



architects + engineers

PROJECT MANUAL

VILLAGE OF MOUNT KISCO
104 Main Street
Mount Kisco, NY 10549

ADDITIONS AND ALTERATIONS AT

MUTUAL STATION
99 MAIN STREET
MT KISCO, NY 10549

And

INDEPENDENT FIRE COMPANY
322 LEXINGTON AVE.
MT KISCO, NY 10549

Project No: MKIV1802 AND MKIV1803

CONTRACT G - GENERAL CONSTRUCTION
Volume I of III: Division 00 - 01

FINAL BID DOCUMENTS
February 8, 2022

H2M architects + engineers

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We hereby certify that these Contract Documents have been prepared by us or under our direct supervision in accordance with the rules and regulations governing the Architects and Engineers practicing in the State of New York.

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NYS Registered Architect:
Katrina N. Pacheco
License #041183

SIGNED SEALS WILL BE UPDATED FOR THE CONTRACTOR'S CONSTRUCTION SET

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SIGNED SEALS WILL BE UPDATED FOR THE CONTRACTOR'S CONSTRUCTION SET

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OWNER: Village of Mount Kisco
Village Hall
104 Main Street
Mount Kisco, NY 10549

PROJECT: Village of Mount Kisco - Additions/Alterations – Mutual Fire Station
99 Main Street
Mount Kisco, NY 10549
AND
Village of Mount Kisco – Additions/Alterations – Independent Fire Company
Fire Station
322 Lexington Ave
Mount Kisco, NY 10549

INTENT: These projects shall be bid in one category, that of General Construction Contract (GC) with individual prices for each station and a total for both stations required on the single bid form. Project Labor Agreement (PLA) is in place for the project. In the PLA, CM refers to the primary contractor awarded the bid.

ARCHITECT: H2M architects + engineers
3 Lear Jet Lane, Suite 205
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E-mail: albanyoffice@h2m.com

NOTES TO BIDDERS:

1. There are no "Supplementary Conditions" to the AIA documents as all modifications to AIA documents are within the documents themselves.
2. The Owner is a tax-exempt entity.
3. Every worker employed on the project must carry on them a copy of a bona fide OSHA 10 hour safety training course completion card. All OSHA information must be delivered to the Owner prior to any worker being allowed to start any work.
4. **All Contractors shall comply with the Center for Disease Control (CDC) guidelines, NYS Governor's Executive Order 202.34, NY State's Interim Guidance for Construction Activities during the COVID-19 Public Health Emergency and any local or other Authorities having jurisdiction requirements and guidelines related to the COVID pandemic. Refer to the Bid Form and Form of Contract for additional language and requirements.**
5. The General Contractor shall obtain the Building Permit for each project. There will be no charge for either building permit by the Village of Mount Kisco. Construction Documents with professional seals will be provided to the Village Building Department by H2M. Any other Village permits required for the work, require applications and full contractor information. Any fees for Village issued permits for either project have been waived by the Village. Contractor is responsible to obtain all permits and pay all non-Village permit fees as required by other jurisdictions.
6. General Contractor is responsible for hazardous material abatement and shall include in its bid.
7. All other required permits: permit fees or operating fees required by the municipality authority is the responsibility of the specific contractor whose work it falls under.
8. Local, State and County fees and/or permits are in force for these projects.
9. Bidders shall be required to use a surety authorized to do business in the State of New York. Said surety shall be used for all bonds required.

10. The Contractor is responsible for all the requirements for Divisions 00 and 01 of these specifications and the entire set of contract documents.
11. Both fire stations will be vacated by their respective fire companies by April 1, 2022. Contractor shall have complete access to both stations on that date for interior work.
12. Both fire station projects have SWPPPS filed with the NYS Department of Environmental Conservation (NYSDEC). Bidders must include all GC construction period responsibilities and time frames as described in the SWPPP document for each project.
13. It is the responsibility of the Contractor to forward addenda and other pertinent information to subcontractors, suppliers and vendors.
14. All questions during the bidding phase are to be posed by email to the following email address only: albanyoffice@h2m.com. The subject line should be VILLAGE OF MOUNT KISCO – MUTUAL & INDEPENDENT STATIONS. Clearly identify if your question pertains to Mutual Fire Station, Independent Fire Station, or both. **NO QUESTIONS WILL BE ANSWERED BY PHONE.** Response will be by issuance of Addenda to address issues.
15. It is the responsibility of the Contractor to familiarize themselves with the entire Contract Documents in order to coordinate their work with the work of others.
16. Bidders are encouraged to contact Kenneth Famulare, Assistant Village Manager, to schedule a walkthrough of the project sites. He can be contacted by email: kfamulare@mountkisco.ny.gov or by phone: 914-864-0059.
17. The words "Specification" and "Project Manual" are interchangeable, both referring to this document.
18. The only freestanding sign that will be allowed on each site shall be the Project Identification Sign as specified in Section 015800 – Project Identification. Signs required to comply with COVID-19 regulatory compliance will be allowed.
19. The Contractor shall warrant its work and materials for one (1) year or more, starting at date of Substantial Completion of the project.
 1. Warranties will only begin if the item, system, equipment etc. is in good working order and has been accepted by the Owner.
 2. Specific sections in the specifications and certain systems and materials may define a longer warranty period.
20. Use Charges: Costs and use charges for all temporary water and electric or any other utility or temporary service are by the General Contractor (GC).
21. GC is responsible for Temporary Heat of each building until authorized use of permanent heating system. General Contractor is responsible for scheduling, maintaining systems and all costs involved.
22. A final survey by the GC is required upon substantial completion of each fire station. See Section 017123 – Field Engineering and also meet Village of Mount Kisco requirements.
23. Any deviation from any section of the specification requirements must be submitted in writing. A "Scope of Deviation(s)" statement is to be provided at the time a deviation(s) is requested or found. The Statement should reference the specification section and item number along with a detailed explanation of the contractor's lack of compliance, partial compliance or alternative method proposed. The absence of a "Scope of Deviation(s)" statement will hold the contractor strictly accountable to the specifications as written herein and may cause the product, system and/or submittal to be rejected as non-responsive. Also refer to Product Requirements, Section 016000.
24. Electronic files, AutoCAD compatible drawing floor plan background drawings will be made available from the Architect for a service fee of \$100. Other drawings may be available from the Architect for a service fee of \$100 per sheet.

END OF SECTION

**Village of Mount Kisco
Additions/Alterations
Mutual Fire Station
99 Main Street
And
Independent Fire Co. Fire Station
322 Lexington Ave.
Mount Kisco, NY 10549**

PLEASE TAKE NOTICE: The Village of Mount Kisco intends to construct an addition and alterations to Mutual Fire Station, 99 Main Street, Mount Kisco, NY 10549 and Independent Fire Co. Fire Station, 322 Lexington Ave., Mount Kisco, NY 10549 and is seeking bids for General Construction. This is not a public work project, and the coordination of schedule will be the responsibility of the General Contractor (GC). The Project has a Project Labor Agreement (PLA) in place.

Sealed bids will be received until 11:00 am local time on Tuesday, February 8, 2022, at the Office of the Village Manager, Village Hall, 104 Main Street, Mount Kisco, NY 10549.

Bidders are invited to view the opening via Zoom Meeting teleconference, **Meeting ID: 886 3369 1521**, by Phone: +1- 646 558 8656 or by going to <https://us02web.zoom.us/j/88633691521>.

The (Owner) will award the bid for one or both stations at their convenience. The award will be to only one Contractor.

Each sealed enclosure containing a bid is to be endorsed on the outside with the name, address and telephone number of the bidder and is to state that it contains a bid for the Village of Mount Kisco-Mutual and Independent Fire Stations.

Bid security in the form of a 5% bid bond issued by an acceptable surety or a bank or certified check payable to the (Owner: Village of Mount Kisco) is required.

Complete sets of Hard Copy Bidding Documents, Drawings and Specifications, may be obtained beginning **Tuesday, December 21, 2021**, from REVplans, 28 Church Street, Unit 7, Warwick, NY 10990 Tel: 1-877-272-0216, upon depositing the sum of **One Hundred Dollars (\$100.00)** for each combined set of documents. Checks or money orders shall be made payable to Village of Mount Kisco. Any bidder requiring documents to be shipped shall make arrangements with the printer and pay for all packaging and shipping costs.

As a convenience to the Contractor digital Bidding Documents, Drawings and Specifications may be obtained from the following website: www.revplans.com as an online download for **Forty-Nine Dollars (\$49.00)**, in form of credit card.

Please note REVplans and www.revplans.com are the designated locations and means for distributing and obtaining all bid package information. All bidders are urged to register to ensure receipt of all necessary information, including bid addenda.

All bid addenda will be transmitted to registered plan holders via email and will be available at www.revplans.com. Plan holders who have paid for hard copies of the bid documents will need to make the determination if hard copies of the addenda are required for their use and coordinate directly with REVplans for hard copies of addenda to be issued. There will be no charge for registered plan holders to obtain hard copies of the bid addenda.

SECTION 001116 – INVITATION TO BID

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The successful bidder will be required to provide both a performance bond and a labor/material payment bond for each individual project issued by acceptable sureties and to enter into a written contract with the Owner. A copy of the form of contract is included with the bid documents.

The Owner reserves the right to reject any and all bids, re-advertise for new bids, waive any irregularities in bidding and to accept the bid that is best suited for the Owner.

Please be advised that Bidders are encouraged to contact Kenneth Famulare, Assistant Village Manager to schedule a walkthrough of both project sites. Kenneth can be contacted by email: kfamulare@mountkisco.ny.gov or by phone: 914-864-0059.

DATED: December 17, 2021
Edward W. Brancati
Village Manager

H2M architects + engineers
3 Lear Jet Lane, Suite 205
Latham, NY 12110

PART 1 GENERAL

1.01 BIDDING REQUIREMENTS

- A. The following include, but are not limited to, the items defined as the Bidding Requirements:
1. Invitation to Bid
 2. Notice to Bidders
 3. Instructions to Bidders
 4. Bid Form
 5. List of Major Subcontractors – Post Bid
 6. Bid Bond

1.02 CONTRACT DOCUMENTS

- A. The following include, but are not limited to, the items defined as the Contract Documents:
1. Agreement
 2. Bonds and Certificates
 3. General Conditions
 4. Supplementary Conditions
 5. Drawings
 6. Specifications/Project Manual
 7. Addenda

1.03 SOURCE OF BIDDING INFORMATION

- A. All questions about the meaning or intent of the Contract Documents are to be posed by email (as shown below) and shall be submitted to the Architect. In order to be given consideration, questions must be received at least four (4) business days prior to the date fixed for the opening of Bids. NO QUESTIONS WILL BE ANSWERED BY PHONE. Responses to items not covered in the construction documents will be issued by addendum.
- B. Questions must include the following:
- Village of Mount Kisco - Addition/Alterations-Mutual & Independent Fire Stations*
- C. Use following email address: albanyoffice@h2m.com for all questions during the bidding period. Subject line on emails should read *Village of Mount Kisco-Mutual & Independent Fire Station*.
- D. See "Instructions to Bidders", AIA A701 for limitations upon verbal communications and addenda procedures.

1.04 AVAILABILITY OF BIDDING DOCUMENTS

- A. Documents are available for ordering from REVplans. Digital Bidding Documents, Drawings and Specifications may be obtained from the following website: www.revplans.com as an online download for **Forty-Nine Dollars (\$49.00)**, in a form of a credit card.

1.05 BIDS DUE

- A. Submit Bids in the following manner:
1. Refer to Section 001116 – Invitation to Bid.

- B. See "Instructions to Bidders" for additional requirements and procedures governing Bid submission.
- 1.06 BID RESULTS WILL BE AVAILABLE WITHIN THREE (3) BUSINESS DAYS OF THE BID OPENING.
- A. The bid results will be posted to the website, www.revplans.com.
- 1.07 STATEMENT OF NON-COLLUSION IN BIDS & PROPOSALS
- A. Every bid or proposal hereafter made to a political subdivision of the state or any public department, agency or official thereof where competitive bidding is required by statute, rule, regulation or local law for work or services performed, to be performed or goods sold or to be sold, shall contain the following statement **as found on the bid form**:
1. "By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of knowledge and belief:
 - a) The prices in this 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 prices with any other bidder or with any competitor.
 - b) Unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the bidder and will not knowingly be disclosed by the bidder prior to opening, directly or indirectly, to any other bidder or to any competitor; and
 - c) No attempt has been made or will be made to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition."
- B. A bid shall not be considered for award, nor shall award be made where (1)(a)(b) and (c) above have not been complied with; provided, however, that if in any case the bidder cannot make the foregoing certification, the bidder shall so state and shall furnish with the bid a signed statement which sets forth in detail the reasons therefor. Where (1)(a)(b) and (c) above have not been complied with, the bid shall not be considered for award nor shall any award be made unless the head of the purchasing unit of the political subdivision, public department, agency or official thereof to which the bid is made, or his designee, determines that such disclosure was not made for the purpose of restricting competition. The fact that a bidder (a) has published price lists, (b) has informed prospective customers of proposed or pending publication of new or revised price lists for such items to other customers at the same prices being bid does not constitute, without more, a disclosure within the meaning of subparagraph A, 1.
- C. Any bid hereafter made to any political sub-division of the State or any public department, agency or official thereof by a corporate bidder for work or services performed or to be performed or goods sold or to be sold, where competitive bidding is required by statute, rule, regulation, or local law, and where such bid contains the certification referred to in subdivision one of this section, shall be deemed to have been authorized by the board of directors of the bidder, and such authorization shall be deemed to include the signing and submission of the bid and the inclusion therein of the certificate as to non-collusion as the act and deed of the corporation.
- D. The Owner may request from the lowest apparent bidder(s) Owner information on any lawsuits commenced by or against the contractor within the previous 24 months for work performed and on any mechanic's liens for materials or work filed by or against the contractor.

PART 2 PRODUCTS

2.01 NOT APPLICABLE

PART 3 EXECUTION

3.01 NOT APPLICABLE

END OF SECTION

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DRAFT AIA® Document A701™ – 2018

Instructions to Bidders

for the following Project:

(Name, location, and detailed description)

« Additions/Alterations – Independent Fire Station
322 Lexington Ave
Mount Kisco, NY 10549 »
« »
« »

THE OWNER:

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

« Village of Mount Kisco »« »
« Village Hall, 104 Main Street
Mount Kisco, NY 10549 »« »
« »
« »
« »

THE ARCHITECT:

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

« H2M architects + engineers
3 Lear Jet Lane, Suite 205
Latham, NY 12110 »« »
« »
« »
« »

TABLE OF ARTICLES

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- 2 BIDDER'S REPRESENTATIONS
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- 6 POST-BID INFORMATION
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- 8 ENUMERATION OF THE PROPOSED CONTRACT DOCUMENTS

ADDITIONS AND DELETIONS: The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed.

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

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

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

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ARTICLE 1 DEFINITIONS

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

§ 1.2 Definitions set forth in the General Conditions of the Contract for Construction, or in other Proposed Contract Documents apply to the Bidding Documents.

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

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

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

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

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

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

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

ARTICLE 2 BIDDER'S REPRESENTATIONS

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

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

ARTICLE 3 BIDDING DOCUMENTS

§ 3.1 Distribution

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

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

« Per the instructions in the project manual »

§ 3.1.2 Any required deposit shall be refunded to Bidders who submit a bona fide Bid and return the paper Bidding Documents in good condition within ten days after receipt of Bids. The cost to replace missing or damaged paper

documents will be deducted from the deposit. A Bidder receiving a Contract award may retain the paper Bidding Documents, and the Bidder's deposit will be refunded.

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

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

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

§ 3.2 Modification or Interpretation of Bidding Documents

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

§ 3.2.2 Requests for clarification or interpretation of the Bidding Documents shall be submitted by the Bidder in writing and shall be received by the Architect at least seven days prior to the date for receipt of Bids.
(Indicate how, such as by email, website, host site/platform, paper copy, or other method Bidders shall submit requests for clarification and interpretation.)

« Per the instructions in the project manual »

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

§ 3.3 Substitutions

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

§ 3.3.2 Substitution Process

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

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

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

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

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

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

§ 3.4 Addenda

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

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

« Per the instructions in the project manual »

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

§ 3.4.3 Addenda will be issued between two to four days prior to the date for receipt of Bids, except an Addendum withdrawing the request for Bids or one which includes postponement of the date for receipt of Bids.

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

ARTICLE 4 BIDDING PROCEDURES

§ 4.1 Preparation of Bids

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

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

§ 4.1.3 Sums shall be expressed in both words and numbers, unless noted otherwise on the bid form. In case of discrepancy, the amount entered in words shall govern.

§ 4.1.4 Edits to entries made on paper bid forms must be initialed by the signer of the Bid.

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

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

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

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

§ 4.2 Bid Security

§ 4.2.1 Each Bid shall be accompanied by the following bid security:

(Insert the form and amount of bid security.)

« Per the instructions in the project manual »

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

§ 4.2.3 If a surety bond is required as bid security, it shall be written on AIA Document A310™, Bid Bond, unless otherwise provided in the Bidding Documents. The attorney-in-fact who executes the bond on behalf of the surety shall

affix to the bond a certified and current copy of an acceptable power of attorney. The Bidder shall provide surety bonds from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located.

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

§ 4.3 Submission of Bids

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

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

« Per the instructions in the project manual »

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

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

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

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

§ 4.4 Modification or Withdrawal of Bid

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

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

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

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

« Owner will decide »

ARTICLE 5 CONSIDERATION OF BIDS

§ 5.1 Opening of Bids

If stipulated in an advertisement or invitation to bid, or when otherwise required by law, Bids properly identified and received within the specified time limits will be publicly opened and read aloud. A summary of the Bids may be made available to Bidders.

§ 5.2 Rejection of Bids

Unless otherwise prohibited by law, the Owner shall have the right to reject any or all Bids.

§ 5.3 Acceptance of Bid (Award)

§ 5.3.1 It is the intent of the Owner to award a Contract to the lowest responsive and responsible Bidder, provided the Bid has been submitted in accordance with the requirements of the Bidding Documents. Unless otherwise prohibited by law, the Owner shall have the right to waive informalities and irregularities in a Bid received and to accept the Bid which, in the Owner's judgment, is in the Owner's best interests.

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

ARTICLE 6 POST-BID INFORMATION

§ 6.1 Contractor's Qualification Statement

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

§ 6.2 Owner's Financial Capability

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

§ 6.3 Submittals

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

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

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

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

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

ARTICLE 7 PERFORMANCE BOND AND PAYMENT BOND

§ 7.1 Bond Requirements

§ 7.1.1 If stipulated in the Bidding Documents, the Bidder shall furnish bonds covering the faithful performance of the Contract and payment of all obligations arising thereunder.

§ 7.1.2 If the furnishing of such bonds is stipulated in the Bidding Documents, the cost shall be included in the Bid. If the furnishing of such bonds is required after receipt of bids and before execution of the Contract, the cost of such bonds shall be added to the Bid in determining the Contract Sum.

§ 7.1.3 The Bidder shall provide surety bonds from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located.

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

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

« »

§ 7.2 Time of Delivery and Form of Bonds

§ 7.2.1 The Bidder shall deliver the required bonds to the Owner not later than three days following the date of execution of the Contract. If the Work is to commence sooner in response to a letter of intent, the Bidder shall, prior to commencement of the Work, submit evidence satisfactory to the Owner that such bonds will be furnished and delivered in accordance with this Section 7.2.1.

§ 7.2.2 Unless otherwise provided, the bonds shall be written on AIA Document A312, Performance Bond and Payment Bond.

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

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

ARTICLE 8 ENUMERATION OF THE PROPOSED CONTRACT DOCUMENTS

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

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

« »

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

« »

- .3 AIA Document A201™–2017, General Conditions of the Contract for Construction, unless otherwise stated below.
(Insert the complete AIA Document number, including year, and Document title.)

« »

- .4 AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:
(Insert the date of the E203-2013.)

« Not included »

- .5 Drawings

Number

Attachment “B” to the Agreement

Title

Date

- .6 Specifications

Section	Title	Date	Pages
Attachment "A" to the Agreement			

.7 Addenda:

Number	Date	Pages
TBD		

.8 Other Exhibits:

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

[☐ NA] AIA Document E204™–2017, Sustainable Projects Exhibit, dated as indicated below:
(Insert the date of the E204-2017.)

« »

[☐ NA] The Sustainability Plan:

Title	Date	Pages

[☐] Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages
Included as part of the A201 General Conditions to the Contract			

.9 Other documents listed below:

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

« The Project Manual (Specifications) »

DRAFT AIA® Document A701™ – 2018

Instructions to Bidders

for the following Project:

(Name, location, and detailed description)

«Additions/Alterations – Mutual Fire Station
99 Main St
Mount Kisco, NY 10549»
« »
« »

THE OWNER:

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

«Village of Mount Kisco »« »
«Village Hall, 104 Main Street
Mount Kisco, NY 10549 »« »
« »
« »
« »

THE ARCHITECT:

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

«H2M architects + engineers
3 Lear Jet Lane, Suite 205
Latham, NY 12110 »« »
« »
« »
« »

TABLE OF ARTICLES

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

ADDITIONS AND DELETIONS: The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed.

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

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

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

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ARTICLE 1 DEFINITIONS

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

§ 1.2 Definitions set forth in the General Conditions of the Contract for Construction, or in other Proposed Contract Documents apply to the Bidding Documents.

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

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

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

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

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

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

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

ARTICLE 2 BIDDER'S REPRESENTATIONS

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

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

ARTICLE 3 BIDDING DOCUMENTS

§ 3.1 Distribution

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

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

« Per the instructions in the project manual »

§ 3.1.2 Any required deposit shall be refunded to Bidders who submit a bona fide Bid and return the paper Bidding Documents in good condition within ten days after receipt of Bids. The cost to replace missing or damaged paper

documents will be deducted from the deposit. A Bidder receiving a Contract award may retain the paper Bidding Documents, and the Bidder's deposit will be refunded.

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

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

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

§ 3.2 Modification or Interpretation of Bidding Documents

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

§ 3.2.2 Requests for clarification or interpretation of the Bidding Documents shall be submitted by the Bidder in writing and shall be received by the Architect at least seven days prior to the date for receipt of Bids.
(Indicate how, such as by email, website, host site/platform, paper copy, or other method Bidders shall submit requests for clarification and interpretation.)

« Per the instructions in the project manual »

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

§ 3.3 Substitutions

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

§ 3.3.2 Substitution Process

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

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

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

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

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

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

§ 3.4 Addenda

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

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

« Per the instructions in the project manual »

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

§ 3.4.3 Addenda will be issued between two to four days prior to the date for receipt of Bids, except an Addendum withdrawing the request for Bids or one which includes postponement of the date for receipt of Bids.

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

ARTICLE 4 BIDDING PROCEDURES

§ 4.1 Preparation of Bids

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

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

§ 4.1.3 Sums shall be expressed in both words and numbers, unless noted otherwise on the bid form. In case of discrepancy, the amount entered in words shall govern.

§ 4.1.4 Edits to entries made on paper bid forms must be initialed by the signer of the Bid.

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

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

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

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

§ 4.2 Bid Security

§ 4.2.1 Each Bid shall be accompanied by the following bid security:

(Insert the form and amount of bid security.)

« Per the instructions in the project manual »

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

§ 4.2.3 If a surety bond is required as bid security, it shall be written on AIA Document A310™, Bid Bond, unless otherwise provided in the Bidding Documents. The attorney-in-fact who executes the bond on behalf of the surety shall

affix to the bond a certified and current copy of an acceptable power of attorney. The Bidder shall provide surety bonds from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located.

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

§ 4.3 Submission of Bids

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

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

« Per the instructions in the project manual »

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

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

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

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

§ 4.4 Modification or Withdrawal of Bid

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

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

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

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

« Owner will decide »

ARTICLE 5 CONSIDERATION OF BIDS

§ 5.1 Opening of Bids

If stipulated in an advertisement or invitation to bid, or when otherwise required by law, Bids properly identified and received within the specified time limits will be publicly opened and read aloud. A summary of the Bids may be made available to Bidders.

§ 5.2 Rejection of Bids

Unless otherwise prohibited by law, the Owner shall have the right to reject any or all Bids.

§ 5.3 Acceptance of Bid (Award)

§ 5.3.1 It is the intent of the Owner to award a Contract to the lowest responsive and responsible Bidder, provided the Bid has been submitted in accordance with the requirements of the Bidding Documents. Unless otherwise prohibited by law, the Owner shall have the right to waive informalities and irregularities in a Bid received and to accept the Bid which, in the Owner's judgment, is in the Owner's best interests.

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

ARTICLE 6 POST-BID INFORMATION

§ 6.1 Contractor's Qualification Statement

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

§ 6.2 Owner's Financial Capability

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

§ 6.3 Submittals

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

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

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

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

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

ARTICLE 7 PERFORMANCE BOND AND PAYMENT BOND

§ 7.1 Bond Requirements

§ 7.1.1 If stipulated in the Bidding Documents, the Bidder shall furnish bonds covering the faithful performance of the Contract and payment of all obligations arising thereunder.

§ 7.1.2 If the furnishing of such bonds is stipulated in the Bidding Documents, the cost shall be included in the Bid. If the furnishing of such bonds is required after receipt of bids and before execution of the Contract, the cost of such bonds shall be added to the Bid in determining the Contract Sum.

§ 7.1.3 The Bidder shall provide surety bonds from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located.

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

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

« »

§ 7.2 Time of Delivery and Form of Bonds

§ 7.2.1 The Bidder shall deliver the required bonds to the Owner not later than three days following the date of execution of the Contract. If the Work is to commence sooner in response to a letter of intent, the Bidder shall, prior to commencement of the Work, submit evidence satisfactory to the Owner that such bonds will be furnished and delivered in accordance with this Section 7.2.1.

§ 7.2.2 Unless otherwise provided, the bonds shall be written on AIA Document A312, Performance Bond and Payment Bond.

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

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

ARTICLE 8 ENUMERATION OF THE PROPOSED CONTRACT DOCUMENTS

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

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

« »

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

« »

- .3 AIA Document A201™–2017, General Conditions of the Contract for Construction, unless otherwise stated below.
(Insert the complete AIA Document number, including year, and Document title.)

« »

- .4 AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:
(Insert the date of the E203-2013.)

« Not included »

- .5 Drawings

Number

Attachment “B” to the Agreement

Title

Date

- .6 Specifications

Section	Title	Date	Pages
Attachment "A" to the Agreement			

.7 Addenda:

Number	Date	Pages
TBD		

.8 Other Exhibits:

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

[☐ NA] AIA Document E204™–2017, Sustainable Projects Exhibit, dated as indicated below:
(Insert the date of the E204-2017.)

« »

[☐ NA] The Sustainability Plan:

Title	Date	Pages

[☐] Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages
Included as part of the A201 General Conditions to the Contract			

.9 Other documents listed below:

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

« The Project Manual (Specifications) »

PROJECT: Village of Mount Kisco - Additions/Alterations – Mutual & Independent Fire Stations

BID MADE TO: Village of Mount Kisco
Village Hall
104 Main Street
Mount Kisco, NY 10549

ARCHITECT: H2M architects + engineers

BIDDER: _____

Phone (____) _____ Fax (____) _____

The undersigned Bidder, having familiarized (himself, themselves, itself) with the existing conditions at both project areas affecting the cost of the work, and the Contract Documents as prepared by H2M architects + engineers and Form of Surety Bonds, hereby propose to perform the work of the Village of Mount Kisco - Additions/Alterations – Mutual & Independent Fire Stations. all in accordance with the Contract Documents, within the Contract Time, for the following lump sum bid:

Mutual Fire Station: TOTAL BID (Written Words)

\$ _____ **DOLLARS** _____ **CENTS**
(Type or Handwritten in Blue or Black Ink)

Independent Fire Station: TOTAL BID (Written Words)

\$ _____ **DOLLARS** _____ **CENTS**
(Type or Handwritten in Blue or Black Ink)

Combined Total Bid for Both Stations: (Written Words)

\$ _____ **DOLLARS** _____ **CENTS**
(Type or Handwritten in Blue or Black Ink)

The undersigned bidder acknowledges the project schedule as detailed in Attachment “D” to AIA 101.

CONTRACTOR TAKE NOTE

ALL DOLLAR AMOUNTS FOR ALTERNATES AND UNIT PRICES MUST BE FILLED IN TO CONSTITUTE A VALID BID.

ALTERNATES AND UNIT PRICES

Refer to Specification Section 012300 – Alternates and Section 012200 – Unit Pricing, for a detailed description of the work involved in each Alternate and Unit Pricing.

Please note: Alternates are project specific, and the Unit Prices listed shall apply to both projects.

Mutual Fire Station Alternate #1: (ADD) Substitute Glazed Concrete Block for Painted Gray Block in New Apparatus Bay

Lump Sum Cost for Mutual Alternate #1

Numerals: \$ _____

Written Words:

_____ DOLLARS _____ CENTS

Mutual Fire Station Alternate #2: (ADD) Door Access Control Infrastructure

Lump Sum Cost for Mutual Alternate #2

Numerals: \$ _____

Written Words:

_____ DOLLARS _____ CENTS

Mutual Fire Station Alternate #3: (ADD) WIFI and Technology Upgrades

Lump Sum Cost for Mutual Alternate #3

Numerals: \$ _____

Written Words:

_____ DOLLARS _____ CENTS

Mutual Fire Station Alternate #4: (ADD) Engraved Precast Medallion**Lump Sum Cost for Mutual Alternate #4**

Numerals: \$ _____

Written Words:

_____ DOLLARS _____ CENTS

Mutual Fire Station Alternate #5: (ADD) Maintenance Bond**Lump Sum Cost for Mutual Alternate #5**

Numerals: \$ _____

Written Words:

_____ DOLLARS _____ CENTS

Mutual Fire Station Alternate #6: (DELETE) New Retaining Wall, Two Parking Spaces, and Associated Work**Lump Sum Cost for Mutual Alternate #6**

Numerals: \$ _____

Written Words:

_____ DOLLARS _____ CENTS

Independent Fire Station Alternate #1: (ADD) Additional Second Floor Addition**Lump Sum Cost for Independent Alternate #1**

Numerals: \$ _____

Written Words:

_____ DOLLARS _____ CENTS

Independent Fire Station Alternate #2: (ADD) Door Access Control Infrastructure

Lump Sum Cost for Independent Alternate #2

Numerals: \$ _____

Written Words:

_____ DOLLARS _____ CENTS

Independent Fire Station Alternate #3: (ADD) WIFI and Technology Upgrades

Lump Sum Cost for Independent Alternate #3

Numerals: \$ _____

Written Words:

_____ DOLLARS _____ CENTS

Independent Fire Station Alternate #4: (ADD) Replace Aluminum Front Entrance and Door

Lump Sum Cost for Independent Alternate #4

Numerals: \$ _____

Written Words:

_____ DOLLARS _____ CENTS

Independent Fire Station Alternate #5: (ADD) Maintenance Bond

Lump Sum Cost for Mutual Alternate #5

Numerals: \$ _____

Written Words:

_____ DOLLARS _____ CENTS

Supply unit prices for the following (prices are applicable to either project):

1. Removal of Existing Uncontrolled Fill Material.
Unit Price #1

Numerals: \$ _____/cy

Written Words:

_____ DOLLARS _____ CENTS/cy

2. Placement of Controlled Fill.
Unit Price # 2

Numerals: \$ _____/cy

Written Words:

_____ DOLLARS _____ CENTS/cy

ALLOWANCES

Refer to Specification Section 012100 – Allowances, for quantities and/or dollar amounts that are **included within the Base Bid** for each project.

NOTES

1. If written Notice of Award is mailed, telegraphed or faxed delivered to the undersigned Bidder after the bid opening but before his bid is forty-five (45) days old, the undersigned agrees to execute and deliver an Agreement in the prescribed form and furnish the required bonds within fourteen (14) days after such Notice of Award.
2. Security in the sum of _____ DOLLARS (\$ _____) in the form of _____ is submitted herewith in accordance with the Instructions to Bidders.
3. The Bidder has received:
Addenda numbers _____ to _____, inclusive, and has included the effect thereof in his bid.
No addendum _____ (check, if appropriate).
4. Alternates, Allowances and Unit Prices - For work to be added to or deleted from the Contract. The summary shall be filled in by the Bidder, with the price written in words and numerals, in blue or black ink or by typewriter. Should a discrepancy in prices appear between the written words and numeric figures, the written words shall take precedence. State the amounts to be added to or deleted from the Base Bid per the indicated units for each listed item.
 - A. **Allowances shall be incorporated into the Bidder's base bid for each project.**
 - B. Alternates shall either be adds or deducts to the Bidder's base bid and shall be clearly shown in the bid form.

- C. Unit prices shall be shown in the bid form. Unit prices are only for additional work due to field conditions and are not part of the base bid. Stated unit prices apply to both projects.
5. The Bidder accepts the provisions of the Draft Contract, General Conditions, Specifications and Contract Documents concerning delay damages in the event of failure to complete the work on time.
6. Bidders represent that their bid is in compliance with laws of New York State.
7. Bidders are aware and have bid accordingly: The Village of Mount Kisco is a tax-exempt entity. The Village of Mount Kisco has waived all fees and cost of permits for this project. (State and county fees, if any, are in effect.).
8. It is the intent the Village of Mount Kisco will award and proceed with both fire station projects. If project costs exceed the Village of Mount Kisco's project budget., the Village reserves the right to proceed with only one of the projects.
9. Due to the ongoing COVID-19 pandemic and the resulting uncertainty with regard to (a) what restrictions, if any, will be applicable to construction activities in the Owner's facilities due to State, Federal or Local orders, laws, regulations or rules related to the COVID-19 pandemic (including but not limited to social distancing, cleaning and disinfection requirements) and (b) the duration of any restrictions imposed on constructions activities, the Owner may modify the construction schedule set forth in the Contract/Bid Documents. Similarly, restrictions, if any, that will be applicable to construction activities in the Owner's facilities due to State, Federal or Local orders, laws regulations or rules related to the COVID-19 pandemic (including but not limited to social distancing, cleaning and disinfection requirements) may cause the Owner to have the construction work commence later than the date specified in the Contract/bid documents. By submitting a bid, the Bidder acknowledges and agrees that there shall be no additional compensation paid for schedule modifications caused directly or indirectly by the COVID-19 pandemic. The Bidder further acknowledges and agrees that the sole remedy for any schedule modifications or delays caused directly or indirectly by the COVID-19 pandemic shall be an extension of time, if warranted. The Bidder further acknowledges and agrees that it shall have on file and provide a copy to the Owner of its written COVID-19 Business Reopening Plan, and it shall comply in all respects with such plan for the duration of the project. The Bidder and not the Owner shall be responsible for compliance with its written COVID-19 Business Reopening Plan and all safety requirements associated with COVID-19 protections for workers and the general public.

SIGNATURES

Bidder: _____

☐ a corporation organized and existing under the laws of the State of _____☐ a partnership, consisting of _____☐ an individual conducting business as _____

The location of whose principal office is: _____

Phone: _____ Fax: _____

By _____

Signature and Title

Print/Type Name: _____

State of: _____

County of: _____

Subscribed and sworn to before me this _____ day of _____, 20____

Notary Public: _____

My Commission Expires: _____

(CORPORATE SEAL)

Date _____, 20____

STATEMENT OF NON-COLLUSION IN BIDS & PROPOSALS

"By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of knowledge and belief:

- I. The prices in this 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 prices with any other bidder or with any competitor.
- II. Unless otherwise required by law, the prices, which have been quoted in this bid, have not been knowingly disclosed by the bidder and will not knowingly be disclosed by the bidder prior to opening, directly or indirectly, to any other bidder or to any competitor.
- III. No attempt has been made or will be made to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition."

CERTIFIED COPY OF RESOLUTION OF BOARD OF DIRECTORS

(Must be submitted if BIDDER is a Corporation)

_____, (Name of Corporation)

RESOLVED that _____ (Person Authorized to Sign)

_____, (Title) to _____

be authorized to sign and submit the Bid of this Corporation for the following Project:

and to include in such bid the certificate as to non-collusion, and for any inaccuracies or misstatements in such certificate this corporate Bidder shall be liable under the penalties of perjury.

The foregoing is a true and correct copy of the resolution adopted

by _____ (Name of Corporation)

at a meeting of its Board of Directors held on the _____ day of _____, _____.

BY: _____
(Signature)

(SEAL)

(Typed Name)

TITLE: _____

END OF BID FORM

DRAFT AIA® Document A310™ – 2010

Bid Bond

CONTRACTOR:

(Name, legal status and address)

« »« »
« »

SURETY:

(Name, legal status and principal place of business)

« »« »
« »

OWNER:

(Name, legal status and address)

«Village of Mount Kisco »« »
«Village Hall, 104 Main Street
Mount Kisco, NY 10549 »

BOND AMOUNT: \$ « »

BOTH PROJECTS:

(Name, location or address, and Project number, if any)

Additions/Alterations – Independent Fire Station and

Additions/Alterations – Mutual Fire Station »

« »

The Contractor and Surety are bound to the Owner in the amount set forth above, for the payment of which the Contractor and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, as provided herein. The conditions of this Bond are such that if the Owner accepts the bid of the Contractor within the time specified in the bid documents, or within such time period as may be agreed to by the Owner and Contractor, and the Contractor either (1) enters into a contract with the Owner in accordance with the terms of such bid, and gives such bond or bonds as may be specified in the bidding or Contract Documents, with a surety admitted in the jurisdiction of the Project and otherwise acceptable to the Owner, for the faithful performance of such Contract and for the prompt payment of labor and material furnished in the prosecution thereof; or (2) pays to the Owner the difference, not to exceed the amount of this Bond, between the amount specified in said bid and such larger amount for which the Owner may in good faith contract with another party to perform the work covered by said bid, then this obligation shall be null and void, otherwise to remain in full force and effect. The Surety hereby waives any notice of an agreement between the Owner and Contractor to extend the time in which the Owner may accept the bid. Waiver of notice by the Surety shall not apply to any extension exceeding sixty (60) days in the aggregate beyond the time for acceptance of bids specified in the bid documents, and the Owner and Contractor shall obtain the Surety's consent for an extension beyond sixty (60) days.

If this Bond is issued in connection with a subcontractor's bid to a Contractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

When this Bond has been furnished to comply with a statutory or other legal requirement in the location of the Project, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An Additions and Deletions Report that notes added information as well as revisions to the standard form text is available from the author and should be reviewed.

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

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

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furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

Signed and sealed this « » day of « », « »

(Witness)

(Witness)

« »

(Contractor as Principal) (Seal)

« »

(Title)

« »

(Surety) (Seal)

« »

(Title)



DRAFT AIA® Document A101® – 2017

Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum

AGREEMENT made as of the «XXX» day of «XXX» in the year «Two Thousand Twenty Two»

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

BETWEEN the Owner:

(Name, legal status, address and other information)

«Village of Mount Kisco »« »
«Village Hall, 104 Main Street
Mount Kisco, NY 10549 »« »
« »
« »
« »

and the Contractor:

(Name, legal status, address and other information)

« »
« »
« »

for the following Project:

(Name, location and detailed description)

«Additions/Alterations – Independent Fire Station
322 Lexington Ave
Mount Kisco, NY 10549»

The Architect:

(Name, legal status, address and other information)

«H2M architects + engineers»«»
«3 Lear Jet Lane
Suite 205
Latham, NY 12110»
« »
« »

The Owner and Contractor agree as follows.

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An Additions and Deletions Report that notes added information as well as revisions to the standard form text is available from the author and should be reviewed.

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

The parties should complete A101®-2017, Exhibit A, Insurance and Bonds, contemporaneously with this Agreement. AIA Document A201®-2017, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

ELECTRONIC COPYING of any portion of this AIA® Document to another electronic file is prohibited and constitutes a violation of copyright laws as set forth in the footer of this document.

TABLE OF ARTICLES

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

EXHIBIT A INSURANCE AND BONDS

ARTICLE 1 THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary, and other Conditions), Drawings, Specifications, the Project Manual, Schedule of Values, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. An enumeration of the Contract Documents, other than a Modification, appears in Article 9.

ARTICLE 2 THE WORK OF THIS CONTRACT

The Contractor shall fully execute the Work described in the Contract Documents, except as specifically indicated in the Contract Documents to be the responsibility of others.

The Work of this Contract is per Bid Proposal dated XXXXX and Enumeration of the Contract Documents as contained in Article 9 herein. The Contractor acknowledges that it has reviewed the Project Drawings, Specifications and other Contract Documents and is familiar with the Work contained in those documents. The Contractor further acknowledges that it is solely responsible to coordinate its efforts with all other Contractors and Subcontractors working on this Project.

ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 3.1 The date of commencement of the Work shall be:

(Check one of the following boxes.)

[☒] The date of this Agreement.

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

§ 3.3 Substantial Completion

§ 3.3.1 Subject to adjustments of the Contract Time as provided in the Contract Documents, the Contractor shall achieve Substantial Completion of the entire Work:

(Check one of the following boxes and complete the necessary information.)

[☒] Not later than « three hundred thirty » (« 330 ») calendar days from the date of commencement of the Work and as stated in Article 3.1. Refer to Exhibit 'D', Milestone Schedule, made part of this Agreement.

§ 3.3.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work are to be completed prior to Substantial Completion of the entire Work, the Contractor shall achieve Substantial Completion of such portions by the following dates:

Portion of Work	Substantial Completion Date
Entire project	

§ 3.3.3 If the Contractor fails to achieve Substantial Completion as provided in this Section 3.3, liquidated damages, if any, shall be assessed as set forth in Section 4.5.

ARTICLE 4 CONTRACT SUM

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum shall be «XXXXX» (\$ «XXXXX»), subject to additions and deductions as provided in the Contract Documents.

§ 4.2 Alternates

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

Item	Price

§ 4.2.2 Subject to the conditions noted below, the following alternates may be accepted by the Owner following execution of this Agreement. Upon acceptance, the Owner shall issue a Modification to this Agreement. (Insert below each alternate and the conditions that must be met for the Owner to accept the alternate.)

Item	Price	Conditions for Acceptance
TBD		

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

Item	Price
#1 Removal of Existing Uncontrolled Fill Material: 50cy	Part of Base Bid
#2 Placement of Controlled Fill: 50cy	Part of Base Bid

§ 4.3.1 Any funds not expended for the allowance shall be returned to the Owner in the form of a credit to the Contract (Change Order) for the full amount not used.

§ 4.4 Unit prices, if any:

(Identify the item and state the unit price and quantity limitations, if any, to which the unit price will be applicable.)

Item	Units and Limitations	Price per Unit (\$0.00)
Unit Price #1 Removal of Existing Uncontrolled Fill Material	Cubic Yards	\$00.00
Unit Price #2 Placement of Controlled Fill	Cubic Yards	\$00.00

§ 4.5 Liquidated damages, if any:

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

« Liquidated Damages shall be assessed at \$1,000.00 per calendar day beyond the date of Substantial Completion. The Owner and the Contractor agree that time is of the essence in the Contract and that the Owner will suffer a financial loss if the Work is not completed within the specified time. The Owner and Contractor also agree that such damages are uncertain in nature and otherwise incapable of accurate calculation and impossible to prove. Therefore, the Owner and the Contractor agree that the amount of liquidated damages as stated above is a reasonable forecast of such damages and is intended to be compensatory in nature and not a penalty. Liquidated damages shall begin to

accrue when work under the Contract is not Substantially Complete by the date determined in accordance with §3.3 above; subject to approved extensions of time. »

§ 4.6 Other:

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

« None »

ARTICLE 5 PAYMENTS

§ 5.1 Progress Payments

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

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

« »

§ 5.1.3 Provided that an acceptable Application for Payment including all required Lien Waivers is received by the Architect not later than the « twenty fifth (25th) » day of a month, the Owner shall make payment of the certified amount to the Contractor not later than the « thirtieth (30th) » day of the « following » month. If an Application for Payment is received by the Architect after the application date fixed above, payment shall be made by the Owner not later than « forty-five » « 45 » days after the Architect receives the Application for Payment. The Contractor's failure to submit all current lien waiver(s) shall be a basis for non-payment of the entire Payment Application. *(Federal, state or local laws may require payment within a certain period of time.)*

§ 5.1.4 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form, and supported by such data to substantiate its accuracy, as the Architect may require. This schedule of values shall be used as a basis for reviewing the Contractor's Applications for Payment.

§ 5.1.4.1 Project Manual Section 01 26 00 – Contract Modification Procedures shall govern the amount of mark-up allowed.

§ 5.1.4.2 The Schedule of Values shall contain a line item titled "Project Close-Out" which shall have a value of at least three percent (3%) of the total Contract. Such value shall be applied solely to the tasks of 01 74 23 – Cleaning, Project Manual Section 01 77 00 – Close-Out Procedures and 01 79 00 Demonstration and Training.

§ 5.1.5 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

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

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

- .1 That portion of the Contract Sum properly allocable to completed Work;
- .2 That portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction, or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing; and
- .3 That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified.

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

- .1 The aggregate of any amounts previously paid by the Owner;

- .2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A201–2017;
- .3 Any amount for which the Contractor does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Contractor intends to pay;
- .4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A201–2017; and
- .5 Retainage withheld pursuant to Section 5.1.7.

§ 5.1.7 Retainage

§ 5.1.7.1 For each progress payment made prior to Substantial Completion of the Work, the Owner may withhold the following amount, as retainage, from the payment otherwise due:

(Insert a percentage or amount to be withheld as retainage from each Application for Payment. The amount of retainage may be limited by governing law.)

« five, (5)% »

§ 5.1.7.1.1 The following items are not subject to retainage:

(Insert any items not subject to the withholding of retainage, such as general conditions, insurance, etc.)

« NA »

§ 5.1.7.2 Reduction or limitation of retainage, if any, shall be as follows:

(If the retainage established in Section 5.1.7.1 is to be modified prior to Substantial Completion of the entire Work, including modifications for Substantial Completion of portions of the Work as provided in Section 3.3.2, insert provisions for such modifications.)

« No retainage reduction »

§ 5.1.8 If final completion of the Work is materially delayed through no fault of the Contractor, the Owner shall pay the Contractor any additional amounts in accordance with Article 9 of AIA Document A201–2017.

§ 5.1.9 Except with the Owner's prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

§ 5.2 Final Payment

§ 5.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when:

- .1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Article 12 of AIA Document A201–2017, and to satisfy other requirements, if any, which extend beyond final payment; and
- .2 a final Certificate for Payment has been issued by the Architect.

§ 5.2.2 The Owner's final payment to the Contractor shall be made no later than 30 days after Contractor has satisfied the requirements of Section 5.2.1 of this Agreement.

« »

§ 5.3 Interest

Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below.

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

« Prime rate per annum as set forth in the Wall Street Journal as of the date of this Agreement. »

ARTICLE 6 DISPUTE RESOLUTION

§ 6.1 Initial Decision Maker

The Architect will serve as the Initial Decision Maker pursuant to Article 15 of AIA Document A201–2017, unless the parties appoint below another individual, not a party to this Agreement, to serve as the Initial Decision Maker.
(If the parties mutually agree, insert the name, address and other contact information of the Initial Decision Maker, if other than the Architect.)

« H2M architects + engineers »

« »
« »
« »

§ 6.2 Binding Dispute Resolution

For any Claim subject to, but not resolved by, mediation pursuant to Article 15 of AIA Document A201–2007, the method of binding dispute resolution shall be as follows:
(Check the appropriate box.)

[☒] Litigation in a court of competent jurisdiction, which shall be venued in the County of, Westchester, NY

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

ARTICLE 7 TERMINATION OR SUSPENSION

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

§ 7.1.1 If the Contract is terminated for the Owner's convenience in accordance with Article 14 of AIA Document A201–2017, then the Owner shall pay the Contractor a termination fee as follows:

(Insert the amount of, or method for determining, the fee, if any, payable to the Contractor following a termination for the Owner's convenience.)

« None »

§ 7.2 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201–2017. If the Owner makes a determination to hold the Contractor in default and/or terminate the Contract for cause and it is subsequently determined for any reason whatsoever that either such determination was improper, unwarranted, or wrongful, any such default and/or termination shall be deemed for all purposes to have been a termination for convenience. The Contractor agrees that it shall be entitled to no damages, allowances, overhead, profit, or expenses of any kind other than payment for the value of actual work performed and approved by the Owner and Architect.

ARTICLE 8 MISCELLANEOUS PROVISIONS

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

§ 8.2 The Owner's representative:

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

«Edward Brancati and Kenneth Famulare»

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

TBD

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

§ 8.5 Insurance and Bonds

§ 8.5.1 The Owner and the Contractor shall purchase and maintain insurance as set forth in AIA Document A101™–2017, Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum, and elsewhere in the Contract Documents.

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

<< »

§ 8.7 Other provisions:

« § 8.7.1 The Contractor shall be liable to the Owner for the Architect's or other Owner consultants such as geotechnical or testing services adjustment in compensation necessary to evaluate the failure of performance on the part of the Contractor or its Subcontractors in connection with the Work including, but not limited to: delays, faulty work, lack of performance, failure to provide adequate supervision, incomplete or nonconforming submittals requiring more than two (2) reviews, failure to perform Project Close-Out tasks in a timely manner, submission of Contractor claims for time extensions, delays, change orders, any other Contractor inactions or Architect's time and materials representing the Owner in a claim by the Contractor or any of its Subcontractors, suppliers or vendors. The Owner shall reduce the amount due the Contractor, in the form of a Change Order Deduct, an amount equal to the Architect's or other Owner's consultant's adjustment in compensation as noted therein

§8.7.2 No damages for delay. Notwithstanding anything to the contrary in the Contract Documents, a time extension, to the extent permitted, shall be the sole remedy of the Contractor for any (1) delay in the commencement, prosecution or completion of the Work, (2) hindrance, impact or obstruction in the performance of the Work, (3) loss of productivity, or (4) other similar claims whether or not such delays are foreseeable. The Contractor expressly agrees not to make, and hereby waives, any claim for damages on account of any delay, obstruction, impact or hindrance for any cause whatsoever, including, without limitation, consequential damages, lost opportunity costs, actual or alleged loss of efficiency, home office overhead, extended overhead, impact damages or other similar remuneration. The Contractor expressly agrees not to make, and hereby waives, any claim for damages on account of any delay, obstruction, impact or hindrance for any cause whatsoever, unless such delay is caused in whole, or in part, by acts or omissions within the control of the Owner or persons acting on behalf of Owner, including without limitation. The Contractor further agrees that it shall insert similar language in any subcontract for the Project. The Owner's exercise of any of its rights under the Contract Documents (including, without limitation, ordering changes in the Work, or directing suspension, rescheduling, or correction of the Work), regardless of the extent of frequency of the Owner's exercise of such rights or remedies, shall not be construed as active interference, hindrance, or obstruction with the Contractor's performance of the Work. »

ARTICLE 9 ENUMERATION OF CONTRACT DOCUMENTS

§ 9.1 This Agreement is comprised of the following documents:

- 1 AIA Document A101™–2017, Standard Form of Agreement Between Owner and Contractor
- 2 AIA Document A201™–2017, General Conditions of the Contract for Construction

.3 Attachments 'A', 'B', 'C', and 'D', are all a part of this agreement and attached hereto.

.5 Drawings

Number	Title	Date
Drawing set enumeration: Attachment "B"		

.6 Specifications which is synonymous with the Project Manual

Section	Title	Date	Pages
Project Manual enumeration: Attachment "A"			

.7 Addenda

Number	Date	Pages
TBD		

.8 Other Exhibits:

The Project Manual in its entirety is a part of this agreement.

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

OWNER (Signature)

« Gina Picinich, Mayor »« »

(Printed name and title)

CONTRACTOR (Signature)

« »« »

(Printed name and title)

DRAFT AIA® Document A101® – 2017

Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum

AGREEMENT made as of the «XXX» day of «XXX» in the year «Two Thousand Twenty Two»

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

BETWEEN the Owner:

(Name, legal status, address and other information)

«Village of Mount Kisco »« »
«Village Hall, 104 Main Street
Mount Kisco, NY 10549 »« »
« »
« »
« »

and the Contractor:

(Name, legal status, address and other information)

« »
« »
« »

for the following Project:

(Name, location and detailed description)

«Additions/Alterations – Mutual Fire Station
99 Main St
Mount Kisco, NY 10549»

The Architect:

(Name, legal status, address and other information)

«H2M architects + engineers»«»
«3 Lear Jet Lane
Suite 205
Latham, NY 12110»
« »
« »

The Owner and Contractor agree as follows.

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An Additions and Deletions Report that notes added information as well as revisions to the standard form text is available from the author and should be reviewed.

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

The parties should complete A101®-2017, Exhibit A, Insurance and Bonds, contemporaneously with this Agreement. AIA Document A201®-2017, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

ELECTRONIC COPYING of any portion of this AIA® Document to another electronic file is prohibited and constitutes a violation of copyright laws as set forth in the footer of this document.

TABLE OF ARTICLES

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

EXHIBIT A INSURANCE AND BONDS

ARTICLE 1 THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary, and other Conditions), Drawings, Specifications, the Project Manual, Schedule of Values, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. An enumeration of the Contract Documents, other than a Modification, appears in Article 9.

ARTICLE 2 THE WORK OF THIS CONTRACT

The Contractor shall fully execute the Work described in the Contract Documents, except as specifically indicated in the Contract Documents to be the responsibility of others.

The Work of this Contract is per Bid Proposal dated XXXXX and Enumeration of the Contract Documents as contained in Article 9 herein. The Contractor acknowledges that it has reviewed the Project Drawings, Specifications and other Contract Documents and is familiar with the Work contained in those documents. The Contractor further acknowledges that it is solely responsible to coordinate its efforts with all other Contractors and Subcontractors working on this Project.

ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 3.1 The date of commencement of the Work shall be:

(Check one of the following boxes.)

[☒] The date of this Agreement.

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

§ 3.3 Substantial Completion

§ 3.3.1 Subject to adjustments of the Contract Time as provided in the Contract Documents, the Contractor shall achieve Substantial Completion of the entire Work:

(Check one of the following boxes and complete the necessary information.)

[☒] Not later than « three hundred thirty » (« 330 ») calendar days from the date of commencement of the Work and as stated in Article 3.1. Refer to Exhibit 'D', Milestone Schedule, made part of this Agreement.

§ 3.3.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work are to be completed prior to Substantial Completion of the entire Work, the Contractor shall achieve Substantial Completion of such portions by the following dates:

Portion of Work	Substantial Completion Date
Entire project	

§ 3.3.3 If the Contractor fails to achieve Substantial Completion as provided in this Section 3.3, liquidated damages, if any, shall be assessed as set forth in Section 4.5.

ARTICLE 4 CONTRACT SUM

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum shall be «XXXXX» (\$ «XXXXX»), subject to additions and deductions as provided in the Contract Documents.

§ 4.2 Alternates

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

Item	Price

§ 4.2.2 Subject to the conditions noted below, the following alternates may be accepted by the Owner following execution of this Agreement. Upon acceptance, the Owner shall issue a Modification to this Agreement. (Insert below each alternate and the conditions that must be met for the Owner to accept the alternate.)

Item	Price	Conditions for Acceptance
TBD		

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

Item	Price
#1 Removal of Existing Uncontrolled Fill Material: 50cy	Part of Base Bid
#2 Placement of Controlled Fill: 50cy	Part of Base Bid

§ 4.3.1 Any funds not expended for the allowance shall be returned to the Owner in the form of a credit to the Contract (Change Order) for the full amount not used.

§ 4.4 Unit prices, if any:

(Identify the item and state the unit price and quantity limitations, if any, to which the unit price will be applicable.)

Item	Units and Limitations	Price per Unit (\$0.00)
Unit Price #1 Removal of Existing Uncontrolled Fill Material	Cubic Yards	\$00.00
Unit Price #2 Placement of Controlled Fill	Cubic Yards	\$00.00

§ 4.5 Liquidated damages, if any:

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

« Liquidated Damages shall be assessed at \$1,000.00 per calendar day beyond the date of Substantial Completion. The Owner and the Contractor agree that time is of the essence in the Contract and that the Owner will suffer a financial loss if the Work is not completed within the specified time. The Owner and Contractor also agree that such damages are uncertain in nature and otherwise incapable of accurate calculation and impossible to prove. Therefore, the Owner and the Contractor agree that the amount of liquidated damages as stated above is a reasonable forecast of such damages and is intended to be compensatory in nature and not a penalty. Liquidated damages shall begin to

accrue when work under the Contract is not Substantially Complete by the date determined in accordance with §3.3 above; subject to approved extensions of time. »

§ 4.6 Other:

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

« None »

ARTICLE 5 PAYMENTS

§ 5.1 Progress Payments

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

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

« »

§ 5.1.3 Provided that an acceptable Application for Payment including all required Lien Waivers is received by the Architect not later than the « twenty fifth (25th) » day of a month, the Owner shall make payment of the certified amount to the Contractor not later than the « thirtieth (30th) » day of the « following » month. If an Application for Payment is received by the Architect after the application date fixed above, payment shall be made by the Owner not later than « forty-five » « 45 » days after the Architect receives the Application for Payment. The Contractor's failure to submit all current lien waiver(s) shall be a basis for non-payment of the entire Payment Application. *(Federal, state or local laws may require payment within a certain period of time.)*

§ 5.1.4 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form, and supported by such data to substantiate its accuracy, as the Architect may require. This schedule of values shall be used as a basis for reviewing the Contractor's Applications for Payment.

§ 5.1.4.1 Project Manual Section 01 26 00 – Contract Modification Procedures shall govern the amount of mark-up allowed.

§ 5.1.4.2 The Schedule of Values shall contain a line item titled "Project Close-Out" which shall have a value of at least three percent (3%) of the total Contract. Such value shall be applied solely to the tasks of 01 74 23 – Cleaning, Project Manual Section 01 77 00 – Close-Out Procedures and 01 79 00 Demonstration and Training.

§ 5.1.5 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

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

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

- .1 That portion of the Contract Sum properly allocable to completed Work;
- .2 That portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction, or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing; and
- .3 That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified.

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

- .1 The aggregate of any amounts previously paid by the Owner;

- .2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A201–2017;
- .3 Any amount for which the Contractor does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Contractor intends to pay;
- .4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A201–2017; and
- .5 Retainage withheld pursuant to Section 5.1.7.

§ 5.1.7 Retainage

§ 5.1.7.1 For each progress payment made prior to Substantial Completion of the Work, the Owner may withhold the following amount, as retainage, from the payment otherwise due:

(Insert a percentage or amount to be withheld as retainage from each Application for Payment. The amount of retainage may be limited by governing law.)

« five, (5)% »

§ 5.1.7.1.1 The following items are not subject to retainage:

(Insert any items not subject to the withholding of retainage, such as general conditions, insurance, etc.)

« NA »

§ 5.1.7.2 Reduction or limitation of retainage, if any, shall be as follows:

(If the retainage established in Section 5.1.7.1 is to be modified prior to Substantial Completion of the entire Work, including modifications for Substantial Completion of portions of the Work as provided in Section 3.3.2, insert provisions for such modifications.)

« No retainage reduction »

§ 5.1.8 If final completion of the Work is materially delayed through no fault of the Contractor, the Owner shall pay the Contractor any additional amounts in accordance with Article 9 of AIA Document A201–2017.

§ 5.1.9 Except with the Owner's prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

§ 5.2 Final Payment

§ 5.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when:

- .1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Article 12 of AIA Document A201–2017, and to satisfy other requirements, if any, which extend beyond final payment; and
- .2 a final Certificate for Payment has been issued by the Architect.

§ 5.2.2 The Owner's final payment to the Contractor shall be made no later than 30 days after Contractor has satisfied the requirements of Section 5.2.1 of this Agreement.

« »

§ 5.3 Interest

Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below.

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

« Prime rate per annum as set forth in the Wall Street Journal as of the date of this Agreement. »

ARTICLE 6 DISPUTE RESOLUTION

§ 6.1 Initial Decision Maker

The Architect will serve as the Initial Decision Maker pursuant to Article 15 of AIA Document A201–2017, unless the parties appoint below another individual, not a party to this Agreement, to serve as the Initial Decision Maker.
(If the parties mutually agree, insert the name, address and other contact information of the Initial Decision Maker, if other than the Architect.)

« H2M architects + engineers »

« »
« »
« »

§ 6.2 Binding Dispute Resolution

For any Claim subject to, but not resolved by, mediation pursuant to Article 15 of AIA Document A201–2007, the method of binding dispute resolution shall be as follows:
(Check the appropriate box.)

[☒] Litigation in a court of competent jurisdiction, which shall be venued in the County of, Westchester, NY

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

ARTICLE 7 TERMINATION OR SUSPENSION

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

§ 7.1.1 If the Contract is terminated for the Owner's convenience in accordance with Article 14 of AIA Document A201–2017, then the Owner shall pay the Contractor a termination fee as follows:

(Insert the amount of, or method for determining, the fee, if any, payable to the Contractor following a termination for the Owner's convenience.)

« None »

§ 7.2 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201–2017. If the Owner makes a determination to hold the Contractor in default and/or terminate the Contract for cause and it is subsequently determined for any reason whatsoever that either such determination was improper, unwarranted, or wrongful, any such default and/or termination shall be deemed for all purposes to have been a termination for convenience. The Contractor agrees that it shall be entitled to no damages, allowances, overhead, profit, or expenses of any kind other than payment for the value of actual work performed and approved by the Owner and Architect.

ARTICLE 8 MISCELLANEOUS PROVISIONS

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

§ 8.2 The Owner's representative:

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

«Edward Brancati and Kenneth Famulare»

« »
« »
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« »

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

TBD

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

§ 8.5 Insurance and Bonds

§ 8.5.1 The Owner and the Contractor shall purchase and maintain insurance as set forth in AIA Document A101™–2017, Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum, and elsewhere in the Contract Documents.

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

<< »

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« § 8.7.1 The Contractor shall be liable to the Owner for the Architect's or other Owner consultants such as geotechnical or testing services adjustment in compensation necessary to evaluate the failure of performance on the part of the Contractor or its Subcontractors in connection with the Work including, but not limited to: delays, faulty work, lack of performance, failure to provide adequate supervision, incomplete or nonconforming submittals requiring more than two (2) reviews, failure to perform Project Close-Out tasks in a timely manner, submission of Contractor claims for time extensions, delays, change orders, any other Contractor inactions or Architect's time and materials representing the Owner in a claim by the Contractor or any of its Subcontractors, suppliers or vendors. The Owner shall reduce the amount due the Contractor, in the form of a Change Order Deduct, an amount equal to the Architect's or other Owner's consultant's adjustment in compensation as noted therein

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- 1 AIA Document A101™–2017, Standard Form of Agreement Between Owner and Contractor
- 2 AIA Document A201™–2017, General Conditions of the Contract for Construction

.3 Attachments 'A', 'B', 'C', and 'D', are all a part of this agreement and attached hereto.

.5 Drawings

Number	Title	Date
Drawing set enumeration: Attachment "B"		

.6 Specifications which is synonymous with the Project Manual

Section	Title	Date	Pages
Project Manual enumeration: Attachment "A"			

.7 Addenda

Number	Date	Pages
TBD		

.8 Other Exhibits:

The Project Manual in its entirety is a part of this agreement.

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

OWNER (Signature)

« Gina Picinich, Mayor »« »

(Printed name and title)

CONTRACTOR (Signature)

« »« »

(Printed name and title)

**AIA A101 ATTACHMENT “A”
Village of Mount Kisco - Additions/Alterations
Independent Fire Stations**

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233416	Exhaust Fans	1 – 6
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260519	Low-Voltage Electrical Power Conductors and Cables	1 – 6
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262816	Enclosed Switches and Circuit Breakers	1 – 3
262914	Combination Motor Controllers	1 – 2
262917	Transfer Switch (Wall Mount)	1 – 5
263214	Natural Gas Engine Generator Systems	1 – 15
265000	Lighting	1 – 4
267173	Electrical Utility Services	1 – 1
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DIVISION 28 – ELECTRONIC SAFETY AND SECURITY

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DIVISION 31 – EARTHWORK

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G0.1	Cover	12/13/2021		
G1.1	New York State Code Analysis, Notes and Legends	12/13/2021		
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CD100	Demolition and Erosion and Sediment Control Plan	12/13/2021		
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A5.1	Enlarged Plans, Interior Elevations	12/13/2021		
A6.1	Plan and Section Details	12/13/2021		
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PD110	Plumbing Demolition First Floor Plan	12/13/2021		
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P120	Domestic Water and Gas First Floor Plumbing Plan	12/13/2021		
P121	Domestic Water and Gas Second Floor Plumbing Plan	12/13/2021		
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ED113	Electrical Demolition Plan Roof	12/13/2021		
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AIA A101 ATTACHMENT "B"**Village of Mount Kisco - Additions/Alterations - Mutual Station**

SHEET INDEX	SHEET DESCRIPTION	DATE	REVISION DATE	REVISION DATE
G0.1	Cover	12/13/2021		
G1.1	New York State Code Analysis, Notes and Legends	12/13/2021		
D1.1	First and Second Floor Demolition Plans	12/13/2021		
V100	Existing Conditions Plan	12/13/2021		
CD100	Demolition Site Plan	12/13/2021		
CS100	Dimensional Site Plan and Stormwater Pollution Prevention Plan	12/13/2021		
C100	Grading and Drainage Plan	12/13/2021		
C500	Site Details	12/13/2021		
C501	Site Details	12/13/2021		
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S500	Details	12/13/2021		
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A1.3	Roof Plan and Details	12/13/2021		
A2.1	Building Elevations	12/13/2021		
A3.1	Building Sections	12/13/2021		
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A4.1	Enlarged Elevator Plans and Details	12/13/2021		
A5.1	Enlarged Plans, Interior Elevations	12/13/2021		
A6.1	Plan and Section Details	12/13/2021		
A7.1	Door Schedule, Frames & Types	12/13/2021		
A7.2	Door Details	12/13/2021		
A8.1	Window Schedule, Elevations and Details	12/13/2021		
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P6.0	Plumbing Details	12/13/2021		
P001	Plumbing General Notes, Legends and Abbreviations	12/13/2021		
P002	Plumbing Schedules	12/13/2021		
P120	Domestic Water and Gas First Floor Plumbing Plan	12/13/2021		
P121	Domestic Water and Gas Second Floor Plumbing Plan	12/13/2021		
P130	Sanitary, Vent & Storm Under Slab Plumbing Plan	12/13/2021		
P131	Sanitary, Vent & Storm First Floor Plumbing Plan	12/13/2021		
P132	Sanitary, Vent & Storm Second Floor Plumbing Plan	12/13/2021		
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P500	Plumbing Details	12/13/2021		
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PD110	Plumbing Demolition First Floor Plan	12/13/2021		
PD111	Plumbing Demolition Second Floor Plan	12/13/2021		
PS100	Plumbing Site Plan	12/13/2021		
MD101	First Floor HVAC Demo Plan	12/13/2021		
MD102	Second Floor HVAC Demo Plan	12/13/2021		
MD103	Roof HVAC Demo Plan	12/13/2021		
M001	General HVAC Notes, Legends and Abbreviations	12/13/2021		
M101	First Floor HVAC Plan	12/13/2021		
M132	Second Floor HVAC Plan	12/13/2021		
M133	Roof HVAC Plan	12/13/2021		
M510	Details (1 of 2)	12/13/2021		
M520	Details (2 of 2)	12/13/2021		

M610	Schedules (1 of 2)	12/13/2021		
M620	Schedules (2 of 2)	12/13/2021		
M630	Kitchen Schedules and Details (1 of 2)	12/13/2021		
M631	Kitchen Schedules and Details (2 of 2)	12/13/2021		
ES100	Electrical Site Plan	12/13/2021		
ED111	Electrical Demolition Plan First Floor	12/13/2021		
ED112	Electrical Demolition Plan Second Floor	12/13/2021		
ED113	Electrical Demolition Plan Roof	12/13/2021		
E001	Electrical General Notes and Legends	12/13/2021		
E101	Electrical Power Plan First Floor	12/13/2021		
E102	Electrical Power Plan Second Floor	12/13/2021		
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E112	Electrical HVAC Power Plan Second Floor	12/13/2021		
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E121	Electrical Lighting Plan First Floor	12/13/2021		
E122	Electrical Lighting Plan Second Floor	12/13/2021		
E140	Electrical Generator Plan	12/13/2021		
E500	Electrical Details	12/13/2021		
E540	Electrical Generator Details	12/13/2021		
E600	Electrical Schedules	12/13/2021		
E601	Electrical Panel Schedules	12/13/2021		
E610	Electrical Single Line Diagrams	12/13/2021		
FA001	Fire Alarm Legends and Riser Diagrams	12/13/2021		
FA101	Electrical Fire Alarm Plan First Floor	12/13/2021		
FA102	Electrical Fire Alarm Plan Second Floor	12/13/2021		
FA130	Electrical Fire Alarm Plan Roof	12/13/2021		

INSURANCE

- A. No work shall commence, and the Owner has the option to void the contract unless the Contractor shall secure and deliver a certificate of insurance dated within five (5) days of the date of the signing of the contract and showing that the required policies are in effect. Contractor shall maintain such insurance policies as will protect himself, his subcontractors, and unless otherwise specified, the Owner, its agents, servants and employees and the Architect, Construction Manager and Engineer(s) as additional named insured, from any all claims for Bodily Injuries, Death or Property Damage which may arise from operations under the contract whether such operations be by himself or by any subcontractor or anyone employed by him directly or indirectly, or any other party who may be injured, claim injuries or die.
- B. The insurance policies required under this section shall be as specified in the General Conditions and any Supplementary Conditions thereof.
- C. Contractor shall furnish Certificates of Insurance in triplicate, with the project name and number (if any) stated on the certificates and submit prior to the beginning of on-site operations. The coverage and amounts below are minimum requirements and do not establish limits to the Contractor's liability. Other coverage and higher limits may be provided at the Contractor's option and expense.
- D. The Owner shall purchase and maintain insurance for this project as stated in General Conditions.
- E. The Contractor will maintain Worker's Compensation, Employers' Liability (statutory limits).
- F. Commercial General Liability and Contractual Liability to be provided on an "occurrence" basis, with coverage to include explosion, collapse and underground hazards (XCU). Blanket Contractual Products, Independent Contractors Completed Operations, Personal Injury, and Employees as additional insured, with limits of coverage to be:
 - 1. Bodily Injury, Property Damage and Personal Injury Limits
 - a) \$1 Million each occurrence
 - b) \$2 Million general aggregate
 - c) \$2 Million Personal and Advertising Injury
 - 2. Aggregate shall apply to this project only (aggregate not to include other projects) and must be identified as such on the certificate of insurance.
- G. Automotive Liability including owned, non-owned, and hired automobiles insurance on automobiles of subcontractors and material suppliers must meet the same requirements with limits of coverage to be:
 - 1. Bodily Injury and Property Damage
 - a) \$2 Million each occurrence
- H. Excess Umbrella Liability to provide insurance in excess of Employer's Liability, Commercial General Liability, and Automobile Liability policies required thereunder:
 - 1. Five Million Dollars (\$5,000,000.00) each occurrence
 - 2. Five Million Dollars (\$5,000,000.00) general aggregate.
- I. The Contractor at his own cost shall be responsible for and maintain Property Insurance coverage at his option and expense to cover tools, equipment, etc., owned or rented, the capital value of which is not included in the Work.
- J. All policies are to be written by insurance companies licensed to do business in the State of New York, acceptable to the Owner. Insurance company must maintain an AM Best rating of A or better throughout the course of the project.

