract Completion by the Contracting Authority.

9.7.3 Upon consent by the Contractor's Surety, the Contracting Authority may reduce the amount of funds retained for the faithful performance of Work by 50 percent of the amount of funds required to be retained, provided the Contractor's Surety remains responsible for all damages that may be caused due to default by the Contractor, including, but not limited to, the following:

9.7.3.1 completion of the Work;

9.7.3.2 all interference, disruption, hindrance and delay claims;

9.7.3.3 all Liquidated Damages; and

9.7.3.4 all additional expenses incurred by the State.

9.8 Payments Withheld

9.8.1 The A/E and the CM may recommend to the Contracting Authority that payments be withheld from, or the Liquidated Damages be assessed against, a Contractor Payment Request.

9.8.2 The Contracting Authority may decline to approve any Contractor Payment Request or part thereof, or nullify any previous Contractor Payment Request, in whole or in part, to the extent necessary in the Contracting Authority's sole opinion to protect the Owner from loss because of:

9.8.2.1 Defective Work not remedied;

9.8.2.2 damage caused by the Contractor;

9.8.2.3 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;

9.8.2.4 reasonable evidence that the Work will not be completed within the Contract Times, and that the unpaid balance would not be adequate to cover damages under the Contract Documents for the anticipated delay;

9.8.2.5 failure to comply with Applicable Law including, but not limited to, the requirements of ORC Chapter 4115;

9.8.2.6 failure to timely submit EDGE Participation Reports in accordance with Section 1.8.2;

9.8.2.7 failure to timely approve a Construction Progress Schedule in accordance with Section 1.1.1;

9.8.2.8 failure to timely submit the Contractor's list of proposed Subcontractors in accordance with Section 4.1;

9.8.2.9 failure to carry out the Work in accordance with the Contract Documents; or

9.8.2.10 that which is permitted under other provisions of the Contract Documents.

9.8.3 If the Contractor remedies the basis for withholding payment under Section 9.8.2 to the Contracting Authority's satisfaction, the Owner shall pay the amounts withheld.

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9.9 Final Contractor Payment Request

9.9.1 The Contractor, as a condition precedent to execution of the Certification of Contract Completion and to final payment, shall complete all requirements of the Contract Documents.

9.9.1.1 The Contractor and each of its Subcontractors, regardless of tier, shall execute a Payment Release Affidavit to certify that the Contractor and each of its Subcontractors, regardless of tier, have complied with all requirements of ORC Chapter 4115, and to certify that all of its Subcontractors have been paid in full for all Work performed or materials furnished for the Project.

9.9.2 The Owner shall pay the final Contractor Payment Request within 30 days from the date the A/E recommends acceptance of the final Contractor Payment Request.

9.9.2.1 Payments due and not paid to the Contractor within the 30 day period shall bear interest from the date payment is due under the Contract Documents at the applicable statutory rate.

9.9.3 The acceptance of final payment by the Contractor or a Subcontractor constitutes the payee's waiver of all claims against the State except those previously made in writing under Article 8 and identified by that payee as unsettled at the time of the final Contractor Payment Request.

9.9.4 Notwithstanding any other provision of the Contract Documents, final payment made pursuant to this Section 9.9 constitutes neither acceptance of any Defective Work, nor a waiver of any rights set forth in the Contract Documents or otherwise provided by Applicable Law.

9.9.5 If the Project is administered using OAKS CI, the Contractor shall submit its final Contractor Payment Request, using the "Contractor Pay Request" business process.

ARTICLE 10 - BONDS, INSURANCE, AND INDEMNIFICATION

10.1 Payment and Performance Bonds

10.1.1 Before signing the Agreement, the Contractor shall provide the Bond as required under Applicable Law and below:

10.1.1.1 If the Contractor provided Document 00 43 13 - "Bid Security Form" as its Bid Guaranty then that form shall be the Bond.

10.1.1.2 If the Contractor provided another form of Bid Guaranty, then Document 00 61 13 - "Performance and Payment Bond Form" shall be the Bond.

10.1.1.3 Each Surety under the Bond shall be licensed to do business in Ohio and satisfactory to the Contracting Authority.

10.1.1.4 If there is more than one Surety under the Bond, each of them shall be jointly and severally liable as surety under the Bond.

10.1.1.5 The penal sum of the Bond, when initially submitted, shall be equal to one-hundred percent of the Contract Sum.

10.1.2 The Contractor shall submit with the executed Bond (1) a certified copy of the authority to act (power of attorney) of the agent signing the Bond on behalf of the Surety and (2) a current and signed Certificate of Compliance under ORC Section 9.311 issued by the Ohio Department of Insurance showing the Surety is licensed to do business in Ohio.

10.1.3 If the Contract Sum increases at any time such that it exceeds the penal sum of the Bond, the Contractor shall cause the penal sum of the Bond to be increased such that the penal sum equals one-hundred percent of the increased Contract Sum.

10.1.4 Any time the Contractor increases the penal sum of the Bond under Section 10.1.3, the Contractor shall deliver to the Contracting Authority written consent of the affected Surety or Sureties confirming the

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increased penal sum. The Contracting Authority's receipt of that written consent is a condition precedent to the Owner's obligation to pay the Contractor for any portion of the Work associated with the increase.

10.1.5 If notice of any change affecting the Contract is required by any Surety or by the provision of any Bond, the Contractor shall provide that notice.

10.2 Contractor's General Insurance Requirements

10.2.1 Throughout the performance of the Work or longer as may be described below, the Contractor shall obtain, pay for, and keep in force, the minimum insurance coverage described in this Article 10.

10.2.1.1 Each requirement of this Article 10 applies to Subcontractors just as it applies to the Contractor.

10.2.1.2 If a Subcontractor's usual insurance coverage does not meet the minimum coverage requirements, before entering into an agreement with that Subcontractor, the Contractor shall submit to the Contracting Authority (1) a certificate of insurance evidencing the insurance the Subcontractor will carry without additional compensation and (2) if the Contracting Authority requests, a written proposal from the Subcontractor to provide coverage which meets the minimum coverage requirements. The Contracting Authority will decide whether to accept the non-conforming insurance coverage or the proposal to provide conforming coverage.

10.2.1.3 On a case-by-case basis, the Contracting Authority and the Contractor may agree to adjust the below requirements for any particular Subcontractor.

10.2.2 Before starting the Work on the Site, upon renewal of any policy, and upon a change of any insurance carrier, the Contractor shall deliver to the Contracting Authority certificates evidencing that the required insurance is in force.

10.2.3 With the exception of government-controlled workers compensation coverage:

10.2.3.1 the Contractor shall place the insurance with companies that (1) are satisfactory to the Contracting Authority, (2) hold an A.M. Best Rating of A-, X, or higher, and (3) are authorized to conduct business in Ohio;

10.2.3.2 if the certificate(s) of insurance is not on the ACORD 25 (2009/09 or more recent) form, it (1) shall provide or be endorsed to provide that coverage will not be cancelled or not renewed until at least 30-days' prior written notice (10-day notice for nonpayment of premium) has been given to the Contracting Authority, and (2) shall have the words "endeavor to" and "but failure to do so shall impose no obligation or liability of any kind upon insurer, its agents or representatives" and any like provisions crossed out or deleted; and

10.2.3.3 within 30 days of the Contracting Authority's request, the Contractor shall submit insurance-company certified copies of the policies, the policy endorsements, or both.

10.2.4 The Contractor shall pay all deductibles, or self-insured retentions, or both contained in the Contractor's policies of insurance required or provided in connection with the Project. The Contracting Authority reserves the right to approve or reject all levels of self-insured retention, captive insurance programs, or other alternative risk financing the Contractor may use to comply with any insurance requirement.

10.2.5 The Contractor shall pay a proportionate share of the deductibles, or self-insured retentions, or both contained in any insurance policy the Contracting Authority purchases for the Project. The Contractor's proportionate share will derive from the percentage of the associated claim or loss attributable to the alleged or actual negligence of the Contractor or a Subcontractor.

10.2.6 The Contracting Authority and Owner do not represent that required coverage or limits are adequate to protect the Contractor.

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10.2.7 Failure of the Contracting Authority to demand a certificate or other evidence of full compliance with the insurance requirements or failure of Contracting Authority to identify a deficiency from evidence that is provided shall not be construed as a waiver of the Contractor's obligation to maintain the required insurance.

10.2.8 The Contracting Authority may terminate the Contract for cause on account of the Contractor's failure to maintain the required insurance.

10.3 Contractor's Minimum Coverage Requirements

10.3.1 Workers Compensation. The Contractor shall maintain workers compensation coverage meeting the requirements of Applicable Law.

10.3.2 Employers Liability Coverage. The Contractor shall maintain employers liability coverage with (1) an each-accident limit of not less than $1,000,000, (2) a disease each-employee limit of not less than $1,000,000, and (3) a disease policy limit of not less than $1,000,000.

10.3.3 Commercial General Liability. The Contractor shall maintain commercial general liability ("CGL") coverage which provides (1) an each-occurrence limit of not less than $1,000,000, (2) a general-aggregate limit of not less than $2,000,000, and (3) a products and completed-operations aggregate limit of not less than $2,000,000.

10.3.3.1 The CGL insurance shall be written on ISO occurrence form CG 00 01 10 01 or a substitute form, providing at least equivalent coverage for liability arising from premises, operations, independent contractors, products/completed-operations, personal and advertising injury, and liability assumed under an insured contract.

10.3.3.2 The Contractor shall include the State, the Contracting Authority, the Owner, and the A/E as additional insureds under the CGL policy using ISO endorsement CG 20 10 11 85 or a substitute form(s) providing equivalent coverage.

10.3.3.3 The CGL policy shall be endorsed using ISO endorsement CG 25 03 or a substitute form providing equivalent coverage to provide that the general aggregate limit applies separately to each of the insured's projects.

10.3.3.4 The CGL insurance shall apply as primary and non-contributory insurance with respect to any other insurance or self-insurance programs which cover the additional insured(s).

10.3.3.5 The CGL policy shall not exclude coverage to the additional insured(s) for bodily injury or property damage arising out of the products/completed-operations hazard.

10.3.3.6 The Contractor shall maintain the CGL insurance in effect for no less than 5 years after the earlier of the termination the Contract or Final Acceptance of all Work.

10.3.4 Business Automobile Liability. The Contractor shall maintain business automobile ("BA") coverage written on ISO form CA 00 01 10 01 or a substitute form, providing at least equivalent coverage with a limit of not less than $1,000,000 each accident.

10.3.4.1 The coverage shall extend to any auto.

10.3.4.2 The Contractor shall include the State, the Contracting Authority, the Owner, and the A/E as additional insureds under the BA policy.

10.3.5 Umbrella/Excess Liability.

10.3.5.1 The Contractor may employ an umbrella/excess liability policy to achieve the above-required minimum coverage.

10.3.5.2 The Contractor shall maintain umbrella/excess liability coverage with a limit of not less than $2,000,000 (in addition to the above-required limits) if the Work (or the Work to performed by the Subcontractor) includes any of the following:

.1 brick/block masonry;

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.2 exterior caulking/sealant;
.3 cast-in-place or precast concrete;
.4 curtain wall;
.5 dampproofing/waterproofing;
.6 electrical;
.7 elevator;
.8 exterior glass and/or glazing;
.9 exterior marble, granite, and/or other stonework;
.10 miscellaneous metals;
.11 plaster/stucco;
.12 plumbing;
.13 HVAC;
.14 roofing and/or sheet metal;
.15 scaffolding;
.16 spray-on fireproofing;
.17 sprinkler and/or fire protection; or
.18 structural steel and/or metal deck.

10.3.5.3 The Contractor shall maintain umbrella/excess liability coverage with a limit of not less than $5,000,000 (in addition to the above-required limits) if the Work (or the Work to performed by the Subcontractor) includes any of the following:

.1 caissons and/or piles;
.2 demolition;
.3 excavation and/or utility work;
.4 sheeting, shoring, and/or underpinning;
.5 window washing equipment; or
.6 wrecking.

10.3.6 Contractor's Pollution Liability. If the Work includes environmentally sensitive, hazardous types of activities (such as demolition, exterior insulation finish systems, Asbestos abatement, storage-tank removal, or similar activities), or involves Hazardous Materials, the Contractor shall maintain a contractor's pollution liability ("CPL") policy with (1) a per-claim limit of not less than $1,000,000 and (2) an annual-aggregate limit of not less than $1,000,000, covering the acts, errors and/or omissions of the Contractor for damages (including from mold) sustained by the Contracting Authority by reason of the Contractor's performance of the Work.

10.3.6.1 The CPL policy shall have an effective date, which is on or before the date on which the Contractor first started to perform any Project-related services.

10.3.6.2 Upon submission of the associated certificate of insurance and at each policy renewal, the Contractor shall advise the Contracting Authority in writing of any actual or alleged claims which may erode the CPL policy's limits.

10.3.6.3 The Contractor shall maintain the CPL insurance in effect for no less than 5 years after the earlier of the termination the Contract or Final Acceptance of all Work.

10.3.7 Professional Liability—Contractor. The Contractor shall maintain professional liability insurance with a per-claim limit of not less than $1,000,000 and an annual aggregate limit of not less than $2,000,000.

10.3.7.1 The professional liability policy shall have an effective date which is on or before the date on which the Contractor first started to provide any Project-related services.

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10.3.7.2 Upon submission of the associated certificate of insurance and at each policy renewal, the Contractor shall advise the Contracting Authority in writing of any actual or alleged claims which may erode the professional liability policy's limits.

10.3.7.3 The Contractor shall maintain the professional liability insurance in effect for no less than 5 years after the earlier of the termination the Contract or Final Acceptance of all Work.

10.3.8 Professional Liability—Subcontractors. If the Work to be performed by a Subcontractor includes any professional design services (including without limitation sprinkler and/or fire protection and other design-build work) the Subcontractor shall maintain professional liability insurance without design-build exclusions with limits not less than as identified in the following table:

Subcontract Sum	Each Claim	Annual Aggregate
Up to $10,000,000	$1,000,000	$2,000,000
From $10,000,000.01 to $25,000,000	$3,000,000	$3,000,000
From $25,000,000.01 to $50,000,000	$5,000,000	$5,000,000
More than $50,000,000	$10,000,000	$10,000,000

10.3.8.1 The professional liability policy shall have an effective date which is on or before the date on which the Subcontractor first started to provide any Project-related services.

10.3.8.2 Upon submission of the associated certificate of insurance and at each policy renewal, the Contractor shall advise the Contracting Authority in writing of any actual or alleged claims which may erode the Subcontractor's professional liability policy's limits.

10.3.8.3 The Subcontractor shall maintain the professional liability insurance in effect for no less than 5 years after the earlier of the termination the Contract or Final Acceptance of all Work.

10.3.8.4 If the Subcontractor is not authorized under Applicable Law to directly provide professional design services, the Subcontractor may satisfy the requirements of this Section 10.3.8 by providing a contractor's professional liability insurance policy.

10.3.9 Aviation Liability. If the Contractor or a Subcontractor uses aircraft, including helicopters, in the performance of the Work, the Contractor shall maintain aircraft or aviation liability coverage in an amount of no less than $10,000,000. The Contracting Authority and Owner will not be liable for any damage to any aircraft owned, leased, rented, or borrowed by the Contractor or a Subcontractor.

10.3.10 Watercraft Liability. If the Contractor or a Subcontractor uses watercraft in the performance of the Work, the Contractor shall maintain watercraft liability coverage including protection and indemnity insurance in an amount of no less than $5,000,000. The Contracting Authority and Owner will not be liable for any damage to any watercraft owned, leased, rented, or borrowed by the Contractor or a Subcontractor.

10.3.11 Equipment Coverage. The Contracting Authority and Owner will not insure or be liable for damage to any Contractor or Subcontractor owned, leased, rented, or borrowed tools, equipment, or vehicles. The Contractor and Subcontractors are solely responsible for maintaining all insurance necessary to cover their tools, equipment, and vehicles.

10.3.12 Ocean Marine Insurance. If the shipment of equipment or materials for the Work will not be covered by the Builder's Risk insurance required under Section 10.4, the Contractor shall maintain ocean marine insurance to the Site including cost, insurance, and freight with limits of not less than an amount equal to the full replacement cost of the equipment/materials shipped to final destination point. The insurance shall include the following minimum requirements:

10.3.12.1 all-risk basis including war risk and all forms of terrorism;

10.3.12.2 coverage for general average and salvage charges;

10.3.12.3 "on deck" coverage;

10.3.12.4 warehouse-to-warehouse coverage;

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10.3.12.5 coverage to include losses from strikes, riots, and civil commotions ("SR&CC coverage");

10.3.12.6 coverage to include losses from free of capture and seizure warranty ("FC&S Warranty coverage");

10.3.12.7 "Inchmaree" clause;

10.3.12.8 sue and labor;

10.3.12.9 "both-to-blame" coverage;

10.3.12.10 free of particular average;

10.3.12.11 inland coverage including on-land shipment, port storage, and barge transit upon inland waterways; and

10.3.12.12 damage by saltwater and rainwater perils and cargo sweat.

10.3.13 Additional Property Insurance. For any demolition, blasting, excavating, tunneling, shoring, or similar operations, the Contractor shall provide and maintain Property Damage Liability insurance with a limit of liability equal to the limit as specified in the applicable sections of Article 10.

10.4 Builder's Risk Insurance

10.4.1 The CM shall provide and maintain, during the progress of the Work and until the execution of the final Certification of Contract Completion by the Contracting Authority, a Builder's Risk insurance policy to cover all Work in the course of construction including false-work, temporary buildings and structures, and materials used in the construction process, stored on or off-site, or while in transit. This insurance shall be on a special cause of loss form, which provides coverage on an open perils basis insuring against the direct physical loss of, or damage to, covered property including, but not limited to, theft, vandalism, malicious mischief, earthquake, tornado, lightning, explosion, breakage of glass, flood, collapse, water damage, and hot and cold testing. This insurance shall be written on a replacement cost basis and shall also include debris removal, and/or demolition occasioned by enforcement of Applicable Law.

10.4.1.1 The amount of coverage shall be not less than the total completed value of the Project, including the value of permanent fixtures and decorations, with a deductible of not more than $25,000 per occurrence. Any deductible over the amount specified shall be authorized in writing by the Owner and the Contracting Authority.

10.4.1.2 Coverage shall include a provision to pay the reasonable extra costs of acceleration and expediting temporary and permanent repairs to, or permanent replacement of, damaged property. This shall include overtime wages and the extra cost of "express" or other means for rapidly transporting materials and supplies necessary to the repair or replacement.

10.4.1.3 Coverage shall include "soft cost endorsement" including, but not limited to, the reasonable extra costs of the A/E and reasonable Contractor extension or acceleration costs.

10.4.1.4 Coverage shall include material in transit or stored off-site and identified for the Project.

10.4.1.5 Coverage shall waive all rights between the Owner, the Contracting Authority, the Contractor, and Subcontractors at any tier, for damages caused by fire or any other perils to the extent of actual recovery of any insurance proceeds under the policy.

10.4.1.6 Coverage shall include appropriate sub-limits for installation coverage.

10.4.1.7 Coverage shall include provisions for mechanical or electrical breakdown, or boiler system testing.

10.4.1.8 Coverage shall include temporary structures and scaffolding, along with collapse coverage.

10.4.1.9 Coverage shall be primary to all other applicable insurance.

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10.4.1.10 The Builder's Risk policy shall specifically permit and allow for Partial Occupancy by the Owner prior to execution of the final Certification of Contract Completion by the Contracting Authority and coverage shall remain in effect until all punch list items are completed.

10.4.1.11 The Contractor's tools and equipment shall not be covered under the Builder's Risk policy. It is the Contractor's sole responsibility to maintain such coverage, which shall be included in its Overhead and not included as a separate item in the Contractor's Schedule of Values.

10.4.2 If the Contractor is involved solely in the installation of material and equipment and not in new building construction, the Contractor shall purchase and maintain a Builder's Risk, Builder's Risk-Renovations, or Installation Floater insurance policy. The policy shall comply with the provisions of Section 10.4.1.