ATTACHMENT "C" INSURANCE REQUIREMENTS

H2M

- K. Each insurance certificate must indicate the project name and Owner.
- L. All certificates of insurance are to contain substantially the following statement: The insurance covered by this certificate shall not be canceled, nor materially altered, except after thirty (30) days prior written notice to the Owner and Architect which will be sent Registered Mail Return Receipt.
- M. Liability Insurance under a "claims-made" policy is not acceptable. Coverage must be provided on an "occurrence" basis.
- N. **The policy must state that the following are to be additional named insureds in all liability insurance policies: Village of Mount Kisco and H2M architects + engineers and their respective members, officers, employees and agents.
Coverage provided by Contractor to Owner as additional named insured must state "Such coverage to be primary and non-contributory"**
- O. ACORD 25 was revised by both the NY State Insurance Department and ACORD in order for the certificate to meet State Laws and Statutes. Therefore, in order to be in compliance, certificates are issued on the current version of the ACORD 25 Form based on the Certificate Laws and ACORD's guidelines. July 28, 2016

MISCELLANEOUS

- A. Terms used in this Agreement which are defined in Article 1 of the General Conditions shall have the meaning indicated in General Conditions.
- B. Neither Owner nor Contractor shall, without written consent of the other, assign or sublet in whole or in part his interest under any of the Contract Documents; and specifically, Contractor shall not assign any moneys due or to become due without written consent of Owner. The assignment by Contractor of the Contract or any interest therein, or of money due by reason of the terms hereof, without the written consent of Owner, shall be void.
- C. Owner and Contractor each bind himself, his partners, successors, assigns and legal representatives to the other party hereto in respect to all covenants, agreements and obligations contained in the Contract Documents.
- D. The Contractor shall in all respects comply with her/his/its obligations as a trustee under New York Lien Law Article 3-A, and shall defend, indemnify and hold harmless the Owner and the Architect from any claims, suits, demands or judgments arising out of any failure to so comply. Upon receipt of each progress payment and upon final payment, the Contractor shall extend the funds received as required by said Article 3-A, and in particular §71 thereof, and shall upon request of the Owner or the Architect furnish proof of such compliance.

TIME FRAMES

- A. Specific time allotments, measured from the approved start date for both Independent and Mutual Stations, shall apply to the work of the contract and shall be met by the Contractor.

<u>Description</u>	<u>Contract Day #</u>
Substantial Completion	330 days
Final Completion	30 days

- B. The Contractor may accelerate (shorten) the specified time allotments referred above.
- C. The Contractor **shall not** exceed the specified time allotments shown in the Milestone Schedule. Each specified time shall carry liquidated damages in the amount shown in the AIA A101 Owner/Contractor Agreement.
- D. All time frames are calculated as "Calendar Days".
- E. There are no delays for weather.
- F. There shall be **no** damages for delay clause in the AIA A101 Owner/Contractor Agreement.

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Performance Bond

CONTRACTOR:

(Name, legal status and address)

« »
« »

SURETY:

(Name, legal status and principal place of business)

« »
« »

OWNER:

(Name, legal status and address)

Village of Mount Kisco »« »

«Village Hall, 104 Main Street

Mount Kisco, NY 10549 »

CONSTRUCTION CONTRACT

Date: « »

Amount: \$ «0.00»

Description:

(Name and location)

« Additions/Alterations – Independent Fire Station

322 Lexington Ave

Mount Kisco, NY 10549»

BOND

Date:

(Not earlier than Construction Contract Date)

« »

Amount: \$ « »

Modifications to this

Bond:



None



See Section 16

CONTRACTOR AS PRINCIPAL

Company: (Corporate Seal)

Signature:

Name and « »« »

Title:

SURETY

Company: (Corporate Seal)

Signature:

Name and « »« »

Title:

(Any additional signatures appear on the last page of this Performance Bond.)

(FOR INFORMATION ONLY — Name, address and telephone)

AGENT or BROKER:

« »

« »

« »

OWNER'S REPRESENTATIVE:

(Architect, Engineer or other party:)

«»

«»

«»

«»

«»

«»

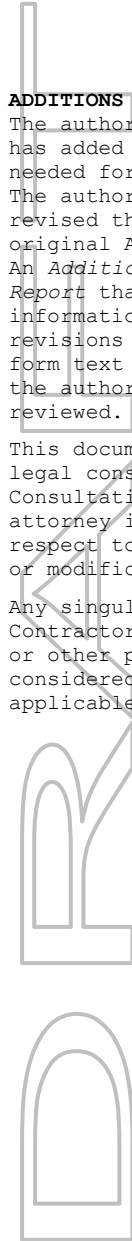
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ADDITIONS AND DELETIONS:

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

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.



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

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

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

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

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

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

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

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

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

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

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

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

§ 7 If the Surety elects to act under Section 5.1, 5.2 or 5.3, then the responsibilities of the Surety to the Owner shall not be greater than those of the Contractor under the Construction Contract, and the responsibilities of the Owner to

the Surety shall not be greater than those of the Owner under the Construction Contract. Subject to the commitment by the Owner to pay the Balance of the Contract Price, the Surety is obligated, without duplication, for

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

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

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

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

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

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

§ 13 When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

§ 14 Definitions

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

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

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

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

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

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

§ 16 Modifications to this bond are as follows:

« »

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

CONTRACTOR AS PRINCIPAL

Company: (Corporate Seal)

Signature:

Name and Title: « »« »

Address: « »

SURETY

Company: (Corporate Seal)

Signature:

Name and Title: « »« »

Address: « »

DRAFT AIA® Document A312™ – 2010

Performance Bond

CONTRACTOR:

(Name, legal status and address)

« »
« »

SURETY:

(Name, legal status and principal
place of business)

« »
« »

OWNER:

(Name, legal status and address)

Village of Mount Kisco »« »

«Village Hall, 104 Main Street

Mount Kisco, NY 10549 »

CONSTRUCTION CONTRACT

Date: « »

Amount: \$ «0.00»

Description:

(Name and location)

«Additions/Alterations – Mutual Fire Station

99 Main St

Mount Kisco, NY 10549»

BOND

Date:

(Not earlier than Construction Contract Date)

« »

Amount: \$ « »

Modifications to this



None



See Section 16

Bond:

CONTRACTOR AS PRINCIPAL

Company: (Corporate Seal)

Signature:

Name and « »« »

Title:

SURETY

Company: (Corporate Seal)

Signature:

Name and « »« »

Title:

(Any additional signatures appear on the last page of this Performance Bond.)

(FOR INFORMATION ONLY — Name, address and telephone)

AGENT or BROKER:

« »

« »

« »

OWNER'S REPRESENTATIVE:

(Architect, Engineer or other party:)

«»

«»

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«»

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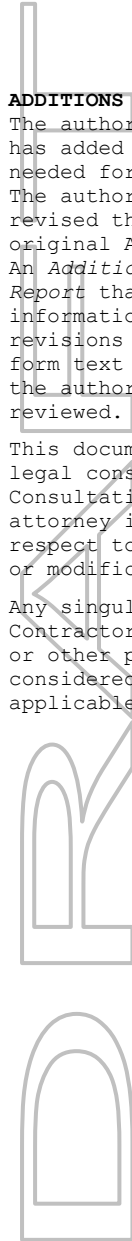
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- .2 the Owner declares a Contractor Default, terminates the Construction Contract and notifies the Surety; and
- .3 the Owner has agreed to pay the Balance of the Contract Price in accordance with the terms of the Construction Contract to the Surety or to a contractor selected to perform the Construction Contract.

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

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

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

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

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

- .1 After investigation, determine the amount for which it may be liable to the Owner and, as soon as practicable after the amount is determined, make payment to the Owner; or
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§ 6 If the Surety does not proceed as provided in Section 5 with reasonable promptness, the Surety shall be deemed to be in default on this Bond seven days after receipt of an additional written notice from the Owner to the Surety demanding that the Surety perform its obligations under this Bond, and the Owner shall be entitled to enforce any remedy available to the Owner. If the Surety proceeds as provided in Section 5.4, and the Owner refuses the payment or the Surety has denied liability, in whole or in part, without further notice the Owner shall be entitled to enforce any remedy available to the Owner.

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

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

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

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

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

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

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

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

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

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

§ 16 Modifications to this bond are as follows:

« »

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

CONTRACTOR AS PRINCIPAL

Company: (Corporate Seal)

Signature:

Name and Title: « »« »

Address: « »

SURETY

Company: (Corporate Seal)

Signature:

Name and Title: « »« »

Address: « »

DRAFT

AIA® Document A312™ – 2010

Payment Bond

CONTRACTOR:

(Name, legal status and address)

« »
« »

SURETY:

(Name, legal status and principal place of business)

« »
« »

OWNER:

(Name, legal status and address)

«Village of Mount Kisco »

«Village Hall, 104 Main Street

Mount Kisco, NY 10549»

CONSTRUCTION CONTRACT

Date: « »

Amount: \$ «0.00»

Description:

(Name and location)

Additions/Alterations – Independent Fire Station

322 Lexington Ave

Mount Kisco, NY 10549»

BOND

Date:

(Not earlier than Construction Contract Date)

« »

Amount: \$ « »

Modifications to this Bond:



None



See Section
18

CONTRACTOR AS PRINCIPAL

Company: (Corporate Seal)

SURETY

Company: (Corporate Seal)

Signature:

Name and « »

Title:

Signature:

Name and « »

Title:

(Any additional signatures appear on the last page of this Payment Bond.)

(FOR INFORMATION ONLY — Name, address and telephone)

AGENT or BROKER:

« »
« »
« »

OWNER'S REPRESENTATIVE:

(Architect, Engineer or other party:)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 14 When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

§ 15 Upon request by any person or entity appearing to be a potential beneficiary of this Bond, the Contractor and Owner shall promptly furnish a copy of this Bond or shall permit a copy to be made.

§ 16 Definitions

§ 16.1 Claim. A written statement by the Claimant including at a minimum:

- .1 the name of the Claimant;
- .2 the name of the person for whom the labor was done, or materials or equipment furnished;
- .3 a copy of the agreement or purchase order pursuant to which labor, materials or equipment was furnished for use in the performance of the Construction Contract;
- .4 a brief description of the labor, materials or equipment furnished;
- .5 the date on which the Claimant last performed labor or last furnished materials or equipment for use in the performance of the Construction Contract;
- .6 the total amount earned by the Claimant for labor, materials or equipment furnished as of the date of the Claim;
- .7 the total amount of previous payments received by the Claimant; and
- .8 the total amount due and unpaid to the Claimant for labor, materials or equipment furnished as of the date of the Claim.

§ 16.2 Claimant. An individual or entity having a direct contract with the Contractor or with a subcontractor of the Contractor to furnish labor, materials or equipment for use in the performance of the Construction Contract. The term Claimant also includes any individual or entity that has rightfully asserted a claim under an applicable mechanic's lien or similar statute against the real property upon which the Project is located. The intent of this Bond shall be to include without limitation in the terms "labor, materials or equipment" that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental equipment used in the Construction Contract, architectural and engineering services required for performance of the work of the Contractor and the Contractor's subcontractors, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials or equipment were furnished.

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

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

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

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

§ 18 Modifications to this bond are as follows:

« »

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

CONTRACTOR AS PRINCIPAL

Company: (Corporate Seal)

SURETY

Company: (Corporate Seal)

Signature:

Name and Title: « »« »

Address: « »

Signature:

Name and Title: « »« »

Address: « »

DRAFT AIA® Document A312™ – 2010

Payment Bond

CONTRACTOR:

(Name, legal status and address)

« »
« »

SURETY:

(Name, legal status and principal place of business)

« »
« »

OWNER:

(Name, legal status and address)

«Village of Mount Kisco »

«Village Hall, 104 Main Street

Mount Kisco, NY 10549»

CONSTRUCTION CONTRACT

Date: « »

Amount: \$ «0.00»

Description:

(Name and location)

Additions/Alterations – Mutual Fire Station

99 Main St

Mount Kisco, NY 10549»

BOND

Date:

(Not earlier than Construction Contract Date)

« »

Amount: \$ « »

Modifications to this Bond:



None



See Section
18

CONTRACTOR AS PRINCIPAL

Company: (Corporate Seal)

SURETY

Company: (Corporate Seal)

Signature:

Name and « »

Title:

Signature:

Name and « »

Title:

(Any additional signatures appear on the last page of this Payment Bond.)

(FOR INFORMATION ONLY — Name, address and telephone)

AGENT or BROKER:

« »
« »
« »

OWNER'S REPRESENTATIVE:

(Architect, Engineer or other party:)

« »
« »
« »
« »
« »
« »

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An Additions and Deletions Report that notes added information as well as revisions to the standard form text is available from the author and should be reviewed.

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

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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- .4 a brief description of the labor, materials or equipment furnished;
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CONTRACTOR AS PRINCIPAL

Company: (Corporate Seal)

SURETY

Company: (Corporate Seal)

Signature:

Name and Title: « »« »

Address: « »

Signature:

Name and Title: « »« »

Address: « »

DRAFT AIA® Document A201™ – 2017

General Conditions of the Contract for Construction

for the following PROJECT:

(Name and location or address)

«Additions/Alterations – Independent Fire Station
322 Lexington Ave
Mount Kisco, NY 10549»

THE OWNER:

(Name, legal status and address)

«Village of Mount Kisco»«»
«Village Hall
104 Main Street
Mount Kisco, NY 10549»

THE ARCHITECT:

(Name, legal status and address)

«H2M architects + engineers»«»
«3 Lear Jet Lane
Suite 205
Latham, NY 12110»

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ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed.

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

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ARTICLE 1 GENERAL PROVISIONS

§ 1.1 Basic Definitions

§ 1.1.1 The Contract Documents

The Contract Documents are enumerated in the Agreement between the Owner and Contractor (hereinafter the Agreement) and consist of the Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of the Contract, other documents listed in the Agreement, and Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive, or (4) a written order for a minor change in the Work issued by the Architect. The Contract Documents include all documents which are part of the Bid Package submitted to Contractor including the Contractor's bid.

§ 1.1.2 The Contract

The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Contractor and the Architect or the Architect's consultants, (2) between the Owner and a Subcontractor or a Sub-subcontractor, except as set forth in Section 3.7.3, Section 5.3 and Section 5.4 of these General Conditions (3) between the Owner and the Architect or the Architect's consultants, or (4) between any persons or entities other than the Owner and the Contractor. The Architect shall, however, be entitled to performance and enforcement of obligations under the Contract intended to facilitate performance of the Architect's duties.

§ 1.1.3 The Work

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

§ 1.1.4 The Project

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

§ 1.1.5 The Drawings

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

§ 1.1.6 The Specifications

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

§ 1.1.7 Instruments of Service

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

§ 1.1.8 Initial Decision Maker

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

§ 1.1.9 TERMS USED

The terms 'knowledge', 'recognize', and 'discover', their respective derivatives and similar terms in the Contract Documents, as used in reference to the Contractor, shall be interpreted to mean that which the Contractor knows, recognizes and discovers or should have known or discovered, in exercising the care, skill and diligence required by the Contract Documents. The term 'reasonably inferable' and similar terms in the Contract Documents shall be interpreted to mean reasonably inferable by a contractor familiar with the Project and exercising the care, skill, and diligence required of the Contractor by the Contract Documents.

§ 1.2 Correlation and Intent of the Contract Documents

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

.1 In the event of inconsistencies, conflicts or discrepancies among the Contract Documents, interpretations will be based on the following priorities:

- .1 The AIA A101 Standard Form Agreement Between Owner and Contractor;
- .2 Bid Addenda, with those of late date having precedence over those of earlier date;
- .3 The AIA A201 General Conditions of the Contract for Construction;
- .4 Project Drawings and Specifications

.2 In the case of an inconsistency, missing information or any conflicting information between or within the Drawings, Specifications, or other Contract Documents or between the Contract Documents and applicable standards, codes and ordinances, – not clarified by Addendum, the Contractor shall (i) provide the better quality or greater quantity of Work and/or (ii) comply with the more stringent requirements. The Contractor shall submit his action in writing to the Architect for review and interpretation. The Architect's interpretation is final. The terms and conditions of this Section 1.2.1, however, shall not relieve the Contractor of any of the obligations set forth in the Contract Documents, including Sections 3.2 and 3.7 of these General Conditions.

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

§ 1.2.2 Organization of the Specifications into divisions, sections and articles, and arrangement of Drawings shall not control the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade.

§ 1.2.3 Unless otherwise stated in the Contract Documents, words that have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.

§ 1.3 Capitalization

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

§ 1.4 Interpretation

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

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

§ 1.5.1 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and retain all common law, statutory, and other reserved rights in their Instruments of Service, including copyrights. The Contractor, Subcontractors, Sub-subcontractors, and suppliers shall not own or claim a copyright in the Instruments of Service. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the Architect's or Architect's consultants' reserved rights.

§ 1.5.2 The Contractor, Subcontractors, Sub-subcontractors, and suppliers are authorized to use and reproduce the Instruments of Service provided to them, subject to any protocols established pursuant to Sections 1.7 and 1.8, solely and exclusively for execution of the Work. All copies made under this authorization shall bear the copyright notice, if any, shown on the Instruments of Service. The Contractor, Subcontractors, Sub-subcontractors, and suppliers may not use the Instruments of Service on other projects or for additions to the Project outside the scope of the Work without the specific written consent of the Owner, Architect, and the Architect's consultants.

§ 1.6 Notice

§ 1.6.1 Except as otherwise provided in Section 1.6.2, where the Contract Documents require one party to notify or give notice to the other party, such notice shall be provided in writing to the designated representative of the party to whom the notice is addressed and shall be deemed to have been duly served if delivered in person, by mail, by courier, or by electronic transmission if a method for electronic transmission is set forth in the Agreement.

§ 1.6.2 Notice of Claims as provided in Section 15.1.3 shall be provided in writing and shall be deemed to have been duly served only if delivered to the designated representative of the party to whom the notice is addressed by certified or registered mail, or by courier providing proof of delivery.

§ 1.7 Digital Data Use and Transmission

The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties may use AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 1.8 Building Information Models Use and Reliance

Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™–2013, Project Building Information Modeling Protocol Form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

ARTICLE 2 OWNER

§ 2.1 General

§ 2.1.1 The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all matters requiring the Owner's approval or authorization. Except as otherwise provided in Section 4.2.1, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

§ 2.1.2 The Owner shall furnish to the Contractor, within fifteen days after receipt of a written request, information necessary and relevant for the Contractor to evaluate, give notice of, or enforce mechanic's lien rights. Such information shall include a correct statement of the record legal title to the property on which the Project is located, usually referred to as the site, and the Owner's interest therein.

§ 2.2 Evidence of the Owner's Financial Arrangements

§ 2.2.1 Prior to commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. If commencement of the Work is delayed under this Section 2.2.1, the Contract Time shall be extended appropriately.

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

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

§ 2.2.4 Where the Owner has designated information furnished under this Section 2.2 as “confidential,” the Contractor shall keep the information confidential and shall not disclose it to any other person. However, the Contractor may disclose “confidential” information, after seven (7) days’ notice to the Owner, where disclosure is required by law, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or by court or arbitrator(s) order. The Contractor may also disclose “confidential” information to its employees, consultants, sureties, Subcontractors and their employees, Sub-subcontractors, and others who need to know the content of such information solely and exclusively for the Project and who agree to maintain the confidentiality of such information.

§ 2.3 Information and Services Required of the Owner

§ 2.3.1 Except for permits and fees that are the responsibility of the Contractor under the Contract Documents, including those required under Section 3.7.1, the Owner shall secure and pay for necessary approvals, easements, assessments and charges required for construction, use or occupancy of permanent structures or for permanent changes in existing facilities.

§ 2.3.2 The Owner shall retain an architect lawfully licensed to practice architecture, or an entity lawfully practicing architecture, in the jurisdiction where the Project is located. That person or entity is identified as the Architect in the Agreement and is referred to throughout the Contract Documents as if singular in number.

§ 2.3.3 If the employment of the Architect terminates, the Owner shall employ a successor to whom the Contractor has no reasonable objection and whose status under the Contract Documents shall be that of the Architect.

§ 2.3.4 The Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site. The Contractor shall be entitled to rely on the accuracy of information furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

§ 2.3.5 The Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner’s control and relevant to the Contractor’s performance of the Work with reasonable promptness after receiving the Contractor’s written request for such information or services.

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

§ 2.4 Owner’s Right to Stop the Work

If the Contractor fails to correct Work that is not in accordance with the requirements of the Contract Documents as required by Section 12.2 or repeatedly or materially fails to carry out Work in accordance with the Contract Documents, the Owner may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity, except to the extent required by Section 6.1.3.

§ 2.5 Owner’s Right to Carry Out the Work

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a five-day (5) period after receipt of notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such default or neglect. Such action by the Owner and amounts charged to the Contractor are both subject to approval of the Architect and the Architect may, pursuant to Section 9.5.1, withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the reasonable cost of correcting such deficiencies, including Owner’s expenses including attorney’s fees and compensation for the Architect’s additional services made necessary by such default, neglect, or failure. If current and future payments are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner. At the Owner’s option, the excess shall be deducted from any payment thereafter due to the Contractor or shall be paid by the Contractor immediately upon demand of the Owner.

ARTICLE 3 CONTRACTOR

§ 3.1 General

§ 3.1.1 The Contractor is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Contractor shall be lawfully licensed, if required in the jurisdiction where the Project is located. The Contractor shall designate in writing a representative who shall have express authority to bind the Contractor with respect to all matters under this Contract. The term “Contractor” means the Contractor or the Contractor’s authorized representative.

§ 3.1.2 The Contractor shall perform the Work in accordance with the Contract Documents.

§ 3.1.3 The Contractor shall not be relieved of its obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Architect in the Architect’s administration of the Contract, or by tests, inspections or approvals required or performed by persons or entities other than the Contractor.

§ 3.2 Review of Contract Documents and Field Conditions by Contractor

§ 3.2.1 Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become generally familiar with local conditions under which the Work is to be performed, and correlated personal observations with requirements of the Contract Documents. Prior to execution of the Agreement, the Contractor and each Subcontractor has evaluated and satisfied themselves as to the conditions and limitations under which the Work is to be performed, including, without limitation, (i) the location, condition, layout and nature of the Project site and surrounding areas, (ii) generally prevailing climatic conditions, (iii) anticipated labor supply and costs, including but not limited to, prevailing wage rates, (iv) availability and cost of materials, tools and equipment, and (v) other similar issues. The Owner assumes no responsibility or liability for the physical condition or safety of the Project site or any improvements located on the Project site as it relates to the Work. Except as set forth in Section 10.3, the Contractor shall be solely responsible for providing a safe place for the performance of the Work. The Owner shall not be required to make any adjustment in either the Contract Sum or the Contract Time in connection with any failure by the Contractor or any Subcontractor to have complied with the requirements of this Section 3.2.1.

§ 3.2.2 Because the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 2.3.4, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating coordination and construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, the Contractor shall promptly report to the Architect and Owner any errors, inconsistencies or omissions discovered by or made known to the Contractor as a request for information in such form as the Architect may require. It is recognized that the Contractor’s review is made in the Contractor’s capacity as a contractor and not as a licensed design professional, unless otherwise specifically provided in the Contract Documents.

§ 3.2.3 The Contractor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Contractor shall promptly report to the Architect any nonconformity discovered by or made known to the Contractor as a request for information in such form as the Architect may require.

§ 3.2.4 If the Contractor believes that additional cost or time is involved because of clarifications or instructions the Architect issues in response to the Contractor’s notices or requests for information pursuant to Sections 3.2.2 or 3.2.3, the Contractor shall submit Claims as provided in Article 15. If the Contractor fails to perform the obligations of Sections 3.2.2 or 3.2.3, the Contractor shall pay such costs and damages to the Owner, subject to Section 15.1.7, as would have been avoided if the Contractor had performed such obligations. If the Contractor performs those obligations, the Contractor shall not be liable to the Owner or Architect for damages resulting from errors, inconsistencies or omissions in the Contract Documents, for differences between field measurements or conditions and the Contract Documents, or for nonconformities of the Contract Documents to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities.

§ 3.3 Supervision and Construction Procedures

§ 3.3.1 The Contractor shall supervise and direct the Work, using the Contractor’s best skill and attention. The Contractor shall be solely responsible for, and have control over, construction means, methods, techniques, sequences, and procedures, and for coordinating all portions of the Work under the Contract. If the Contract

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

§ 3.3.2 The Contractor shall be responsible to the Owner for acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the Work for, or on behalf of, the Contractor or any of its Subcontractors and for any damages, losses, costs, and expenses resulting from such acts or omissions, including but not limited to reasonable Attorney's fees.

§ 3.3.3 The Contractor shall be responsible for inspection of portions of Work already performed to determine that such portions are in proper condition to receive subsequent Work.

§ 3.4 Labor and Materials

§ 3.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, at applicable prevailing wage rates, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

§ 3.4.2 Except in the case of minor changes in the Work approved by the Architect in accordance with Section 3.12.8 or ordered by the Architect in accordance with Section 7.4, the Contractor may make substitutions only with the consent of the Owner, after evaluation by the Architect and in accordance with a Change Order or Construction Change Directive.

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

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

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

§ 3.5 Warranty

§ 3.5.1 The Contractor warrants to the Owner and Architect that materials and equipment furnished under the Contract will be of good quality and new unless the Contract Documents require or permit otherwise. The Contractor further warrants that the Work will conform to the requirements of the Contract Documents and will be free from defects, except for those inherent in the quality of the Work the Contract Documents require or permit. Work, materials, or equipment not conforming to these requirements may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Architect, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

§ 3.5.1 The Contractor agrees to assign to the Owner at the time of final completion of the Work any and all manufacturers' warranties relating to materials and labor used in the Work and further agrees to perform the Work in such manner so as to preserve any and all such manufacturers' warranties.

§ 3.5.2 All material, equipment, or other special warranties required by the Contract Documents shall be issued in the name of the Owner, or shall be transferable to the Owner, and shall commence in accordance with Section 9.8.4.

§ 3.6 Taxes

The Contractor shall pay sales, consumer, use and similar taxes for the Work provided by the Contractor that are legally enacted when bids are received or negotiations concluded, whether or not yet effective or merely scheduled to go into effect.

§ 3.6.1 Refund Claims

The Owner may be entitled to claim refunds of sales or use tax paid on other purchases of tangible personal property or service required in connection with the Work. The Contractor and all subcontractors shall cooperate fully with Owner in pursuing any such refund claim and shall make available to Owner any applicable documents.

.1 Assignment of Refund Rights

The Contractor and its subcontractors hereby assign and transfer to the Owner all rights to sales and use tax which may be refunded as a result of a claim for refund for materials purchased in connection with this Contract and hereby appoint the Owner as their attorney-in-fact to execute and to acknowledge in their respective names and to prosecute such refund claims before administrative agencies and courts in New York having jurisdiction over such claims. The Owner alone is entitled to benefit from sales tax refunds resulting from its tax-excluded status, and the Contractor and its sub-contractors expressly assign to the Owner the sole right and authority to claim and receive refund payments. The Contractor and its sub-contractors further agree that they will not file a claim for refund for any sales or use tax which is the subject of this assignment.

§ 3.7 Permits, Fees, Notices and Compliance with Laws

§ 3.7.1 Unless otherwise provided in the Contract Documents, the Contractor shall secure and pay for the building permit as well as for other permits, fees, licenses, and inspections by government agencies necessary for proper execution and completion of the Work that are customarily secured after execution of the Contract and legally required at the time bids are received or negotiations concluded. As soon as practicable, Contractor shall furnish the Owner and Architect with copies or certificates of all permits and fees, licenses, and inspections necessary for the Work, including, without limitation, all building permits.

§ 3.7.1.1 No separate inspection performed or failed to be performed by the Owner or Architect hereunder shall be a waiver of any of the Contractor's obligations hereunder or be construed as an approval or acceptance of the Work or any part thereof.

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

§ 3.7.3 If the Contractor or any of its Subcontractors or any Sub-subcontractor performs Work knowing it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Contractor or any of its Subcontractors or any Sub-subcontractor shall assume appropriate responsibility for such Work and shall bear the costs damages, losses, expenses of every kind, including reasonable attorneys' fees, attributable to correction.

§ 3.7.4 Concealed or Unknown Conditions

If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner and the Architect before conditions are disturbed and in no event later than 14 days after first observance of the conditions. The Architect will promptly investigate such conditions and, if the Architect determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend that an equitable adjustment be made in the Contract Sum or Contract Time, or both. If the Architect determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall promptly notify the Owner and Contractor, stating the reasons. If either party disputes the Architect's determination or recommendation, that party may submit a Claim as provided in Article 15.

§ 3.7.5 If, in the course of the Work, the Contractor encounters human remains or recognizes the existence of burial markers, archaeological sites or wetlands not indicated in the Contract Documents, the Contractor shall immediately suspend any operations that would affect them and shall notify the Owner and Architect. Upon receipt of such notice, the Owner shall promptly take any action necessary to obtain governmental authorization required to resume the operations. The Contractor shall continue to suspend such operations until otherwise instructed by the Owner but shall continue with all other operations that do not affect those remains or features. Requests for adjustments in the Contract Sum and Contract Time arising from the existence of such remains or features may be made as provided in Article 15.

§ 3.8 Allowances

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

§ 3.8.2 Unless otherwise provided in the Contract Documents,

- .1 allowances shall cover the cost to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;
- .2 Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit, and other expenses contemplated for stated allowance amounts shall be included in the Contract Sum but not in the allowances; and
- .3 whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Section 3.8.2.1 and (2) changes in Contractor's costs under Section 3.8.2.2.

§ 3.8.3 Materials and equipment under an allowance shall be selected by the Owner with reasonable promptness.

§ 3.9 Superintendent

§ 3.9.1 The Contractor shall provide continuous supervision at the project site by a duly authorized and competent superintendent, who shall be acceptable to the Owner, when any Work is being performed at the Project site by any Prime Contractor or any Subcontractor. At the Owner's request, the Contractor shall assign a different superintendent to the Project. The assignment of a new superintendent shall be without cost to the Owner. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor.

§ 3.9.2 The Contractor, within seven (7) days of Notice of Award, shall notify the Owner and Architect of the name and qualifications of a proposed superintendent. Within 14 days of receipt of the information, the Architect may notify the Contractor, stating whether the Owner or the Architect (1) has reasonable objection to the proposed superintendent or (2) requires additional time for review. Failure of the Architect to provide notice within the 14-day period shall constitute notice of no reasonable objection.

§ 3.9.3 The Contractor shall not employ a proposed superintendent to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not change the superintendent without the Owner's consent, which shall not unreasonably be withheld or delayed and must submit to the Owner, in writing, justification for the change, along with the name and qualifications of the individual whom the Contractor proposes to be the new superintendent.

§ 3.10 Contractor's Construction and Submittal Schedules

§ 3.10.1 The Contractor, within seven (7) days of Notice of Award, shall submit for the Owner's and Architect's review and approval a Contractor's construction schedule for the Work. The schedule shall contain detail appropriate for the Project, including (1) the date of commencement of the Work, interim schedule milestone dates, and the date of Substantial Completion; (2) an apportionment of the Work by construction activity; and (3) the time required for completion of each portion of the Work. The schedule shall provide for the orderly progression of the Work to completion and shall not exceed time limits current under the Contract Documents. The schedule shall be revised as required herein and at appropriate intervals as required by the conditions of the Work and Project.

§ 3.10.1.1 The schedule shall indicate the proposed starting and completion dates for the various subdivisions of the Work as well as the totality of the Work. The schedule shall be updated every thirty (30) days and submitted to Architect with Contractor's Applications for Payment. Each schedule shall contain a comparison of actual progress with the estimated progress for such point in time stated in the original schedule. If any schedule submitted sets forth a date for Substantial Completion for the Work or any phase of the Work beyond the Date(s) of Substantial Completion established in the Contract (as the same may be extended as provided in the Contract Document(s), then Contractor shall submit to Architect and Owner for their review and approval a narrative description of the means and methods which Contractor intends to employ to expedite the progress of the Work to ensure timely completion of the various phases of the Work as well as the totality of the Work. To ensure such timely completion, Contractor shall take all necessary action including, without limitation, (i) working additional shifts or overtime, (ii) supplying additional manpower, equipment and facilities, and (iii) other similar measures (hereinafter referred to collectively as 'Corrective Measures'). In event that the Contractor is required to implement Corrective Measures, then Contractor shall not be entitled to an adjustment in the Contract sum, the Schedule or the Contract Time. The date of final completion shall not be changed without the written consent of the Owner.

§ 3.10.2 The Contractor, promptly after being awarded the Contract and thereafter as necessary to maintain a current submittal schedule, shall submit a submittal schedule for the Architect's approval. The Architect's approval shall not be unreasonably delayed or withheld. The submittal schedule shall (1) be coordinated with the Contractor's construction schedule, and (2) allow the Architect reasonable time to review submittals. If the Contractor fails to submit a submittal schedule, or fails to provide submittals in accordance with the approved submittal schedule, the Contractor shall not be entitled to any increase in Contract Sum or extension of Contract Time based on the time required for review of submittals.

§ 3.10.3 The Contractor shall perform the Work in general accordance with the most recent schedules submitted to the Owner and Architect.

§ 3.10.4 The construction schedule shall be in a detailed precedence-style critical path management ('CPM') or Primavera-type format satisfactory to the Owner and Architect that shall also: (i) provide a graphic representation of all activities and events that will occur during performance of the Work; (ii) identify each phase of construction and occupancy; and (iii) set forth dates that are critical in ensuring the timely and orderly completion of the Work in accordance with the requirements of the Contract Documents (hereinafter referred to as 'Milestone Dates').

§ 3.10.5 In the event the Owner determines that the performance of the Work, as of a Milestone Date, has not progressed or reached the level of completion required by the Contract Documents, the Owner shall have the right to order the Contractor to take corrective measures necessary to expedite the progress of construction, including, without limitation, implementing Corrective Measures. Such Corrective Measures shall continue until the progress of the Work complies with the stage of completion required by the Contract Documents. The Owner's right to require Corrective Measures is solely for the purpose of ensuring the Contractor's compliance with the construction schedule.

§ 3.10.5.1 The Contractor shall not be entitled to an adjustment in the Contract Sum in connection with Corrective Measures required by the Owner under or pursuant to Section 3.10.5 of the General Conditions.

§ 3.10.5.2 The Owner may exercise the rights furnished the Owner under or pursuant to this Section 3.10.5 as frequently as the Owner deems necessary to ensure that the Contractor's performance of the Work will comply with any Milestone Date or completion date(s) set forth in the Contract Documents.

§ 3.11 Documents and Samples at the Site

The Contractor shall make available, at the Project site, the Contract Documents, including Change Orders, Construction Change Directives, and other Modifications, in good order and marked currently to indicate field changes and selections made during construction, and the approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be in electronic form or paper copy, available to the Architect and Owner, and delivered to the Architect for submittal to the Owner upon completion of the Work as a record of the Work as constructed.

§ 3.12 Shop Drawings, Product Data and Samples

§ 3.12.1 Shop Drawings are drawings, diagrams, schedules, and other data specially prepared for the Work by the Contractor or a Subcontractor, Sub-subcontractor, manufacturer, supplier, or distributor to illustrate some portion of the Work.

§ 3.12.2 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams, and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.

§ 3.12.3 Samples are physical examples that illustrate materials, equipment, or workmanship, and establish standards by which the Work will be judged.

§ 3.12.4 Shop Drawings, Product Data, Samples, and similar submittals are not Contract Documents. Their purpose is to demonstrate how the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents for those portions of the Work for which the Contract Documents require submittals. Review by the Architect is subject to the limitations of Section 4.2.7. Informational submittals upon which the Architect is not expected to take responsive action may be so identified in the Contract Documents. Submittals that are not required by the Contract Documents may be returned by the Architect without action.

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

§ 3.12.6 By submitting Shop Drawings, Product Data, Samples, and similar submittals, the Contractor represents to the Owner and Architect that the Contractor has (1) reviewed and approved them, (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so, and (3) checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.

§ 3.12.7 The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples, or similar submittals, until the respective submittal has been approved by the Architect.

§ 3.12.8 The Work shall be in accordance with approved submittals except that the Contractor shall not be relieved of responsibility for deviations from the requirements of the Contract Documents by the Architect's approval of Shop Drawings, Product Data, Samples, or similar submittals, unless the Contractor has specifically notified the Architect of such deviation at the time of submittal and (1) the Architect has given written approval to the specific deviation as a minor change in the Work, or (2) a Change Order or Construction Change Directive has been issued authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples, or similar submittals, by the Architect's approval thereof.

§ 3.12.9 The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples, or similar submittals, to revisions other than those requested by the Architect on previous submittals. In the absence of such notice, the Architect's approval of a resubmission shall not apply to such revisions.

§ 3.12.10 The Contractor shall not be required to provide professional services that constitute the practice of architecture or engineering unless such services are specifically required by the Contract Documents for a portion of the Work or unless the Contractor needs to provide such services in order to carry out the Contractor's responsibilities for construction means, methods, techniques, sequences, and procedures. The Contractor shall not be required to provide professional services in violation of applicable law.

§ 3.12.10.1 If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of the Contractor by the Contract Documents, the Owner and the Architect will specify all performance and design criteria that such services must satisfy. The Contractor shall be entitled to rely upon the adequacy and accuracy of the performance and design criteria provided in the Contract Documents. The Contractor shall cause such services or certifications to be provided by an appropriately licensed design professional, and who shall comply with reasonable requirements of the Owner regarding qualifications and

insurance whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings, and other submittals prepared by such professional. Shop Drawings, and other submittals related to the Work, designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to the Architect. The Owner and the Architect shall be entitled to rely upon the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals.

§ 3.12.10.2 If the Contract Documents require the Contractor's design professional to certify that the Work has been performed in accordance with the design criteria, the Contractor shall furnish such certifications to the Architect at the time and in the form specified by the Architect.

§ 3.12.11 Substitutions

- .1 As part of the Contractor's bid, the Owner and the Architect will consider requests for the substitution of products in place of those specified only under the conditions set forth in the Project Manual.
- .2 By making requests for substitutions based on § 3.12.11.1, the Contractor;
 - .1 represents that the Contractor has personally investigated the proposed substitute product and determined that it is equivalent or superior in all respects to that specified;
 - .2 represents that the Contractor and/or Manufacturer will provide the same or better warranty for the substitution that the Contractor would for that specified;
 - .3 certifies that the cost data presented is complete and includes all related costs under this Contract except the Architect's redesign costs, and waives all claims for addition costs related to the substitution which subsequently become apparent and;
 - .4 will coordinate the installation of the accepted substitute, making such changes as may be required for the Work to be complete in all respects.
 - .5 represents that the procurement and installation of any such approved substitution will not require or result in any extension of the Contract Time.
 - .6 Architect's decision on proposed substitutions is final.

§ 3.13 Use of Site

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

§ 3.14 Cutting and Patching

§ 3.14.1 The Contractor shall be responsible for cutting, fitting, or patching required to complete the Work or to make its parts fit together properly. All areas requiring cutting, fitting, or patching shall be restored to the condition existing prior to the cutting, fitting, or patching, unless otherwise required by the Contract Documents.

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

§ 3.15 Cleaning Up

§ 3.15.1 The Contractor shall keep the premises and surrounding area free from accumulation of waste materials and rubbish caused by operations under the Contract. At completion of the Work, the Contractor shall remove waste materials, rubbish, the Contractor's tools, construction equipment, machinery, and surplus materials from and about the Project.

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

§ 3.16 Access to Work

The Contractor shall provide the Owner and Architect with access to the Work in preparation and progress wherever located.

§ 3.17 Royalties, Patents and Copyrights

The Contractor shall pay all royalties and license fees. The Contractor shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner and Architect harmless from loss on account thereof, but shall not be responsible for defense or loss when a particular design, process, or product of a particular manufacturer or manufacturers is required by the Contract Documents, or where the copyright violations are contained in Drawings, Specifications, or other documents prepared by the Owner or Architect. However, if an infringement of a copyright or patent is discovered by, or made known to, the Contractor, the Contractor shall be responsible for the loss unless the information is promptly furnished to the Architect.

§ 3.18 Indemnification

§ 3.18.1 To the fullest extent permitted by law, the Contractor and its Subcontractors shall indemnify, defend (through counsel reasonably acceptable to Owner), and hold harmless the Owner, the Architect, and the consultants, agents, officers, employees and anyone acting on behalf of the Owner or the Architect, from and against any and all claims, expenses, damages, losses, fines and expenses, including but not limited to reasonable attorneys' fees and defense costs, arising out of or resulting from performance of the Work, but only to the extent caused in whole or in part by the negligent or intentional acts or omissions of the Contractor, its Subcontractors, anyone directly or indirectly employed by the Contractor or its Subcontractors, or anyone for whose acts the Contractor or its Subcontractors may be liable. The obligation of the Contractor or its Subcontractors to defend and to indemnify the Owner or the Architect hereunder shall not be limited by the immunity or other provisions of the Worker's Compensation Act, any disability benefit act, any employee benefit act, or any such similar act or statute. In addition, the indemnity obligations under this Section shall also specifically include, without limitation, all claims, losses, fines, penalties, damages, liability, costs, and expenses, including but not limited to reasonable attorney's fees, arising out of, or in connection with any: (i) violation of or failure to comply with any law, statute, ordinance, rule, regulation, code or any requirement of any public authority that bears upon means, methods, procedures, techniques or sequences of execution or performance of the Work (including, but not limited to, the New York State Labor Law); (ii) failure to secure and pay for permits, fees, approvals, licenses and inspections as required under the Contract Documents by the Contractor, its Subcontractors, or any person or entity for whom the Contractor or its Subcontractors is responsible; or (iii) any violation of any permit or other approval of any public authority applicable to the Work by the Contractor, its Subcontractors, or any other person or entity for whom the Contractor or its Subcontractors is responsible. The obligations to defend and to indemnify herein shall not be construed to negate, abridge, or reduce any other rights or obligations of indemnity or to a defense which would otherwise exist as to the parties described in this section under the common law, statutes, written agreements or otherwise.

§ 3.18.2 In claims against any person or entity indemnified under this Section 3.18 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, the indemnification obligation under Section 3.18.1 shall not be limited by a limitation on amount or type of damages, compensation, or benefits payable by or for the Contractor or a Subcontractor under workers' compensation acts, disability benefit acts, or other employee benefit acts.

§ 3.18.3 The Contractor's indemnity obligations under this Section 3.18 shall also specifically include, without limitation, all fines, penalties, damages, liability, costs, expenses arising out of, or in connection with any (i) violation of or failure to comply with any law, statute, ordinance, rule, regulation, code or requirement of a public authority that bears upon means, methods, procedures, techniques or sequences of execution or performance of the Work by the Contractor, a subcontractor or any person or entity for whom either is responsible and (ii) failure to secure and pay for permits, fees, approvals, licenses and inspections as required under the Contract Documents, or any violation of any permit or other approval of a public authority applicable to the Work by the Contractor, a subcontractor or any other person or entity for whom either is responsible.

§ 3.19 LENDERS, TITLE INSURERS, OTHERS

§ 3.19.1 The Contractor shall provide all documents, reports and other information reasonably requested by project lender, loan guarantor or title insurer and shall cooperate with such lender, loan guarantor or title insurer to the fullest extent possible

ARTICLE 4 ARCHITECT

§ 4.1 General

§ 4.1.1 The Architect is the person or entity retained by the Owner pursuant to Section 2.3.2 and identified as such in the Agreement.

§ 4.1.2 Duties, responsibilities, and limitations of authority of the Architect as set forth in the Contract Documents shall not be restricted, modified, or extended without written consent of the Owner, Contractor, and Architect. Consent shall not be unreasonably withheld.

§ 4.2 Administration of the Contract

§ 4.2.1 The Architect will provide administration of the Contract as described in the Contract Documents and will be an Owner's representative during construction until the date the Architect issues the final Certificate for Payment. The Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents.

§ 4.2.2 The Architect will visit the site at intervals appropriate to the stage of construction, or as otherwise agreed with the Owner, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine in general if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect will not be required to make exhaustive or continuous on-site visits or observations to check the quality or quantity of the Work. The Architect will not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents.

§ 4.2.3 On the basis of the site visits, the Architect will keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work. The Architect will not be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect will not have control over or charge of, and will not be responsible for acts or omissions of, the Contractor, Subcontractors, or their agents or employees, or any other persons or entities performing portions of the Work.

§ 4.2.4 Communications

The Owner and Contractor shall include the Architect in all communications that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Contractor otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with Subcontractors and suppliers shall be through the Contractor. Communications by and with Separate Contractors shall be through the Owner. The Contract Documents may specify other communication protocols.

§ 4.2.5 Based on the Architect's evaluations of the progress and quality of the Work and Contractor's Applications for Payment, the Architect will review and certify the amounts due the Contractor and will issue Certificates for Payment in such amounts.

§ 4.2.6 The Architect has authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect will have authority to require inspection or testing of the Work in accordance with Sections 13.4.2 and 13.4.3, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 4.2.7 The Architect will review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data, and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect's action will be taken in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Architect's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Architect's review of the Contractor's submittals shall not relieve the Contractor of the obligations under Sections 3.3, 3.5, and 3.12. The Architect's review shall not constitute approval of safety precautions or of any construction means, methods, techniques, sequences, or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 4.2.8 The Architect will prepare Change Orders and Construction Change Directives, and may order minor changes in the Work as provided in Section 7.4. The Architect will investigate and make determinations and recommendations regarding concealed and unknown conditions as provided in Section 3.7.4.

§ 4.2.9 The Architect will conduct on site observation(s) to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion pursuant to Section 9.8; receive and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract and assembled by the Contractor pursuant to Section 9.10; and issue a final Certificate for Payment pursuant to Section 9.10.

§ 4.2.10 If the Owner and Architect agree, the Architect will provide one or more Project representatives to assist in carrying out the Architect's responsibilities at the site. The Owner shall notify the Contractor of any change in the duties, responsibilities and limitations of authority of the Project representatives.

§ 4.2.11 The Architect will interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

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

§ 4.2.13 The Architect's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.

§ 4.2.14 The Architect will review and respond to requests for information about the Contract Documents. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If appropriate, the Architect will prepare and issue supplemental Drawings and Specifications in response to the requests for information.

§ 4.2.15 In reviewing the quality and progress of the Work and submittals received from the Contractor, the Architect is acting solely for the convenience of the Owner in following the Work. Unless otherwise expressly agreed in writing by Owner in each instance, no action, approval, or omission to act or failure to advise the Contractor as to any matter by the Owner or Architect (except for intentional or willful behavior by the Owner or Architect) shall in any way relieve the Contractor from its responsibility for the performance of the Work in strict accordance with the Contract Documents.

ARTICLE 5 SUBCONTRACTORS

§ 5.1 Definitions

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

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

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

§ 5.2.1 Unless otherwise stated in the Contract Documents, the Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect of the persons or entities proposed for each principal portion of the Work, including those who are to furnish materials or equipment fabricated to a special design. Within 14 days of receipt of the information, the Architect may notify the Contractor whether the Owner or the Architect (1) has reasonable objection to any such proposed person or entity or (2) requires additional time for review. Failure of the Architect to provide notice within the 14-day period shall constitute notice of no reasonable objection.

§ 5.2.2 The Contractor shall not contract with a proposed person or entity to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.

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

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

§ 5.2.5 Upon written request, the Contractor shall provide to the Owner an executed copy of all subcontracts, purchase orders and other agreements relating to the Work.

§ 5.3 Subcontractual Relations

By appropriate written agreement, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work that the Contractor, by these Contract Documents, assumes toward the Owner and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies, and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Contract Documents. Subcontractors will similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

§ 5.3.2 All subcontracts shall be in writing and shall specifically provide that the Owner is an intended third-party beneficiary of such subcontract. Each subcontract shall contain a contingent assignment of the subcontract to the Owner consistent with Section 5.4.

§ 5.3.3. The Contractor shall be responsible for any and all subcontractors working under it and shall carry insurance for all subcontractors or ensure that they are carrying it themselves so as to relieve the Owner of any and all liability to be covered by insurance.

§ 5.4 Contingent Assignment of Subcontracts

§ 5.4.1 Each subcontract agreement for a portion of the Work is assigned by the Contractor to the Owner, provided that

- .1 assignment is effective only after termination of the Contract by the Owner for cause pursuant to Section 14.2 and only for those subcontract agreements that the Owner accepts by notifying the Subcontractor and Contractor; and
- .2 assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

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

§ 5.4.2 Upon such assignment, if the Work has been suspended for more than 30 days, the Subcontractor's compensation shall be equitably adjusted for increases in cost resulting from the suspension.

§ 5.4.3 Upon assignment to the Owner under this Section 5.4, the Owner may further assign the subcontract to a successor contractor or other entity. If the Owner assigns the subcontract to a successor contractor or other entity, the Owner shall nevertheless remain legally responsible for all of the successor contractor's obligations under the subcontract.

ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

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

§ 6.1.1 The term "Separate Contractor(s)" shall mean other contractors retained by the Owner under separate agreements. The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and with Separate Contractors retained under Conditions of the Contract substantially similar to those of this Contract, including those provisions of the Conditions of the Contract related to insurance and waiver of subrogation.

§ 6.1.2 When separate contracts are awarded for different portions of the Project or other construction or operations on the site, the term "Contractor" in the Contract Documents in each case shall mean the Contractor who executes each separate Owner-Contractor Agreement.

§ 6.1.3 The Owner shall provide for coordination of the activities of the Owner's own forces and of each Separate Contractor with the Work of the Contractor, who shall cooperate with them. The Contractor shall participate with any Separate Contractors and the Owner in reviewing their construction schedules. The Contractor shall make any revisions to its construction schedule deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the Contractor, Separate Contractors, and the Owner until subsequently revised.

§ 6.1.4 Unless otherwise provided in the Contract Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces or with Separate Contractors, the Owner or its Separate Contractors shall have the same obligations and rights that the Contractor has under the Conditions of the Contract, including, without excluding others, those stated in Article 3, this Article 6, and Articles 10, 11, and 12.

§ 6.2 Mutual Responsibility

§ 6.2.1 The Contractor shall afford the Owner and Separate Contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Contractor's construction and operations with theirs as required by the Contract Documents.

§ 6.2.2 If part of the Contractor's Work depends for proper execution or results upon construction or operations by the Owner or a Separate Contractor, the Contractor shall, prior to proceeding with that portion of the Work, promptly notify the Architect of apparent discrepancies or defects in the construction or operations by the Owner or Separate Contractor that would render it unsuitable for proper execution and results of the Contractor's Work. Failure of the Contractor to notify the Architect of apparent discrepancies or defects prior to proceeding with the Work shall constitute an acknowledgment that the Owner's or Separate Contractor's completed or partially completed construction is fit and proper to receive the Contractor's Work. The Contractor shall not be responsible for discrepancies or defects in the construction or operations by the Owner or Separate Contractor that are not apparent.

§ 6.2.3 The Contractor shall reimburse the Owner for costs the Owner incurs that are payable to a Separate Contractor because of the Contractor's delays, improperly timed activities or defective construction. The Owner shall be responsible to the Contractor for costs the Contractor incurs because of a Separate Contractor's delays, improperly timed activities, damage to the Work or defective construction.

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

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

§ 6.3 Owner's Right to Clean Up

If a dispute arises among the Contractor, Separate Contractors, and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish, the

Owner may clean up and the Architect will allocate the cost among those responsible. On behalf of the Owner, the Architect will issue deduct change order(s) to the responsible contractor(s).

ARTICLE 7 CHANGES IN THE WORK

§ 7.1 General

§ 7.1.1 Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, only by Change Order, Construction Change Directive or order for a minor change in the Work, subject to the limitations stated in this Article 7 and elsewhere in the Contract Documents.

§ 7.1.1.1 A field directive or field order shall not be recognized as having any impact upon the Contract Sum or the Contract Time and the Contractor shall have no claim therefor unless it shall, prior to complying with same and in no event later than ten (10) working days from the date such direction or order was given, submit to the Owner and Architect for the Architect's evaluation and Owner's approval its change proposal.

§ 7.1.1.2 When submitting its change proposal, the Contractor shall include and set forth in clear and precise detail breakdowns of labor and materials for all trades involved for the estimated impact on the construction schedule. The Contractor shall furnish spread sheets, if requested by Architect or Owner, of any Subcontractors.

§ 7.1.2 A Change Order shall be based upon agreement among the Owner, Contractor, and Architect. A Construction Change Directive requires agreement by the Owner and Architect and may or may not be agreed to by the Contractor. An order for a minor change in the Work may be issued by the Architect alone.

§ 7.1.3 Changes in the Work shall be performed under applicable provisions of the Contract Documents. The Contractor shall proceed promptly with changes in the Work, unless otherwise provided in the Change Order, Construction Change Directive, or order for a minor change in the Work. Except as permitted in Section 7.2, a change in the Contract Sum or the Contract Time shall be accomplished only by Change Order.

§ 7.2 Change Orders

§ 7.2.1 A Change Order is a written instrument prepared by the Architect and signed by the Owner, Contractor, and Architect stating their agreement upon all of the following:

- .1 The change in the Work;
- .2 The amount of the adjustment, if any, in the Contract Sum; and
- .3 The extent of the adjustment, if any, in the Contract Time.

§ 7.2.2 Agreement on any Change Order shall constitute a final settlement of all matters relating to the change in the Work that is the subject of the Change Order, including, but not limited to: 1) all direct and indirect costs associated with such change (including all costs of associated delay, interference, acceleration, inefficiency and overhead, as well as costs of material, labor and supervision unless a reservation of such additional costs is expressly reflected on the Change Order form itself at the time the Change Order is signed by the parties); and 2) any and all adjustments to the Contract Sum, the Contract time and the construction schedule. To the extent that any request for Change Order or correspondence prior to the signed Change Order is contrary to this Section, such requests or correspondence shall have no effect. Payment of a Change Order shall constitute accord and satisfaction of all claims in connection with the change or changes to the Contract addressed by the Change Order and it is understood and agreed that a signed Change Order form shall be the complete and fully integrated agreement for all related costs and that there are no oral or written understandings, representations or agreements, directly or indirectly, connected with the Change Order that are not affirmatively stated on the signed Change Order form.

§ 7.3 Construction Change Directives

§ 7.3.1 A Construction Change Directive is a written order prepared by the Architect and signed by the Owner and Architect, directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum or Contract Time, or both. The Owner may by Construction Change Directive, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions, or other revisions, the Contract Sum and Contract Time being adjusted accordingly.

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

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

- .1 Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
- .2 Unit prices stated in the Contract Documents or subsequently agreed upon;
- .3 Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
- .4 As provided in Section 7.3.4.

§ 7.3.4 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, Contract Schedule or Contract Time, the Architect shall determine the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount. In such case, and also under Section 7.3.3.3, the Contractor shall keep and present, in such form as the Architect may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Section 7.3.4 shall be limited to the following:

- .1 Costs of labor, including applicable payroll taxes, fringe benefits required by agreement or custom, workers' compensation insurance, and other employee costs approved by the Architect;
- .2 Costs of materials, supplies, and equipment, including cost of transportation, whether incorporated or consumed;
- .3 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others;
- .4 Costs of premiums for all bonds and insurance, permit fees, and sales, use, or similar taxes, directly related to the change; and
- .5 Actual amount of supervision and field office personnel directly attributable to the change.

§ 7.3.4.1 The Unit prices submitted by a Contractor on the Bid Form for this Project are subject to approval and acceptance by the Owner. The Owner reserves the right to reject any Unit Price which is unreasonable or unbalanced, as compared with prevailing costs, or as compared with the Unit Prices submitted by other Bidders for this project. The Owner reserves the right to ask for a revised Unit Price before or after the Contracts are signed.

§ 7.3.4.2 Approved Unit Prices, when accepted by the Owner, shall be used where they apply to determine an equitable adjustment of the Contract Sum in connection with extra work or changes ordered under the Contract. Approved Unit Prices shall apply to both additions to and deductions from the Contract Sum.

§ 7.3.4.3 Unit Prices submitted by a Contractor on the Bid Form for this Project shall include all profit, overhead, bonds, insurance, taxes, labor, materials, plant equipment and tools necessary and required to fully complete the work item, as specified in detail for the work item in the Contract Documents.

§ 7.3.5 If the Contractor disagrees with the adjustment in the Contract Time, the Contractor may make a Claim in accordance with applicable provisions of Article 15.

§ 7.3.6 Upon receipt of a Construction Change Directive, the Contractor shall promptly proceed with the change in the Work involved and advise the Architect of the Contractor's agreement or disagreement with the method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the Contract Sum or Contract Time.

§ 7.3.7 A Construction Change Directive signed by the Contractor indicates the Contractor's agreement therewith, including adjustment in Contract Sum and Contract Time or the method for determining them. Such agreement shall be effective immediately and shall be recorded as a Change Order.

§ 7.3.8 The amount of credit to be allowed by the Contractor to the Owner for a deletion or change that results in a net decrease in the Contract Sum shall be actual net cost as confirmed by the Architect. When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change.

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

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

§ 7.4 Minor Changes in the Work

The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. The Architect's order for minor changes shall be in writing. If the Contractor believes that the proposed minor change in the Work will affect the Contract Sum or Contract Time, the Contractor shall notify the Architect and shall not proceed to implement the change in the Work. If the Contractor performs the Work set forth in the Architect's order for a minor change without prior notice to the Architect that such change will affect the Contract Sum or Contract Time, the Contractor waives any adjustment to the Contract Sum or extension of the Contract Time.

§ 7.5 Overhead and Profit Rates

§ 7.5.1 For any adjustments to the Contract Sum based on other than the unit price method, overhead and profit combined shall be calculated at the following percentages of the cost attributable to the change in the Work:

- .1 For work performed by the Contractor with its own forces, 10 percent of the cost.
- .2 For work performed by the Contractor's Subcontractor, 5 percent of the amount due the Subcontractor.

ARTICLE 8 TIME

§ 8.1 Definitions

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

§ 8.1.2 The date of commencement of the Work is the date established in the Agreement.

§ 8.1.3 The date of Substantial Completion is the date certified by the Architect in accordance with Section 9.8.

§ 8.1.4 The term "day" as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.

§ 8.2 Progress and Completion

§ 8.2.1 Time limits stated in the Contract Documents are of the essence of the Contract. By executing the Agreement, the Contractor confirms that the Contract Time is a reasonable period for performing the Work.

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

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

§ 8.3 Delays and Extensions of Time

§ 8.3.1 If the Contractor is delayed at any time in the commencement or progress of the Work by (1) an act or omission of any affirmative obligation or duty arising under the Contract Documents of the Owner or Architect, of an employee of either, or of a Separate Contractor; (2) by changes ordered in the Work; (3) or by Change Orders approved by the Owner that provide for the Contract Time to be extended, or by economic industry-wide strikes, fire, unusual delay in deliveries, unavoidable casualties, adverse weather conditions documented in accordance with Section 15.1.6.2, or other causes beyond the Contractor's control; (4) by delay authorized by the Owner pending mediation and binding dispute resolution; or (5) by other causes that the Contractor asserts, and the Architect determines, justify delay, then the Contract Time shall be extended for such reasonable time as the Architect may

determine. Temporary delays of the Work due to seasonal inclement weather shall not be considered as sufficient cause for extension of time. No such Change Order extending the Contract time shall result in any increased payments to the Contractor for extended overhead or for any other amounts of any nature.

§ 8.3.2 Claims relating to additional time shall be made in accordance with applicable provisions of Article 15. Requests for extension of Contract Completion Date shall be submitted in writing to the Architect not more than seven (7) days after the commencement of the delay; otherwise, it shall be waived and deemed duly denied. This request shall contain at a minimum the following information: (1) date of start of delay; (2) specific cause of delay; (3) effect of delay on construction progress; (4) date of termination of delay; (5) statement of bonded surety concurring in request for extension of Contract Completion Date and the Agreement to extend coverages for the requested extension; (6) evidence of notification of this request having been given to the Owner and Architect; (7) evidence of notification of this request having been given to all Contractors engaged on the project and their concurrence to such extension of time.

§ 8.3.3 The Architect and Owner will not be liable to any Contractor or any Subcontractors engaged on the Project in any manner for any expenses, damages, loss of bonding capacity, loss of profits, anticipated or otherwise, or any other charges whatsoever arising out of an extension in the Completion Date for the Work of either the Contractor or of any Subcontractor engaged on this Project, or arising out of any hindrance or delay from any cause whatsoever in the progress of the Work, whether such hindrance or delay be avoidable or unavoidable.

§ 8.3.4 Notwithstanding anything to the contrary in the Contract Documents, a time extension, to the extent permitted, shall be the sole remedy of the Contractor for any (1) delay in the commencement, prosecution or completion of the work, (2) hindrance, impact or obstruction in the performance of the Work, (3) loss of productivity, or (4) other similar claims whether or not such delays are foreseeable. The Contractor expressly agrees not to make, and hereby waives, any claim for damages on account of any delay, obstruction, impact or hindrance for any cause whatsoever, including, without limitation, consequential damages, lost opportunity costs, actual or alleged loss of efficiency, home office overhead, extended overhead, loss of bonding capacity, impact damages or other similar remuneration. The Contractor further agrees that it shall insert similar language in any subcontract for the Project. The Owner's exercise of any of its rights under the Contract Documents (including, without limitation, ordering changes in the Work, or directing suspension, rescheduling, or correction of the Work), regardless of the extent of frequency of the Owner's exercise of such rights or remedies, shall not be construed as active interference, hindrance, or obstruction with the Contractor's performance of the Work.

ARTICLE 9 PAYMENTS AND COMPLETION

§ 9.1 Contract Sum

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

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

§ 9.2 Schedule of Values

Where the Contract is based on a stipulated sum or Guaranteed Maximum Price, the Contractor shall submit a schedule of values to the Architect within ten (10) days of Notice to Proceed, allocating the entire Contract Sum to the various portions of the Work. The schedule of values shall be prepared in the form of AIA Document G703 – Continuation Sheet, and supported by the data to substantiate its accuracy, required by the Architect. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment. Any changes to the schedule of values shall be submitted to the Architect and supported by such data to substantiate its accuracy as the Architect may require, and unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's subsequent Applications for Payment.

§ 9.3 Applications for Payment

§ 9.3.1 At least ten days before the date established for each progress payment, the Contractor shall submit to the Architect an itemized Application for Payment prepared in accordance with the schedule of values, if required under Section 9.2, for completed portions of the Work. The application shall be notarized, if required, and supported by all data substantiating the Contractor's right to payment that the Owner or Architect require, such as copies of

requisitions, and releases and waivers of liens from Subcontractors and suppliers, and shall reflect retainage if provided for in the Contract Documents.

§ 9.3.1.1 As provided in Section 7.3.9, such applications may include requests for payment on account of changes in the Work that have been properly authorized by Construction Change Directives, or by interim determinations of the Architect, but not yet included in Change Orders.

§ 9.3.1.2 Applications for Payment shall not include requests for payment for portions of the Work for which the Contractor does not intend to pay a Subcontractor or supplier, unless such Work has been performed by others whom the Contractor intends to pay.

§ 9.3.2 Unless otherwise provided in the Contract Documents, payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed upon in writing. Payment for materials and equipment stored on or off the site shall be conditioned upon compliance by the Contractor with procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest, and shall include the costs of applicable insurance, storage, and transportation to the site, for such materials and equipment stored off the site.

§ 9.3.3 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information, and belief, be free and clear of liens, claims, security interests, or encumbrances, in favor of the Contractor, Subcontractors, suppliers, or other persons or entities that provided labor, materials, and equipment relating to the Work.

§ 9.4 Certificates for Payment

§ 9.4.1 The Architect will, within fourteen (14) days after receipt of the Contractor's Application for Payment, either (1) issue to the Owner a Certificate for Payment in the full amount of the Application for Payment, with a copy to the Contractor; or (2) issue to the Owner a Certificate for Payment for such amount as the Architect determines is properly due, and notify the Contractor and Owner of the Architect's reasons for withholding certification in part as provided in Section 9.5.1; or (3) withhold certification of the entire Application for Payment, and notify the Contractor and Owner of the Architect's reason for withholding certification in whole as provided in Section 9.5.1.

§ 9.4.2 The issuance of a Certificate for Payment will constitute a representation by the Architect to the Owner, based on the Architect's evaluation of the Work and the data in the Application for Payment, that, to the best of the Architect's knowledge, information, and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and observations, to correction of minor deviations from the Contract Documents prior to completion, and to specific qualifications expressed by the Architect. However, the issuance of a Certificate for Payment will not be a representation that the Architect has (1) made exhaustive or continuous on-site observations to check the quality or quantity of the Work; (2) reviewed construction means, methods, techniques, sequences, or procedures; (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment; or (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 9.5 Decisions to Withhold Certification

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

such extent as may be necessary in the Architect's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from acts and omissions described in Section 3.3.2, because of

- .1 defective Work not remedied;
- .2 third party claims filed or reasonable evidence indicating probable filing of such claims, unless security acceptable to the Owner is provided by the Contractor;
- .3 failure of the Contractor to make payments properly to Subcontractors or suppliers for labor, materials or equipment;
- .4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
- .5 damage to the Owner or a Separate Contractor;
- .6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
- .7 repeated failure to carry out the Work in accordance with the Contract Documents;
- .8 reasonable evidence that the work has not progressed as indicated on the Application for Payment, and/or;
- .9 repeated breach of a provision of the Contract Documents.

§ 9.5.2 When either party disputes the Architect's decision regarding a Certificate for Payment under Section 9.5.1, in whole or in part, that party may submit a Claim in accordance with Article 15.

§ 9.5.3 When the reasons for withholding certification are removed, certification will be made for amounts previously withheld.

§ 9.5.4 If the Architect withholds certification for payment under Section 9.5.1.3, the Owner may, at its sole option, issue joint checks to the Contractor and to any Subcontractor or supplier to whom the Contractor failed to make payment for Work properly performed or material or equipment suitably delivered. If the Owner makes payments by joint check, the Owner shall notify the Architect and the Contractor shall reflect such payment on its next Application for Payment.

§ 9.5.5 If the Contractor disputes any determination by the Owner or the Architect made in accordance with the foregoing with regard to any Certificate of Payment, the Contractor nevertheless expeditiously shall continue to prosecute the Work.

§ 9.6 Progress Payments

§ 9.6.1 After the Architect has issued a Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the Contract Documents, and shall so notify the Architect.