10.5 Waivers of Subrogation

10.5.1 To the fullest extent permitted by Applicable Law, the Contractor waives all rights against the Owner, the Contracting Authority, and their agents and employees for damages to the extent covered by any insurance, except rights to the proceeds of that insurance. All policies shall accomplish the waiver of subrogation by endorsement or otherwise.

10.5.2 The Owner, the Contracting Authority, and the Contractor waive all rights against each other for damages caused by fire or other perils to the extent of actual recovery of any insurance proceeds under any property insurance, inland marine insurance, or Builder's Risk insurance applicable to the Work.

10.6 Indemnification for Injury or Damage

10.6.1 To the fullest extent permitted by Applicable Law, the Contractor shall indemnify, defend, and hold harmless the Indemnified Parties from and against all claims, costs, damages, losses, fines, penalties, and expenses (including but not limited to all fees and charges of contractors, engineers, architects, attorneys, and other professionals and all court, arbitration, or other dispute-resolution costs) arising out of or in connection with the Project, provided that any such claim, cost, damage, loss, fine, penalty, or expense (all of which may be direct, indirect, or consequential) is attributable to:

10.6.1.1 bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property but only to the extent caused by the negligent acts, errors, or omissions of the Contractor or a person or entity for whom the Contractor may be liable;

10.6.1.2 infringement of patent rights or copyrights by the Contractor or a person or entity for whom the Contractor may be liable; or

10.6.1.3 a violation of Applicable Law but only to the extent attributable to the Contractor or a person or entity for whom the Contractor may be liable.

10.6.2 The Contractor's indemnification obligation under Section 10.5.1 exists regardless of whether or not and the extent to which the claim, damage, loss, fine, penalty, or expense is caused in part by a party indemnified under Section 10.5.1. But nothing in Section 10.5.1 obligates the Contractor to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.

10.6.3 The Contractor's obligations under Section 10.5.1 shall not extend to the liability of the A/E, the A/E's consultants, agents, representatives, or employees for negligent preparation or approval of Drawings, Specifications, Change Orders, opinions, and any other responsibility of the A/E, except to the extent covered by the Contractor's insurance.

10.6.4 In claims against an Indemnified Party by any direct or indirect employee (or the survivor or personal representative of that employee) of the Contractor or a person or entity for whom the Contractor may be liable, the indemnification obligation under Section 10.5.1 will not be limited by a limitation on the amount or type of damages, compensation, or benefits payable under workers' compensation acts, disability benefit acts, or other employee benefit acts.

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10.6.5 The Contractor's indemnification obligation under Section 10.5.1 will not be limited by any insurance policy provided or required in connection with the Project.

10.6.6 The Contractor's obligations under Section 10.5.1 shall not negate, abridge, or reduce other rights or obligations of indemnity, which would otherwise exist as to an Indemnified Party.

10.6.7 The Contractor's indemnification obligation under Section 10.5.1 will survive termination of the Contract and Final Acceptance of the Work.

10.6.8 The Contracting Authority may deduct from the Contract Sum the claims, damages, losses, fines, penalties, and expenses for which the Contractor is liable under Section 10.5.1. If those claims, damages, losses, fines, penalties, and expenses exceed the unpaid balance of the Contract Sum, the Contractor shall immediately pay the difference to the Owner.

10.7 Indemnification for Use of Electronic Files

10.7.1 To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Indemnified Parties from and against all claims, damages, losses, and expenses (including, but not limited to, the fees and charges of contractors, engineers, architects, attorneys, and other professionals) arising out of, or related to the Contractor's, or any other Person's use of electronic files, including, but not limited to, CAD or BIM files (collectively "Electronic Files").

10.7.1.1 These Electronic Files are provided solely for the Contractor's convenience and use related to the Project. Any use of the Electronic Files shall be at the sole risk of the Contractor.

10.7.1.2 The Owner alone owns the Electronic Files and every right, title, and interest therein from the moment of creation.

10.7.1.3 The Electronic Files are not products.

10.7.1.4 The Contractor shall not use the Electronic Files for any purpose other than as a convenience for preparing Shop Drawings, Coordination Drawings, Record Drawings, or fabrication data for components, systems, and assemblies intended solely for use on the Project.

10.7.1.5 The State and the A/E make no warranties, either express or implied, of the merchantability or fitness of the Electronic Files for any particular purpose.

10.7.1.6 The Contractor understands and accepts that the Electronic Files may deteriorate or be inadvertently or otherwise modified without authorization of the State or the A/E.

10.7.1.7 The State and the A/E make no representations as to compatibility, usability, or readability of the Electronic Files resulting from the use of software, application packages, operating systems, or computer hardware differing from those used to create the Electronic Files.

10.7.1.8 In the event of a conflict between the Contract Documents and the Electronic Files, the Contract Documents shall control, take precedence over, and govern the Electronic Files.

10.7.1.9 The Contractor alone is responsible to check, verify, and otherwise confirm the accuracy of data on the Electronic Files.

10.7.1.10 The Contractor shall not make any claims and hereby waives, to the fullest extent permitted by law, any claims or causes of action of any nature against the Indemnified Parties, which may arise out of, or in connection with, the use of the Electronic Files.

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ARTICLE 11 - SUSPENSION AND TERMINATION

11.1 Suspension of the Work

11.1.1 The Contracting Authority, without cause and without prejudice to any other right or remedy it may have, may order the Contractor in writing to suspend, delay, or interrupt the performance of the Work in whole or in part for such period as the Contracting Authority may determine.

11.1.1.1 If the Contracting Authority suspends the Work under this Section 11.1.1 and the Contractor complies with Article 8, the Contract Sum and Contract Times shall be adjusted for increases in the cost and time caused by the suspension, delay, or interruption. The adjustment of the Contract Sum, however, shall not include profit.

11.1.1.2 Notwithstanding the foregoing, no adjustment shall be made to the Contract Sum or Contract Times to the extent that:

.1 performance was, or could have been, suspended, delayed, or interrupted by a cause for which the Contractor is responsible; or

.2 an equitable adjustment is made or denied under another provision of the Contract.

11.1.1.3 If the Contracting Authority suspends the Work under this Section 11.1.1 and the Contractor submits a proper Contractor Payment Request, but subject to all other provisions of the Contract Documents, the Contractor shall be entitled to payment of compensation due under the Contract Documents for Work performed before the suspension based upon the Schedule of Values.

11.1.2 The Contracting Authority, without prejudice to any other right or remedy it may have, may order the Contractor in writing to suspend, delay, or interrupt the performance of the Work in whole or in part for such period of time as the Contracting Authority may determine for any of the following reasons: (1) Defective Work; (2) the Contractor is causing undue risk of damage to any part of the Project or adjacent area; (3) the Contractor fails to furnish or perform the Work in such a way that the complete Work will conform to the requirements of the Contract Documents; or (4) any other cause the Contracting Authority reasonably believes justifies a suspension.

11.1.2.1 The Contracting Authority's exercise of its right to suspend the Work under this Section 11.1.2 shall not entitle the Contractor to any adjustment of the Contract Sum, Contract Times, or both.

11.1.2.2 If the Contracting Authority is adjudged to have improperly suspended the Work under this Section 11.1.2, the suspension shall be deemed to have been a suspension under Section 11.1.1.

11.1.3 Upon receipt of notice of suspension under this Section 11.1, the Contractor shall cease Work on the suspended activities and take all necessary or appropriate steps to limit disbursements and minimize respective costs. The Contractor shall furnish a report to the Contracting Authority, within 5 days of receiving the notice of suspension, describing the status of the Work, including, but not limited to, results accomplished, resulting conclusions, and other information as the Contracting Authority may require.

11.1.4 The Contracting Authority's right to stop the Work shall not give rise to any duty to exercise the right for the benefit of the Contractor or any other party, and the Contracting Authority's exercise or failure to exercise the right shall not prejudice any of the Contracting Authority's other rights.

11.2 Termination for Convenience

11.2.1 The Contracting Authority may, at any time, terminate the Contract in whole or in part for the Owner's convenience and without cause, at any time upon 10 days written notice to the Contractor.

11.2.2 Upon receipt of the notice of termination for convenience, the Contractor shall immediately proceed with performance of the following duties in accordance with instructions from the Contracting Authority:

11.2.2.1 cease operation as specified in the notice;

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11.2.2.2 place no further orders and enter into no further subcontracts for materials, labor, services, or facilities, except as necessary to complete continued portions of the Project;

11.2.2.3 terminate all subcontracts and orders to the extent they relate to the Work terminated;

11.2.2.4 proceed with Work not terminated; and

11.2.2.5 take actions that may be necessary, or that the Contracting Authority may direct, for the protection and preservation of the terminated Work.

11.2.3 Upon termination, the Contracting Authority shall pay the Contractor in accordance with the Schedule of Values for Work completed, including any retained funds, and the value of materials ordered and delivered, less any salvage credit the Contractor may receive for them.

11.2.3.1 All materials, equipment, facilities, and supplies at the Site or stored off-site, for which the Contractor has received payment, shall become the property of the Owner.

11.2.3.2 The Contractor is entitled to a fair and reasonable profit for Work performed and reasonable expenses directly attributable to the termination of the Contract. In no event shall the Contractor be entitled to (1) overhead and profit on Work not performed or (2) compensation in excess of the total Contract Sum.

11.2.4 If the Contracting Authority terminates the Work under this Section 11.2, the termination shall not affect the rights or remedies of the State against the Contractor then existing or which may thereafter accrue.

11.2.5 Notwithstanding Section 11.2.3, if the Contracting Authority terminates the Work under this Section 11.2, but there exists an event of the Contractor's default, the Contractor shall be entitled to receive only such sums as it would be entitled to receive following the occurrence of an event of default as provided in Section 11.3.

11.3 Termination for Cause

11.3.1 The Contracting Authority may terminate all or a portion of the Contract if the Contractor commits a material breach of the Contract including but not limited to:

11.3.1.1 failure to prosecute the Work with the necessary force or in a timely manner;

11.3.1.2 refusal to remedy Defective Work;

11.3.1.3 failure to supply enough properly skilled workers or proper materials;

11.3.1.4 failure to properly make payment to Subcontractors or Consultants;

11.3.1.5 performance of any services outside of the United States;

11.3.1.6 permitting its Subcontractors or Consultants to perform any services outside of the United States; or

11.3.1.7 disregarding laws, ordinances, or rules, regulations, or orders of a public authority with jurisdiction over the Project.

11.3.2 If the Contracting Authority intends to exercise its termination rights under this Section 11.3, the Contracting Authority shall issue not less than 5 days' written notice to the Contractor and the Contractor's Surety in accordance with ORC Section 153.17 ("5-Day Notice").

11.3.3 If the Contractor fails to satisfy the requirements set forth in the 5-Day Notice within 15 days of receipt of the 5-Day Notice, the Contracting Authority may declare the Contractor in default, terminate the Contract, and employ upon the Work the additional force or supply materials or either as appropriate, and remove Defective Work.

11.3.4 If the Contract is terminated, the Contractor's Surety may perform the Contract. If the Contractor's Surety does not commence performance of the Contract within 10 days of the date of Contract termination, the Contracting Authority may complete the Work by means the Contracting Authority determines

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appropriate. The Contracting Authority may take possession of and use all materials, facilities, and equipment at the Site or stored off-site, for which the State has paid.

11.3.5 If the Contract is terminated, the Contractor shall not be entitled to further payment. If the unpaid balance of the Contract Sum exceeds the costs of finishing the Work, including without limitation the fees and charges of engineers, architects, attorneys, and other professionals and court costs, and other damages incurred by the Owner and not expressly waived, the Contractor or Surety shall immediately pay the amount of the insufficiency to the Owner. This obligation for payment shall survive termination of the Contract.

11.3.6 If the Contractor's Surety performs the Work, the provisions of the Contract Documents govern the Surety's performance, with the Surety in place of the Contractor in all provisions including, but not limited to, provisions for payment for the Work, and provisions of the right of the Contracting Authority to complete the Work.

11.3.7 If the Contracting Authority terminates the Contract under this Section 11.3, the termination shall not affect any rights or remedies of the State against the Contractor then existing or which may thereafter accrue. The Contracting Authority's retention or payment of funds due the Contractor shall not release the Contractor or the Contractor's Surety from liability for performance of the Work in accordance with the requirements of the Contract Documents.

11.3.8 If the Contracting Authority is adjudged to have improperly terminated the Contract under this Section 11.3, the termination will be deemed to have been a termination under Section 11.2.

11.4 Contractor Insolvency

11.4.1 Bankruptcy of Contractor.

11.4.1.1 If the Contractor files a voluntary petition in bankruptcy or has an involuntary petition in bankruptcy filed against it, the Contractor, the Contractor as the debtor-in-possession, or the trustee of the Contractor's bankruptcy estate shall file a motion to assume or reject the Contract under Bankruptcy Code §365, 11 U.S.C. §365, within 20 days after the filing of the voluntary petition or involuntary petition and shall diligently prosecute that motion to conclusion so as to obtain an order granting or denying that motion within 45 days after the filing of the voluntary or involuntary petition. The failure to file and prosecute that motion within the time frames provided by this Section 11.4 shall constitute a material breach of the Contract as time is of the essence with respect to Contractor's performance of all terms of this Contract. Contractor agrees to the granting of relief from the automatic stay of the Bankruptcy Code, 11 U.S.C. §362(a), to permit the Contracting Authority to terminate the Contract for cause in such instance and issue and serve all notices necessary to terminate the Contract or arising out of the termination of the Contract and to take any and all other action necessary to terminate the Contract.

11.4.2 Receivership or Assignment for the Benefit of Creditors.

11.4.2.1 If the Contractor makes a general assignment for the benefit of creditors or if a receiver is appointed for all or a substantial part of the Contractor's business or property, the Contracting Authority shall serve written notice on the Contractor and the Contractor's Surety stating that any failure of the Contractor to provide adequate assurance of continued performance shall be considered a rejection of the Contract, which shall result in termination of the Contract for cause. Such termination of the Contract need not be evidenced by an order of any court.

ARTICLE 12 - GENERAL PROVISIONS

12.1 Contractor's Documents and Contract Documents

12.1.1 Ownership.

12.1.1.1 The Owner alone owns the Contractor's Documents and the Contract Documents and every right, title, and interest therein from the moment of creation.

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.1 The Contractor must execute and deliver and cause its employees and agents and all Subcontractors and Consultants to execute and deliver, to the Owner any transfers, assignments, documents, or other instruments (if any) necessary to vest in the Owner complete right, title, interest in and ownership of the Contractor's Documents and the Contract Documents.

12.1.1.2 The Contractor may retain copies, including reproducible copies, of the Contractor's Documents and the Contract Documents for information, reference, and performance of the Work.

12.1.1.3 The submission or distribution of the Contractor's Documents or the Contract Documents to meet official regulatory requirements or for similar purposes in connection with the Project is not a waiver of the Owner's reserved rights in the Contractor's Documents and the Contract Documents. Any unauthorized use of the Contractor's Documents or the Contract Documents shall be at the sole risk of the entity making the unauthorized use.

12.1.2 Intent.

12.1.2.1 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor.

12.1.2.2 The Contract Documents are complementary, and what is required by one is binding as if required by all.

12.1.2.3 The Contractor shall provide all labor and materials necessary for the entire completion of the Work described in the Contract Documents and reasonably inferable to produce the intended results.

12.1.2.4 The Drawings govern dimensions, details, and locations of the Work. The Specifications govern quality of materials and workmanship.

12.1.2.5 The organization of the Specifications in divisions, sections, and articles, and the arrangement of Drawings shall not restrict the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade.

12.1.2.6 In the event of inconsistency or conflict within the Contract Documents, the Contractor shall provide the better quality or greater quantity of Work, and comply with the stricter requirement.

12.1.2.7 Unless otherwise defined in the Contract Documents, words that have well-known technical or construction industry meanings are used in accordance with those recognized meanings.

12.1.2.8 The Sections of Division 01 - "General Requirements" govern the performance of the Work of all Sections of the Specifications.

12.2 Public Relations

12.2.1 Publicity prior to completion of the Project. Prior to completion of the Project, public relations or publicity about the Project shall be solely within the control, and with the consent of, the Owner.

12.2.2 Publicity after completion of the Project. After completion of the Project, the Contractor may exercise reasonable public relations and marketing efforts related to the Project, provided the Contractor properly identifies the Owner and the Contracting Authority, and their participation in the Project.

12.2.3 Professional Photography. If the Contractor commissions photography of the completed Project, the Contractor shall include in its photography agreements a release for unrestricted and unlimited use of photographs by the Owner and the Contracting Authority, and shall provide the Owner and the Contracting Authority with a reasonable quantity of photographs for use in the Owner's and the Contracting Authority's marketing and awareness activities, including, but not limited to, profiles of the Project on their respective websites.

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12.2.4 Craft Awards and Other Recognition.

12.2.4.1 If the Contractor submits the Project for craft awards or other similar venues for recognition of the Project, the Contractor shall properly identify the Owner and the Contracting Authority, and their participation in the Project.

12.2.4.2 In addition, if the Project receives any craft award or other recognition, the Contractor shall provide duplicate copies of the award plaque or other memento of the award to the Owner and the Contracting Authority.

12.3 Application and Governing Law

12.3.1 The Contract and the rights of the parties thereunder shall be governed by the laws of the state of Ohio and only Ohio courts shall have jurisdiction over any action or proceeding concerning the Contract and/or performance thereunder. The Contractor irrevocably consents to such jurisdiction.

12.3.2 The parties to the Contract shall comply with Applicable Law.

12.3.3 Other rights and responsibilities of the Contractor, the A/E, the Contracting Authority, and the Owner are set forth throughout the Contract Documents and included under different titles, articles, and paragraphs for convenience.

12.4 Conditions of the Contract

12.4.1 These General Conditions govern, take precedence over, and shall not be superseded or amended by Drawings and Specifications, unless so provided in Supplementary Conditions prepared by the Contracting Authority and approved by the State Architect.

12.5 Notice of Commencement.

12.5.1 The Contracting Authority shall prepare a Notice of Commencement and make it available as required under ORC Section 1311.252.

12.5.2 Upon request, the Contracting Authority or the Contractor shall furnish the Notice of Commencement to Subcontractors or any other member of the public.

12.6 Written Notice

12.6.1 Notice under the Contract Documents shall be validly given if:

12.6.1.1 delivered personally to a member of the organization for whom the notice is intended;

12.6.1.2 delivered, or sent by registered or certified mail, to the last known business address of the organization; or

12.6.1.3 sent by facsimile, email, or web-based project management software, provided the original, signed document is delivered within 3 business days after the date of the electronic transmission.

12.6.2 When the Owner, the Contracting Authority, the A/E, or the Contractor gives notice to one of the other 3, it shall also simultaneously send a copy of that notice to the others.

12.6.3 A copy of all notices, certificates, requests, or other communications to the Contracting Authority shall be sent to the Project Manager.

12.6.4 For convenience of communication only, notices, certificates, requests, or other communications hereunder, may be sent by facsimile, email, or web-based project management software, provided the original, signed document is delivered within 3 business days after the date of the electronic transmission.

12.6.4.1 Notices, certificates, requests, or other communications sent by facsimile transmission shall be validly given provided a counterpart is delivered or mailed in accordance with Section 12.6.1.

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12.6.4.2 Requests for payment may be sent to the Contracting Authority by facsimile only upon the Contracting Authority's prior specific written direction.

12.6.5 In the event of an emergency involving the Project, including, but not limited to, a fatality, serious injury, fire, collapse, flood, utility, or power loss to occupied facilities, explosion, or environmental damage, the Contractor shall immediately notify the A/E, the Contracting Authority, and the Owner by telephone.

12.6.6 The Contracting Authority, the Owner, the A/E, or the Contractor may, by written notice given hereunder, designate addresses, telephone numbers, email addresses, or facsimile numbers to which notices, certificates, requests, or communications shall be sent.