- .1 Such payment by the Owner shall not constitute approval or acceptance of any items or cost in the Application for Payment. No partial payment made hereunder shall be or be construed to be final acceptance or approval of that portion of the Work to which such partial payment relates or relieves the Contractor of any of its obligations hereunder with respect thereto.

§ 9.6.2 The Contractor shall pay each Subcontractor, no later than seven days after receipt of payment from the Owner, the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner.

§ 9.6.2.1 Notwithstanding anything in Section 9.6.2 to the contrary, in the event the Owner has reasonable cause to believe a Subcontractor is not being paid by the Contractor, the Owner may elect to make any payment requested by the Contractor on behalf of a Subcontractor of any tier jointly payable to the Contractor and such Subcontractor, provided that in the event the Contractor disputes the sum due to the Subcontractor, Owner shall only pay the sum not disputed by the Contractor, provided that the Contractor provides satisfactory assurance such as a bond to Owner with respect to payment of the disputed sum. The Contractor and such Subcontractor shall be responsible for the allocation and disbursement of funds included as part of any such joint payment. In no event shall any joint payment be construed to create any (i) contract between the Owner and a Subcontractor of any tier; (ii) obligations from the Owner to such Subcontractor, or (iii) rights in such Subcontractor against the Owner.

§ 9.6.3 The Architect will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Contractor and action taken thereon by the Architect and Owner on account of portions of the Work done by such Subcontractor.

§ 9.6.4 The Owner has the right to request written evidence from the Contractor that the Contractor has properly paid Subcontractors and suppliers amounts paid by the Owner to the Contractor for subcontracted Work. If the Contractor fails to furnish such evidence within seven days, the Owner shall have the right to contact Subcontractors and suppliers to ascertain whether they have been properly paid. Neither the Owner nor Architect shall have an obligation to pay, or to see to the payment of money to, a Subcontractor or supplier, except as may otherwise be required by law.

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

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

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

§ 9.6.8 Provided the Owner has fulfilled its payment obligations under the Contract Documents, the Contractor shall defend and indemnify the Owner from all loss, liability, damage or expense, including reasonable attorney's fees and litigation expenses, arising out of any lien claim or other claim for payment by any Subcontractor or supplier of any tier. Upon receipt of notice of a lien claim or other claim for payment, the Owner shall notify the Contractor. If approved by the applicable court, when required, the Contractor may substitute a surety bond for the property against which the lien or other claim for payment has been asserted.

§ 9.7 Failure of Payment

If the Architect does not issue a Certificate for Payment, through no fault of the Contractor, within fourteen (14) days after receipt of the Contractor's Application for a progress Payment, or if the Owner does not pay the Contractor within seven days after the date established in the Contract Documents, the amount certified by the Architect for a progress payment, or as awarded by binding dispute resolution, then the Contractor may, upon seven additional days' notice to the Owner and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided for in the Contract Documents. Notwithstanding the foregoing sentence, the Contractor shall not stop the Work during the pendency of a bona fide dispute between the Owner and the Contractor, provided any sums in dispute claimed by the Contractor either are placed in escrow or are withheld by Owner's lender and it agrees to pay said disputed sum in accordance with the resolution of the dispute.

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

§ 9.8 Substantial Completion

§ 9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use.

§ 9.8.2 When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall prepare and submit to the Architect a comprehensive list of items to be completed or corrected prior to final payment. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.

§ 9.8.3 Upon receipt of the Contractor's list, the Architect will make a site visit to determine whether the Work or designated portion thereof is substantially complete. If the Architect's observation discloses any item, whether or not included on the Contractor's list, which is not sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work or designated portion thereof for its intended use, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Architect. In such case, the Contractor shall then submit a request for another site visit and observation by the Architect to determine Substantial Completion. Any additional visit(s) and observation(s) by the Architect due to the Contractor's incomplete work or required correction(s) shall be back-charged to the Contractor via Change Order to the Owner and subsequent deduct Change Order to the Contractor for the full amount. The Architect shall be due additional time and materials at its rates for additional services at the time the services are rendered.

§ 9.8.4 When the Work or designated portion thereof is substantially complete, the Architect will prepare a Certificate of Substantial Completion that shall establish the date of Substantial Completion; establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance; and fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 9.8.5 The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in the Certificate. Upon such acceptance, and consent of surety if any, the Owner shall make payment of retainage applying to the Work or designated portion thereof. Such payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Contract Documents.

§ 9.9 Partial Occupancy or Use

§ 9.9.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Contractor, provided such occupancy or use is consented to by the insurer and authorized by public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When the Contractor considers a portion substantially complete, the Contractor shall prepare and submit a list to the Architect as provided under Section 9.8.2. Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Contractor or, if no agreement is reached, by decision of the Architect.

§ 9.9.2 Immediately prior to such partial occupancy or use, the Owner, Contractor, and Architect shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

§ 9.9.3 Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents.

§ 9.10 Final Completion and Final Payment

§ 9.10.1 Upon receipt of the Contractor's notice that the Work is ready for final observation and acceptance and upon receipt of a final Application for Payment, the Architect will promptly make such site visit. When the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Architect will promptly issue a final Certificate for Payment stating that to the best of the Architect's knowledge, information and belief, and on the basis of the Architect's on-site visits and observations, the Work has been completed in accordance with the Contract Documents and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Architect's final Certificate for Payment will constitute a further

representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

.1 Following Substantial Completion, in the event Contractor or its subcontractor fails to complete the list of items of the Work instructed by the Architect to be corrected or completed within thirty days after date of receipt of Certificate of Substantial Completion, Owner may (1) exercise any available remedies to correct or complete deficient work, including but not limited to, the retention of a third party to correct or complete such work at the cost of the Contractor; and (2) retain and deduct from any payments or retention otherwise due to the Contractor any fees and expenses for services required to be provided by the Architect more than thirty days after the Date of Substantial Completion.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect, (3) a written statement that the Contractor knows of no reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment, (5) documentation of any special warranties, such as manufacturers' warranties or specific Subcontractor warranties, and (6) if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts and releases and waivers of liens, claims, security interests, or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien, claim, security interest, or encumbrance. If a lien, claim, security interest, or encumbrance remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging the lien, claim, security interest, or encumbrance, including all costs and reasonable attorneys' fees.

§ 9.10.3 If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Contractor or by issuance of Change Orders affecting final completion, and the Architect so confirms, the Owner shall, upon application by the Contractor and certification by the Architect, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed, corrected, and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of the surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Architect prior to certification of such payment. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of Claims.

§ 9.10.4 The making of final payment shall constitute a waiver of Claims by the Owner except those arising from

- .1 liens, Claims, security interests, or encumbrances arising out of the Contract and unsettled;
- .2 failure of the Work to comply with the requirements of the Contract Documents;
- .3 terms of special warranties required by the Contract Documents; or
- .4 faulty or defective work appearing after Substantial Completion.

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

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

§ 10.1 Safety Precautions and Programs

The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract.

§ 10.2 Safety of Persons and Property

§ 10.2.1 The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury, or loss to

- .1 employees on the Work, the Owner's and Architect's representatives and other persons who may be affected thereby;
- .2 the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody, or control of the Contractor, a Subcontractor, or a Sub-subcontractor; and

- 3 other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures, and utilities not designated for removal, relocation, or replacement in the course of construction.

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

§ 10.2.3 The Contractor shall implement, erect, and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards; promulgating safety regulations; and notifying the owners and users of adjacent sites and utilities of the safeguards.

§ 10.2.4 When use or storage of explosives or other hazardous materials or equipment, or unusual methods are necessary for execution of the Work, the Contractor shall exercise utmost care and carry on such activities under supervision of properly qualified personnel.

§ 10.2.5 The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Sections 10.2.1.2 and 10.2.1.3 caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Sections 10.2.1.2 and 10.2.1.3. The Contractor may make a Claim for the cost to remedy the damage or loss to the extent such damage or loss is attributable to acts or omissions of the Owner or Architect or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Section 3.18.

§ 10.2.6 The Contractor shall designate a responsible member of the Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the Owner and Architect.

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

§ 10.2.8 Injury or Damage to Person or Property

If either party suffers injury or damage to person or property because of an act or omission of the other party, or of others for whose acts such party is legally responsible, notice of the injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding 21 days after discovery. The notice shall provide sufficient detail to enable the other party to investigate the matter.

§ 10.3 Hazardous Materials and Substances

§ 10.3.1 The Contractor is responsible for compliance with any requirements included in the Contract Documents regarding hazardous materials or substances. If the Contractor encounters a hazardous material or substance not addressed in the Contract Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and notify the Owner and Architect of the condition.

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

written agreement of the Owner and Contractor. By Change Order, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable additional costs of shutdown, delay, and start-up.

§ 10.3.3 To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area if in fact the material or substance presents the risk of bodily injury or death as described in Section 10.3.1 and has not been rendered harmless, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), except to the extent that such damage, loss, or expense is due to the fault or negligence of the party seeking indemnity.

§ 10.3.4 The Owner shall not be responsible under this Section 10.3 for hazardous materials or substances the Contractor brings to the site unless such materials or substances are required by the Contract Documents. The Owner shall be responsible for hazardous materials or substances required by the Contract Documents, except to the extent of the Contractor's fault or negligence in the use and handling of such materials or substances.

§ 10.3.5 The Contractor shall reimburse the Owner for the cost and expense the Owner incurs (1) for remediation of hazardous materials or substances the Contractor brings to the site and negligently handles, or (2) where the Contractor fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence.

§ 10.3.6 If, without negligence on the part of the Contractor, the Contractor is held liable by a government agency for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Contract Documents, the Owner shall reimburse the Contractor for all cost and expense thereby incurred.

§ 10.4 Emergencies

In an emergency affecting safety of persons or property, the Contractor shall act, at the Contractor's discretion, to prevent threatened damage, injury, or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Article 15 and Article 7.

ARTICLE 11 INSURANCE AND BONDS

§ 11.1 Contractor's Insurance and Bonds

§ 11.1.1 The Contractor shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Contractor shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Owner, Architect, and Architect's consultants shall be named as additional insureds under the Contractor's commercial general liability policy or as otherwise described in the Contract Documents. The types and minimum amounts of coverage of insurance to be provided and maintained by the Contractor shall be set forth in Attachment 'C' to the AIA A101.

§ 11.1.2 The Contractor shall provide surety bonds of the types, for such penal sums, and subject to such terms and conditions as required by the Contract Documents. The Contractor shall purchase and maintain the required bonds from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located. Refer to Article 11.4.

§ 11.1.3 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished.

§ 11.1.4 Notice of Cancellation or Expiration of Contractor's Required Insurance. Within three (3) business days of the date the Contractor becomes aware of an impending or actual cancellation or expiration of any insurance required by the Contract Documents, the Contractor shall provide notice to the Owner of such impending or actual cancellation or expiration. Upon receipt of notice from the Contractor, the Owner shall, unless the lapse in coverage arises from an act or omission of the Owner, have the right to stop the Work until the lapse in coverage has been cured by the

procurement of replacement coverage by the Contractor. The furnishing of notice by the Contractor shall not relieve the Contractor of any contractual obligation to provide any required coverage.

§ 11.1.5 If the Contractor fails to purchase or maintain the liability insurance specified in the Contract Documents, the Owner may (but shall not be obligated to) purchase such insurance on the Contractor's behalf and shall be entitled to be repaid for any premiums paid therefor by Contractor in the manner set forth in Section 2.5 and/or as provided in Section 9.7.2, at Owner's election.

§ 11.2 Owner's Insurance

§ 11.2.1 The Owner shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Owner shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located.

§ 11.2.2 Failure to Purchase Required Property Insurance. If the Owner fails to purchase and maintain the required property insurance, with all of the coverages and in the amounts described in the Agreement or elsewhere in the Contract Documents, the Owner shall inform the Contractor in writing prior to commencement of the Work. Upon receipt of notice from the Owner, the Contractor may delay commencement of the Work and may obtain insurance that will protect the interests of the Contractor, Subcontractors, and Sub-Subcontractors in the Work. When the failure to provide coverage has been cured or resolved, the Contract Sum and Contract Time shall be equitably adjusted. In the event the Owner fails to procure coverage, the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent the loss to the Owner would have been covered by the insurance to have been procured by the Owner. The cost of the insurance shall be charged to the Owner by a Change Order. If the Owner does not provide written notice, and the Contractor is damaged by the failure or neglect of the Owner to purchase or maintain the required insurance, the Owner shall reimburse the Contractor for all reasonable costs and damages attributable thereto.

§ 11.2.3 Notice of Cancellation or Expiration of Owner's Required Property Insurance. Within three (3) business days of the date the Owner becomes aware of an impending or actual cancellation or expiration of any property insurance required by the Contract Documents, the Owner shall provide notice to the Contractor of such impending or actual cancellation or expiration. Unless the lapse in coverage arises from an act or omission of the Contractor: (1) the Contractor, upon receipt of notice from the Owner, shall have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by either the Owner or the Contractor; (2) the Contract Time and Contract Sum shall be equitably adjusted; and (3) the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent any loss to the Owner would have been covered by the insurance had it not expired or been cancelled. If the Contractor purchases replacement coverage, the cost of the insurance shall be charged to the Owner by an appropriate Change Order. The furnishing of notice by the Owner shall not relieve the Owner of any contractual obligation to provide required insurance.

§ 11.3 Waivers of Subrogation

§ 11.3.1 The Owner and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents, and employees, each of the other; (2) the Architect and Architect's consultants; and (3) Separate Contractors, if any, and any of their subcontractors, sub-subcontractors, agents, and employees, for damages caused by fire, or other causes of loss, to the extent those losses are covered by property insurance required by the Agreement or other property insurance applicable to the Project, except such rights as they have to proceeds of such insurance. The Owner or Contractor, as appropriate, shall require similar written waivers in favor of the individuals and entities identified above from the Architect, Architect's consultants, Separate Contractors, subcontractors, and sub-subcontractors. The policies of insurance purchased and maintained by each person or entity agreeing to waive claims pursuant to this section 11.3.1 shall not prohibit this waiver of subrogation. This waiver of subrogation shall be effective as to a person or entity (1) even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, (2) even though that person or entity did not pay the insurance premium directly or indirectly, or (3) whether or not the person or entity had an insurable interest in the damaged property, but only to the extent of actual recovery of insurance proceeds under or pursuant to property insurance applicable to the Work

§ 11.3.2 If during the Project construction period the Owner insures properties, real or personal or both, at or adjacent to the site by property insurance under policies separate from those insuring the Project, or if after final payment property insurance is to be provided on the completed Project through a policy or policies other than those insuring

the Project during the construction period, to the extent permissible by such policies, the Owner waives all rights in accordance with the terms of Section 11.3.1 for damages caused by fire or other causes of loss covered by this separate property insurance.

§ 11.4 Loss of Use, Business Interruption, and Delay in Completion Insurance

The Owner, at the Owner's option, may purchase and maintain insurance that will protect the Owner against loss of use of the Owner's property, or the inability to conduct normal operations, due to fire or other causes of loss. The Owner waives all rights of action against the Contractor and Architect for loss of use of the Owner's property, due to fire or other hazards however caused.

§11.5 Adjustment and Settlement of Insured Loss

§ 11.5.1 A loss insured under the property insurance required by the Agreement shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause and of Section 11.5.2. The Owner shall pay the Architect and Contractor their just shares of insurance proceeds received by the Owner, and by appropriate agreements the Architect and Contractor shall make payments to their consultants and Subcontractors in similar manner.

§ 11.5.2 Prior to settlement of an insured loss, the Owner shall notify the Contractor of the terms of the proposed settlement as well as the proposed allocation of the insurance proceeds. The Contractor shall have 14 days from receipt of notice to object to the proposed settlement or allocation of the proceeds. If the Contractor does not object, the Owner shall settle the loss and the Contractor shall be bound by the settlement and allocation. Upon receipt, the Owner shall deposit the insurance proceeds in a separate account and make the appropriate distributions. Thereafter, if no other agreement is made or the Owner does not terminate the Contract for convenience, the Owner and Contractor shall execute a Change Order for reconstruction of the damaged or destroyed Work in the amount allocated for that purpose. If the Contractor timely objects to either the terms of the proposed settlement or the allocation of the proceeds, the Owner may proceed to settle the insured loss, and any dispute between the Owner and Contractor arising out of the settlement or allocation of the proceeds shall be resolved pursuant to Article 15. Pending resolution of any dispute, the Owner may issue a Construction Change Directive for the reconstruction of the damaged or destroyed Work.

§ 11.4 Performance Bond and Payment Bond

§ 11.4.1 Contractor shall furnish bonds covering faithful performance of the Contract and payment of obligations arising thereunder as stipulated in bidding requirements or specifically required in the Contract Documents on the date of Notice to Proceed. Contractor to furnish bonds, the Contractor shall furnish a Performance Bond and Labor and Material Payment bond meeting all statutory requirements of the State where the Work is located, in form and substance satisfactory to the Owner and, without limitation, complying with the following specific requirements:

§ 11.4.1.1 Except as otherwise required by statute, the form and substance of such bonds shall be satisfactory to the Owner in the Owner's reasonable judgment.

§ 11.4.1.2 Bonds shall be executed by a responsible surety licensed in the State where the Work is located, with a Best's rating of no less than A/XII, and shall remain in effect for a period not less than one (1) year following the date of Substantial Completion or the time required to resolve any items of incomplete Work and the payment of any disputed amounts, whichever time period is longer.

§ 11.4.1.3 The Performance bond and the Labor and Material Payment Bond shall each be in an amount equal to the Contract Sum and all subsequent increases.

§ 11.4.1.4 The Contractor shall require the attorney in fact who executes the required bonds on behalf of the surety to affix thereto a certified and current copy of his power of attorney indicating the monetary limit of such power.

§ 11.4.1.5 Every Bond under this Section 11.4.1 must display the Surety's Bond Number. A rider including the following provisions shall be attached to each Bond:

- (i) The Surety hereby agrees that it consents to and waives notice of any addition, alteration, omission, change or other modification of the Contract Documents, or a forbearance on the part of either the Owner or the Contractor to the other, shall not release the Surety of its obligations hereunder, and notice to the Surety of such matters is hereby waived.

The Surety agrees that it is obligated under the bonds to any successor, grantee, or assignee of the Owner.

§ 11.4.2 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished.

§ 11.4.3 If any Surety hereunder makes any assignment for the benefit of creditors, or commits any act of bankruptcy, or is declared bankrupt, or files a voluntary petition in bankruptcy, or in the reasonable opinion of the Owner is insolvent, the Contractor shall immediately furnish and maintain another Surety in accordance with the provisions of this Section 11.4, and all other Contract Documents satisfactory to the Owner.

ARTICLE 12 UNCOVERING AND CORRECTION OF WORK

§ 12.1 Uncovering of Work

§ 12.1.1 If a portion of the Work is covered contrary to the Architect's request or to requirements specifically expressed in the Contract Documents, it must, if requested in writing by the Architect, be uncovered for the Architect's examination and be replaced at the Contractor's expense without change in the Contract Time.

§ 12.1.2 If a portion of the Work has been covered that the Architect has not specifically requested to examine prior to its being covered, the Architect may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, the Contractor shall be entitled to an equitable adjustment to the Contract Sum and Contract Time as may be appropriate. If such Work is not in accordance with the Contract Documents, the costs of uncovering the Work, and the cost of correction, shall be at the Contractor's expense.

§ 12.2 Correction of Work

§ 12.2.1 Before Substantial Completion

The Contractor shall promptly correct Work rejected by the Architect or failing to conform to the requirements of the Contract Documents, discovered before Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Architect's services and expenses made necessary thereby, shall be at the Contractor's expense. If prior to the date of Substantial Completion, the Contractor, a subcontractor or anyone for whom either is responsible uses or damages any portion of the Work, including, without limitation, mechanical, electrical, plumbing and other building systems, machinery, equipment or other mechanical device or Owner's equipment the Contractor shall cause such item to be restored to 'like new' condition at no expense to the Owner.

§ 12.2.2 After Substantial Completion

§ 12.2.2.1 In addition to the Contractor's obligations under Section 3.5, if, within one year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.9.1, or by terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of notice from the Owner to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner or Architect, the Owner may correct it in accordance with Section 2.5.

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

§ 12.2.2.3 The one-year period for correction of Work shall not be extended by corrective Work performed by the Contractor pursuant to this Section 12.2.

§ 12.2.3 The Contractor shall remove from the site portions of the Work that are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner.

§ 12.2.4 The Contractor shall bear the cost of correcting destroyed or damaged construction of the Owner or Separate Contractors, whether completed or partially completed, caused by the Contractor's correction or removal of Work that is not in accordance with the requirements of the Contract Documents.

§ 12.2.5 Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

§ 12.3 Acceptance of Nonconforming Work

If the Owner prefers to accept Work that is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made. The Owner, with the advice of the Architect, shall determine the adjustment in the Contract Sum. The Contractor shall bear all direct, indirect, and consequential costs attributable to the evaluation of and decision to accept such Work. Such costs for the Architect (at their current rates in effect at the time of acceptance of non-conforming work) and any other cost to the Owner will be charged to the Contractor through Change Order Procedures.

ARTICLE 13 MISCELLANEOUS PROVISIONS

§ 13.1 Governing Law

The Contract shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 15.4.

§ 13.2 Successors and Assigns

§ 13.2.1 The Owner and Contractor respectively bind themselves, their partners, successors, assigns, and legal representatives to covenants, agreements, and obligations contained in the Contract Documents. Except as provided in Section 13.2.2, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

§ 13.2.2 The Owner may, without consent of the Contractor, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner's rights and obligations under the Contract Documents. The Contractor shall execute all consents reasonably required to facilitate the assignment.

§ 13.3 Rights and Remedies

§ 13.3.1 Duties and obligations imposed by the Contract Documents and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights, and remedies otherwise imposed or available by law.

§ 13.3.2 No action or failure to act by the Owner, Architect, or Contractor shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed upon in writing.

§ 13.4 Tests and Inspections

§ 13.4.1 Tests, inspections, and approvals of portions of the Work shall be made as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules, and regulations or lawful orders of public authorities. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections, and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections, and approvals. The Contractor shall give the Architect timely notice of when and where tests and inspections are to be made so that the Architect may be present for such procedures. The Owner shall bear costs of tests, inspections, or approvals that do not become requirements until after bids are received or negotiations concluded. The Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations so require.

§ 13.4.2 If the Architect, Owner, or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection, or approval not included under Section 13.4.1, the Architect will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection, or approval, by an entity acceptable to the Owner, and the Contractor shall give timely notice to the Architect of

when and where tests and inspections are to be made so that the Architect may be present for such procedures. Such costs, except as provided in Section 13.4.3, shall be at the Owner's expense.

§ 13.4.3 If procedures for testing, inspection, or approval under Sections 13.4.1 and 13.4.2 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, all costs made necessary by such failure, including those of repeated procedures and compensation for the Architect's services and expenses, shall be at the Contractor's expense.

§ 13.4.4 Required certificates of testing, inspection, or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the Architect.

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

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

§ 13.5 Interest

Payments due and unpaid under the Contract Documents shall bear interest from the date payment is due at the rate the parties agree upon in writing or, in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT

§ 14.1 Termination by the Contractor

§ 14.1.1 The Contractor may suspend the Work if the Work is stopped for a period of 30 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, for any of the following reasons:

- .1 Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;
- .2 An act of government, such as a declaration of national emergency, that requires all Work to be stopped;
- .3 The Owner has failed to furnish to the Contractor reasonable evidence as required by Section 2.2.

§ 14.1.2 Subject to the opportunity to cure, the Contractor may terminate the Contract if, through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, repeated suspensions, delays, or interruptions of the entire Work by the Owner as described in Section 14.3, constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less.

§ 14.1.3 If one of the reasons described in Section 14.1.1 or 14.1.2 exists, the Contractor may, upon fourteen calendar (14) days' notice to the Owner and Architect, and an opportunity to cure, terminate the Contract unless this reason is cured prior to the expiration of the notice period, and recover from the Owner payment of Work properly executed in accordance with the Contract Documents (the basis for such payment shall be as provided in the Contract) and for payment for costs directly related to Work thereafter performed by Contractor in terminating such Work including reasonable demobilization and cancellation.

§ 14.1.4 The Owner shall not be responsible for damages for loss of anticipated profits or any potential overhead or burden, on Work not performed on account of any termination described in Sections 14.

§ 14.2 Termination by the Owner for Cause

§ 14.2.1 The Owner may terminate the Contract if the Contractor

- .1 repeatedly refuses or fails to supply enough properly skilled workers or proper materials or equipment;
- .2 fails to make payment to Subcontractors or suppliers in accordance with the respective agreements between the Contractor and the Subcontractors or suppliers;
- .3 repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or
- .4 otherwise is guilty of substantial breach of a provision of the Contract Documents.

- .5 disregards the instruction of the Owner or Architect when such instructions are based on the requirements of the Contract Documents;
- .6 fails to furnish the Owner with assurances satisfactory to the Owner evidencing the Contractor's ability to complete the Work in compliance with the requirements of the Contract Documents.
- .7 fails or neglects to progress work in such a manner to reasonably assure completion of the Work within the Contract Time or in accordance with the Construction Schedule.
- .8 purposefully engages in a strike or work stoppage, or is in any way responsible for hindering or delaying the work of other trades, or ceases to work due to picketing or labor disputes of any kind.

§ 14.2.2 When any of the reasons described in Section 14.2.1 exist, and upon certification by the Architect that sufficient cause exists to justify such action, the Owner may, without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:

- .1 Exclude the Contractor from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;
- .2 Accept assignment of subcontracts pursuant to Section 5.4; and
- .3 Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.

§ 14.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 14.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

§ 14.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including compensation for the Architect's services and any Owner consultants or advisors and any other expenses made necessary thereby, and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The amount to be paid to the Contractor or Owner, as the case may be, shall be certified by the Initial Decision Maker, upon application, and this obligation for payment shall survive termination of the Contract.

§ 14.2.5 If the Owner terminates the contract for cause and it is subsequently determined that such termination was without sufficient cause or was improper for any reason whatsoever, such termination shall be deemed for all purposes to have been a termination for convenience and, in such event, Contractor shall be entitled to recover only those sums due pursuant to Section 14.4.3.

§ 14.3 Suspension by the Owner for Convenience

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

§ 14.3.2 The Contract Sum and Contract Time shall be adjusted for increases in the cost and time caused by suspension, delay, or interruption under Section 14.3.1. Adjustment of the Contract Sum shall include compensation for actual expenses incurred as a result of the suspension, delay or interruption but shall not include overhead and profit for Work not executed. No adjustment shall be made to the extent

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

§ 14.4 Termination by the Owner for Convenience

§ 14.4.1 The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause.

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

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

§ 14.4.3 In case of such termination for the Owner's convenience, the Owner shall pay the Contractor for Work properly executed, completed and approved. Contractor is not entitled to any overhead, profit or any other losses or damages for any work not performed.

ARTICLE 15 CLAIMS AND DISPUTES

§ 15.1 Claims

§ 15.1.1 Definition

A Claim is a demand or assertion by one of the parties seeking, as a matter of right, payment of money, a change in the Contract Time, or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Contractor arising out of or relating to the Contract. The responsibility to substantiate Claims shall rest with the party making the Claim. This Section 15.1.1 does not require the Owner to file a Claim in order to impose liquidated damages in accordance with the Contract Documents.

§ 15.1.2 Time Limits on Claims

The Owner and Contractor shall commence all Claims and causes of action against the other and arising out of or related to the Contract, whether in contract, tort, breach of warranty or otherwise, in accordance with the requirements of the binding dispute resolution method selected in the Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Contractor waive all Claims and causes of action not commenced in accordance with this Section 15.1.2.

§ 15.1.3 Notice of Claims

§ 15.1.3.1 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered prior to expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party and to the Initial Decision Maker with a copy sent to the Architect, if the Architect is not serving as the Initial Decision Maker. Claims by either party under this Section 15.1.3.1 shall be initiated within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later. Failure of the Contractor to initiate Claim within twenty-one (21) days shall constitute a waiver to any Claim that Contractor may have; including but not limited to, delays.

Contractor's written notice of Claim shall contain the following information:

- 1 The date that the event giving rise to the claim commenced and the date upon which it was first recognized by the Contractor.
- 2 The cause of the event giving rise to the claim.
- 3 The effect of the event giving rise to the claim on the construction progress including the identity of all elements of Work that have been or will be impacted by the event and a specific explanation as to why and to what extent such work has been or will be impacted by the event giving rise to the claim.
- 4 If the event giving rise to the claim has impacted the Construction Schedule, a proposal for Schedule recovery from the event that impacted the Schedule that shall include a description of the means by which the Contractor intends to prevent further delay in the Work.
- 5 A detailed itemization of each element of loss, damage or expense for which the Contractor seeks monies, along with data, documents or other information substantiating such claim.

§ 15.1.3.2 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party. In such event, no decision by the Initial Decision Maker is required.

§ 15.1.4 Continuing Contract Performance

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

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

§ 15.1.5 Claims for Additional Cost

If the Contractor wishes to make a Claim for an increase in the Contract Sum, notice as provided in Section 15.1.3 shall be given before proceeding to execute the portion of the Work that is the subject of the Claim. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4.

§ 15.1.6 Claims for Additional Time

§ 15.1.6.1 If the Contractor wishes to make a Claim for an increase in the Contract Time, notice as provided in Section 15.1.3 shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay, only one Claim is necessary.

§ 15.1.6.2 If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated, and had an adverse effect on the scheduled construction.

§ 15.1.7 Waiver of Claims for Consequential Damages

The Contractor and Owner waive Claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes

- .1 damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and
- .2 damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit

This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 14. Nothing contained in this Section 15.1.7 shall be deemed to preclude assessment of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.

§ 15.2 Initial Decision

§ 15.2.1 Claims, excluding those where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2 or arising under Sections 10.3, 10.4, and 11.5, shall be referred to the Initial Decision Maker for initial decision if the claimant first recognizes the Claim prior to the date of final payment. The Architect will serve as the Initial Decision Maker, unless otherwise indicated in the Agreement. Except for those Claims excluded by this Section 15.2.1, an initial decision shall be required as a condition precedent to mediation of any Claim. If an initial decision has not been rendered within 30 days after the Claim has been referred to the Initial Decision Maker, the party asserting the Claim may demand mediation and binding dispute resolution without a decision having been rendered. Unless the Initial Decision Maker and all affected parties agree, the Initial Decision Maker will not decide disputes between the Contractor and persons or entities other than the Owner.

§ 15.2.2 The Initial Decision Maker will review Claims and within ten days of the receipt of a Claim take one or more of the following actions: (1) request additional supporting data from the claimant or a response with supporting data from the other party, (2) reject the Claim in whole or in part, (3) approve the Claim, (4) suggest a compromise, or (5) advise the parties that the Initial Decision Maker is unable to resolve the Claim if the Initial Decision Maker lacks sufficient information to evaluate the merits of the Claim or if the Initial Decision Maker concludes that, in the Initial Decision Maker's sole discretion, it would be inappropriate for the Initial Decision Maker to resolve the Claim.

§ 15.2.3 In evaluating Claims, the Initial Decision Maker may, but shall not be obligated to, consult with or seek information from either party or from persons with special knowledge or expertise who may assist the Initial Decision Maker in rendering a decision. The Initial Decision Maker may request the Owner to authorize retention of such persons at the Owner's expense.

§ 15.2.4 If the Initial Decision Maker requests a party to provide a response to a Claim or to furnish additional supporting data, such party shall respond, within ten days after receipt of the request, and shall either (1) provide a response on the requested supporting data, (2) advise the Initial Decision Maker when the response or supporting data will be furnished, or (3) advise the Initial Decision Maker that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Initial Decision Maker will either reject or approve the Claim in whole or in part.

§ 15.2.5 The Initial Decision Maker will render an initial decision approving or rejecting the Claim, or indicating that the Initial Decision Maker is unable to resolve the Claim. This initial decision shall (1) be in writing; (2) state the reasons therefor; and (3) notify the parties and the Architect, if the Architect is not serving as the Initial Decision Maker, of any change in the Contract Sum or Contract Time or both. The initial decision shall be final and binding on the parties but subject to mediation and, if the parties fail to resolve their dispute through mediation, to binding dispute resolution.

§ 15.2.6 Either party may file for mediation of an initial decision at any time, subject to the terms of Section 15.2.6.1.

§ 15.2.6.1 Either party may, within 30 days from the date of receipt of an initial decision, demand in writing that the other party file for mediation. If such a demand is made and the party receiving the demand fails to file for mediation within 30 days after receipt thereof, then both parties waive their rights to mediate or pursue binding dispute resolution proceedings with respect to the initial decision.

§ 15.2.7 In the event of a Claim against the Contractor, the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

§ 15.2.8 If a Claim relates to or is the subject of a mechanic's lien, the party asserting such Claim may proceed in accordance with applicable law to comply with the lien notice or filing deadlines.

§ 15.3 Mediation

§ 15.3.1 Claims, disputes, or other matters in controversy arising out of or related to the Contract, except those waived as provided for in Sections 9.10.4, 9.10.5, and 15.1.7, shall be subject to mediation as a condition precedent to binding dispute resolution.

§ 15.3.2 The parties shall endeavor to resolve their Claims by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of binding dispute resolution proceedings but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration is stayed pursuant to this Section 15.3.2, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§ 15.3.3 Either party may, within 30 days from the date that mediation has been concluded without resolution of the dispute or 60 days after mediation has been demanded without resolution of the dispute, demand in writing that the other party file for binding dispute resolution. If such a demand is made and the party receiving the demand fails to file for binding dispute resolution within 60 days after receipt thereof, then both parties waive their rights to binding dispute resolution proceedings with respect to the initial decision.

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

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DRAFT AIA® Document A201™ – 2017

General Conditions of the Contract for Construction

for the following PROJECT:

(Name and location or address)

« Additions/Alterations – Mutual Fire Station
99 Main St
Mount Kisco, NY 10549»

THE OWNER:

(Name, legal status and address)

«Village of Mount Kisco»«»
«Village Hall
104 Main Street
Mount Kisco, NY 10549»

THE ARCHITECT:

(Name, legal status and address)

«H2M architects + engineers»«»
«3 Lear Jet Lane
Suite 205
Latham, NY 12110»

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ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed.

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14 TERMINATION OR SUSPENSION OF THE CONTRACT

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ARTICLE 1 GENERAL PROVISIONS

§ 1.1 Basic Definitions

§ 1.1.1 The Contract Documents

The Contract Documents are enumerated in the Agreement between the Owner and Contractor (hereinafter the Agreement) and consist of the Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of the Contract, other documents listed in the Agreement, and Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive, or (4) a written order for a minor change in the Work issued by the Architect. The Contract Documents include all documents which are part of the Bid Package submitted to Contractor including the Contractor's bid.

§ 1.1.2 The Contract

The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Contractor and the Architect or the Architect's consultants, (2) between the Owner and a Subcontractor or a Sub-subcontractor, except as set forth in Section 3.7.3, Section 5.3 and Section 5.4 of these General Conditions (3) between the Owner and the Architect or the Architect's consultants, or (4) between any persons or entities other than the Owner and the Contractor. The Architect shall, however, be entitled to performance and enforcement of obligations under the Contract intended to facilitate performance of the Architect's duties.

§ 1.1.3 The Work

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

§ 1.1.4 The Project

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

§ 1.1.5 The Drawings

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

§ 1.1.6 The Specifications

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

§ 1.1.7 Instruments of Service

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

§ 1.1.8 Initial Decision Maker

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

§ 1.1.9 TERMS USED

The terms 'knowledge', 'recognize', and 'discover', their respective derivatives and similar terms in the Contract Documents, as used in reference to the Contractor, shall be interpreted to mean that which the Contractor knows, recognizes and discovers or should have known or discovered, in exercising the care, skill and diligence required by the Contract Documents. The term 'reasonably inferable' and similar terms in the Contract Documents shall be interpreted to mean reasonably inferable by a contractor familiar with the Project and exercising the care, skill, and diligence required of the Contractor by the Contract Documents.

§ 1.2 Correlation and Intent of the Contract Documents

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

.1 In the event of inconsistencies, conflicts or discrepancies among the Contract Documents, interpretations will be based on the following priorities:

- .1 The AIA A101 Standard Form Agreement Between Owner and Contractor;
- .2 Bid Addenda, with those of late date having precedence over those of earlier date;
- .3 The AIA A201 General Conditions of the Contract for Construction;
- .4 Project Drawings and Specifications

.2 In the case of an inconsistency, missing information or any conflicting information between or within the Drawings, Specifications, or other Contract Documents or between the Contract Documents and applicable standards, codes and ordinances, – not clarified by Addendum, the Contractor shall (i) provide the better quality or greater quantity of Work and/or (ii) comply with the more stringent requirements. The Contractor shall submit his action in writing to the Architect for review and interpretation. The Architect's interpretation is final. The terms and conditions of this Section 1.2.1, however, shall not relieve the Contractor of any of the obligations set forth in the Contract Documents, including Sections 3.2 and 3.7 of these General Conditions.

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

§ 1.2.2 Organization of the Specifications into divisions, sections and articles, and arrangement of Drawings shall not control the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade.

§ 1.2.3 Unless otherwise stated in the Contract Documents, words that have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.

§ 1.3 Capitalization

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

§ 1.4 Interpretation

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

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

§ 1.5.1 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and retain all common law, statutory, and other reserved rights in their Instruments of Service, including copyrights. The Contractor, Subcontractors, Sub-subcontractors, and suppliers shall not own or claim a copyright in the Instruments of Service. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the Architect's or Architect's consultants' reserved rights.

§ 1.5.2 The Contractor, Subcontractors, Sub-subcontractors, and suppliers are authorized to use and reproduce the Instruments of Service provided to them, subject to any protocols established pursuant to Sections 1.7 and 1.8, solely and exclusively for execution of the Work. All copies made under this authorization shall bear the copyright notice, if any, shown on the Instruments of Service. The Contractor, Subcontractors, Sub-subcontractors, and suppliers may not use the Instruments of Service on other projects or for additions to the Project outside the scope of the Work without the specific written consent of the Owner, Architect, and the Architect's consultants.

§ 1.6 Notice

§ 1.6.1 Except as otherwise provided in Section 1.6.2, where the Contract Documents require one party to notify or give notice to the other party, such notice shall be provided in writing to the designated representative of the party to whom the notice is addressed and shall be deemed to have been duly served if delivered in person, by mail, by courier, or by electronic transmission if a method for electronic transmission is set forth in the Agreement.

§ 1.6.2 Notice of Claims as provided in Section 15.1.3 shall be provided in writing and shall be deemed to have been duly served only if delivered to the designated representative of the party to whom the notice is addressed by certified or registered mail, or by courier providing proof of delivery.

§ 1.7 Digital Data Use and Transmission

The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties may use AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 1.8 Building Information Models Use and Reliance

Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™–2013, Project Building Information Modeling Protocol Form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

ARTICLE 2 OWNER

§ 2.1 General

§ 2.1.1 The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all matters requiring the Owner's approval or authorization. Except as otherwise provided in Section 4.2.1, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

§ 2.1.2 The Owner shall furnish to the Contractor, within fifteen days after receipt of a written request, information necessary and relevant for the Contractor to evaluate, give notice of, or enforce mechanic's lien rights. Such information shall include a correct statement of the record legal title to the property on which the Project is located, usually referred to as the site, and the Owner's interest therein.

§ 2.2 Evidence of the Owner's Financial Arrangements

§ 2.2.1 Prior to commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. If commencement of the Work is delayed under this Section 2.2.1, the Contract Time shall be extended appropriately.

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

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

§ 2.2.4 Where the Owner has designated information furnished under this Section 2.2 as “confidential,” the Contractor shall keep the information confidential and shall not disclose it to any other person. However, the Contractor may disclose “confidential” information, after seven (7) days’ notice to the Owner, where disclosure is required by law, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or by court or arbitrator(s) order. The Contractor may also disclose “confidential” information to its employees, consultants, sureties, Subcontractors and their employees, Sub-subcontractors, and others who need to know the content of such information solely and exclusively for the Project and who agree to maintain the confidentiality of such information.

§ 2.3 Information and Services Required of the Owner

§ 2.3.1 Except for permits and fees that are the responsibility of the Contractor under the Contract Documents, including those required under Section 3.7.1, the Owner shall secure and pay for necessary approvals, easements, assessments and charges required for construction, use or occupancy of permanent structures or for permanent changes in existing facilities.

§ 2.3.2 The Owner shall retain an architect lawfully licensed to practice architecture, or an entity lawfully practicing architecture, in the jurisdiction where the Project is located. That person or entity is identified as the Architect in the Agreement and is referred to throughout the Contract Documents as if singular in number.

§ 2.3.3 If the employment of the Architect terminates, the Owner shall employ a successor to whom the Contractor has no reasonable objection and whose status under the Contract Documents shall be that of the Architect.

§ 2.3.4 The Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site. The Contractor shall be entitled to rely on the accuracy of information furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

§ 2.3.5 The Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner’s control and relevant to the Contractor’s performance of the Work with reasonable promptness after receiving the Contractor’s written request for such information or services.

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

§ 2.4 Owner’s Right to Stop the Work

If the Contractor fails to correct Work that is not in accordance with the requirements of the Contract Documents as required by Section 12.2 or repeatedly or materially fails to carry out Work in accordance with the Contract Documents, the Owner may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity, except to the extent required by Section 6.1.3.

§ 2.5 Owner’s Right to Carry Out the Work

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a five-day (5) period after receipt of notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such default or neglect. Such action by the Owner and amounts charged to the Contractor are both subject to approval of the Architect and the Architect may, pursuant to Section 9.5.1, withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the reasonable cost of correcting such deficiencies, including Owner’s expenses including attorney’s fees and compensation for the Architect’s additional services made necessary by such default, neglect, or failure. If current and future payments are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner. At the Owner’s option, the excess shall be deducted from any payment thereafter due to the Contractor or shall be paid by the Contractor immediately upon demand of the Owner.

ARTICLE 3 CONTRACTOR

§ 3.1 General

§ 3.1.1 The Contractor is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Contractor shall be lawfully licensed, if required in the jurisdiction where the Project is located. The Contractor shall designate in writing a representative who shall have express authority to bind the Contractor with respect to all matters under this Contract. The term “Contractor” means the Contractor or the Contractor’s authorized representative.

§ 3.1.2 The Contractor shall perform the Work in accordance with the Contract Documents.

§ 3.1.3 The Contractor shall not be relieved of its obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Architect in the Architect’s administration of the Contract, or by tests, inspections or approvals required or performed by persons or entities other than the Contractor.

§ 3.2 Review of Contract Documents and Field Conditions by Contractor

§ 3.2.1 Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become generally familiar with local conditions under which the Work is to be performed, and correlated personal observations with requirements of the Contract Documents. Prior to execution of the Agreement, the Contractor and each Subcontractor has evaluated and satisfied themselves as to the conditions and limitations under which the Work is to be performed, including, without limitation, (i) the location, condition, layout and nature of the Project site and surrounding areas, (ii) generally prevailing climatic conditions, (iii) anticipated labor supply and costs, including but not limited to, prevailing wage rates, (iv) availability and cost of materials, tools and equipment, and (v) other similar issues. The Owner assumes no responsibility or liability for the physical condition or safety of the Project site or any improvements located on the Project site as it relates to the Work. Except as set forth in Section 10.3, the Contractor shall be solely responsible for providing a safe place for the performance of the Work. The Owner shall not be required to make any adjustment in either the Contract Sum or the Contract Time in connection with any failure by the Contractor or any Subcontractor to have complied with the requirements of this Section 3.2.1.

§ 3.2.2 Because the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 2.3.4, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating coordination and construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, the Contractor shall promptly report to the Architect and Owner any errors, inconsistencies or omissions discovered by or made known to the Contractor as a request for information in such form as the Architect may require. It is recognized that the Contractor’s review is made in the Contractor’s capacity as a contractor and not as a licensed design professional, unless otherwise specifically provided in the Contract Documents.

§ 3.2.3 The Contractor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Contractor shall promptly report to the Architect any nonconformity discovered by or made known to the Contractor as a request for information in such form as the Architect may require.

§ 3.2.4 If the Contractor believes that additional cost or time is involved because of clarifications or instructions the Architect issues in response to the Contractor’s notices or requests for information pursuant to Sections 3.2.2 or 3.2.3, the Contractor shall submit Claims as provided in Article 15. If the Contractor fails to perform the obligations of Sections 3.2.2 or 3.2.3, the Contractor shall pay such costs and damages to the Owner, subject to Section 15.1.7, as would have been avoided if the Contractor had performed such obligations. If the Contractor performs those obligations, the Contractor shall not be liable to the Owner or Architect for damages resulting from errors, inconsistencies or omissions in the Contract Documents, for differences between field measurements or conditions and the Contract Documents, or for nonconformities of the Contract Documents to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities.

§ 3.3 Supervision and Construction Procedures

§ 3.3.1 The Contractor shall supervise and direct the Work, using the Contractor’s best skill and attention. The Contractor shall be solely responsible for, and have control over, construction means, methods, techniques, sequences, and procedures, and for coordinating all portions of the Work under the Contract. If the Contract

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

§ 3.3.2 The Contractor shall be responsible to the Owner for acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the Work for, or on behalf of, the Contractor or any of its Subcontractors and for any damages, losses, costs, and expenses resulting from such acts or omissions, including but not limited to reasonable Attorney's fees.

§ 3.3.3 The Contractor shall be responsible for inspection of portions of Work already performed to determine that such portions are in proper condition to receive subsequent Work.

§ 3.4 Labor and Materials

§ 3.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, at applicable prevailing wage rates, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

§ 3.4.2 Except in the case of minor changes in the Work approved by the Architect in accordance with Section 3.12.8 or ordered by the Architect in accordance with Section 7.4, the Contractor may make substitutions only with the consent of the Owner, after evaluation by the Architect and in accordance with a Change Order or Construction Change Directive.

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

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

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

§ 3.5 Warranty

§ 3.5.1 The Contractor warrants to the Owner and Architect that materials and equipment furnished under the Contract will be of good quality and new unless the Contract Documents require or permit otherwise. The Contractor further warrants that the Work will conform to the requirements of the Contract Documents and will be free from defects, except for those inherent in the quality of the Work the Contract Documents require or permit. Work, materials, or equipment not conforming to these requirements may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Architect, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

§ 3.5.1 The Contractor agrees to assign to the Owner at the time of final completion of the Work any and all manufacturers' warranties relating to materials and labor used in the Work and further agrees to perform the Work in such manner so as to preserve any and all such manufacturers' warranties.

§ 3.5.2 All material, equipment, or other special warranties required by the Contract Documents shall be issued in the name of the Owner, or shall be transferable to the Owner, and shall commence in accordance with Section 9.8.4.

§ 3.6 Taxes

The Contractor shall pay sales, consumer, use and similar taxes for the Work provided by the Contractor that are legally enacted when bids are received or negotiations concluded, whether or not yet effective or merely scheduled to go into effect.

§ 3.6.1 Refund Claims

The Owner may be entitled to claim refunds of sales or use tax paid on other purchases of tangible personal property or service required in connection with the Work. The Contractor and all subcontractors shall cooperate fully with Owner in pursuing any such refund claim and shall make available to Owner any applicable documents.

.1 Assignment of Refund Rights

The Contractor and its subcontractors hereby assign and transfer to the Owner all rights to sales and use tax which may be refunded as a result of a claim for refund for materials purchased in connection with this Contract and hereby appoint the Owner as their attorney-in-fact to execute and to acknowledge in their respective names and to prosecute such refund claims before administrative agencies and courts in New York having jurisdiction over such claims. The Owner alone is entitled to benefit from sales tax refunds resulting from its tax-excluded status, and the Contractor and its sub-contractors expressly assign to the Owner the sole right and authority to claim and receive refund payments. The Contractor and its sub-contractors further agree that they will not file a claim for refund for any sales or use tax which is the subject of this assignment.

§ 3.7 Permits, Fees, Notices and Compliance with Laws

§ 3.7.1 Unless otherwise provided in the Contract Documents, the Contractor shall secure and pay for the building permit as well as for other permits, fees, licenses, and inspections by government agencies necessary for proper execution and completion of the Work that are customarily secured after execution of the Contract and legally required at the time bids are received or negotiations concluded. As soon as practicable, Contractor shall furnish the Owner and Architect with copies or certificates of all permits and fees, licenses, and inspections necessary for the Work, including, without limitation, all building permits.

§ 3.7.1.1 No separate inspection performed or failed to be performed by the Owner or Architect hereunder shall be a waiver of any of the Contractor's obligations hereunder or be construed as an approval or acceptance of the Work or any part thereof.

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

§ 3.7.3 If the Contractor or any of its Subcontractors or any Sub-subcontractor performs Work knowing it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Contractor or any of its Subcontractors or any Sub-subcontractor shall assume appropriate responsibility for such Work and shall bear the costs damages, losses, expenses of every kind, including reasonable attorneys' fees, attributable to correction.

§ 3.7.4 Concealed or Unknown Conditions

If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner and the Architect before conditions are disturbed and in no event later than 14 days after first observance of the conditions. The Architect will promptly investigate such conditions and, if the Architect determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend that an equitable adjustment be made in the Contract Sum or Contract Time, or both. If the Architect determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall promptly notify the Owner and Contractor, stating the reasons. If either party disputes the Architect's determination or recommendation, that party may submit a Claim as provided in Article 15.

§ 3.7.5 If, in the course of the Work, the Contractor encounters human remains or recognizes the existence of burial markers, archaeological sites or wetlands not indicated in the Contract Documents, the Contractor shall immediately suspend any operations that would affect them and shall notify the Owner and Architect. Upon receipt of such notice, the Owner shall promptly take any action necessary to obtain governmental authorization required to resume the operations. The Contractor shall continue to suspend such operations until otherwise instructed by the Owner but shall continue with all other operations that do not affect those remains or features. Requests for adjustments in the Contract Sum and Contract Time arising from the existence of such remains or features may be made as provided in Article 15.

§ 3.8 Allowances

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

§ 3.8.2 Unless otherwise provided in the Contract Documents,

- .1 allowances shall cover the cost to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;
- .2 Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit, and other expenses contemplated for stated allowance amounts shall be included in the Contract Sum but not in the allowances; and
- .3 whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Section 3.8.2.1 and (2) changes in Contractor's costs under Section 3.8.2.2.

§ 3.8.3 Materials and equipment under an allowance shall be selected by the Owner with reasonable promptness.

§ 3.9 Superintendent

§ 3.9.1 The Contractor shall provide continuous supervision at the project site by a duly authorized and competent superintendent, who shall be acceptable to the Owner, when any Work is being performed at the Project site by any Prime Contractor or any Subcontractor. At the Owner's request, the Contractor shall assign a different superintendent to the Project. The assignment of a new superintendent shall be without cost to the Owner. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor.

§ 3.9.2 The Contractor, within seven (7) days of Notice of Award, shall notify the Owner and Architect of the name and qualifications of a proposed superintendent. Within 14 days of receipt of the information, the Architect may notify the Contractor, stating whether the Owner or the Architect (1) has reasonable objection to the proposed superintendent or (2) requires additional time for review. Failure of the Architect to provide notice within the 14-day period shall constitute notice of no reasonable objection.

§ 3.9.3 The Contractor shall not employ a proposed superintendent to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not change the superintendent without the Owner's consent, which shall not unreasonably be withheld or delayed and must submit to the Owner, in writing, justification for the change, along with the name and qualifications of the individual whom the Contractor proposes to be the new superintendent.

§ 3.10 Contractor's Construction and Submittal Schedules

§ 3.10.1 The Contractor, within seven (7) days of Notice of Award, shall submit for the Owner's and Architect's review and approval a Contractor's construction schedule for the Work. The schedule shall contain detail appropriate for the Project, including (1) the date of commencement of the Work, interim schedule milestone dates, and the date of Substantial Completion; (2) an apportionment of the Work by construction activity; and (3) the time required for completion of each portion of the Work. The schedule shall provide for the orderly progression of the Work to completion and shall not exceed time limits current under the Contract Documents. The schedule shall be revised as required herein and at appropriate intervals as required by the conditions of the Work and Project.

§ 3.10.1.1 The schedule shall indicate the proposed starting and completion dates for the various subdivisions of the Work as well as the totality of the Work. The schedule shall be updated every thirty (30) days and submitted to Architect with Contractor's Applications for Payment. Each schedule shall contain a comparison of actual progress with the estimated progress for such point in time stated in the original schedule. If any schedule submitted sets forth a date for Substantial Completion for the Work or any phase of the Work beyond the Date(s) of Substantial Completion established in the Contract (as the same may be extended as provided in the Contract Document(s), then Contractor shall submit to Architect and Owner for their review and approval a narrative description of the means and methods which Contractor intends to employ to expedite the progress of the Work to ensure timely completion of the various phases of the Work as well as the totality of the Work. To ensure such timely completion, Contractor shall take all necessary action including, without limitation, (i) working additional shifts or overtime, (ii) supplying additional manpower, equipment and facilities, and (iii) other similar measures (hereinafter referred to collectively as 'Corrective Measures'). In event that the Contractor is required to implement Corrective Measures, then Contractor shall not be entitled to an adjustment in the Contract sum, the Schedule or the Contract Time. The date of final completion shall not be changed without the written consent of the Owner.

§ 3.10.2 The Contractor, promptly after being awarded the Contract and thereafter as necessary to maintain a current submittal schedule, shall submit a submittal schedule for the Architect's approval. The Architect's approval shall not be unreasonably delayed or withheld. The submittal schedule shall (1) be coordinated with the Contractor's construction schedule, and (2) allow the Architect reasonable time to review submittals. If the Contractor fails to submit a submittal schedule, or fails to provide submittals in accordance with the approved submittal schedule, the Contractor shall not be entitled to any increase in Contract Sum or extension of Contract Time based on the time required for review of submittals.

§ 3.10.3 The Contractor shall perform the Work in general accordance with the most recent schedules submitted to the Owner and Architect.

§ 3.10.4 The construction schedule shall be in a detailed precedence-style critical path management ('CPM') or Primavera-type format satisfactory to the Owner and Architect that shall also: (i) provide a graphic representation of all activities and events that will occur during performance of the Work; (ii) identify each phase of construction and occupancy; and (iii) set forth dates that are critical in ensuring the timely and orderly completion of the Work in accordance with the requirements of the Contract Documents (hereinafter referred to as 'Milestone Dates').

§ 3.10.5 In the event the Owner determines that the performance of the Work, as of a Milestone Date, has not progressed or reached the level of completion required by the Contract Documents, the Owner shall have the right to order the Contractor to take corrective measures necessary to expedite the progress of construction, including, without limitation, implementing Corrective Measures. Such Corrective Measures shall continue until the progress of the Work complies with the stage of completion required by the Contract Documents. The Owner's right to require Corrective Measures is solely for the purpose of ensuring the Contractor's compliance with the construction schedule.

§ 3.10.5.1 The Contractor shall not be entitled to an adjustment in the Contract Sum in connection with Corrective Measures required by the Owner under or pursuant to Section 3.10.5 of the General Conditions.

§ 3.10.5.2 The Owner may exercise the rights furnished the Owner under or pursuant to this Section 3.10.5 as frequently as the Owner deems necessary to ensure that the Contractor's performance of the Work will comply with any Milestone Date or completion date(s) set forth in the Contract Documents.

§ 3.11 Documents and Samples at the Site

The Contractor shall make available, at the Project site, the Contract Documents, including Change Orders, Construction Change Directives, and other Modifications, in good order and marked currently to indicate field changes and selections made during construction, and the approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be in electronic form or paper copy, available to the Architect and Owner, and delivered to the Architect for submittal to the Owner upon completion of the Work as a record of the Work as constructed.

§ 3.12 Shop Drawings, Product Data and Samples

§ 3.12.1 Shop Drawings are drawings, diagrams, schedules, and other data specially prepared for the Work by the Contractor or a Subcontractor, Sub-subcontractor, manufacturer, supplier, or distributor to illustrate some portion of the Work.

§ 3.12.2 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams, and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.

§ 3.12.3 Samples are physical examples that illustrate materials, equipment, or workmanship, and establish standards by which the Work will be judged.

§ 3.12.4 Shop Drawings, Product Data, Samples, and similar submittals are not Contract Documents. Their purpose is to demonstrate how the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents for those portions of the Work for which the Contract Documents require submittals. Review by the Architect is subject to the limitations of Section 4.2.7. Informational submittals upon which the Architect is not expected to take responsive action may be so identified in the Contract Documents. Submittals that are not required by the Contract Documents may be returned by the Architect without action.

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

§ 3.12.6 By submitting Shop Drawings, Product Data, Samples, and similar submittals, the Contractor represents to the Owner and Architect that the Contractor has (1) reviewed and approved them, (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so, and (3) checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.

§ 3.12.7 The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples, or similar submittals, until the respective submittal has been approved by the Architect.

§ 3.12.8 The Work shall be in accordance with approved submittals except that the Contractor shall not be relieved of responsibility for deviations from the requirements of the Contract Documents by the Architect's approval of Shop Drawings, Product Data, Samples, or similar submittals, unless the Contractor has specifically notified the Architect of such deviation at the time of submittal and (1) the Architect has given written approval to the specific deviation as a minor change in the Work, or (2) a Change Order or Construction Change Directive has been issued authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples, or similar submittals, by the Architect's approval thereof.

§ 3.12.9 The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples, or similar submittals, to revisions other than those requested by the Architect on previous submittals. In the absence of such notice, the Architect's approval of a resubmission shall not apply to such revisions.

§ 3.12.10 The Contractor shall not be required to provide professional services that constitute the practice of architecture or engineering unless such services are specifically required by the Contract Documents for a portion of the Work or unless the Contractor needs to provide such services in order to carry out the Contractor's responsibilities for construction means, methods, techniques, sequences, and procedures. The Contractor shall not be required to provide professional services in violation of applicable law.

§ 3.12.10.1 If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of the Contractor by the Contract Documents, the Owner and the Architect will specify all performance and design criteria that such services must satisfy. The Contractor shall be entitled to rely upon the adequacy and accuracy of the performance and design criteria provided in the Contract Documents. The Contractor shall cause such services or certifications to be provided by an appropriately licensed design professional, and who shall comply with reasonable requirements of the Owner regarding qualifications and

insurance whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings, and other submittals prepared by such professional. Shop Drawings, and other submittals related to the Work, designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to the Architect. The Owner and the Architect shall be entitled to rely upon the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals.

§ 3.12.10.2 If the Contract Documents require the Contractor's design professional to certify that the Work has been performed in accordance with the design criteria, the Contractor shall furnish such certifications to the Architect at the time and in the form specified by the Architect.

§ 3.12.11 Substitutions

- .1 As part of the Contractor's bid, the Owner and the Architect will consider requests for the substitution of products in place of those specified only under the conditions set forth in the Project Manual.
- .2 By making requests for substitutions based on § 3.12.11.1, the Contractor;
 - .1 represents that the Contractor has personally investigated the proposed substitute product and determined that it is equivalent or superior in all respects to that specified;
 - .2 represents that the Contractor and/or Manufacturer will provide the same or better warranty for the substitution that the Contractor would for that specified;
 - .3 certifies that the cost data presented is complete and includes all related costs under this Contract except the Architect's redesign costs, and waives all claims for addition costs related to the substitution which subsequently become apparent and;
 - .4 will coordinate the installation of the accepted substitute, making such changes as may be required for the Work to be complete in all respects.
 - .5 represents that the procurement and installation of any such approved substitution will not require or result in any extension of the Contract Time.
 - .6 Architect's decision on proposed substitutions is final.

§ 3.13 Use of Site

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

§ 3.14 Cutting and Patching

§ 3.14.1 The Contractor shall be responsible for cutting, fitting, or patching required to complete the Work or to make its parts fit together properly. All areas requiring cutting, fitting, or patching shall be restored to the condition existing prior to the cutting, fitting, or patching, unless otherwise required by the Contract Documents.

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

§ 3.15 Cleaning Up

§ 3.15.1 The Contractor shall keep the premises and surrounding area free from accumulation of waste materials and rubbish caused by operations under the Contract. At completion of the Work, the Contractor shall remove waste materials, rubbish, the Contractor's tools, construction equipment, machinery, and surplus materials from and about the Project.

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

§ 3.16 Access to Work

The Contractor shall provide the Owner and Architect with access to the Work in preparation and progress wherever located.

§ 3.17 Royalties, Patents and Copyrights

The Contractor shall pay all royalties and license fees. The Contractor shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner and Architect harmless from loss on account thereof, but shall not be responsible for defense or loss when a particular design, process, or product of a particular manufacturer or manufacturers is required by the Contract Documents, or where the copyright violations are contained in Drawings, Specifications, or other documents prepared by the Owner or Architect. However, if an infringement of a copyright or patent is discovered by, or made known to, the Contractor, the Contractor shall be responsible for the loss unless the information is promptly furnished to the Architect.

§ 3.18 Indemnification

§ 3.18.1 To the fullest extent permitted by law, the Contractor and its Subcontractors shall indemnify, defend (through counsel reasonably acceptable to Owner), and hold harmless the Owner, the Architect, and the consultants, agents, officers, employees and anyone acting on behalf of the Owner or the Architect, from and against any and all claims, expenses, damages, losses, fines and expenses, including but not limited to reasonable attorneys' fees and defense costs, arising out of or resulting from performance of the Work, but only to the extent caused in whole or in part by the negligent or intentional acts or omissions of the Contractor, its Subcontractors, anyone directly or indirectly employed by the Contractor or its Subcontractors, or anyone for whose acts the Contractor or its Subcontractors may be liable. The obligation of the Contractor or its Subcontractors to defend and to indemnify the Owner or the Architect hereunder shall not be limited by the immunity or other provisions of the Worker's Compensation Act, any disability benefit act, any employee benefit act, or any such similar act or statute. In addition, the indemnity obligations under this Section shall also specifically include, without limitation, all claims, losses, fines, penalties, damages, liability, costs, and expenses, including but not limited to reasonable attorney's fees, arising out of, or in connection with any: (i) violation of or failure to comply with any law, statute, ordinance, rule, regulation, code or any requirement of any public authority that bears upon means, methods, procedures, techniques or sequences of execution or performance of the Work (including, but not limited to, the New York State Labor Law); (ii) failure to secure and pay for permits, fees, approvals, licenses and inspections as required under the Contract Documents by the Contractor, its Subcontractors, or any person or entity for whom the Contractor or its Subcontractors is responsible; or (iii) any violation of any permit or other approval of any public authority applicable to the Work by the Contractor, its Subcontractors, or any other person or entity for whom the Contractor or its Subcontractors is responsible. The obligations to defend and to indemnify herein shall not be construed to negate, abridge, or reduce any other rights or obligations of indemnity or to a defense which would otherwise exist as to the parties described in this section under the common law, statutes, written agreements or otherwise.

§ 3.18.2 In claims against any person or entity indemnified under this Section 3.18 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, the indemnification obligation under Section 3.18.1 shall not be limited by a limitation on amount or type of damages, compensation, or benefits payable by or for the Contractor or a Subcontractor under workers' compensation acts, disability benefit acts, or other employee benefit acts.

§ 3.18.3 The Contractor's indemnity obligations under this Section 3.18 shall also specifically include, without limitation, all fines, penalties, damages, liability, costs, expenses arising out of, or in connection with any (i) violation of or failure to comply with any law, statute, ordinance, rule, regulation, code or requirement of a public authority that bears upon means, methods, procedures, techniques or sequences of execution or performance of the Work by the Contractor, a subcontractor or any person or entity for whom either is responsible and (ii) failure to secure and pay for permits, fees, approvals, licenses and inspections as required under the Contract Documents, or any violation of any permit or other approval of a public authority applicable to the Work by the Contractor, a subcontractor or any other person or entity for whom either is responsible.

§ 3.19 LENDERS, TITLE INSURERS, OTHERS

§ 3.19.1 The Contractor shall provide all documents, reports and other information reasonably requested by project lender, loan guarantor or title insurer and shall cooperate with such lender, loan guarantor or title insurer to the fullest extent possible

ARTICLE 4 ARCHITECT

§ 4.1 General

§ 4.1.1 The Architect is the person or entity retained by the Owner pursuant to Section 2.3.2 and identified as such in the Agreement.

§ 4.1.2 Duties, responsibilities, and limitations of authority of the Architect as set forth in the Contract Documents shall not be restricted, modified, or extended without written consent of the Owner, Contractor, and Architect. Consent shall not be unreasonably withheld.

§ 4.2 Administration of the Contract

§ 4.2.1 The Architect will provide administration of the Contract as described in the Contract Documents and will be an Owner's representative during construction until the date the Architect issues the final Certificate for Payment. The Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents.

§ 4.2.2 The Architect will visit the site at intervals appropriate to the stage of construction, or as otherwise agreed with the Owner, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine in general if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect will not be required to make exhaustive or continuous on-site visits or observations to check the quality or quantity of the Work. The Architect will not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents.

§ 4.2.3 On the basis of the site visits, the Architect will keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work. The Architect will not be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect will not have control over or charge of, and will not be responsible for acts or omissions of, the Contractor, Subcontractors, or their agents or employees, or any other persons or entities performing portions of the Work.

§ 4.2.4 Communications

The Owner and Contractor shall include the Architect in all communications that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Contractor otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with Subcontractors and suppliers shall be through the Contractor. Communications by and with Separate Contractors shall be through the Owner. The Contract Documents may specify other communication protocols.

§ 4.2.5 Based on the Architect's evaluations of the progress and quality of the Work and Contractor's Applications for Payment, the Architect will review and certify the amounts due the Contractor and will issue Certificates for Payment in such amounts.

§ 4.2.6 The Architect has authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect will have authority to require inspection or testing of the Work in accordance with Sections 13.4.2 and 13.4.3, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 4.2.7 The Architect will review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data, and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect's action will be taken in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Architect's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Architect's review of the Contractor's submittals shall not relieve the Contractor of the obligations under Sections 3.3, 3.5, and 3.12. The Architect's review shall not constitute approval of safety precautions or of any construction means, methods, techniques, sequences, or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 4.2.8 The Architect will prepare Change Orders and Construction Change Directives, and may order minor changes in the Work as provided in Section 7.4. The Architect will investigate and make determinations and recommendations regarding concealed and unknown conditions as provided in Section 3.7.4.

§ 4.2.9 The Architect will conduct on site observation(s) to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion pursuant to Section 9.8; receive and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract and assembled by the Contractor pursuant to Section 9.10; and issue a final Certificate for Payment pursuant to Section 9.10.

§ 4.2.10 If the Owner and Architect agree, the Architect will provide one or more Project representatives to assist in carrying out the Architect's responsibilities at the site. The Owner shall notify the Contractor of any change in the duties, responsibilities and limitations of authority of the Project representatives.

§ 4.2.11 The Architect will interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

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

§ 4.2.13 The Architect's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.

§ 4.2.14 The Architect will review and respond to requests for information about the Contract Documents. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If appropriate, the Architect will prepare and issue supplemental Drawings and Specifications in response to the requests for information.

§ 4.2.15 In reviewing the quality and progress of the Work and submittals received from the Contractor, the Architect is acting solely for the convenience of the Owner in following the Work. Unless otherwise expressly agreed in writing by Owner in each instance, no action, approval, or omission to act or failure to advise the Contractor as to any matter by the Owner or Architect (except for intentional or willful behavior by the Owner or Architect) shall in any way relieve the Contractor from its responsibility for the performance of the Work in strict accordance with the Contract Documents.

ARTICLE 5 SUBCONTRACTORS

§ 5.1 Definitions

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

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

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

§ 5.2.1 Unless otherwise stated in the Contract Documents, the Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect of the persons or entities proposed for each principal portion of the Work, including those who are to furnish materials or equipment fabricated to a special design. Within 14 days of receipt of the information, the Architect may notify the Contractor whether the Owner or the Architect (1) has reasonable objection to any such proposed person or entity or (2) requires additional time for review. Failure of the Architect to provide notice within the 14-day period shall constitute notice of no reasonable objection.

§ 5.2.2 The Contractor shall not contract with a proposed person or entity to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.

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

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

§ 5.2.5 Upon written request, the Contractor shall provide to the Owner an executed copy of all subcontracts, purchase orders and other agreements relating to the Work.

§ 5.3 Subcontractual Relations

By appropriate written agreement, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work that the Contractor, by these Contract Documents, assumes toward the Owner and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies, and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Contract Documents. Subcontractors will similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

§ 5.3.2 All subcontracts shall be in writing and shall specifically provide that the Owner is an intended third-party beneficiary of such subcontract. Each subcontract shall contain a contingent assignment of the subcontract to the Owner consistent with Section 5.4.

§ 5.3.3. The Contractor shall be responsible for any and all subcontractors working under it and shall carry insurance for all subcontractors or ensure that they are carrying it themselves so as to relieve the Owner of any and all liability to be covered by insurance.

§ 5.4 Contingent Assignment of Subcontracts

§ 5.4.1 Each subcontract agreement for a portion of the Work is assigned by the Contractor to the Owner, provided that

- .1 assignment is effective only after termination of the Contract by the Owner for cause pursuant to Section 14.2 and only for those subcontract agreements that the Owner accepts by notifying the Subcontractor and Contractor; and
- .2 assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

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

§ 5.4.2 Upon such assignment, if the Work has been suspended for more than 30 days, the Subcontractor's compensation shall be equitably adjusted for increases in cost resulting from the suspension.

§ 5.4.3 Upon assignment to the Owner under this Section 5.4, the Owner may further assign the subcontract to a successor contractor or other entity. If the Owner assigns the subcontract to a successor contractor or other entity, the Owner shall nevertheless remain legally responsible for all of the successor contractor's obligations under the subcontract.

ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

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

§ 6.1.1 The term "Separate Contractor(s)" shall mean other contractors retained by the Owner under separate agreements. The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and with Separate Contractors retained under Conditions of the Contract substantially similar to those of this Contract, including those provisions of the Conditions of the Contract related to insurance and waiver of subrogation.

§ 6.1.2 When separate contracts are awarded for different portions of the Project or other construction or operations on the site, the term "Contractor" in the Contract Documents in each case shall mean the Contractor who executes each separate Owner-Contractor Agreement.

§ 6.1.3 The Owner shall provide for coordination of the activities of the Owner's own forces and of each Separate Contractor with the Work of the Contractor, who shall cooperate with them. The Contractor shall participate with any Separate Contractors and the Owner in reviewing their construction schedules. The Contractor shall make any revisions to its construction schedule deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the Contractor, Separate Contractors, and the Owner until subsequently revised.

§ 6.1.4 Unless otherwise provided in the Contract Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces or with Separate Contractors, the Owner or its Separate Contractors shall have the same obligations and rights that the Contractor has under the Conditions of the Contract, including, without excluding others, those stated in Article 3, this Article 6, and Articles 10, 11, and 12.

§ 6.2 Mutual Responsibility

§ 6.2.1 The Contractor shall afford the Owner and Separate Contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Contractor's construction and operations with theirs as required by the Contract Documents.

§ 6.2.2 If part of the Contractor's Work depends for proper execution or results upon construction or operations by the Owner or a Separate Contractor, the Contractor shall, prior to proceeding with that portion of the Work, promptly notify the Architect of apparent discrepancies or defects in the construction or operations by the Owner or Separate Contractor that would render it unsuitable for proper execution and results of the Contractor's Work. Failure of the Contractor to notify the Architect of apparent discrepancies or defects prior to proceeding with the Work shall constitute an acknowledgment that the Owner's or Separate Contractor's completed or partially completed construction is fit and proper to receive the Contractor's Work. The Contractor shall not be responsible for discrepancies or defects in the construction or operations by the Owner or Separate Contractor that are not apparent.

§ 6.2.3 The Contractor shall reimburse the Owner for costs the Owner incurs that are payable to a Separate Contractor because of the Contractor's delays, improperly timed activities or defective construction. The Owner shall be responsible to the Contractor for costs the Contractor incurs because of a Separate Contractor's delays, improperly timed activities, damage to the Work or defective construction.

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

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

§ 6.3 Owner's Right to Clean Up

If a dispute arises among the Contractor, Separate Contractors, and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish, the

Owner may clean up and the Architect will allocate the cost among those responsible. On behalf of the Owner, the Architect will issue deduct change order(s) to the responsible contractor(s).

ARTICLE 7 CHANGES IN THE WORK

§ 7.1 General

§ 7.1.1 Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, only by Change Order, Construction Change Directive or order for a minor change in the Work, subject to the limitations stated in this Article 7 and elsewhere in the Contract Documents.

§ 7.1.1.1 A field directive or field order shall not be recognized as having any impact upon the Contract Sum or the Contract Time and the Contractor shall have no claim therefor unless it shall, prior to complying with same and in no event later than ten (10) working days from the date such direction or order was given, submit to the Owner and Architect for the Architect's evaluation and Owner's approval its change proposal.

§ 7.1.1.2 When submitting its change proposal, the Contractor shall include and set forth in clear and precise detail breakdowns of labor and materials for all trades involved for the estimated impact on the construction schedule. The Contractor shall furnish spread sheets, if requested by Architect or Owner, of any Subcontractors.

§ 7.1.2 A Change Order shall be based upon agreement among the Owner, Contractor, and Architect. A Construction Change Directive requires agreement by the Owner and Architect and may or may not be agreed to by the Contractor. An order for a minor change in the Work may be issued by the Architect alone.

§ 7.1.3 Changes in the Work shall be performed under applicable provisions of the Contract Documents. The Contractor shall proceed promptly with changes in the Work, unless otherwise provided in the Change Order, Construction Change Directive, or order for a minor change in the Work. Except as permitted in Section 7.2, a change in the Contract Sum or the Contract Time shall be accomplished only by Change Order.

§ 7.2 Change Orders

§ 7.2.1 A Change Order is a written instrument prepared by the Architect and signed by the Owner, Contractor, and Architect stating their agreement upon all of the following:

- .1 The change in the Work;
- .2 The amount of the adjustment, if any, in the Contract Sum; and
- .3 The extent of the adjustment, if any, in the Contract Time.

§ 7.2.2 Agreement on any Change Order shall constitute a final settlement of all matters relating to the change in the Work that is the subject of the Change Order, including, but not limited to: 1) all direct and indirect costs associated with such change (including all costs of associated delay, interference, acceleration, inefficiency and overhead, as well as costs of material, labor and supervision unless a reservation of such additional costs is expressly reflected on the Change Order form itself at the time the Change Order is signed by the parties); and 2) any and all adjustments to the Contract Sum, the Contract time and the construction schedule. To the extent that any request for Change Order or correspondence prior to the signed Change Order is contrary to this Section, such requests or correspondence shall have no effect. Payment of a Change Order shall constitute accord and satisfaction of all claims in connection with the change or changes to the Contract addressed by the Change Order and it is understood and agreed that a signed Change Order form shall be the complete and fully integrated agreement for all related costs and that there are no oral or written understandings, representations or agreements, directly or indirectly, connected with the Change Order that are not affirmatively stated on the signed Change Order form.

§ 7.3 Construction Change Directives

§ 7.3.1 A Construction Change Directive is a written order prepared by the Architect and signed by the Owner and Architect, directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum or Contract Time, or both. The Owner may by Construction Change Directive, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions, or other revisions, the Contract Sum and Contract Time being adjusted accordingly.

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

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

- .1 Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
- .2 Unit prices stated in the Contract Documents or subsequently agreed upon;
- .3 Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
- .4 As provided in Section 7.3.4.

§ 7.3.4 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, Contract Schedule or Contract Time, the Architect shall determine the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount. In such case, and also under Section 7.3.3.3, the Contractor shall keep and present, in such form as the Architect may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Section 7.3.4 shall be limited to the following:

- .1 Costs of labor, including applicable payroll taxes, fringe benefits required by agreement or custom, workers' compensation insurance, and other employee costs approved by the Architect;
- .2 Costs of materials, supplies, and equipment, including cost of transportation, whether incorporated or consumed;
- .3 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others;
- .4 Costs of premiums for all bonds and insurance, permit fees, and sales, use, or similar taxes, directly related to the change; and
- .5 Actual amount of supervision and field office personnel directly attributable to the change.

§ 7.3.4.1 The Unit prices submitted by a Contractor on the Bid Form for this Project are subject to approval and acceptance by the Owner. The Owner reserves the right to reject any Unit Price which is unreasonable or unbalanced, as compared with prevailing costs, or as compared with the Unit Prices submitted by other Bidders for this project. The Owner reserves the right to ask for a revised Unit Price before or after the Contracts are signed.

§ 7.3.4.2 Approved Unit Prices, when accepted by the Owner, shall be used where they apply to determine an equitable adjustment of the Contract Sum in connection with extra work or changes ordered under the Contract. Approved Unit Prices shall apply to both additions to and deductions from the Contract Sum.

§ 7.3.4.3 Unit Prices submitted by a Contractor on the Bid Form for this Project shall include all profit, overhead, bonds, insurance, taxes, labor, materials, plant equipment and tools necessary and required to fully complete the work item, as specified in detail for the work item in the Contract Documents.

§ 7.3.5 If the Contractor disagrees with the adjustment in the Contract Time, the Contractor may make a Claim in accordance with applicable provisions of Article 15.

§ 7.3.6 Upon receipt of a Construction Change Directive, the Contractor shall promptly proceed with the change in the Work involved and advise the Architect of the Contractor's agreement or disagreement with the method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the Contract Sum or Contract Time.

§ 7.3.7 A Construction Change Directive signed by the Contractor indicates the Contractor's agreement therewith, including adjustment in Contract Sum and Contract Time or the method for determining them. Such agreement shall be effective immediately and shall be recorded as a Change Order.

§ 7.3.8 The amount of credit to be allowed by the Contractor to the Owner for a deletion or change that results in a net decrease in the Contract Sum shall be actual net cost as confirmed by the Architect. When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change.

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

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

§ 7.4 Minor Changes in the Work

The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. The Architect's order for minor changes shall be in writing. If the Contractor believes that the proposed minor change in the Work will affect the Contract Sum or Contract Time, the Contractor shall notify the Architect and shall not proceed to implement the change in the Work. If the Contractor performs the Work set forth in the Architect's order for a minor change without prior notice to the Architect that such change will affect the Contract Sum or Contract Time, the Contractor waives any adjustment to the Contract Sum or extension of the Contract Time.

§ 7.5 Overhead and Profit Rates

§ 7.5.1 For any adjustments to the Contract Sum based on other than the unit price method, overhead and profit combined shall be calculated at the following percentages of the cost attributable to the change in the Work:

- .1 For work performed by the Contractor with its own forces, 10 percent of the cost.
- .2 For work performed by the Contractor's Subcontractor, 5 percent of the amount due the Subcontractor.

ARTICLE 8 TIME

§ 8.1 Definitions

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

§ 8.1.2 The date of commencement of the Work is the date established in the Agreement.

§ 8.1.3 The date of Substantial Completion is the date certified by the Architect in accordance with Section 9.8.

§ 8.1.4 The term "day" as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.

§ 8.2 Progress and Completion

§ 8.2.1 Time limits stated in the Contract Documents are of the essence of the Contract. By executing the Agreement, the Contractor confirms that the Contract Time is a reasonable period for performing the Work.

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

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

§ 8.3 Delays and Extensions of Time

§ 8.3.1 If the Contractor is delayed at any time in the commencement or progress of the Work by (1) an act or omission of any affirmative obligation or duty arising under the Contract Documents of the Owner or Architect, of an employee of either, or of a Separate Contractor; (2) by changes ordered in the Work; (3) or by Change Orders approved by the Owner that provide for the Contract Time to be extended, or by economic industry-wide strikes, fire, unusual delay in deliveries, unavoidable casualties, adverse weather conditions documented in accordance with Section 15.1.6.2, or other causes beyond the Contractor's control; (4) by delay authorized by the Owner pending mediation and binding dispute resolution; or (5) by other causes that the Contractor asserts, and the Architect determines, justify delay, then the Contract Time shall be extended for such reasonable time as the Architect may

determine. Temporary delays of the Work due to seasonal inclement weather shall not be considered as sufficient cause for extension of time. No such Change Order extending the Contract time shall result in any increased payments to the Contractor for extended overhead or for any other amounts of any nature.

§ 8.3.2 Claims relating to additional time shall be made in accordance with applicable provisions of Article 15. Requests for extension of Contract Completion Date shall be submitted in writing to the Architect not more than seven (7) days after the commencement of the delay; otherwise, it shall be waived and deemed duly denied. This request shall contain at a minimum the following information: (1) date of start of delay; (2) specific cause of delay; (3) effect of delay on construction progress; (4) date of termination of delay; (5) statement of bonded surety concurring in request for extension of Contract Completion Date and the Agreement to extend coverages for the requested extension; (6) evidence of notification of this request having been given to the Owner and Architect; (7) evidence of notification of this request having been given to all Contractors engaged on the project and their concurrence to such extension of time.

§ 8.3.3 The Architect and Owner will not be liable to any Contractor or any Subcontractors engaged on the Project in any manner for any expenses, damages, loss of bonding capacity, loss of profits, anticipated or otherwise, or any other charges whatsoever arising out of an extension in the Completion Date for the Work of either the Contractor or of any Subcontractor engaged on this Project, or arising out of any hindrance or delay from any cause whatsoever in the progress of the Work, whether such hindrance or delay be avoidable or unavoidable.

§ 8.3.4 Notwithstanding anything to the contrary in the Contract Documents, a time extension, to the extent permitted, shall be the sole remedy of the Contractor for any (1) delay in the commencement, prosecution or completion of the work, (2) hindrance, impact or obstruction in the performance of the Work, (3) loss of productivity, or (4) other similar claims whether or not such delays are foreseeable. The Contractor expressly agrees not to make, and hereby waives, any claim for damages on account of any delay, obstruction, impact or hindrance for any cause whatsoever, including, without limitation, consequential damages, lost opportunity costs, actual or alleged loss of efficiency, home office overhead, extended overhead, loss of bonding capacity, impact damages or other similar remuneration. The Contractor further agrees that it shall insert similar language in any subcontract for the Project. The Owner's exercise of any of its rights under the Contract Documents (including, without limitation, ordering changes in the Work, or directing suspension, rescheduling, or correction of the Work), regardless of the extent of frequency of the Owner's exercise of such rights or remedies, shall not be construed as active interference, hindrance, or obstruction with the Contractor's performance of the Work.

ARTICLE 9 PAYMENTS AND COMPLETION

§ 9.1 Contract Sum

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

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

§ 9.2 Schedule of Values

Where the Contract is based on a stipulated sum or Guaranteed Maximum Price, the Contractor shall submit a schedule of values to the Architect within ten (10) days of Notice to Proceed, allocating the entire Contract Sum to the various portions of the Work. The schedule of values shall be prepared in the form of AIA Document G703 – Continuation Sheet, and supported by the data to substantiate its accuracy, required by the Architect. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment. Any changes to the schedule of values shall be submitted to the Architect and supported by such data to substantiate its accuracy as the Architect may require, and unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's subsequent Applications for Payment.

§ 9.3 Applications for Payment

§ 9.3.1 At least ten days before the date established for each progress payment, the Contractor shall submit to the Architect an itemized Application for Payment prepared in accordance with the schedule of values, if required under Section 9.2, for completed portions of the Work. The application shall be notarized, if required, and supported by all data substantiating the Contractor's right to payment that the Owner or Architect require, such as copies of

requisitions, and releases and waivers of liens from Subcontractors and suppliers, and shall reflect retainage if provided for in the Contract Documents.

§ 9.3.1.1 As provided in Section 7.3.9, such applications may include requests for payment on account of changes in the Work that have been properly authorized by Construction Change Directives, or by interim determinations of the Architect, but not yet included in Change Orders.

§ 9.3.1.2 Applications for Payment shall not include requests for payment for portions of the Work for which the Contractor does not intend to pay a Subcontractor or supplier, unless such Work has been performed by others whom the Contractor intends to pay.

§ 9.3.2 Unless otherwise provided in the Contract Documents, payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed upon in writing. Payment for materials and equipment stored on or off the site shall be conditioned upon compliance by the Contractor with procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest, and shall include the costs of applicable insurance, storage, and transportation to the site, for such materials and equipment stored off the site.

§ 9.3.3 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information, and belief, be free and clear of liens, claims, security interests, or encumbrances, in favor of the Contractor, Subcontractors, suppliers, or other persons or entities that provided labor, materials, and equipment relating to the Work.

§ 9.4 Certificates for Payment

§ 9.4.1 The Architect will, within fourteen (14) days after receipt of the Contractor's Application for Payment, either (1) issue to the Owner a Certificate for Payment in the full amount of the Application for Payment, with a copy to the Contractor; or (2) issue to the Owner a Certificate for Payment for such amount as the Architect determines is properly due, and notify the Contractor and Owner of the Architect's reasons for withholding certification in part as provided in Section 9.5.1; or (3) withhold certification of the entire Application for Payment, and notify the Contractor and Owner of the Architect's reason for withholding certification in whole as provided in Section 9.5.1.

§ 9.4.2 The issuance of a Certificate for Payment will constitute a representation by the Architect to the Owner, based on the Architect's evaluation of the Work and the data in the Application for Payment, that, to the best of the Architect's knowledge, information, and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and observations, to correction of minor deviations from the Contract Documents prior to completion, and to specific qualifications expressed by the Architect. However, the issuance of a Certificate for Payment will not be a representation that the Architect has (1) made exhaustive or continuous on-site observations to check the quality or quantity of the Work; (2) reviewed construction means, methods, techniques, sequences, or procedures; (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment; or (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 9.5 Decisions to Withhold Certification

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

such extent as may be necessary in the Architect's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from acts and omissions described in Section 3.3.2, because of

- .1 defective Work not remedied;
- .2 third party claims filed or reasonable evidence indicating probable filing of such claims, unless security acceptable to the Owner is provided by the Contractor;
- .3 failure of the Contractor to make payments properly to Subcontractors or suppliers for labor, materials or equipment;
- .4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
- .5 damage to the Owner or a Separate Contractor;
- .6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
- .7 repeated failure to carry out the Work in accordance with the Contract Documents;
- .8 reasonable evidence that the work has not progressed as indicated on the Application for Payment, and/or;
- .9 repeated breach of a provision of the Contract Documents.

§ 9.5.2 When either party disputes the Architect's decision regarding a Certificate for Payment under Section 9.5.1, in whole or in part, that party may submit a Claim in accordance with Article 15.

§ 9.5.3 When the reasons for withholding certification are removed, certification will be made for amounts previously withheld.

§ 9.5.4 If the Architect withholds certification for payment under Section 9.5.1.3, the Owner may, at its sole option, issue joint checks to the Contractor and to any Subcontractor or supplier to whom the Contractor failed to make payment for Work properly performed or material or equipment suitably delivered. If the Owner makes payments by joint check, the Owner shall notify the Architect and the Contractor shall reflect such payment on its next Application for Payment.

§ 9.5.5 If the Contractor disputes any determination by the Owner or the Architect made in accordance with the foregoing with regard to any Certificate of Payment, the Contractor nevertheless expeditiously shall continue to prosecute the Work.

§ 9.6 Progress Payments

§ 9.6.1 After the Architect has issued a Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the Contract Documents, and shall so notify the Architect.

- .1 Such payment by the Owner shall not constitute approval or acceptance of any items or cost in the Application for Payment. No partial payment made hereunder shall be or be construed to be final acceptance or approval of that portion of the Work to which such partial payment relates or relieves the Contractor of any of its obligations hereunder with respect thereto.

§ 9.6.2 The Contractor shall pay each Subcontractor, no later than seven days after receipt of payment from the Owner, the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner.

§ 9.6.2.1 Notwithstanding anything in Section 9.6.2 to the contrary, in the event the Owner has reasonable cause to believe a Subcontractor is not being paid by the Contractor, the Owner may elect to make any payment requested by the Contractor on behalf of a Subcontractor of any tier jointly payable to the Contractor and such Subcontractor, provided that in the event the Contractor disputes the sum due to the Subcontractor, Owner shall only pay the sum not disputed by the Contractor, provided that the Contractor provides satisfactory assurance such as a bond to Owner with respect to payment of the disputed sum. The Contractor and such Subcontractor shall be responsible for the allocation and disbursement of funds included as part of any such joint payment. In no event shall any joint payment be construed to create any (i) contract between the Owner and a Subcontractor of any tier; (ii) obligations from the Owner to such Subcontractor, or (iii) rights in such Subcontractor against the Owner.

§ 9.6.3 The Architect will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Contractor and action taken thereon by the Architect and Owner on account of portions of the Work done by such Subcontractor.

§ 9.6.4 The Owner has the right to request written evidence from the Contractor that the Contractor has properly paid Subcontractors and suppliers amounts paid by the Owner to the Contractor for subcontracted Work. If the Contractor fails to furnish such evidence within seven days, the Owner shall have the right to contact Subcontractors and suppliers to ascertain whether they have been properly paid. Neither the Owner nor Architect shall have an obligation to pay, or to see to the payment of money to, a Subcontractor or supplier, except as may otherwise be required by law.

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

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

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

§ 9.6.8 Provided the Owner has fulfilled its payment obligations under the Contract Documents, the Contractor shall defend and indemnify the Owner from all loss, liability, damage or expense, including reasonable attorney's fees and litigation expenses, arising out of any lien claim or other claim for payment by any Subcontractor or supplier of any tier. Upon receipt of notice of a lien claim or other claim for payment, the Owner shall notify the Contractor. If approved by the applicable court, when required, the Contractor may substitute a surety bond for the property against which the lien or other claim for payment has been asserted.

§ 9.7 Failure of Payment

If the Architect does not issue a Certificate for Payment, through no fault of the Contractor, within fourteen (14) days after receipt of the Contractor's Application for a progress Payment, or if the Owner does not pay the Contractor within seven days after the date established in the Contract Documents, the amount certified by the Architect for a progress payment, or as awarded by binding dispute resolution, then the Contractor may, upon seven additional days' notice to the Owner and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided for in the Contract Documents. Notwithstanding the foregoing sentence, the Contractor shall not stop the Work during the pendency of a bona fide dispute between the Owner and the Contractor, provided any sums in dispute claimed by the Contractor either are placed in escrow or are withheld by Owner's lender and it agrees to pay said disputed sum in accordance with the resolution of the dispute.

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

§ 9.8 Substantial Completion

§ 9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use.

§ 9.8.2 When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall prepare and submit to the Architect a comprehensive list of items to be completed or corrected prior to final payment. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.

§ 9.8.3 Upon receipt of the Contractor's list, the Architect will make a site visit to determine whether the Work or designated portion thereof is substantially complete. If the Architect's observation discloses any item, whether or not included on the Contractor's list, which is not sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work or designated portion thereof for its intended use, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Architect. In such case, the Contractor shall then submit a request for another site visit and observation by the Architect to determine Substantial Completion. Any additional visit(s) and observation(s) by the Architect due to the Contractor's incomplete work or required correction(s) shall be back-charged to the Contractor via Change Order to the Owner and subsequent deduct Change Order to the Contractor for the full amount. The Architect shall be due additional time and materials at its rates for additional services at the time the services are rendered.

§ 9.8.4 When the Work or designated portion thereof is substantially complete, the Architect will prepare a Certificate of Substantial Completion that shall establish the date of Substantial Completion; establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance; and fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 9.8.5 The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in the Certificate. Upon such acceptance, and consent of surety if any, the Owner shall make payment of retainage applying to the Work or designated portion thereof. Such payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Contract Documents.

§ 9.9 Partial Occupancy or Use

§ 9.9.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Contractor, provided such occupancy or use is consented to by the insurer and authorized by public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When the Contractor considers a portion substantially complete, the Contractor shall prepare and submit a list to the Architect as provided under Section 9.8.2. Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Contractor or, if no agreement is reached, by decision of the Architect.

§ 9.9.2 Immediately prior to such partial occupancy or use, the Owner, Contractor, and Architect shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

§ 9.9.3 Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents.

§ 9.10 Final Completion and Final Payment

§ 9.10.1 Upon receipt of the Contractor's notice that the Work is ready for final observation and acceptance and upon receipt of a final Application for Payment, the Architect will promptly make such site visit. When the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Architect will promptly issue a final Certificate for Payment stating that to the best of the Architect's knowledge, information and belief, and on the basis of the Architect's on-site visits and observations, the Work has been completed in accordance with the Contract Documents and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Architect's final Certificate for Payment will constitute a further

representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

.1 Following Substantial Completion, in the event Contractor or its subcontractor fails to complete the list of items of the Work instructed by the Architect to be corrected or completed within thirty days after date of receipt of Certificate of Substantial Completion, Owner may (1) exercise any available remedies to correct or complete deficient work, including but not limited to, the retention of a third party to correct or complete such work at the cost of the Contractor; and (2) retain and deduct from any payments or retention otherwise due to the Contractor any fees and expenses for services required to be provided by the Architect more than thirty days after the Date of Substantial Completion.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect, (3) a written statement that the Contractor knows of no reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment, (5) documentation of any special warranties, such as manufacturers' warranties or specific Subcontractor warranties, and (6) if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts and releases and waivers of liens, claims, security interests, or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien, claim, security interest, or encumbrance. If a lien, claim, security interest, or encumbrance remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging the lien, claim, security interest, or encumbrance, including all costs and reasonable attorneys' fees.

§ 9.10.3 If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Contractor or by issuance of Change Orders affecting final completion, and the Architect so confirms, the Owner shall, upon application by the Contractor and certification by the Architect, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed, corrected, and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of the surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Architect prior to certification of such payment. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of Claims.

§ 9.10.4 The making of final payment shall constitute a waiver of Claims by the Owner except those arising from

- .1 liens, Claims, security interests, or encumbrances arising out of the Contract and unsettled;
- .2 failure of the Work to comply with the requirements of the Contract Documents;
- .3 terms of special warranties required by the Contract Documents; or
- .4 faulty or defective work appearing after Substantial Completion.

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

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

§ 10.1 Safety Precautions and Programs

The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract.

§ 10.2 Safety of Persons and Property

§ 10.2.1 The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury, or loss to

- .1 employees on the Work, the Owner's and Architect's representatives and other persons who may be affected thereby;
- .2 the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody, or control of the Contractor, a Subcontractor, or a Sub-subcontractor; and

- 3 other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures, and utilities not designated for removal, relocation, or replacement in the course of construction.

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

§ 10.2.3 The Contractor shall implement, erect, and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards; promulgating safety regulations; and notifying the owners and users of adjacent sites and utilities of the safeguards.

§ 10.2.4 When use or storage of explosives or other hazardous materials or equipment, or unusual methods are necessary for execution of the Work, the Contractor shall exercise utmost care and carry on such activities under supervision of properly qualified personnel.

§ 10.2.5 The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Sections 10.2.1.2 and 10.2.1.3 caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Sections 10.2.1.2 and 10.2.1.3. The Contractor may make a Claim for the cost to remedy the damage or loss to the extent such damage or loss is attributable to acts or omissions of the Owner or Architect or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Section 3.18.

§ 10.2.6 The Contractor shall designate a responsible member of the Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the Owner and Architect.

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

§ 10.2.8 Injury or Damage to Person or Property

If either party suffers injury or damage to person or property because of an act or omission of the other party, or of others for whose acts such party is legally responsible, notice of the injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding 21 days after discovery. The notice shall provide sufficient detail to enable the other party to investigate the matter.

§ 10.3 Hazardous Materials and Substances

§ 10.3.1 The Contractor is responsible for compliance with any requirements included in the Contract Documents regarding hazardous materials or substances. If the Contractor encounters a hazardous material or substance not addressed in the Contract Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and notify the Owner and Architect of the condition.

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

written agreement of the Owner and Contractor. By Change Order, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable additional costs of shutdown, delay, and start-up.

§ 10.3.3 To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area if in fact the material or substance presents the risk of bodily injury or death as described in Section 10.3.1 and has not been rendered harmless, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), except to the extent that such damage, loss, or expense is due to the fault or negligence of the party seeking indemnity.

§ 10.3.4 The Owner shall not be responsible under this Section 10.3 for hazardous materials or substances the Contractor brings to the site unless such materials or substances are required by the Contract Documents. The Owner shall be responsible for hazardous materials or substances required by the Contract Documents, except to the extent of the Contractor's fault or negligence in the use and handling of such materials or substances.

§ 10.3.5 The Contractor shall reimburse the Owner for the cost and expense the Owner incurs (1) for remediation of hazardous materials or substances the Contractor brings to the site and negligently handles, or (2) where the Contractor fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence.

§ 10.3.6 If, without negligence on the part of the Contractor, the Contractor is held liable by a government agency for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Contract Documents, the Owner shall reimburse the Contractor for all cost and expense thereby incurred.

§ 10.4 Emergencies

In an emergency affecting safety of persons or property, the Contractor shall act, at the Contractor's discretion, to prevent threatened damage, injury, or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Article 15 and Article 7.

ARTICLE 11 INSURANCE AND BONDS

§ 11.1 Contractor's Insurance and Bonds

§ 11.1.1 The Contractor shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Contractor shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Owner, Architect, and Architect's consultants shall be named as additional insureds under the Contractor's commercial general liability policy or as otherwise described in the Contract Documents. The types and minimum amounts of coverage of insurance to be provided and maintained by the Contractor shall be set forth in Attachment 'C' to the AIA A101.

§ 11.1.2 The Contractor shall provide surety bonds of the types, for such penal sums, and subject to such terms and conditions as required by the Contract Documents. The Contractor shall purchase and maintain the required bonds from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located. Refer to Article 11.4.

§ 11.1.3 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished.

§ 11.1.4 Notice of Cancellation or Expiration of Contractor's Required Insurance. Within three (3) business days of the date the Contractor becomes aware of an impending or actual cancellation or expiration of any insurance required by the Contract Documents, the Contractor shall provide notice to the Owner of such impending or actual cancellation or expiration. Upon receipt of notice from the Contractor, the Owner shall, unless the lapse in coverage arises from an act or omission of the Owner, have the right to stop the Work until the lapse in coverage has been cured by the

procurement of replacement coverage by the Contractor. The furnishing of notice by the Contractor shall not relieve the Contractor of any contractual obligation to provide any required coverage.

§ 11.1.5 If the Contractor fails to purchase or maintain the liability insurance specified in the Contract Documents, the Owner may (but shall not be obligated to) purchase such insurance on the Contractor's behalf and shall be entitled to be repaid for any premiums paid therefor by Contractor in the manner set forth in Section 2.5 and/or as provided in Section 9.7.2, at Owner's election.

§ 11.2 Owner's Insurance

§ 11.2.1 The Owner shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Owner shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located.

§ 11.2.2 Failure to Purchase Required Property Insurance. If the Owner fails to purchase and maintain the required property insurance, with all of the coverages and in the amounts described in the Agreement or elsewhere in the Contract Documents, the Owner shall inform the Contractor in writing prior to commencement of the Work. Upon receipt of notice from the Owner, the Contractor may delay commencement of the Work and may obtain insurance that will protect the interests of the Contractor, Subcontractors, and Sub-Subcontractors in the Work. When the failure to provide coverage has been cured or resolved, the Contract Sum and Contract Time shall be equitably adjusted. In the event the Owner fails to procure coverage, the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent the loss to the Owner would have been covered by the insurance to have been procured by the Owner. The cost of the insurance shall be charged to the Owner by a Change Order. If the Owner does not provide written notice, and the Contractor is damaged by the failure or neglect of the Owner to purchase or maintain the required insurance, the Owner shall reimburse the Contractor for all reasonable costs and damages attributable thereto.

§ 11.2.3 Notice of Cancellation or Expiration of Owner's Required Property Insurance. Within three (3) business days of the date the Owner becomes aware of an impending or actual cancellation or expiration of any property insurance required by the Contract Documents, the Owner shall provide notice to the Contractor of such impending or actual cancellation or expiration. Unless the lapse in coverage arises from an act or omission of the Contractor: (1) the Contractor, upon receipt of notice from the Owner, shall have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by either the Owner or the Contractor; (2) the Contract Time and Contract Sum shall be equitably adjusted; and (3) the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent any loss to the Owner would have been covered by the insurance had it not expired or been cancelled. If the Contractor purchases replacement coverage, the cost of the insurance shall be charged to the Owner by an appropriate Change Order. The furnishing of notice by the Owner shall not relieve the Owner of any contractual obligation to provide required insurance.

§ 11.3 Waivers of Subrogation

§ 11.3.1 The Owner and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents, and employees, each of the other; (2) the Architect and Architect's consultants; and (3) Separate Contractors, if any, and any of their subcontractors, sub-subcontractors, agents, and employees, for damages caused by fire, or other causes of loss, to the extent those losses are covered by property insurance required by the Agreement or other property insurance applicable to the Project, except such rights as they have to proceeds of such insurance. The Owner or Contractor, as appropriate, shall require similar written waivers in favor of the individuals and entities identified above from the Architect, Architect's consultants, Separate Contractors, subcontractors, and sub-subcontractors. The policies of insurance purchased and maintained by each person or entity agreeing to waive claims pursuant to this section 11.3.1 shall not prohibit this waiver of subrogation. This waiver of subrogation shall be effective as to a person or entity (1) even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, (2) even though that person or entity did not pay the insurance premium directly or indirectly, or (3) whether or not the person or entity had an insurable interest in the damaged property, but only to the extent of actual recovery of insurance proceeds under or pursuant to property insurance applicable to the Work

§ 11.3.2 If during the Project construction period the Owner insures properties, real or personal or both, at or adjacent to the site by property insurance under policies separate from those insuring the Project, or if after final payment property insurance is to be provided on the completed Project through a policy or policies other than those insuring

the Project during the construction period, to the extent permissible by such policies, the Owner waives all rights in accordance with the terms of Section 11.3.1 for damages caused by fire or other causes of loss covered by this separate property insurance.

§ 11.4 Loss of Use, Business Interruption, and Delay in Completion Insurance

The Owner, at the Owner's option, may purchase and maintain insurance that will protect the Owner against loss of use of the Owner's property, or the inability to conduct normal operations, due to fire or other causes of loss. The Owner waives all rights of action against the Contractor and Architect for loss of use of the Owner's property, due to fire or other hazards however caused.

§11.5 Adjustment and Settlement of Insured Loss

§ 11.5.1 A loss insured under the property insurance required by the Agreement shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause and of Section 11.5.2. The Owner shall pay the Architect and Contractor their just shares of insurance proceeds received by the Owner, and by appropriate agreements the Architect and Contractor shall make payments to their consultants and Subcontractors in similar manner.

§ 11.5.2 Prior to settlement of an insured loss, the Owner shall notify the Contractor of the terms of the proposed settlement as well as the proposed allocation of the insurance proceeds. The Contractor shall have 14 days from receipt of notice to object to the proposed settlement or allocation of the proceeds. If the Contractor does not object, the Owner shall settle the loss and the Contractor shall be bound by the settlement and allocation. Upon receipt, the Owner shall deposit the insurance proceeds in a separate account and make the appropriate distributions. Thereafter, if no other agreement is made or the Owner does not terminate the Contract for convenience, the Owner and Contractor shall execute a Change Order for reconstruction of the damaged or destroyed Work in the amount allocated for that purpose. If the Contractor timely objects to either the terms of the proposed settlement or the allocation of the proceeds, the Owner may proceed to settle the insured loss, and any dispute between the Owner and Contractor arising out of the settlement or allocation of the proceeds shall be resolved pursuant to Article 15. Pending resolution of any dispute, the Owner may issue a Construction Change Directive for the reconstruction of the damaged or destroyed Work.

§ 11.4 Performance Bond and Payment Bond

§ 11.4.1 Contractor shall furnish bonds covering faithful performance of the Contract and payment of obligations arising thereunder as stipulated in bidding requirements or specifically required in the Contract Documents on the date of Notice to Proceed. Contractor to furnish bonds, the Contractor shall furnish a Performance Bond and Labor and Material Payment bond meeting all statutory requirements of the State where the Work is located, in form and substance satisfactory to the Owner and, without limitation, complying with the following specific requirements:

§ 11.4.1.1 Except as otherwise required by statute, the form and substance of such bonds shall be satisfactory to the Owner in the Owner's reasonable judgment.

§ 11.4.1.2 Bonds shall be executed by a responsible surety licensed in the State where the Work is located, with a Best's rating of no less than A/XII, and shall remain in effect for a period not less than one (1) year following the date of Substantial Completion or the time required to resolve any items of incomplete Work and the payment of any disputed amounts, whichever time period is longer.

§ 11.4.1.3 The Performance bond and the Labor and Material Payment Bond shall each be in an amount equal to the Contract Sum and all subsequent increases.

§ 11.4.1.4 The Contractor shall require the attorney in fact who executes the required bonds on behalf of the surety to affix thereto a certified and current copy of his power of attorney indicating the monetary limit of such power.

§ 11.4.1.5 Every Bond under this Section 11.4.1 must display the Surety's Bond Number. A rider including the following provisions shall be attached to each Bond:

- (i) The Surety hereby agrees that it consents to and waives notice of any addition, alteration, omission, change or other modification of the Contract Documents, or a forbearance on the part of either the Owner or the Contractor to the other, shall not release the Surety of its obligations hereunder, and notice to the Surety of such matters is hereby waived.

The Surety agrees that it is obligated under the bonds to any successor, grantee, or assignee of the Owner.

§ 11.4.2 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished.

§ 11.4.3 If any Surety hereunder makes any assignment for the benefit of creditors, or commits any act of bankruptcy, or is declared bankrupt, or files a voluntary petition in bankruptcy, or in the reasonable opinion of the Owner is insolvent, the Contractor shall immediately furnish and maintain another Surety in accordance with the provisions of this Section 11.4, and all other Contract Documents satisfactory to the Owner.

ARTICLE 12 UNCOVERING AND CORRECTION OF WORK

§ 12.1 Uncovering of Work

§ 12.1.1 If a portion of the Work is covered contrary to the Architect's request or to requirements specifically expressed in the Contract Documents, it must, if requested in writing by the Architect, be uncovered for the Architect's examination and be replaced at the Contractor's expense without change in the Contract Time.

§ 12.1.2 If a portion of the Work has been covered that the Architect has not specifically requested to examine prior to its being covered, the Architect may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, the Contractor shall be entitled to an equitable adjustment to the Contract Sum and Contract Time as may be appropriate. If such Work is not in accordance with the Contract Documents, the costs of uncovering the Work, and the cost of correction, shall be at the Contractor's expense.

§ 12.2 Correction of Work

§ 12.2.1 Before Substantial Completion

The Contractor shall promptly correct Work rejected by the Architect or failing to conform to the requirements of the Contract Documents, discovered before Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Architect's services and expenses made necessary thereby, shall be at the Contractor's expense. If prior to the date of Substantial Completion, the Contractor, a subcontractor or anyone for whom either is responsible uses or damages any portion of the Work, including, without limitation, mechanical, electrical, plumbing and other building systems, machinery, equipment or other mechanical device or Owner's equipment the Contractor shall cause such item to be restored to 'like new' condition at no expense to the Owner.

§ 12.2.2 After Substantial Completion

§ 12.2.2.1 In addition to the Contractor's obligations under Section 3.5, if, within one year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.9.1, or by terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of notice from the Owner to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner or Architect, the Owner may correct it in accordance with Section 2.5.

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

§ 12.2.2.3 The one-year period for correction of Work shall not be extended by corrective Work performed by the Contractor pursuant to this Section 12.2.

§ 12.2.3 The Contractor shall remove from the site portions of the Work that are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner.

§ 12.2.4 The Contractor shall bear the cost of correcting destroyed or damaged construction of the Owner or Separate Contractors, whether completed or partially completed, caused by the Contractor's correction or removal of Work that is not in accordance with the requirements of the Contract Documents.

§ 12.2.5 Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

§ 12.3 Acceptance of Nonconforming Work

If the Owner prefers to accept Work that is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made. The Owner, with the advice of the Architect, shall determine the adjustment in the Contract Sum. The Contractor shall bear all direct, indirect, and consequential costs attributable to the evaluation of and decision to accept such Work. Such costs for the Architect (at their current rates in effect at the time of acceptance of non-conforming work) and any other cost to the Owner will be charged to the Contractor through Change Order Procedures.

ARTICLE 13 MISCELLANEOUS PROVISIONS

§ 13.1 Governing Law

The Contract shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 15.4.

§ 13.2 Successors and Assigns

§ 13.2.1 The Owner and Contractor respectively bind themselves, their partners, successors, assigns, and legal representatives to covenants, agreements, and obligations contained in the Contract Documents. Except as provided in Section 13.2.2, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

§ 13.2.2 The Owner may, without consent of the Contractor, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner's rights and obligations under the Contract Documents. The Contractor shall execute all consents reasonably required to facilitate the assignment.

§ 13.3 Rights and Remedies

§ 13.3.1 Duties and obligations imposed by the Contract Documents and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights, and remedies otherwise imposed or available by law.

§ 13.3.2 No action or failure to act by the Owner, Architect, or Contractor shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed upon in writing.

§ 13.4 Tests and Inspections

§ 13.4.1 Tests, inspections, and approvals of portions of the Work shall be made as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules, and regulations or lawful orders of public authorities. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections, and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections, and approvals. The Contractor shall give the Architect timely notice of when and where tests and inspections are to be made so that the Architect may be present for such procedures. The Owner shall bear costs of tests, inspections, or approvals that do not become requirements until after bids are received or negotiations concluded. The Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations so require.

§ 13.4.2 If the Architect, Owner, or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection, or approval not included under Section 13.4.1, the Architect will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection, or approval, by an entity acceptable to the Owner, and the Contractor shall give timely notice to the Architect of

when and where tests and inspections are to be made so that the Architect may be present for such procedures. Such costs, except as provided in Section 13.4.3, shall be at the Owner's expense.

§ 13.4.3 If procedures for testing, inspection, or approval under Sections 13.4.1 and 13.4.2 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, all costs made necessary by such failure, including those of repeated procedures and compensation for the Architect's services and expenses, shall be at the Contractor's expense.

§ 13.4.4 Required certificates of testing, inspection, or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the Architect.

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

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

§ 13.5 Interest

Payments due and unpaid under the Contract Documents shall bear interest from the date payment is due at the rate the parties agree upon in writing or, in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT

§ 14.1 Termination by the Contractor

§ 14.1.1 The Contractor may suspend the Work if the Work is stopped for a period of 30 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, for any of the following reasons:

- .1 Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;
- .2 An act of government, such as a declaration of national emergency, that requires all Work to be stopped;
- .3 The Owner has failed to furnish to the Contractor reasonable evidence as required by Section 2.2.

§ 14.1.2 Subject to the opportunity to cure, the Contractor may terminate the Contract if, through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, repeated suspensions, delays, or interruptions of the entire Work by the Owner as described in Section 14.3, constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less.

§ 14.1.3 If one of the reasons described in Section 14.1.1 or 14.1.2 exists, the Contractor may, upon fourteen calendar (14) days' notice to the Owner and Architect, and an opportunity to cure, terminate the Contract unless this reason is cured prior to the expiration of the notice period, and recover from the Owner payment of Work properly executed in accordance with the Contract Documents (the basis for such payment shall be as provided in the Contract) and for payment for costs directly related to Work thereafter performed by Contractor in terminating such Work including reasonable demobilization and cancellation.

§ 14.1.4 The Owner shall not be responsible for damages for loss of anticipated profits or any potential overhead or burden, on Work not performed on account of any termination described in Sections 14.

§ 14.2 Termination by the Owner for Cause

§ 14.2.1 The Owner may terminate the Contract if the Contractor

- .1 repeatedly refuses or fails to supply enough properly skilled workers or proper materials or equipment;
- .2 fails to make payment to Subcontractors or suppliers in accordance with the respective agreements between the Contractor and the Subcontractors or suppliers;
- .3 repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or
- .4 otherwise is guilty of substantial breach of a provision of the Contract Documents.

- .5 disregards the instruction of the Owner or Architect when such instructions are based on the requirements of the Contract Documents;
- .6 fails to furnish the Owner with assurances satisfactory to the Owner evidencing the Contractor's ability to complete the Work in compliance with the requirements of the Contract Documents.
- .7 fails or neglects to progress work in such a manner to reasonably assure completion of the Work within the Contract Time or in accordance with the Construction Schedule.
- .8 purposefully engages in a strike or work stoppage, or is in any way responsible for hindering or delaying the work of other trades, or ceases to work due to picketing or labor disputes of any kind.

§ 14.2.2 When any of the reasons described in Section 14.2.1 exist, and upon certification by the Architect that sufficient cause exists to justify such action, the Owner may, without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:

- .1 Exclude the Contractor from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;
- .2 Accept assignment of subcontracts pursuant to Section 5.4; and
- .3 Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.

§ 14.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 14.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

§ 14.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including compensation for the Architect's services and any Owner consultants or advisors and any other expenses made necessary thereby, and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The amount to be paid to the Contractor or Owner, as the case may be, shall be certified by the Initial Decision Maker, upon application, and this obligation for payment shall survive termination of the Contract.

§ 14.2.5 If the Owner terminates the contract for cause and it is subsequently determined that such termination was without sufficient cause or was improper for any reason whatsoever, such termination shall be deemed for all purposes to have been a termination for convenience and, in such event, Contractor shall be entitled to recover only those sums due pursuant to Section 14.4.3.

§ 14.3 Suspension by the Owner for Convenience

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

§ 14.3.2 The Contract Sum and Contract Time shall be adjusted for increases in the cost and time caused by suspension, delay, or interruption under Section 14.3.1. Adjustment of the Contract Sum shall include compensation for actual expenses incurred as a result of the suspension, delay or interruption but shall not include overhead and profit for Work not executed. No adjustment shall be made to the extent

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

§ 14.4 Termination by the Owner for Convenience

§ 14.4.1 The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause.

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

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

§ 14.4.3 In case of such termination for the Owner's convenience, the Owner shall pay the Contractor for Work properly executed, completed and approved. Contractor is not entitled to any overhead, profit or any other losses or damages for any work not performed.

ARTICLE 15 CLAIMS AND DISPUTES

§ 15.1 Claims

§ 15.1.1 Definition

A Claim is a demand or assertion by one of the parties seeking, as a matter of right, payment of money, a change in the Contract Time, or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Contractor arising out of or relating to the Contract. The responsibility to substantiate Claims shall rest with the party making the Claim. This Section 15.1.1 does not require the Owner to file a Claim in order to impose liquidated damages in accordance with the Contract Documents.

§ 15.1.2 Time Limits on Claims

The Owner and Contractor shall commence all Claims and causes of action against the other and arising out of or related to the Contract, whether in contract, tort, breach of warranty or otherwise, in accordance with the requirements of the binding dispute resolution method selected in the Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Contractor waive all Claims and causes of action not commenced in accordance with this Section 15.1.2.

§ 15.1.3 Notice of Claims

§ 15.1.3.1 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered prior to expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party and to the Initial Decision Maker with a copy sent to the Architect, if the Architect is not serving as the Initial Decision Maker. Claims by either party under this Section 15.1.3.1 shall be initiated within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later. Failure of the Contractor to initiate Claim within twenty-one (21) days shall constitute a waiver to any Claim that Contractor may have; including but not limited to, delays.

Contractor's written notice of Claim shall contain the following information:

- .1** The date that the event giving rise to the claim commenced and the date upon which it was first recognized by the Contractor.
- .2** The cause of the event giving rise to the claim.
- .3** The effect of the event giving rise to the claim on the construction progress including the identity of all elements of Work that have been or will be impacted by the event and a specific explanation as to why and to what extent such work has been or will be impacted by the event giving rise to the claim.
- .4** If the event giving rise to the claim has impacted the Construction Schedule, a proposal for Schedule recovery from the event that impacted the Schedule that shall include a description of the means by which the Contractor intends to prevent further delay in the Work.
- .5** A detailed itemization of each element of loss, damage or expense for which the Contractor seeks monies, along with data, documents or other information substantiating such claim.

§ 15.1.3.2 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party. In such event, no decision by the Initial Decision Maker is required.

§ 15.1.4 Continuing Contract Performance

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

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

§ 15.1.5 Claims for Additional Cost

If the Contractor wishes to make a Claim for an increase in the Contract Sum, notice as provided in Section 15.1.3 shall be given before proceeding to execute the portion of the Work that is the subject of the Claim. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4.

§ 15.1.6 Claims for Additional Time

§ 15.1.6.1 If the Contractor wishes to make a Claim for an increase in the Contract Time, notice as provided in Section 15.1.3 shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay, only one Claim is necessary.

§ 15.1.6.2 If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated, and had an adverse effect on the scheduled construction.

§ 15.1.7 Waiver of Claims for Consequential Damages

The Contractor and Owner waive Claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes

- .1 damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and
- .2 damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit

This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 14. Nothing contained in this Section 15.1.7 shall be deemed to preclude assessment of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.

§ 15.2 Initial Decision

§ 15.2.1 Claims, excluding those where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2 or arising under Sections 10.3, 10.4, and 11.5, shall be referred to the Initial Decision Maker for initial decision if the claimant first recognizes the Claim prior to the date of final payment. The Architect will serve as the Initial Decision Maker, unless otherwise indicated in the Agreement. Except for those Claims excluded by this Section 15.2.1, an initial decision shall be required as a condition precedent to mediation of any Claim. If an initial decision has not been rendered within 30 days after the Claim has been referred to the Initial Decision Maker, the party asserting the Claim may demand mediation and binding dispute resolution without a decision having been rendered. Unless the Initial Decision Maker and all affected parties agree, the Initial Decision Maker will not decide disputes between the Contractor and persons or entities other than the Owner.

§ 15.2.2 The Initial Decision Maker will review Claims and within ten days of the receipt of a Claim take one or more of the following actions: (1) request additional supporting data from the claimant or a response with supporting data from the other party, (2) reject the Claim in whole or in part, (3) approve the Claim, (4) suggest a compromise, or (5) advise the parties that the Initial Decision Maker is unable to resolve the Claim if the Initial Decision Maker lacks sufficient information to evaluate the merits of the Claim or if the Initial Decision Maker concludes that, in the Initial Decision Maker's sole discretion, it would be inappropriate for the Initial Decision Maker to resolve the Claim.

§ 15.2.3 In evaluating Claims, the Initial Decision Maker may, but shall not be obligated to, consult with or seek information from either party or from persons with special knowledge or expertise who may assist the Initial Decision Maker in rendering a decision. The Initial Decision Maker may request the Owner to authorize retention of such persons at the Owner's expense.

§ 15.2.4 If the Initial Decision Maker requests a party to provide a response to a Claim or to furnish additional supporting data, such party shall respond, within ten days after receipt of the request, and shall either (1) provide a response on the requested supporting data, (2) advise the Initial Decision Maker when the response or supporting data will be furnished, or (3) advise the Initial Decision Maker that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Initial Decision Maker will either reject or approve the Claim in whole or in part.

§ 15.2.5 The Initial Decision Maker will render an initial decision approving or rejecting the Claim, or indicating that the Initial Decision Maker is unable to resolve the Claim. This initial decision shall (1) be in writing; (2) state the reasons therefor; and (3) notify the parties and the Architect, if the Architect is not serving as the Initial Decision Maker, of any change in the Contract Sum or Contract Time or both. The initial decision shall be final and binding on the parties but subject to mediation and, if the parties fail to resolve their dispute through mediation, to binding dispute resolution.

§ 15.2.6 Either party may file for mediation of an initial decision at any time, subject to the terms of Section 15.2.6.1.

§ 15.2.6.1 Either party may, within 30 days from the date of receipt of an initial decision, demand in writing that the other party file for mediation. If such a demand is made and the party receiving the demand fails to file for mediation within 30 days after receipt thereof, then both parties waive their rights to mediate or pursue binding dispute resolution proceedings with respect to the initial decision.

§ 15.2.7 In the event of a Claim against the Contractor, the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

§ 15.2.8 If a Claim relates to or is the subject of a mechanic's lien, the party asserting such Claim may proceed in accordance with applicable law to comply with the lien notice or filing deadlines.

§ 15.3 Mediation

§ 15.3.1 Claims, disputes, or other matters in controversy arising out of or related to the Contract, except those waived as provided for in Sections 9.10.4, 9.10.5, and 15.1.7, shall be subject to mediation as a condition precedent to binding dispute resolution.

§ 15.3.2 The parties shall endeavor to resolve their Claims by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of binding dispute resolution proceedings but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration is stayed pursuant to this Section 15.3.2, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§ 15.3.3 Either party may, within 30 days from the date that mediation has been concluded without resolution of the dispute or 60 days after mediation has been demanded without resolution of the dispute, demand in writing that the other party file for binding dispute resolution. If such a demand is made and the party receiving the demand fails to file for binding dispute resolution within 60 days after receipt thereof, then both parties waive their rights to binding dispute resolution proceedings with respect to the initial decision.

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

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IN ACCORDANCE WITH ARTICLE 8, SECTION 220 93-a) OF THE NEW YORK STATE LABOR LAW THE FOLLOWING HYPERLINK REPRESENTS THE MOST CURRENT PREVAILING WAGE RATE SCHEDULES AT THE TIME OF BIDDING, ISSUED BY THE NEW YORK STATE DEPARTMENT OF LABOR SPECIFICALLY REQUESTED FOR THIS PROJECT:

- ASSEMBLY BILL NUMBER 1839
- NOTICES REGARDING WAGE RATE UPDATES
- WAGE RATE SCHEDULE
- LIST OF EMPLOYERS INELIGIBLE TO BID ON OR BE AWARDED PUBLIC WORK

PRC#: 2021012662

HYPERLINK:

<https://apps.labor.ny.gov/wpp/publicViewProject.do?method=showIt&id=1524066>

**VILLAGE OF MOUNT KISCO
VILLAGE HALL
104 MAIN STREET
MOUNT KISCO, NY 10549**

H2M architects + engineers

Village of Mount Kisco-Additions/Alterations at
Mutual & Independent Fire Stations

PREVAILING WAGE
INFORMATION
007343-1

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PROJECT LABOR AGREEMENT

PROJECT LABOR AGREEMENT

BETWEEN

GTL CONSTRUCTION, LLC

AND

THE BUILDING AND CONSTRUCTION TRADES COUNCIL OF
WESTCHESTER AND PUTNAM COUNTIES, NEW YORK. AFL-CIO

MUTUAL FIREHOUSE

AND

INDEPENDENT FIREHOUSE

VILLAGE/TOWN OF MOUNT KISCO

PROJECT LABOR AGREEMENT

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ARTICLE 1 - PREAMBLE

Whereas: (CONTRACTOR) on behalf of itself and as Construction Manager (CM) desires to renovate the **MUTUAL FIREHOUSE, located at 99 Main Street, Mount Kisco, NY 10549 and the INDEPENDENT FIRHOUSE, located at 322 Lexington Avenue, Mount Kisco, NY 10549** in a manner designed to afford the lowest reasonable costs to the VILLAGE/TOWN OF MOUNT KISCO (OWNER)

WHEREAS, this Project Labor Agreement will foster the achievement of these goals, inter alia, by:

- (1) avoiding the costly delays of potential strikes, slowdowns, walkouts, picketing, and other disruptions arising from work disputes and promote labor harmony and peace for the duration of the Project;
- (2) standardizing the terms and conditions governing the employment of labor on the Project;
- (3) permitting wide flexibility in work scheduling and shift hours and times, including flexibility designed to meet the special needs of this Project;
- (4) including negotiated adjustments to work rules and staffing requirements from those which otherwise might obtain;
- (5) providing comprehensive and standardized mechanisms for the settlement of work disputes, including those relating to jurisdiction;

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- (6) ensuring a reliable source of skilled and experienced labor;
- (7) furthering public policy objectives as to employment opportunities for minorities and women and improved opportunities for minority and women-owned business in the construction industry;
- (8) ensuring appropriate security precautions during the life of the Project;
- (9) minimizing the potential losses of revenues through timely completion of contracts;

And

- (10) expediting the construction process and otherwise minimizing the inconvenience to the Village/Town of Mount Kisco, the citizens of Westchester County, the Mount Kisco Volunteer Fire Department, the surrounding business entities, and the public;
- and

WHEREAS, the signatory Unions desire the stability, security, and work opportunities afforded by a Project Labor Agreement; and,

WHEREAS, the Parties desire to maximize Project safety conditions for both workers and the public;

NOW, THEREFORE, the Parties enter into this Agreement:

SECTION 1. PARTIES TO THE AGREEMENT

This is a Project Labor Agreement ("Agreement") entered into by and between GTL CONSTRUCTION, LLC (CM) and its successors and assigns on its own behalf and on behalf of all other contractors and subcontractors (hereinafter "Contractor, Contractors or Sub Contractors") engaged in on-site project work, and by the Building and Construction Trades Council of

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Westchester and Putnam Counties, New York, AFL-CIO ("Council"), on behalf of itself and its affiliated local union members; and the signatory Local Unions on behalf of themselves and their members. It is understood that if the CM is changed, the successor CM shall assume all terms and conditions of this Agreement for certain construction work anticipated to be performed on the project

ARTICLE 2 - GENERAL CONDITIONS

SECTION 1. DEFINITIONS

Throughout this Agreement, the Union parties and the signatory Local Unions and the Council are referred to singularly and collectively as "**Union(s)**" where specific reference is made to "**Local Unions**" that phrase is sometimes used;

The term "**Contractor(s)**" shall include CM and all other signatory contractors, and their subcontractors of whatever tier, engaged in on-site Project Construction Work within the scope of this Agreement as defined in Article 3 and Exhibit C; and the work covered by this Agreement (as defined in Article 3 and Exhibit C) is referred to as the "Project work"

The term "**Employer**" means any contractor or subcontractor working on the Project.

SECTION 2. CONDITIONS FOR AGREEMENT TO BECOME EFFECTIVE

This Agreement shall not become effective unless each of the following conditions are met: (1) the Agreement is signed by the Council on behalf of itself and all of its affiliated Local Unions working on the Project; and, (2) the Agreement is signed by the CM and (3) the Agreement is approved by the Owner. A Union that is not an affiliate of the Council or who elects in writing not to be bound by this Agreement, or an affiliate that is delinquent in the

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payment of dues to the Council and remains delinquent after 30 days' notice of the delinquency cannot work on the Project.

SECTION 3. ENTITIES BOUND AND ADMINISTRATION OF AGREEMENT

This Agreement shall be binding on the Council, and its' affiliated Local Unions, the CM and all signatory Contractors performing on-site Project work, including site preparation and staging areas, as defined in Article 3 and Exhibit C attached hereto. The CM and the Contractor shall include in any subcontract that they let, for performance during the term of this Agreement, a requirement that their subcontractors, of whatever tier, become signatory and bound by this Agreement with respect to subcontracted work performed within the scope of Article 3 and Exhibit C by signing a Letter of Assent (Exhibit "A"). This Agreement shall be administered by the CM on behalf of all contractors.

SECTION 4. SUPREMACY CLAUSE

This Agreement, together with the local Collective Bargaining Agreements (the "CBA's"), referenced at Exhibit B, copies of which are available for inspection at the Office of the Council represents the complete understanding of all signatories and supersedes any national agreement, local agreement or other collective bargaining agreement of any type which would otherwise apply to this Project, in whole or in part. Where a subject covered by the provisions, explicit or implicit, of this Agreement is also covered by the Exhibit B CBA's, the provisions of this Agreement shall prevail. It is further understood that no Contractor shall be required to sign any other agreement as a condition of performing work on this Project. No practice, understanding or agreement between a Contractor and a Local Union which is not explicitly set forth in this Agreement or the Exhibit B CBA's shall be binding on this Project. It is further agreed that, where there is a conflict the terms and conditions of this Agreement shall supersede and override terms and conditions of any and all National, area, or local collective bargaining

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agreements, except for all work performed under the NTL Article of Agreement, the National Stack/Chimney Agreement, the National Cooling Tower Agreement, and the National Agreement of the International Union of Elevator Constructors. All instrument calibration work and loop checking shall be performed under the terms of the UA/IBEW Joint National Agreement for Instrument and Control Systems Technicians. This PLA will not affect, nor does it intend to change, a favored nation's clause contained in a Local Union CBA of any affiliate covered by this PLA.

SECTION 5. LIABILITY

The liability of any Contractor and the liability of any Union under this Agreement shall be several and not joint. The CM and any Contractor and any subcontractor shall not be liable for any acts or violations of any other contractor; and the Council and Local Unions shall not be liable for the acts or violation of any other Union.

SECTION 6. THE OWNER

The Owner is not a party to this Agreement and shall not be liable in any manner under this Agreement. It is understood that nothing in this Agreement shall be construed as limiting the sole discretion of the Owner and of the CM in determining which Contractors shall be awarded contracts for Project Work as long as the Contractor signs the Letter of Assent. It is further understood that the Owner has sole discretion at any time to terminate, delay or suspend the work, in whole or in part, on this Project. It is further understood that the Owner shall have the right to access, use, or occupy any parts of the Project that is completed or partly completed and to install Owner-provided equipment and furnishings therein. The Contractors, the Council and the Local Unions shall accommodate and cooperate with the Owner's use, occupancy, and furnishing of these parts of the Project. CM shall turn the facility, system or space (including without limitation security and

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maintenance systems and new construction or renovations) over to the Owner upon the Owner's issuance to the CM of a letter of acceptance of the facility, system, or space.

SECTION 7. THE CM

The CM shall require in its bid specifications for all work within the scope of Article 3 and Exhibit C that all successful bidders, and their subcontractors of whatever tier, become bound by, and signatory to, this Agreement.

It is understood that nothing in this Agreement shall be construed as limiting the sole discretion of the CM in determining which Contractor or Subcontractor shall be awarded contracts for Project work. It is further understood that the Contractor has sole discretion at any time to terminate, delay or suspend the work, in whole or part, on this Project.

The CM agrees that neither it nor any of its Contractors or Subcontractors will subcontract any work to be done on the Project except to a person, firm, or corporation who is or agrees to become party to this Agreement. Any Contractor or subcontractor working on the Project shall, as a condition to working on said Project, become signatory to and perform all work under the terms of this Agreement.

SECTION 8. AVAILABILITY AND APPLICABILITY TO ALL SUCCESSFUL BIDDERS

The Unions agree that this Agreement will be made available to, and will fully apply to any successful bidder for Project work who becomes signatory thereto, without regard to whether that successful bidder performs work at other sites on either a union or non-union basis and without regard to whether employees of such successful bidder are, or are not, members of any unions. This Agreement shall not apply to the work of any Contractor or subcontractor which is performed at any location other than the Project site, as defined in Article 3, Section 1, and Exhibit C.

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ARTICLE 3 - SCOPE OF THE AGREEMENT

The Project work covered by this Agreement shall be as defined and limited by the following sections of this Article and Exhibit C.

SECTION 1. THE WORK

This Agreement shall only apply to the on-site and off-site construction **work performed at or for the CM on behalf of the Owner at the following Project: ADDITIONS AND ALTERATIONS AT MUTUAL FIRE STATION AND INDEPENDENT FIRE STATION- CONTRACT G - GENERAL CONSTRUCTION AND ASBESTOS ABATEMENT WORK** further described in Exhibit C hereto and only to the extent that the work has been awarded by Owner to the CM. During the term of this Agreement, of the Project will include among other things the following components to the extent that these components have been contracted by the Owner to the CM (i) construction of renovations and upgrades to the Project – On Site construction work in conjunction with the above shall also include Project Construction Work performed at preparation and staging area.

SECTION 2. EXCLUDED EMPLOYEES AND EXCLUDED WORK

Subject to Article 6, the following work and persons are not subject to the provisions of this Agreement, even though performing Project Work:

1. Superintendents, supervisors excluding general and forepersons specifically covered by an Exhibit B CBA, engineers, licensed architects, inspectors and testers, quality control assurance personnel, timekeepers, mail carriers, clerks, office workers, messengers, guards, technicians, non-manual employees, and all professional engineering, administrative, and

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management persons. Excluded employees shall not apply to any general forepersons and field craft surveyors who are performing work traditionally done by members of IUOE Local 15D and/or which is covered by the Local 15D Surveying and Consulting Agreements.

2. Employees or workers of any other public agency, authority, municipality or any other public employer;

3. Employees, workers, entities and sub-contractors engaged in off-Project site manufacture, modifications, repair, maintenance, assembly, painting, handling or fabrication of components, materials, equipment, modules or machinery or involved in deliveries to and from the Project site, except operating vehicles on the Project site and deliveries made within the geographic jurisdiction of the International Brotherhood of Teamsters Local 456 Exhibit B CBA of major building and construction materials as follows: fuel oil for construction vehicles and equipment on the Project site, fill, ready mix concrete, asphalt, sub-base stone/gravel, dynamite, concrete block, lumber, and item 4 which are covered by this Agreement;

4. If a tank or pressurized vessel is to be installed on the Project the terms of this Agreement shall not apply to work of the employees that is normally performed under the terms of a National Specialty Agreement including, but not limited to, the National Tank Agreement, the Stack Liner Agreement, the Rubber Line Agreement, or any other Specialty Agreement;

5. Employees or workers of the CM or the Contractor, excepting those performing manual, on-site construction labor who will be covered by this Agreement;

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6. Employees or workers engaged in on-site equipment warranty work (when the Contractor or a subcontractor has on site an employee already certified by the relevant manufacturer to make warranty repairs on that Contractor's equipment, that employee shall be used; when the Contractor or a subcontractor has on site an employee already qualified to make warranty repairs, although not certified by the equipment manufacturer to do so, that employee shall be used to make repairs working under the direction of a manufacturer certified warranty representative). Notwithstanding the foregoing, if a Contractor, in order to satisfy the warranty requirements of a manufacturer, must utilize a person or entity designated by the manufacturer, it may do so without coverage under this Agreement;

7. Employees or workers engaged to perform laboratory or specialty testing or inspections or engaged in geophysical testing (whether land or water) other than boring for core samples;

8. Employees engaged in work ancillary to the Project, performed by third parties, including without limitation performed by electric utilities, gas utilities, water utilities and telephone companies, who are not signatories to this Agreement, provided however that Contractors for tele-data, audio-visual, security, and television services will limit their work up to a demarcation or terminus point which will be the first point of distribution of system service in the respective building. With respect to entities engaged in such work ancillary to the Project, the Contractor will nonetheless notify those entities of this Project Labor Agreement and that they may participate under this Agreement, if they so choose. To the extent practicable, and within its control, the Contractor will use its best efforts to coordinate ancillary work within the vicinity of construction performed under this PLA to promote labor harmony on the Project;

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9. Employees or workers engaged by the Owner even though working on the Project Site while Project Work is under way;
10. Persons engaged in the delivery of Owner-furnished equipment to the Project Site or to any off-site warehouse maintained by Owner;
11. Employees of "Artisans" shall be individuals or entities whom Owner may (or may not) employ directly to create unique, one-of-a-kind decorative elements, including architectural finishes for incorporation into the building;
12. Employees or workers of any entity who are engaged in the final cleaning and housekeeping of all space at the Project Site just prior to occupancy by the Owner. This provision is intended to apply to workers performing the final cleaning and housekeeping that occurs after the clean-up required by the construction and renovation activities contemplated by this Agreement;
13. Employees or workers of any entity who are engaged in operation of building equipment and machinery that are not used in constructing the facilities and are owned or controlled and/or operated by Owner, its architect, engineers and/or its testing inspection firms;
14. Employees or workers of any entity who are engaged in the on-site or off-site maintenance of leased equipment;
15. Employees or workers of any entity who are engaged in work of any kind on the Project Site after this Agreement terminates.

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SECTION 3. NON-APPLICATION TO CERTAIN ENTITIES

This Agreement shall not apply to the parents, affiliates, subsidiaries, or other joint or sole ventures of the CM, and Contractor or sub-contractor which does not perform work at this Project. It is agreed, for the purposes of this Agreement only, that this Agreement does not have the effect of creating any joint employment, single employer or alter ego status among or between the Owner, the CM, any Contractor or any other state agency, authority, or other municipal or public entity and nothing contained herein shall be construed to prohibit or restrict the Contractor or its employees or any other state or municipal authority, agency or entity and its employees from performing on or off-site work not related to the Project. As the contracts which comprise the Project work are completed and accepted, the Agreement shall have no further force or effect.

ARTICLE 4 - UNION RECOGNITION AND EMPLOYMENT

SECTION 1. PRE-HIRE RECOGNITION

The Contractor and all sub-contractors recognize the signatory Unions as the sole and exclusive bargaining representatives of all craft employees who are performing on-site Project work within the scope of this Agreement as defined in Article 3 and more fully described in Exhibit C.

SECTION 2. UNION REFERRAL

A. The Contractor and all sub-contractors agree to hire for this Project, craft employees covered by this Agreement through the job referral systems and hiring halls (where the referrals meet the qualifications set forth in items 1, 2, 3, and 4 of subparagraph (B) established in the Local Unions' area collective bargaining agreements. Notwithstanding this, the Contractor and all sub-contractors shall have sole rights to determine the competency of all referrals; the number of employees required; the selection of employees to be laid-off (except as

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provided in Article 5, Section 3); and the sole right to reject any applicant referred by a Local Union. In the event that a Local Union is unable to fill any request for qualified employees within a 48 hour period after such requisition is made by the Contractor and all sub-contractors (Saturdays, Sundays, and holidays excepted), the Contractor or sub-contractor may employ applicants from any other available source. In the event that the Local Union does not have a job referral system, the Contractor or sub-contractor shall give the Local Union first preference to refer applicants, subject to the other provisions of this Article. The Contractor or sub-contractor shall notify the Local Union of Project craft employees hired within its jurisdiction from any source other than referral by the Union.