12.7 Taxes

12.7.1 Only those materials that ultimately become a part of the completed structure or improvement which constitutes the Project shall be exempt from state sales tax and state use tax.

~~Article 6 - TIME~~

12.7.2 The purchase, lease, or rental of material, equipment, parts, or expendable items as concrete form lumber, tools, oils, greases, and fuels, which are used in connection with the Work, are subject to the application of state sales tax and state use tax.

~~6.1~~12.8 Computing Time

~~6.1.1~~12.8.1 When the Contract Documents refer to a period of time by a number of days, the period shall be computed to exclude the first and include the last day of the period. If the last day of the period falls on a Saturday, Sunday, or a legal holiday, that day shall be omitted from the computation and the period shall end on the next succeeding day that is not a Saturday, Sunday, or legal holiday.

~~6.1.2~~12.8.2 Except as excluded under ~~subparagraph 6.1.1~~Section 12.8.1, the Contract ~~Time~~Times and all other time periods referred to in the Contract Documents includes Saturdays, Sundays, and all days defined as legal holidays by ~~subparagraph 6.1.4~~Section 12.8.4.

~~6.1.3~~12.8.3 The standard workdays for State projects are Monday through Friday, excluding legal holidays.

~~6.1.4~~12.8.4 Legal holidays are as follows:

~~6.1.4.1~~12.8.4.1 New Year's Day – First Day in January;

~~6.1.4.2~~12.8.4.2 Martin Luther King Jr. Day – Third Monday in January;

~~6.1.4.3~~12.8.4.3 Washington-Lincoln (President's) Day – Third Monday in February;

~~6.1.4.4~~12.8.4.4 Memorial Day – Last Monday in May;

~~6.1.4.5~~12.8.4.5 Independence Day – Fourth day of July;

~~6.1.4.6~~12.8.4.6 Labor Day – First Monday in September;

~~6.1.4.7~~12.8.4.7 Columbus Day – Second Monday in October;

~~6.1.4.8~~12.8.4.8 Veteran's Day – Eleventh Day of November;

~~6.1.4.9~~12.8.4.9 Thanksgiving Day – Fourth Thursday of November; and

~~6.1.4.10~~12.8.4.10 Christmas Day – Twenty-fifth day of December.

~~6.1.5~~12.8.5 If a legal holiday falls on a Saturday, it is observed on the preceding Friday. If a legal holiday falls on a Sunday, it is observed on the following Monday.

~~6.2~~12.9 Time of the Essence

~~6.2.1~~12.9.1 Time limits stated in the Contract Documents are of the essence of the Contract and all obligations under the Contract. By signing the ~~Contract Form~~Agreement, the Contractor acknowledges that the Contract

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~~Time is~~Times are reasonable, taking into consideration the usual weather and other conditions prevailing in the locality of the Project. By signing the Construction Schedule, the Contractor acknowledges that the specified Milestone dates are reasonable, taking into consideration the usual weather and other conditions prevailing in the locality of the Project.

~~6.2.1.1~~12.9.1.1 The Notice to Proceed establishes the date for commencement of the Work.

~~6.2.1.2~~12.9.1.2 The Contractor acknowledges that the Owner has entered into, or may enter into, agreements for use of all or part of the premises where the Work is to be completed based upon the Contractor achieving Contract Completion within the Contract ~~Time~~Times.

~~6.2.1.3~~12.9.1.3 The Contractor shall perform the Work in a reasonable, efficient, and economical sequence, ~~in cooperation with the Separate Contractors~~ and in the order and time as provided in the Construction Progress Schedule.

~~6.2.1.4~~12.9.1.4 The Contractor acknowledges that it may be subject to interference, disruption, hindrance, or delay in the progress of the Work from any cause. The sole remedy for such interference, disruption, hindrance, or delay shall be an extension of the Contract ~~Time~~Times under ~~Article 8,~~Article 8, unless otherwise required by ~~O.R.C.~~ORC Section 4113.62.

~~6.3 Critical Path~~

~~6.3.11.1.1Time extensions shall depend upon the extent to which the Work on the critical path of the Construction Progress Schedule is affected, if applicable.~~

~~6.3.2 A Change Order granting a time extension may provide that the Contract Time shall be extended for only those specific elements so interfered with, disrupted, hindered, or delayed and related remobilization and that remaining Milestone dates shall not be altered and may further provide for adjustment of Statutory Delay Forfeiture.~~

~~Article 7 - CONTRACT MODIFICATIONS~~

~~7.11.1 General~~

12.10 ~~The Contracting Authority may order changes in the Work without invalidating the Contract.~~ ~~Subject~~Successors and Assigns

12.10.1 The Contracting Authority and the Contractor each bind themselves, their successors, assigns, and legal representatives, to the ~~limitations stated in~~other party to this ~~Article 7 and elsewhere in the~~ Contract ~~Documents, a change in~~ and to the ~~Work may be accomplished by a Change Order, Field Work Order, or an order for a minor change in the Work~~successors, assigns, and legal representatives of the other party with respect to all terms of this Contract.

~~7.1.1~~12.10.2 The Contracting Authority and the Contractor each acknowledge that the Owner is an intended third-party beneficiary of this Contract.

~~7.1.1.1~~~~11.1.1.1~~~~The Contractor shall proportionately increase the amount of the Bond whenever the Contract Sum is increased.~~

~~7.1.1.2 If notice of any change affecting the Contract is required by the provision of any Bond, the giving of the notice is the Contractor's responsibility, and the amount of each applicable Bond shall be adjusted accordingly.~~

~~7.1.2~~12.10.3 The Contractor shall not ~~proceed with~~assign, or transfer any ~~change~~right, title, or interest in ~~the Work~~this Contract without the Contracting Authority's prior written ~~authorization~~consent.

~~7.1.2.1 Except as provided in paragraph 2.15, the Contractor's failure to obtain prior written authorization for a change in the Work constitutes a waiver by the Contractor of an adjustment to the Contract Sum or Contract Time, or both, for the related Work.~~

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12.11 ~~The Contractor shall perform all changes in the Work under the applicable~~ Extent of Contract

12.11.1 Entire Contract. The Contract Documents represent the entire and integrated agreement between the Contracting Authority and the Contractor and supersede all prior negotiations, representations, or agreements, either written or oral.

12.11.2 Multiple Counterparts. This Contract may be executed in any number of counterparts, each of which shall be regarded as an original and all of which shall constitute but one and the same instrument.

12.11.3 Captions. The captions and headings in this Contract are for convenience only and in no way define, limit, or describe the scope or intent of any provisions or sections hereof.

~~7.1.3~~12.11.4 Precedence. If there are any inconsistencies between the provisions of the Contract Documents~~, and the Contractor shall proceed promptly with the change unless otherwise provided in the Change Order, Field Work Order, or order for a minor change in the Work~~ and the provisions of the Contract, the provisions of this Contract shall prevail.

~~7.1.4 Paperwork Consolidation:~~

~~7.1.4.1 Related Contract modifications, with the same or similar justification (e.g., Owner Request or Field Condition), may be consolidated into the same change-related document.~~

~~7.1.4.2~~1.1.1.1 ~~Add and deduct Contract modifications, with the same or similar justification, may be included on the same Change Order.~~

~~7.1.4.3~~1.1.1.1 ~~Contract modifications resulting from errors or omissions shall not be combined with other modifications for which the A/E will receive a fee.~~

~~7.1.5 Change Order Numbering:~~

~~7.1.5.1 The A/E shall assign a number to each Contract modification, which shall uniquely identify it.~~

~~7.1.5.2 The A/E shall not duplicate or reuse any number throughout the Project or reuse assigned numbers for Proposal Requests that are initiated but cancelled in progress.~~

~~7.1.5.3 The number for each Change Order shall be coordinated with any associated Proposal Request or Field Work Order.~~

~~7.1.5.4 The same sequence of numbers may be utilized for multiple Contracts, if the associated change in Work involves multiple trades.~~

~~7.1.6 Change Order Log:~~

~~7.1.6.1 The CM shall create and maintain a Change Order Log for the Project, which shall contain the following minimum information:~~

~~.1 Number of the modification;~~

~~.2 A brief description of the modification;~~

~~.3 Affected trade(s);~~

~~.4 Cost of the modification; and~~

~~.5 Dates sent to, and received from, the parties.~~

~~7.1.7 Reconciliation of Unit Price Items:~~

~~7.1.7.1~~1.1.1.1 ~~The Contracting Authority may increase, decrease, or delete entirely the scheduled quantities of Work to be performed and materials to be furnished by Change Order.~~

~~7.1.7.2 The A/E, with the assistance of the CM, shall issue a Change Order to reconcile the difference between the scheduled and actual quantities of Work performed and materials furnished.~~

~~7.1.7.3 If the actual quantity of a Unit Price item differs from the scheduled quantity by 20 percent or more, so that application of the Unit Price to the quantities of Work proposed would create an undue~~

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hardship on either the State or the Contractor, the A/E, with the assistance of the CM, shall issue a Proposal Request and subsequent Change Order to adjust the Unit Price.

7.1.7.4 If the actual quantity of a Unit Price item exceeds the scheduled quantity by 20 percent or more, the Contractor shall immediately notify the A/E, who shall issue a Field Work Order and subsequent Change Order, with the assistance of the CM, to authorize an adjustment in the scheduled quantity.

7.21.1Initiation of Change Orders

7.2.1 Proposal Request:

7.2.1.1 The A/E, with the assistance of the CM, shall prepare and issue a Proposal Request to the Contractor to obtain the Contractor's Proposal for the adjustment of the Contract Sum or the Contract Time, or both, associated with a Contract modification.

.1 In any Proposal for an adjustment of the Contract Sum, the Contractor shall specifically identify the items set forth in paragraph 7.6.

12.12 In any Proposal for an adjustment of Severability

12.12.1 If any term or provision of this Contract or the application thereof to any Person or circumstance, is finally determined to be invalid or unenforceable by a court of competent jurisdiction, the remainder of this Contract or the application of such term or provision to other Persons or circumstances, shall not be affected thereby, and each term and provision of this Contract shall be valid and enforced to the fullest extent permitted by Applicable Law.

12.13 Facsimile Signatures

12.13.1 Any party hereto may deliver a copy of its counterpart signature page to this Contract via fax, e-mail, or web-based project management software. Each party hereto shall be entitled to rely upon a facsimile signature of any other party delivered in such a manner as if such signature were an original.

12.14 No Third-Party Interest

12.14.1 Except as expressly provided under Sections 6.2.3 through 6.2.5 and Section 12.10.2, (1) no person or entity, other than the Contracting Authority and Contractor, will have any right or interest under the Contract, and (2) the Contract does not create a contractual relationship of any kind between any people or entities other than the Contracting Authority and the Contractor.

12.15 No Waiver

12.15.1 The failure of the Contracting Authority or the Contractor to insist in any one or more instances upon the strict performance of any one or more of the provisions of the Contract or to exercise any rights under the Contract or provided by law will not be construed as a waiver or relinquishment of that provision or right or of the right to subsequently demand strict performance or exercise the right and the rights will continue unchanged and remain in full force and effect.

12.16 Rights and Remedies

.2 The duties, obligations, rights, and remedies under the Contract Time, the Contractor shall specifically identify the items set forth are in paragraph 7.7.

.3.1 The Contractor's cost of preparing and providing Proposals is included in the Contract Sum.

7.2.1.2 The Contractor shall respond with a Proposaladdition to the A/Eand not a limitation of the duties, obligations, rights, and the Contracting Authority, through the CM, within 14 days after receiving the Proposal Request. The allowable time for the Contractor's response may be extendedremedies otherwise imposed by written agreement of the Contractor, the A/E, and the CM.

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7.2.1.3 The Contractor shall hold the Proposal valid and open for acceptance for at least 45 days. The acceptance period may be adjusted by mutual consent of the Contractor and the Contracting Authority. The time limits described under this subparagraph 7.2.1.3 apply only to Proposals submitted in response to a Proposal Request.

7.2.1.41.1.1.1A Proposal may be accepted by the Contracting Authority only through a Change Order. A Proposal Request does not authorize the Contractor to proceed with a change in the Work.

7.2.1.5 If the Contractor does not timely submit a Proposal within the time required in subparagraph 7.2.1.3, the Contractor waives its right to an adjustment to the Contract Sum or Contract Time, or both, associated with the contemplated change in the Work.

7.2.1.6 If the Project is administered using OAKS CI, the Contractor shall respond to a Proposal Request issued by the A/E with its Proposal using the OAKS CI "Change Order" business process.

7.2.2 Field Work Order:

7.2.2.1 A Field Work Order is a written order prepared by the A/E, with the assistance of the CM, and signed by the Contracting Authority, the Owner, the A/E, and the CM; directing a change in the Work and may, if necessary:

.1 State a proposed basis for adjustment, if any, in the Contract Sum or Contract Time, or both; or

.2 Limit the scope of the change in the Work on a time and materials basis, not to exceed a fixed adjustment of the Contract Sum.

7.2.2.2 If a change in the Work must start immediately to avoid an imminent impact to the schedule of the Project, the A/E may, with the assistance of the CM, prepare a Field Work Order, for the Contracting Authority's and Owner's signatures pursuant to subparagraph 7.2.2.1, authorizing the Contractor to proceed.

7.2.2.3 A Field Work Order shall be used to direct a change in the Work in the absence of total agreement on the terms of a Change Order.

7.2.2.4 Upon receipt of a Field Work Order, the Contractor shall promptly proceed with the change in the Work involved.

7.2.2.5 The Contractor may sign the Field Work Order to accept the proposed basis for adjustment, if any, of the Contract Sum or Contract Time, or both.

7.2.2.6 Within 14 days after receiving the Field Work Order, the Contractor shall respond with a Proposal meeting the requirements of subparagraph 7.2.1 to the A/E and the Contracting Authority, through the CM, for adjustment of the Contract Sum or Contract Time, or both, on account of the change, unless the Field Work Order is performed on a time and materials basis under subparagraph 7.2.2.1.2. If the Field Work Order is performed on a time and materials basis, the Contractor shall submit its Proposal within 7 days after completing the Work.

.1 The Proposal for the adjustment of the Contract Sum, if any, shall include: (1) Written documentation as described under paragraph 7.6; and (2) A written statement from the Contractor that the proposed adjustment is the entire adjustment in the Contract Sum associated with the change.

.2 The Proposal for the change in the Contract Time, if any, shall include: (1) Written documentation as describedavailable under paragraph 7.7; and (2) A written statement from the Contractor that the proposed adjustment is the entire adjustment of the Contract Time associated with the change.

7.2.2.7 If the Contractor does not respond to a Field Work Order as required under subparagraph 7.2.2.5, the Contracting Authority shall determine the adjustments, if any, of the Contract Sum and Contract Time. If the Contractor does not agree with the Contracting Authority's determination, the Contractor

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shall initiate a claim under Article 8 within 10 days of the date on which the Contracting Authority issues its determination, and the Contractor's failure to do so shall constitute an irrevocable waiver of the claim.

7.2.2.8 Pending final determination of the total adjustment of the Contract Time on account of a Field Work Order, the period of time not in dispute for that change in the Work may be included in the Construction Schedule accompanied by a Change Order indicating the parties' agreement with part or all of the time adjustment.

7.2.2.9 If the Contracting Authority, Owner, and Contractor agree on the adjustments of the Contract Sum and Contract Time associated with a Field Work Order, the A/E shall, with the assistance of the CM, prepare an appropriate Change Order within 7 days after receiving the Contractor's Proposal. The A/E, CM, Contracting Authority, Owner, and Contractor shall promptly sign the Change Order.

7.2.2.10 If the Contracting Authority, Owner, and Contractor do not agree on the adjustments of the Contract Sum and Contract Time associated with a Field Work Order within 60 days after the Field Work Order is issued, the Contracting Authority shall determine the adjustments, if any, of the Contract Sum and Contract Time. If the Contractor does not agree with the Contracting Authority's determination, the Contractor shall initiate a claim under Article 8 within 10 days of the date on which the Contracting Authority issues its determination, and the Contractor's failure to do so shall constitute an irrevocable waiver of the claim.

7.2.2.11 If the Project is administered using OAKS CI, the Contractor shall respond to a Field Work Order issued by the A/E with its Proposal using the OAKS CI "Change Order" business process.

7.2.3 Request for Change Order:

7.2.3.1 The Contractor may initiate a change in the Work by submitting written notice to the A/E, through the CM, accompanied by a Proposal meeting the requirements of subparagraph 7.2.1.

7.2.3.2 If the Project is administered using OAKS CI, the Contractor shall initiate its Request for Change Order using the OAKS CI "Change Order" business process with the "Request for Change Order" workflow.

7.31.1Change Order Procedure

7.3.1 A Change Order is a written instrument prepared by the A/E, with the assistance of the CM, and signed by the Contracting Authority, the Owner, the A/E, the CM, and the Contractor, stating their agreement upon all of the following:

7.3.1.1 A change in the Work;

7.3.1.2 The amount of the adjustment of the Contract Sum, if any; and

7.3.1.3 The extent of the adjustment of the Contract Time, if any.

7.3.2 In no event shall the Contractor be entitled to reserve any rights or take other similar action with respect to a Change Order if the effect or intent of the reservation or action would be to accommodate a further adjustment of the Contract Sum or Contract Time, or both, after the Contractor signs the Change Order. By signing a Change Order, the Contractor irrevocably certifies that the elements of a Change Order described in subparagraph 7.3.1 are completely satisfied, and waives all rights, if any, to seek further adjustment of the Contract Sum or Contract Time, or both, at a later date with respect to the associated change in the Work including without limitation on account of the "cumulative impact" of the associated change in the Work in combination with one or more other changes in the Work.

7.3.3 The A/E shall prepare each Change Order form, with the assistance of the CM, attach the supporting documentation, and issue the Change Order to the Contractor for signature.

7.3.4 If the Contractor is in agreement with the Change Order under subparagraph 7.3.1, the Contractor shall sign and return the Change Order to the CM within 3 days of receiving it.

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7.3.4.1 If the Project is administered using OAKS CI, the Contractor shall indicate its agreement with the Change Order using the OAKS CI "Change Order" business process.

7.3.5 When the CM receives the Change Order signed by the Contractor, the CM shall recommend approval by signing the form and transmitting the Change Order and the revised Change Order Log to the A/E.

7.3.6 When the A/E receives the Change Order signed by the Contractor and the CM, the A/E shall recommend approval by signing the form and transmitting the Change Order and the revised Change Order Log to the Owner.

7.3.71.1.1When the Owner receives the Change Order, the Owner shall sign the form accepting the Change Order, attach certification of funding, and transmit the Change Order to the Contracting Authority; or, if the Owner does not accept the Change Order, the Owner shall reject it and return it to the A/E.

7.3.81.1.1When the Contracting Authority receives the Change Order, the Contracting Authorityshall sign the form approving the Change Order, and transmit the fully executed Change Order to all signers; or, if the Contracting Authority does not accept the Change Order, the Contracting Authority shall reject it and return it to the A/E.

7.3.9 When the Change Order is signed by the Contractor, the CM, the A/E, the Owner, and the Contracting Authority, the fully executed Change Order modifies the Contract Documents and authorizes and directs the Contractor to proceed, and the Contractor shall promptly proceed with the associated change in the Work.

7.41.1Minor Changes in the Work

7.4.11.1.1The A/E may, with the Contracting Authority's approval, order minor changes in the Work not involving adjustment of the Contract Sum or extension of the Contract Time and not inconsistent with the intent of the Contract Documents. Those changes shall be effected by written order issued to the Contractor.

7.4.2 The Contractor shall promptly carry out each order for a minor change in the Work if the Contractor agrees that the order does not involve adjustment of the Contract Sum or Contract Time, or both.

7.4.3 If the Contractor reasonably believes that it would be entitled to an adjustment of the Contract Sum or Contract Time, or both, on account of an order for a minor change in the Work, the Contractor, within 3 business days after receiving the order, shall give the Contracting Authority and the A/E written notice of the Contractor's position, and not proceed with the subject Work without first receiving a Field Work Order or Change Order related to it.