B. Consistent with the Exhibit B CBA, The Contractor or a sub-contractor may request by name, and the Local will honor, referral of persons who have applied to the Local for Project work and who meet the following qualifications as determined by a Committee of 3 designated, respectively, by the applicable Local Union, the CM or Contractor or sub-contractor and a mutually selected third party or, in the absence of agreement, the permanent arbitrator (or designee) designated in Article 9:

- (1) Possess any license required by NYS law for the Project work to be performed;
- (2) Have worked a total of at least 1,000 hours in the Construction craft during the prior three (3) years;
- (3) Were on the Contractor's or sub-contractor's active payroll for at least sixty (60) out of the one hundred eighty (180) calendar days prior to the contract award;
- (4) Have demonstrated ability to safely perform the basic functions of the applicable trade.

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The CM, Contractor or sub-contractor will be initially responsible for determining that new hires meet the requirements established in (1), (2), (3) and (4), as set forth above.

The Exhibit B CBAs will determine the number of employees who shall be hired through the special provisions above (any fraction shall be rounded to the next highest whole number)

The Committee may also allow a Contractor or sub-contractor, subject to any limit expressed in the Exhibit B CBA, to employ trainees (pursuant to Article 13, Section 2) to afford an opportunity to minority, women for entry into the construction industry outside of the formal apprenticeship program.

SECTION 3. NON-DISCRIMINATION IN REFERRALS

The Local Unions represent that their hiring halls and referral systems will be operated in a non-discriminatory manner and in full compliance with all applicable federal, state, and local laws and regulations which require equal employment opportunities. Referrals shall not be affected in any way by the rules, regulations, bylaws, constitutional provisions, or any other aspects or obligations of union membership, policies, or requirements and shall be subject to such other conditions as are established in this Article. No employment applicant shall be discriminated against by any referral system or hiring hall because of the applicant's union membership, or lack thereof.

SECTION 4. CROSS AND QUALIFIED REFERRALS

The Local Unions shall not knowingly refer to a Contractor or sub-contractor an employee then employed by another Contractor or sub-contractor working under this Agreement. The Local Unions will exert their best efforts to recruit sufficient numbers of skilled and qualified crafts employees to fulfill the requirements of the Contractor or sub-contractor.

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SECTION 5. UNION DUES

All employees covered by this Agreement shall be subject to the union security provisions contained in the applicable Exhibit B CBA's, as amended from time to time, but only for the period of time during which they are performing on-site Project work and only to the extent of rendering payment of the applicable monthly union and administrative or working dues uniformly required for union membership in the Local Union, signatory to this Agreement, which represents the craft in which the employee is performing Project work. No employee shall be discriminated against at the Project site because of the employee's union membership or lack thereof. In the case of unaffiliated employees, the monthly dues payment will be received by the Council as an agency shop fee.

SECTION 6. CRAFT FOREPERSONS AND GENERAL FOREPERSONS

The selection of craft forepersons and/or general forepersons and the number of forepersons required shall be solely the responsibility of the Contractor or sub-contractor except where otherwise provided by specific provisions of an applicable Exhibit B CBA or as agreed to by the parties in a writing specific to this Project, in which case the writing specific to this Project shall govern. All forepersons shall take orders exclusively from the designated Contractor or sub-contractor representatives. Craft forepersons shall be designated as working forepersons at the request of the Contractor or subcontractor, except when an Exhibit B CBA prohibits a foreperson from working when the craft person he is leading exceed a specified number.

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ARTICLE 5 - UNION REPRESENTATION

SECTION 1. LOCAL UNION REPRESENTATIVE

Each Local Union representing on-site Project employees shall be entitled to designate in writing (copy to the Contractor or sub-contractor involved and to CM) one representative, and/or the Business Manager, who shall be afforded access to the Project.

SECTION 2. STEWARDS

A. Each Local Union shall have the right to designate a working journeyperson as a Steward (and an alternate who shall serve as a Steward only when the regular Steward is unavailable) and shall notify the Contractor(s) or sub-contractor(s) and CM of the identity of the designated Steward (and alternate) prior to the assumption of such duties with the understanding that at no time shall there be more than one designated Steward and one designated alternate per trade on the Project Site regardless of the number of Contractors on the Project Site.. Stewards shall not exercise supervisory functions and will receive the regular rate of pay for their craft classifications. There will be no non-working Stewards on the Project.

B. In addition to their work as an employee, the Steward shall have the right to receive complaints or grievances and to discuss and assist in their adjustment with the CM's, the Contractor or sub-contractor's appropriate supervisor. Each Steward shall be concerned with the employees of the Steward's Contractor or sub-contractor, but not with the employees of any other Contractor or sub-contractor. The CM will not discriminate against the Steward in the proper performance of his Union duties.

C. Stewards shall assist in implementing the Agreement in the spirit of labor management cooperation.

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D Stewards shall not be compensated by the Contractor for Steward-work performed away from the Project Site, except to the extent that the duties being performed off-Site relate to the grievance-arbitration procedure of Article 7 or 9 of the Agreement. Stewards shall not be compensated for time spent on Union business which requires the Steward to leave the Project Site.

E The Stewards shall not have the right to determine when overtime shall be worked, or who shall work overtime.

SECTION 3. LAYOFF OF A STEWARD

The Contractor and sub-contractors agree to notify the appropriate Union 24 hours prior to the layoff of a Steward, except in cases of discipline or discharge for just cause. If a Steward is protected against layoff by an Exhibit B CBA, such provisions shall be recognized to the extent the Steward possess the necessary qualifications to perform the work required. In any case in which a Steward is discharged or disciplined for just cause, the Local Union involved shall be notified immediately by the Contractor or sub-contractor.

ARTICLE 6 - MANAGEMENT'S RIGHTS

SECTION 1. RESERVATION OF RIGHTS

Except as expressly limited by a specific provision of this Agreement, the CM, the Contractor, and sub-contractor retain full and exclusive authority for the management of their Project operations including, but not limited to: the right to direct the work force, including determination as to the number to be hired and the qualifications therefore; the promotion, transfer, layoff of its employees; or the discipline or discharge for just cause of its employees; the assignment and schedule of work; the promulgation of reasonable Project work rules; and, the requirement, timing and number of employees to be utilized for overtime work. No rules,

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customs, or practices which limit or restrict productivity or efficiency of the individual, as determined by the CM, the Contractor, or sub-contractor and/or joint working efforts with other employees shall be permitted or observed.

SECTION 2. MATERIALS, METHODS & EQUIPMENT

A. There shall be no limitation or restriction upon the Contractor or sub-contractor's choice of materials, modules, techniques, methods, technology or design, or, regardless of source or location, upon the use and installation of equipment, machinery, package units, pre-cast, pre-fabricated, pre-finished (except that all rebar for use in cast-in-place, on site construction will be cut and bent in accordance with local industry practices), or pre-assembled materials, tools, or other labor-saving devices. Contractors may, without restriction, install or use materials, supplies, or equipment, regardless of their source. The on-site installation or application of such items shall be performed by the craft having jurisdiction over such work; provided however, it is recognized that other personnel having special qualifications may participate, in a supervisory capacity, in the installation, check-off or testing of specialized or unusual equipment or facilities as designated by the Contractor or sub-contractor. There shall be no restrictions as to work which is performed off-site for the Project, except that the Contractor and sub-contractors will make reasonable efforts to have pre-assembled duct work produced in shops represented by Sheetmetal Workers Local 38. The Contractor will make reasonable efforts to provide that any equipment or materials under the jurisdiction of the Plumbing and Steamfitting trade shall be accepted and installed by Plumbers, Steamfitters and Apprentices, provided such material or equipment conforms to the National Form of Agreement of the United Association.

B. There shall be no stand-by Trades required for temporary power, light, water, or heat unless requested by the Owner.

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C. The Employer shall subcontract for the delivery of redi-mix concrete and asphalt only to companies whose wages and other economic benefits are equivalent to the area standards established by the Union unless said companies are unable or unwilling to supply redi-mix concrete or asphalt to the Employer.

D Except to the extent otherwise agreed to by the parties in writing, all electrical and electronic work, including but not limited to, the installation, repair, and maintenance of all building wiring systems, telephone, data, fire alarm, signs, TV, security wiring and devices, sound and alarm systems, and building automation systems, shall be performed under the Local Agreement of IBEW Local 3.

ARTICLE 7 - WORK STOPPAGES AND LOCKOUTS

SECTION 1. NO STRIKES-NO LOCK OUT

There shall be no strikes, sympathy strikes, parades, picketing, banner, establishment of an inflatable rat or any similar display or signal, work stoppages, slowdowns, hand billing, demonstrations, or other disruptive activity at the Project site or any area where on-Site construction work (as defined in Article 3, Section 1) takes place, or other activity otherwise adversely affecting Project work for any reason by any Union or employee against any Contractor, sub-contractor, or employer while performing work at the Project site. There shall be no other Union, or concerted or employee activity which disrupts or interferes with the CM's or the Contractors services or the Owner's operations. Failure of any Union or employee to cross any picket line established by any union, signatory, or non-signatory to this Agreement, or the picket or demonstration line of any other organization, at the Project site or which otherwise adversely affects Project work or which disrupts or interferes with services to or at the Project Site is a violation of this Article. For the purposes of this Article and Article 10 of this

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Agreement, Project Site shall include each location that compromises the Project and other ancillary sites. There shall be no lockout at the Project by any Contractor or sub-contractors. The CM may stop work on or shut down the Project Site for valid legal or business reasons unrelated to a labor dispute, but will make efforts to provide advance notice of a stoppage or work or shutdown. The Contractors, sub-contractors, and Unions shall take all steps necessary to ensure compliance with this Section 1 and to ensure uninterrupted construction for the duration of this Agreement. Contractors, sub-contractors, and Unions shall take all steps necessary to ensure compliance with this Section 1 and to ensure uninterrupted construction at the Project, and ensure the free flow of vehicular or pedestrian traffic within, into, and out of the Project Site, for the duration of the Agreement. No jurisdictional dispute shall excuse or justify a violation of this provision.

SECTION 2. DISCHARGE FOR VIOLATION

The Contractor or sub-contractor may discharge any employee violating Section 1, above, and any such employee will not be eligible thereafter for referral under this Agreement.

SECTION 3. NOTIFICATION

If a Contractor contends that any Union has violated this Article, it will notify the appropriate district or area council of the Local Union involved advising of such fact, with copies of the notification to the Local Union and the Council. The district or area council and the Council shall each instruct, order, and otherwise use their best efforts to cause the employees, and/or the Local Unions to immediately cease and desist from any violation of this Article. A district or area council, or the Council complying with these obligations shall not be liable for the unauthorized acts of a Local Union or its members. Similarly, a Local Union and its members will not be liable for any unauthorized acts of the Council.

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SECTION 4. EXPEDITED ARBITRATION

Any Contractor, sub-contractor, or Union alleging a violation of Section 1 of this Article may use the expedited procedure set forth below (in lieu of, or in addition to, any actions at law or equity) that may be brought.

A. A party invoking this procedure shall notify Gary Kendellen, J.J. Pierson, and Roger Maher, who shall alternate (beginning with Arbitrator Kendellen) as Arbitrator under this expedited arbitration procedure. If the Arbitrator next on the list is not available to hear the matter within 24 hours of notice, the next Arbitrator on the list shall be called. Copies of such notification will be simultaneously sent to the alleged violator and, if a Local Union is alleged to be in violation, it's International, the Council, and the CM.

B. The Arbitrator shall thereupon, after notice as to time and place to the Contractor, the Local Union involved, the Council, and the CM, hold a hearing within 48 hours of receipt of the notice invoking the procedure if it is contended that the violation still exists.

C. The sole issue at the hearing shall be whether a violation of Section 1, above, occurred. The Award shall be issued in writing within 3 hours after the close of the hearing, and may be issued without an Opinion.

D. The decision of the Arbitrator shall be final and binding on the involved Contractor, Local Union, and employees and the fees and expenses of such arbitrations and the Arbitrator shall be borne equally by the involved Contractor and Local Union.

E. In any proceeding arising under this Article, the CM shall be a party in interest with full right of participation at its option and shall be sent contemporaneous copies of all notifications required to be given under this Article.

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ARTICLE 8 - LABOR MANAGEMENT COMMITTEE

SECTION 1. SUBJECTS

A Project Labor Management Committee will meet on a regular basis to: 1) promote harmonious relations among the CM, the Contractor, the sub-contractor, and Unions; 2) enhance safety awareness, cost effectiveness, and productivity of construction operations; 3) protect the public interests; 4) discuss matters relating to manning and scheduling with safety and productivity as considerations; and 5) review Affirmative Action and equal opportunity matters pertaining to the Project.

SECTION 2. COMPOSITION

The Committee shall be jointly chaired by designees of the President of the Council and the Executive Manager / Vice President of the CM, The Council and the CM may each designate two representatives to the committee. The Council and the CM may each designate two representatives to the Committee. The Council and the CM may designate additional representatives of the Local Unions and Contractors involved in the issues being discussed. The Committee may conduct business through mutually agreed sub-committees

ARTICLE 9 - GRIEVANCE & ARBITRATION PROCEDURE

SECTION 1. PROCEDURE FOR RESOLUTION OF GRIEVANCES

A. This Agreement is intended to provide close cooperation between management and labor. Each of the Unions will assign a representative to this Project for the purpose of completing the construction of the Project economically, efficiently, continuously, and without interruptions, delays, or work stoppages.

B. The CM, the Contractors, Unions, and the employees, collectively and individually, realize the importance to all parties to maintain continuous and uninterrupted

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performance of the work of the Project, and agree to resolve disputes in accordance with the grievance-arbitration provisions set forth in this Article.

C. Any question or dispute during the term of this agreement shall be subject to the grievance and arbitration process. Further, if an employee covered by this Agreement feels he or she is aggrieved by a violation of this Agreement, he or she, through his or her local union business representative or job steward, shall, within five (5) working days after the Union or the aggrieved employee(s) knows or should have known of the occurrence of the violation, give notice to the work-site representative of the involved Contractor stating the provision(s) alleged to have been violated. The business representative of the local union or the job steward and the work-site representative of the involved Contractor and the Project Contractor shall meet and endeavor to adjust the matter within three (3) working days after timely notice has been given. The representative of the Contractor shall keep the meeting minutes and shall respond to the Union representative in writing (copying the Project Contractor) at the conclusion of the meeting, but not later than twenty-four (24) hours thereafter. If they fail to resolve the matter within the prescribed period, the grieving party may, within forty-eight (48) hours thereafter, pursue Step 2 of the Grievance Procedure, provided the grievance is reduced to writing, setting forth the relevant information concerning the alleged grievance, including a short description thereof, the date on which the grievance occurred, and the provision(s) of the Agreement alleged to have been violated.

Step 1:

Should the Local Union(s) or the Project Contractor or any Contractor have a dispute with the other party and, if after conferring, a settlement is not reached within three (3) working

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days, the dispute may be reduced to writing and proceed to Step 2 in the same manner as outlined herein for the adjustment of an employee complaint. Disputes shall include the payment, or non-payment, of Employee Benefit Funds which are not resolved pursuant to Article 11, Section 2.

Step 2:

The International union Representative and the involved Contractor shall meet within seven (7) working days of the referral of a dispute to this second step to arrive at a satisfactory settlement thereof. Meeting minutes shall be kept by the Contractor. If the parties fail to reach an agreement, the dispute may be appealed in writing in accordance with the provisions of Step 3 within seven (7) calendar days thereafter.

Step 3:

A. If the grievance shall have been submitted, but not resolved in Step 2, any of the participating Step 2 entities may, within 21 calendar days after the initial Step 2 meeting, submit the grievance in writing (copies to other participants) to one of the designated arbitrators: J.J. Pierson, Richard Adelman, or Roger Maher who shall alternate as arbitrator. The Labor Arbitration Rules of the American Arbitration Association shall govern the conduct of the arbitration hearing, at which all Step 2 participants shall be permitted to participate. The decision of the arbitrator shall be final and binding on the involved Contractor or sub-contractor, the Local Union, and the grievant and the fees and expenses of such arbitrations shall be borne equally by the involved Contractor or sub-contractor and the Local Union. All arbitrations involving this Project Labor Agreement will be conducted at the offices of the Building Trades Council.

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B. Failure of the grieving party to adhere to the time limits established herein shall render the grievance null and void. The time limits established herein may be extended only by written consent of the parties involved at the particular step where the extension is agreed upon. The Arbitrator shall have the authority to make decisions only on issues presented to him or her and he or she shall not have authority to change, amend, add to, or detract from any of the provisions of this Agreement. In the event that an arbitrator award is issued in favor of a Local Union resulting from a violation of Article 2, Section 3 of this Agreement by a sub-contractor, and the Local Union cannot enforce the arbitration award against the offending sub-contractor after due diligence, the Contractor may be held liable for the damages as set forth in the arbitration award subject to the following:

(1) The Local Union notified the Contractor by certified mail of a violation of Article 3, Section 3, with copies to the President of the Building Trades Council, and the offending subcontractor.

(2) The arbitration award establishes that the Contractor had knowledge of the violation of Article 2, Section 3.

D. The Project Contractor and Owner shall be notified of all actions at Steps 2 and 3, and shall, upon their request, be permitted to participate in all proceedings at these steps.

ARTICLE 10 - JURISDICTIONAL DISPUTES

A. The assignment of work will be solely the responsibility of the Contractor performing the work involved; and such work assignments will be in accordance with the Plan

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for the Settlement of Jurisdictional Disputes in the Construction Industry (the "Plan") or any successor Plan.

B. All jurisdictional disputes on this project, between or among Building and Construction Trades Unions and employers, parties to this Agreement, shall be settled and adjusted according to the present Plan established by the Building and Construction Trades Department or any other plan or method of procedure that may be adopted in the future by the Building and Construction Trades Department. Decisions rendered shall be final, binding, and conclusive on the Contractors and Unions parties to this Agreement.

C. All jurisdictional disputes shall be resolved without the occurrence of any strike, work stoppage, or slow-down of any nature and the Contractor's assignment shall be adhered to until the dispute is resolved. Individuals violating this section shall be subject to immediate discharge.

D. Each Contractor will conduct a pre job conference with the Council prior to commencing work. The CM and the Owner will be advised in advance of all such conference and may participate if they wish.

E. Jurisdictional Dispute grievances shall not be brought directly against the CM, except as they may relate to its role as a Contractor on the Project

F This jurisdictional Dispute Resolution will only apply to Project Work performed by Local Unions at the Project Site.

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ARTICLE 11 - WAGES AND BENEFITS

SECTION 1. CLASSIFICATION AND BASE HOURLY RATE

A. All employees covered by this Agreement shall be classified in accordance with the work performed and paid the higher of (i) the base hourly wage rates for those classifications as specified in the Exhibit B CBAs, as amended during this Agreement, or Recognizing, however, that special conditions may exist or occur on the Project, the parties, by mutual agreement in writing may establish rates and/or hours for one or more classifications which may differ from the rates stated in Exhibit B CBAs. Parties to such agreements shall be the CM, the Contractor involved, the involved Local Unions and the Council.

SECTION 2. EMPLOYEE BENEFIT FUNDS

A. The Contractor and sub-contractors agree to pay contributions on behalf of all employees covered by this Agreement to the established employee benefit funds in the amounts designated in the appropriate Exhibit B CBAs. Bona fide jointly trusted fringe benefit plans established or negotiated through collective bargaining during the life of this Agreement may be added.

B. The Contractor and sub-contractors agree to be bound by the written terms of the legally established Trust Agreements specifying the detailed basis on which payments are to be paid into, and benefits paid out of such Trust Funds, but only with regard to Project Work done under this Agreement and only for those employees to whom this Agreement requires such benefit payments. Any Contractor performing Project Work that is not a signatory to an Exhibit B CBA, will be required to sign and file with the CM, with a copy to the appropriate Local Union, an "Affidavit of Compliance with the PLA" in the form described as Exhibit F hereto so that such Affidavit may be filed with the Local Union and its related Trust Funds.

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C. The CM, the Contractor, and sub-contractor, as applicable, in order to ensure the full and timely remittance of all union dues, IAF, PAC, and fringe benefit funds, including, but not limited to, Health and Welfare, Pension, Annuity, Legal Service, Education and Training, S.U.B., Apprenticeship (hereafter "Funds" or "Fund") due the affiliated Local Union Benefit Funds and the Labor Management Alliance as provided for in all Exhibit B CBA's or this PLA between the Local Unions and signatory employers and/or a supplier which has contracted to deliver construction materials to the Project using members of Teamsters Local 456 ("Supplier") agrees that it will, upon notification given to the CM or Contractor as applicable, from any affiliated Local Union or the Building Trade Council of not more than twenty-one (21) days from the date when the Union knew or should have known signatory Contractor, sub-contractor, or Supplier, as applicable, has become delinquent in the payment of Fund contributions ("21-Day Notice") due in connection with the work on this Project, or the delivery of construction materials to the Project ("Delinquent Employer"), (i) immediately stop payment on all monies due or which may become due to the delinquent signatory employer or supplier up to the amount alleged to be owed from this Project and (ii) pay all such funds directly to the complaining Local Union Benefit Funds, which shall apply the funds against the amounts owed by the Delinquent Employer or Supplier. The 21-Day Notice to be effective shall include at a minimum a detailed breakdown of the delinquency amount, how it was calculated, the relevant dates, names of employees, the hours at issue, and the relevant job steward reports. Before such payment is made, the CM, the Contractor, or sub-contractor, as applicable, shall first advise the delinquent Employer or Supplier, in writing of the complaint made by the Local Union and the amounts claimed ("10-Day Notice Letter") and shall allow the Delinquent Employer or Supplier a period of ten (10) days from the date of notification to produce a written letter signed by the Business Manager of the complaining Local Union that the delinquent amount has been paid in full and

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the Delinquent Employer or Supplier is current in the remittance of contributions to the complaining affiliate's Benefit Funds ("Payment in Full Letter") or a bona-fide explanation acceptable to the complaining Local Union of why in the signatory Delinquent Employer's or the Supplier's opinion the amounts are not due as alleged or the matter has been otherwise resolved. In the event of such a bona-fide dispute the CM, the Contractor, or sub-contractor will use its best effort to act as an initial arbiter and take action it then deems appropriate.

(1) No monies shall be paid to a Delinquent Employer or Supplier who may request arbitration of the dispute in accordance with the expedited arbitration procedure in Article 7, Section 4 herein. Article 9 herein. There will be no strike, work stoppage, or disruption pending resolution of the dispute.

(2) In the event such a Payment in Full Letter is not produced by the Delinquent Employer or Supplier within ten (10) days from the date of notification to the delinquent signatory employer or supplier, the CM, the Contractor, or subcontractor shall immediately pay over to the Fund Administrator of the complaining Local Union all monies due and owing to the Delinquent Employer or Supplier, but only to the extent necessary to satisfy the amounts payable to the Delinquent Employer or Supplier by the Contractor or subcontractor for work performed or construction materials delivered to the Project. None of the foregoing is to be construed as having created a debt on the part of the CM, the Contractor to the Local Union Benefit Funds for unpaid Funds of the signatory Delinquent Employer or Supplier except to the extent that (a) there are funds payable to the signatory Delinquent Employer or Supplier; (b) Benefit Fund contributions are overdue to the Local Unions for work by the signatory Delinquent Employer or for construction materials delivered by the Supplier for work on this Project and with proper

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notice as herein provided; (c) the CM, the Contractor, or the sub-contractor received a timely 21-Day Notice; and (d) the CM, the Contractor, as applicable, paid the unpaid Funds to the Delinquent Employer.

(3) There will be no strike, work stoppage, or disruption pending resolution of the dispute. Notwithstanding any other provisions of this Agreement, including any provisions to arbitrate disputes, the members of a Local Union can elect to refuse to perform services for only the Delinquent Employer or Supplier provided that all of the following conditions are first met: *first*, a Benefit Fund delinquency relates to Project Work and exceeds thirty (30) days; *second*, the Local Union provides five (5) days' written notice to the President of the Building Trades Council, the CM, the Contractor, or the subcontractor, as applicable, and the Delinquent Employer; *third*, the Local Union exhausts the expedited arbitration procedure in Article 7, Section 4 above; *fourth*, an arbitrator issues an award in favor of the Local Union and/or its Funds and against the Delinquent Employer; *fifth*, the Delinquent Employer does not file an action in a court of competent jurisdiction to overturn the arbitration award within thirty (30) days of issuance of the award; but if the Delinquent Employer files a timely action in a court of competent jurisdiction to overturn the award, then *sixth*, the court declines for any reason to overturn the arbitration award. The provisions of Article 7, Section 1 shall remain in full force and effect with respect to all other Local Union members working on the Project. However, if the work of the complaining Local Union is being performed by employees represented by a Union that is not an affiliate of this Council or by non-union employees, the provisions of Article 7, Section 1 will not apply. If a signatory employer's or supplier's inability to collect payment from the Owner and/or Developer for work performed on the Project, or

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for construction materials delivered to the Project, the Contractor agrees that the signatory employer or supplier will not be removed from the job for non-performance which results from a Local Union's members refusing to perform services as set forth in this Section.

(4) The CM hereby designates _____ as the person to contact should there be any delinquent Benefit Fund Contributions for Project Work performed by members of a Local Union that is signatory to this Agreement.

D. At least two weeks before the CM or the Contractor makes final payment to a sub-contractor upon completion of the job, the CM or the Contractor, as applicable, shall make a written inquiry to the sub-contractor's Local Union to determine if all Benefit Fund payments have been made. If the sub-contractor is delinquent in the payment of Benefit Fund contributions due in connection with work on this Project, or for the delivery of construction materials to the Project, the Contractor shall adhere to the procedure in Section 2, Paragraphs (C)-(E) of this Article. The 21-Day Notice Requirement set forth in Section 2, Paragraph (C) shall be reduced to a 5 calendar day notice requirement, but in all other respects shall remain applicable.

ARTICLE 12 - HOURS OF WORK, PREMIUM PAYMENTS SHIFTS AND HOLIDAYS

SECTION 1. WORK WEEK AND WORK DAY

A. The standard work week shall consist of forty (40) hours of work, Monday through Friday, eight (8) hours per day, at straight time rates per the following schedule: Monday-Friday; five (5) days, eight (8) hours plus 1/2 hour unpaid lunch period each day.

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B. The first or day shift shall work eight (8) hours starting at 8:00 a.m. and ending at 4:30pm (or 7:00 a.m. and ending at 3:30 p.m.), this includes a 1/2 hour lunch break.

C. If a second shift is required, the second shift shall work eight (8) hours starting at 4:00p.m. and ending at 12:30 a.m. This includes a 1/2 hour lunch period in between to be mutually agreed upon.

D. If a third shift is required, the third shift shall work eight (8) hours starting at 12:00 midnight and ending at 8:30 a.m. This includes a 1/2 hour lunch period in between to be mutually agreed upon.

E. Notice -- Contractors shall provide not less than five (5) days' prior notice to the Local Union involved as to the work week and work hour schedules to be worked or such lesser notice as may be mutually agreed upon.

SECTION 2. OVERTIME

Overtime at the rate of time and one-half the straight time wage for all employees covered by this Agreement shall be paid for the following:

- A. Work outside of the standard starting and finishing time.
- B. Work in excess of eight (8) hours per day; and
- C. Work on Saturday.

There will be no restriction upon the CM, the Contractor's, or the sub-contractor's scheduling of overtime or the designation of employees who shall be worked. There shall be no pyramiding of overtime pay under any circumstances. The CM, the Contractor, or sub-contractor shall have the right to schedule work so as to minimize overtime, and the right to schedule overtime as to some, but not all of the crafts, and to determine whether overtime shall be of a continuous nature.

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SECTION 3. SHIFT WORK

A. Flexible Schedules - In accordance with Project Work. The CM and the Contractors shall have the right to modify all shift start and end times and add or delete shifts subject *first* to obtaining a written notice from Owner requesting modification of the start and end times for one of more shifts and/or the number of shifts, and *second*, providing five (5) days' notice and a copy of the Owner's notice to the affected Local Unions. Shifts must be worked a minimum of five (5) consecutive work days, must have prior approval of the CM, and must be scheduled with not less than five (5) work days' notice to the Local Union. Saturday and Sunday, if worked, can be used for establishing the five (5) day minimum shift work period, however, those days will be paid at their respective overtime rates. The straight time workweek shall be considered to start with the day shift on Monday and end with the conclusion of the second or third shift on the fifth day. The shift that begins approximately midnight Sunday night shall be considered the last shift of the Sunday workday. In the event the second or third shift of any regular workweek shall extend into a holiday, employees will be paid the regular shift rate. Should the Contractor or sub-contractor choose to work at 7:00 a.m. through 3:30 p.m. as the first shift, the second shift will work eight (8) consecutive hours following the first shift with one-half hour break in each case.

B. Second Shift - If a second or third shift is required, then the shift premium for the second or third shift shall be ten (10%) percent.

C. Shift work relating to structural steel erection is subject to a mutual agreement between Iron Workers Local 40 and the CM, the Contractor, or sub-contractor, due to the potential hazardous situations which could exist.

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D. A first shift need not be worked in order to work a second or third shift.

SECTION 4. SATURDAY MAKE-UP DAY

When conditions beyond the control of the Contractor, such as severe weather, power failure, fire or natural disaster, prevent the performance of Project Work on a regularly scheduled work day, the Contractor may, with mutual agreement of the Local Union, schedule Saturday during that calendar week in which a workday was lost, as a make-up work day at straight time rates, where New York Labor Law Section 220 and the Prevailing Wage Schedule for Westchester County permit this; providing the employees involved work a total of forty (40) hours or less during that work week. Any work after eight (8) hours on a Saturday make-up day shall be at time and one half. If the make-up day results in an employee to be entitled to more than forty (40) hours pay for the week, the additional time shall be at time and one half. The crew of employees on a make-up day shall not exceed the average crew size employed during the week.

At the Employer's discretion, Saturdays can be substituted as a make-up day at the straight time rate of pay as the result of inclement weather which causes a cessation of work during the work week. If a Local Agreement provides for Shape-Up, there must be a Shape-Up Day during the week.

Any work after eight (8) hours on a Saturday make-up day shall be at time and one half. If the make-up day results in an employee to be entitled to more than forty (40) hours pay for the week, the additional time shall be at time and one half. The crew of employees on a make-up day shall not exceed the average crew size employed during the week.

Four (4) day, ten (10) hour work week; Monday-Thursday at straight time may be established by the employer. Friday or Saturday can be substituted as a make-up day at the

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straight time rate of pay as a result of inclement weather which causes a cessation of work during the work week provided there has been a shape-up day during the work week.

Any work performed in excess of ten (10) hours in any one day or forty (40) hours in any one week, which includes any make-up day, shall be paid for at the rate of time and one-half (1-1/2). The crew of employees on a make-up day shall not exceed the average crew size employed during the week, the contractor must notify the union in writing at least three (3) business days in advance of scheduling a four (4) day, ten (10) hour work week.

SECTION 5. HOLIDAYS

A. Schedule - There shall be only the following eight (8) recognized holidays on the Project:

New Year's Day	Labor Day
Presidents Day	Veterans Day
Memorial Day	Thanksgiving Day
Fourth of July	Christmas Day

All said holidays shall be observed on the dates designated by New York State Law. In the absence of such designation, they shall be observed on the calendar date, except those holidays which occur on Saturday shall be observed on the preceding Friday and those which occur on Sunday shall be observed on the following Monday.

B. Payment - Regular holiday pay, if any, and/or premium pay for work performed on such a recognized holiday shall be in accordance with the applicable Exhibit B CBA

C. Exclusivity - No holidays other than those listed in Section 5(A) above shall be recognized or observed on the Project.

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SECTION 6. REPORTING PAY

A. Employees who report to the work location pursuant to a regular schedule and who are not provided with work or whose work is terminated early by a Contractor or sub-contractor, for whatever reason, shall receive minimum reporting pay in accordance with the applicable Exhibit B CBA, except that no reporting pay shall be required for lost days due to severe weather conditions that cause the Project to shut down or makes performing certain work unsafe, power outage, fire, natural disaster, Presidential or Vice Presidential visits, or Homeland Security directives provided employees are called at least three hours ahead of their scheduled shift start (email notification shall also be sent to the Local Unions involved).

B. When an employee, who has completed his scheduled shift and left the Project Site, is "called out" to perform special work of a casual, incidental, or irregular nature, the employee shall receive pay for actual hours worked with a minimum guarantee, as may be required by the applicable Exhibit B CBA, at the employee's straight time rate.

C. When an employee leaves the job or work location of his own volition or is discharged for cause or is not working as a result of the Contractor or sub-contractor's invocation of Section 7 below, he shall be paid only for the actual time worked.

D. Except as specifically set forth in this Article, there shall be no premiums, bonuses, hazardous duty, high time, or other special payments of any kind.

E. There shall be no pay for time not actually worked except as specifically set forth in this Article and except where an applicable Exhibit B CBA requires a full week's pay for foreperson.

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SECTION 7. PAYMENT OF WAGES

Payday - Payment shall be made by check, drawn on a New York bank with branches located within commuting distance of the job site. Paychecks shall be issued by the Contractor or sub-contractor at the job site by 10 a.m. on Thursdays. In the event that the following Friday is a bank holiday, paychecks shall be issued on Wednesday of that week. Not more than three (3) days wages shall be held back in any pay period. Paycheck stubs shall contain the name and business address of the Contractor or sub-contractor, together with an itemization of deductions from gross wages.

Termination- Employees who are laid off or discharged for cause shall be paid in full for that which is due them at the time of termination. The Contractor or subcontractor shall also provide the employee with a written statement setting forth the date of layoff or discharge.

SECTION 8. EMERGENCY WORK SUSPENSION

The Contractor or sub-contractor may, if considered necessary for the protection of life and/or safety of employees or others, suspend all or a portion of Project work. In such instances employees will be paid for actual time worked; provided, however, that when the Contractor or sub-contractor requests that employees remain at the job site available for work, employees will be paid for "stand-by" time at their hourly rate of pay.

SECTION 9. INJURY/DISABILITY

An employee, who, after commencing work, suffers a work-related injury or disability while performing work duties, shall receive no less than eight (8) hours wages for that day. Further, the employee shall be rehired at such time as the employee is able to return to their duties provided there is still work available on the Project for which they are qualified and able to perform.

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SECTION 10. TIME KEEPING

The Contractor or sub-contractor may utilize brassing or other systems to check employees in and out. Each employee must check in and out. The Contractor or sub-contractor will provide adequate facilities for checking in and out in an expeditious manner.

SECTION 11. MEAL PERIOD

The Contractor or sub-contractor shall schedule an unpaid period of not more than 1/2 hour duration at the work location between the third and fifth hour of the scheduled shift. A Contractor or sub-contractor may, for efficiency of operation, establish a schedule which coordinates the meal periods of two or more crafts. If an employee is required to work through the meal period, the employee shall be compensated in a manner established in the applicable Exhibit B CBA.

SECTION 12. BREAK PERIODS

There will be no rest periods, organized coffee breaks, or other non-working time established during working hours, with the exception of reasonable coffee and/or soda breaks to be determined by the Contractor or sub-contractor. Individual coffee containers will be permitted at the employee's work location.

ARTICLE 13 - APPRENTICES

SECTION 1. RATIOS

Recognizing the need to maintain continuing supportive programs designed to develop adequate numbers of competent workers in the construction industry and to provide craft entry opportunities for minorities and women, the Contractor and sub-contractor will employ apprentices in their respective crafts to perform such work as is within their capabilities and which is customarily performed by the craft in which they are indentured. The Contractor and

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sub-contractor may utilize apprentices with the approval of the affected affiliate or affiliates to the highest ratio filed with the New York State Department of Labor.

SECTION 2. MINORITIES, WOMEN, HELMETS TO HARDHATS

A. The Unions agree to work in close cooperation with, and accept monitoring by, the New York State Department of Labor to ensure that minorities and women are afforded every opportunity to participate in apprenticeship programs which result in the placement of apprentices on this Project. To further ensure that this goal is achieved, the Contractors and the Unions agree that minority or women apprentices or recognized trainees may be used on the Project in accordance with the requirements of the Project bid documents.

B. **Helmets to Hardhats.** The CM and the unions recognize a desire to facilitate the entry into the building and construction trades of veterans who are interested in careers in building and construction industry. The CM and unions agree to utilize the services of the Center for Military Recruitment, Assessment, and Veterans Employment (hereinafter "Center") and the Center's "Helmets to Hardhats" program to serve as a resource for preliminary orientation, assessment of construction aptitude, referral to apprenticeship programs or hiring halls, counseling and mentoring, support network, employment opportunities, and other needs as identified by the parties.

(1) The Unions and the CM agree to coordinate with the Center to create and maintain an integrated database of veterans interested in working on this Project and of apprenticeship and employment opportunities for this Project. To the extent permitted by law, the Unions will give credit to such veterans for bona fide, provable past experience.

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ARTICLE 14 - SAFETY PROTECTION OF PERSON AND PROPERTY

SECTION 1. SAFETY REQUIREMENTS

The Contractors, the Council, and the Local Unions acknowledge that the CM has submitted to the Owner, and the Owner has approved, a Safety Program for the Project and that the CM will monitor and measure compliance by the Contractors and their employees and workers with the Safety Program, report deficiencies and direct remedial action. The Safety program is more fully described in Exhibit D hereto, except that the provisions of the Substance Abuse Prevention and Firearms Prohibition Policy, which is summarized in Section 4 below and is described at Exhibit D hereto, shall supersede any contrary provisions of the Safety program. The Contractor and sub-contractor will ensure that applicable OSHA requirements are at all times maintained and enforced on the Project and the employees and Unions agree to cooperate fully with these efforts. Employees must perform their work at all times in a safe manner and protect themselves and the property of the Contractor from injury or harm. Failure to do so will be grounds for discipline, including discharge.

SECTION 2. CONTRACTOR RULES

Employees covered by this Agreement shall at all times be bound by the reasonable safety, security, and visitor rules as established by the CM, the Contractor, and sub-contractor for this Project, including the CM's Exhibit D Safety program. Such other CM and Contractor rules will be published and posted in conspicuous places throughout the Project Site. Every employee who disregards or violates any safety, security, or visitor rules will be subject to discharge.

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SECTION 3. INSPECTIONS

The CM, the Contractors, and the sub-contractors retain the right to inspect incoming shipments of equipment, apparatus, machinery, and construction materials of every kind.

ARTICLE 15 - NO DISCRIMINATION

SECTION 1. COOPERATIVE EFFORTS

The Contractor, sub-contractor, and Unions agree that they will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, national origin, military status, predisposing genetic characteristics, age or marital status in any manner prohibited by law or regulation. It is recognized that special procedures may be established by the CM, the Contractor, sub-contractors, Local Unions, and the New York State Department of Labor for the training and employment of persons who have not previously qualified to be employed on construction projects of the type covered by this Agreement. The parties to this Agreement will assist in such programs and agree to use their best efforts to ensure that the goals for female and minority employment if any are met on this Project.

SECTION 2. LANGUAGE OF AGREEMENT

The use of the masculine or feminine gender in this Agreement shall be construed as including both genders.

ARTICLE 16 - GENERAL TERMS

SECTION 1. PROJECT RULES

The CM, the Contractors and the sub-contractors shall establish such reasonable Project rules as are appropriate for the good order of the Project, including but not limited to rules relating to health and safety, access, smoking, alcohol and drug use, and a comprehensive security, badging, and access system to control worker access to the Project Site. These rules

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will be explained at the pre-job conference and posted at the Project Site and may be amended thereafter as necessary. Failure of an employee to observe these rules and regulations shall be grounds for discipline, including discharge. The fact that no order was posted prohibiting a certain type of misconduct shall not be a defense to an employee disciplined or discharged for such misconduct when the action taken is for cause.

- A. No smoking will be permitted on or adjacent to the Project Site.
- B. No alcohol or illegal drug use on or adjacent to the Project Site.
- C. Personal protective equipment (PPE) such as hardhats, safety vests, eye protection, work boots, gloves, and any other equipment for a specific task shall be worn on the Project Site at all times.
- D. Proof of successfully completing the OSHA ten (10) hours safety training course within the last five (5) years prior to working on project site.

SECTION 2. TOOLS OF THE TRADE

The welding/cutting torch and chain fall are tools of the trade having jurisdiction over the work performed. Employees using these tools shall perform any of the work of the trade. There shall be no restrictions on the emergency use of any tools or equipment by any qualified employee or on the use of any tools or equipment for the performance of work within the employee's jurisdiction.

SECTION 3. SUPERVISION

Employees shall work under the supervision of the craft foreperson or general foreperson.

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SECTION 4. TRAVEL ALLOWANCES

There shall be no payments for travel expenses, travel time, subsistence allowance or other such reimbursements or special pay except as expressly set forth in this Agreement

SECTION 5. FULL WORKDAY

Starting and quitting times shall occur at the staging areas as may be designated by the CM, with the understanding that on any single day, the staging area will be the same location as the employee's starting time and quitting time. On-site parking will be provided. The signatories reaffirm their policy of a fair day's work for a fair day's wage.

SECTION 6. COOPERATION AND WAIVER

The Council, on its own behalf, and on behalf of its affiliated Local Unions and their individual members, intend the provisions of this Agreement to control to the greatest extent permitted by law, notwithstanding any contrary provisions of any applicable prevailing wage, or other law, and intend this Agreement to constitute an unequivocal, knowing and express waiver of the application to Project Work within the scope of this Agreement of any such prevailing wage law to the fullest extent permissible under the law, including specifically, but not limited to, provisions relating to shift, night, and similar differentials and premiums, holidays and holiday pay, and pay for hours not worked. The parties agree that the terms and conditions of this Agreement are prevailing in their industry and are consistent with the terms and conditions of employment that the Local Unions and their members have traditionally enjoyed in Westchester County

To the extent the provisions of this Agreement differ from the requirements of the applicable prevailing wage law, or any other law, the Unions, on their own behalf, and on

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behalf of the individual employees they represent, intend the provisions of this Agreement to control to the maximum extent permitted by law.

ARTICLE 17 - SAVINGS AND SEPARABILITY

SECTION 1. THIS AGREEMENT

In the event that the application of any provision of this Agreement is enjoined, on either an interlocutory or permanent basis, or otherwise found in violation of law, or if such application may cause the loss of Project funding for all or any part of the Project, the provision involved (and/or its application to a particular part of the Project, as necessary) shall be rendered, temporarily or permanently, null and void, but where practicable the remainder of the Agreement shall remain in full force and effect to the extent allowed by law, unless the part or parts so found to be in violation of law are wholly inseparable from remaining provisions of the Agreement and/or are material to the purposes of the Agreement. In the event a court of competent jurisdiction finds any portion of the Agreement to be invalid, the parties to this Agreement will immediately enter into negotiations concerning the substance affected by such decision for the purpose of achieving conformity with the court determination and the intent of the parties hereto for contracts to be let in the future.

SECTION 2. THE BID SPECIFICATIONS

In the event that the Owner's bid specifications, or other action, requiring that a successful bidder become signatory to this Agreement is enjoined, on either an interlocutory or permanent basis, or otherwise found in violation of law, or may cause the loss of funding for all or any part of the Project, such requirement (and/or its application to a particular part of the Project, as necessary) shall be rendered, temporarily or permanently, null and void, but where

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practicable the Agreement shall remain in full force and effect to the extent allowed by law. In such event, the Agreement shall remain in effect for contracts already bid and awarded or in construction where the Contractor or sub-contractor voluntarily accepts the Agreement. The parties will enter into negotiations as to modifications to the Agreement to reflect the court action taken and the intent of the parties for contracts to be let in the future.

SECTION 3. NON-LIABILITY

In the event of an occurrence referenced in Section 1 or Section 2 of this Article, neither the CM, the Contractor, any sub-contractor, nor any signatory Union shall be liable, directly or indirectly, for any action taken, or not taken, to comply with any court order, injunction or determination. Project bid specifications will be issued in conformance with court orders then in effect and no retroactive payments or other action will be required if the original court determination is ultimately reversed.

SECTION 4. NON-WAIVER

Nothing in this Article shall be construed as waiving the prohibitions of Article 7 as to signatory Contractors, sub-contractors and signatory Unions.

ARTICLE 18 - FUTURE CHANGES TO COLLECTIVE BARGAINING AGREEMENTS

SECTION 1. CHANGES TO AREA CONTRACTS

Exhibit B CBA's shall continue in full force and effect until the Contractor, the sub-contractor, and/or Union parties to the Area Collective Bargaining Agreements which are the basis for Exhibit B CBA's notify the CM in writing of the mutually agreed upon changes in provision of such agreements which are applicable to the Project, and their effective dates. It is agreed that any provisions negotiated into the Exhibit B CBA's will not apply to work on this Project if such provisions are less favorable to this Project than those uniformly required of

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Contractors for construction work normally covered by those agreements; nor shall any provision be recognized or applied on this Project if it may be construed to apply exclusively, or predominantly, to work covered by this Project Agreement.

Any disagreement between signatories to this Agreement over the incorporation into the Exhibit B CBA's of provisions agreed upon in the renegotiation of Area Collective Bargaining Agreements shall be resolved in accordance with the procedure set forth in Article 9 of this Agreement.

SECTION 2. LABOR DISPUTES DURING AREA CONTRACT NEGOTIATIONS

The Unions agree that there will be no strikes, sympathy strikes, parades, bannerings, establishment of an inflatable rat or any similar display or signal, work stoppages, sympathy actions, picketing, hand billing, slowdowns or other disruptive activity or other violations of Article 7 affecting the Project by any Local Union involved in the renegotiation of Area Local Collective Bargaining Agreements, nor shall there be any lock-out on this Project affecting a Local Union during the course of such renegotiations.

ARTICLE 19 - WORKERS' COMPENSATION ADR

At the written option of the Contractor and with the written approval of the Building and Construction Trades Council of Westchester and Putnam Counties, New York, all Local Unions, Contractors, and Sub-Contractors working on this project agree to be bound by the Collectively Bargained Workers Compensation Alternative Dispute Resolution Agreement [ADR Agreement] and to the ADR program set forth therein, by and between the Construction Industry Council of Westchester and the Hudson Valley, Inc. and the Building and Construction Trades

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Council of Westchester and Putnam Counties, New York, entered into on January 26, 2007, as amended.

ARTICLE 20 - DRUG FREE WORK PLACE; FIREARMS PROHIBITION

This Project Site is a Drug-Free Workplace. The use, consumption, sale, transfer, purchase, and/or possession of a controlled substance, alcohol, and/or firearms during working hours or while on the Project Site, and reporting for work under the influence of a controlled substance or alcohol are prohibited. The CM's substance abuse and firearms prohibition policy will apply to all individuals performing work on the Project Site and is attached as Exhibit D, and the CM will arrange for testing of employees of the Contractor or the Subcontractor in question through Clarity Testing Services at the Contractor's or Subcontractor's expense.

ARTICLE 21 - LABOR MANAGEMENT ALLIANCE

SECTION 1. LABOR MANAGEMENT ALLIANCE (LMA)

A. The Contractor and all Subcontractors performing Project Work agree to be bound by the provisions of the Westchester Mid-Hudson Labor Management Alliance (LMA), which is incorporated by reference in its entirety into this Agreement and to contribute five cents (\$0.05) per hour for each hour worked by members of an affiliate on the Project. The Contractor agrees to provide the LMA with a quarterly report of the names, addresses, and contact information of the Subcontractors working on the project.

B. The Contractor agrees to withhold payments for any monies due to a Subcontractor who is delinquent in contributions to the LMA upon receipt of a twenty-one (21) day notice which was sent to the Subcontractor with notice of the delinquency and that the Contractor

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will be instructed to withhold payment of all monies due to the delinquent Subcontractor until the necessary contributions are made to the LMA.

ARTICLE 22 – MISCELLANEOUS

SECTION 1. NOTICES

Any notice, request, demand, instruction, or other document to be given or served will be in writing and will be delivered personally with a receipt requested thereof or by fax, e-mail, or sent by Federal Express at the respective addresses set forth below to the CM, unless otherwise agreed to in writing, the terms and conditions of the Exhibit B CBA's, except as modified by this PLA, shall remain in full force and effect.

SECTION 2. AMENDMENTS

Amendments to this Agreement, which may be required for operational efficiency or implementation consistency, may be established by mutual agreement of the parties to this Agreement.

SECTION 3. GOVERNING LAW

This Agreement will be governed by the laws of the United States and of the State of New York.

SECTION 4. DURATION OF AGREEMENT

This Agreement will remain in effect until no later than sixty (60) calendar days after the CM substantially completes the demolition, building core and shell, and construction of the building interior and Tenant spaces which are to be occupied immediately by the Owner. The CM shall provide written notice to the Council that the Project Work is substantially complete in accordance with Article 22, Section 1, and the Agreement shall remain in effect until the end of the 60th calendar day following the date of notice. Notwithstanding the foregoing sentence, the Council and the Local Unions shall make no claim to stand-by work to be performed in any

PROJECT LABOR AGREEMENT

part of the Project Site, or any facility, system or space, that the Owner has accepted, used, or occupied, regardless of whether the facility, system, or space is used to support the construction, renovation, or demolition work that has been awarded to the CM.

SECTION 5. COUNTERPARTS

This Agreement may be executed by facsimile or PDF and/or in one or more counterparts, and by the parties and Local Union signatories hereto in separate counterparts, each of which when executed shall be deemed to be an original, but all of which taken together shall constitute one and the same Agreement.

PROJECT LABOR AGREEMENT

IN WITNESS WHEREOF the parties have caused this Agreement to be executed.

CONSTRUCTION MANAGER-

By: _____

DATE _____

(Name/Title)

BUILDING & CONSTRUCTION TRADES COUNCIL OF WESTCHESTER & PUTNAM
COUNTIES, New York, AFL-CIO on behalf of itself and the Local Unions listed in Exhibit "B"
attached

BY: _____

EDWARD DOYLE, SR., PRESIDENT

DATE _____

BY: _____

JEFF LOUGHLIN, VICE-PRESIDENT

DATE _____

BY: _____

DARIO BOCCAROSSA, SECRETARY-TREASURER

DATE _____

PROJECT LABOR AGREEMENT

EXHIBIT "A"

Project Labor Agreement - Letter of Assent

The undersigned party confirms that it agrees to be a party to and be bound by the Project Labor Agreement covering **ADDITIONS AND ALTERATIONS AT MUTUAL FIRE STATION AND INDEPENDENT FIRE STATION CONTRACT G - GENERAL CONSTRUCTION AND ASBESTOS ABATEMENT WORK - VILLAGE OF MOUNT KISCO**. As such Agreement may, from time to time, be amended by the parties or interpreted pursuant to its terms. The terms of the Project Labor Agreement, its Schedules, Addenda, and Exhibits are hereby incorporated by the referenced herein.

Name of Contractor or Subcontractor: _____

Authorized Officer & Title: _____

Signature: _____ Date: _____

Address: _____

Phone: _____

PROJECT LABOR AGREEMENT

EXHIBIT "B"

CBA'S

BRICKLAYERS AND ALLIED CRAFT WORKERS LOCAL UNION 5

NORTHEAST REGIONAL COUNCIL OF CARPENTERS - LOCAL 279

INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS LOCAL #3

LABORERS INTERNATIONAL UNION OF NORTH AMERICA, LOCAL #235

INTERNATIONAL UNION OF OPERATING ENGINEERS, LOCAL #137

DISTRICT COUNCIL #9 INTERNATIONAL BROTHERHOOD OF PAINTERS AND
ALLIED TRADES AFL-CIO

PLUMBERS & STEAMFITTERS LOCAL 21

TEAMSTERS LOCAL #456

DOCKBUILDERS LOCAL UNION 1556

LOCAL UNION #40 OF THE INTERNATIONAL ASSOCIATION OF BRIDGE,
STRUCTURAL AND ORNAMENTAL IRON WORKERS

METALLIC LATHERS UNION LOCAL #46

INTERNATIONAL UNION OF OPERATING ENGINEERS, LOCAL #15D

TEAMSTERS LOCAL #813

TEAMSTERS LOCAL #814

PROJECT LABOR AGREEMENT

ASBESTOS WORKERS LOCAL #91 (INTERNATIONAL ASSOCIATION OF HEAT AND FROST INSULATORS AND ASBESTOS WORKERS)

GLAZIERS LOCAL 1087

BOILERMAKERS LOCAL #5

INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS LOCAL UNION 363

LOCAL ONE INTERNATIONAL UNION OF ELEVATOR CONSTRUCTORS OF NEW YORK AND NEW JERSEY (AFL-CIO)

IRON WORKERS DISTRICT COUNCIL OF GREATER NEW YORK ANVICINITY

ORNAMENTAL IRONWORKERS LOCAL UNION NO. 580

MILLWRIGHT AND MACHINERY ERECTORS LOCAL UNION NO. 740

IUOE LOCAL NO. 30 - OPERATING ENGINEERS

STONE DERRICKMEN AND RIGGERS LOCAL UNION NO. 197

ROAD SPRINKLER FITTERS LOCAL 669

UNITED UNION OF ROOFERS, WATERPROOFERS AND ALLIED WORKERS, LOCAL NO. 8, NEW YORK

SHEET METAL WORKERS' LOCAL UNION 38

BRIDGE PAINTERS LOCAL 806

PROJECT LABOR AGREEMENT

TILE, MARBLE & TERRAZZO BRICKLAYERS & ALLIED CRAFTSMEN LOCAL UNION
NO. 7 OF NEW YORK & NEW JERSEY

OPERATIVE PLASTERERS' AND CEMENT MASONS' INTERNATIONAL ASSOCIATION
LOCAL 262

UNITED CEMENT MASONS' UNION OF GREATER NEW YORK AND LONG ISLAND
LOCAL 780

HEAVY CONSTRUCTION LABORERS LOCAL 60

RESILIENT FLOOR COVERERS LOCAL 2287

PROJECT LABOR AGREEMENT

EXHIBIT “C”

PROJECT SITE AND PROJECT WORK

Description to follow

PART 1 - GENERAL

1.01 DESCRIPTION

- A. This Section specified the regulatory and safety requirements for prosecution of the Work and supplements the requirements specified in the Agreement. The Contractor(s) are required to assure that all employees, subcontractors, and their supplier/vendors, while on the Work site and in the conduct of the Contract comply with the provisions of this Section.

1.02 PROTECTION OF THE PUBLIC

- A. Take all necessary precautions to prevent injury to the public and damage to property of others. Perform all work in accordance with rules and regulations, procedures, and safety practices of OSHA, and all other governmental agencies having jurisdiction over the project and property.

1.03 EMERGENCY PROCEDURES

- A. Establish emergency procedures and prepare written guidelines specifying such procedures for the following:
1. Fire;
 2. Injury to Employees;
 3. Injury to the general public;
 4. Property damage, including property of utilities, i.e. gas, water, sewage, electric facilities, telephone or pedestrian and vehicle routes.
- B. Copies of all guidelines for emergency procedures shall be written and posted prior to the initiation of actual construction. Posting shall include directions to and from the nearest hospital.

1.04 WELDING

- A. Gas and electric cutting, burning or welding must be done in accordance with the guidelines of the National Fire Protection Association Code 51B. Spark shields and a fire watch must be posted when cutting, burning or welding. A supply of water shall be readily available specifically for fire protection.

1.05 UTILITIES

- A. The Contractor is required to notify utilities prior to all excavations. The Contractor is responsible for contacting the utilities to determine the location of all underground utilities. The Contractor shall be held responsible for any damage done to any structure in the prosecution of the Work. The Contractor shall exercise any precautions necessary to prevent damage in working underneath or adjacent to any underground structure. If it becomes necessary for a utility company, through emergency purposes or because of unforeseen conditions, to repair, reconstruct, relay or relocate its structure within the Contract area, after work has commenced by the Contractor, then the said utility company and the Contractor shall make suitable arrangements to overcome such interference. No compensation will be allowed the Contractor for the disruption to his work.

1.06 BARRICADES AND OTHER PROTECTION

- A. When it is necessary to maintain public use of work areas involving sidewalks, entrances to building and vehicular roadways, protect the public with appropriate guardrail barricades, temporary fences, warning, danger, and detour signs, suitable and adequate lights. Such protection shall guard against flying materials, falling or moving material, equipment, hot or poisonous materials, flammable or toxic liquids, gases, open flames, energized electrical circuits or other harmful exposures.
- B. All open excavation must be properly barricaded and shall be lighted at the end of each workday and be operating from sunset to sunrise.
- C. Remove and dispose of all project temporary facilities and controls used in conjunction with the work. All costs for such removal and disposal shall be borne by the Contractor.

1.07 FIRST-AID FACILITIES

- A. The Contractor shall provide and fully equip a first aid station at the site, for first-aid service to any who may be injured in the progress of work or on the site.

1.08 SECURITY

- A. The Contractor shall provide whatever security is necessary to protect his material, equipment, and work form all incidental and intentional damage or theft.
- B. If the Contractor's material, equipment and/or work is damaged or stolen, either incidentally or intentionally, prior to acceptance, the Contractor shall be responsible for correcting the damage or replacing the material at his own expense.

1.09 ENVIRONMENTAL PROTECTION

- A. General Requirements:
 - 1. The Contractor shall provide and maintain environmental protection as defined herein.
 - 2. The Contractor's operation shall comply with all applicable Federal, State, and Local laws, ordinances, and regulations pertaining to environmental protection.
 - 3. Compliance of subcontractors with the provisions of this and various other sections of these Specifications shall be the responsibility of the Contractor.
 - 4. The Contractor shall not use equipment from which factory installed antipollution and noise control device have been removed or rendered ineffective through lack of proper maintenance.
 - 5. The Contractor shall provide adequate pollution controls for painting and surface preparation in compliance with the Department of Environmental Conservation regulations of the State of New York.
 - 6. Materials Transport:
 - a. Clean vehicles leaving the site to prevent depositing mud and dirt on public sidewalks and streets.
 - b. Load trucks in a manner which will prevent dropping materials or debris on streets. Remove spills or debris from streets promptly.
 - c. Heavy vehicle traffic shall not be allowed within any adjoining neighborhood.
 - 7. Waste Materials:
 - a. Do not permit waste or erosion materials to enter the municipal sewer systems.

- b. Do not wash, or flush transit mix concrete trucks so that wastes are deposited on streets or enter municipal sewer system.
- B. Protection of Natural Resources:
 - 1. General: It is intended that the natural resources within the project boundaries and outside the limits of permanent work performed shall be preserved in their existing condition or be restored to an equivalent of the existing condition.
 - 2. Protection of Existing Roadways:
 - a. Debris or rubbish of any kind shall not be dumped into or be allowed to fall onto roadways. This shall also include paint spatters and spillage during painting operations. Care shall be taken to prevent damage and injury to personnel and vehicles using roadways or pedestrian ways. Devices shall be provided and maintained by the Contractor as required to prevent such occurrences. Material or items falling onto roadways shall be promptly removed at the Contractor's expense.
 - 3. Land Resources:
 - a. Except in areas indicated to be cleared or excavated, the Contractor shall not remove, cut, deface, injure, or destroy trees, shrubs, or vegetation without specific written permission. No ropes, cables, or guys shall be fastened or attached to any existing nearby trees for anchorage unless otherwise permitted by the Owner. Where such use is permitted, the Contractor shall be responsible for any damage resulting there from.
 - b. The use of herbicides is not permitted unless otherwise specified.
 - 4. Water Resources: At all times, measures shall be taken to prevent oil, gasoline, and other hazardous substances from entering the ground, drainage areas, and local bodies of water.
- C. Erosion and Sediment Controls:
 - 1. Burning of ground cover will not be permitted.
 - 2. A NYSDEC SWPPP Permit has been obtained by the Owner for each project. A copy of each permit is located at the end of each Volume III Project Manual under the Appendix A.
 - a. The General Contractor shall schedule a pre-construction SWPP meeting with NYSDEC, Owner and Architect prior to commencing any work on site.
- D. Toxic Substances:
 - 1. The Contractor shall comply with the Federal Toxic Substance Control Act (TSCA).
 - a. No toxic chemical substance, mixture, equipment, container, sealant, coating, or dust-control agent shall be used except in accordance with all the provisions of the TSCA as interpreted by the rules and regulations of 40 CFR 761.
- E. Dust Control:
 - 1. Dust shall be kept down at all times including, non-working hours, weekends, and holidays. Soil at the site, and other areas disturbed by the Contractor's operations and materials stockpiled for the project shall be treated with dust suppressors or covered to control dust. Dry powder brooming will not be permitted. Vacuuming, wet mopping, wet sweeping, or wet powder brooming shall be used instead. Air blowing will be permitted only for cleaning off non-particle debris, such as that from reinforcing bars. Sandblasting will not be permitted except as otherwise specified elsewhere. Only wet cutting of concrete block, concrete, and asphalt will be permitted.
 - 2. The Contractor shall comply with all applicable provisions of the National Emission Standards for Asbestos (40 CFA 61 Subpart B).

3. The Contractor shall inspect all vehicles for dirt prior to their leaving the construction site. Dirt, soil, and rubble likely to be dislodged during transit shall be removed from trucks and other vehicles prior to leaving the site.
4. The Contractor shall ensure that equipment-transporting material to and from the site that may become airborne is covered.
5. The Contractor shall not cause or permit fugitive particulate matter to be emitted into the outdoor atmosphere from any source such that emissions are visible beyond the project property line.

1.01 NOISE CONTROL

- A. No work that would produce noise, dust and debris may be performed except during the allowable hours of 7:00 AM To 6:00 PM, Monday through Friday, and 8:00 to 5:00 PM on Saturday. No work on Sunday or Federal and State holidays.

PART 2 – PRODUCTS - (Not Applicable)

PART 3 – EXECUTION – (Not Applicable)

END OF SECTION

PART 1 GENERAL

1.01 RELATED DOCUMENTS

- A. Drawings and general provisions of the Agreement, including General Conditions and Division 01 of the Project Manual, apply to work of this Section.
- B. Related specification sections include the following:
 - 1. Section 004100 – Bid Form
 - 2. Section 007000 – General Conditions
 - 3. Section 012200 – Unit Prices
 - 4. Section 012900 – Payment Procedures
 - 5. Section 310000 – Earthwork

1.02 DESCRIPTION

- A. Allowances shall be included in the **Base Bid** amount.
- B. This amount for each allowance shall appear as a line item in the Application for Payment. The amount of allowances #1 through #2 will be determined by multiplying the allowance quantity by the respective unit price bid for that item.
- C. Any funds not expended for the allowance shall be returned to the Owner in the form of a credit to the Contract (Change Order) for the full amount not used.

1.03 ALLOWANCE NO. 1 – REMOVAL OF EXISTING UNCONTROLLED FILL MATERIAL

- A. Include in the contract sum a quantity of fifty (50) cy to cover the removal and disposal off site (in accordance with all State and Local regulations) of existing uncontrolled fill material beyond that required to complete the work shown in the contract documents.
 - 1. The cost of providing the Work of this allowance shall be included in the Base Bid amount. Contractor documentation of cubic yard quantities is required by actual field measurements. Owner or owner's representative must agree with the quantities to be allowed. Total quantities in excess of the allowance amount, if any, will be paid by means of a Change Order based on the unit price provided by the Contractor.
 - 2. The amount of the allowance includes providing this work in accordance with the requirements of these specifications.
 - 3. Any reduction in scope below the quantities stated in the allowance will be credited to the Owner by means of a change order at 100% of the unit price provided.

1.04 ALLOWANCE NO. 2 – PLACEMENT OF CONTROLLED FILL MATERIAL

- A. Include in the contract sum a quantity of fifty (50) cy to cover importation and proper placement and compaction of subbase material to replace unsuitable materials such as from Allowance 1. This is material beyond that required to complete the work shown in the contract documents. Controlled fill shall meet the specifications for NYSDOT Subbase Course Type 2 per NYSDOT Standard Specification Section 304.
 - 1. The cost of providing the Work of this allowance shall be included in the Base Bid amount. Contractor documentation of cubic yard quantities is required by actual field measurements. Owner or owner's representative must agree with the quantities to be allowed. Total quantities above the allowance amount, if any, will be paid by means of a Change Order based on the unit price provided by the Contractor.

2. The amount of the allowance includes providing this work in accordance with the requirements of these specifications.
3. Any reduction in scope below the quantities stated in the allowance will be credited to the Owner by means of a change order at 100% of the unit price provided.

PART 2 PRODUCTS (Not Used)

PART 3 EXECUTION (Not Used)

END OF SECTION

PART 1 GENERAL

1.01 RELATED DOCUMENTS

- A. Drawings and general provisions of the Agreement, including General Conditions, and Division 01 of the Project Manual, apply to work of this Section.
- B. Related specification sections include the following:
 - 1. Section 004100 – Bid Form
 - 2. Section 005000 – Standard Form of Agreement
 - 3. Section 007000 – General Conditions
 - 4. Section 012100 – Allowances
 - 5. Section 310000 – Earthwork

1.02 DESCRIPTION

- A. This Section (a) identifies each Unit Price, (b) describes Scope of Work included within the Unit Price, and (c) defines the Unit of measurement.
- B. Provide unit prices filled-in on the bid form in accordance with the requirements of the General Conditions and shown on the Bid Form. Unit costs will be used for adjustment of the Contract Sum if any are required. The Owner reserves the right to reject any unit prices bid.
- C. All Unit Prices must include overhead profit, subcontractor and vendor costs.
 - 1. No additional mark-up will be allowed for any unit cost or allowance.

PART 2 PRODUCTS

2.01 NOT APPLICABLE

PART 3 EXECUTION

3.01 UNIT PRICES

- A. Extra Excavation, Measurement and Payment: Excavation: For the purpose of this project, the following definitions shall be applicable for additional excavation if such excavations are authorized by the Architect or Engineer.
 - 1. *Earth*: Any naturally occurring soil which may include native features such as soils, stones and organics. Extra excavation charges are, in general, not permitted for earth. Earth (beyond that required to complete the work shown in the contract documents) that is deemed unsuitable for use under buildings, paving and structures is allowed as extra excavation and will be classified as uncontrolled fill for the purpose of removal unit pricing.
 - 2. *Uncontrolled Fill*: Existing deposited fill that has not been documented for proper placement, layer thickness, density, moisture content at placement, and compaction. Uncontrolled fills may contain unsuitable materials such as debris, organics, construction materials, cobbles, buried topsoils etc. Any fill for which proper documentation is not available is considered uncontrolled fill that is unsuitable for use under buildings, paving and structures unless noted otherwise.
- B. Payment for the additional fill, earth excavation, if encountered, will be made on the basis of the definitions above.
- C. **Unit Price #1:** Removal of Existing Uncontrolled Fill Material as ordered by the Architect or Engineer.

SECTION 012200 – UNIT PRICES

H2M

1. Measure by the cubic yard (CY), in-place measurement
2. Shall include excavation, removal, hauling and disposal to achieve required grade or elevation.

D. Unit Price #2: Placement of Controlled Fill

1. Measure by the cubic yard (CY), in-place measurement.
2. Shall include supplying, delivering, placing, compacting, and testing to achieve required uniform grade or depth.

END OF SECTION

PART 1 GENERAL

1.01 RELATED DOCUMENTS

- A. Drawings and general provisions of the Agreement, including General Conditions and Division 01 of the Project Manual, apply to work of this Section.
- B. Section 005000 – Standard Form of Agreement.

1.02 DESCRIPTION

- A. This Section identifies each Alternate by project, alternate number and describes basic changes to be incorporated into the Work, provided such Alternate is made a part of the Work pursuant to specific provisions in Owner-Contractor Agreement.

1.03 REQUIREMENTS

- A. Coordinate specific related Work and modify surrounding Work where required to integrate the Work under each Alternate, and to provide complete construction required by Contract Documents.
- B. All new materials and items mentioned in the following Alternates are subject to these Specifications.

PART 2 PRODUCTS

2.01 NOT APPLICABLE

PART 3 - EXECUTION

3.01 MUTUAL FIRE STATION ALTERNATES

- A. Alternate #1 Mutual - ADD: Substitute Glazed Concrete Block for Painted Gray Block in New Apparatus Bay.
 - 1. Provide Spectra-Glaze® II Units or Architect approved equivalent in lieu of gray concrete block units (field painted) on the West, North, and East walls of the new Apparatus Bay, Room 118. Glazed block shall extend to the bottom of the second floor deck. Horizontal joint reinforcing and vertical reinforcing in grouted cores remains the same. Color, only one color will be used, as selected by Architect from Spectra-Glaze® II Standard Colors. When laying Spectra-Glaze® units, adjust raw block bed joints, head joints and coursing to assure alignment of glazed facings and uniformly wide mortar joints (approx. 1/4" exposed). Provide finished ends on any block where the end or portion of the end is exposed, i.e. door frames. Requirements of bullnose exposed corners and all other requirements of Section 042200 still apply. Mortar shall be standard Type S with integral coloring.
- B. Alternate #2 Mutual - ADD: Door Access Control Infrastructure
 - 1. Provide conduit with nylon pull strings, junction boxes and associated door frame preparations as shown in Detail 1/E500. Provide at the following doors only: R101, 113, 114A, 118, 210, and 214 as shown Drawings E101 and E102.
 - 2. Where doors and frames are located in new wall construction all conduits and card reader boxes should be concealed within the wall construction.

3. Doors and Frames located in existing walls, conduits shall run surface mounted on the face of the inside wall, then penetrate wall to a surface mounted card reader box (finished box). Where card reader box is located outside, provide a weatherproof finished box.
- C. Alternate #3 Mutual - ADD: WIFI and Technology Upgrades
1. Provide price for conduit and CAT 6 wiring for cameras (cameras provided and installed by Owner). Refer to Drawings E0.0 Communications Legend, E2.0 and E2.1.
- D. Alternate #4 Mutual - ADD: Engraved Precast Medallion
1. Provide price to furnish and install a precast engraved medallion in lieu of brick at the location on the front of the building as shown on the building elevation. Precast medallion to be supported by an additional 4" x 5" x 5/16" x medallion with + 16" stainless steel angle at its base, bolt angle into fully grouted CMU cores with a minimum six (6) stainless countersunk, expansion anchors. Provide Hohmann & Barnard stainless steel (Type 304) #441 3/16" Stone Anchors along both vertical sides and along the top edge at 8" o.c. into slots into the medallion and secured to CMU back-up. Engraved letters and artwork shall be stained with a Lithochrome stain. Color as selected by Architect.
- E. Alternate #5 Mutual - ADD: Maintenance Bond
1. Provide the Owner with a two (2) year Maintenance Bond that commences on the one-year anniversary of the date of Substantial Completion.
- F. Alternate #6 Mutual – DELETE: New Retaining Wall, Two Parking Spaces, and Associated Work
1. Delete the removal of the 12" oak and 8" locust trees and roots. Leave existing swale and rip rap in place. Leave existing retaining wall in place. Remove existing concrete pad, saw cutting 6" from face of existing retaining wall that will remain as shown on Drawing CD100.00.
 2. Delete the construction of the new retaining wall, chain link fence, asphalt paving for two parking stalls and all associated asphalt pavement to the right and left of the two parking stalls. Delete all pavement markings in this area. Grade area from edge of new asphalt paving to existing retaining wall with aggregate base course as specified in Section 321123.
 3. Create a single handicap parking stall utilizing the first two parking stalls next to East Main Street. Stripe and sign accordingly.

3.02 INDEPENDENT FIRE STATION ALTERNATES

- A. Alternate #1 Independent - ADD: Additional Second Floor Addition
1. Add the addition to Room 218 labeled 224 on the Architectural Drawings to create one large office suite. The 12K5 roof joists will be replaced by 18 LH02 joists in the area of the longer spans. The floor joists and roof joists at the ceiling of the first floor (Second Floor Framing Plan) are replaced by 18LH09 joists. There is no wall between 218 and 224 if the alternate is accepted. The two North windows in Room 218 base bid move to the exterior wall of 224. There is one additional exterior window in Room 224. The 50D wall type continues all around the 218/224 exterior wall. LVT flooring and SAC 22A are continuous thru both 218 and 224 – adjust borders accordingly. The base bid roof drain and associated piping is deleted if the alternate is accepted. The new roof over the 224 section will slope to the roof drain that is over 218 (in base bid). This is a general overview and does not list every detail or requirement. Refer to the Contract Drawings.

- B. Alternate #2 Independent - ADD: Door Access Control Infrastructure
 - 1. Provide conduit with nylon pull strings, junction boxes and associated door frame preparations as shown in Detail 1/E500. Provide at the following doors only: 101, 106 (existing door or new door if Alternate #4 is accepted), 111, and 120 as shown on Drawings E101.
 - 2. Where doors and frames are located in new wall construction all conduits and card reader boxes should be concealed within the wall construction.
 - 3. Doors and Frames located in existing walls, conduits shall run surface mounted on the face of the inside wall, then penetrate wall to a surface mounted card reader box (finished box). Where card reader box is located outside, provide a weatherproof finished box.
- C. Alternate #3 Independent - ADD: WIFI and Technology Upgrades
 - 1. Provide price for conduit and CAT 6 wiring for cameras (cameras provided and installed by Owner). Refer to Drawings E001 Communications Legend and E101.
- D. Alternate #4 Independent - ADD: Replace Aluminum Front Entrance and Door
 - 1. Demo existing front storefront and front door. Provide new aluminum entrance system and door per Specification Section 084113 – Aluminum Framed Entrances and Storefront, Section 087100 – Door Hardware, and Section 088000- Glazing.
- E. Alternate #5 Independent - ADD: Maintenance Bond
 - 1. Provide the Owner with a two (2) year Maintenance Bond that commences on the one year anniversary of the date of Substantial Completion.

END OF SECTION

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PART I GENERAL

1.01 RELATED DOCUMENTS

- A. Section 005000 – Standard Form of Agreement AIA A101 – 2007.
- B. Section 007000 – General Conditions of the Contract for Construction AIA – A201 - 2007
- C. Section 012900 – Payment Procedures.
- D. Section 016000 – Product Requirements

1.02 DEFINITIONS

- A. Architect's Supplemental Instructions: Supplemental instructions, interpretations or an order for minor modifications in the Work, none of which should involve a change in Contract Sum or Contract Time.
- B. Construction Change Directive: authorizes a change based upon an understanding concerning changes in the Contract Sum or Contract Time and which is issued expeditiously to avoid delay.
- C. Proposal Request: requests an itemized quotation for proposed changes in Contract Sum or Contract Time but which is neither a directive, or authorization or a change order.
- D. Change Order: authorizes a change to the Contract and which may involve a change in Contract Sum or Contract Time.

1.03 SUBMITTALS

- A. Submit name of individual to accept changes and is responsible for informing others in Contractor's employ of changes in the Work.

1.04 ARCHITECT'S SUPPLEMENTAL INSTRUCTIONS

- A. Architect may issue supplemental instructions, interpretation or minor modifications in the Work, with supplementary or revised Drawings and Specifications, for acceptance by the contractor pursuant to Definitions.
- B. Should later circumstance produce changes to Contract Sum or Contract Time; follow procedures for Change Orders.
- C. Architect will substantiate instructions on AIA G710 "Architect's Supplemental Instructions" at his discretion.
- D. Promptly execute modifications.

1.05 CONSTRUCTION CHANGE DIRECTIVE

- A. The Architect may issue a Directive, which may be signed by Owner, with supplementary or revised Drawings and Specifications, instructing Contractor to proceed with a change in the Work, for subsequent inclusion in a Change Order.

- B. Directive will describe changes in Work and will direct the Contractor to designate method of determining and change in Contract Sum or Contract Time.
- C. Promptly execute changes.

1.06 CHANGE ORDER PROPOSALS

- A. Architect may, at his discretion, submit a Proposal Request which includes a detailed description of the change with supplementary or Revised Drawing and Specifications, projected time for executing change, a stipulation of any overtime Work required a period of time during which requested price will be considered valid.
- B. Contractor may initiate a change by Submittal of a request to the Architect describing proposed change with a statement of reason for change, effect on Contract Sum, and Contract Time with full documentation. Document any requested substitutions in accordance with Section 016000 – Product Requirements and use the standard AIA Document with appropriate backup.
 - 1. Contractor will prepare the AIA change order document.

1.07 DOCUMENTATION OF CHANGE IN CONTRACT SUM AND CONTRACT TIME (Subject to Article 7 of the General Conditions A201 - 2017)

- A. Document each quotation for change in cost or time with sufficient data to allow evaluation of each quotation.
- B. Provide data to support all computations for time and materials:
 - 1. Quantities: Cost of products, labor and equipment.
- C. General contractor can markup their own work 10% to cover time and materials.
- D. General contractor can markup a subcontractor's work 5% to cover time and materials or lump sum cost.
- E. Justification for any change in Contract Time.
- F. Credit for deletions from Contract, similarly documented.
 - 1. Credits must include profit, overhead, bonding and insurance.
- G. There is no additional markup allowed in lump sum or not-to-exceed pricing.
- H. There are no line items or markup for safety, clean up, guarantee, as-builts or any similar items.
- I. Cost for payment and/or performance bond may not exceed the percentage amount of the bonds as shown on the G703 Schedule of Values.
- J. Maintain detailed records of Work done on a time and material basis. Provide full information required for evaluation of proposed changes and to substantiate costs for changes in the Work.
- K. Support each claim for additional costs, for Work done on a time and material basis, with additional information:
 - 1. Origin and date of claim.
 - 2. Dates and times Work was performed and by whom.
 - 3. Time records and wage rates paid.

4. Invoices and receipts for products, equipment and subcontracts, similarly documented.

1.08 CHANGE ORDER EXECUTION

- A. Architect may initiate Change Order on AIA G701 "Change Order" at his discretion.

1.09 FIXED SUM

- A. The Fixed sum will be based on Proposal Request and Contractor's fixed sum quotation or Contractor's request for Change Order as approved by the Architect and the Owner.

1.10 UNIT PRICE CHANGE ORDER

- A. For pre-determined unit prices and quantities, Change Order will be executed on a fixed sum basis.
- B. For unit costs or quantities of units of Work that are not predetermined, execute the Work under a Construction Change Directive.
- C. Maintain detailed records of Work done with the following additional information:
 1. Dates and times Work was performed.
 2. Documentation substantiating products, equipment and subcontracts.

1.11 TIME AND MATERIAL CHANGE ORDER

- A. Submit itemized account and supporting data after completion of change within time limits in Contract Provisions.
- B. Architect will determine change allowable in Contract Sum and Contract Time as provided in Contract Provisions.

1.12 CORRELATION OF CONTRACTOR SUBMITTALS

- A. Promptly revise Schedule of Values and Application for Payment forms to record each authorized Change Order as a separate line item and adjust Contract Sum as shown on Change Order.
- B. Promptly revise Progress Schedules to reflect any change in Contract Time, revise sub-schedules to adjust times for other items of Work affected by the change and resubmit.
- C. Promptly enter changes in Project Record Documents.

1.13 CHANGE ORDER VALUE

- A. Change Order shall reflect actual labor performed on the job. No Change Order will be allowed for "Book Value" of labor or materials.
 1. Contractor shall keep detailed records of all actual costs when the Work is performed and shall demonstrate accurate records for all Time and Materials.
- B. Any change order for a credit shall reflect all labor and materials of contractor, all sub-contractors, all sub-sub-contractors, suppliers, vendors, bond costs, insurance, profit, overhead, etc.

- C. Change order costs shall be identical for additions and credits. Line item labor, materials, bonds, insurance, subcontractors, suppliers, vendors and unit costs for additions shall match those of credits and vice versa. The exceptions are that re-stocking fees (based on actual published policies), new shipping costs and costs of custom materials already delivered to the site may be deducted at the appropriate rate from change order credits. In no case may re-stocking fees exceed 30% of the product/material cost.

END OF SECTION

PART 1 GENERAL

1.01 SUMMARY

- A. Drawings and general provisions of the Agreement, including General Conditions and Division 01 of the Project Manual, apply to work of this Section.
- B. This section specifies administrative and procedural requirements necessary to prepare and process Applications for Payment.

1.02 DEFINITIONS

- A. Schedule of Values: A statement furnished by Contractor allocating portions of the Contract Sum to various portions of the Work and used as the basis for reviewing Contractor's Applications for Payment.

1.03 SCHEDULE OF VALUES

- A. Contractor shall coordinate its Schedule of Values for its part of the Work.
 - 1. Correlate line items in the Schedule of Values with other required administrative forms and schedules, including the following:
 - a. Application for Payment forms with Continuation Sheets.
 - b. Submittals Schedule
 - c. List of Subcontractors
 - d. Alternates Schedule
 - 2. Submit the Schedule of Values to the Architect at earliest possible date but no later than fourteen (14) days before the date scheduled for submittal of initial Applications for Payment.
 - 3. Sub-schedules: Where the Work is separated into phases requiring separately phased payments, provide sub-schedules showing values correlated with each phase of payment.
 - 4. Submit no less than two (2) copies.
- B. Format and Content: Use the Project Manual table of contents as a guide to establish line items for the Schedule of Values. Provide at least one line item for each Specification Section. Schedule shall be typed, or media driven on AIA G703 Continuation Sheet for Application for Payment.
 - 1. Include the following Project identification on the Schedule of Values:
 - a. Project name and location.
 - b. Name of Architect.
 - c. Project numbers, if applicable
 - d. Contractor's name and address.
 - e. Date of submittal
 - 2. Arrange the Schedule of Values in tabular form with separate columns to indicate the following for each item listed:
 - a. Related Specification Section or Division.
 - b. Description of the Work.
 - c. Name of subcontractor.
 - d. Name of manufacturer or fabricator.
 - e. Name of supplier.
 - f. Change Orders (numbers) that affect value.
 - g. Dollar value.
 - 1) Percentage of the Contract Sum to nearest one-hundredth percent, adjusted to total 100 percent.

3. Provide a breakdown of the Contract Sum in enough detail to facilitate continued evaluation of Applications for Payment and progress reports. Coordinate with the Project Manual table of contents. Provide several line items for principal subcontract amounts, where appropriate.
4. **Round amounts to nearest whole dollar; total shall equal the Contract Sum.**
5. Provide separate line items in the Schedule of Values for initial cost of materials, for each subsequent stage of completion, and for total installed value of that part of the Work.
6. Allowances: Provide a separate line item in the Schedule of Values for each allowance. Show line item value of unit-cost allowances, as a product of the unit cost, multiplied by measured quantity. Use information indicated in the Contract Documents to determine quantities.
7. Each item in the Schedule of Values and Applications for Payment shall be complete. Include total cost and proportionate share of general overhead and profit for each item.
 - a. Temporary facilities and other major cost items that are not direct cost of actual work-in-place may be shown either as separate line items in the Schedule of Values or distributed as general overhead expense, at Contractor's option.
8. Schedule Updating: Update and resubmit the Schedule of Values before the next Applications for Payment when Change Orders and Construction Change Directives result in a change in the Contract Sum.
9. **Include the line item for 3% closeout. (Re: Item 3.04 of this section.)**

1.04 APPLICATIONS FOR PAYMENT

- A. Each Application for Payment shall be consistent with previous applications and payments as certified by Architect and paid for by Owner.
 1. The initial Application for Payment, the Application for Payment at time of Substantial Completion, and the final Application for Payment involve additional requirements.
- B. Payment-Application Times: The date for each progress payment is the 25th day of each month (or as designated by the Owner). The period covered by each Application for Payment shall be the same month as when the Application is submitted.
- C. Payment-Application Forms: Use AIA Document G702 and AIA Document G703 Continuation Sheets as the form for Application for Payment.
 1. Separate Continuation Sheets shall be provided for work, which takes place on each building, which will detail that portion of the contract, which is attributable to the specific building.

1.05 PREPARATION AND SUBMITTALS

- A. Type required information or use media-driven printout.
- B. Execute certification by signature of authorized officer.
- C. Use data on accepted Schedule of Values. Provide dollar value in each column for each line item for portion of the Work performed.
- D. List each authorized Change Order separately on continuation sheet, listing Change Order number and dollar amount as for an original item of the Work.

- E. Submit four (4) copies of each Application for Payment to the Architect at times stipulated in Agreement. The Architect will review Application for Payment and process the same in accordance with the General Conditions and any Supplementary Conditions.
- F. Submit a copy of each substantiating or companion document with each copy of Application for Payment unless otherwise specified.
- G. GC shall submit an updated Progress Schedule with each Application for Payment.
 - 1. Amounts requested shall be consistent with the progress and finish dates shown on the schedule.
- H. Submit certified payroll in compliance with the regulations of the New York State Labor Department. One copy of Payroll shall be Certified and Notarized and comply with the PLA.

1.06 STORED MATERIALS, INSURANCE & PROOF OF PURCHASE

- A. Progress payments may include the value of materials not incorporated in the work, but delivered and suitable stored. If stored off site, Contractor must show adequate insurance coverage.
 - 1. Include with each copy of Application for Payment a certificate from insurance company underwriting coverage protecting materials stored off site attesting to full coverage thereof.
 - a. Include copies of invoices and packing slips to prove purchase.
 - b. Indicate actual location of stored materials.

1.07 INFORMATION AND PROCEDURES

- A. Application Preparation: Complete every entry on form. Notarize and execute by a person authorized to sign legal documents on behalf of Contractor. Architect will return incomplete applications without action.
 - 1. Entries shall match data on the Schedule of Values and the Contractor's Construction Schedule. Use updated schedules if revisions were made.
 - 2. Include amounts of Change Orders, Allowance Disbursements and Construction Change Directives issued prior to the last day of the construction period covered by the application.
 - 3. Copies of the approved allowance disbursement forms.
 - 4. Provide copies of payrolls (including subcontractors) that are signed and notarized, documenting compliance with prevailing wage laws.
- B. Transmittal: Submit four (4) signed and notarized original copies of each Application for Payment to the Architect by a method ensuring receipt within 48 hours. One copy shall be complete, including waivers of lien and similar attachments.
 - 1. Transmit each copy with a transmittal form listing attachments and recording appropriate information related to the application, in a manner acceptable to the Architect.
- C. Waivers of Mechanics Lien: With each Application for Payment after the first, submit waivers of mechanics liens from subcontractors, sub-subcontractors and suppliers for the construction period covered by the previous application.
 - 1. Submit partial waivers on each item for the amount requested, prior to deduction for retainage, on each item.
 - 2. When an application shows completion of an item, submit final or full waivers.
 - 3. The Owner reserves the right to designate which entities involved in the Work must submit waivers.

- a. Submit final Applications for Payment with or preceded by final waivers from every entity involved with performance of the Work covered by the application who is lawfully entitled to a lien.
 4. Waiver Forms: Submit waivers of lien on forms, and executed in a manner, acceptable to the Owner.
- D. Initial Application for Payment: Administrative actions and submittals that must precede or coincide with submittal for the first Application for Payment include the following. The initial payment application will not be processed until all of these actions and submittals have been received by the Architect.
 1. Schedule of Values
 2. Performance and payment bonds
 3. Worker Compensation certificates
 4. Auto Insurance
 5. Safety Program
 6. Contractor's Construction Schedule
 7. Submittal Schedule
 8. Emergency Contact List
 9. Substitution List
 10. List of subcontractors
 11. List of principal suppliers and fabricators
 12. Copies of authorizations, permits and license from governing authorities for performance of the Work
 13. Data needed to acquire the Owner's insurance
 14. Certified Payroll, if any at this time.
- E. Application for Payment at Substantial Completion: Following assurance of the Certificate of Substantial Completion, submit an Application for Payment.
 1. This application shall reflect Certificates of Partial Substantial Completion issued previously for Owner occupancy of designated portions of the Work.
 2. Administrative actions and submittals that shall precede or coincide with this application include:
 - a. Permits and similar approvals
 - b. Warranties (guarantees) and maintenance agreements
 - c. Final cleaning
 - d. Consent of surety
 - e. Advice on shifting insurance coverages
 - f. List of incomplete Work, recognized as exceptions to Architect's Certificate of Substantial Completion
 - g. Change-over information related to Owner's occupancy, use, operation and maintenance
 - h. All required Owner training.
 - i. Application for reduction of retainage and consent of surety
 - j. Advice on shifting insurance coverages
 - k. List of incomplete Work, recognized as exceptions to Architect's Certificate of Substantial Completion
 - l. Videotaped Owner training (If required).
 - m. "Attic" storage items required
- F. Final Payment Application: Administrative actions and submittals that must precede or coincide with submittal of the final Application for Payment include the following:
 1. Evidence of completion of Project closeout requirements.
 2. Insurance certificates for products and completed operations where required.
 3. Updated final statement, accounting for final changes to the Contract Sum.
 4. AIA Document G706, "Contractor's Affidavit of Payment of Debts and Claims."

5. AIA Document G706A, "Contractor's Affidavit of Release of Liens."
6. AIA Document G707, "Consent of Surety to Final Payment."
7. Evidence that claims have been settled.
8. Ensure that incomplete Work is not accepted and will be completed without undue delay.
9. Transmittal of required Project construction records to the Owner.
10. Proof that taxes, fees, and similar obligations were paid.
11. Removal of temporary facilities and services.
12. Removal of surplus materials, rubbish, and similar elements.
13. Final meter readings for utilities, a measured record of stored fuel, and similar data as of date of Substantial Completion or when Owner took possession of and assumed responsibility for corresponding elements of the Work.
14. Change of door locks to Owner's access.

PART 2 PRODUCTS

2.01 NOT APPLICABLE

PART 3 EXECUTION

3.01 PAYMENTS WITHHELD

- A. Owner may withhold or, on account of subsequently discovered evidence, nullify the whole of a part of any Application for Payment to the extent necessary to protect Owner including but not limited to the following:
 1. Incomplete Work or defective Work not remedied or claims of Owner arising before Final Payment.
 2. Claims and/or liens of every kind or nature filed or reasonable evidence indicating probable filing of same.
 3. Failure of Contractor to make payments properly to Subcontractors, Vendors or Materialmen.
 4. A reasonable doubt that the Work can be completed for the unpaid balance of the Contract Sum.
 5. Damage to Owner, Subcontractor(s), or other third party or to any property of the foregoing.
 6. Architect's claims made in accordance with AIA A101 – 2017 Agreement between the Contractor and the Owner.
 7. A breach of this Contract.
 8. Delinquency in providing the required Certified Payroll for Contractor (self) and/or subcontractors.

3.02 SUBSTANTIAL COMPLETION AND FINAL PAYMENT

- A. When the Contractor considers that the Work, or a designated portion thereof which is acceptable to the Owner, is substantially complete, the Contractor shall prepare for submission to the Architect a list of items to be complete or corrected (punch list). The failure to include any items on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.
 1. If the Architect determines the punch list is incomplete or not up-to-date, valid, etc. the Architect shall withhold Substantial Completion until the contractor submits a complete list.
- B. When the Architect and Engineer, on the basis of a site visit, determines that the Work or a designated portion thereof is substantially complete, the Architect will prepare a Certificate of Substantial Completion which shall establish the Date of Substantial

Completion, shall state the responsibilities of the Owner and the Contractor for completion, security, maintenance, utilities, damage to the Work, and insurance, and shall fix the time within which the Contractor shall complete the items listed therein.

- C. Upon Substantial Completion, Owner shall pay the remainder of the Contract Price, less retainage or remaining close out items, including additional compensation due, pursuant to AIA A101-2017.
 - 1. **The Architect shall determine retainage in accordance with the General Conditions and determine the amount as two times the value of any remaining items to be completed.**
- D. When the remaining items of Work are satisfactorily completed and/or corrected, the Owner shall make a final payment, less an amount necessary to satisfy all claims, liens, or judgments against Contractor which have not been suitably discharged. All claims, liens or judgments shall be limited to those arising out of this Work.

3.03 RETAINAGE

- A. The amount to be retained by Owner shall be five percent (5%) of the total Work completed as set forth in the Agreement. Owner shall not be required to pay Contractor any sums representing Retainage until Contractor has complied with provisions set forth in the Contract Documents.
- B. Owner may, at its sole discretion, and upon written application by Contractor, furnish Contractor the necessary funds to pay amounts retained on account of certain Subcontractors who have completed Work on the Project upon the following conditions:
 - 1. Payments by Owner to Contractor for the payment of Subcontractor's Retainage shall be used by Contractor only to pay the subject Subcontractor.
 - 2. Prior to any amount being furnished to Contractor, Owner must be given an opportunity to inspect the Work of subject Subcontractor and must find same to be conditionally acceptable subject to further inspection during or upon completion of the Work.
 - 3. Owner has the right to make payment of Subcontractor Retainage by joint check with Contractor and the certain Subcontractor.
 - 4. Assurance from Contractor, satisfactory to Owner, that the Work can be completed for the unpaid balance of the Contract Sum.
- C. No payments of Retainage Amounts for completed Work shall be made for either Subcontractor(s) or Contractor without Owner having accepted closeout documents (See Section 017700 – Closeout Procedures).

3.04 PROJECT CLOSEOUT

- A. **A sum of 3% of the total contract amount exclusive of retainage shall be devoted to project closeout and cleaning.**
 - 1. Refer to Section 017423 – Cleaning for requirements.
 - 2. Refer to Section 017700 – Closeout Procedures for requirements and procedures.
 - 3. The amount shall appear on the Schedule of Values as a line item.
 - 4. Contractor may draw on this line item only when a specific task is completed, and Contractor has complied with all testing, reporting, certification, warranties, cleaning, etc.

END OF SECTION

DRAFT AIA® Document G702® - 1992

Application and Certificate for Payment

TO OWNER:	Village of Mount Kisco Village Hall, 104 Main Street Mount Kisco, NY 10549	PROJECT:	Additions/Alterations - Independent Fire Station 322 Lexington Ave. Mount Kisco, NY 10549	APPLICATION NO:	001	Distribution to:
FROM CONTRACTOR:		VIA ARCHITECT:		PERIOD TO:		OWNER: <input type="checkbox"/>
				CONTRACT FOR:	General Construction	ARCHITECT: <input type="checkbox"/>
				CONTRACT DATE:		CONTRACTOR: <input type="checkbox"/>
				PROJECT NOS:	/ /	FIELD: <input type="checkbox"/>
						OTHER: <input type="checkbox"/>

CONTRACTOR'S APPLICATION FOR PAYMENT

Application is made for payment, as shown below, in connection with the Contract. AIA Document G703®, Continuation Sheet, is attached.

1. ORIGINAL CONTRACT SUM.....	\$0.00
2. NET CHANGE BY CHANGE ORDERS.....	\$0.00
3. CONTRACT SUM TO DATE (Line 1 ± 2)	\$0.00
4. TOTAL COMPLETED & STORED TO DATE (Column G on G703).....	\$0.00
5. RETAINAGE:	
a. 0 % of Completed Work	
(Column D + E on G703: \$0.00)=	\$0.00
b. 0 % of Stored Material	
(Column F on G703: \$0.00)=	\$0.00
Total Retainage (Lines 5a + 5b or Total in Column I of G703).....	\$0.00
6. TOTAL EARNED LESS RETAINAGE.....	\$0.00
(Line 4 Less Line 5 Total)	
7. LESS PREVIOUS CERTIFICATES FOR PAYMENT.....	\$0.00
(Line 6 from prior Certificate)	
8. CURRENT PAYMENT DUE.....	\$0.00
9. BALANCE TO FINISH, INCLUDING RETAINAGE	
(Line 3 less Line 6)	\$0.00

CHANGE ORDER SUMMARY	ADDITIONS	DEDUCTIONS
Total changes approved in previous months by Owner	\$0.00	\$0.00
Total approved this Month	\$0.00	\$0.00
TOTALS	\$0.00	\$0.00
NET CHANGES by Change Order		\$0.00

The undersigned Contractor certifies that to the best of the Contractor's knowledge, information and belief the Work covered by this Application for Payment has been completed in accordance with the Contract Documents, that all amounts have been paid by the Contractor for Work for which previous Certificates for Payment were issued and payments received from the Owner, and that current payment shown herein is now due.

CONTRACTOR:

By: _____ Date: _____

State of: _____

County of: _____

Subscribed and sworn to before

me this _____ day of _____

Notary Public: _____

My Commission expires: _____

ARCHITECT'S CERTIFICATE FOR PAYMENT

In accordance with the Contract Documents, based on on-site observations and the data comprising this application, the Architect certifies to the Owner that to the best of the Architect's knowledge, information and belief the Work has progressed as indicated, the quality of the Work is in accordance with the Contract Documents, and the Contractor is entitled to payment of the AMOUNT CERTIFIED.

AMOUNT CERTIFIED..... \$0.00

(Attach explanation if amount certified differs from the amount applied. Initial all figures on this Application and on the Continuation Sheet that are changed to conform with the amount certified.)

ARCHITECT:

By: _____ Date: _____

This Certificate is not negotiable. The AMOUNT CERTIFIED is payable only to the Contractor named herein. Issuance, payment and acceptance of payment are without prejudice to any rights of the Owner or Contractor under this Contract.

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AIA Document G702[®], Application and Certification for Payment, or G732[™], Application and Certificate for Payment, Construction Manager as Adviser Edition, containing Contractor's signed certification is attached.
Use Column I on Contracts where variable retainage for line items may apply.

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DRAFT AIA® Document G702® - 1992

Application and Certificate for Payment

TO OWNER:	Village of Mount Kisco Village Hall, 104 Main Street Mount Kisco, NY 10549	PROJECT:	Additions/Alterations - Mutual Fire Station 99 Main St. Mount Kisco, NY 10549	APPLICATION NO:	001	Distribution to:
FROM CONTRACTOR:		VIA ARCHITECT:		PERIOD TO:		OWNER <input type="checkbox"/>
				CONTRACT FOR:	General Construction	ARCHITECT <input type="checkbox"/>
				CONTRACT DATE:		CONTRACTOR <input type="checkbox"/>
				PROJECT NOS:	/ /	FIELD <input type="checkbox"/>
						OTHER <input type="checkbox"/>

CONTRACTOR'S APPLICATION FOR PAYMENT

Application is made for payment, as shown below, in connection with the Contract.
AIA Document G703®, Continuation Sheet, is attached.

1. ORIGINAL CONTRACT SUM.....	\$0.00
2. NET CHANGE BY CHANGE ORDERS.....	\$0.00
3. CONTRACT SUM TO DATE (Line 1 ± 2)	\$0.00
4. TOTAL COMPLETED & STORED TO DATE (Column G on G703).....	\$0.00
5. RETAINAGE:	
a. 0 % of Completed Work	
(Column D + E on G703: \$0.00)=	\$0.00
b. 0 % of Stored Material	
(Column F on G703: \$0.00)=	\$0.00
Total Retainage (Lines 5a + 5b or Total in Column I of G703).....	\$0.00
6. TOTAL EARNED LESS RETAINAGE.....	\$0.00
(Line 4 Less Line 5 Total)	
7. LESS PREVIOUS CERTIFICATES FOR PAYMENT.....	\$0.00
(Line 6 from prior Certificate)	
8. CURRENT PAYMENT DUE.....	\$0.00
9. BALANCE TO FINISH, INCLUDING RETAINAGE	
(Line 3 less Line 6)	\$0.00

CHANGE ORDER SUMMARY	ADDITIONS	DEDUCTIONS
Total changes approved in previous months by Owner	\$0.00	\$0.00
Total approved this Month	\$0.00	\$0.00
TOTALS	\$0.00	\$0.00
NET CHANGES by Change Order		\$0.00

The undersigned Contractor certifies that to the best of the Contractor's knowledge, information and belief the Work covered by this Application for Payment has been completed in accordance with the Contract Documents, that all amounts have been paid by the Contractor for Work for which previous Certificates for Payment were issued and payments received from the Owner, and that current payment shown herein is now due.

CONTRACTOR:

By: _____ Date: _____

State of: _____

County of: _____

Subscribed and sworn to before

me this _____ day of _____

Notary Public: _____

My Commission expires: _____

ARCHITECT'S CERTIFICATE FOR PAYMENT

In accordance with the Contract Documents, based on on-site observations and the data comprising this application, the Architect certifies to the Owner that to the best of the Architect's knowledge, information and belief the Work has progressed as indicated, the quality of the Work is in accordance with the Contract Documents, and the Contractor is entitled to payment of the AMOUNT CERTIFIED.

AMOUNT CERTIFIED..... \$0.00

(Attach explanation if amount certified differs from the amount applied. Initial all figures on this Application and on the Continuation Sheet that are changed to conform with the amount certified.)

ARCHITECT:

By: _____ Date: _____

This Certificate is not negotiable. The AMOUNT CERTIFIED is payable only to the Contractor named herein. Issuance, payment and acceptance of payment are without prejudice to any rights of the Owner or Contractor under this Contract.

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AIA Document G702[®], Application and Certification for Payment, or G732[™], Application and Certificate for Payment, Construction Manager as Adviser Edition, containing Contractor's signed certification is attached.
Use Column I on Contracts where variable retainage for line items may apply.

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PARTIAL RELEASE AND WAIVER OF LIEN

PROJECT: Additions/Alterations – **Independent Station**

OWNER: Village of Mount Kisco

ARCHITECT: H2M architects + engineers
3 Lear Jet Lane, Suite 205
Latham, NY 12110
Ph: (518) 765-5105; Fax: (518) 765-5107

CONTRACTOR: _____

SUBCONTRACTOR: _____

SUPPLIER: _____

AMOUNT CURRENTLY DUE: _____

In the consideration of payments made by _____ to _____, receipt which is hereby acknowledged, totaling the sum of \$_____ for all work, labor, materials, equipment and services furnished through the period ending _____ ("the Effective Date") in connection with the project named above.

The UNDERSIGNED hereby releases the Owner, Contractor (if executed by a Subcontractor), and Architect listed above, through the Effective Date of this Partial Release and Waiver of Lien, from any and all claims and demands of every kind and character, including but not limited to claims for labor and/or materials and/or equipment and/or additional work and/or delays under the aforesaid contract in any way growing out of or connected with said contract. The undersigned does hereby covenant and agree not to claim or file a mechanic's lien or any other lien against the contract and/or premises for materials furnished or labor performed in connection with such a project.

The UNDERSIGNED further warrants that

- 1) All subcontractors employed by the undersigned upon this project have been fully paid to the Effective Date hereof;
- 2) All workmen employed by it or its subcontractors upon this project have been fully paid to the Effective Date hereof;
- 3) All materialmen from whom the undersigned or its subcontractors have purchased materials used in this project have been paid for the materials delivered on or prior to the Effective Date;
- 4) None of such workmen and/or materialmen have any claim or demand or right of lien, and;
- 5) He/She is an authorized officer with full power to execute this Partial Release and Waiver of Lien.

Witness the signature and seal of the undersigned as of the ____ day of ____, 20__.

Attest: _____

SIGNED: _____

DATE

NAME/TITLE: _____

SWORN TO ME THIS ____ DAY OF ____ 20__

NOTARY PUBLIC _____

CORRESPONDS TO CERTIFICATE & APPLICATION FOR PAYMENT NO. _____

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PARTIAL RELEASE AND WAIVER OF LIEN

PROJECT: Additions/Alterations – **Mutual Station**
OWNER: Village of Mount Kisco
ARCHITECT: H2M architects + engineers
 3 Lear Jet Lane, Suite 205
 Latham, NY 12110
 Ph: (518) 765-5105; Fax: (518) 765-5107

CONTRACTOR: _____
SUBCONTRACTOR: _____
SUPPLIER: _____
AMOUNT CURRENTLY DUE: _____

In the consideration of payments made by _____ to _____, receipt which is hereby acknowledged, totaling the sum of \$_____ for all work, labor, materials, equipment and services furnished through the period ending _____ ("the Effective Date") in connection with the project named above.

The UNDERSIGNED hereby releases the Owner, Contractor (if executed by a Subcontractor), and Architect listed above, through the Effective Date of this Partial Release and Waiver of Lien, from any and all claims and demands of every kind and character, including but not limited to claims for labor and/or materials and/or equipment and/or additional work and/or delays under the aforesaid contract in any way growing out of or connected with said contract. The undersigned does hereby covenant and agree not to claim or file a mechanic's lien or any other lien against the contract and/or premises for materials furnished or labor performed in connection with such a project.

The UNDERSIGNED further warrants that

- 1) All subcontractors employed by the undersigned upon this project have been fully paid to the Effective Date hereof;
- 2) All workmen employed by it or its subcontractors upon this project have been fully paid to the Effective Date hereof;
- 3) All materialmen from whom the undersigned or its subcontractors have purchased materials used in this project have been paid for the materials delivered on or prior to the Effective Date;
- 4) None of such workmen and/or materialmen have any claim or demand or right of lien, and;
- 5) He/She is an authorized officer with full power to execute this Partial Release and Waiver of Lien.

Witness the signature and seal of the undersigned as of the ____ day of ____, 20__.

Attest: _____

SIGNED: _____
DATE _____
NAME/TITLE: _____

SWORN TO ME THIS ____ DAY OF ____ 20__
NOTARY PUBLIC _____

CORRESPONDS TO CERTIFICATE & APPLICATION FOR PAYMENT NO. _____

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PART 1 GENERAL

1.01 SUMMARY

- A. Drawings and general provisions of the Agreement, including General Conditions and Division 01 of the Project Manual, apply to work of this Section.
- B. This Section includes administrative provisions for coordinating construction operations on Project including, but not limited to, the following:
 - 1. General project coordination procedures.
 - 2. Conservation.
 - 3. Coordination/Phasing Drawings.
 - 4. Administrative and supervisory personnel.
 - 5. Project meetings.

1.02 COORDINATION

- A. Coordination: The contractor shall coordinate its construction operation with those of other contractors and entities to ensure efficient and orderly installations of each part of the Work. Each contractor shall coordinate its operations with operations, included in different Sections, which depend on each other for proper installation, connection and operation.
 - 1. Schedule construction operations in sequence required to obtain the best results where installation of one part of the Work depends on installation of other components, before or after its own installation.
 - 2. Coordinate installation of different components with other contractors to ensure maximum accessibility for required maintenance, service and repair.
 - 3. Make adequate provisions to accommodate items scheduled for later installation.
- B. If necessary, prepare memoranda for distribution to each party involved, outlining special procedures required for coordination. Include such items as required notices, reports and list of attendees at meetings.
 - 1. Prepare similar memoranda for Owner and separate contractors if coordination of their Work is required.
- C. Administrative Procedures: Coordinate scheduling and timing of required administrative procedures with other construction activities and activities of other contractors to avoid conflicts and to ensure orderly progress of the Work. Such administrative activities include, but are not limited to, the following:
 - 1. Preparation of Contractor's Construction Schedule.
 - 2. Preparation of Schedule of Values.
 - 3. Installation and removal of temporary facilities and controls.
 - 4. Delivery and processing of submittals.
 - 5. Progress meetings.
 - 6. Pre-installation conferences.
 - 7. Project closeout activities.
 - 8. Coordination with Owner supplied labor and materials.
- D. Conservation: Coordinate construction activities to ensure that operations are carried out with consideration given to conservation of energy, water and materials.
 - 1. Salvage materials and equipment involved in performance of, but not actually incorporated into, the Work.

1.03 SUBMITTALS

- A. Coordination Drawings: Prepare Coordination Drawings for efficient installation of different components or if coordination is required for installation of products and materials fabricated by separate entities.
 - 1. Indicate relationship of components shown on separate Shop Drawings.
 - 2. Indicate required installation sequence.
 - 3. Comply with requirements contained in Section 013300 – Submittal Procedures.
- B. Staff Names: Within 15 days of starting construction operations, submit a list of principal staff assignments, including superintendent and other personnel in attendance at Project site. Identify individuals and their duties and responsibilities; list addresses and telephone numbers, including home and office telephone numbers. Provide names, addresses and telephone numbers of individual assigned as standbys in the absence of individuals assigned to Project.
 - 1. Post copies of list in Project meeting room, in temporary field office, and by each temporary telephone.

1.04 ADMINISTRATIVE AND SUPERVISORY PERSONNEL

- A. General: In addition to Project superintendent, provide other administrative and supervisory personnel as required for proper performance of the Work.
 - 1. Include special personnel required for coordination of operations with other contractors.

1.05 PROJECT MEETINGS

- A. General: Schedule and conduct meetings and conferences at Project site, unless otherwise indicated.
 - 1. Attendees: Inform participants and others involved, and individuals whose presence is required, of date and time of each meeting. Notify Owner and Architect of scheduled meeting dates and times.
 - 2. Agenda: Prepare the meeting agenda. Distribute the agenda to all invited attendees.
 - 3. Minutes: Architect will record significant discussions and agreements achieved and will distribute the meeting minutes to everyone concerned, including Owner, within 3 days of the meeting.
- B. Preconstruction Conference: Architect may schedule a preconstruction conference before starting construction. The purpose of the meeting is to review responsibilities and personnel assignments.
 - 1. Attendees: Authorized representatives of Owner, Architect, and their consultants; Contractor and its superintendent; major subcontractors; manufacturers; suppliers; and other concerned parties shall attend the conference. All participants at the conference shall be familiar with Project and authorized to conclude matters relating to the Work.
 - 2. Agenda: Discuss items of significance that could affect progress, including but limited to the following:
 - a. Tentative construction schedule.
 - b. Phasing.
 - c. Critical sequencing.
 - d. Designation of responsible personnel.
 - e. Procedures for processing field decisions and Change Orders.
 - f. Procedures for processing Applications for Payment.
 - g. Distribution of the Contract Documents.

- h. Submittal procedures.
 - i. Preparation of Record Documents.
 - j. Use of premises.
 - k. Responsibility for temporary facilities and controls.
 - l. Parking availability.
 - m. Office, work and storage areas.
 - n. Equipment deliveries and priorities.
 - o. First aid.
 - p. Security.
 - q. Progress cleaning.
 - r. Working hours.
- C. Progress Meetings: The Architect will conduct progress meetings at prescheduled intervals. Coordinate dates of meetings with preparation of payment requests.
- 1. Attendees: In addition to representatives of Owner and Architect, each contractor, subcontractor, supplier and other entity concerned with current progress or involved in planning, coordination, or performance of future activities shall be represented at these meetings. All participants at the conference shall be familiar with Project and authorized to conclude matters relating to the Work.
 - 2. **Contractor without prior notification of its absence will incur a \$100 fine payable to the Owner by deduct change order.**
 - 3. Agenda: Review and correct or approve minutes of previous progress meeting. Review other items of significance that could affect progress. Include topics for discussion as appropriate to status of Project.
 - a. Contractor's Construction Schedule: Review progress since last meeting. Determine whether each activity is on time, ahead of schedule or behind schedule, in relation to Contractor's Construction Schedule. Determine how construction behind schedule will be expedited; secure commitments from parties involved to do so. Discuss whether schedule revisions are required to ensure that current and subsequent activities will be completed within the Contract Time.
 - b. Review present and future needs of each entity present, including but not limit to the following:
 - 1) Adjust list below to suit Project.
 - 2) Interface requirements.
 - 3) Sequence operations.
 - 4) Status of submittals.
 - 5) Deliveries.
 - 6) Off-site fabrication.
 - 7) Access.
 - 8) Site utilization.
 - 9) Temporary facilities and controls.
 - 10) Work hours.
 - 11) Hazards and risks.
 - 12) Progress cleaning.
 - 13) Quality and work standards.
 - 14) Change Orders.
 - 15) Documentation of information for payment requests.
 - 4. Reporting: Architect will distribute minutes of the meeting to each party present and to parties who should have been present. Include a brief summary, in narrative form, of progress since the previous meeting and report.
 - a. Schedule Updating: Revise Contractor's Construction Schedule after each progress meeting where revisions to the schedule have been made or recognized. Issue revised schedule concurrently with the report of each meeting.

- D. Coordination Meetings: The Contractor will conduct coordination meetings at prescheduled intervals. Project coordination meetings are in addition to specific meetings held for other purposes, such as progress meetings and pre-installation conferences.
1. Attendees: In addition to representatives of Owner and/or Architect, each contractor, subcontractor, supplier and other entity concerned with current progress or involved in planning, coordination or performance of future activities shall be represented at these meetings. All participants at the conference shall be familiar with Project and authorized to conclude matters relating to the Work.
 2. Agenda: Review and correct or approve minutes of the previous coordination meeting. Review other items of significance that could affect progress. Include topics for discussion as appropriate to status of Project.
 - a. Contractor's Construction Schedule: Review progress since the last coordination meeting. Determine whether each contract is on time, ahead of schedule, or behind schedule, in relation to Contractor's Construction Schedule. Determine how construction behind schedule will be expedited; secure commitments from parties involved to do so. Discuss whether schedule revisions are required to ensure that current and subsequent activities will be complete within the Contract Time.
 - b. Schedule Updating: Revise Contractor's Construction Schedule after each coordination meeting where revisions to the schedule have been made or recognized. Issue revised schedule concurrently with the report of each meeting.
 - c. Review present and future needs of each contractor present, including the following:
 - 1) Interface requirements
 - 2) Sequence of operations
 - 3) Status of submittals.
 - 4) Deliveries.
 - 5) Off-site fabrication.
 - 6) Access.
 - 7) Site utilization.
 - 8) Temporary facilities and controls.
 - 9) Work hours.
 - 10) Hazards and risks.
 - 11) Progress cleaning.
 - 12) Quality and work standards.
 - 13) Change Orders/Change Directives
 3. Reporting: The Owner's Representative will record meeting results and distribute copies to attendees and to others affected by decisions or actions resulting from each meeting.

PART 2 PRODUCTS

2.01 NOT APPLICABLE

PART 3 EXECUTION

3.01 GENERAL COORDINATION PROVISIONS

- A. Inspection of conditions: Require the Installer of each major component to inspect both the substrate and conditions under which Work is to be performed. Do not proceed until unsatisfactory conditions have been corrected in an acceptable manner.
- B. Coordinate temporary enclosures with required inspections and tests in minimize the necessity of uncovering completed construction for that purpose.

H2M architects + engineers

PROJECT MANAGEMENT AND
COORDINATION

Village of Mount Kisco-Additions/Alterations at
Mutual & Independent Fire Stations

013100-4

3.02 CLEANING

- A. Clean and protect construction in progress and adjoining materials in place, during handling and installation. Apply protective covering where required to assure protection from damage or deterioration of Substantial Completion.
- B. Clean and provide maintenance on completed construction as frequently as necessary through the remainder of the construction period. Adjust and lubricate operable components to assure operability without damage effects.

3.03 PROTECTION OF THE WORK

- A. Limiting Exposures: Supervise construction operations to assure that no part of the construction completed or in progress, is subject to harmful, dangerous, damaging, or otherwise deleterious exposure during the construction period. Where applicable such exposures include, but are not limited to, the following:

1.	Excessive static or dynamic loading. Specifically applies to loads on metal deck and any shoring to prevent excess loading shall be by the contractor.	2.	Excessive internal or external pressures.
3.	Excessively high or low temperatures.	4.	Thermal Shock.
5.	Excessively high or low humidity.	6.	Air contamination or pollution.
7.	Water or ice.	8.	Solvents.
9.	Chemicals.	10.	Light.
11.	Radiation.	12.	Puncture.
13.	Abrasion.	14.	Heavy traffic
15.	Soiling, staining, and corrosion.	16.	Bacteria.
17.	Rodent and insect infestation.	18.	Combustion.
19.	Electrical current.	20.	High-speed operation.
21.	Improper lubrication.	22.	Unusual wear or other misuse.
23.	Contact between incompatible materials.	24.	Destructive testing.
25.	Misalignment.	26.	Excessive weathering.
27.	Unprotected storage.	28.	Improper shipping or handling.
29.	Theft.	30.	Vandalism.

END OF SECTION

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PART 1 GENERAL

1.01 SUMMARY

- A. Drawings and general provisions of the Agreement, including General Conditions, and Division 01 of the Project Manual, apply to work of this Section.
- B. Related Sections
 - 1. Section 017700 - Close Out Procedures
 - 2. Attachment "D" - Milestone Schedules
- C. This Section includes administrative and procedural requirements for documenting the progress of construction during performance of the Work, including the following:
 - 1. Contractor's Construction Schedule.
 - 2. Submittals Schedule.
 - 3. Daily construction reports.
 - 4. Field condition reports.

1.02 DEFINITIONS

- A. Activity: A discrete part of a project that can be identified for planning, scheduling, monitoring, and controlling the construction project. Activities included in a construction schedule consume time and resources.
 - 1. Critical activities are activities on the critical path. They must start and finish on the planned early start and finish times.
 - 2. Predecessor activity is an activity that must be completed before a given activity can be started.
- B. Event: The starting or ending point of an activity.
- C. Fragment: A partial or fragmentary network that breaks down activities into smaller activities for greater detail.
- D. Major Area: A story of construction, a separate building, or a similar significant construction element.
- E. Milestone: A key or critical point in time for reference or measurement.

1.03 SUBMITTALS/SCHEDULES/DOCUMENTATION

- A. Submittals Schedule: Submit three (3) copies of the submittal schedule. Arrange the following information in a tabular format:
 - 1. Scheduled date for first submittal.
 - 2. Specification Section number and title.
 - 3. Submittal category (action or informational).
 - 4. Name of subcontractor.
 - 5. Description of the Work covered.
 - 6. Scheduled date for Architect's final release or approval.
- B. Contractor's Construction Schedule: three (3) printed copies of initial schedule, one a reproducible print and two a blue- or black-line print, large enough to show entire schedule for entire construction period.
 - 1. Submit an electronic copy of schedule to comply with requirements for submittals. Include type of schedule (Initial or Updated) and date.
 - 2. Architect will review schedule for compliance with overall project schedule.

1.04 COORDINATION

- A. Coordinate Contractor's Construction Schedule with the Schedule of Values, list of subcontracts, Submittals Schedule, progress reports, payment requests, and other required schedules and reports.
 - 1. Secure time commitments for performing critical elements of the Work from parties involved.
 - 2. Coordinate each construction activity in the network with other primes activities and schedule them in proper sequence.

PART 2 PRODUCTS

2.01 SUBMITTALS SCHEDULE

- A. Preparation: Submit a schedule of submittals, arranged in chronological order by dates required by construction schedule. Include time required for review, resubmittal, ordering, manufacturing, fabrication, and delivery when establishing dates.
 - 1. Coordinate Submittals Schedule with list of subcontracts, the Schedule of Values, and Contractor's Construction Schedule.
 - 2. Within 30 days after Notice to Proceed or in accordance with the milestone schedule which will take precedence:
 - a. Structural Steel
 - b. Foundation Rebar
 - c. Concrete mix designs
 - d. Billet steel shop drawings
 - e. HVAC components
 - f. Electrical panels,
 - g. and all other submittals required to commence work and long-lead items critical to job schedule
 - h. No payment will be made to contractor until complete schedule of submittals has been received and accepted by Owner and Architect.
 - 3. Balance of Submittals - within 75 days after Notice to Proceed unless instructed otherwise.
 - 4. Upon approval by the Architect, non-critical submittals may be transmitted later.
- B. Prepare a written schedule (or log) showing each specification item to be submitted, projected date into architect for review, lead time for procurement and required on job date.
- C. Distribution: Following response to the initial submittal, print and distribute copies for distribution to the Architect, Owner, and other parties required to comply with submittal dates indicated. Post copies in the Project meeting room and field office.
 - 1. When revisions are made, distribute to the same parties and post in the same locations. Delete parties from distribution when they have completed their assigned portion of the Work and are no longer involved in construction activities.
- D. Schedule Updating: Revise the submittal schedule after each meeting or activity where revisions have been recognized or made. Issue the updated schedule concurrently with the report of each meeting.

2.02 CONTRACTOR'S CONSTRUCTION SCHEDULE

- A. Bar-Chart Schedule: Prepare a fully developed, horizontal bar-chart-type, contractor's construction schedule. Submit within seven (7) days after Notice to Proceed is issued.

1. Provide a separate time bar for each significant construction activity. Show ordering and delivery times of all long-lead equipment and materials. Provide a continuous vertical line to identify the first working day of each week. Use the same breakdown of units of the Work as indicated in the "Schedule of Values".
 2. Within each time bar, indicate estimated completion percentage in 10 percent increments. As Work progresses, place a contracting mark in each bar to indicate Actual Completion.
 3. Prepare the schedule on a sheet, or series of sheets, of stable transparency, or other reproducible media, of sufficient width to show data for the entire construction period.
 4. Secure time commitments for performing critical elements of the Work from parties involved. Coordinate each element on the schedule with other construction activities; include minor elements involved in the sequence of the Work. Show each activity in proper sequence. Indicate graphically the sequences necessary for completion of related portions of the Work.
 5. Coordinate the Contractor's Construction Schedule with the Schedule of Values, list of subcontracts, Submittal Schedule, progress reports, payment requests, and other schedules.
 6. Indicate completion in advance of the date established for Substantial Completion. Indicate Substantial Completion on the schedule to allow time for the Architect's procedures necessary for certification of Substantial Completion.
- B. Work Stages: Indicate important stages of construction for each major portion of the Work, including submittal review, testing, and installation.
- C. Distribution: Following response to the initial submittal, print and forward copies to the Architect, Owner, subcontractors, and other parties required to comply with scheduled dates. Post copies in the Project meeting room and temporary field office.
1. When revisions are made, distribute to the same parties and post in the same locations. Delete parties from distribution when they have completed their assigned portion of the Work and are no longer involved in construction activities.
- D. Schedule Updating: Revise the schedule after each meeting, event, or activity where revisions have been recognized or made. Issue the updated schedule concurrently with each payment application.
- E. The owner reserves the right to adjust the project schedule from time to time during construction to mitigate unavoidable problems and insure that the project completion date is achieved. Prime contractors shall comply with the adjusted Project Schedule without additional costs.

2.03 REPORTS

- A. Daily Construction Reports: Prepare a daily construction report recording the following information concerning events at Project site and submit duplicate copies to the Owner and Architect at weekly intervals:
1. List of subcontractors at Project site.
 2. List of separate contractors at Project site.
 3. Approximate count of personnel at Project site.
 4. High and low temperatures and general weather conditions.
 5. Accidents.
 6. Meetings and significant decisions.
 7. Unusual events (refer to special reports).
 8. Stoppages, delays, shortages, and losses.
 9. Emergency procedures.

10. Orders and requests of authorities having jurisdiction.
 11. Change Orders received and implemented.
 12. Construction Change Directives received.
 13. Services connected and disconnected.
 14. Equipment or system tests and startups.
 15. Partial Completions and occupancies.
 16. Substantial Completions authorized.
 17. List of major materials on site.
- B. Material Location Reports: At weekly intervals, prepare a comprehensive list of materials delivered to and stored at Project site. List shall be cumulative, showing materials previously reported plus items recently delivered. Include with list a statement of progress on and delivery dates for materials or items of equipment fabricated or stored away from Project site.
- C. Field Condition Reports: Immediately on discovery of a difference between field conditions and the Contract Documents, prepare a detailed report. Submit with a request for information. Include a detailed description of the differing conditions, together with recommendations for changing the Contract Documents.
- D. Submittal of Daily Log of Construction Activities
1. Failure to submit daily logs to the Architect and Owner will result in the Owner withholding progress payments until the logs are submitted to date requested or owed.

2.04 CONSTRUCTION DOCUMENTATION

- A. Air Leakage, Component Certification and Vapor Retarder Documentation
1. Contractor is required to document via photographs and submission data proof of the following:
 - a. That ALL joints and penetrations are caulked, gasketed or covered with a moisture vapor-permeable wrapping material installed in accordance with the manufacturer's installation instructions.
 - b. That installed windows, doors and skylights are certified as meeting leakage requirements.
 - c. That all component R-Values and U-factors are labeled as certified.
 - d. That all insulation is installed according to the manufacturer's instructions is in substantial contact with the surface being insulated and in a manner that achieves the minimum R-Value without compressing the insulation. There are no gaps in the insulation.
 - f. If applicable, recessed lighting fixtures in the building envelope are sealed with gasket or caulk and are labeled as Type IC rated as meeting ASTM E283.
 - g. Stair, elevator shaft vents, and other outdoor air intake and exhaust openings in the building envelope are equipped with motorized dampers.
 - h. That the vapor retarder is continuous on the warm side of the entire building envelope, properly sealed and undamaged.
 2. Also, see Section 017700 – Closeout Procedures

PART 3 EXECUTION

3.01 NOT APPLICABLE

END OF SECTION

H2M architects + engineers

Village of Mount Kisco-Additions/Alterations at
Mutual & Independent Fire Stations

CONSTRUCTION PROGRESS
DOCUMENTATION
013200-4

PART 1 GENERAL

1.01 SUMMARY

- A. Drawings and general provisions of the Agreement, including General Conditions, and Division 01 of the Project Manual, apply to work of this Section.
- B. This Section includes administrative and procedural requirements for submitting Shop Drawings, Product Data, Samples and other miscellaneous submittals.

1.02 DEFINITIONS

- A. Action Submittals: Written and graphic information that requires Architect's responsive action.
- B. Informational Submittals: Written information that does not require Architect's approval. Submittals may be rejected for not complying with requirements.
- C. Field samples are full-size physical examples erected on site to illustrate colors, coatings, component materials, finish materials, proper integration of multiple products, quality and neatness of work. Field samples are used to establish the standard by which the Work will be judged. Field samples unless specifically noted otherwise are not to be incorporated in the work. Field samples are to be approved in writing by the Architect prior to any work represented by the field sample is started.
- D. Mock-ups are full-size assemblies for review of construction, coordination, testing, or operation; they are not Samples. Mock-ups are to be approved in writing by the Architect prior to any work represented by the mock-up is started.

1.03 SUBMITTAL PROCEDURES

- A. Electronic Drawing files may be available:
 - 1. From the Architect at the Architect's discretion for architectural (A) sheets.
 - 2. **Any electronic drawing file will be at a cost of \$100/sheet.**
 - 3. Through the Architect at the Consultant's absolute discretion for all other (M, E, P, FP, S and SP) sheets.
 - 4. Prior to transmission of the requested sheets:
 - a) The Contractor must sign a release form
 - b) The Contractor must pay the per sheet fee
- B. Use the Submittal Cover Sheet provided at the end of this Section.
 - 1. The Cover Sheet shall be on each copy of the Submittal.
 - 2. Architect may return the submittal without review if Cover Sheet is not completely filled out.
 - 3. Apply Contractor's stamp, signed or initialed, certifying the review verification of products, field dimensions, quantities, field construction criteria, and coordination of information with requirements of Work and Contract Documents.
- C. The Architect will not choose any exterior colors until the entire exterior submittal package requiring color choices is submitted and approved.
- D. The Architect will not choose any interior colors until all interior items requiring color choices have been submitted and approved.

- E. Architect's review is limited to aesthetics, architectural design and information contained in Contract Documents. Similarly, Consultant's review is limited to design relating to its specific field of expertise and its information contained in Contract Documents. Architect's or Consultant's review is neither a verification of Contractor's examination nor a substitution of Contractor's responsibilities. Architect or Consultant may inform Contractor of any conspicuous errors on a Submittal without prejudice to being held harmless to Contractor's examinations and responsibilities.
- F. Coordination: Coordinate preparation and processing of submittals with performance of construction activities.
 - 1. Coordinate each submittal with fabrication, purchasing, testing, delivery, other submittals, and related activities that require sequential activity.
 - 2. Coordinate transmittal of different types of submittals for related parts of the Work so processing will not be delayed because of need to review submittals concurrently for coordination.
 - a. Architect reserves the right to withhold action on a submittal requiring coordination with other submittals until related submittals are received.
- G. Processing Time: Allow enough time for submittal review, including time for resubmittals, as follows. Time for review shall commence on Architect's receipt of submittal.
 - 1. Initial Review: Allow a reasonable amount of time based on clarity of submittal and critical path schedule for initial review of each submittal. Allow additional time if processing must be delayed permitting coordination with subsequent submittals. Architect will advise Contractor when a submittal being processed must be delayed for coordination.
 - 2. If intermediate submittal is necessary, process it in same manner as initial submittal.
 - 3. Allow a reasonable amount of time based on clarity of submittal for processing each resubmittal.
 - 4. No extension of the Contract Time will be authorized because of failure to transmit submittals enough in advance of the Work to permit processing.
- H. Identification: Place a permanent label or title block on each submittal for identification.
 - 1. Indicate name of firm or entity that prepared each submittal on label or title block.
 - 2. Provide a space approximately 4 by 5 inches on label or beside title block to record Contractor's review and approval markings and action taken by Architect.
 - 3. Include the following information on label for processing and recording action taken:
 - a. Project Name.
 - b. Date.
 - c. Name and address of Architect.
 - d. Name and address of Contractor.
 - e. Name and address of subcontractor.
 - f. Name and address of supplier.
 - g. Name of manufacturer.
 - h. Unique identifier, including revision number.
 - i. Number and title of appropriate Specification Section.
 - j. Drawing number and detail references, as appropriate.
 - k. Other necessary identification.
- I. Deviations: Highlight, encircle, or otherwise identify deviations from the Contract Documents on submittals.
- J. Additional Copies: Unless additional copies are required for final submittal, and unless Architect observes noncompliance with provisions of the Contract Documents, initial submittal may serve as final submittal.

- K. Transmittal: Package each submittal individually and appropriately for transmittal and handling. Transmit each submittal using a transmittal form. Architect will return submittals, without review, received from sources other than Contractor.
 - 1. On an attached separate sheet, prepared on Contractor's letterhead, record relevant information, requests for data, revisions other than those requested by Architect on previous submittals, and deviations from requirements of the Contract Documents, including minor variations and limitations. Include the same label information as the related submittal.
 - 2. Include Contractor's certificate stating that information submitted complies with requirements of the Contract Documents.
 - 3. Transmittal Form: Use sample form at the end of this section.
- L. Distribution: Furnish copies of final submittals to manufacturers, subcontractors suppliers, fabricators, installers and other as necessary for performance of construction activities. Show distribution on transmittal forms.
- M. Use for Construction: Use only approved final submittals with mark indicating action taken by Architect in connection with construction.

1.04 RESUBMITTALS

- A. Make Resubmittals under procedures specified for initial Submittals. Identify changes since previous Submittal.
- B. **If the resubmittal process involves more than two (2) submissions due to Contractor's fault, the Architect, at its discretion, may charge the Contractor for the Architect's time and materials.**
 - 1. **The Architect will submit a bill for time to the Owner, who may deduct the amount from the Contractor through deduct change order.**

PART 2 PRODUCTS

2.01 ACTION SUBMITTALS

- A. General: Prepare and submit Action Submittals required by individual Specification Sections.
 - 1. **Send submittals electronically.**
- B. Product Data: Collect information into a single submittal for each element of construction and type of product or equipment.
 - 1. If information must be specially prepared for submittal because standard printed data are not suitable for use, submit as Shop Drawings, not as Product Data.
 - 2. Mark each copy of each submittal to show which products and options are applicable.
 - 3. Include the following information, as applicable:
 - a. Manufacturer's written recommendations.
 - b. Manufacturer's product specifications.
 - c. Manufacturer's installation instructions.
 - d. Standard color chart.
 - f. Wiring diagrams showing factory-installed wiring.
 - g. Printed performance curves.
 - h. Operational range diagrams.
 - i. Mill reports.
 - j. Standard product operating and maintenance manuals.
 - k. Compliance with recognized trade association standards.

- l. Compliance with recognized testing agency standards.
 - m. Application of testing agency labels and seals.
 - n. Notation of coordination requirements.
 - 4. Do not proceed with installation until a copy of Architect approved Product Data is in the Installer's possession.
 - 5. Do not permit use of unmarked copies of Product Data in connection with construction.
 - C. Shop Drawings: Prepare Project-specific information, drawn accurately to scale. Do not base Shop Drawings on reproductions of the Contract Documents or standard printed data.
 - 1. Preparation: Include the following information, as applicable:
 - a. Dimensions.
 - b. Identification of products.
 - c. Fabrication and installation drawings.
 - d. Roughing-in and setting diagrams.
 - e. Wiring diagrams showing field-installed wiring, including power, signal, and control wiring.
 - f. Shop work manufacturing instructions.
 - g. Templates and patterns.
 - h. Schedules.
 - i. Design calculations.
 - j. Compliance with specified standards.
 - k. Notation of coordination requirements.
 - l. Notation of dimensions established by field measurement.
 - 2. Wiring Diagrams: Differentiate between manufacturer-installed and field-installed wiring.
 - 3. Sheet size: Except for templates, patterns and similar full-sized drawings, submit Shop Drawings on sheets at least 8 ½ x 11 but no larger than 30 x 40 inches.
 - 4. Number of Copies: One (1) PDF of each submittal.
 - 5. The Contractor shall provide hard copy of any drawings required for operation and maintenance materials.
 - 6. Do not use Shop Drawings without an appropriate Architect approved final stamp indicating action taken.
 - D. Coordination Drawings: Comply with requirements in Division 01, Section 01 31 00 – Project Management and Coordination and the Mechanical specification.
 - E. Samples: Prepare physical units of materials or products, including the following:
 - 1. Comply with requirements in Division 01, Section "Quality Requirements" for mockups.
 - 2. Samples for Initial Selection: Submit manufacturer's color charts consisting of units or sections of units showing the full range of colors, textures and patterns available.
 - 3. Samples for Verification: Submit full-size units or Samples of size indicated, prepared from the same material to be used for the Work, cured and finished in manner specified, and physical identical with the product proposed for use, and that show full range of color and texture variations expected. Samples include, but are not limited to, the following: partial sections of manufactured or fabricated components; small cuts or containers of materials; complete units of repetitively used materials; swatches showing color, texture and pattern; color range sets; and components used for independent testing and inspection.
 - 4. Preparation: Mount, display, or package Samples in manner specified to facilitate review of qualities indicated. Attach label on unexposed side that includes the following:
 - a. Generic description of Sample.
 - b. Product name or name of manufacturer.
 - c. Sample source.

5. Additional Information: On an attached separate sheet, prepared on Contractor's letterhead, provide the following:
 - a. Size limitations.
 - b. Compliance with recognized standards.
 - c. Availability.
 - d. Delivery time.
 6. Submit Samples for review of kind, color, pattern and texture for a final check of these characteristics with other elements and for a comparison of these characteristics between final submittal and actual component as delivered and installed.
 - a. If variation in color, pattern, texture or other characteristics is inherent in the product represented by a Sample, submit at least three sets of paired units that show approximate limits of the variations.
 - b. Refer to individual Specification Sections for requirements for Samples that illustrate workmanship, fabrication techniques, details of assembly, connections, operation and similar construction characteristics.
 7. Number of Samples for Initial Selection: Submit three (3) full sets of available choices where color, pattern, texture or similar characteristics are required to be selected from manufacturer's product line. Architect will return one (1) submittal with options selected.
 8. Number of Samples for Verification: Submit three sets of Samples. Architect will retain two sets of Samples; remainder will be returned. Mark up and retain one returned Sample set as a Project Record Sample.
 - a. Submit a single Sample where assembly details, workmanship, fabrication techniques, connections, operation and other similar characteristics are to be demonstrated.
 9. Disposition: Maintain sets of approved Samples at Project site, available for quality-control comparisons throughout the course of construction activity. Sample sets may be used to determine final acceptance of construction associated with each set.
 - a. Samples that may be incorporated into the Work are indicated in individual Specification Sections. Such Samples must be in an undamaged condition at time of use.
 - b. Samples not incorporated into the Work, or otherwise designated as Owner's property, are the property of the Contractor.
- F. Product Schedule or List: Prepare a written summary indicating types of products required for the Work and their intended location. Include the following information in tabular form:
1. Type of product. Include unique identifier for each product.
 2. Number and name of room or space.
 3. Location within room or space.

2.02 INFORMATIONAL SUBMITTALS

- A. General: Prepare and submit Informational Submittals required by other Specification Sections.
 1. **Send submittals electronically.**
 2. Certificates and Certifications: Provide a notarized statement that includes signature of entity responsible for preparing certification. Certificates and certifications shall be signed by an officer or other individual authorized to sign documents on behalf of that entity.
- B. Contractor's Construction Schedule: Comply with requirements in Division 01 Section 013200 - Construction Progress Documentation.

- C. Qualification Data: Prepare written information that demonstrates capabilities and experience of firm or person. Include lists of completed projects with project names and addresses, names and addresses of architects and owners, and other information specified.
- D. Product Certificates: Prepare written statements on manufacturer's letterhead certifying that product complies with requirements.
- E. Welding Certificates: Prepare written certification that welding procedures and personnel comply with requirements. Submit record of Welding Procedure Specification (WPS) and Procedure Qualification Record (PQR) on AWS forms. Include names of firms and personnel certified.
- F. Installer Certificates: Prepare written statements on manufacturer's letterhead certifying that Installer complies with requirements and, where required, is authorized for this specific Project.
- G. Manufacturer Certificates: Prepare written statements on manufacturer's letterhead certifying that manufacturer complies with requirements. Include evidence of manufacturing experience where required.
- H. Material Certificates: Prepare written statements on manufacturer's letterhead certifying that material complies with requirements.
- I. Material Test Reports: Prepare reports written by a qualified testing agency, on testing agency's standard form, indicating and interpreting test results of material for compliance with requirements.
- J. Preconstruction Test Reports: Prepare reports written by a qualified testing agency, on testing agency's standard form, indicating and interpreting results of tests performed before installation of product, for compliance with performance requirements.
- K. Compatibility Test Reports: Prepare reports written by a qualified testing agency, on testing agency's standard form, indicating and interpreting results of compatibility tests performed before installation of product. Include written recommendations for primers and substrate preparation needed for adhesion.
- L. Field Test Reports: Prepare reports written by a qualified testing agency, on testing agency's standard form, indicating and interpreting results of field tests performed either during installation of product or after product is installed in its final location, for compliance with requirements.
- M. Product Test Reports: Prepare written reports indicating current product produced by manufacturer complies with requirements. Base reports on evaluation of test performed by manufacturer and witnessed by a qualified testing agency, or on comprehensive tests performed by a qualified testing agency.
- N. Research/Evaluation Reports: Prepare written evidence, from a model code organization acceptable to authorities having jurisdiction, that product complies with building code in effect for Project. Include the following information:
 - 1. Name of evaluation organization.
 - 2. Date of evaluation.
 - 3. Time period when report is in effect.
 - 4. Product and manufacturer's names.
 - 5. Description of product.
 - 6. Test procedure and results.