7.4.4 The Contractor waives its right to an adjustment of the Contract Sum or Contract Time on account of an order for a minor change in the Work by:

7.4.4.1 Starting the Work which is the subject of the order for a minor change in the Work; or

7.4.4.2 Failing to give the notice described under subparagraph 7.4.3 within 3 business days after receiving the order for a minor change in the Work.

7.4.5 If the Project is administered using OAKS CI, the order for a minor change in the Work shall be documented through the OAKS CI "Action Items" business process.

7.51.1Differing Site Conditions

7.5.1 "Differing Site Conditions" are either (1) subsurface or otherwise concealed physical conditions encountered at the Site that differ materially from the conditions indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature encountered at the Site that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents.

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7.5.2 If the Contractor encounters a Differing Site Condition, the Contractor shall stop Work on that Differing Site Condition and give immediate written notice of the condition to the A/E, the CM, and the Contracting Authority.

7.5.2.1 The Contractor's failure to give notice of the Differing Site Condition as required under this subparagraph 7.5.2 shall constitute an irrevocable waiver of any associated claim.

7.5.2.2 The written notice of a Differing Site Condition under this subparagraph 7.5.2 shall be required in addition to the notice of claim under Article 8.

7.5.3 Promptly after receiving notice from the Contractor under subparagraph 7.5.2, the A/E, in consultation with the CM, shall investigate to determine whether the Contractor has encountered a Differing Site Condition. The A/E shall give written notice of its determination to the Contracting Authority and the Contractor, through the CM, within 10 days after completing the investigation.

7.5.3.1 If the A/E determines that the Contractor has not encountered a Differing Site Condition and the Contractor does not agree with that determination, the Contractor must initiate a claim under Article 8 within 10 days of the date on which the A/E issues its determination.

7.5.3.2 If the A/E determines that the Contractor has encountered a Differing Site Condition, the A/E shall process an appropriate Change Order, with the assistance of the CM.

7.6 Change Order Cost or Credit Determination

7.6.11.1.1.1The maximum cost or credit resulting from a change in the Work shall be determined as described below.

7.6.1.1 Proposals shall include the information required by subparagraph 7.6.4.

7.6.1.2 A Unit Price Proposal shall only be valid when incorporated into the Contract by Change Order except for Unit Price Work included on the Bid Form.

7.6.1.3 The percentages allowed for overhead and profit include all Contractor Project costs relating to field or home office operations. Additional costs for overhead or profit shall not be allowed.

7.6.1.4.1The maximum cost or credit includes all compensation for impact costs. Additional costs for impacts shall not be allowed.

7.6.21.1.1.1The Contractor shall not assign any portion of the Work to another Person whereby the Contractor would benefit directly or indirectly from the double application of charges for overhead or profit.

7.6.3 The Contracting Authority may require notarized invoices for material costs and may audit the records of the Contractor and the Contractor's Subcontractors and Material Suppliers.

7.6.4 For each change in the Work, the Contractor shall furnish a detailed Proposal itemized on the Change Order Estimate Summary form published by the Department. Any Subcontractor or Material Supplier pricing shall also be itemized on the Change Order Estimate Summary form.

7.6.5 The following criteria establish the exclusive and maximum amount that the Owner shall pay for any Change Order, including, but not limited to, all amounts for interference with, delay, hindrance, disruption, or impact of the Work ("Pricing Criteria"). These Pricing Criteria also govern the value of deduct Change Orders and the Contractor's entitlement to additional compensation or damages through the claims and dispute resolution processes on account of changes in the Work. In order to expedite the review and approval process, Proposals shall be prepared in the categories and order listed below:

7.6.5.1 LABOR - The Contractor shall pay to laborers and mechanics performing Work on the Project not less than the prevailing wage rates of the Project locality, as determined by the Ohio Department of Commerce, Wage and Hour Bureau.

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7.6.5.21.1.1.1FRINGES - Fringe benefit credit for labor provided under subparagraph 7.6.5.1 is only allowable for prevailing wage fringe benefits pursuant to O.R.C. Chapter 4115, including, but not limited to, Health and Welfare, vacation, apprenticeship training, and certain types of pension plans. The parties shall defer to the Ohio Department of Commerce's policy on which benefits are granted fringe benefit credit. Each fringe benefit for which credit is requested shall be calculated on an hourly basis and listed as a separate line item. The Contractor shall submit documentation supporting the calculation of the amounts for each fringe benefit for each worker classification, including labor provided by Subcontractors.

7.6.5.312.16.1 ALLOWABLE PAYROLL EXPENSES - Allowable payroll expenses including payroll taxes as well as other benefits that are required by Applicable Law, such as federal and state Unemployment and Workers' Compensation shall each be a separate line item and shall not be credited for compliance with O.R.C. Chapter 4115.Applicable Law.

7.6.5.41.1.1.1EQUIPMENT RENTALS - All charges for certain non-owned heavy or specialized equipment at up to 100 percent of the documented rental cost. No rental charges shall be allowed for hand tools, minor equipment, simple scaffolds, etc. Downtime due to repairs, maintenance, and weather delays shall not be allowed. Contractor shall submit copies of actual paid invoices to substantiate rental costs.

7.6.5.51.1.1.1OWNED EQUIPMENT - All charges for certain Contractor-owned heavy or specialized equipment at up to 100 percent of the cost listed by the current edition of the Associated Equipment Dealers *Green Book* rental rates and specifications for construction equipment. No recovery shall be allowed for hand tools, minor equipment, simple scaffolds, etc. The longest period of time that the equipment is to be required for the Work shall be the basis for the pricing. Downtime due to repairs, maintenance, and weather delays shall not be allowed.

7.6.5.61.1.1.1TRUCKING - A reasonable delivery charge or per-mile trucking charge for delivery of required materials or equipment. Charges for use of a pick-up truck shall not be allowed.

12.17 OVERHEAD - Overhead on items in subparagraphs 7.6.5.1, 7.6.5.2, 7.6.5.3, 7.6.5.4, 7.6.5.5,Survival of Obligations

7.6.5.7 All representations, indemnity obligations, warranties, guarantees, and 7.6.5.6: up to 15 percent, which includes costs required to schedule the Work and coordinate with other contractors.

.1 Overhead includes, but is not limited to, telephone, telephone charges, facsimile, telegrams, postage, photos, photocopying, hand tools, simple scaffolds (one level high), tool breakage, tool repairs, tool replacement, tool blades, tool bits, home office estimating and expediting, home office clerical and accounting support, home office labor (management, supervision, engineering), all other home office expense, legal services, travel, and parking expenses.

.2 An exception is allowed for shop or engineering labor on items in subparagraph 7.6.5.7.1, which shall not be subject to Prevailing Wage rates for steel fabricators, sheet metal fabricators, and sprinkler system fabricators performing work off-site. Recovery for these matters shall be allowed under items in subparagraphs 7.6.5.1 and 7.6.5.2 of these Pricing Criteria.

.3 An exception is allowed for field supervision labor on items in subparagraph 7.6.5.7.1, for those portions of the Change Order Work that will be performed, or was performed, at times when the superintendent is not required to be on site under paragraph 2.3, including but not limited to overtime hours due to acceleration and extensions of necessarily continuing obligations under the Contract Time. Recovery for this matter will be allowed under items in subparagraphs 7.6.5.1 and 7.6.5.2 of these Pricing Criteria.

.4 If the Contract Sum is adjusted on account of an adjustment of Contract Time only (i.e., the adjustment of Contract Sum does not include any of the items described under subparagraphs 7.6.5.1 through 7.6.5.6 or subparagraph 7.6.5.8), the adjustment shall be based upon actual "general conditions" costs incurred or a reasonable estimate of the "general conditions" costs actually avoided. In no event shall the Contract Sum adjustment per day of Contract Time adjustment exceed an amount equal to the sum of the "general conditions" line items in the

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Contractor's first approved Schedule of Values divided by the total number of days of original Contract Time.

7.6.5.8 MATERIALS:

.1 All materials purchased by the Contractor and incorporated into the changed Work, showing costs, quantities, or Unit Prices of all items, as appropriate. Reimbursement of material costs shall only be allowed in the amount of the Contractor's actual cost, including any and all discounts, rebates or related credits.

.2 Up to 33 percent of the cost of reusable materials for each use (e.g., concrete form lumber, shoring, or temporary enclosures).

7.6.5.9 PROFIT - Profit on items in subparagraphs 7.6.5.1, 7.6.5.2, 7.6.5.3, 7.6.5.4, 7.6.5.5, 7.6.5.6, 7.6.5.7, and 7.6.5.8: Up to 10 percent.

7.6.5.10 SUBCONTRACTOR - The reasonable cost of labor and materials provided by a Subcontractor whose pricing is included and which complies with these Pricing Criteria.

7.6.5.11 CONTRACTOR MARK-UP ON SUBCONTRACTOR - Mark-up on item in subparagraph 7.6.5.10: Up to 5 percent.

7.6.5.12 MISCELLANEOUS - The following items are allowable at the cost of the Work, with no overhead or profit.

.1 The cost of extending the Bond and the cost of extending liability, property damage, or specialty coverage insurance.

.2 The premium portion only for approved overtime (labor and fringes). The straight time portion is included in items in subparagraphs 7.6.5.1 and 7.6.5.2.

.3 Fees for permits, licenses, inspections, tests, etc.

7.6.5.13 State sales tax shall be allowed on items as defined by subparagraph 1.5.2.

7.6.6 Costs that shall not be reimbursed for Change Order Work include the following:

7.6.6.1 Voluntary employee deductions including, but not limited to, deductions for charitable donations or U.S. savings bonds.

7.6.6.2 Employee profit sharing.

7.7 Time Extension

7.7.1 Every adjustment of the Contract Time associated with any change in the Work shall be determined as provided in this paragraph 7.7, which establishes the Contractor's maximum entitlement for any change in the Work, including without limitation all adjustments for interference, delay, hindrance, or disruption of the Work. This paragraph 7.7 also governs time adjustments for deduct Change Orders and the Contractor's entitlement to additional time through the claims and dispute resolution processes on account of changes in the Work.

7.7.2 The Contractor shall substantiate all changes in the Contract Time with:

7.7.2.1 A written description of the nature of the interference, disruption, hindrance or delay;

7.7.2.2 Identification of Persons and events responsible for the interference, disruption, hindrance or delay;

7.7.2.3 Date, or anticipated date, of commencement of the interference, disruption, hindrance or delay;

7.7.2.4 Identification of activities by schedule activity number and name on the Construction Progress Schedule, which may be affected by the interference, disruption, hindrance or delay, or new activities created by the interference, disruption, hindrance or delay and the relationship with existing activities;

7.7.2.5 Anticipated duration of the interference, disruption, hindrance or delay and of any remobilization period;

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7.7.2.6 Specific number of days of extension requested and specific number of days for remobilization requested;

7.7.2.7 Recommended action to avoid or minimize any future interference, disruption, hindrance or delay;

7.7.2.8 A detailed written proposal as described under paragraph 7.6 for an increase in the Contract Sum which would fully compensate the Contractor for all costs of acceleration of the Work needed to completely overcome the associated delay, if any.

7.7.3 A Change Order may authorize extension of the Contract Time for specific elements, while maintaining Milestone dates for unaffected elements. Such a Change Order may also authorize an appropriate adjustment to Statutory Delay Forfeiture.

7.8 Examination and Audit of Contractor's Records

7.8.1 The Contracting Authority and the Owner may examine all books, records, documents and other data of the Contractor and of the Contractor's Subcontractors and Material Suppliers related to the bidding, pricing or performance of the Work for the purpose of evaluating any Proposal or claim.

7.8.2 The above referenced materials shall be made available at the office of the Contractor, Subcontractor, or Material Supplier, as applicable, at all reasonable times for inspection, audit, and reproduction until the expiration of 6 years after the date of Final Acceptance of the Project.

7.8.2.1 The Contractor shall maintain, and require all Subcontractors and Material Suppliers to maintain, complete and accurate business records at its principal place of business. If the principal place of business is greater than 50 miles from the Site, the Contractor shall timely make records available, and shall require its Subcontractors and Material Suppliers to timely make records available, at the office of the Contracting Authority or the Owner upon request for the records.

7.8.3 To the extent that the Contractor, Subcontractor or Material Supplier, as applicable, informs the Contracting Authority or the Owner in writing that any documents provided to the Contracting Authority or the Owner are trade secrets, the Contracting Authority or the Owner shall treat these documents, to the extent permitted by law, as trade secrets of the Contractor, Subcontractor or Material Supplier, as applicable.

7.8.3.1 If a dispute arises with any other Person about whether that Person should be given access to the documents, the Contractor, Subcontractor, or Material Supplier as applicable, shall indemnify the Contracting Authority and the Owner against all costs, expenses, and damages, including, but not limited to, attorney fees, incurred or paid by reason of that dispute.

7.8.4 The right of inspection, audit, and reproduction extends to all documents necessary to permit adequate evaluation of the cost of pricing data submitted along with the computations and projections used therein.

7.8.5 If the Contract has been terminated, in whole or in part, the records relating to the Work terminated shall be made available to the Contracting Authority or Owner for a period of 3 years from the date of any applicable, will survive final settlement or payment, as applicable.

7.8.6 Records that relate to disputes, litigation, or settlement of claims arising out of the performance of the Work shall be made available until the dispute, litigation or claims have been finally decided or settled.

Article 8ARTICLE 1- DISPUTE RESOLUTION

8.1 Initiation of a Claim

8.1.1 Every claim shall accrue upon the date of occurrence of the event giving rise to the claim.

8.1.2 Except as provided under paragraph 2.15, the Contractor shall initiate every claim by giving written notice of the claim to the A/E and the Contracting Authority, through the CM, within 10 days after occurrence of the event giving rise to the claim, with the following exceptions:

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~~8.1.2.1 The 10 day time limit on a claim arising from a determination of the Contracting Authority concerning a Field Work Order begins to run on the date on which the Contracting Authority issues its determination under subparagraph 7.2.2.7 or subparagraph 7.2.2.10, as applicable.~~

~~8.1.2.2 The 10 day time limit on a claim arising from the response of the A/E to a Request for Interpretation begins to run on the date on which the A/E issues the A/E's response to the Request for Interpretation.~~

~~8.1.2.3 The 10 day time limit on a claim arising from the A/E's determination concerning a Differing Site Condition begins to run on the date on which the A/E issues the A/E's determination under subparagraph 7.4.5.~~

~~8.1.3 The Contractor's written notice of a claim shall provide the following information to permit timely and appropriate evaluation of the claim, determination of responsibility, and opportunity for mitigation:~~

~~8.1.3.1 Nature and anticipated amount of the impact, including all costs for any interference, disruption, hindrance, or delay, which shall be calculated in accordance with paragraph 7.6 and be a fair and reasonably accurate assessment of the damages suffered or anticipated by the Contractor.~~

~~8.1.3.2 Identification of the circumstances responsible for causing the impact, including, but not limited to, the date or anticipated date, of the commencement of any interference, disruption, hindrance, delay;~~

~~8.1.3.3 Identification of activities on the Construction Progress Schedule which will be affected by the impact or new activities which may be created and the relationship with existing activities;~~

~~8.1.3.4 Anticipated impacts and anticipated duration of any interference, disruption, hindrance, delay, or impact, and any remobilization period; and~~

~~8.1.3.5 Recommended action to avoid or minimize any interference, disruption, hindrance, delay, or impact.~~

~~8.1.4 The Contractor's failure to initiate a claim as and when required under this paragraph 8.1 shall constitute the Contractor's irrevocable waiver of the claim.~~

~~8.1.5 The A/E, in consultation with the CM and the Contracting Authority, shall respond to the written notice of the claim within a reasonable time of receipt, but not to exceed 10 days.~~

~~8.2 Substantiation of Claims~~

~~8.2.1 Within 30 days after the initiation of a claim, the Contractor shall submit 5 copies of all information and statements required to substantiate a claim as provided in this Article 8 and all other information which the Contractor believes substantiates the claim. The Contractor shall file the 5 copies by delivery of 1 copy to the A/E, 1 copy to the CM, 1 copy to the Owner, and 2 copies to the Contracting Authority.~~

~~8.2.2 The Contractor shall substantiate all of its claims by providing the following minimum information:~~

~~8.2.2.1 A narrative of the circumstances, which gave rise to the claim, including, without limitation, the start date of the event or events and the actual, or anticipated, finish date;~~

~~8.2.2.2 Detailed identification of the Work (e.g., activity codes from the Construction Progress Schedule) affected by the event giving rise to the claim;~~

~~8.2.2.3 Copies of the CM's daily log (subparagraph 4.2.9) for each day of impact;~~

~~8.2.2.4 Copies of relevant correspondence and other information regarding or supporting Contractor entitlement;~~

~~8.2.2.5 Copies of the Contractor's most recent income statement, including segregated general and administrative expenses for the most recent reporting period, and for the period of the Contract, if available, and similar information for any Subcontractor claim included;~~

~~8.2.2.6 The notarized certification described under subparagraph 8.5.1.1;~~

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8.2.3 The Contractor shall submit a fully executed Contractor claim Submission Checklist, signifying compliance with all of the requirements listed in subparagraph 8.2.2 with each copy of the claim.

8.2.4 The Contractor's failure to comply with the requirements of this paragraph 8.2 shall constitute an irrevocable waiver of any related claim.

8.3 Substantiation of Claims for Increase of the Contract Sum

8.3.1 The Contractor shall substantiate each claim for an increase of the Contract Sum with:

8.3.1.1 Written documentation as described under paragraph 7.6 of the actual additional direct and indirect costs to the Contractor due to the event giving rise to the claim;

8.3.1.2 A written statement from the Contractor that the increase requested is the entire increase in the Contract Sum associated with the claim; and

8.3.1.3 The general substantiation documentation described under paragraph 8.2.

8.3.2 The Contractor's failure to comply with the requirements of this paragraph 8.3 shall constitute an irrevocable waiver of any related claim.

8.4 Substantiation of Claims for Extension of the Contract Time

8.4.1 The Contractor shall substantiate each claim for an extension of the Contract Time with:

8.4.1.1 Written documentation as described under paragraph 7.7 of the actual delay to the critical path of the Construction Schedule due to the event giving rise to the claim;

8.4.1.2 A detailed written Proposal as described under paragraph 7.6 for an increase in the Contract Sum which would fully compensate the Contractor for all costs of acceleration of the Work needed to completely overcome the associated delay together with a statement consistent with subparagraph 8.3.1.2;

8.4.1.3 A written statement from the Contractor that the extension requested is the entire extension of the Contract Time associated with the claim; and

8.4.1.4 The general substantiating documentation described under paragraph 8.2.

8.4.2 In addition to the requirements of subparagraph 8.4.1, if adverse weather conditions are the basis for a claim for additional time, the Contractor shall document the claim with data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated, and had an adverse effect on a critical element of the scheduled construction. The support for and evaluation of all adverse weather claims shall be based upon average weather conditions during the 10 years immediately preceding the dates at issue in the claim as those weather conditions were recorded at the government-controlled weather recording facility nearest to the Site.

8.4.3 The Contractor's failure to comply with the requirements of this paragraph 8.4 shall constitute an irrevocable waiver of any related claim.

8.5 Certification of the Claim

8.5.1 The Contractor shall certify each claim within 30 days after initiating the claim under paragraph 8.1 or before Contract Completion, whichever is earlier, by providing the notarized certification specified in subparagraph 8.5.1.1, signed and dated by the Contractor:

8.5.1.1 "The undersigned Contractor certifies that the claim is made in good faith; that the supporting data is accurate and complete to the best of the Contractor's knowledge and belief; that the amount requested is a fair, reasonable, and necessary adjustment for which the Contractor believes the State is liable; and that the undersigned is duly authorized to certify the claim on behalf of the Contractor."

8.5.2 The date that the Contractor's certified and fully substantiated claim is received by the Contracting Authority, or the date on which the Contractor is required to certify and fully substantiate a claim pursuant to

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subparagraphs 8.2.1 and 8.5.1, shall trigger the 120 day period for exhaustion of administrative remedies pursuant to O.R.C. Section 153.16(B).

8.5.3 The Contractor's failure to comply with the requirements of this paragraph 8.5 shall constitute an irrevocable waiver of any related claim.

8.6 Delay and Delay Damage Limitations; Derivative Claims

8.6.1 Notwithstanding any other provision of the Contract Documents to the contrary, the Contractor shall not be entitled to an increase in the Contract Sum, or an extension of the Contract Time, or both:

8.6.1.1 On account of the impact of any normal adverse weather on any of the Work or on account of the impact of any abnormal adverse weather on Work not on the critical path;

8.6.1.2 To the extent that a delay occurs concurrently with a delay attributable to the Contractor; or

8.6.1.3 On account of the delay of any Work not on the critical path.

8.6.21.1.1Notwithstanding any other provision of the Contract Documents to the contrary, the Contractor shall not be entitled to an increase in the Contract Sum or any type of damages on account of a delay in the commencement or progress of Work on the critical path unless (1) the delay is caused by the Owner and (2) the delay was not authorized or permitted under the Contract.

8.6.3 Notwithstanding any other provision of the Contract Documents to the contrary, the Contractor shall not be entitled to an increase in the Contract Sum or any type of damages arising from a delay in the commencement or progress of any of the Work caused by the occurrence or non-occurrence of an event beyond the Owner's control such as acts of Nature or the public enemy, acts of the government, fires, floods, epidemics, labor disputes, unusual delivery delays, weather, damages caused by a Separate Contractor, or damages caused by the Contractor.

8.6.4 Notwithstanding any other provision of the Contract Documents to the contrary, the Contractor is solely responsible for prosecuting against a Separate Contractor any claim, suit, or appeal necessary to recover from the Separate Contractor damages caused by the Separate Contractor.

8.6.5 If the Contractor makes a claim seeking other than an extension of the Contract Time from the Owner on account of the acts or neglects of a Separate Contractor, the Owner may pursue the claim against the Separate Contractor in the joint interest of the Owner and the Contractor. The Owner is not obligated to prosecute any such claim, suit, or appeal.

8.7 Statutory Delay Forfeiture

8.7.1 If the Contractor fails to achieve one or more of the Completion Milestones set forth in the Contract Documents, the Contractor shall pay to or credit the Owner the associated statutory delay per-diem sum(s) set forth in the Contract Documents for each day that the Contractor fails to achieve one or more of the Completion Milestones.

8.7.2 Notwithstanding any other provision of the Contract Documents to the contrary, if a court determines that the statutory delay per-diem sum(s) or their application are void and unenforceable, the Owner shall be entitled to recover the actual damages (even if listed in paragraph 8.8) that it incurs on account of the Contractor's failure to achieve one or more of the Completion Milestones.

8.7.2.1 If the Contractor fails to achieve two or more Completion Milestones, the Owner shall be entitled to recover the sum of the associated per diem rates.

8.7.3 Nothing contained in this paragraph 8.7 shall preclude the Owner's recovery from the Contractor of actual damages.

8.7.4 In addition to other rights that the Owner may have relative to the Statutory Delay Forfeiture, the Owner may deduct the Statutory Delay Forfeiture from the Contract Sum as the damages accrue. If payments then or

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~~thereafter due the Contractor are not sufficient to cover such amounts, the Contractor shall immediately pay the amount of the insufficiency to the Owner.~~

~~8.8 Review of the Claim~~

~~8.8.1 The A/E and CM shall review the claim and prepare a written analysis of its content, which shall include:~~

~~8.8.1.1 A narrative of the A/E's and CM's examination of the facts giving rise to the claim;~~

~~8.8.1.2 Identification of relevant Contract Documents and language;~~

~~8.8.1.3 An analysis of whether the Contractor complied with the requirements of the Contract Documents pertaining to claim initiation and substantiation including, without limitation, the issues of entitlement to, and calculation of, adjustments of the Contract Sum, Contract Time, or both;~~

~~8.8.1.4 An analysis of claimed additional labor, materials, and equipment for the scope of the Work items described;~~

~~8.8.1.5 An analysis of any time extension for any interference, disruption, hindrance, impact, or delay claimed (to include the calculation of any concurrent delays affecting entitlement);~~

~~8.8.1.6 A concluding opinion regarding Contractor entitlement to, and the appropriateness and reasonableness of all, or any part of, the claims; and~~

~~8.8.1.7 An appendix containing copies of contemporaneous documentation supporting the concluding opinion.~~

~~8.8.2 The A/E and CM shall submit the written analysis to the Project Manager no more than 30 days after receiving the Contractor's substantiated and certified claim.~~

~~8.9 Claim Decision~~

~~8.9.1 The Project Manager shall examine the Contractor's claim and the A/E's and CM's analysis.~~

~~8.9.2 The Project Manager shall approve or deny all, or any part, of the Contractor's claim and forward a written decision to the Contractor, the A/E, the CM, the Owner, and the State Architect within 14 days after receiving the A/E's and CM's analysis.~~

~~8.9.2.1 If the Contractor escrowed its bid information into a bonded storage facility pursuant to Article 6 of the Instructions to Bidders ("Bid Information"), the Project Manager may examine the contents of the Contractor's Bid Information in evaluating any claim of the Contractor for a change in compensation or for mitigation of Statutory Delay Forfeiture.~~

~~8.9.2.2 The Project Manager may employ independent resources to assist in its review, or refer evaluation of the claim to a consultant.~~

~~8.9.3 If the Contractor and the Owner agree with the Project Manager's decision, the decision shall be incorporated into a Change Order.~~

~~8.9.4 Any claim remaining unresolved after~~ completion ~~of the process described under this paragraph 8.9 shall be subject to claim decision review as described under paragraph 8.10.~~

~~8.10 Claim Decision Review~~

~~8.10.1 The Contractor may request review of the Project Manager's decision by written notice delivered by certified mail within 14 days of the Project Manager's decision.~~

~~8.10.1.1 If the Project is administered by the Department through the State Architect's Office or locally administered by authority granted to an agency by the Department, the written notice shall be delivered to the State Architect.~~

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8.10.1.21.1.1.1 If the Project is locally administered by an Institution of Higher Education under O.R.C. Section 3345.50 or O.R.C. Section 3345.51, the written notice shall be delivered to the Institutional Designee who will review the Project Manager's decision instead of the State Architect.

8.10.21.1.1 The State Architect or Institutional Designee, if applicable, shall schedule and conduct a meeting within 30 days after receiving the Contractor's request for review.

8.10.2.11.1.1.1 If the Contractor escrowed its Bid Information, the State Architect or Institutional Designee, if applicable, may examine the contents of the Bid Information in conjunction with its review.

8.10.2.21.1.1.1 The Contracting Authority may employ independent resources to assist in the meeting and review.

8.10.31.1.1 The State Architect or Institutional Designee, if applicable, shall determine the final disposition of the Contractor's request for review and provide a written decision to the Contractor and the Owner within 14 days after the meeting.

8.10.4 The decision of the State Architect or Institutional Designee is the final administrative decision of the Contracting Authority as described under O.R.C. Section 153.12(B).

8.10.51.1.1 If the Contractor and the Owner agree with the State Architect's or Institutional Designee's decision, the decision shall be incorporated into a Change Order.

8.10.6 Any claim remaining unresolved afterand acceptance of the Work, and termination or completion of the process described under this paragraph 8.10 shall be subject to litigation, which may be preceded by Alternative Dispute Resolution ("ADR") as described under paragraph 8.11.

8.111.1 Alternative Dispute Resolution

8.11.11.1.1 The intent of the ADR process is to resolve disputes quickly and equitably in a manner agreed upon by all parties to the dispute.

8.11.2 The ADR procedure shall be accepted by all of the Project's key stakeholders .

8.11.3 The accepted ADR methods shall not include binding arbitration; alter any of the requirements for claim initiation, certification, and substantiation; or alter the administrative process described under this Article 8.

8.11.41.1.1 The following forms of non-binding ADR may be considered:

8.11.4.1 Negotiation: If negotiation is warranted, the parties to the dispute may agree to a progressive level of negotiators, invested with the authority to agree to a determination of an adjustment in the Contract Sum, Contract Time, or both, which may include the following:

.1 Contractor's superintendent negotiating with another Contractor's superintendent.

.2 Contractor's superintendent negotiating with the A/E's and/or CM's field representative.

.3 Contractor's project manager negotiating with the A/E's and/or CM's project manager.

.4 Contractor's principal-in-charge negotiating with the A/E's and/or CM's principal-in-charge and the Contracting Authority's Project Manager.

.5 Contractor's principal-in-charge negotiating with the Owner's representative and the Project Manager's supervisor.

8.11.4.2 Mediation: If mediation is the accepted ADR procedure, or the process to follow when negotiations are unsuccessful, the parties to the dispute shall accept a neutral third party to mediate the dispute. The costs of mediation shall be shared equally among the parties to the dispute.

8.11.4.3 Another ADR procedure accepted by all of the Project's key stakeholders.

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~~8.12 Audit of the Claim~~

~~8.12.1 All claims shall be subject to audit at any time following the filing of the claim, whether or not the claim is part of a lawsuit.~~

~~8.12.21.1.1 The audit may be performed by employees of the Contracting Authority or by a consultant engaged by the Contracting Authority.~~

~~8.12.3 The audit may begin upon 10 days notice to the affected Contractor, Subcontractor, or Material Supplier.~~

~~8.12.41.1.1 The Contractor shall cooperate with the request.~~

~~8.12.5 Failure of the Contractor, Subcontractor, or Material Supplier to produce sufficient records to allow the Contracting Authority to audit and verify a claim shall constitute an irrevocable waiver of the claim or the portion of the claim that could not be completely audited.~~

~~8.12.6 The Contractor shall make available to the Contracting Authority all Contractor, Subcontractor, and Material Supplier documents related to the claim including, without limitation, the following documents:~~

~~8.12.6.1 Daily time sheets and superintendent's daily reports;~~

~~8.12.6.2 Union agreements, if any, and employer agreements;~~

~~8.12.6.3 Insurance, welfare, fringes, and benefits records;~~

~~8.12.6.4 Payroll register;~~

~~8.12.6.5 Earnings records;~~

~~8.12.6.6 Payroll tax returns;~~

~~8.12.6.7 Material invoices, purchase orders, Subcontractor contracts, and all material and supply acquisition contracts;~~

~~8.12.6.8 Material cost distribution worksheets;~~

~~8.12.6.9 Equipment records (list of Contractor equipment, rates, etc.);~~

~~8.12.6.10 Vendor rental agreements and Subcontractor invoices;~~

~~8.12.6.11 Subcontractor payment certificates;~~

~~8.12.6.12 Canceled checks (payroll and vendors);~~

~~8.12.6.13 Job cost report;~~

~~8.12.6.14 Job payroll ledger;~~

~~8.12.6.15 General ledger, general journal, (if used) and all subsidiary ledgers and journals together with all supporting documentation pertinent to entries made in these ledgers and journals;~~

~~8.12.6.16 Cash disbursements journal;~~

~~8.12.6.17 Financial statements for all years reflecting operations on the Project;~~

~~8.12.6.18 Income tax returns for all years reflecting operations on the Project;~~

~~8.12.6.19 Depreciation records on all equipment utilized whether the records are maintained by the Contractor involved, its accountant, or others;~~

~~8.12.6.20 If a source other than depreciation records is used to develop costs for the Contractor's internal purposes in establishing the actual cost of owning and operating equipment, all other source documents;~~

~~8.12.6.21 All documents which reflect the Contractor's actual profit and overhead during the years the Project was being performed;~~

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8.12.6.22 All documents related to the preparation of the Contractor's Bid, including the final calculations on which the Bid was based, unless the documents are placed in escrow under provisions of the Instructions to Bidders;

8.12.6.23 All documents which relate to the claim together with all documents which support the amount of damages as to the claim;

8.12.6.24 Worksheets used to prepare the claim establishing the cost components for items of the claim including, but not limited to, labor, fringes, benefits and insurance, materials, equipment, Subcontractors, and all documents which establish the time periods, individuals involved, the hours and rate of pay for the individuals; and

8.12.6.25 All other documents required by the Contracting Authority to reasonably review the claim.

8.13 False Certification of the Claim

8.13.11.1.1 If the Contractor falsely certifies all, or any part, of a claim, the portion of the claim falsely certified shall be denied, and may be sufficient cause for the State to debar the Contractor from future State contracting opportunities as permitted by law.

8.141.1 Performance and Payment

8.14.11.1.1 The Contractor shall proceed with the Work during any dispute resolution process, unless otherwise agreed by the Contractor and the Contracting Authority in writing.

8.14.2 The Contracting Authority shall continue to make payment of any undisputed amounts in accordance with the Contract Documents pending final resolution of a claim, unless otherwise agreed by the Contractor and the Contracting Authority in writing.

Article 9 - CONTRACTOR PAYMENT

9.1 Schedule of Values

9.1.1 Within 10 days of receipt of the Notice to Proceed, or other period as mutually agreed by the Contractor and the Contracting Authority, the Contractor shall submit to the A/E, through the CM, a Schedule of Values on a form published by the Department, with separate amounts shown for labor and materials for each branch of Work, following the numbers and titles of the Construction Specifications Institute's *MasterFormat* for individual work results, or *UniFormat* for assemblies in place.

9.1.1.11.1.1.1The Contractor shall clearly indicate on the Schedule of Values, the amount(s) allocated, including amounts for overhead and profit, for each certified EDGE Business Enterprise used in the performance of the Work. The amount(s) shall indicate labor and materials, as appropriate.

9.1.21.1.1The grand total shown on the Schedule of Values shall equal the total Contract Sum. The Contracting Authority may use the approved Schedule of Values to determine the cost or credit to the Owner resulting from any change in the Work.

9.1.2.1 The first items shall be actual costs of Bond, insurance, permits, and tests required for the Project.

9.1.2.2 The amounts for labor and materials shall accurately reflect the cost for each item. Separate items shall not be shown for overhead or profit, except when Work is performed or materials are supplied by a certified EDGE Business Enterprise, pursuant to subparagraph 9.1.1.1. Overhead and profit shall be included in the totals for labor and materials.

9.1.2.31.1.1.1If the material allocation exceeds 55 percent of the Contract Sum, the Contractor shall provide, upon request, sufficient information to support the higher percentage.

9.1.2.41.1.1.1Subcontract Work shall show amounts for labor and materials. Fringe benefits shall be shown as a part of labor costs.

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9.1.2.51.1.1.1When more than one major structure is included in the Work, the Contractor shall subdivide the Schedule of Values accordingly, with cost details for each structure shown separately.

9.1.2.6 The line items shall be coordinated with line items in the Project Schedule, which may require division of items of Work by area of the Project by floor, phase, or other appropriate area.

9.1.2.7 Mechanical and Electrical contractors shall include separate line items for all major pieces of equipment, and group smaller equipment items by type.

9.1.2.8 Line items shall be included for each Allowance, Punch List Work, Project Record Document Submittals, delivery of attic stock, and specified demonstrations and training.

9.1.3 The A/E may return the Schedule of Values to the Contractor, through the CM, for re-submittal if it does not meet the requirements or contains insufficient items or details of the Work, or approve the Schedule of Values if the A/E determines that it conforms to this paragraph 9.1.

9.1.4 No payment shall be made until the A/E has approved the Contractor's Schedule of Values.

9.1.5 If the Project is administered using OAKS CI, the Contractor shall submit its Schedule of Values, using the OAKS CI "Contract Schedule of Values" business process.

9.2 Contractor Payment Request

9.2.11.1.1The Contractor may submit a Contractor Payment Request for Work performed based upon the Schedule of Values to the A/E, through the CM, each month or upon another interval approved by the Contracting Authority. When the rate of Work and amount involved is sufficient that it is considered appropriate by the Contracting Authority, the Contractor may submit Contractor Payment Requests twice a month.

9.2.1.1 The Contractor shall support each Contractor Payment Request with documentation substantiating the Contractor's right to payment. The Contractor shall supply additional documentation as the A/E or CM may request in connection with each payment to the Contractor.

9.2.1.21.1.1.1The Contracting Authority may require proof of the renewal of required insurance as a condition precedent to payment.

9.2.1.3 The Contractor shall attach certified payroll reports for the relevant period to 1 copy of each Contractor Payment Request, see Document 00 73 43 – "Prevailing Wage Requirements."

9.2.1.41.1.1.1The Contractor may list on the Contractor Payment Request any Change Orders approved and performed prior to submission of the Contractor Payment Request.

9.2.1.51.1.1.1The Contractor shall submit its application for payment using the Contractor Payment Request form or forms current at the time of each application and as provided by the Contracting Authority in the manner prescribed by the Contracting Authority.

.1 If the Project is not administered using OAKS CI, the Contractor shall submit 1 draft copy of its Contractor Payment Request ("Pencil Copy") to the A/E not less than 1 week prior to submitting multiple copies of its Contractor Payment Request.

.2 The A/E shall review the Pencil Copy and provide comments to the Contractor within 3 days of receiving it.

.3.1 The Contractor shall incorporate the A/E's comments into its Contractor Payment Request prior to submitting multiple copies for payment.

9.2.1.61.1.1.1The Contractor shall clearly indicate on the Contractor Payment Request, the amount(s) requested for each certified EDGE Business Enterprise used in the performance of the Contract. The amount(s) shall indicate labor and materials, as appropriate.

9.2.1.71.1.1.1The Contractor shall submit an electronic copy of the Contractor Payment Request to the A/E, through the CM, with its paper copies of the Contractor Payment Request for collection and reporting of

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information used for contract compliance evaluation and statistical purposes. The Contractor may issue the copy in any electronic media acceptable to the Contracting Authority.

9.2.2 Payments, except for lump sum items, in Unit Price Contracts shall be made to the Contractor only for the authorized actual quantities of Work performed or materials furnished in accordance with the Contract Documents.

9.2.31.1.1Subject to paragraph 9.6, the Owner shall pay an approved Contractor Payment Request within 30 days from the date the A/E recommends acceptance of the Contractor Payment Request.

9.2.3.11.1.1Payments due and not paid to the Contractor, through no fault of the Contractor, within the 30 day period shall, from the date payment is due, bear simple interest at the applicable statutory rate.

9.2.4 Notwithstanding any other provision of the Contract Documents, partial payments made pursuant to this paragraph 9.2 constitutes neither acceptance of any Defective Work, nor a waiver of any rights set forth in the Contract Documents or otherwise provided by Applicable Law.

9.2.5 If the Project is administered using OAKS CI, the Contractor shall submit its Contractor Pay Request, using the OAKS CI "Contractor Pay Requests" business process.

9.3 Labor Payments

9.3.1 Partial payments to the Contractor for labor performed under either a Unit Price or lump sum Contract shall be made at the rate of 92 percent of the amount invoiced through the Contractor Payment Request that shows the Work is 50 percent complete, as evidenced by payments in the amount of at least 50 percent of the original Contract Sum.

9.3.21.1.1After the Work is 50 percent complete, as evidenced by payments in the amount of at least 50 percent of the original Contract Sum to the Contractor, no additional funds shall be retained from payments for labor.

9.41.1Material Payments

9.4.11.1.1The Owner shall pay the Contractor at the rate of 100 percent of the scheduled value for materials incorporated into the Project.

9.4.2 The Owner shall pay the Contractor at the rate of 92 percent of the invoice cost, not to exceed the bid amount in a Unit Price or lump sum Contract, for materials delivered to the Site, or other off-site storage location approved by the CM, provided the Contractor provides the following information with the Contractor Payment Request:

9.4.2.1 A list of the fabricated materials consigned to the Project, giving the place of storage, together with copies of invoices, in order to verify quantity and cost.

9.4.2.21.1.1.1A certification of materials stored off-site, prepared by the Contractor and signed by the A/E and CM to evidence that the materials are in conformity with the Specifications and have been tagged with the Project name and number for delivery to the Project. The Contractor shall directly reimburse the A/E and the CM for all costs incurred to visit a storage site, other than the areas adjacent to the Project.