7. Limitations of use.
- O. Maintenance Data: Prepare written and graphic instructions and procedures for operation and normal maintenance of products and equipment. Comply with requirements in Division 01 Section 017700 – Closeout Procedures.
- P. Design Data: Prepare written and graphic information, including, but not limited to, performance and design criteria, list of applicable codes and regulations, and calculations. Include list of assumptions and other performance and design criteria and a summary of loads. Include load diagram if applicable. Provide name and version of software, if any, used for calculations. Include page numbers.
- Q. Manufacturer's Instructions: Prepare written or published information that documents manufacturer's recommendations, guidelines, and procedures for installing or operating a product or equipment. Include name of product and name, address and telephone number of manufacturer. Include the following, as applicable:
 1. Preparation of substrates.
 2. Required substrate tolerances.
 3. Sequence of installation or erection.
 4. Required installation tolerances.
 5. Required adjustments.
 6. Recommendations for cleaning and protection.
- R. Manufacturer's Field Reports: Prepare written information documenting factory-authorized service representative's tests and inspections. Include the following, as applicable:
 1. Name, address and telephone number of factory-authorized service representative making report.
 2. Statement on condition of substrates and their acceptability for installation of product.
 3. Statement that products at Project site comply with requirements.
 4. Summary of installation procedures being followed, whether they comply with requirements and, if not, what corrective action was taken.
 5. Results of operational and other tests and a statement of whether observed performance complies with requirements.
 6. Statement whether conditions, products, and installation will affect warranty.
 7. Other required items indicated in individual Specification Sections.
- S. Insurance Certificates and Bonds: Prepare written information indicating current status of insurance or bonding coverage. Include name of entity covered by insurance or bond, limits of coverage, amounts of deductibles, if any, and term of the coverage.
- T. Material Safety Data Sheets: Submit information directly to Owner. If submitted to Architect, Architect will not review this information but will return it with no action taken.

PART 3 EXECUTION

3.01 CONTRACTOR'S REVIEW

- A. Review each submittal and check for compliance with the Contract Documents. Note corrections and field dimensions. Mark with approval stamp before submitting to Architect.
- B. Approval Stamp: Stamp each submittal with a uniform, approval stamp. Include Project name and location, submittal number, Specification Section title and number, name of reviewer, date of Contractor's approval, and statement certifying that submittal has been reviewed, checked, and approved for compliance with the Contract Documents.

3.02 ARCHITECT'S ACTION

- A. General: Architect will not review submittals that do not bear Contractor's approval stamp or have not been reviewed by the Contractor and will return them without action.
- B. Action Submittals: Architect will review each submittal, make marks to indicate corrections or modifications required, and return it. Architect will stamp each submittal with an action stamp and will mark stamp appropriately to indicate action taken, as follows:
 - 1. No Exceptions Taken.
 - 2. Make Corrections Noted.
 - 3. Revise & Resubmit
 - 4. Rejected - See Remarks.
 - 5. Submit Specified Item.
 - 6. No Action Taken (Not Obligated to Review)
 - 7. No Action Taken (This Submittal is Not Required by the Contract)
 - 8. Received for Record
- C. Informational Submittals: Architect will review each submittal and will not return it or will reject and return it if it does not comply with requirements.
- D. Submittals not required by the Contract Documents will not be reviewed and may be discarded.

3.03 CONTRACTOR'S ACTION

- A. Any work, material, system, etc. purchased and/or installed without an approved submittal/shop drawing including mock-up or sample approval where dictated is solely at the Contractor's risk.

END OF SECTION

SUBMITTAL COVER SHEET



(This completed sheet must accompany submittal for a valid submission)

SUBMITTAL INFORMATION:

Submission Date:
Date

Received by H2M:
Date

Substitution: ☐ CHECK HERE IF SUBMISSION IS FOR A SUBSTITUTION.
Provide additional information as per Sections 016100 and 012500.

Submission No:
No.

Submittal Name:
Spec. Paragraph

Submittal Title

Section Information:
Spec. Section #

Spec. Section Name

Reference Drawings:

CONTRACTOR INFORMATION:

Contract For:

Contact:

Company Name:

Email:

Contractor Address:
Street

City

State

Zip

Phone:

Fax:

Reviewed By:
Name

Review Date:
Date

SUPPLIER INFORMATION:

Company Name:

Contact:

Fax:

Phone:

Email:

CONTRACTOR'S CERTIFICATION STATEMENT:

We hereby represent that we have determined and verified all field measurements, field construction criteria, materials, dimensions, catalog numbers, and similar data and we have reviewed and approved this submittal and checked and coordinated each item with the other applicable approved Shop Drawings and all Contract requirements.

Signed

CONTRACTOR'S COMMENTS

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SUBMITTAL COVER SHEET



(This completed sheet must accompany submittal for a valid submission)

SUBMITTAL INFORMATION:

Submission Date:
Date

Received by H2M:
Date

Substitution: ☐ CHECK HERE IF SUBMISSION IS FOR A SUBSTITUTION.
Provide additional information as per Sections 016100 and 012500.

Submission No:
No.

Submittal Name:
Spec. Paragraph

Submittal Title

Section Information:
Spec. Section #

Spec. Section Name

Reference Drawings:

CONTRACTOR INFORMATION:

Contract For:

Contact:

Company Name:

Email:

Contractor Address:
Street

City

State

Zip

Phone:

Fax:

Reviewed By:
Name

Review Date:
Date

SUPPLIER INFORMATION:

Company Name:

Contact:

Fax:

Phone:

Email:

CONTRACTOR'S CERTIFICATION STATEMENT:

We hereby represent that we have determined and verified all field measurements, field construction criteria, materials, dimensions, catalog numbers, and similar data and we have reviewed and approved this submittal and checked and coordinated each item with the other applicable approved Shop Drawings and all Contract requirements.

Signed

CONTRACTOR'S COMMENTS

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PART 1 GENERAL

1.01 RELATED DOCUMENTS

- A. Drawings and general provisions of the Contract, including General Conditions and other Division 01 Specification Sections, apply to this Section.

1.02 SUMMARY

- A. Section includes administrative and procedural requirements for quality assurance and quality control.
- B. Testing and inspection services are required to verify compliance with requirements specified or indicated. These services do not relieve Contractor of responsibility for compliance with the Contract Document requirements.
 - 1. Specific quality-assurance and quality-control requirements for individual work results are specified in their respective Specification Sections. Requirements in individual Sections may also cover production of standard products.
 - 2. Specified tests, inspections, and related actions do not limit Contractor's other quality-assurance and quality-control procedures that facilitate compliance with the Contract Document requirements.
 - 3. Requirements for Contractor to provide quality-assurance and quality-control services required by Architect, Owner or authorities having jurisdiction are not limited by provisions of this Section.
 - 4. Specific test and inspection requirements are not specified in this Section.

1.03 DEFINITIONS

- A. Experienced: When used with an entity or individual, "experienced" unless otherwise further described means having successfully completed a minimum of five (5) previous projects similar in nature, size, and extent to this Project; being familiar with special requirements indicated; and having complied with requirements of authorities having jurisdiction.
- B. Field Quality-Control Tests: Tests and inspections that are performed on-site for installation of the Work and for completed Work.
- C. Installer/Applicator/Erector: Contractor or another entity engaged by Contractor as an employee, Subcontractor, or Sub-subcontractor, to perform a particular construction operation, including installation, erection, application, assembly, and similar operations.
 - 1. Use of trade-specific terminology in referring to a trade or entity does not require that certain construction activities be performed by accredited or unionized individuals, or that requirements specified apply exclusively to specific trade(s).
- D. Preconstruction Testing: Tests and inspections performed specifically for Project before products and materials are incorporated into the Work, to verify performance or compliance with specified criteria.
- E. Product Tests: Tests and inspections that are performed by a nationally recognized testing laboratory (NRTL) according to 29 CFR 1910.7, by a testing agency accredited according to NIST's National Voluntary Laboratory Accreditation Program (NVLAP), or by a testing agency qualified to conduct product testing and acceptable to authorities having jurisdiction, to establish product performance and compliance with specified requirements.

- F. Source Quality-Control Tests: Tests and inspections that are performed at the source; for example, plant, mill, factory, or shop.
- G. Testing Agency: An entity engaged to perform specific tests, inspections, or both. Testing laboratory shall mean the same as testing agency.
- H. Quality-Assurance Services: Activities, actions, and procedures performed before and during execution of the Work to guard against defects and deficiencies and substantiate that proposed construction will comply with requirements.
- I. Quality-Control Services: Tests, inspection, procedures, and related actions during and after execution of the Work to evaluate that actual products incorporated into the Work and completed construction complies with requirements.

1.04 DELEGATED-DESIGN SERVICES

- A. Performance and Design Criteria: Where professional design services or certifications by a design professional are specifically required of Contractor by the Contract Documents, provide products and systems complying with specific performance and design criteria indicated.
 - 1. If criteria indicated are not sufficient to perform services or certification required, submit a written request for additional information to Architect.

1.05 CONFLICTING REQUIREMENTS

- A. Conflicting Standards and Other Requirements: If compliance with two or more standards or requirements are specified and the standards or requirements establish different or conflicting requirements for minimum quantities or quality levels, comply with the most stringent requirement. Refer conflicting requirements that are different, but apparently equal, to Architect for direction before proceeding.
- B. Minimum Quantity or Quality or Quality Levels: The quantity or quality level shown or specified shall be the minimum provided or performed. The actual installation may comply exactly with the minimum quantity or quality specified, or it may exceed the minimum within reasonable limits. To comply with requirements, indicated numeric values are minimum or maximum, as appropriate, for the context of requirements. Refer uncertainties to Architect for a decision before proceeding.

1.06 SUBMITTALS

- A. Contractor's Quality-Control Plan: For Quality-assurance and quality-control activities and responsibilities.
- B. Qualification Data: For Contractor's quality-control personnel.
- C. Schedule of Tests and Inspections: Prepare in tabular form and include the following:
 - 1. Specification Section number and title.
 - 2. Entity responsible for performing tests and inspections.
 - 3. Description of test and inspection.
 - 4. Identification of applicable standards.
 - 5. Number of tests and inspections required.
 - 6. Time schedule or time span for tests and inspections.
 - 7. Requirements for obtaining samples.
- D. Reports: Prepare and submit certified written-reports and documents as specified.

- E. Permits, Licenses, and Certificates: For Owner's record, submit copies of permits, licenses, certifications, inspection reports, releases, jurisdictional settlements, notices, receipts for fee payments, judgments, correspondence, records, and similar documents established for compliance with standards and regulations bearing on performance of the Work.

1.07 CONTRACTOR'S QUALITY-CONTROL PLAN

- A. Quality-Control Plan, General: Submit quality-control plan within fifteen (15) days of Notice to Proceed. Submit in format acceptable to Architect. Identify personnel, procedures, controls, instructions, tests, records, and forms to be used to carry out Contractor's quality-assurance and quality-control responsibilities. Coordinate with Contractor's Construction Schedule.
- B. Quality-Control Personnel Qualifications: Engage qualified personnel trained and experienced in managing and executing quality-assurance and quality-control procedures similar in nature and extent to those required for Project.
- C. Continuous Inspection of Workmanship: Describe process of continuous inspection during construction to identify and correct deficiencies in workmanship in addition to testing and inspection specified. Indicate types of corrective actions to be required to bring work into compliance with standards of workmanship established by Contract requirements and approved mockups.
- D. Monitoring and Documentation: Maintain testing and inspection reports including log of approved and rejected results. Include work Architect has indicated as nonconforming or defective. Indicate corrective actions taken to bring nonconforming work into compliance with requirements. Comply with requirements of authorities having jurisdiction.

1.08 QUALITY ASSURANCE

- A. General: Qualifications paragraphs in this article establish the minimum qualification levels require; individual Specification Sections specify additional requirements.
- B. Manufacturer Qualifications: A firm experienced in manufacturing products or systems similar to those indicated or this Project and with a record of successful in-service performance, as well as sufficient production capacity to produce required units. As applicable, procure products from manufacturers able to meet qualification requirements, warranty requirements, and technical or factory-authorized service representative requirements.
- C. Fabricator Qualifications: A firm experienced in producing products similar to those indicated for this Project and with a record of successful in-service performance, as well as sufficient production capacity to produce required units.
- D. Installer Qualifications: A firm or individual experienced in installing, erecting, applying, or assembling work similar in material, design, and extent to that indicated for this Project, whose work has resulted in construction with a record of successful in-service performance.
- E. Specialists: Certain Specification Sections require that specific construction activities shall be performed by entities who are recognized experts in those operations.

Specialists shall satisfy qualification requirements indicated and shall be engaged for the activities indicated.

1. Requirements of authorities having jurisdiction shall supersede requirements for specialists.
- F. Manufacturer's Technical Representative Qualifications: An authorized representative of manufacturer who is trained and approved by manufacturer to observe and inspect installation of manufacturer's products that are similar in material, design, and extent to those indicated for this Project.
- G. Factory-Authorized Service Representative Qualifications: An authorized representative of manufacturer who is trained and approved by manufacturer to inspect installation of manufacturer's products that are similar in material, design, and extent to those indicated for this Project.

1.09 QUALITY CONTROL

- A. Owner Responsibilities: Where quality-control services are indicated as Owner's responsibility, Owner will engage a qualified testing agency to perform these services.
1. Owner will furnish Contractor with names, addresses, and telephone numbers of testing agencies engaged.
 2. Costs for re-testing and re-inspecting construction that replaces or is necessitated by work that failed to comply with the Contract Documents will be charged to Contractor and the Contract Sum will be adjusted by Change Order.
- B. Contractor Responsibilities: Tests and inspections not explicitly assigned to Owner are Contractor's responsibility. Perform additional quality-control activities, whether specified or not, to verify and document that the Work complies with requirements.
1. Unless otherwise indicated, provide quality-control services specified and those required by authorities having jurisdiction. Perform quality-control services required of Contractor by authorities having jurisdiction, whether specified or not.
 2. Engage a qualified testing agency to perform quality-control services.
 - a. Contractor shall not employ same entity engaged by Owner, unless agreed to in writing by Owner.
 3. Notify testing agencies at least 48 hours in advance of time when Work that requires testing or inspection will be performed.
 4. Where quality-control services are indicated as Contractor's responsibility, submit a certified written report, in duplicate, of each quality-control service.
 5. Testing and inspection requested by Contractor and not required by the Contract Documents are Contractor's responsibility.
 6. Submit additional copies of each written report directly to authorities having jurisdiction, when they so direct.
- C. Retesting/Reinspection: Regardless of whether original tests or inspections were Contractor's responsibility, provide quality-control services, including retesting and reinspection, for construction that replace Work that failed to comply with the Contract Documents.
- D. Special Tests and Inspections: Owner will engage a testing agency to conduct special tests and inspections required by authorities having jurisdiction as the responsibility of Owner.
1. Testing agency will notify Architect and Contractor promptly of irregularities and deficiencies observed in the Work during performance of its services.

2. Testing agency will submit a certified written report of each test, inspection, and similar quality-control service to Architect, Owner, Contractor and to Authorities having jurisdiction.
 3. Testing agency will submit a final report of special tests and inspections at Substantial Completion, which includes a list of unresolved deficiencies.
 4. Testing agency will interpret tests and inspections and state in each report whether tested and inspected work complies with or deviates from the Contract Documents.
 5. Testing agency will retest and reinspect corrected work at the expense of the Contractor.
- E. Manufacturer's Field Services: Where indicated, engage a factory-authorized service representative to inspect field-assembled components and equipment installation, including service connections. Report result in writing as specified in Section 013300 "Submittal Procedures".
- F. Manufacturer's Technical Services: Where indicated, engage a manufacturer's technical representative to observe and inspect the Work. Manufacturer's technical representative's services include participation in preinstallation conferences, examination of substrates and conditions, verification of materials, observation of Installer activities, inspection of completed portions of Work, and submittal of written reports.
- G. Coordination: Coordinate sequence of activities to accommodate required quality-assurance and quality-control services with a minimum of delay and to avoid necessity of removing and replacing construction to accommodate testing and inspection.
1. Schedule times for tests, inspections, obtaining samples, and similar activities.

PART 2 PRODUCTS (Not Used)

PART 3 EXECUTION

3.01 TEST AND INSPECTION LOG

- A. Test and Inspection Log: prepare a record of tests and inspections. Include the following:
1. Date test or inspection was conducted.
 2. Description of the Work tested or inspected.
 3. Date test or inspection results were transmitted to Architect.
 4. Identification of testing agency or special inspector conducting test or inspection.
- B. Maintain log at Project site. Post changes and revisions as they occur. Provide access to test and inspection log for Architect's, Owners On Site Representative and Owner's reference during normal working hours.
1. Submit log at Project closeout as part of Project Record Documents.

3.02 REPAIR AND PROTECTION

- A. General: On completion of testing, inspection, sample taking, and similar services, repair damaged construction and restore substrates and finishes.
1. Provide materials and comply with installation requirements specified in other Specification Sections or matching existing substrates and finishes. Restore patched areas and extend restoration into adjoining areas with durable seams that are as invisible as possible. Comply with the Contract Document requirements for cutting and patching.

- B. Protect construction exposed by or for quality-control service activities.
- C. Repair and protection are Contractor's responsibility, regardless of the assignment of responsibility for quality-control services.

END OF SECTION

PART 1 – GENERAL

1.01 SECTION INCLUDES

- A. Codes
- B. Governing agencies
- C. Permits

1.02 CODES

- A. Comply with the requirements of the various codes referred to in these Specifications. Such codes shall be the date of the latest revision in effect at the time of receiving bids.
- B. Electrical Work: Conform to the requirements of the National Electrical Code (NEC) unless otherwise shown or specified. The Owner will be the sole judge of the interpretation of these rules and requirements.

1.03 GOVERNING AGENCIES

- A. All work shall conform to and be performed in strict accordance with all governing agencies such as, but not limited to:
 - 1. Occupational Safety and Health Act – OSHA
 - 2. State Department of Environmental Conservation
 - 3. State Building Code
 - 4. State Fire Code
 - 5. National Fire Protection Association – NFPA
 - 6. National Electrical Code
 - 7. State Plumbing Code
 - 8. New York State Energy Conservation Construction Code
 - 9. Westchester County Department of Health
 - 10. Town Codes, Rules, Laws and Ordinances
 - 11. Sewer District Sewer Use Code
 - 12. Local Water District
 - 13. Electric Utility
 - 14. Gas Utility

1.04 PERMITS AND INSPECTIONS

- A. Representatives of the Owner shall have access to the work for inspection purposes. The Contractor shall provide facilities suitable to the Owner to facilitate inspections of the installed work.
- B. Obtain and pay for all permits, fees, licenses, certificates, inspections and other use charges required in connection with the work, unless otherwise noted.
- C. A NYSDEC SWPPP Permit has been obtained by the Owner for this project.
 - 1. The Owner is responsible for the inspections required by this permit.
 - 2. The Generator Contractor shall comply with all requirements of the permit.
 - a. Contractor shall schedule a pre-construction SWPPP meeting with NYSDEC, Owner and Architect prior to commencing any work on site.

3. Electronic copies of the permit are available to plan holders. Please email a request to albanyoffice@h2m.com.
4. The contractor awarded the project shall receive a hard copy of the permit.

1.05 LISTINGS

- A. Equipment and materials for which Underwriters; Laboratories, Inc. (UL) provides product listing service, shall be listed and bear the listing mark. Alternately, ETL Testing Laboratories, Inc. Product Safety Testing Listing is acceptable if the listed product has been tested to the applicable UL Standard.

1.06 FIRE RESISTANT CONSTRUCTION MATERIALS AND ASSEMBLIES

- A. Conform to the fire rating classifications based upon the test methods and acceptance criteria in the Standard, Fire Tests of Building Construction and Materials for which Underwriters' Laboratories, Inc. (UL) provides listings.
- B. Materials and assemblies shall comply with the acceptance criteria, detailed description of the assembly, its performance in the fire test and other pertinent details such as specification of materials, Classification coverage, and alternate assembly details.
- C. Alternatively, fire resistance rating classifications by other issuing organizations listed in the Fire and Building Codes are acceptable.

PART 2 – PRODUCTS

NOT USED

PART 3 – EXECUTION

NOT USED

END OF SECTION

PART 1 - GENERAL

1.01 RELATED DOCUMENTS

- A. Drawings and general provisions of the Agreement, including General Conditions, and Division 01 of the Project Manual, apply to work of this Section.

1.02 DEFINITIONS

- A. "Allowance": A sum of money set aside in the Contract for items which have not been selected and specified in the Contract Documents. See Section 012100 – Allowances.
- B. "Approved": When used in conjunction with the Architect's action on the Contractor's submittals, applications, and requests, is limited to the Architect's duties and responsibilities as stated in the Conditions of the Contract.
- C. "Building Perimeter": includes extent of all foundations including the apron foundations and other similar foundations for stoops.
- D. "Directed": Terms such as "directed," "requested," "authorized," "selected," "approved," "required," and "permitted" mean directed by the Architect, requested by the Architect, and similar phrases.
- E. "EFS": exterior finish system(s)
- F. "EIFS": exterior insulation and finish system(s)
- G. "Equal": Like in quality, nature or status and consistent with the design intent. A material or product deemed "equal" may be accepted by the Architect in place of the specified material or product. See also Section 016000 – Product Requirements.
- H. "Equivalent": Something that performs substantially the same as the specified item in substantially the same way and is consistent with the design intent. A material or product deemed "equivalent" by the Architect may be accepted as a substitution for a specified material or product. A cost or time change to the Contract may result. See also Section 016000 – Product Requirements.
- I. "Fire Resistance Rating": Time rating (in hours) in accordance with Underwriters Laboratories Fire Resistance Directory listings.
- J. "Furnish": Supply and deliver to the Project Site, ready for unloading, unpacking, assembly, installation, and similar operations.
- K. General: Basic contract definitions are included in the Conditions of the Contract.
- L. "Indicated": Referring to graphic representations, notes, or schedules on the Drawings, or other paragraphs or Schedules in the Specifications, and similar requirements in the Contract Documents. Terms such as "shown," "noted," "scheduled," and "specified" are used to help the reader locate the reference. Location is not limited.
- M. "Install": Actions at the Project Site including the actual unloading, unpacking, assembly, erecting, placing, anchoring, applying, working to dimension, finishing, curing, protecting, cleaning, and similar operations.
- N. "Installer": An installer is the Contractor, or another entity engaged by the Contractor, either as an employee, subcontractor, or contractor of lower tier, to perform a particular

construction activity, including installation, erection, application, or similar operations. Installers are required to be experienced in the operations they are engaged to perform.

1. The term "experienced," when used with the term "installer," means having a minimum of 5 previous projects similar in size and scope to this Project, being familiar with the special requirements indicated, and having complied with requirements of authorities having jurisdiction.
 2. Trades: Using terms such as "carpentry" does not imply that certain construction activities must be performed by accredited or unionized individuals of a corresponding generic name, such as "carpenter." It also does not imply that requirements specified apply exclusively to tradespersons of the corresponding generic name.
 3. Assigning Specialists: Certain Sections of the Specifications require that specific construction activities shall be performed by specialists who are recognized experts in those operations. The specialists must be engaged for those activities, and their assignments are requirements over which the Contractor has no option. However, the ultimate responsibility for fulfilling contract requirements remains with the Contractor.
 - a. This requirement shall not be interpreted to conflict with enforcing building codes and similar regulations governing the Work. It is also not intended to interfere with local trade-union jurisdictional settlements and similar conventions.
- O. "Permanently Enclosed": all exterior walls and roofing are installed and flashed, all openings to the exterior are either closed in with the permanent installation or with an adequate insulated temporary enclosure which can easily be maintained by the GC.
- P. "Project Site": the space available to the Contractor for performing construction activities, either exclusively or in conjunction, with others performing other work as part of the Project. The extent of the Project Site is shown on the Drawings and may or may not be identical with the description of the land on which the Project is to be built.
- Q. "Provide": To furnish and install, complete and ready for the intended use.
- R. "Regulations": Includes laws, ordinances, statutes, and lawful orders issued by authorities having jurisdiction, as well as rules, conventions, and agreements within the construction industry that control performance of the Work.
- S. "Requests for Information" ("RFIs"), Requests on clarifications or questions on contract drawings and specifications, not contract terms, scheduling items, or general correspondence, nor, to describe or request approval of alternate construction means, methods or concepts or substitution or materials, systems means and methods or request for coordination or distribution of documents for coordination. The Contractor shall fill all RFIs out in accordance with the provisions of the Project Manual. The Architect shall not fill said forms out on the Contractor's behalf.
- T. "Similar": A designation or note shown as "sim" that indicates other areas may have the same basic properties of material size, etc. with some small changes.
- U. "Substitution": An accepted equivalent product or material that is used in place of the specified product or material. "Substitutions" must be reviewed by the Architect in advance of standard submittal process. See also Section 016000 – Product Requirements.
- V. "Testing Agency": an independent entity engaged to perform specific inspections or tests, either at the Project Site or elsewhere, and to report on and, if required, to interpret results of those inspections or tests.

- W. The words “Specification” and “Project Manual” are interchangeable, both referring to this document.
- X. “Typical”: A designation or note shown as “TYP” that indicates the included description of materials, sizes, etc. applies to all like circumstances, unless noted otherwise.
- Y. “Use Charges”: Costs and consumption charges from utility and energy companies for use of water, sewer, electric, fuel, energy, telephone, cable and similar utility services.
- Z. “Work Separation between Building and Site”: minimum 5’ outside building perimeter.

PART 2 – PRODUCTS

2.01 Not Applicable

PART 3 – EXECUTION

3.01 Not Applicable

END OF SECTION

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CLIENT PROJECT ADDRESS	STATEMENT OF SPECIAL INSPECTIONS AND TESTS As required by the 2020 Building Code of New York State	
BC NYS § 1704.3 requires the project Design Professional to complete the Statement of Special Inspections and Tests. Completion of the Statement of Special Inspections & Tests and submission to the Building Department with the Construction Permit Application is a condition for issuance of the Building Permit.		
Owner Village of Mount Kisco	Building X	
Project Title MKIV1803-Independent Fire Co		
Project # H2M TEMPLATE	Project Address 322 Lexington Ave, Mount Kisco, New York, 10549	
Architect/Engineer H2M architects + engineers		
Name of Person Completing this Statement X	Phone X	Date X
Comments		

INSPECTION AND TESTING (Continuous & Periodic is as Defined by the BC NYS)	C O N T I N U O U S	P E R I O D I C	REFERENCE STANDARD	B R C E F N E Y R S E N C E	C R H E Q C U K I R I E F D	IDENTIFY SPEC SECTION AND PROVIDE CLARIFYING NOTES IF NECESSARY
A. Steel Construction				1705.2		
1. Structural Steel.	X	X	AISC 360 Chapter N.5	1705.2 1705.2.1	X	051200
2. Cold Formed steel deck.		X	SDI QA/QC 2011	1705.2 1705.2.2		
3. Installation of open-web steel joist and joist girders.			SJI specification (Section 2207.1)	1705.2 1705.2.3 1705.2.4	X	051200
B. Concrete Construction				1705.3 Table 1705.3		
1. Inspection of reinforcing steel, including prestressing tendons, and placement.		X	ACI 318: Ch. 20, 25.2, 25.3, 26.6.1-26.6.3	1705.3 1908.4	X	033000

H2M architects + engineers

STATEMENT OF SPECIAL
INSPECTIONS AND TESTS
(2020)Village of Mount Kisco - Additions/Alterations at
Independent Fire Co.

014500.11-1

INSPECTION AND TESTING (Continuous & Periodic is as Defined by the BC NYS)	C O N T I N U O U S	P E R I O D I C	REFERENCE STANDARD	B R C E F N E Y R S E N C E	C R H E E Q U I R I E D	IDENTIFY SPEC SECTION AND PROVIDE CLARIFYING NOTES IF NECESSARY
2a. Reinforcing Bar welding - Weldability of reinforcing bars other than ASTM A706.		X	AWS D1.4; ACI 318: 26.6.4	1705.3.1Ta ble 1705.3		
2b. Reinforcing bar welding-Single-pass fillet welds, maximum 5/16 inches.		X	AWS D1.4; ACI 318: 26.6.4	1705.3.1Ta ble 1705.3		
2c. Reinforcing bar welding - All other welds.	X		AWS D1.4; ACI 318: 26.6.4	1705.3.1 Table 1705.3	X	033000
3. Cast in concrete anchorage		X	ACI 318: 17.8.2	Table 1705.3	X	033000
4a. Post installed concrete members - Adhesive anchors installed horizontally or upwardly inclined to resist sustained tension loads.	X		ACI, 318: 17.8.2.4	Table 1705.3		
4b. Post installed concrete members - Mechanical anchors and adhesive anchors not defined in 4a.		X	ACI, 318: 17.8.2	Table 1705.3	X	033000
5. Verify use of design mix.		X	ACI 318: Ch. 19, 26.4.3, 26.4.4	Table 1705.3, 1904.1,190 4.2, 1908.2, 1908.3	X	033000
6. Sampling fresh concrete, slump, air content, temperature, strength test specimens.	X		ASTM C172, ASTM C31; ACI 318: 26.4, 26.12	Table 1705.3, 1908.10	X	033000
7. Inspect concrete and shotcrete placement for proper application techniques.	X		ACI 318: 26.5	Table 1705.3 1908.6 1908.7 1908.8		
8. Inspection for maintenance of specified curing temperature and techniques.		X	ACI 318: 26.5.3-26.5.6	Table 1705.3, 1908.9	X	033000
9. Inspection of prestressed concrete.	X		ACI 318: 26.10.	Table 1705.3		
10. Erection of precast concrete members.		X	ACI 318: Ch. 26.9	Table 1705.3		

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STATEMENT OF SPECIAL
INSPECTIONS AND TESTS
(2020)Village of Mount Kisco - Additions/Alterations at
Independent Fire Co.

014500.11-2

INSPECTION AND TESTING (Continuous & Periodic is as Defined by the BC NYS)	C O N T I N U O U S	P E R I O D I C	REFERENCE STANDARD	B R C E F N E Y R S E N C E	C R H E Q C U K I R I E F D	IDENTIFY SPEC SECTION AND PROVIDE CLARIFYING NOTES IF NECESSARY
11. Verification of in-situ concrete strength prior to stressing of tendons in post-tensioned concrete and prior to removal of shores and forms from beams and slabs.		X	ACI 318: 26.11.2	Table 1705.3		
12. Inspect formwork for shape, location and dimensions of the concrete member being formed.		X	ACI 318: 26.11.1.2(b)		X	033000
13. Material Tests - In absence of sufficient data or documentation for materials.		X	ACI 318 Ch.19 and 20.			
C. Masonry Construction						
1. Masonry construction	X	X	ACI 530 /ASCE 5/ TMS 402 and ACI 530.1 / ASCE 6 / TMS 602 Ch.3	1705.4	X	042200
2. Empirically designed masonry, glass unit masonry and masonry veneer in Risk Category IV.		X	TMS 402 / ACI 530 / ASCE 5 Level B Ch. 3	1705.4.1 2109 2110 or Ch. 14		
3. Vertical masonry foundation elements	X	X		1705.4 1705.4.2		
D. Wood Construction				1705.5		
1. Wood construction - Fabrication of wood structural elements and assemblies.		X		1705.5, 1704.2.5		
2. High-load Diaphragms.		X		1705.5 1705.5.1 2306.2 1704.2		
3. Metal-plate-connected wood trusses spanning 60 feet or greater (temp. and permanent installations)		X		1705.5.2		

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STATEMENT OF SPECIAL
INSPECTIONS AND TESTS
(2020)Village of Mount Kisco - Additions/Alterations at
Independent Fire Co.

014500.11-3

INSPECTION AND TESTING (Continuous & Periodic is as Defined by the BC NYS)	C O N T I N U O U S	P E R I O D I C	REFERENCE STANDARD	B R C E F N E Y R S E N C E	C R H E E Q C U K I R I E F D	IDENTIFY SPEC SECTION AND PROVIDE CLARIFYING NOTES IF NECESSARY
E. Soils				1705.6		
1. Subgrade inspection		X		1705.6 Table 1705.6	X	
2. Classification and testing of compacted fill materials		X		1705.6	X	
3. Evaluation of in-place density and lift thickness.	X			1705.6	X	
F. Driven Deep Foundations				1705.7		
1. Installation and load tests (if applicable)	X			1705.7 Table 1705.7		
G. Cast-In-Place Deep Foundations				1705.8		
1. Installation, end bearing strata, and load tests (if applicable)	X			1705.8 Table 1705.8		
H. Helical Pile Foundations				1705.9		
1. Installation and load tests (if applicable)				1705.9		

INSPECTION AND TESTING (Continuous & Periodic is as Defined by the BC NYS)	C O N T I N U O U S	P E R I O D I C	REFERENCE STANDARD	B R C E F N E Y R S E N C E	C R H E E Q C U K I R I E F D	IDENTIFY SPEC SECTION AND PROVIDE CLARIFYING NOTES IF NECESSARY
I. Fabricated Items		X		1705.10 1704.2.5		
J. Wind Resistance				1705.11		
1. Applicable in Exposure Category B with a basic wind speed of 120 mph and Exposure Categories C or D with basic wind speed of 110 mph or greater.				1705.11		

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STATEMENT OF SPECIAL
INSPECTIONS AND TESTS
(2020)Village of Mount Kisco - Additions/Alterations at
Independent Fire Co.

014500.11-4

INSPECTION AND TESTING (Continuous & Periodic is as Defined by the BC NYS)	C O N T I N U O U S	P E R I O D I C	REFERENCE STANDARD	B R C E F N E Y R S E N C E	C R H E Q C U K I R I E F D	IDENTIFY SPEC SECTION AND PROVIDE CLARIFYING NOTES IF NECESSARY
1a. Structural wood - Field gluing operation of elements of main wind force-resisting system (MWRS).	X			1705.11.1		
1b. Structural wood - Nailing, bolting, anchoring, and fastening elements of the MWRS.		X		1705.11.1		
2a. Cold formed steel - Welding operations of elements of MWRS.		X		1705.11.2		
2b. Cold formed steel - Screw attachments, bolting, anchoring, and fastening of elements of MWRS.		X		1705.11.2		
3. Wind-resisting components - Roof covering, roof deck, and roof framing connections. Exterior wall covering and wall connections to roof and floor diaphragms and framing.		X		1705.11 1705.11.3		
K. Special Inspections for Seismic Resistance: Applicable to specific structures, systems, and components.				1705.12		
1. Structural steel - Seismic force-resisting systems & elements.	X		AISC 341 Chapter J	1705.12.1.1 or 1705.12.1.2		
2a. Structural wood - Field gluing operation of elements of seismic force-resisting system (SFRS).	X			1705.12.2		
2b. Structural wood - Nailing, bolting, anchoring, and fastening of elements of SFRS.		X		1705.12.2		
3. Cold-formed steel framing - welding and fasteners.		X		1705.12.3		

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STATEMENT OF SPECIAL
INSPECTIONS AND TESTS
(2020)Village of Mount Kisco - Additions/Alterations at
Independent Fire Co.

014500.11-5

INSPECTION AND TESTING (Continuous & Periodic is as Defined by the BC NYS)	C O N T I N U O U S	P E R I O D I C	REFERENCE STANDARD	B R C E F N E Y R S E N C E	C R H E Q C U K I R I E F D	IDENTIFY SPEC SECTION AND PROVIDE CLARIFYING NOTES IF NECESSARY
4. Designated seismic systems - verify that label, anchorage, and mounting conforms to the certificate of compliance.		X	ASCE 7 Section 13.2.2	1705.12.4		
5. Architectural components.		X		1705.12.5		
6. Plumbing, Mechanical and Electrical components.		X		1705.12.6		
7. Storage racks and access floors		X		1705.12.7		
8. Seismic isolation systems.		X		1705.12.8		
9. Cold-formed steel special bolted moment frames.		X		1705.12.9		
L. Structural Testing for Seismic Resistance: Applicable to specific structures, systems, and components.				1705.13		
1. Structural steel.	X	X	AISC 341 Chapter J	1705.13.1		
2. Nonstructural components.		X	ASCE 7 Section 13.2.1	1705.13.2		
3. Designated seismic systems.		X	ASCE 7 Section 13.2.2	1795.13.3		
4. Seismic isolation systems		X	ASCE 7 Section 17.8	1705.13.4		
M. Sprayed Fire-Resistant Materials [BF]				1705.14		
1. Physical and visual tests. Applicable to specific structures.		X		1705.14.1		
2. Structural member surface conditions		X		1705.14.2		
3. Application.		X		1705.14.3		
4. Thickness.		X	ASTM E 605	1705.14.4		
5. Density.		X	ASTM E 605	1705.14.5		
6. Bond strength.		X	ASTM E 736	1705.14.6		

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STATEMENT OF SPECIAL
INSPECTIONS AND TESTS
(2020)Village of Mount Kisco - Additions/Alterations at
Independent Fire Co.

014500.11-6

INSPECTION AND TESTING (Continuous & Periodic is as Defined by the BC NYS)	C O N T I N U O U S	P E R I O D I C	REFERENCE STANDARD	B R C E F N E Y R S E N C E	C R H E Q C U K I R I E F D	IDENTIFY SPEC SECTION AND PROVIDE CLARIFYING NOTES IF NECESSARY
N. Mastic and Intumescent Fire-Resistant Coatings [BF].		X	AWCI 12-B	1705.15		
O. Exterior Insulation and Finish Systems (EIFS).		X	ASTM E 2570	1705.16		
P. Fire-Resistant Penetrations and Joints [BF] High rise building or buildings assigned to Risk Category III or IV.		X	ASTM E 2174 ASTM E 2393	1705.17		
Q. Testing for Smoke Control [F]		X		1705.18		

END OF SECTION

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CLIENT PROJECT ADDRESS	STATEMENT OF SPECIAL INSPECTIONS AND TESTS As required by the 2020 Building Code of New York State	
BC NYS § 1704.3 requires the project Design Professional to complete the Statement of Special Inspections and Tests. Completion of the Statement of Special Inspections & Tests and submission to the Building Department with the Construction Permit Application is a condition for issuance of the Building Permit.		
Owner Village of Mount Kisco	Building X	
Project Title MKIV1802 Mutual Station		
Project # MKIV1802	Project Address Project Location Address 1, Project Location City, Project Location State, Project Location ZIP	
Architect/Engineer H2M architect + engineers		
Name of Person Completing this Statement X	Phone X	Date X
Comments		

INSPECTION AND TESTING (Continuous & Periodic is as Defined by the BC NYS)	C O N T I N U O U S	P E R I O D I C	REFERENCE STANDARD	B R C E F N E Y R S E N C E	C R H E Q C U K I R I E F D	IDENTIFY SPEC SECTION AND PROVIDE CLARIFYING NOTES IF NECESSARY
A. Steel Construction				1705.2		
1. Structural Steel.	X	X	AISC 360 Chapter N.5	1705.2 1705.2.1	X	051200
2. Cold Formed steel deck.		X	SDI QA/QC 2011	1705.2 1705.2.2		
3. Installation of open-web steel joist and joist girders.			SJI specification (Section 2207.1)	1705.2 1705.2.3 1705.2.4	X	051200
B. Concrete Construction				1705.3 Table 1705.3		
1. Inspection of reinforcing steel, including prestressing tendons, and placement.		X	ACI 318: Ch. 20, 25.2, 25.3, 26.6.1-26.6.3	1705.3 1908.4	X	033000

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STATEMENT OF SPECIAL
INSPECTIONS AND TESTS
(2020)

Village of Mount Kisco - Additions/Alterations to Mutual Station

014500.11-1

INSPECTION AND TESTING (Continuous & Periodic is as Defined by the BC NYS)	C O N T I N U O U S	P E R I O D I C	REFERENCE STANDARD	B R C E F N E Y R S E N C E	C R H E Q C U K I R I E D	IDENTIFY SPEC SECTION AND PROVIDE CLARIFYING NOTES IF NECESSARY
2a. Reinforcing Bar welding - Weldability of reinforcing bars other than ASTM A706.		X	AWS D1.4; ACI 318: 26.6.4	1705.3.1Ta ble 1705.3		
2b. Reinforcing bar welding-Single-pass fillet welds, maximum 5/16 inches.		X	AWS D1.4; ACI 318: 26.6.4	1705.3.1Ta ble 1705.3	X	033000
2c. Reinforcing bar welding - All other welds.	X		AWS D1.4; ACI 318: 26.6.4	1705.3.1 Table 1705.3	X	033000
3. Cast in concrete anchorage		X	ACI 318: 17.8.2	Table 1705.3	X	033000
4a. Post installed concrete members - Adhesive anchors installed horizontally or upwardly inclined to resist sustained tension loads.	X		ACI, 318: 17.8.2.4	Table 1705.3		
4b. Post installed concrete members - Mechanical anchors and adhesive anchors not defined in 4a.		X	ACI, 318: 17.8.2	Table 1705.3	X	033000
5. Verify use of design mix.		X	ACI 318: Ch. 19, 26.4.3, 26.4.4	Table 1705.3, 1904.1,190 4.2, 1908.2, 1908.3	X	033000
6. Sampling fresh concrete, slump, air content, temperature, strength test specimens.	X		ASTM C172, ASTM C31; ACI 318: 26.4, 26.12	Table 1705.3, 1908.10	X	033000
7. Inspect concrete and shotcrete placement for proper application techniques.	X		ACI 318: 26.5	Table 1705.3 1908.6 1908.7 1908.8	X	033000
8. Inspection for maintenance of specified curing temperature and techniques.		X	ACI 318: 26.5.3-26.5.6	Table 1705.3, 1908.9	X	033000
9. Inspection of prestressed concrete.	X		ACI 318: 26.10.	Table 1705.3		
10. Erection of precast concrete members.		X	ACI 318: Ch. 26.9	Table 1705.3		

INSPECTION AND TESTING (Continuous & Periodic is as Defined by the BC NYS)	C O N T I N U O U S	P E R I O D I C	REFERENCE STANDARD	B R C E F N E Y R S E N C E	C R H E Q C U K I R I E F D	IDENTIFY SPEC SECTION AND PROVIDE CLARIFYING NOTES IF NECESSARY
11. Verification of in-situ concrete strength prior to stressing of tendons in post-tensioned concrete and prior to removal of shores and forms from beams and slabs.		X	ACI 318: 26.11.2	Table 1705.3		
12. Inspect formwork for shape, location and dimensions of the concrete member being formed.		X	ACI 318: 26.11.1.2(b)		X	033000
13. Material Tests - In absence of sufficient data or documentation for materials.		X	ACI 318 Ch.19 and 20.			
C. Masonry Construction						
1. Masonry construction	X	X	ACI 530 /ASCE 5/ TMS 402 and ACI 530.1 / ASCE 6 / TMS 602 Ch.3	1705.4	X	042200
2. Empirically designed masonry, glass unit masonry and masonry veneer in Risk Category IV.		X	TMS 402 / ACI 530 / ASCE 5 Level B Ch. 3	1705.4.1 2109 2110 or Ch. 14		
3. Vertical masonry foundation elements	X	X		1705.4 1705.4.2		
D. Wood Construction				1705.5		
1. Wood construction - Fabrication of wood structural elements and assemblies.		X		1705.5, 1704.2.5		
2. High-load Diaphragms.		X		1705.5 1705.5.1 2306.2 1704.2		
3. Metal-plate-connected wood trusses spanning 60 feet or greater (temp. and permanent installations)		X		1705.5.2		
E. Soils				1705.6		

INSPECTION AND TESTING (Continuous & Periodic is as Defined by the BC NYS)	C O N T I N U O U S	P E R I O D I C	REFERENCE STANDARD	B R C E F N E Y R S E N C E	C R H E Q C U K I R I E F D	IDENTIFY SPEC SECTION AND PROVIDE CLARIFYING NOTES IF NECESSARY
1. Subgrade inspection		X		1705.6 Table 1705.6	X	
2. Classification and testing of compacted fill materials		X		1705.6	X	
3. Evaluation of in-place density and lift thickness.	X			1705.6	X	
F. Driven Deep Foundations				1705.7		
1. Installation and load tests (if applicable)	X			1705.7 Table 1705.7		
G. Cast-In-Place Deep Foundations				1705.8		
1. Installation, end bearing strata, and load tests (if applicable)	X			1705.8 Table 1705.8		
H. Helical Pile Foundations				1705.9		
1. Installation and load tests (if applicable)				1705.9		

INSPECTION AND TESTING (Continuous & Periodic is as Defined by the BC NYS)	C O N T I N U O U S	P E R I O D I C	REFERENCE STANDARD	B R C E F N E Y R S E N C E	C R H E Q C U K I R I E F D	IDENTIFY SPEC SECTION AND PROVIDE CLARIFYING NOTES IF NECESSARY
I. Fabricated Items		X		1705.10 1704.2.5		
J. Wind Resistance				1705.11		
1. Applicable in Exposure Category B with a basic wind speed of 120 mph and Exposure Categories C or D with basic wind speed of 110 mph or greater.				1705.11		

INSPECTION AND TESTING (Continuous & Periodic is as Defined by the BC NYS)	C O N T I N U O U S	P E R I O D I C	REFERENCE STANDARD	B R C E F N E Y R S E N C E	C R H E Q C U K I R I E F D	IDENTIFY SPEC SECTION AND PROVIDE CLARIFYING NOTES IF NECESSARY
1a. Structural wood - Field gluing operation of elements of main wind force-resisting system (MWRS).	X			1705.11.1		
1b. Structural wood - Nailing, bolting, anchoring, and fastening elements of the MWRS.		X		1705.11.1		
2a. Cold formed steel - Welding operations of elements of MWRS.		X		1705.11.2		
2b. Cold formed steel - Screw attachments, bolting, anchoring, and fastening of elements of MWRS.		X		1705.11.2		
3. Wind-resisting components - Roof covering, roof deck, and roof framing connections. Exterior wall covering and wall connections to roof and floor diaphragms and framing.		X		1705.11 1705.11.3		
K. Special Inspections for Seismic Resistance: Applicable to specific structures, systems, and components.				1705.12		
1. Structural steel - Seismic force-resisting systems & elements.	X		AISC 341 Chapter J	1705.12.1.1 or 1705.12.1.2		
2a. Structural wood - Field gluing operation of elements of seismic force-resisting system (SFRS).	X			1705.12.2		
2b. Structural wood - Nailing, bolting, anchoring, and fastening of elements of SFRS.		X		1705.12.2		
3. Cold-formed steel framing - welding and fasteners.		X		1705.12.3		

INSPECTION AND TESTING (Continuous & Periodic is as Defined by the BC NYS)	C O N T I N U O U S	P E R I O D I C	REFERENCE STANDARD	B R C E F N E Y R S E N C E	C R H E Q C U K I R I E F D	IDENTIFY SPEC SECTION AND PROVIDE CLARIFYING NOTES IF NECESSARY
4. Designated seismic systems - verify that label, anchorage, and mounting conforms to the certificate of compliance.		X	ASCE 7 Section 13.2.2	1705.12.4		
5. Architectural components.		X		1705.12.5		
6. Plumbing, Mechanical and Electrical components.		X		1705.12.6		
7. Storage racks and access floors		X		1705.12.7		
8. Seismic isolation systems.		X		1705.12.8		
9. Cold-formed steel special bolted moment frames.		X		1705.12.9		
L. Structural Testing for Seismic Resistance: Applicable to specific structures, systems, and components.				1705.13		
1. Structural steel.	X	X	AISC 341 Chapter J	1705.13.1		
2. Nonstructural components.		X	ASCE 7 Section 13.2.1	1705.13.2		
3. Designated seismic systems.		X	ASCE 7 Section 13.2.2	1795.13.3		
4. Seismic isolation systems		X	ASCE 7 Section 17.8	1705.13.4		
M. Sprayed Fire-Resistant Materials [BF]				1705.14		
1. Physical and visual tests. Applicable to specific structures.		X		1705.14.1		
2. Structural member surface conditions		X		1705.14.2		
3. Application.		X		1705.14.3		
4. Thickness.		X	ASTM E 605	1705.14.4		
5. Density.		X	ASTM E 605	1705.14.5		
6. Bond strength.		X	ASTM E 736	1705.14.6		
N. Mastic and Intumescent Fire-Resistant Coatings [BF].		X	AWCI 12-B	1705.15		

INSPECTION AND TESTING (Continuous & Periodic is as Defined by the BC NYS)	C O N T I N U O U S	P E R I O D I C	REFERENCE STANDARD	B R C E F N E Y R S E N C E	C R H E Q C U K I R I E F D	IDENTIFY SPEC SECTION AND PROVIDE CLARIFYING NOTES IF NECESSARY
O. Exterior Insulation and Finish Systems (EIFS).		X	ASTM E 2570	1705.16		
P. Fire-Resistant Penetrations and Joints [BF] High rise building or buildings assigned to Risk Category III or IV.		X	ASTM E 2174 ASTM E 2393	1705.17		
Q. Testing for Smoke Control [F]		X		1705.18		

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PART 1 GENERAL

1.01 RELATED SECTIONS

- A. Drawings and provisions of the Agreement, including General Conditions and Division 01 of the Project Manual, apply to work of this Section.

1.02 GENERAL

- A. The Owner will hire an independent testing agency(s) to perform the work of this Section.
 - 1. An independent Testing Agency will execute functions described in Part 3 of this Specification.
 - 2. The presence of a Testing Agency neither reduces nor replaces any responsibilities of any other party.
 - 3. Contractor is responsible for the scheduling of any tests pertinent to the Work.

1.03 STANDARDS

- A. ASTM D3740 "Standard Practice for Evaluation of Agencies Engaged in Testing and/or Inspection of Soil and Rock as Used in Engineering Design and Construction".
- B. ASTM E329 "Standard Recommended Practice for Inspection and Testing Agencies for Concrete, Steel, and Bituminous Materials as Used in Construction".

1.04 QUALITY ASSURANCE

- A. Execute services pursuant to ASTM D3740 and ASTM E329.
- B. Maintain and calibrate testing, observing and inspecting devices daily or as necessary to accurately measure and evaluate pursuant to recognized values and consistent with specified performance limits
- C. Employ technicians who are trained and experienced with the methods and materials of construction and related testing, observing and inspecting.

1.05 TESTING AGENCY RESPONSIBILITIES

- A. Execute specified testing, observing and inspecting.
- B. Attend pre-construction, pre-installation and progress meetings when requested by the Architect.
- C. Handle, test and store samples as specified.
- D. Determine compliance with or deviation from Contract Documents. Promptly report discrepancies from specified limits to Owner and Architect.
 - 1. Substitutions and Deviations. All substitutions of materials or other deviations from approved contract documents and applicable standards and codes shall be immediately reported to the contractor for correction, then if uncorrected, to the registered design professional and Owner. All nonconforming items shall be fully identified on the reports.

- E. Frequency of Reports
 - 1. One report or entry is required for each day that the inspector performs any inspection.
 - 2. When requested by the Architect an interim report is required outlining the degree of completion and compliance of the work and recording all deviations from the approved contract documents.
 - 3. A final summary report is required at the completion of the work requiring any inspections. The final summary report shall state whether the work requiring inspection was, to the best of the inspector's knowledge, in conformance with the approved contract documents and the applicable workmanship provisions of the State Building Code and reference standards.
 - 4. The inspector shall send a copy of the final summary report to the registered design professional, the Owner, and the contractor

1.06 TESTING AGENCY RESTRICTIONS

- A. May not modify Contract Documents.
- B. May not approve or accept the Work.
- C. May not assume responsibilities of the Contractor.
- D. May not have control over the Contractor's means and methods of construction.
- E. May not have the authority to stop the work.

1.07 CONTRACTOR'S RESPONSIBILITIES

- A. Provide full cooperation with Testing Agency personnel.
- B. Provide access to segment of the Work that is to be tested, observed or inspected.
- C. Provide incidental labor, materials and equipment to facilitate and expedite testing, observing and inspecting.
- D. Provide, handle and store samples as specified.
- E. Notify Testing Agency, 48 hours prior to scheduled time of construction, of activity requiring testing, observing and inspecting.

1.08 TESTING AGENCY SUBMITTALS

- A. Provide a written report of testing, observing and inspecting by unit or periodically as appropriate to activity. Include photographic or drawn graphic supplements for further clarification.
- B. Provide interpretation when appropriate, specified or requested by Architect.
- C. Distribute copies of each report as follows:
 - 1. One copy within three (3) days of test data to the following:
 - a) Owner
 - b) Architect
 - c) Geotechnical Engineer
 - d) Civil Engineer
 - e) Contractor

- f) Building Dept (if required)
- 2. Report inclusions:
 - a) Date issued.
 - b) Project number and description.
 - c) Specification section number and title.
 - d) Date and time of testing, observing, or inspecting.
 - e) Names of Testing Agency personnel executing service.
 - f) Description of product, material, or system being tested, observed, or inspected.
 - g) Description of tests, observations, or inspections.
 - h) Results of testing, observing, or inspecting.
 - i) Compliance with or deviation from Contract Documents.
 - j) Pertinent discoveries.

1.09 ADDITIONAL SERVICES

- A. Perform testing, observing or inspecting not otherwise specified when directed by the Architect at no additional cost to the Owner. Circumstances in which this additional testing must be provided include previously failed testing and contractor-imposed requirements.”
- B. Contractor may order additional testing, observing or inspecting beyond that which is specified to administer the Work at its own expense.
- C. Provide additional testing, observing or inspecting, at Contractor's expense, for any segment of the Work modified or replaced to comply with Contract Documents or for any Work that fails to meet design, code or test standards.
- D. If the Contractor violates the requirements of the Contract Documents and the Architect determines that it is advisable to have testing performed to determine if the resulting work does not meet the requirements as specified, such testing will be at the Contractor's expense.
 - 1. Documentation of the violations and of the test results will be submitted to the Contractor and Owner, to be approved by the Architect.

PART 2 PRODUCTS

2.01 NOT APPLICABLE

PART 3 EXECUTION

3.01 TESTING, OBSERVING, AND INSPECTING BY AGENCY.

- A. Division 03.
 - 1. Concrete compression testing.
 - 2. Concrete mix design (submitted by Contractor)
 - 3. Concrete slump test.
 - 4. Concrete air entrainment.
 - 5. Concrete fresh mix temperature.
 - 6. Grout mix design. (submitted by Contractor)
- B. Division 04.
 - 1. Mortar mix design. (submitted by Contractor)
 - 2. Inspection of sample brick or masonry wall construction.
- C. Division 05 - Metals

1. Plumb structural steel
 2. Welds – per Table 1704.4 Section 014523.13
 3. High strength bolts, nuts, washers
 4. Material verification as USA steel
- D. Division 07
1. Fastener pull out test for specified roof system.
- E. Division 09
1. Concrete to receive any coating or finish floor material such as: resilient flooring, epoxy coating or carpet shall be tested using anhydrous calcium chloride test or other approved testing for measurement of vapor emissions.
- F. Division 14
1. Any test required by code or governing agency.
- G. Division 22 and 23.
1. Piping pressure testing for plumbing, gas and sprinkler.
 2. Domestic water disinfecting and testing.
 3. Equipment testing and adjusting such as backflow preventor.
 4. Check appropriate systems in accordance with NFPA 13 and NFPA 25.
 5. Any test required by code or governing agency.
 6. HVAC testing, balancing and adjusting.
 7. Equipment testing and adjusting.
 8. Sprinkler tests required by Building Department.
- H. Division 26 and 28.
1. All alarms.
 2. Siren – If included in project.
 3. Electrical panels.
 4. Any test required by code or governing agency.
- I. Division 31, 32, and 33.
1. Soil density testing for all compacted fill and backfill.
 2. Gradation test if required by owner.
 3. Asphaltic concrete thickness and density.
 4. Portland Cement Concrete Site Pavement compression and entrained air testing.
 5. Pressure and Leak Testing of Potable Water Lines.
 6. Disinfecting of Potable Water Lines.
 7. Below Grade Inspection of Sanitary and Storm Sewage System before Backfilling.
- J. Includes testing required by code, regulatory agencies or utility companies.

END OF SECTION

PART 1 GENERAL

1.01 SECTION INCLUDES

- A. Code-required special inspections.
- B. Testing services incidental to special inspections.
- C. Submittals.
- D. Manufacturers' field services.
- E. Fabricators' field services.

1.02 RELATED REQUIREMENTS

- A. Document 003100 - Available Project Information: Soil investigation data.
- B. Document 007200 - General Conditions: Inspections and approvals required by public authorities.
- C. Section 012100 - Allowances: Allowance for payment of testing services.
- D. Section 013000 - Administrative Requirements: Submittal procedures.
- E. Section 016000 - Product Requirements: Requirements for material and product quality.

1.03 DEFINITIONS

- A. Code or Building Code: ICC (IBC), 2015 Edition of the International Building Code and specifically, Chapter 17 - Special Inspections and Tests.
- B. Authority Having Jurisdiction (AHJ): Agency or individual officially empowered to enforce the building, fire and life safety code requirements of the permitting jurisdiction in which the Project is located.
- C. International Accreditation Service, Inc. (IAS).
- D. National Institute of Standards and Technology (NIST).
- E. Special Inspection:
 - 1. Special inspections are inspections and testing of materials, installation, fabrication, erection or placement of components and connections mandated by the AHJ that also require special expertise to ensure compliance with the approved contract documents and the referenced standards.
 - 2. Special inspections are separate from and independent of tests and inspections conducted by Owner or Contractor for the purposes of quality assurance and contract administration.

1.04 REFERENCE STANDARDS

- A. ACI 318 - Building Code Requirements for Structural Concrete and Commentary; 2011.
- B. TMS 402/602 - Building Code Requirements and Specification for Masonry Structures; 2016.
- C. AISC 341 - Seismic Provisions for Structural Steel Buildings; 2016.

- D. AISC 360 - Specification for Structural Steel Buildings; 2016.
- E. ASTM A615/A615M - Standard Specification for Deformed and Plain Carbon Steel Bars for Concrete Reinforcement; 2015.
- F. ASTM C31/C31M - Standard Practice for Making and Curing Concrete Test Specimens in the Field; 2017.
- G. ASTM C172/C172M - Standard Practice for Sampling Freshly Mixed Concrete; 2014a.
- H. ASTM D3740 - Standard Practice for Minimum Requirements for Agencies Engaged in the Testing and/or Inspection of Soil and Rock as Used in Engineering Design and Construction; 2012a.
- I. ASTM E329 - Standard Specification for Agencies Engaged in Construction Inspection, Testing, or Special Inspection; 2014a.
- J. ASTM E543 - Standard Specification for Agencies Performing Nondestructive Testing; 2015.
- K. ASTM E605/E605M - Standard Test Methods for Thickness and Density of Sprayed Fire-Resistive Material (SFRM) Applied to Structural Members; 1993, with Editorial Revision (2015).
- L. ASTM E736/E736M - Standard Test Method for Cohesion/Adhesion of Sprayed Fire-Resistive Materials Applied to Structural Members; 2017.
- M. ASTM E2174 - Standard Practice for On-Site Inspection of Installed Firestops; 2014b.
- N. ASTM E2393 - Standard Practice for On-Site Inspection of Installed Fire Resistive Joint Systems and Perimeter Fire Barriers; 2010a (Reapproved 2015).
- O. ASTM E2570/E2570M - Standard Test Methods for Evaluating Water-Resistive Barrier (WRB) Coatings Used under Exterior Insulation and Finish Systems (EIFS) or EIFS with Drainage; 2007, with Editorial Revision (2014).
- P. AWCI 117 - Technical Manual 12-B; Standard Practice for the Testing and Inspection of Field Applied Thin Film Intumescent Fire-Resistive Materials; an Annotated Guide; 2014.
- Q. AWS D1.1/D1.1M - Structural Welding Code - Steel; 2015 (Errata 2016).
- R. AWS D1.3/D1.3M - Structural Welding Code - Sheet Steel; 2008.
- S. AWS D1.4/D1.4M - Structural Welding Code - Reinforcing Steel; 2011.
- T. IAS AC89 - Accreditation Criteria for Testing Laboratories; 2010.
- U. IAS AC291 - Accreditation Criteria for Special Inspection Agencies; 2012.
- V. ICC (IBC) - International Building Code; 2015.

1.05 SUBMITTALS

- A. Special Inspection Agency Qualifications: Prior to the start of work, the Special Inspection Agency shall:
 - 1. Submit agency name, address, and telephone number, names of full time registered

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- Engineer and responsible officer.
 - 2. Submit copy of report of laboratory facilities inspection made by NIST Construction Materials Reference Laboratory during most recent inspection, with memorandum of remedies of any deficiencies reported by the inspection.
 - 3. Submit certification that Special Inspection Agency is acceptable to AHJ.
 - 4. Submit documentation that Special Inspection Agency is accredited by IAS according to IAS AC291.
- B. Testing Agency Qualifications: Prior to the start of work, the Testing Agency shall:
- 1. Submit agency name, address, and telephone number, and names of full time registered Engineer and responsible officer.
 - 2. Submit copy of report of laboratory facilities inspection made by NIST Construction Materials Reference Laboratory during most recent inspection, with memorandum of remedies of any deficiencies reported by the inspection.
 - 3. Submit certification that Testing Agency is acceptable to AHJ.
 - 4. Submit documentation that Testing Agency is accredited by IAS according to IAS AC89.
- C. Smoke Control Testing Agency Qualifications: Prior to the start of work, the Testing Agency shall:
- 1. Submit agency name, address, and telephone number, and names of full time registered Engineer and responsible officer.
 - 2. Submit documentary evidence that agency has appropriate credentials and documented experience in fire protection engineering, mechanical engineering and HVAC air balancing.
 - 3. Submit certification that Testing Agency is acceptable to AHJ.
 - 4. Submit documentation that Testing Agency is accredited by IAS according to IAS AC89.
- D. Manufacturer's Qualification Statement: Manufacturer shall submit documentation of manufacturing capability and quality control procedures. Include documentation of AHJ approval.
- E. Fabricator's Qualification Statement: Fabricator shall submit documentation of fabrication facilities and methods as well as quality control procedures. Include documentation of AHJ approval.
- F. Special Inspection Reports: After each special inspection, Special Inspector shall promptly submit two copies of report; one to Architect/Engineer and one to the AHJ.
- 1. Include:
 - a. Date issued.
 - b. Project title and number.
 - c. Name of Special Inspector.
 - d. Date and time of special inspection.
 - e. Identification of product and specifications section.
 - f. Location in the Project.
 - g. Type of special inspection.
 - h. Date of special inspection.
 - i. Results of special inspection.
 - j. Compliance with Contract Documents.
 - 2. Final Special Inspection Report: Document special inspections and correction of discrepancies prior to the start of the work.
- G. Fabricator Special Inspection Reports: After each special inspection of fabricated items at the Fabricator's facility, Special Inspector shall promptly submit two copies of report; one to Architect/Engineer and one to AHJ.
- 1. Include:

- a. Date issued.
 - b. Project title and number.
 - c. Name of Special Inspector.
 - d. Date and time of special inspection.
 - e. Identification of fabricated item and specification section.
 - f. Location in the Project.
 - g. Results of special inspection.
 - h. Verification of fabrication and quality control procedures.
 - i. Compliance with Contract Documents.
 - j. Compliance with referenced standard(s).
- H. Test Reports: After each test or inspection, promptly submit two copies of report; one to Architect/Engineer and one to AHJ.
 - 1. Include:
 - a. Date issued.
 - b. Project title and number.
 - c. Name of inspector.
 - d. Date and time of sampling or inspection.
 - e. Identification of product and specifications section.
 - f. Location in the Project.
 - g. Type of test or inspection.
 - h. Date of test or inspection.
 - i. Results of test or inspection.
 - j. Compliance with Contract Documents.
- I. Certificates: When specified in individual special inspection requirements, Special Inspector shall submit certification by the manufacturer, fabricator, and installation subcontractor to Architect/Engineer and AHJ, in quantities specified for Product Data.
 - 1. Indicate material or product complies with or exceeds specified requirements. Submit supporting reference data, affidavits, and certifications as appropriate.
 - 2. Certificates may be recent or previous test results on material or product, but must be acceptable to Architect/Engineer and AHJ.
- J. Manufacturer's Field Reports: Submit reports to Architect/Engineer and AHJ.
 - 1. Submit for information for the limited purpose of assessing compliance with information given and the design concept expressed in the contract documents.
- K. Fabricator's Field Reports: Submit reports to Architect/Engineer and AHJ.
 - 1. Submit for information for the limited purpose of assessing compliance with information given and the design concept expressed in the contract documents.

1.06 SPECIAL INSPECTION AGENCY

- A. Owner or Architect/Engineer will employ services of a Special Inspection Agency to perform inspections and associated testing and sampling in accordance with ASTM E329 and required by the building code.
- B. Employment of agency in no way relieves Contractor of obligation to perform work in accordance with requirements of Contract Documents.

1.07 TESTING AND INSPECTION AGENCIES

- A. Owner or Architect/Engineer may employ services of an independent testing agency to perform additional testing and sampling associated with special inspections but not required by

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the building code.

- B. Employment of agency in no way relieves Contractor of obligation to perform work in accordance with requirements of Contract Documents.

1.08 QUALITY ASSURANCE

- A. Special Inspection Agency Qualifications:
 - 1. Independent firm specializing in performing testing and inspections of the type specified in this section.
 - 2. Accredited by IAS according to IAS AC291.
- B. Testing Agency Qualifications:
 - 1. Independent firm specializing in performing testing and inspections of the type specified in this section.
 - 2. Accredited by IAS according to IAS AC89.
- C. Copies of Documents at Project Site: Maintain at the project site a copy of each referenced document.

PART 2 PRODUCTS - NOT USED

PART 3 EXECUTION

3.01 SCHEDULE OF SPECIAL INSPECTIONS, GENERAL

- A. Frequency of Special Inspections: Special Inspections are indicated as continuous or periodic.
 - 1. Continuous Special Inspection: Special Inspection Agency shall be present in the area where the work is being performed and observe the work at all times the work is in progress.
 - 2. Periodic Special Inspection: Special Inspection Agency shall be present in the area where work is being performed and observe the work part-time or intermittently and at the completion of the work.

3.02 SPECIAL INSPECTIONS FOR STEEL CONSTRUCTION

- A. Structural Steel: Comply with quality assurance inspection requirements of ICC (IBC).
- B. High-Strength Bolt, Nut and Washer Material:
 - 1. Verify identification markings comply with ASTM standards specified in the approved contract and to AISC 360, Section A3.3; periodic.
 - 2. Submit manufacturer's certificates of compliance; periodic.
- C. High-Strength Bolting Installation: Verify items listed below comply with AISC 360, Section M2.5.
 - 1. Snug tight joints; periodic.
- D. Structural Steel and Cold Formed Steel Deck Material:
 - 1. Structural Steel: Verify identification markings comply with AISC 360, Section M3.5; periodic.
 - 2. Other Steel: Verify identification markings comply with ASTM standards specified in the approved contract documents; periodic.
 - 3. Submit manufacturer's certificates of compliance and test reports; periodic.
- E. Weld Filler Material:

1. Verify identification markings comply with AWS standards specified in the approved contract documents and to AISC 360, Section A3.5; periodic.
 2. Submit manufacturer's certificates of compliance; periodic.
- F. Welding:
1. Structural Steel and Cold Formed Steel Deck:
 - a. Complete and Partial Joint Penetration Groove Welds: Verify compliance with AWS D1.1/D1.1M; continuous.
 - b. Multipass Fillet Welds: Verify compliance with AWS D1.1/D1.1M; continuous.
 - c. Single Pass Fillet Welds Less than 5/16 inch Wide: Verify compliance with AWS D1.1/D1.1M; periodic.
 - d. Plug and Slot Welds: Verify compliance with AWS D1.1/D1.1M; continuous.
 - e. Single Pass Fillet Welds 5/16 inch or Greater: Verify compliance with AWS D1.1/D1.1M; continuous.
 - f. Floor and Roof Deck Welds: Verify compliance with AWS D1.3/D1.3M; continuous.
 2. Reinforcing Steel: Verify items listed below comply with AWS D1.4/D1.4M and ACI 318, Section 3.5.2.
 - a. Verification of weldability; periodic.
 - b. Reinforcing steel resisting flexural and axial forces in intermediate and special moment frames as well as boundary elements of special structural walls of concrete and shear reinforcement; continuous.
 - c. Shear reinforcement; continuous.
 - d. Other reinforcing steel; periodic.
- G. Steel Frame Joint Details: Verify compliance with approved contract documents.
1. Details, bracing and stiffening; periodic.
 2. Member locations; periodic.
 3. Application of joint details at each connection; periodic.
- H. Cold formed steel trusses spanning 60 feet or more; periodic.