9.4.2.3The Owner shall pay the balance of the scheduled value when the materials are incorporated into and become a part of the Project.

9.4.31.1.1When payment is allowed for materials delivered to the Site or other approved off-site storage location but not yet incorporated into the Project, the materials are the property of the Owner.

9.4.3.11.1.1.1The Owner may, at its sole discretion, retain any material not ultimately incorporated into the Project or return it to the Contractor for credit of an amount proportionate to the value of the extra materials.

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~~9.5~~1.1~~Retainage~~

~~9.5.1 If the total Contract Sum is $15,000 or more, when the Contract is 50 percent complete, as evidenced by payments in the amount of at least 50 percent of the Contract Sum to the Contractor, all funds retained for the faithful performance of the Work, in accordance with subparagraph 9.3.1, shall be deposited in an escrow account with a bank in the state in accordance with the terms and conditions provided in an escrow agreement executed by the Contractor, the Contracting Authority, and the applicable bank.~~

~~9.5.2~~1.1.1~~When the major portion of the Work is occupied or in use, and there is no other reason to retain funds, including, but not limited to, compliance with Article 10; upon request of the Contractor, the funds retained in connection with that Work shall be released from escrow and paid to the Contractor, withholding only that amount necessary to assure faithful completion in the sole discretion of the Contracting Authority.~~

~~9.5.2.1~~1.1.1.1~~Any reduction or release of retained funds, or portion thereof, shall not be a waiver of the Contracting Authority's right to retain funds in connection with other payments to the Contractor, or any other right or remedy the Contracting Authority has under the Contract Documents at law or in equity.~~

~~9.5.2.2~~1.1.1.1~~Funds in the escrow account not previously paid shall be authorized for release to the Contractor within 30 days of the Contracting Authority's approval of a final Contractor Payment Request and Payment Release Affidavit furnished by the Contractor, and execution of the Certification of Contract Completion by the Contracting Authority.~~

~~9.5.3 Upon consent by the Contractor's Surety, the Contracting Authority may reduce the amount of funds retained for the faithful performance of Work by 50 percent of the amount of funds required to be retained, provided the Contractor's Surety remains responsible for all damages that may be caused due to default by the Contractor, including, but not limited to, the following:~~

~~9.5.3.1 Completion of the Work;~~

~~9.5.3.2 All interference, disruption, hindrance and delay claims;~~

~~9.5.3.3 All Statutory Delay Forfeiture; and~~

~~9.5.3.4~~1.1.1.1~~All additional expenses incurred by the State.~~

~~9.6~~1.1~~Payments Withheld~~

~~9.6.1 The A/E and the CM may recommend to the Contracting Authority that payments be withheld from, or the Statutory Delay Forfeiture be assessed against, a Contractor Payment Request.~~

~~9.6.2~~1.1.1~~The Contracting Authority may decline to approve any Contractor Payment Request or part thereof, or nullify any previous Contractor Payment Request, in whole or in part, to the extent necessary in the Contracting Authority's sole opinion to protect the Owner from loss because of:~~

~~9.6.2.1~~1.1.1.1~~Defective Work not remedied;~~

~~9.6.2.2 Damage caused by the Contractor;~~

~~9.6.2.3 Reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;~~

~~9.6.2.4 Reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover damages under the Contract Documents for the anticipated delay;~~

~~9.6.2.5 Failure to comply with Applicable Law including, but not limited to, the requirements of O.R.C. Chapter 4115;~~

~~9.6.2.6 Failure to timely submit EDGE Participation Reports in accordance with subparagraph 1.11.2;~~

~~9.6.2.7 Failure to timely approve a Construction Progress Schedule in accordance with paragraph 4.3;~~

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9.6.2.8 Failure to timely submit the Contractor's list of proposed Subcontractors and Material Suppliers in accordance with paragraph 14.1;

9.6.2.9 Failure to carry out the Work in accordance with the Contract Documents; or

9.6.2.10 That which is permitted under other provisions of the Contract Documents.

9.6.3 If the Contractor remedies the basis for withholding payment under subparagraph 9.6.2 to the Contracting Authority's satisfaction, the Owner shall pay the amounts withheld.

9.71.1Final Contractor Payment Request

9.7.11.1.1The Contractor, as a condition precedent to execution of the Certification of Contract Completion and to final payment, shall complete all requirements of the Contract Documents.

9.7.1.1 The Contractor and each of its Subcontractors, regardless of tier, shall execute a Payment Release Affidavit to certify that the Contractor and each of its Subcontractors, regardless of tier, have complied with all requirements of O.R.C. Chapter 4115, and to certify that all of its Subcontractors and Material Suppliers have been paid in full for all Work performed or materials furnished for the Project.

9.7.2 The Owner shall pay the final Contractor Payment Request within 30 days from the date the A/E recommends acceptance of the final Contractor Payment Request.

9.7.2.1 The inability of a Contractor to complete Project closeout requirements within the time specified by the A/E shall not be grounds for withholding final payment to another contractor.

9.7.2.21.1.1.1Payments due and not paid to the Contractor within the 30 day period shall bear interest from the date payment is due under the Contract Documents at the applicable statutory rate.

9.7.3 The acceptance of final payment by the Contractor, a Subcontractor, or a Material Supplier constitutes the payee's waiver of all claims against the State except those previously made in writing under Article 8 and identified by that payee as unsettled at the time of the final Contractor Payment Request.

9.7.4 Notwithstanding any other provision of the Contract Documents, final payment made pursuant to this paragraph 9.7 constitutes neither acceptance of any Defective Work, nor a waiver of any rights set forth in the Contract Documents or otherwise provided by Applicable Law.

9.7.5 If the Project is administered using OAKS CI, the Contractor shall submit its final Contractor Pay Request, using the OAKS CI "Contractor Pay Requests" business process.

Article 10 - CONTRACT COMPLETION

10.1 Final Cleaning

10.1.1 Before requesting the A/E's Punch List review, the Contractor shall clean the Site, remove waste materials and rubbish attributable to the Project, and restore the property to its original condition so that upon Contract Completion, the premises are ready for occupancy by the Owner.

10.1.2 If the Contractor performs any Work after final cleaning, the Contractor shall clean the affected area as provided above so that upon Contract Completion, the premises are ready for occupancy by the Owner.

10.1.3 Final cleaning shall be done to the reasonable satisfaction of the A/E, the CM, and the Contracting Authority.

10.1.3.11.1.1.1If a dispute arises among the Contractor and Separate Contractors as to responsibility for final cleaning, the CM may authorize a Separate Contractor, or engage a qualified cleaning company, to perform final cleaning and deduct the cost from amounts due to those contractors responsible, as the CM recommends and the Contracting Authority determines to be appropriate.

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~~10.1.3.21.1.1.1If the CM cannot determine the responsible contractor, the costs shall be shared by the contractors actively working on the Project as determined at the sole discretion of the Contracting Authority.~~

~~10.2 Contractor's Punch List~~

~~10.2.1 When the Contractor considers the Work, or a designated portion thereof, nearly complete the Contractor shall inspect the Work and prepare a list of defective, incomplete, or unacceptable Work ("Contractor's Punch List"). The Contractor shall list all items of Work not in compliance with the Contract Documents, including items the Contractor is requesting to be deferred.~~

~~10.2.1.1 The Contractor shall proceed to correct all items listed on the Contractor's Punch List and certify that the incomplete items listed on the Contractor's Punch List are to its knowledge an accurate and complete list by signing said Punch List.~~

~~10.2.1.2 The Contractor's failure to include an item on the Contractor's Punch List shall not alter the Contractor's responsibility to complete the Work in accordance with the Contract Documents.~~

~~10.2.1.3 The Contractor shall submit the signed Contractor's Punch List to the A/E through the CM, together with a request for the A/E's Review of the Work.~~

~~10.2.2 If the Project is administered using OAKS CI, the Contractor shall submit the Contractor's Punch List, using the OAKS CI "Punch List" business process.~~

~~10.3 Architect/Engineer's Review of the Work~~

~~10.3.11.1.1.1Within 3 business days of receipt of the request for the A/E's Review of the Work, the A/E, through the CM, shall notify the Contractor of acceptance or rejection of the request, stating reasons for any rejection.~~

~~10.3.1.1 Within 7 days of its acceptance of the Contractor's request, the A/E in consultation with the CM shall conduct the A/E's Review to determine whether the Work, or the designated portion, is in conformity with the Contract Documents. The A/E shall notify, through the CM, the Contractor, the Contracting Authority, and the Owner of the scheduled time of the A/E's Review.~~

~~.1 The A/E shall include comments from the CM, the Contracting Authority, and the Owner in the A/E's Review.~~

~~10.3.1.2 Within 3 business days after the A/E's Review, the A/E shall provide to the Contractor, through the CM, a list of defective, incomplete, or unacceptable Work ("A/E's Punch List").~~

~~10.3.1.3.1The A/E's failure to include an item on the A/E's Punch List shall not alter the Contractor's responsibility to complete the Work in accordance with the Contract Documents.~~

~~10.3.1.4.1If the A/E accepts the request and subsequently determines that the Work is not in conformity with the Contract Documents, the A/E and/or the CM may request compensation for expenses related to excessive Punch List activities. The Contracting Authority may deduct that additional compensation to the A/E from payments then or thereafter due the Contractor. If payments then or thereafter due the Contractor are not sufficient to cover those amounts, the Contractor shall immediately pay the amount of the insufficiency to the Owner.~~

~~10.4 Completion of Punch List Items~~

~~10.4.1 Within 30 days after receipt of the notice required by subparagraph 10.3.1.2 and before the date of Final Contract Completion, the Contractor shall complete all items on the A/E's Punch List. After completing all items on the Punch List, the Contractor shall provide a written request for Final Inspection of the Work to the A/E, through the CM.~~

~~10.4.1.1 If completion of the Work on the A/E's Punch List cannot be timely completed, the Contractor shall justify in writing to the reasonable satisfaction of the A/E and the CM the reasons the items cannot~~

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be completed, and the Contractor may propose, for the A/E's and CM's approval, a time when the Contractor shall complete those items.

10.4.1.2 Within 3 business days of receipt of the Contractor's notice that all Punch List items have been completed, the A/E and CM shall complete a Final Inspection of the Work for compliance with the Contract Documents.

10.4.1.3 If multiple inspections of items on the A/E's Punch List are required due to the Contractor's failure to properly and timely complete them, the Contractor shall pay any additional costs incurred by Separate Contractors, the A/E, the CM, the Owner, and the Contracting Authority resulting from any attendant delay. The Contracting Authority may deduct those additional costs from payments then or thereafter due the Contractor. If payments then or thereafter due the Contractor are not sufficient to cover those amounts, the Contractor shall immediately pay the amount of the insufficiency to the Owner.

10.4.2 Notwithstanding any other provision of the Contract Documents, the Final Inspection of the Work or the issuance of Final Acceptance constitutes neither an acceptance of any Defective Work, nor a waiver of any rights set forth in the Contract Documents or otherwise provided by Applicable Law.

10.4.3 If the Project is administered using OAKS CI, the Contractor shall receive the A/E's Punch List and submit its written request for Final Inspection of the Work, using the OAKS CI "Punch List" business process.

10.5 Project Record Document Submittals

10.5.1 The Contractor, as a condition precedent to execution of the Certification of Contract Completion, release of retained funds, and final payment, shall provide all Project Record Documents to the A/E, through the CM, for approval, including, but not limited to:

10.5.1.1.1Certificate of Occupancy;

10.5.1.2 Inspection Certificates for Pressure Piping, Elevator, Boiler, Electrical, Plumbing or Piping Purification, etc.;

10.5.1.3.1Letter of Approval from the local fire authority or State Fire Marshal for the fire suppression system;

10.5.1.4.1Operation and Maintenance Manuals, organized into suitable sets of manageable size. Indexed data bound in individual binders, with pocket folders for folded sheet information and appropriate identification marked on the front and the spine of each binder;

10.5.1.5 Neatly and accurately marked sets of As-Built Documents, and other Contract Documents reflecting the actual construction of the Project;

10.5.1.6 Detailed Drawings reflecting the exact location of any concealed utilities, mechanical or electrical systems, and components;

10.5.1.7 Assignment to the Owner of all Warranties and Guarantees, including the most recent address and telephone number of any Subcontractors, Material Suppliers, or manufacturers;

10.5.1.8 An affidavit to certify that all Subcontractors and Material Suppliers have been paid in full for all Work performed or materials furnished for the Project;

10.5.1.9 Final certified payroll reports; and

10.5.1.10 An affidavit to certify that the Contractor and each of its Subcontractors, regardless of tier, have complied with all requirements of O.R.C. Chapter 4115.

10.6 As-Built and Record Documents

10.6.1 Upon Final Completion of the Work, the Contractor shall organize the As-Built Documents into manageable sets, bind the sets with durable paper cover sheets, and deliver the As-Built Documents to the A/E, through the CM.

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10.6.1.1 By submitting the As-Built Documents to the A/E through the CM, the Contractor certifies that the As-Built Documents are complete, correct, and accurate.

10.6.21.1.1.1The A/E shall revise the original Contract Documents and related electronic files with the information contained on the As-Built Documents. The A/E shall label the revised original Contract Documents and related electronic files as "Record Documents" and reflect the date of the A/E's incorporation of the As-Built Documents.

10.6.31.1.1.1The Owner may thereafter use the Record Documents for any purpose relating to the Project including, but not limited to, additions to or completion of the Project.

10.71.1Demonstration and Training, Operating Appurtenances

10.7.11.1.1The Contractor, as a condition precedent to execution of the Certification of Contract Completion, release of retained funds, and final payment, shall perform demonstration and training of the Owner's maintenance personnel as specified in the Contract Documents.

10.7.21.1.1The Contractor, as a condition precedent to execution of the Certification of Contract Completion, release of retained funds, and final payment, shall organize and submit operating appurtenances and loose items related to the operation and maintenance of the completed Project to the Owner, including, but not limited to:

10.7.2.1 Keys to door and window hardware, panels, and other devices not directly provided to the Owner from the manufacturer;

10.7.2.2 Operating handles, levers, cranks, specialized wrenches or drivers, remote controls, and similar items; and

10.7.2.3 Extra materials (e.g., attic stock).

10.7.3 If the Project is administered using OAKS CI, the Contractor shall document submission of its operating appurtenances to the Owner, using the OAKS CI "Transmittals" business process.

10.81.1Certification of Contract Completion

10.8.1 Partial Completion:

10.8.1.11.1.1.1When items of Work cannot be completed until a subsequent date, the A/E may recommend that these items be deferred and the Contracting Authority may release payment to the Contractor, as determined in the sole discretion of the Contracting Authority. The A/E shall list deferred items on a Partial Certification of Contract Completion with the dates the items are to be completed.

10.8.1.2 The date that the Contracting Authority executes the Partial Certification of Contract Completion is the date that the warranty period commences, and retained funds may be released for that portion of the Work.

10.8.1.31.1.1.1If the Contractor escrowed its Bid Information, the Contracting Authority shall instruct the bonded storage facility to return the sealed container directly to the Contractor.

10.8.2 Final Completion:

10.8.2.1 When all items on the A/E's Punch List have been completed to the satisfaction of the A/E, all requirements of the Contract Documents have been completed, and the provisions of paragraphs 10.1 through 10.7 have been fulfilled, the A/E shall prepare and recommend execution of a Final Certification of Contract Completion.

10.8.2.2 The date that the Contracting Authority executes the Final Certification of Contract Completion is the date that the Work of the Contract is accepted ("Final Acceptance"). If a Partial Certificate of Contract Completion was not executed for the Contract, the date that the Contracting Authority executes the Final Contract Completion Certificate is the date that the warranty period commences, and retained funds may be released.

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10.8.2.3 If the Contractor escrowed its Bid Information, the Contracting Authority shall instruct the bonded storage facility to return the sealed container directly to the Contractor.

10.8.3 Notwithstanding any other provision of the Contract Documents, Final Acceptance pursuant to this paragraph 10.8 constitutes neither acceptance of any Defective Work, nor a waiver of any rights set forth in the Contract Documents or otherwise provided by Applicable Law.

10.91.1Contractor Performance Evaluation

10.9.11.1.1The Contracting Authority shall evaluate the Contractor's performance during the progress of the Work, at completion of a phase of the Project, completion of the Project, or any of the foregoing. The Contracting Authority shall retain the evaluation(s).

10.9.1.11.1.1.1The Contractor may request a copy of the completed evaluation(s). If the Contractor wishes to comment or take exception to any rating or remark, the Contractor shall send a response in writing to the Contracting Authority within 30 days of receiving the evaluation(s).

10.9.1.2 The Contracting Authority may use the evaluation(s) in determining the responsibility of the Contractor for award of future Contracts.

10.9.1.31.1.1.1The Contracting Authority may request information from the Contractor for use in evaluating the A/E's and/or the CM's performance. If information is requested, the Contractor shall comply in a timely and responsive manner.

10.9.1.4 If the Project is administered using OAKS CI, the Contractor shall receive and review the Contracting Authority's evaluation of the Contractor's performance and respond with its comments, using the OAKS CI "Contractor Evaluation" business process.

Article 11 - INSURANCE AND INDEMNIFICATION

11.1 Contractor's Liability Insurance

11.1.1 The Contractor shall purchase and maintain liability and other insurance as will protect the Contractor from claims set forth below, which may arise out of, or result from, the Contractor's performance or obligations under the Contract Documents, whether due to action or inaction by the Contractor or any Person for whom the Contractor is responsible.

11.1.1.1 Claims under workers' compensation, occupational sickness or disease, disability benefit, and other similar employee benefit acts;

11.1.1.2 Claims for damages because of bodily injury, disease, illness, death, or personal injury, and other claims usually covered by bodily injury liability insurance;

11.1.1.3 Claims for damages because of injury to, or destruction of, property and other claims usually covered by property damage liability insurance.

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~~11.1.2 The Contractor shall purchase and maintain a Commercial General Liability policy and Business Automobile Liability policy to provide insurance and limits as indicated below. An Umbrella or Excess Liability policy may be used to reach the required limits.~~

~~Policy Limits – Commercial General Liability~~

~~$2,000,000~~	~~General Aggregate (minimum – see below)~~
~~$2,000,000~~	~~Products/Completed Operations Aggregate~~
~~$1,000,000~~	~~Occurrence Limit (minimum – see below)~~
~~$1,000,000~~	~~Personal and Advertising Injury Limit~~
~~$100,000~~	~~Fire Legal Liability Limit~~
~~$10,000~~	~~Medical Payments~~

~~Policy Limits – Business Automobile~~

~~$500,000~~	~~Combined Single Limit~~

~~11.1.2.1 Contracts in the amount of $100,000 or less require coverage in the amount of not less than $2 million general aggregate and $1 million per occurrence.~~

~~11.1.2.2 Contracts in excess of $100,000, but not more than $5 million, require coverage in the amount of not less than $3 million general aggregate and $3 million per occurrence.~~

~~11.1.2.3 Contracts exceeding the amount of $5 million require coverage in an amount to be determined by the Contracting Authority and identified in the Supplementary Conditions, but in no case less than $5 million general aggregate and $5 million per occurrence.~~

~~.1 Policies shall be endorsed to provide that the General Aggregate Limit applies separately to each of the insured Contractor's projects.~~

~~11.1.3 For any demolition, blasting, excavating, tunneling, shoring, or similar operations, the Contractor shall provide and maintain Property Damage Liability insurance with a limit of liability equal to the limit as specified in the applicable sections of subparagraph 11.1.2.~~

~~11.2 Builder's Risk Insurance~~

~~11.2.11.1.1The CM shall provide and maintain, during the progress of the Work and until the execution of the final Certification of Contract Completion by the Contracting Authority, a Builder's Risk insurance policy to cover all Work in the course of construction including false-work, temporary buildings and structures, and materials used in the construction process, stored on or off-site, or while in transit. This insurance shall be on a special cause of loss form, which provides coverage on an open perils basis insuring against the direct physical loss of, or damage to, covered property including, but not limited to, theft, vandalism, malicious mischief, earthquake, tornado, lightning, explosion, breakage of glass, flood, collapse, water damage, and hot and cold testing. This insurance shall be written on a replacement cost basis and shall also include debris removal, and/or demolition occasioned by enforcement of Applicable Law.~~

~~11.2.1.1 The amount of coverage shall be not less than the total completed value of the Project, including the value of permanent fixtures and decorations, with a deductible of not more than $25,000 per occurrence. Any deductible over the amount specified must be authorized in writing by the Owner and the Contracting Authority.~~

~~11.2.1.21.1.1.1Coverage shall include a provision to pay the reasonable extra costs of acceleration and expediting temporary and permanent repairs to, or permanent replacement of, damaged property. This shall include overtime wages and the extra cost of "express" or other means for rapidly transporting materials and supplies necessary to the repair or replacement.~~

~~11.2.1.3 Coverage shall include "soft cost endorsement" including, but not limited to, the reasonable extra costs of the A/E and the CM, and reasonable Contractor extension or acceleration costs.~~

~~11.2.1.41.1.1.1Coverage shall include material in transit or stored off-site and identified for the Project.~~

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~~11.2.1.51.1.1.1Coverage shall waive all rights between the CM, the Owner, the Contracting Authority, the Contractor, and Subcontractors at any tier, for damages caused by fire or any other perils to the extent of actual recovery of any insurance proceeds under the policy.~~

~~11.2.1.61.1.1.1Coverage shall include appropriate sub-limits for installation coverage.~~

~~11.2.1.71.1.1.1Coverage shall include provisions for mechanical or electrical breakdown, or boiler system testing.~~

~~11.2.1.81.1.1.1Coverage shall include temporary structures and scaffolding, along with collapse coverage.~~

~~11.2.1.91.1.1.1Coverage shall be primary to all other applicable insurance.~~

~~11.2.1.101.1.1.1The Builder's Risk policy shall specifically permit and allow for Partial Occupancy by the Owner prior to execution of the final Certification of Contract Completion by the Contracting Authority and coverage shall remain in effect until all punch list items are completed.~~

~~11.2.1.11 The Contractor's tools and equipment shall not be covered under the CM's Builder's Risk policy. It is the Contractor's sole responsibility to maintain such coverage, which shall be included in its overhead and not included as a separate item in the Contractor's Schedule of Values.~~

~~11.2.2 If the Contractor is involved solely in the installation of material and equipment and not in new building construction, the Contractor shall purchase and maintain a Builder's Risk, Builder's Risk Renovations, or Installation Floater insurance policy. The policy must comply with the provisions of subparagraph 11.2.1.~~

~~11.3 Insurance Policy Requirements~~

~~11.3.1 Each policy of insurance required to be purchased and maintained by the Contractor shall name the State as an additional insured or loss payee, as applicable; provided, however, this designation shall not cause any claim between the Contractor and the State to be waived, except as set forth in paragraph 11.4.~~

~~11.3.1.1 Each such certificate of insurance shall expressly provide that the insurer will endeavor to provide no less than 30 days' written notice to the Contracting Authority in the event of cancellation of the coverage evidenced by the certificate.~~

~~11.3.1.2 For each insurance policy required by this Contract, the Contractor shall provide the Contracting Authority with 30 days' prior written notice of cancellation or non-renewal. Failure to comply with these reporting provisions shall constitute grounds for the Contracting Authority's termination of the Contract for cause pursuant to paragraph 12.3.~~

~~11.3.2 The Contractor shall furnish the Contracting Authority, when requested, a certified copy of any insurance or additional insured or loss payee endorsement required to be purchased or maintained by the Contract Documents. In no event shall failure of the Contracting Authority to demand a certified copy of any required insurance or endorsement be construed as a waiver of the obligation of the Contractor to obtain required insurance.~~

~~11.3.3 The Contractor shall maintain insurance in the required amounts, without interruption, from the date of execution of the Contract until the date of approval of the Certification of Contract Completion by the Contracting Authority. Failure to maintain the required insurance during the time specified shall be cause for termination of the Contract.~~

~~11.3.4 Insurance policies required to be purchased and maintained by the Contractor may include a reasonable loss deductible, which shall be the responsibility of the Contractor to pay in the event of loss.~~

~~11.3.5 The prompt repair or reconstruction of the Work resulting from an insured loss or damage is the Contractor's responsibility and shall be accomplished at no additional cost to the State.~~

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~~11.4 Waivers of Subrogation~~

~~11.4.1 The Owner, the Contracting Authority, and the Contractor waive all rights against each other for damages caused by fire or other perils to the extent of actual recovery of any insurance proceeds under any property insurance, inland marine insurance, or builder's risk insurance applicable to the Work.~~

~~11.5~~1.1~~Indemnification for Injury or Damage~~

~~11.5.1 To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Contracting Authority, the Owner, the A/E, the CM, and their respective officials, officers, consultants, agents, representatives, and employees, in both individual and official capacities (individually "Indemnified Party"; collectively "Indemnified Parties"), from and against all claims, damages, losses, and expenses (including the fees and charges of engineers, architects, attorneys, and other professionals), direct, indirect, or consequential arising out of or in connection with the Project.~~

~~11.5.1.1 In the event of any injury, death, loss, damage, or related claims, the Contractor shall give prompt written notice to the Contracting Authority and the Owner.~~

~~11.5.2 The Contractor's obligations under subparagraph 11.5.1 shall not extend to the liability of the A/E, the A/E's consultants, agents, representatives, or employees for negligent preparation or approval of Drawings, Specifications, Change Orders, opinions, and any other responsibility of the A/E, except to the extent covered by the Contractor's insurance.~~

~~11.5.3 The Contractor's obligations under subparagraph 11.5.1 shall not negate, abridge, or reduce other rights or obligations of indemnity, which would otherwise exist as to an Indemnified Party.~~

~~11.5.4 The Contractor's obligations under subparagraph 11.5.1 shall not be limited by a limitation on the amount or type of damages, compensation, or benefits payable under workers' compensation acts, disability benefit acts or other employee benefit acts, or any insurance policy provided or required in connection with the Project.~~

~~11.6 Indemnification for Patent or Copyright Use~~

~~11.6.1 To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Indemnified Parties from and against all claims, damages, losses, and expenses (including the fees and charges of engineers, architects, attorneys, and other professionals), direct, indirect, or consequential arising out of the Contractor's infringement of patent rights or copyrights.~~

~~11.7~~1.1~~Indemnification for Use of Electronic Files~~

~~11.7.1 To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Indemnified Parties from and against all claims, damages, losses, and expenses (including, but not limited to, the fees and charges of engineers, architects, attorneys, and other professionals) arising out of, or related to the Contractor's, or any other Person's use of electronic files, including, but not limited to, Computer-Aided Design ("CAD") or Building Information Modeling ("BIM") files (collectively "Electronic Files").~~

~~11.7.1.1~~1.1.1.1~~These Electronic Files are provided solely for the Contractor's convenience and use related to the Project. Any use of the Electronic Files shall be at the sole risk of the Contractor.~~

~~11.7.1.2~~1.1.1.1~~The Owner alone owns the Electronic Files and every right, title, and interest therein from the moment of creation.~~

~~11.7.1.3~~1.1.1.1~~The Electronic Files are not products.~~

~~11.7.1.4~~1.1.1.1~~The Contractor shall not use the Electronic Files for any purpose other than as a convenience for preparing Shop Drawings, Coordination Drawings, Record Drawings, or fabrication data for components, systems, and assemblies intended solely for use on the Project.~~

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~~11.7.1.51.1.1.1The State and the A/E make no warranties, either express or implied, of the merchantability or fitness of the Electronic Files for any particular purpose.~~

~~11.7.1.61.1.1.1The Contractor understands and accepts that the Electronic Files may deteriorate or be inadvertently or otherwise modified without authorization of the State or the A/E.~~

~~11.7.1.71.1.1.1The State and the A/E make no representations as to compatibility, usability, or readability of the Electronic Files resulting from the use of software, application packages, operating systems, or computer hardware differing from those used to create the Electronic Files.~~

~~11.7.1.8 In the event of a conflict between the Contract Documents and the Electronic Files, the Contract Documents shall control, take precedence over, and govern the Electronic Files.~~

~~11.7.1.91.1.1.1The Contractor alone is responsible to check, verify, and otherwise confirm the accuracy of data on the Electronic Files.~~

~~11.7.1.101.1.1.1The Contractor shall not make any claims and hereby waives, to the fullest extent permitted by law, any claims or causes of action of any nature against the Indemnified Parties, which may arise out of, or in connection with, the use of the Electronic Files.~~

~~Article 12 - CONTRACT SUSPENSION AND TERMINATION~~

~~12.1 Suspension of the Work~~

~~12.1.1 The Contracting Authority, without cause and without prejudice to any other right or remedy it may have, may order the Contractor in writing to suspend, delay, or interrupt the performance of the Work in whole or in part for such period of time as the Contracting Authority may determine.~~

~~12.1.1.1 If the Contracting Authority suspends the Work under this subparagraph 12.1.1 and the Contractor complies with Article 8, the Contract Sum and Contract Time shall be adjusted for increases in the cost and time caused by the suspension, delay, or interruption. The adjustment of the Contract Sum, however, shall not include profit.~~

~~12.1.1.2 Notwithstanding the foregoing, no adjustment shall be made to the Contract Sum or Contract Time to the extent that:~~

~~.1 Performance was, or could have been, suspended, delayed, or interrupted by a cause for which the Contractor is responsible; or~~

~~.2 An equitable adjustment is made or denied under another provision of the Contract.~~

~~12.1.1.3 If the Contracting Authority suspends the Work under this subparagraph 12.1.1 and the Contractor submits a proper Contractor Payment Request, but subject to all other provisions of the Contract Documents, the Contractor shall be entitled to payment of compensation due under the Contract Documents for Work performed before the suspension based upon the Schedule of Values.~~

~~12.1.2 The Contracting Authority, without prejudice to any other right or remedy it may have, may order the Contractor in writing to suspend, delay, or interrupt the performance of the Work in whole or in part for such period of time as the Contracting Authority may determine for any of the following reasons: (1) Defective Work; (2) the Contractor is causing undue risk of damage to any part of the Project or adjacent area; (3) the Contractor fails to furnish or perform the Work in such a way that the complete Work will conform to the requirements of the Contract Documents; or (4) any other cause the Contracting Authority reasonably believes justifies a suspension.~~

~~12.1.2.1 The Contracting Authority's exercise of its right to suspend the Work under this subparagraph 12.1.2 shall not entitle the Contractor to any adjustment of the Contract Sum, Contract Time, or both.~~

~~12.1.2.2 If the Contracting Authority is adjudged to have improperly suspended the Work under this subparagraph 12.1.2, the suspension shall be deemed to have been a suspension under subparagraph 12.1.1.~~

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12.1.31.1.1Upon receipt of notice of suspension under this paragraph 12.1, the Contractor shall cease Work on the suspended activities and take all necessary or appropriate steps to limit disbursements and minimize respective costs. The Contractor shall furnish a report to the Contracting Authority, within 5 days of receiving the notice of suspension, describing the status of the Work, including, but not limited to, results accomplished, resulting conclusions, and other information as the Contracting Authority may require.

12.1.4 In the event of suspension under this paragraph 12.1, the Contractor may be entitled to payment of compensation due under the Contract Documents, upon submission of a proper invoice, for the Work performed prior to receipt of notice of suspension, which shall be payable based upon the Schedule of Values.

12.1.51.1.1The Contracting Authority's right to stop the Work shall not give rise to any duty to exercise the right for the benefit of the Contractor or any other party, and the Contracting Authority's exercise or failure to exercise the right shall not prejudice any of the Contracting Authority's other rights.

12.21.1Termination for Convenience

12.2.11.1.1The Contracting Authority may, at any time, terminate the Contract in whole or in part for the Owner's convenience and without cause, at any time upon 10 days written notice to the Contractor.

12.2.21.1.1Upon receipt of the notice of termination for convenience, the Contractor shall immediately proceed with performance of the following duties in accordance with instructions from the Contracting Authority:

12.2.2.1 Cease operation as specified in the notice;

12.2.2.2 Place no further orders and enter into no further subcontracts for materials, labor, services, or facilities, except as necessary to complete continued portions of the Project;

12.2.2.3 Terminate all subcontracts and orders to the extent they relate to the Work terminated;

12.2.2.4 Proceed with Work not terminated; and

12.2.2.51.1.1.1Take actions that may be necessary, or that the Contracting Authority may direct, for the protection and preservation of the terminated Work.

12.2.31.1.1Upon termination, the Contracting Authority shall pay the Contractor in accordance with the Schedule of Values for Work completed, including any retained funds, and the value of materials ordered and delivered, less any salvage credit the Contractor may receive for them.

12.2.3.11.1.1.1All materials, equipment, facilities, and supplies at the Site or stored off-site, for which the Contractor has received payment, shall become the property of the Owner.

12.2.3.2 The Contractor is entitled to a fair and reasonable profit for Work performed and reasonable expenses directly attributable to the termination of the Contract. In no event shall the Contractor be entitled to (1) overhead and profit on Work not performed or (2) compensation in excess of the total Contract Sum.

12.2.4 If the Contracting Authority terminates the Work under this paragraph 12.2, the termination shall not affect the rights or remedies of the State against the Contractor then existing or which may thereafter accrue.

12.2.5 Notwithstanding subparagraph 12.2.3, if the Contracting Authority terminates the Work under this paragraph 12.2, but there exists an event of the Contractor's default, the Contractor shall be entitled to receive only such sums as it would be entitled to receive following the occurrence of an event of default as provided in paragraph 12.3.

12.31.1Termination for Cause

12.3.1 The Contracting Authority may terminate all or a portion of the Contract if the Contractor:

12.3.1.1 Fails to prosecute the Work with the necessary force or in a timely manner;

12.3.1.2 Refuses to remedy Defective Work;

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12.3.1.3 Fails to supply enough properly skilled workers or proper materials;

12.3.1.4 Fails to properly make payment to Subcontractors or Material Suppliers;

12.3.1.5 Performs any services outside of the United States;

12.3.1.6 Permits its Subcontractors to perform any services outside of the United States; or

12.3.1.7 Disregards laws, ordinances, or rules, regulations, or orders of a public authority with jurisdiction over the Project.

12.3.1.8 Subparagraphs 12.3.1.5 and 12.3.1.6 shall not apply to this Project if the Contracting Authority is not a State Cabinet Agency, Board, or Commission.

12.3.2 If the Contracting Authority intends to exercise its termination rights under this paragraph 12.3, the Contracting Authority shall issue not less than 5 days' written notice to the Contractor and the Contractor's Surety in accordance with O.R.C. Section 153.17 ("5-Day Notice").

12.3.31.1.1If the Contractor fails to satisfy the requirements set forth in the 5-Day Notice within 15 days of receipt of the 5-Day Notice, the Contracting Authority may declare the Contractor in default, terminate the Contract, and employ upon the Work the additional force or supply materials or either as appropriate, and remove Defective Work.

12.3.41.1.1If the Contract is terminated, the Contractor's Surety may perform the Contract. If the Contractor's Surety does not commence performance of the Contract within 10 days of the date of Contract termination, the Contracting Authority may complete the Work by means the Contracting Authority determines appropriate. The Contracting Authority may take possession of and use all materials, facilities, and equipment at the Site or stored off-site, for which the State has paid.

12.3.51.1.1If the Contract is terminated, the Contractor shall not be entitled to further payment. If the unpaid balance of the Contract Sum exceeds the costs of finishing the Work, including without limitation the fees and charges of engineers, architects, attorneys, and other professionals and court costs, and other damages incurred by the Owner and not expressly waived, the Contractor or Surety shall immediately pay the amount of the insufficiency to the Owner. This obligation for payment shall survive termination of the Contract.

12.3.61.1.1If the Contractor's Surety performs the Work, the provisions of the Contract Documents govern the Surety's performance, with the Surety in place of the Contractor in all provisions including, but not limited to, provisions for payment for the Work, and provisions of the right of the Contracting Authority to complete the Work.

12.3.71.1.1If the Contracting Authority terminates the Work under this paragraph 12.3, the termination shall not affect any rights or remedies of the State against the Contractor then existing or which may thereafter accrue. The Contracting Authority's retention or payment of funds due the Contractor shall not release the Contractor or the Contractor's Surety from liability for performance of the Work in accordance with the requirements of the Contract Documents.

12.3.8 If the Contracting Authority is adjudged to have improperly terminated the Work under this paragraph 12.3, the termination will be deemed to have been a termination under paragraph 12.2.

12.41.1Contractor Insolvency

12.4.1 Bankruptcy of Contractor:

12.4.1.11.1.1.1If the Contractor files a voluntary petition in bankruptcy or has an involuntary petition in bankruptcy filed against it, the Contractor, the Contractor as the debtor-in-possession, or the trustee of the Contractor's bankruptcy estate shall file a motion to assume or reject the Contract under Bankruptcy Code §365, 11 U.S.C. §365, within 20 days after the filing of the voluntary petition or involuntary petition and shall diligently prosecute that motion to conclusion so as to obtain an order granting or denying that motion within 45 days after the filing of the voluntary or involuntary petition. The failure to file and

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prosecute that motion within the time frames provided by this paragraph 12.4 shall constitute a material breach of the Contract as time is of the essence with respect to Contractor's performance of all terms of this Contract. Contractor agrees to the granting of relief from the automatic stay of the Bankruptcy Code, 11 U.S.C. §362(a), to permit the Contracting Authority to terminate the Contract for cause in such instance and issue and serve all notices necessary to terminate the Contract or arising out of the termination of the Contract and to take any and all other action necessary to terminate the Contract.

12.4.2 Receivership or Assignment for the Benefit of Creditors:

12.4.2.11.1.1.1If the Contractor makes a general assignment for the benefit of creditors or if a receiver is appointed for all or a substantial part of the Contractor's business or property, the Contracting Authority shall serve written notice on the Contractor and the Contractor's Surety stating that any failure of the Contractor to provide adequate assurance of continued performance shall be considered a rejection of the Contract, which shall result in termination of the Contract for cause. Such termination of the Contract need not be evidenced by an order of any court.

Article 13 - ACTION SUBMITTALS

13.1 Description

13.1.1 Shop Drawings, Product Data, Samples, and other submittals for the A/E's review and action shall be provided by the Contractor for any item required by the Contract Documents but not fully described in the Contract Documents, unless waived by the A/E, and include, but are not limited to:

13.1.1.1 Construction of the various parts, method of joinery, type of materials, grade, quality and thickness of materials, alloy of materials, profiles of all sections, reinforcement, method of hanging doors or installing windows, anchorage, and type and grade of finish;

13.1.1.2 Capacities, types of materials and performance charts that are pertinent to the materials, and performance charts that are pertinent to the equipment item; and

13.1.1.3 Wiring diagrams, control diagrams, schematic diagrams, working and erection dimensions, arrangement and specifications.

13.1.1.4 If the Project is designed and constructed under the Leadership in Energy and Environmental Design ("LEED") Rating System developed by the U.S. Green Building Council or another rigorous rating system used to facilitate achievement of sustainability goals for the Project, the Contractor shall provide submittals certifying achievement of sustainable design rating system criteria for verification by a third party.

13.1.1.51.1.1To facilitate the Building Commissioning process, the Contractor shall submit 4 sets of Operation and Maintenance Manuals for dynamic and engineered systems to the A/E, and the CxA if applicable, for approval. This submission shall occur within 30 days following approval of all related Contractor submittals required by the Contract Documents.

13.1.21.1.1.1Submittals are not Contract Documents. In the event of conflicts between submittals and the Contract Documents, the Contract Documents take precedence and govern the Work.

13.2 Form of Submittals

13.2.1 The Contractor shall provide a transmittal letter, review and stamp its approval, and transmit the submittals to the A/E, through the CM, in accordance with a schedule established by the A/E, the CM, and the Contractor.

13.2.1.1 The Contractor shall submit a minimum of 1 reproducible and 3 copies of Shop Drawings, and a minimum of 4 copies of any other submittal, except when using OAKS CI under subparagraph 13.2.2.

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~~13.2.1.21.1.1.1The data shown on the Shop Drawings shall be complete with respect to quantities, dimensions, specified performance and design criteria, materials, and similar data to communicate to the A/E the materials and equipment which the Contractor proposes to provide.~~

~~13.2.1.31.1.1.1Each Sample shall be identified clearly as to materials, supplier, pertinent data as catalog numbers, the intended use, and other uses as the A/E may require enabling the A/E to review the submittal.~~

~~13.2.2 If the Project is administered using OAKS CI, the Contractor shall submit electronic files of its submittals to the A/E, and the CxA if applicable, for review, using the OAKS CI "Submittals" business process.~~

~~13.3 Variation from Contract Documents~~

~~13.3.11.1.1If the submittals show variations from the requirements of the Contract Documents, the Contractor shall specifically and clearly identify the variations in its letter of transmittal.~~

~~13.3.1.11.1.1.1Variations which may affect the construction quality, cost or timeline shall be submitted by the A/E to the Contracting Authority for review, and if approved, shall be incorporated into the Work by Change Order.~~

~~13.3.1.21.1.1.1The Contractor shall not be relieved of responsibility for deviations from the Contract Documents by the A/E's approval of submittals.~~

~~13.4 Contractor's Submittal Review~~

~~13.4.1 The Contractor shall review and stamp "approved" all submittals before forwarding them to the A/E, through the CM. If it is apparent to the A/E that the Contractor has not reviewed the submittals, or has conducted an incomplete review, the A/E or the CM may reject the submittals.~~

~~13.4.1.1 The Contractor shall field verify conditions as necessary and make corrections of dimensions, locations of various items, encroachments of work of other contractors, or variations from the requirements of the Contract Documents.~~

~~13.4.1.2 If required by the Contract Documents or Applicable Law, the Contractor shall have Shop Drawings or other submittals prepared by Persons possessing expertise and experience in an appropriate trade or profession or by a licensed architect, registered engineer, or other professional.~~

~~13.4.21.1.1.1By approving and submitting submittals, the Contractor represents that the Contractor has determined and verified materials, field measurements, and field construction criteria related to the associated Work, or shall do so, and has checked and coordinated the information contained within the submittals with the requirements of the Work and of the Contract Documents.~~

~~13.5 Construction Manager's Submittal Review~~

~~13.5.1 The CM shall review the initial submittal of each of the Contractor's Shop Drawings and other submittals for completeness and compliance with the requirements for form of submittals contained in paragraphs 13.2, 13.2.2, and 13.4.~~

~~13.5.2 Within 3 days of receipt of an initial submittal, the CM shall review the Shop Drawings or other submittals for responsiveness, completeness, and approval by the Contractor and transmit them to the A/E or return them to the Contractor with written notice of the reasons for non-acceptance.~~

~~13.5.2.1 The Contractor shall make corrections required by the CM and resubmit the required number of corrected copies of submittals until approved and transmitted to the A/E. Such resubmission shall be acted upon by the CM within 3 days of receiving the corrected submittals.~~

~~13.5.3 The CM's review shall not extend to means, methods, manners, techniques, sequences, procedure of construction, safety precautions or programs incident thereto or matters within the A/E's review as provided in paragraph 13.6.~~

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13.6 Architect/Engineer's Submittal Review

13.6.1 The A/E shall review submittals for conformity with design intent within 14 days of receiving them or in accordance with the approved submittal schedule, or other period as mutually agreed by the A/E and the Contractor.

13.6.1.1 The Contractor shall make corrections required by the A/E and resubmit the required number of corrected copies of submittals until approved, which re-submission shall be acted upon by the A/E within 14 days of receiving them, or other period as is mutually agreed by the A/E and the Contractor.

13.6.1.21.1.1.1When resubmitting corrected submittals, the Contractor shall direct the A/E's attention to revisions made by noting revisions on the resubmittal.

13.6.1.31.1.1.1The Contractor shall pay all reasonable costs of the A/E, the CM, Separate Contractors, the Owner, and the Contracting Authority for attendant delay, interference, hindrance or disruption of the Project due to excessive resubmittals without fault of the A/E, the CM, Separate Contractors, the Owner, or the Contracting Authority. Resubmittals in excess of 2 without fault of the A/E, the CM, Separate Contractors, the Owner or the Contracting Authority may be determined excessive by the Contracting Authority.

13.6.1.41.1.1.1The A/E may hold Samples and other submittals used to coordinate finishes, colors, patterns, textures, or other characteristics until submittals for adjacent materials are available. The A/E shall issue a written notice to the Contractor stating that the submittal is being held, within 7 days of receiving it.

13.6.1.5 If coordinating submittals are not received within the period required for action on previously received submittals that are held in accordance with subparagraph 13.6.1.4, review of the previously received submittals shall be delayed.

13.6.2 The A/E's review of submittals is to determine if the items covered by the submittals will, after installation and incorporation into the Work, conform to the Contract Documents and be compatible with the design concept of the Project as a functioning whole.

13.6.2.11.1.1.1The A/E's review shall not extend to means, methods, manners, techniques, sequences, nor procedures of construction, or to safety precautions or incident programs.

13.6.2.21.1.1.1The review and approval of a separate item shall not indicate approval of the assembly in which the item functions.

13.7 Risk of Nonpayment

13.7.11.1.1The Contractor shall not commence any portion of the Work requiring Shop Drawings, Product Data, Samples, or other submittals until the submittal has been approved by the A/E. If the Contractor starts Work before the A/E's final approval of the submittal, the Contractor does so at its own risk that payment shall not be approved by the Contracting Authority or made by the Owner for the related Work.

13.8 Equipment Statement

13.8.11.1.1Shop Drawings on equipment shall include the following written statement from the manufacturer of the equipment:

13.8.1.11.1.1.1"This equipment submitted for approval shall perform as specified when installed by the Contractor in the arrangement shown on this drawing and in the Contract Documents and in conjunction with all other accessories as flues, breechings, piping, controls, and equipment not furnished by this manufacturer, but required as an accessory or supplement to this equipment, providing that the accessory or supplementary items perform as specified and are installed as shown in the Contract Documents."

13.8.21.1.1.1This equipment statement shall not be required for Samples, Product Data, and other standard submittals that are not created specifically for this Project.

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~~Article 14 - SUBCONTRACTORS AND MATERIAL SUPPLIERS~~

~~14.1 Evaluation and Approval~~

~~14.1.1 Within 10 days after the Notice to Proceed, or other period as mutually agreed by the Contractor and the Contracting Authority, the Contractor shall submit to the CM, on forms provided by the Contracting Authority, 5 copies of the Contractor's list of proposed Subcontractors and Material Suppliers. The Contractor shall include and indicate on the list, appropriate information about the certified EDGE Business Enterprise(s) that it intends to use to fulfill its commitment to contract with and use certified EDGE Business(es) to meet or exceed the approved EDGE Business Participation Goal for the Contract related to the Project.~~

~~14.1.1.1 Failure to timely submit the list of proposed Subcontractors and Material Suppliers may result in withholding payment in accordance with subparagraph 9.6.2.~~

~~14.1.1.2 If the Project is administered using OAKS CI, the Contractor shall submit its proposed Subcontractors and Material Suppliers through the OAKS CI "Subcontractor Supplier Declaration" business process.~~

~~14.1.2 Within 3 business days after receiving the Subcontractor and Material Supplier Declaration forms, the CM shall verify that the forms are complete and deliver them to the A/E, the Owner, and 2 copies to the Contracting Authority. If the CM finds the forms are incomplete, the CM shall return them to the Contractor with no action and identify corrective action the Contractor shall perform prior to resubmitting the forms. If the CM returns such incomplete forms to the Contractor, the Contractor, within 10 days of receipt thereof, shall resubmit the forms with revisions complying with the corrective action identified by the CM.~~

~~14.1.3 Upon receipt of the forms, the Contracting Authority, in consultation with the A/E the CM, and the Owner, shall perform an initial review of each Subcontractor and Material Supplier listed. Within 10 days after receiving the forms, the Contracting Authority shall make an initial determination of the status of each Subcontractor and Material Supplier listed, and provide a written notice to the A/E, the CM, and the Contractor. The status of each Subcontractor and Material Supplier shall be one of the following.~~

~~14.1.3.1 Approved, indicating that the Subcontractor or Material Supplier is approved for use on the Project.~~

~~14.1.3.2 Extended Review, indicating that the Contracting Authority may have an objection or concern regarding a listed Subcontractor or Material Supplier. The Contracting Authority, in consultation with the A/E, the CM, and the Owner, shall then undertake an extended review for which an additional 10 days beyond the original deadline shall be automatically provided.~~

~~.1 Upon completing the extended review, the Contracting Authority shall issue a written notice to the A/E, the CM, and the Contractor confirming the status of the Subcontractor or Material Supplier as either approved or rejected.~~

~~14.1.3.3 Rejected, indicating that the Contracting Authority does not approve a listed Subcontractor or Material Supplier for use on the Project. Before making a determination to reject any listed Subcontractor or Material Supplier, the Contracting Authority shall complete a review similar to the review provided by the Instructions to Bidders, which includes written documentation as to the reason or reasons that the Subcontractor or Material Supplier was rejected.~~

~~14.1.4 If the Contracting Authority rejects any Subcontractor or Material Supplier, the Contractor shall replace the Subcontractor or Material Supplier, within 10 days of the receipt of the rejection, at no additional cost to the State.~~

~~14.2 Replacement and Corrections~~

~~14.2.1 The Contractor shall not replace any Subcontractor or Material Supplier after execution of the Contract without the prior written approval of the Contracting Authority.~~

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~~14.2.1.1 The Contractor shall submit to the CM amended Subcontractor and Material Supplier Declaration forms and written justification for additions to or changes in their list of Subcontractors and Material Suppliers.~~

~~14.2.1.2 The Contractor shall submit amended forms to the CM whenever any listed information changes for the Contractor's Subcontractors or Material Suppliers.~~

~~14.2.1.3 Upon submission of such amended forms, the Contractor, the A/E, the CM, and the Contracting Authority shall follow the procedure outlined in subparagraphs 14.1.2, 14.1.3, and 14.1.4.~~

~~14.3 Contractor's Responsibility~~

~~14.3.1 The Contractor is fully responsible for all acts and omissions of its Subcontractors and Material Suppliers and is responsible for scheduling and coordinating the Work of its Subcontractors and Material Suppliers with the CM.~~

~~14.3.1.1 The Contractor is fully responsible for any delay, interference, disruption, or hindrance attributable to the Contractor's Subcontractors or Material Suppliers.~~

~~14.3.1.2 The Contractor shall require that each of its Subcontractors have a competent supervisor at the Site whenever the Subcontractor is performing Work.~~

~~14.3.1.3 The Contractor shall bind its Subcontractors and Material Suppliers to the terms of the Contract Documents, so far as applicable to the Work of the Subcontractor or Material Supplier, and shall not agree to any provision, which seeks to bind the State to terms inconsistent with, or at variance from the Contract Documents.~~

~~14.4 Warranty and Guarantee~~

~~14.4.1 The Contractor shall require each Subcontractor and Material Supplier to fully warrant and guarantee, for the benefit of the Owner, the effectiveness, fitness for the purpose intended, quality, and merchantability of any Work performed or item provided or installed by the Subcontractor or Material Supplier.~~

~~14.51.1Contingent Assignment of Subcontracts~~

~~14.5.1 The Contractor hereby assigns its agreement with each Subcontractor and Material Supplier to the Owner provided that the assignment is effective only after termination of the Contract by the Contracting Authority for cause and only for those agreements which the Owner accepts by notifying the Contractor and applicable Subcontractor or Material Supplier in writing.~~

~~14.61.1Prompt Payment~~

~~14.6.1 The Contractor shall make payments to Subcontractors and Material Suppliers in accordance with Applicable Law, including O.R.C. Section 4113.61 that include, without limitation, the requirements described under this subparagraph 14.6.1.~~

~~14.6.1.1 If a Subcontractor or Material Supplier requests payment in time to allow the Contractor to include the request in its Contractor Payment Request, the Contractor shall pay within 10 days after receipt of payment from the State:~~

~~.1 To a Subcontractor, an amount equal to the percent of completion allowed by the Contracting Authority for the Subcontractor's Work.~~

~~.2 To a Material Supplier, an amount equal to all or that portion of the Contractor Payment Request that represents the materials furnished by the Material Supplier.~~

~~14.6.1.2 The Contractor may reduce the amount to be paid to a Subcontractor or Material Supplier pursuant to subparagraph 14.6.1.1 by the amount of any funds retained from the Contractor and may withhold amounts necessary to resolve disputed liens or claims involving the Work of the Subcontractor or Material Supplier.~~

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~~14.6.1.3 If the Contractor fails to comply with this subparagraph 14.6.1, the Contractor shall pay to the applicable Subcontractor or Material Supplier 18 percent interest, compounded annually, on any unpaid amount beginning on the 11th day after receipt of payment from the State.~~

~~14.6.2 In order to establish lien rights, Subcontractors and Material Suppliers shall comply with Applicable Law, including O.R.C. Sections 1311.26, 1311.261, and 1311.29.~~

~~14.6.3 In the event that the Contracting Authority receives a Claim Affidavit from a Subcontractor or Material Supplier, it shall proceed as required by Applicable Law, including O.R.C. Sections 153.63 and 1311.31.~~

~~14.6.4~~12.17.1 ~~Laborers, Subcontractors, and Material Suppliers may secure payment rights in accordance with Applicable Law, including O.R.C. Section 153.56~~Contract.

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Document 00 73 00 - Supplementary Conditions (Sample)

State of Ohio Standard Requirements
for Public Facility Construction

~~Agency or Institution:~~ *Edit this sample document to include conditions specific to ~~your~~the agency's or institution's projects.*

Certifications

These Supplementary Conditions amend and supplement the General Conditions and other provisions of the Contract Documents as indicated below. All provisions not amended remain in full force and effect. The terms in these Supplementary Conditions defined in the Contracting Definitions or the General Conditions shall have the meanings assigned to them in those documents.

These Supplementary Conditions are authorized for use on the Contracting Authority's Projects by the Ohio Department of Administrative Services:

By: _____ Date: _____

~~Robert Blair, *Director*~~
~~Ohio Department of Administrative Services~~
~~by~~ Lane J. Beougher, *State Architect*

Insert the name and relevant general contact information for the agency or institution below.

Contracting Authority

~~[Ohio Department of Administrative Services]~~
~~[General Services Division]~~
~~[State Architect's Office]~~
~~[4200 Surface Road]~~
~~[Columbus, Ohio 43228-1395]~~

~~[Phone~~«insert Contracting Authority name»
«insert street address»
«insert city, state zip code»
«insert phone number~~]~~»
~~[www.ohio.gov/sao]~~
«insert website»

Insert the name and title of the Person (Institutional Designee) acting in place of the State Architect – for an agency or non-certified Institution of Higher Education, the State Architect remains the authority to whom appeals may be made and this item should be deleted.

Institutional Designee

~~[~~ «Institutional Designee ~~]~~»
~~[~~ «Title ~~]~~»

Insert ~~Modifications~~modifications to the General Conditions that are applicable for projects specific to the agency or institution below. ~~Modifications~~Prior to use on any project, modifications must be authorized by the State ~~Architect's Office and~~Architect in consultation with the Attorney General's Office ~~prior to use. SAO~~. The State Architect's Office will post authorized Supplementary Conditions on its website and must be downloaded from that location. A link to that location may be included on the agency's or institution's website.

MODIFICATIONS TO GENERAL CONDITIONS

Insert ~~paragraph~~Sections X.X ~~and subparagraphs~~, X.X.X, X.X.X.X, and X.X.X.X.X as follows:

X.X ~~[~~ «Paragraph ~~]~~»

X.X.X ~~[~~ «Subparagraph ~~]~~»

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X.X.X.X ~~[~~ «Clause ~~]~~»

.X ~~[~~ «Sub-clause ~~]~~»

In ~~subparagraph~~Section X.X.X, replace the first sentence with the following:

Replace ~~subparagraph~~Section X.X.X with the following:

Delete ~~subparagraph~~Section X.X.X.

Insert Supplementary Conditions that are applicable to projects by the agency or institution below.

Insert Article ~~15~~13 with associated ~~paragraphs and subparagraphs~~Sections as follows in its entirety:

~~ARTICLE 15 -~~ARTICLE 13 - MISCELLANEOUS SUPPLEMENTARY CONDITIONS

~~7.1~~13.1 ~~[~~ «Paragraph ~~]~~»

~~15.1.1~~13.1.1 ~~[~~ «Subparagraph ~~]~~»

~~15.1.1.1~~13.1.1.1 ~~[~~ «Clause ~~]~~»

.1 ~~[~~ «Sub-clause ~~]~~»

END OF DOCUMENT

Version Control Document

PREVAILING WAGE RATES

1.1 Payment of Prevailing Wage Rates

1.1.1 The Contractor shall pay the prevailing wage rates of the Project locality, as issued by the Ohio Department of Commerce, Wage and Hour Bureau to laborers and mechanics performing Work on the Project.

1.1.2 The Contractor shall comply with the provisions, duties, obligations, and is subject to the remedies and penalties of Ohio Revised Code ("~~O.R.C.")~~ORC") Chapter 4115.

1.1.3 If the Contractor or its Subcontractors fail to comply with ~~O.R.C.~~ORC Chapter 4115, the Contracting Authority may withhold payment pursuant to ~~Article~~ Section 9.6.2.5 of the General Conditions. The Contractor is liable for violations committed by the Contractor or its Subcontractors to the extent provided in ~~O.R.C.~~ORC Chapter 4115.

1.1.4 The Contractor shall submit all payroll reports in compliance with the requirements of ~~paragraph~~ Section 1.4 for all of the employees of the Contractor and of the Contractor's Subcontractors.

1.1.5 By executing a Contract, the Contractor certifies that it based its Bid upon the prevailing rates of wages as ascertained by the Ohio Department of Commerce, Wage and Hour Bureau for the Project as provided in ~~O.R.C.~~ORC Sections 4115.03 through 4115.14, which are inserted at the end of this Document.

1.2 Prevailing Wage Rate Revisions

1.2.1 The Contracting Authority shall, within 7~~-~~ business days after receipt of a notice of a change in the prevailing wage rates, notify the Contractor of the change. The prevailing wage rates are available at the Ohio Department of Commerce's web site: http://com.state.oh.us/.

1.2.2 The Contractor shall pay any revised wage rates issued during the term of the Contract.

1.3 Payroll Schedule

1.3.1 Within 10~~-~~ days of the date of the Notice to Proceed, the Contractor shall provide the Contracting Authority's Prevailing Wage Coordinator a schedule of dates during the term of the Contract on which wages shall be paid to employees for the Project.

1.4 Payroll Reports

1.4.1 The Contractor shall submit payroll reports with each Contractor Payment Request, which reports shall be certified by the Contractor that the payroll is correct and complete and the wage rates shown are not less than those required by the Contract. The Contractor is responsible for submitting all payroll reports of its Subcontractors.

1.4.1.1 Each payroll report shall indicate the period covered and include a list containing the name, address and social security number of each employee of the Contractor and its Subcontractors paid for the Work.

1.4.1.2 Each payroll report shall list the number of hours each employee worked each day on the Project during the reporting period, the total hours each week on the Project, the employee's hourly rate of pay, job classification, hourly rate of fringe benefits, and all deductions from wages and net pay.

1.4.1.3 Each payroll report shall list each fringe benefit and state if it is paid as cash to the employee or to a named plan.

1.4.1.4 The Contractor and its Subcontractors shall submit apprenticeship agreements for all apprentices utilized on the Project.

END OF DOCUMENT

Version Control Document