303 SPECIAL INSPECTIONS FOR CONCRETE CONSTRUCTION

- A. Reinforcing Steel, Including Prestressing of Tendons and Placement: Verify compliance with approved contract documents and ACI 318, Sections 3.5 and 7.1 through 7.7; periodic.
- B. Bolts Installed in Concrete: Where allowable loads have been increased or where strength design is used, verify compliance with approved contract documents and ACI 318, Sections 8.1.3 and 21.2.8 prior to and during placement of concrete; continuous.
- C. Anchors Installed in Hardened Concrete: Verify compliance with ACI 318, Sections 3.8.6, 8.1.3, and 21.2.8; periodic.
- D. Design Mix: Verify plastic concrete complies with the design mix in approved contract documents and with ACI 318, Chapter 4 and 5.2; periodic.
- E. Concrete Sampling Concurrent with Strength Test Sampling: Each time fresh concrete is sampled for strength tests, verify compliance with ASTM C172/C172M, ASTM C31/C31M and ACI 318, Sections 5.6 and 5.8 and record the following, continuous:
1. Slump.
 2. Air content.
 3. Temperature of concrete.
- F. Concrete and Shotcrete Placement: Verify application techniques comply with approved contract documents and ACI 318, Sections 5.9 and 5.10; continuous.

- G. Specified Curing Temperature and Techniques: Verify compliance with approved contract documents and ACI 318, Sections 5.11 through 5.13; periodic.
- H. Concrete Strength in Situ: Verify concrete strength complies with approved contract documents and ACI 318, Section 6.2, for the following.
 - 1. Beams and structural slabs, prior to removal of shores and forms; periodic.
- I. Formwork Shape, Location and Dimensions: Verify compliance with approved contract documents and ACI 318, Section 6.1.1; periodic.
- J. Materials: If the Contractor cannot provide sufficient data or documentary evidence that concrete materials comply with the quality standards of ACI 318, the AHJ will require that the Special Inspector verify compliance with the appropriate standards and criteria in ACI 318, Chapter 3.

304 SPECIAL INSPECTIONS FOR MASONRY CONSTRUCTION

- A. Masonry Structures Subject to Special Inspection:
 - 1. Empirically designed masonry, glass unit masonry and masonry veneer in structures designated as "essential facilities".
 - 2. Engineered masonry in structures classified as "low hazard..." and "substantial hazard to human life in the event of failure".
- B. Verify each item below complies with approved contract documents and the applicable articles of TMS 402/602.
 - 1. Inspections and Approvals:
 - a. Verify compliance with the required inspection provisions of the approved contract documents; periodic.
 - b. Verify approval of submittals required by contract documents; periodic.
 - 2. Compressive Strength of Masonry: Verify compressive strength of masonry units prior to start of construction unless specifically exempted by code; periodic.
 - 3. Slump Flow and Visual Stability Index (VSI): Verify compliance as self consolidating grout arrives on site; continuous.
 - 4. Joints and Accessories: When masonry construction begins, verify:
 - a. Proportions of site prepared mortar; periodic.
 - b. Construction of mortar joints; periodic.
 - c. Location of reinforcement, connectors, prestressing tendons, anchorages, etc; periodic.
 - 5. Structural Elements, Joints, Anchors, Protection: During masonry construction, verify:
 - a. Size and location of structural elements; periodic.
 - b. Type, size and location of anchors, including anchorage of masonry to structural members, frames or other construction; periodic.
 - c. Size, grade and type of reinforcement, anchor bolts and prestressing tendons and anchorages; periodic.
 - d. Welding of reinforcing bars; continuous.
 - 6. Grouting Preparation: Prior to grouting, verify:
 - a. Grout space is clean; periodic.
 - b. Correct placement of reinforcing, connectors, prestressing tendons and anchorages; periodic.
 - c. Correctly proportioned site prepared grouts and prestressing grout for bonded tendons; periodic.
 - d. Correctly constructed mortar joints; periodic.
 - 7. Preparation of Grout Specimens, Mortar Specimens and Prisms: Observe preparation of specimens; periodic.

- C. Engineered Masonry in Buildings Designated as "Essential Facilities": Verify compliance of each item below with approved contract documents and the applicable articles of TMS 402/602.
1. Inspections and Approvals:
 - a. Verify compliance with the required inspection provisions of the approved contract documents; periodic.
 - b. Verify approval of submittals required by contract documents; periodic.
 2. Compressive Strength of Masonry: Verify compressive strength of masonry units prior to start of construction and upon completion of each 5,000 square feet increment of masonry erected during construction; periodic.
 3. Preblended Mortar and Grout: Verify proportions of materials upon delivery to site; periodic.
 4. Slump Flow and Visual Stability Index (VSI): Verify compliance as self consolidating grout arrives on site; continuous.
 5. Engineered Elements, Joints, Anchors, Grouting, Protection: Verify compliance of each item below with approved contract documents and referenced standards.
 - a. Proportions of site prepared mortar; periodic.
 - b. Placement of masonry units and construction of mortar joints; periodic.
 - c. Placement of reinforcement, connectors, prestressing tendons, anchorages, etc.; periodic.
 - d. Grout space prior to grouting; continuous.
 - e. Placement of grout; continuous.
 - f. Size and location of structural elements; periodic.
 - g. Type, size and location of anchors, including anchorage of masonry to structural members, frames or other construction; continuous.
 - h. Size, grade and type of reinforcement, anchor bolts and prestressing tendons and anchorages; periodic.
 - i. Welding of reinforcing bars; continuous.
 6. Preparation of Grout Specimens, Mortar Specimens and Prisms: Observe preparation of specimens; continuous.

305 SPECIAL INSPECTIONS FOR SOILS

- A. Materials and Placement: Verify each item below complies with approved construction documents and approved geotechnical report.
1. Design bearing capacity of material below shallow foundations; periodic.
 2. Design depth of excavations and suitability of material at bottom of excavations; periodic.
 3. Materials, densities, lift thicknesses; placement and compaction of backfill: continuous.
 4. Subgrade, prior to placement of compacted fill; periodic.
- B. Testing: Classify and test excavated material; periodic.

306 SPECIAL INSPECTIONS FOR DRIVEN DEEP FOUNDATIONS

- A. Materials, Equipment and Final Placement: Verify each item below complies with approved construction documents and approved geotechnical report.
1. Material types, sizes and lengths; continuous.
 2. Capacities of test elements and additional load tests as required; continuous.
 3. Placement locations and plumbness; continuous.
 4. Type and size of hammer; continuous.
- B. Installation: Observe driving operations and maintain complete and accurate records for each element; continuous.
1. Record number of blows per foot of penetration.

2. Determine penetration required to achieve design capacity.
 3. Record tip and butt elevations.
 4. Document any damage to foundation element.
- C. Steel Components of Driven Deep Foundations: Perform additional inspections as required by the Special Inspections for Steel Construction article of this section.
- D. Specialty Items Associated with Driven Deep Foundations: Conduct special inspections as directed by the Architect/Engineer.

307 SPECIAL INSPECTIONS FOR HELICAL PILE FOUNDATIONS

- A. Materials, Equipment and Placement: Verify each item below complies with approved construction documents and approved geotechnical report.
1. Type and capacity of equipment used; continuous.
 2. Pile dimensions; continuous.
 3. Tip elevation; continuous.
 4. Final depth; continuous.
 5. Final installation torque; continuous.
 6. Placement locations and plumbness; continuous.
 7. Other installation data requested in writing by Architect/Engineer; continuous.

308 SPECIAL INSPECTIONS FOR SPRAYED FIRE RESISTANT MATERIALS

- A. Sprayed Fire Resistant Materials, General:
1. Verify compliance of sprayed-fire resistant materials with specific fire-rated assemblies indicated in approved contract documents, and with applicable requirements of the building code.
 2. Perform special inspections after rough installation of electrical, mechanical, plumbing, automatic fire sprinkler and suspension systems for ceilings.
- B. Physical and visual tests: Verify compliance with fire resistance rating.
1. Condition of substrates; periodic.
 2. Thickness of sprayed fire resistant material; periodic.
 3. Density of sprayed fire resistant material in pounds per cubic foot; periodic.
 4. Bond strength (adhesion and cohesion); periodic.
 5. Condition of finished application; periodic.
- C. Structural member surface conditions:
1. Inspect structural member surfaces before application of sprayed fire resistant materials; periodic.
 2. Verify preparation of structural member surfaces complies with approved contract documents and manufacturer's written instructions; periodic.
- D. Application:
1. Ensure minimum ambient temperature before and after application complies with the manufacturer's written instructions; periodic.
 2. Verify area where sprayed fire resistant material is applied is ventilated as required by the manufacturer's written instructions during and after application; periodic.
- E. Thickness: Verify that no more than 10 percent of thickness measurements taken from sprayed fire resistant material are less than thickness required by fire resistance design in approved contract documents. In no case shall the thickness of the sprayed fire resistant material be less than the minimum below.
1. Minimum Allowable Thickness: Tested according to ASTM E605/E605M, periodic.

- a. Design thickness 1 inch or greater: Design thickness minus 1/4 inch.
 - b. Design thickness greater than 1 inch: Design thickness minus 25 percent.
 2. Floor, Roof and Wall Assemblies: Test thickness according to ASTM E605/E605M with no less than four measurements per 1,000 square feet of sprayed area on each story of the structure or portion thereof; periodic.
 - a. Cellular Decks: Measure thickness within a single 12 inch by 12 inch area. Make a minimum of four measurements arranged symmetrically in testing area.
 - b. Fluted Decks: Measure thickness within a single 12 inch by 12 inch area. Make a minimum of four measurements arranged symmetrically in testing area and include one example each of valley, crest and sides. Report the average of the four measurements.
 3. Structural Members: Test according to ASTM E605/E605M. Test no less than 25 percent of structural members on each story of the structure or portion thereof; periodic.
 - a. Beams and girders: Make nine thickness measurements around beam or girder at each end of a 12 inch by 12 inch length.
 - b. Joists and trusses: Make seven thickness measurements around joist or truss at each end of a 12 inch by 12 inch length.
 - c. Wide flanged columns: Make twelve thickness measurements around column at each end of a 12 inch by 12 inch length.
- F. Density: Verify density of sprayed fire resistant material is no less than density required by the fire resistance design in the approved contract documents.
 1. Floor, Roof and Wall Assemblies: Test according to ASTM E605/E605M with no less than one sample per 2,500 square feet of sprayed area on each story of the structure or portion thereof; periodic.
 2. Beams, Girders, Trusses and Columns: Test according to ASTM E605/E605M with no less than one sample per 2,500 square feet of sprayed area on each story of the structure or portion thereof; periodic.
- G. Bond Strength: Verify adhesive and cohesive bond strength of sprayed fire resistant materials is no less than 150 pounds per square foot when in-place samples of the cured material are tested according to ASTM E736/E736M and as described below.
 1. Floor, roof and wall assemblies: Test no less than one sample per each 2,500 square feet of sprayed area on each story of the structure or portion thereof; periodic.
 2. Structural members: Test no less than one sample from each type of structural member in each 2,500 square feet of each story of the structure or portion thereof; periodic.
 3. Primer, paint and encapsulant bond tests: When sprayed fire resistant material is applied to a primed, painted or encapsulated surface for which acceptable material to substrate performance has not been determined, conduct bond test.

309 SPECIAL INSPECTIONS FOR MASTIC AND INTUMESCENT FIRE RESISTANT COATINGS

- A. Verify mastic and intumescent fire resistant coatings comply with AWCI 117 and the fire resistance rating indicated on approved contract documents.

310 SPECIAL INSPECTIONS FOR EXTERIOR INSULATION AND FINISH SYSTEMS (EIFS)

- A. Verify water resistive barrier coating applied over sheathing complies with ASTM E2570/E2570M.

311 SPECIAL INSPECTIONS FOR FIRE RESISTANT PENETRATIONS AND JOINTS

- A. Verify penetration firestops in accordance with ASTM E2174.
- B. Verify fire resistant joints in accordance with ASTM E2393.

3.12 SPECIAL INSPECTIONS FOR SMOKE CONTROL

- A. Test smoke control systems as follows:
 - 1. Record device locations and test system for leakage after erection of ductwork but before starting construction that conceals or blocks access to system.
 - 2. Test and record pressure difference, flow measurements, detection function and controls after system is complete and before structure is occupied.

3.13 SPECIAL INSPECTIONS FOR SEISMIC RESISTANCE

- A. Structural Steel: Comply with the quality assurance plan requirements of AISC 341.
- B. Cold Formed Steel Light Frame Construction:
 - 1. Field welding; periodic.
 - 2. Screw attachment, bolting, anchoring and other fastening of components within the main seismic force-resisting system; periodic.
- C. Architectural Components: Erection and fastening of components below; periodic.
 - 1. Exterior cladding.
 - 2. Interior and exterior veneer.
 - 3. Interior and exterior non-loadbearing walls and partitions.
- D. Mechanical and Electrical Components:
 - 1. Anchorage of electric equipment required for emergency or standby power systems; periodic.
 - 2. Installation of piping systems for flammable, combustible or highly-toxic contents and associated mechanical units; periodic.
- E. Structural Observations for Seismic Resistance: Visually observe structural system for general compliance with the approved contract documents; periodic.

3.14 SPECIAL INSPECTIONS FOR WIND RESISTANCE

- A. Structural Wood:
 - 1. Field gluing of components in the main wind force-resisting system; continuous.
 - 2. Nailing, bolting, anchoring and other fastening of components within the main wind force-resisting system; periodic.
- B. Wind Resisting Components:
 - 1. Roof cladding; periodic.
 - 2. Wall cladding; periodic.
- C. Structural Observations for Wind Resistance: Visually observe structural system for general compliance with the approved contract documents; periodic.

3.15 SPECIAL INSPECTION AGENCY DUTIES AND RESPONSIBILITIES

- A. Special Inspection Agency shall:
 - 1. Verify samples submitted by Contractor comply with the referenced standards and the approved contract documents.
 - 2. Provide qualified personnel at site. Cooperate with Architect/Engineer and Contractor in performance of services.
 - 3. Perform specified sampling and testing of products in accordance with specified reference standards.

4. Ascertain compliance of materials and products with requirements of Contract Documents.
 5. Promptly notify Architect/Engineer and Contractor of observed irregularities or non-compliance of work or products.
 6. Perform additional tests and inspections required by Architect/Engineer.
 7. Attend preconstruction meetings and progress meetings.
 8. Submit reports of all tests or inspections specified.
- B. Limits on Special Inspection Agency Authority:
1. Agency may not release, revoke, alter, or enlarge on requirements of Contract Documents.
 2. Agency may not approve or accept any portion of the work.
 3. Agency may not assume any duties of Contractor.
 4. Agency has no authority to stop the work.
- C. Re-testing required because of non-compliance with specified requirements shall be performed by the same agency on instructions by Architect/Engineer.
- D. Re-testing required because of non-compliance with specified requirements shall be paid for by Contractor.

3.16 TESTING AGENCY DUTIES AND RESPONSIBILITIES

- A. Testing Agency Duties:
1. Provide qualified personnel at site. Cooperate with Architect/Engineer and Contractor in performance of services.
 2. Perform specified sampling and testing of products in accordance with specified standards.
 3. Ascertain compliance of materials and mixes with requirements of Contract Documents.
 4. Promptly notify Architect/Engineer and Contractor of observed irregularities or non-compliance of work or products.
 5. Perform additional tests and inspections required by Architect/Engineer.
 6. Attend preconstruction meetings and progress meetings.
 7. Submit reports of all tests or inspections specified.
- B. Limits on Testing or Inspection Agency Authority:
1. Agency may not release, revoke, alter, or enlarge on requirements of Contract Documents.
 2. Agency may not approve or accept any portion of the work.
 3. Agency may not assume any duties of Contractor.
 4. Agency has no authority to stop the work.
- C. On instructions by Architect/Engineer, perform re-testing required because of non-compliance with specified requirements, using the same agency.
- D. Contractor will pay for re-testing required because of non-compliance with specified requirements.

3.17 CONTRACTOR DUTIES AND RESPONSIBILITIES

- A. Contractor Responsibilities, General:
1. Deliver to agency at designated location, adequate samples of materials for special inspections that require material verification.
 2. Cooperate with agency and laboratory personnel; provide access to the work, to manufacturers' facilities, and to fabricators' facilities.

3. Provide incidental labor and facilities:
 - a. To provide access to work to be tested or inspected.
 - b. To obtain and handle samples at the site or at source of Products to be tested or inspected.
 - c. To facilitate tests or inspections.
 - d. To provide storage and curing of test samples.
 4. Notify Architect/Engineer and laboratory 24 hours prior to expected time for operations requiring testing or inspection services.
 5. Arrange with Owner's agency and pay for additional samples, tests, and inspections required by Contractor beyond specified requirements.
- B. Contractor Responsibilities, Seismic Force-Resisting Systems: Submit written statement of responsibility for each item listed to AHJ and Owner prior to starting work. Statement of responsibility shall acknowledge awareness of special construction requirements and other requirements listed.
- C. Contractor Responsibilities, Wind Force-Resisting Systems: Submit written statement of responsibility for each item listed to AHJ and Owner prior to starting work. Statement of responsibility shall acknowledge awareness of special construction requirements and other requirements listed.

3.18 MANUFACTURERS' AND FABRICATORS' FIELD SERVICES

- A. When specified in individual specification sections, require material suppliers, assembly fabricators, or product manufacturers to provide qualified staff personnel to observe site conditions, conditions of surfaces and installation, quality of workmanship, start-up of equipment, to test, adjust, and balance equipment as applicable, and to initiate instructions when necessary.
- B. Submit qualifications of observer to Architect/Engineer 30 days in advance of required observations.
 1. Observer subject to approval of Architect/Engineer.
- C. Report observations and site decisions or instructions given to applicators or installers that are supplemental or contrary to manufacturers' written instructions.

END OF SECTION

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PART 1 - GENERAL

1.01 RELATED DOCUMENTS

- A. Drawings and general provisions of the Contract, including General Conditions and other Division 01 Specification Sections, apply to this Section.

1.02 USE CHARGES

- A. General: Use charges for temporary and permanent power, water, heat and any other required service will be paid by the General Contractor.
- B. Water Service: Contractor shall be responsible for providing municipal water and any permits or fees. The contractor is responsible for permits associated with temporary water.
- C. Electric Power Service: Temporary electric power and lighting including installation, maintenance and any permits or fees are to be provided by the Contractor. Contractor is also responsible for the removal of all temporary power and lighting.
- D. Other: Temporary toilets are the responsibility of the General Contractor.
- E. Sewer Service Use Charges: General Contractor shall provide temporary toilets in proportions required by OSHA.

1.03 SUMMARY

- A. This Section includes requirements for temporary facilities and controls, including temporary utilities, support facilities, and security and protection.
- B. Temporary utilities include, but are not limited to, the following:
 - 1. Ventilation and heat
 - 2. Gas (Natural gas not to be assumed available for Contractor use.)
 - 3. Water
 - 4. Waste Piping
 - 5. Temporary Toilets, Hand Washing Stations and Hand Sanitizer Stations
 - 6. Telephones Service
 - 7. Internet Service
 - 8. Electric
 - 9. Temporary Access Roads and Staging Areas
- C. Support facilities include, but are not limited to, the following:
 - 1. Field Offices and Storage Sheds
 - 2. Temporary enclosures
 - 3. Hoists and temporary elevator use
 - 4. Temporary project identification signs and bulletin boards
 - 5. Waste disposal services
 - 6. Rodent and pest control
 - 7. Construction aids and miscellaneous services and facilities
- D. Security and protection facilities include, but are not limited to, the following:
 - 1. Temporary fire protection
 - 2. Barricades, warning signs, and lights
 - 3. Environmental protection
 - 4. Construction fencing and gates

E. General Requirements

1. All construction materials shall be stored in a safe and secure manner.
2. Fences around construction supplies or debris shall be maintained.
3. Gates shall always be locked unless a worker is in attendance to prevent unauthorized entry.
4. During exterior work, overhead protection shall be provided for any sidewalks or areas immediately beneath the work site or such areas shall be fenced off and provided with warning signs to prevent entry.
5. Large amounts of debris must be removed by using enclosed chutes or a similar sealed system. No material shall be dropped or thrown outside the walls of the building.
6. Contractor shall be responsible for the control of chemical fumes, gases, and other contaminants produced by welding, gasoline or diesel engines, roofing, paving, painting.
7. Contractor shall be responsible to ensure that activities and materials which result in "off-gassing" of volatile organic compounds such as glues, paints, furniture, carpeting, wall covering, drapery, etc. are scheduled, cured or ventilated in accordance with manufacturers recommendations before a space can be occupied.

1.04 INFORMATIONAL SUBMITTALS

- A. Site Plan: Show temporary facilities, utility hookups, staging areas, and parking areas for construction personnel.
- B. Erosion- and Sedimentation-Control Plan: Show compliance with requirements of the SWPPP and Construction General SPDES Permit.
- C. Moisture-Protection Plan: Describe procedures and controls for protecting materials and construction from water absorption and damage, including delivery, handling, and storage provisions for materials subject to water absorption or water damage, discarding water-damaged materials, protocols for mitigating water intrusion into completed Work, and replacing water damaged Work.

1.05 DIVISION OF RESPONSIBILITIES

- A. General: These Specifications assign each prime contractor specific responsibilities for certain temporary facilities used by other prime contractors and other entities at the site. The Contractor is responsible for providing temporary facilities and controls and associated costs that are not normal construction activities of other prime contractors and are not specifically assigned otherwise by the Contract Documents.
- B. Contractor is responsible for the following:
 1. Installation, operation, maintenance and removal of each temporary facility considered as its own normal construction activity, as well as the costs and use charges except as listed below.
 2. Plug-in electric power cords and extension cords, supplementary plug-in task lighting, and special lighting necessary exclusively for its own activities.
 3. Its own storage and fabrication sheds.
 4. Hoisting requirements, hoisting material or equipment into spaces below grade, and hoisting requirements outside the building enclosure.
 5. Collection and disposal of its own hazardous, dangerous, unsanitary, or other harmful waste material.
 6. Secure lock-up of its own tools, materials, and equipment.

7. Construction aids and miscellaneous services and facilities necessary exclusively for its own construction activities.

1.06 QUALITY ASSURANCE

- A. Regulation: Contractor shall comply with industry standards and with applicable laws and regulations of authorities having jurisdiction including, but not limited to, the following:
 1. Building code requirements
 2. Health and safety regulations
 3. Utility company regulations
 4. Police, fire department and rescue squad rules
 5. Environmental protection regulations
 6. OSHA regulations
 7. Transportation Authority
- B. Standards: Contractor shall comply with NFPA 241 "Standard for Safeguarding Construction, Alterations, and Demolition Operations", ANSI-A10 series standards for "Safety Requirements for Construction and Demolition", and NECA Electrical Design Library "Temporary Electrical Facilities".
 1. Trade Jurisdictions: Assigned responsibilities for installation and operation of temporary utilities are not intended to interfere with the normal application of trade regulations and union jurisdictions.
 2. Electrical Service: Comply with NEMA, NECA and UL standards and regulations for temporary electric service. Install service to comply with NFPA 70.
- C. Inspections: Arrange for authorities having jurisdiction to inspect and test each temporary utility before use. Obtain required certifications and permits.
 1. Safety: It is the specific responsibility of the Contractor to provide for the safety of his personnel and the public

1.07 PROJECT CONDITIONS

- A. Temporary Utilities: Contractor shall prepare a schedule indicating dates for implementation and termination of each temporary utility for which the Contractor is responsible. At the earliest feasible time or unless otherwise noted, when acceptable to the Owner, change over from use of temporary service to use of permanent service.
 1. Temporary Use of Permanent Facilities: The Installer of each permanent service shall assume responsibility for its operation, maintenance, and protection during use as a construction facility prior to the Owner's acceptance, regardless of previously assigned responsibilities.
 2. Use of permanent facilities prior to substantial completion is subject to the Owner's approval and conditions.
 - a. Each permanent facility used for construction purposes shall be operated, maintained, and protected during such use by the original installer.
 - b. Specified warranties shall not be reduced or voided by temporary use.
- B. Conditions of Use: Keep temporary services and facilities clean and neat in appearance. Operate in a safe and efficient manner. Relocate temporary services and facilities as the Work progresses. Do not overload facilities or permit them to interfere with progress. Take necessary fire-prevention measures. Do not allow hazardous, dangerous, or unsanitary conditions, or public nuisances to develop or persist on site.

PART 2 - PRODUCTS

H2M architects + engineers

Village of Mount Kisco-Additions/Alterations at
Mutual & Independent Fire Stations

TEMPORARY FACILITIES AND
CONTROLS
015000-3

2.01 MATERIALS

- A. General: Contractor shall provide new materials. If acceptable to the Architect, undamaged, previously used materials in serviceable condition may be used. Provide materials suitable for use intended.
- B. Lumber and Plywood: Comply with requirements in Division 06 Section "Rough Carpentry".
 - 1. For job-built temporary offices, shops, and sheds within the construction area, provide UL-labeled, fire-treated lumber and plywood for framing, sheathing, and siding.
 - 2. For signs and directory boards, provide exterior-type, Grade B-B high density concrete form overlay plywood of sizes and thicknesses indicated.
 - 3. For safety barriers, sidewalk bridges, and similar uses, provide minimum 5/8 inch (16 mm) thick exterior plywood.
- C. Tarpaulins: Provide waterproof, fire-resistant, UL-labeled tarpaulins with flame-spread rating of 15 or less. For temporary enclosures, provide translucent, nylon-reinforced, laminated polyethylene or polyvinyl chloride, fire-retardant tarpaulins.
- D. Water: Provide potable water approved by local health authorities.

2.02 EQUIPMENT

- A. General: Contractor shall provide new equipment. If acceptable to the Architect, undamaged, previously used equipment in serviceable condition may be used. Provide equipment suitable for use intended.
- B. Water Hoses: Provide ¾ inch (19 mm) heavy-duty, abrasion-resistant, flexible rubber hoses 100 feet (30 m) long, with pressure rating greater than the maximum pressure of the water distribution system. Provide adjustable shutoff nozzles a hose discharge.
- C. Electrical Outlets: Provide properly configured, NEMA-polarized outlets to prevent insertion of 110- to 120-V plugs into higher voltage outlets. Provide receptacle outlets equipped with ground-fault circuit interrupters, reset button, and pilot light for connection of power tools and equipment.
- D. Electrical Power Cords: Provide grounded extension cords. Use hard-service cords where exposed to abrasion and traffic. Provide waterproof connectors to connect separate lengths of electric cords if single lengths will not reach areas where construction activities are in progress. Do not exceed safe length-voltage ratio.
- E. Lamps and Light Fixtures: Provide general service incandescent lamps of wattage required for adequate illumination. Provide guard cages or tempered-glass enclosures, where exposed to breakage. Provide exterior fixtures where exposed to moisture.
- F. Fire Extinguishers: Provide hand-carried, portable, UL-rated; Class A fire extinguishers for temporary offices and similar spaces. In other locations, provide hand-carried, portable, UL-rated, Class ABC, dry-chemical extinguishers or a combination of extinguishers of NFPA-recommended classes for the exposures.
 - 1. Comply with NFPA 10 and NFPA 241 for classification, extinguishing agent, and size required by location and class of fire exposure.

PART 3 – EXECUTION

3.01 INSTALLATION

H2M architects + engineers

TEMPORARY FACILITIES AND
CONTROLS
015000-4Village of Mount Kisco-Additions/Alterations at
Mutual & Independent Fire Stations

- A. Use qualified personnel for installation of temporary facilities. Locate facilities where they will serve the Project adequately and result in minimum interference with performance of the Work. Relocate and modify facilities as required.
- B. Contractor shall provide facility ready for use when needed to avoid delay. Maintain and modify as required. Do not remove until facilities are no longer needed or are replaced by authorized use of completed permanent facilities.

3.02 TEMPORARY UTILITY AND CONSTRUCTION INSTALLATION

- A. General: Engage the appropriate local utility company to install temporary service or connect to existing service if necessary and applicable. Where the company provides only part of the service, provide the remainder with matching, compatible materials and equipment. Comply with company recommendations.
 - 1. Arrange with the company and existing users for a time when service can be interrupted, if necessary, to make connections for temporary services.
 - 2. Provide adequate capacity. Prior to temporary utility availability, provide trucked-in services.
 - 3. Obtain easements to bring temporary utilities to the site where the Owner's easements cannot be used for that purpose.
- B. Temporary Electric Service
 - 1. The Contractor shall provide and maintain temporary electric service. Temporary service shall be maintained during all workdays and shall comply with all codes and regulations. Contractor shall provide power distribution for its own use.

Electrical service:

 - a. Obtain temporary service from local power pole.
 - b. Over current protection shall be installed as required.
 - c. Provide disconnect at connection to service.
 - d. Provide service conductors and equipment.
 - e. Minimum power characteristics: 240/120-volt, single phase, 200 amp.
 - f. Provide distribution equipment, feeders, and branch circuit panel boards to serve:
 - 1. Temporary lighting.
 - 2. Job Trailer(s).
 - 3. Temporary convenience receptacles. **(4 gang outlet boxes spaced to allow for 50' extension cord; enough to accommodate requirements of the entire building)**
 - 2. Contractor shall provide his own extension lines, and other special equipment; welding equipment shall run from generator trucks.
 - 3. The Contractor shall be responsible for initial connections and final demolition of all temporary fixtures and wiring.
 - 4. Security lighting for building exteriors shall be continuously operational and maintained. Electrical Contract to provide three (3) 150 watt, 20,000 lumens, exterior, pole mounted LED floodlights.
 - 5. The Contractor shall maintain OSHA standards for power and foot-candle levels in all areas while workers occupy the space. The temporary lighting shall be energized daily at 6:50 A.M. to 12:00 A.M. as a minimum duration until permanent fixtures are installed.
 - 6. Not unlike other equipment in this contract, upon installation, the temporary electric system becomes the property of the Owner and shall not be controlled by any one contractor.

7. Temporary Site Lighting: Contractor to maintain exterior Lighting to adequately light the entrances and exits of project site. Temporary lighting shall be controlled by time clocks and lighting contactors; settings to be coordinated by the Architect.
 8. Contractor will be responsible for hookup of their project trailers to temporary electric pedestal. Use of energy, including heat (shall be set back at night). If abused, power from temporary service will be disconnected. The Contractor shall erect poles safely sufficient for site power and telephone service. All installations shall conform to strictest standards. The Contractor shall disconnect all items and remove poles upon project completion.
- C. Temporary Sanitary Facilities
1. **Do not use existing toilet rooms.**
 2. Provide temporary portable chemical toilet facilities, hand washing stations (water style when conditions permit) and hand sanitizer stations in conditioned spaces for all construction personnel in amounts as required by codes and regulations, and shall maintain, service and clean these facilities for the duration of the project.
- D. Temporary Heating/Ventilating
1. Upon enclosure of the new building (by either temporary barriers or permanent wall systems) or as indicated by the milestone schedule, whichever is sooner, provide temporary heating equipment and all fuel necessary to continue construction work at proper heated conditions in the buildings. The means and methods shall be as field determined for specific buildings and/or areas.
 2. Provide specific areas requiring heat for performance of work (i.e. masonry, sheetrock taping, concrete, finishes) above 50°F minimum.
- E. Temporary Telephone Service
1. Telephone services are the responsibility the Contractor. Phone services shall remain operable until project completion. Contractor is responsible for having mobile phones with numbers accessible day and night.
- F. Temporary Fire Protection
1. Furnish temporary fire protection in the course of performing its own work.
 2. Furnish and maintain per OSHA standards, a fire extinguisher at all temporary means of egress and any necessary locations.
- G. Temporary Construction:
1. Temporary bridging, decks, hoists, lifts, scaffolding, and cranes.
 2. Temporary perimeter and stairwell barricades at grade changes and multiple.
 3. Temporary entrances and exits to the building.
 4. First aid requirements.
 5. Temporary stairs between floor levels shall be installed as soon as floor decking is completed.
 6. Any temporary support for decking, concrete pours or any other installation is the absolute responsibility of the contractor that requires such support. This includes shoring, bracing supports, etc. Such support must show on the submittals for the installation. Alert vendors, suppliers and subcontractors to these requirements.
- H. Daily cleanup
1. Dumpsters are to be provided removed within 2 hours of being full and haul off site to a legal dumpsite. GC to pay all costs associated with providing the dumpsters and removing project debris from the job site.
 2. Maintain a clean work site.

3. Contractor shall remove own debris daily from work area to waste disposal containers (dumpsters), time lapse not acceptable.
 4. The condition of cleanliness in which an area is found, is the condition each Contractor shall leave.
 5. Final cleaning shall be the responsibility of the Contractor.
 6. Protection of Work: Contractor is reminded to temporarily protect work in place until accepted by the Owner per Article 10 of the General Conditions of the Contract.
 7. Collection and Disposal of Waste: Collect waste from construction areas and elsewhere daily. Comply with requirements of NFPA 241 for removal of combustible waste material and debris. Enforce requirements strictly. Do not hold materials more than 3 days during normal weather or 1 day when the temperature is expected to rise above 80°F (27°C). Handle hazardous, dangerous, or unsanitary waste materials separately from other waste by containerizing properly. Dispose of material lawfully.
 8. If Contractor does not clean his debris and dispose of it properly, the Architect shall direct the cleaning by outside company to be backcharged to the Contractor, backcharges to include the Architect's time to manage. The Architect's decision is binding and final.
 9. Fires are prohibited regardless of purpose. Contractor is financially responsible for replacement of damaged or destroyed property and landscaping caused by Contractor activities, actions or lack of proper procedure.
- I. Internet Service
1. The GC shall provide and maintain High Speed Internet service at the site for use by all Sub-contractors, Architect, Consultants and Owner for the duration of the construction.

3.03 SUPPORT FACILITIES INSTALLATION

- A. Locate field offices, storage sheds, sanitary facilities, and other temporary construction and support facilities for easy access.
1. Maintain support facilities until Substantial Completion. Personnel remaining after Substantial Completion will be permitted to use permanent facilities, under conditions acceptable to the Owner.
- B. Provide non-combustible construction for offices, shops, and sheds located within the construction area as directed. Comply with requirements of NFPA 241.
- C. Field Offices: Provide one insulated, weather tight temporary trailer of sufficient size to accommodate personnel at Project Site. Keep the office clean and orderly for use for small meetings.
1. The trailer must be of sufficient size to accommodate a large enough table to allow Owner, Architect, and all Subcontractors to be seated for project meetings.
 2. Office trailer shall contain two (2) wall mounted hand sanitizer units. Contractor is responsible to keep them supplied with hand sanitizer.
 2. Provide space, desk, phone internet for Owner's Representative.
- D. Temporary Access Roads and Staging Area
1. Temporary roads shall be installed and/or maintained by GC.
 2. Road Cleaning: Maintain roads and walkways in an acceptably clean condition. This includes the removal of debris daily, if required, and/or a minimum of once a week due to all project traffic. Road cleaning equipment to be wet/vacuum type. Site Contractor will clean the roads affected by his contract work. The General Construction Contractor will maintain roads until project completion.

3. Snow Plowing: Provide snow plowing of temporary road, parking area, access route, and a 5' walkway to all office trailers.
 4. Snow Removal: Provide snow removal at any unprotected building slabs or roofing areas and provide access to these work areas.
 5. Contractor Parking/ Staging Area: General Construction Contractor shall maintain access for suitable parking areas. Re-grade, re-seed and restore any areas disturbed by parking/ staging.
 - a. Parking Areas: Includes contractors' employees and construction vehicle parking.
 - b. Access Roads: Includes access roads for delivery through staging area to building work areas, and to equipment and storage areas and sheds.
 6. Traffic Regulations:
 - a. Access through Owner's entrances shall be limited
 - b. Utilize only entrances/temporary roads as designated
- E. De-watering Facilities and Drains
1. For temporary drainage and de-watering facilities and operations not directly associated with construction activities included under individual Sections, comply with de-watering requirements of applicable Division 31 Sections. Where feasible, use the same facilities. Maintain the site, excavations, and construction free of water.
 2. For temporary drainage and de-watering facilities and operations directly associated with the building foundations and other construction activities, comply with Division 31; General Construction Contractor is directly responsible for de-watering of their excavations.
- F. Temporary Enclosures/Signage: The General contractor shall provide temporary enclosure for protection of construction in progress and completed, from exposure, foul weather, other construction operations, and similar activities as follows unless otherwise noted:
1. Where heat is needed, and the permanent building enclosure is not complete, provide temporary enclosures where there is no other provision for containment of heat. Coordinate enclosure with ventilating and material drying or curing requirements to avoid dangerous conditions and effects.
 2. Install tarpaulins securely, with new incombustible wood framing and other materials. Close openings of 25 sq. ft. (2.3 sq. m) or less with plywood or similar materials.
 3. Close openings through floor decks and horizontal surfaces with load-bearing, wood-framed construction.
 4. Where temporary wood or plywood enclosure exceeds 100 sq. ft. (9.2 sq. m) in area, use UL-labeled, fire-retardant treated material for framing and main sheathing.
 5. Generally, temporary closures for specific openings for a contractor to perform their work openings are the responsibility of Contractor creating the opening and shall be installed to protect building from exterior elements.
 6. Temporary partitions shall be installed at all openings where additions connect to existing buildings, and where required to protect areas, spaces, property, personnel, students, and faculty; to separate and control dust, debris, noise, access, sight, fire areas, safety and security and to separate phased construction areas per the phasing plan. Temporary partitions shall be installed and maintained.
 7. Temporary Lifts and Hoists: Provide facilities for hoisting materials and employees. Truck cranes and similar devices used for hoisting materials are considered "tools and equipment" and not temporary facilities.
 8. Temporary Signs: Prepare signs to provide directional information to construction personnel and visitors as follows: The GC shall furnish and install construction signage as required.

- a. Engage an experienced sign painter to apply graphics. Comply with details indicated.
 - b. For construction traffic control/flow at entrances/exits, as designated by the Owner (2 required)
 - c. To direct visitors (1 required)
 - d. For construction parking (1 required)
 - e. To direct deliveries (1 required)
 - f. For warning signs as required
 - g. Per OSHA standards as necessary
 - h. For trailer identification
 - i. For “No Smoking” safe work site at multiple locations (6 required)
 - j. Any signage required to comply with CDC or any other AHJ guidelines and/or regulations relating to the COVID 19 pandemic.
9. Traffic Regulatory Signs:
- a. Provide standard signs where required to properly control vehicle and pedestrian traffic.
 - b. Must conform to all applicable codes.
 - c. Signage as required by NYSDOT, County or local agency.
 - d. Traffic Control Signs: Install as need arises and according to NYSDOT or agency requirements.

3.04 SECURITY AND PROTECTION FACILITIES INSTALLATION

- A. Temporary Facility Changeover: Do not change over from using temporary security and protection facilities to permanent facilities until Substantial Completion, except as permitted by the Owner.
- B. Temporary Fire Protection: Until fire-protection needs are supplied by permanent facilities, install and maintain temporary fire-protection facilities of the types needed to protect against reasonably predictable and controllable fire losses. Comply with NFPA 10, “Standard for Portable Fire Extinguishers”, and NFPA 241, “Standard for Safeguarding Construction; Alterations, and Demolition Operations”.
1. Locate fire extinguishers where convenient and effective for their intended purpose, but not less than one extinguisher on each floor at or near each usable stairwell.
 2. Store combustible materials in containers in fire-safe locations.
 3. Maintain unobstructed access to fire extinguishers, fire hydrants, temporary fire-protection facilities, stairways, and other access routes for fighting fires. Prohibit smoking in hazardous fire-exposure areas.
 4. Provide supervision of welding operations, combustion-type temporary heating units, and similar sources of fire ignition.
- C. Permanent Fire Protection: At the earliest feasible date complete installation of the permanent fire-protection facility, including connected services, and place into operation and use. Instruct key personnel on use of facilities.
- D. Fall Protection:
1. Furnish and install temporary cable top & mid railings per OSHA regulations around all floor and/or roof openings and at perimeter of all raised floors. Include toe boards around perimeter and openings where required. The Contractor must provide his own means for providing OSHA approved fall protection for its workers and others. Temporary railings removed for some reason other than constructing the permanent wall, must be immediately replaced. Keep all cable and railings in place until such time that the building is plumb all floor slabs and roof slabs are in place. Do not remove such railing until approved by OSHA regulations.

2. General Contractor shall rope off all roof openings in an OSHA approved manner. Include fluorescent ribbons or flags to accent the ropes.
- E. Barricades, Warning Signs and Lights: Comply with standards and code requirements for erecting structurally adequate barricades. Paint with appropriate colors, graphics, and warning signs to inform personnel and the public of the hazard being protected against. Where appropriate and needed, provide lighting, including flashing red or amber lights.
- F. Security Enclosure and Lockup: Storage: Where materials and equipment must be stored within the areas of construction, and are of value or attractive for theft, each contractor shall provide a secure lockup. Enforce discipline in connection with the installation and release of material to minimize the opportunity for theft and vandalism.
- G. Environmental Protection: Provide protection, operate temporary facilities, and conduct construction in ways and by methods that comply with environmental regulations, and minimize the possibility that air, waterways, and subsoil might be contaminated or polluted or that other undesirable effect might result. Avoid using tools and equipment that product harmful noise. Restrict use of noise-making tools and equipment to hours that will minimize complaints from persons or firms near the site.

3.05 OPERATION, TERMINATION, AND REMOVAL

- A. Supervision: Enforce strict discipline in use of temporary facilities. Limit availability of temporary facilities to essential and intended uses to minimize waste and abuse.
- B. Maintenance: Maintain facilities in good operating condition until removal. Protect from damage by freezing temperatures and similar elements.
 1. Maintain operation of temporary enclosures, heating, cooling, humidity control, ventilation, and similar facilities on a 24-hour basis where required to achieve indicated results and to avoid possibility of damage.
 2. Protection: Prevent water-filled piping from freezing. Maintain markers for underground lines. Protect from damage during excavation operations.
- C. Termination and Removal: Unless the Owner requests that it be maintained longer, remove each temporary facility when the need has ended, when replaced by authorized use or a permanent facility, or no later than Substantial Completion. Complete or, if necessary, restore permanent construction that may have been delayed because of interference with the temporary facility. Repair damaged work, clean exposed surfaces, and replace construction that cannot be satisfactorily repaired.
 1. Materials and facilities that constitute temporary facilities are the property of each Prime Contractor. The Owner reserves the right to take possession of project identification signs.
 2. Remove temporary paving not intended for or acceptable for integration into permanent paving. Where the area is intended for landscape development, remove soil and aggregate fill that do not comply with requirements for fill or subsoil in the area. Remove materials contaminated with road oil, asphalt and other petrochemical compounds, and other substances that might impair growth of plant materials or lawns. Repair or replace street paving, curbs, and sidewalks at the temporary entrances, as required by the governing authority.
 3. At Substantial Completion, clean and renovate permanent facilities used during the construction period including, but not limited to, the following:
 - a. Replace air filters and clean inside of ductwork and housings.
 - b. Replace significantly worn parts and parts subject to unusual operating conditions.
 - c. Replace lamps burned out or noticeably dimmed by hours of use.

3.06 SITE RELATED REQUIREMENTS

- A. Environmental Protection: Provide protection, operate temporary facilities, and conduct construction as required to comply with environmental regulations and that minimize possible air, waterway, and subsoil contamination or pollution or other undesirable effects.
- B. Temporary Erosion and Sedimentation Control: Provide measures to prevent soil erosion and discharge of soil-bearing water runoff and airborne dust to undisturbed areas and to adjacent properties and walkways, according to the SWPPP and SPDES General Permit.
 - 1. Verify that flows of surface rain water redirected from construction areas or generated by construction activity do not enter or cross tree- or plant- protection zones.
 - 2. Inspect, repair, and maintain erosion- and sedimentation-control measures during construction until permanent vegetation has been established.
 - 3. Clean, repair, and restore adjoining properties and roads affected by erosion and sedimentation from the project site during the course of the project.
 - 4. Remove erosion and sedimentation controls and restore and stabilize areas disturbed during removal.
- C. Stormwater Control: Comply with requirements of authorities having jurisdiction. Provide barriers in and around excavations and subgrade construction to prevent flooding by runoff of stormwater from heavy rains.
- D. Termination and Removal: Remove each temporary facility when need for its service has ended, when it has been replaced by authorized use of a permanent facility, or no later than Substantial Completion. Complete or, if necessary, restore permanent construction that may have been delayed because of interference with temporary facility. Repair damaged Work, clean exposed surfaces, and replace construction that cannot be satisfactorily repaired.
 - 1. Materials and facilities that constitute temporary facilities are property of Contractor. Owner reserves right to take possession of Project identification signs.
 - 2. Remove temporary roads and paved areas not intended for or acceptable for integration into permanent construction. Where area is intended for landscape development, remove soil and aggregate fill that do not comply with requirements for fill or subsoil. Remove materials contaminated with road oil, asphalt and other petrochemical compounds, and other substances that might impair growth of plant materials or lawns. Repair or replace street paving, curbs, and sidewalks at temporary entrances, as required by authorities having jurisdiction.
 - 3. At Substantial Completion, repair, renovate, and clean permanent facilities used during construction period. Comply with final cleaning requirements specified in Division 01 Section "Closeout Procedures."

3.07 MISCELLANEOUS PROVISIONS

- A. Any work performed within any public right-of-way shall be performed in accordance with all regulations of the NYSDOT and other regulatory agency.
- B. Maintain free and unobstructed public access to fire hydrants and other emergency facilities.

END OF SECTION

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PART 1 GENERAL

1.01 RELATED DOCUMENTS

- A. Drawings and general provisions of the Agreement, including General Conditions and Division 01 of the Project Manual, apply to work of this Section.
- B. Section 013300 – Submittal Procedures
- C. Section 016000 – Product Requirements

1.02 RESPONSIBILITY

- A. Owner will allow a maximum of one 4'x 8' identification sign on the site.
- B. GC is responsible for the required Traffic Regulatory Signs.

1.03 SUBMITTALS

- A. Submit following pursuant to Section 013300 - Submittal Procedures.
- B. Submit pursuant to Section 016000 – Product Requirements
- C. Shop Drawings:
 - 1. Show elevations, sections, details, and other views necessary to describe methods and materials of construction.
 - 2. Show graphics, text, letter sizes and styles, materials, colors, logos, renderings, and other elements of each sign.

1.04 QUALITY ASSURANCE

- A. Provide by persons experienced and qualified to execute artwork in a manner equal to that of a sign fabricated of manufactured letters and graphics.
- B. Temporary signage shall not interfere with Owner's operations or message signs.

PART 2 PRODUCTS

2.01 PROJECT IDENTIFICATION SIGN (TEMPORARY)

- A. The only free standing sign permitted on the site will be by the GC.
 - 1. Sign **MUST** be submitted to the Architect for approval.
- B. Sign face size: 4 ft high by 8 ft wide with 2 legs
 - 1. Bottom of sign 3' - 5' above grade.
 - 2. Quantity: One (1)
- C. Graphic design:
 - a) **Owner: Village of Mount Kisco**
 - b) **Project:** Additions/Alterations at Mutual Station
99 Main Street, Mount Kisco, NY 10549
and
Additions/Alterations at Independent Station
322 Lexington Ave., Mount Kisco, NY 10549
 - c) **Rendering**

- d) **Architect:**
H2M architects + engineers
3 Lear Jet Lane, Suite 205
Latham, NY 12110

- D. H2M will supply electronic versions of its logo and view of the building.
- E. Type design: as herein specified.
1. All text.
 2. Approval by Architect.
- F. Colors and finishes: As herein specified.
1. Sign Face
 - a) Finish: Painted.
 - b) Color: Selection by Architect.
 2. Letters
 - a) Finish: Painted.
 - b) Color, All Text: Selection by Architect.
 3. Support structure and sign back
 - a) Finish: Painted
 - b) Color: Selection by Architect.
- G. Materials
1. Condition
 - a) Sign Face: New materials
 - b) Support Structure: Used materials in reusable condition are allowed.
 2. Sign Face Materials: APA B or C, Exterior plywood.
 3. Support Structure Materials: Wood, pressure treated at ground contact.

2.02 TRAFFIC REGULATORY SIGNS

- A. Provide standard signs where required to properly control vehicle and pedestrian traffic.
- B. Selection of materials is Contractor's option.
1. Must conform to all applicable codes and standards.
- C. Any Work on or near town or state roads.
1. Signage as required by NYSDOT or local agency.

2.03 PAINT

- A. Primer: Specifically formulated for surface to be painted and finish coats to be applied.
- B. Finish Coats: Exterior formulation, high gloss enamel in sufficient coats to provide complete hiding of surface, and to provide good appearance and weather protection for duration of use.

PART 3 EXECUTION

3.01 INSTALLATION TIME

- A. Traffic Control Signs: Install as need arises and according to NYSDOT or local agency requirements.

3.02 LOCATIONS

- A. Traffic Control Signs: Install as required to suit traffic circulation and construction activities and as per NYSDOT or local agencies.

3.03 ERECTION

- A. Erect and maintain square, plumb and level.
- B. Adequately anchor and brace.

3.04 REFINISHING

- A. Refinish as required to maintain good appearance and weather protection.
- B. Repaint weathered, faded or chipped signs.

3.05 REMOVAL

- A. Remove and discard signs (unless requested by the Owner) just prior to Date of Substantial Completion, or as directed by Architect.

END OF SECTION

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PART 1 GENERAL

1.01 SUMMARY

- A. This section includes the following administrative and procedural requirements: selection of products for use in the Project; product delivery, storage, and handling; manufacturers' standard warranties on products; special warranties; product substitutions; and comparable products.
 - 1. Refer to AIA A701, Instructions to Bidders for substitution requirements and procedures.
- B. Product Option Constraints
 - 1. Products Specified by Standards or by Description Only: Any product meeting those standards. (equal)
 - 2. Products Specified by Naming One or More Manufacturer(s) with a Provision for Substitutions: Submit a request for substitution for any manufacturer(s) not specifically named. (equivalent)
 - 3. Products Specified by Naming Several Manufacturers: Products of named manufacturers meeting Specification; no options; no substitutions allowed (as specified)
 - 4. Products Specified by Naming Only One Manufacturer: No options and/or no substitutions allowed. (Indicates a specialty item or specific design criteria.) (as specified)

1.02 DEFINITIONS

- A. Products: Items purchased for incorporating into the Work, whether purchased for Project or taken from previously purchased stock. The term "product" includes the terms "material", "equipment", "system" and terms of similar intent.
 - 1. Named Products: Items identified by manufacturers' product name, including make or model number or other designation, shown or listed in manufacturer's published product literature that is current as of date of the Contract Documents.
 - 2. New Products: Items that have not previously been incorporated into another project or facility, except those products consisting of recycled-content materials are allowed, unless explicitly stated otherwise. Products salvaged or recycled from other projects are not considered new products.
 - 3. Comparable Products: Product that is demonstrated and approved through submittal process, or were indicated as a product substitution, to have the indicated qualities related to type, function, dimension, in-service performance, physical properties, appearance, and other characteristics that equal or exceed those of specified product.
- B. Substitutions: Change in kinds, types, brands, and/or manufacturers or materials, equipment, and methods of construction required by the Contract Documents proposed by the Contractor are considered to be requests for substitutions.
- C. Any request submitted subsequent to limitation on substitutions will be considered only in case of product unavailability or other conditions beyond the control of the Contractor or within the discretion of the Architect as Owner's Agent. Substantiate each request with written acknowledgment of condition from amending party. Order all products in a timely manner to allow for fabrication and shipment, as untimely ordering is not a consideration for substitution acceptance.

- D. Substitutions will not be considered when indicated on Shop Drawings or Product Data Submittals when requested directly by Subcontractor or supplier or when acceptance will require substantial revision of Contract Documents.
- E. **Do not order or install substitute products without written acceptance by the Architect.**
- F. Only one request for substitution for each product will be considered. If substitution is not accepted, provide specified product.
- G. Basis-of-Design Product Specification: Where a specific manufacturer's product is named and accompanied by the words "basis of design", including make or model number or other designation, to establish the significant qualities related to type, function, dimension, in-service performance, physical properties, appearance, and other characteristics for purposes of evaluating comparable products of other named manufacturers.
- H. Manufacturer's Warranty: Preprinted written warranty published by individual manufacturer for a product and specifically endorsed by manufacturer to Owner.
- I. Special Warranty: Written warranty required by or incorporated into the Contract Documents to extend time limit provided, either by manufacturer's warranty or to provide more rights for the Owner.

1.03 SUBMITTALS

- A. Submittals shall comply with the requirements of the Construction Contract Clauses, Division 1, Section 013300 – Submittal Procedures and the individual sections specifying the Work.
- B. Substitution Requests: Identify product or fabrication or installation method to be replaced. Include Specification Section number and title and Drawing numbers and titles.
 - 1. Submit three (3) copies of each request for substitution or submit electronically.
 - 2. Identify the product or the fabrication or installation method to be replaced in each request. Include related specification section and drawing numbers.
 - 3. Provide complete documentation including but not limited to the following information, as appropriate:
 - a. Statement indicating why specified material or product cannot be provided.
 - b. Coordination information, including a list of changes or modifications needed to other parts of the Work and to construction performed by others that will be necessary to accommodate the proposed substitution.
 - c. A detailed comparison of the significant qualities of the proposed substitution with those of the Work specified. Significant qualities may include performance, weight, size, durability and visual effect.
 - d. Material test reports from a qualified testing agency indicating and interpreting test results for compliance with requirements indicated.
 - e. Product data and drawings, including descriptions of products and fabrication and installation procedures.
 - f. Samples, where applicable or requested.
 - g. Detailed comparison of Contractor's Construction Schedule using proposed substitution with products specified for the Work, including effect on the overall Contract time. If specified product or method of construction cannot be provided within Contract Time, include letter from manufacturer, on manufacturer's letterhead, stating lack of availability or delays in delivery.
 - h. Cost information, including a proposal of the net change, if any, in the Contract price.

- i. List of similar installations for completed projects with project names and addresses and names and addresses of architects and owner.
- j. Research/evaluation reports evidencing compliance with building code in effect for Project, from a model code organization acceptable to authorities having jurisdiction.
- k. Contractor's certification that proposed substitution complies with requirements in the Contract Documents and is appropriate for applications indicated.
- l. Contractor's waiver of rights to additional payment or time that may subsequently become necessary because of failure of proposed substitution to produce indicated results.
- m. Compare maintenance requirements.
- n. Compare spatial requirements.
- o. Compare mechanical and electrical services or other systems if product is dependent thereon.
- p. Compare relationship with adjacent products or Work.
- q. Compare warranties.
- r. When a specific kind, type, brand, color, and/or manufacturer is specified, any substitution must match the specified product in color, texture, aesthetics or any other design quality.

1.04 QUALITY ASSURANCE

- A. Source Limitations: To the fullest extent possible, provide products of the same kind from a single source. Equipment of the same function shall be manufactured by the same entity, unless otherwise indicated.
- B. Compatibility of Options: When the Contractor is given the option of selecting between two (2) or more products for use on the Project, the product selected shall be compatible with products previously selected, even if previously selected products were also options.
- C. Labels and Nameplates: Except for required labels and operating data, do not attach or imprint manufacturers or producer's nameplates or trademarks on surfaces of products that will be exposed to view in occupied spaces or on the exterior.
 - 1. Labels: Locate required product labels and stamps on concealed surfaces or, where required for observation after installation, on accessible surfaces that are not conspicuous.
 - 2. Equipment Nameplates: Provide a permanent nameplate on each item of service-connected or power-operated equipment. Locate nameplate on an easily accessible surface that is inconspicuous in occupied spaces. The nameplate shall contain the following information:
 - a. Name of product manufacturer
 - b. Model and serial numbers
 - c. Operating data such as capacity, speed and ratings
 - 3. Protection: Labels and nameplates shall be protected from defacement and other damage during the remainder of the Work.

1.05 CONTRACTOR REPRESENTATION

- A. Request for substitution constitutes a representation that Contractor has investigated proposed product and has determined that it is equal to or superior in all respects to specified product.
- B. Contractor will provide same or better warranty for substitution as for specified product.

- C. Contractor will coordinate installation of accepted substitute making such changes as may be required for Work to be complete in all respects.
- D. Contractor certifies that cost data presented is complete and includes all related cost under this Contract.
- E. Contractor waives claims for additional cost related to substitution that may be required or later become apparent.

1.06 PRODUCT DELIVERY, STORAGE AND HANDLING

- A. Deliver, store and handle products using means and methods that will prevent damage, deterioration and loss, including theft. Comply with manufacturers written instructions.
 - 1. Schedule delivery to minimize long-term storage at Project site and to prevent overcrowding of construction spaces.
 - 2. Coordinate delivery with installation time to ensure minimum holding time for items that are flammable, hazardous, easily damaged, or sensitive to deterioration, theft, and other losses.
 - 3. Deliver products to Project site in an undamaged condition in manufacturer's original sealed container or other packaging system, complete with labels and instructions for handling, storing, unpacking, protecting and installing.
 - 4. Inspect products on delivery to ensure compliance with the Contract Documents and to ensure that products are undamaged and properly protected.
 - 5. Store products to allow for inspection and measurement of quantity or counting of units.
 - 6. Store materials in a manner that will not endanger Project structure.
 - 7. Store products that are subject to damage by the elements, under cover in a weathertight enclosure above ground, with ventilation adequate to prevent condensation.
 - 8. Comply with product manufacturer's written instructions for temperature, humidity, ventilation and weather-protection requirements for storage.
 - 9. Protect stored products from damage.
- B. Storage: Owner shall coordinate arrival, schedule and location with the Contractor for Owner's storage requirements in the building or on the site.

1.07 PRODUCT WARRANTIES

- A. Warranties specified in other Sections shall be in addition to, and run concurrent with, other warranties required by the Contract Documents. Manufacturer's disclaimers and limitations on product warranties do not relieve Contractor of obligations under requirements of the Contract Documents.
- B. Special Warranties: Prepare a written document that contains appropriate terms and identification, ready for execution. Submit a draft for approval before final execution.
 - 1. Manufacturer's Standard Form: Modified to include Project-specific information and properly executed.
 - 2. Specified Form: Forms are included with the Specifications. Prepare a written document using appropriate form properly executed.
 - 3. Refer to Division 02 through 41 Sections for specific content requirements and particular requirements for submitting special warranties.

PART 2 PRODUCTS

2.01 PRODUCT COMPLIANCE REQUIREMENTS

- A. General Product Requirements: Provide products that comply with the Contract Documents, that are undamaged, and unless otherwise indicated, that are new at time of installation.
1. Provide products complete with accessories, trim, finish, fasteners and other items needed for a complete installation and indicated use and effect.
 2. Standard Products: If available, and unless custom products or nonstandard options are specified, provide standard products of types that have been produced and used successfully in similar situations on other projects.
 3. Where products are accompanied by the term “as selected”, Architect will make selection.
 4. Where products are accompanied by the term “match sample”, sample to be matched is Architect’s and/or Owner.
- B. Product Selection Procedures: The Contract Documents, including the Construction Contract Clauses, govern product selection. Requirements for product selection include the following:
1. Where the Specification lists manufacturers’ names or product designations, the Contractor may provide any product that complies with the requirements, subject to the following conditions:
 - a. Manufacturers: Where a Specification paragraph or subparagraph titled “Manufacturers” lists manufacturers’ names, provide a compliant product by one of the manufacturers named, or request a Substitution of another compliant product by another manufacturer.
 - b. Available Manufacturers: Where a Specification paragraph or subparagraph titled “Available Manufacturers” lists manufacturers’ names, provide a compliant product by one of the manufacturers named or by another manufacturer.
 - c. Products: Where a Specification paragraph or subparagraph titled “Products” lists product designations, provide one of the products designated, or request a Substitution of another compliant product.
 - d. Available Products: Where a Specification paragraph or subparagraph titled “Available Products” lists product designations, provide one of the products designated, or request a Substitution of another compliant product.
 - e. Basis of Design: Where a Specification paragraph or subparagraph titled “Basis of Design” includes a product designation, provide the product designated, or equivalent product by another manufacturer.
 2. Descriptive Requirements: Where Specifications describe a product or assembly, listing exact characteristics required, provide a product or assembly that provides the characteristics and otherwise complies with Contract requirements.
 3. Performance Requirements: Where Specifications require compliance with performance requirements, provide products that comply with these requirements and are recommended by the manufacturer for the application indicated. Manufacturer’s recommendations may be contained in published product literature or by the manufacturer’s certification of performance.
 4. Prescriptive Requirements: Where Specifications require products that are produced using specified ingredients and components, including specific requirements for mixing, fabricating, curing, finishing, testing and similar operations in the manufacturing process, provide products produced in accordance with the prescriptive requirements that otherwise comply with Contract requirements.
 5. Codes, Standards and Regulations: Where Specifications require compliance with an imposed code, standard or regulation, select a product that complies with the codes, standards or regulations specified.
 6. Visual Matching: Where Specifications require matching an established Sample, the Architect’s decision will be final on whether a proposed product matches

satisfactorily. Where no product available within the specified category matches satisfactorily and complies with other specified requirements, comply with provisions concerning “substitutions” for selections of a matching product in another product category.

7. Visual Selection: Where specified product requirements include the phrase “as selected from manufacturer’s standard colors, patterns, textures” or a similar phrase, select a product and manufacturer that complies with other specified requirements. The Architect will select the color, pattern and texture from the manufacturer’s product line.

2.02 PRODUCT SUBSTITUTIONS

- A. Refer to AIA A701, Instructions to Bidders for substitution requirements and procedures.
- B. Conditions: Architect will consider Contractor’s request for substitution when the following conditions are satisfied. If the following conditions are not satisfied, Architect will return requests without action, except to record noncompliance with these requirements:
 1. Requested substitution offers Owner a substantial advantage in cost, time, energy conservation, or other considerations, after deducting additional responsibilities Owner must assume. Owner’s additional responsibilities may include compensation to Architect for redesign and evaluation services, increased cost of other construction by Owner, and similar considerations.
 2. Requested substitution does not require extensive revisions to the Contract Documents.
 3. Requested substitution is consistent with the Contract Documents and will produce indicated results.
 4. The request is timely, fully documented, and properly submitted.
 5. The specified product or method of construction cannot be provided within the Contract Time. The Architect will not consider the request if the product or method cannot be provided as a result of failure to pursue the Work promptly or coordinate activities properly.
 6. The specified product or method of construction cannot be provided in a manner that is compatible with other materials and where the Contractor certifies that, the substitution will overcome the incompatibility.
 7. The specified product or method of construction cannot be coordinated with other materials and where the Contractor certifies that the proposed substitution can be coordinated.
 8. The specified product or method of construction cannot provide a warranty required by the Contract Documents and where the Contractor certifies that the proposed substitution provides the required warranty.
 9. Requested substitution has received necessary approvals of authorities having jurisdiction.
 10. If requested substitution involves more than one contractor, requested substitution has been coordinated with other portions of the Work, is uniform and consistent, is compatible with other products, and is acceptable to all contractors involved.

2.03 COMPARABLE PRODUCTS

- A. Where products or manufacturers are specified by name, submit the following, in addition to other required submittals, to obtain approval of an unnamed product:
 1. Evidence that the proposed product does not require extensive revisions to the Contract Documents, that it is consistent with the Contract Documents and will produce the indicated results, and that it is compatible with other portions of the Work.
 2. Detailed comparison of significant qualities of proposed product with those named in the Specifications. Significant qualities include attributes such as performance,

weight, size, durability, visual effect, and specific features and requirements indicated.

3. Evidence that proposed product provides specified warranty.
4. List of similar installations for completed projects with project names and addresses and names and addresses for architects and owners, if requested.
5. Samples, if requested.

PART 3 EXECUTION

3.01 INSTALLATION OF PRODUCTS

- A. Comply with manufacturer's instructions and recommendations for installation of products in the applications indicated. Anchor each product securely in place, accurately located and aligned with other Work.
 1. Clean exposed surfaces and protect as necessary to ensure freedom from damage and deterioration at time of Substantial Completion.

END OF SECTION

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PART 1 GENERAL

1.01 RELATED SECTIONS

- A. Drawings and general provisions of the Agreement, including General Conditions and Division 01 of the Project Manual, apply to work of this Section.

1.02 QUALITY ASSURANCE

- A. The Contractor shall retain a Licensed or Registered Land Surveyor licensed or registered in the state in which the Work is located to execute staking, grading or such services requiring a surveyor.
- B. Execute services by a Surveyor with Architect's approval and coordination.

1.03 BENCHMARKS

- A. Use existing horizontal and vertical control points. No additional are required.
- B. Replace damaged or misaligned benchmarks erected for this project.
- C. Relocate, at direction of Architect any benchmarks erected for this project lost or requiring relocation as a result of construction progress.

1.04 FIELD LAYOUT REQUIREMENTS

- A. Verification: Before proceeding to lay out the Work, verify layout information shown on Drawings, in relation to the existing benchmarks and physical adjacent building locations. If discrepancies are discovered, notify Engineer/ Landscape Architect promptly.
- B. General: Engage a New York State licensed land surveyor to lay out the Work using accepted surveying practices.
 - 1. Establish benchmarks and control points to set lines and levels as needed to locate each element of Project.
 - 2. Establish dimensions within tolerances indicated. Do not scale Drawings to obtain required dimensions.
 - 3. Inform installers of lines and levels to which they must comply.
 - 4. Check the location, level and plumb, of every major element as the Work progresses.
 - 5. Notify Architect when deviations from required lines and levels exceed allowable tolerances.
 - 6. Close site surveys with an error of closure equal to or less than the standard established by industry standards.
- C. Site Improvements: Locate and lay out site improvements, including pavements, grading, fill and topsoil placement, utility slopes, and rim and invert elevations.
- D. Record Log: Maintain a log of layout control work. Record deviations from required lines and levels. Include beginning and ending dates and times of surveys, weather conditions, name and duty of each survey party member, and types of instruments and tapes used. Make the log available for reference by Engineer/Architect and Owner.

1.05 FIELD ENGINEERING

- A. Reference Points: Locate existing benchmarks, control points, and similar reference points before beginning the Work. Preserve and protect benchmarks and control points during construction operations.
 - 1. Do not change or relocate existing benchmarks or control points without prior written approval of Engineer/Architect. Report lost or destroyed permanent benchmarks or control points promptly. Report the need to relocate permanent benchmarks or control points to Engineer/ Architect before proceeding.
 - 2. Replace lost or destroyed permanent benchmarks and control points promptly. Base replacements on the original survey control points.
- B. Certified Survey: On completion of major site improvements, and other work requiring field-surveying services, prepare a certified survey showing dimensions, locations, angles, and elevations of construction and site work.

1.06 FINAL SURVEY

- A. The Contractor shall retain a licensed or registered land surveyor, licensed or registered in New York, to prepare a final survey at Substantial Completion.
 - 1. The survey shall locate the building, property lines, all easements, encroachments, paving, drives, walks and exterior appurtenances including drainage structures, grates, ponds, swales, ditches, etc. exposed to sight.
 - 2. The survey shall conform to the requirements of the Town, County and/or authority having jurisdiction.
 - 3. Survey shall be submitted to the Architect: include four (4) prints 24"x36" with original seal and signature and one electronic disk in PDF format.

PART 2 – PRODUCTS

Not Used

PART 3 – EXECUTION

Not Used

END OF SECTION

PART 1 GENERAL

1.01 RELATED DOCUMENTS

- A. Drawings and general provisions of the Agreement, including General Conditions and Division 01 Specification Sections, apply to Work of this Section.

1.02 SUMMARY

- A. This Section includes procedural requirements for cutting and patching.
- B. Related Sections include the following:
 - 1. Division 02 Section “Selective Site Demolition” for demolition of selected portions of the site.
 - 2. Division 02 Section “Selective Structure Demolition” for demolition of selected portions of the structure.

1.03 DEFINITIONS

- A. Cutting: Removal of in-place construction necessary to permit installation or performance of other Work.
- B. Patching: Fitting and repair work required to restore surfaces to original conditions after installation of other Work.

1.04 SUBMITTALS

- A. Cutting and Patching Proposal: Submit a proposal describing procedures at least 15 days before the time cutting and patching will be performed, requesting approval to proceed. Include the following information:
 - 1. Extent: Describe cutting and patching, show how they will be performed, and indicate why they cannot be avoided.
 - 2. Changes to In-Place Construction: Describe anticipated results. Include changes to structural elements and operating components as well as changes in building's appearance and other significant visual elements.
 - 3. Products: List products to be used and firms or entities that will perform the Work.
 - 4. Dates: Indicate when cutting and patching will be performed.
 - 5. Utility Services and Mechanical/Electrical Systems: List services/systems that cutting and patching procedures will disturb or affect. List services/systems that will be relocated and those that will be temporarily out of service. Indicate how long services/systems will be disrupted.
 - 6. Structural Elements: Where cutting and patching involve adding reinforcement to structural elements, submit details and engineering calculations showing integration of reinforcement with original structure.
- B. Structural Elements: Do not cut and patch structural elements in a manner that could change their load-carrying capacity or load-deflection ratio.
- C. Operational Elements: Do not cut and patch operating elements and related components in a manner that results in reducing their capacity to perform as intended or that result in increased maintenance or decreased operational life or safety.
 - 1. Primary operational systems and equipment.
 - 2. Air or smoke barriers.
 - 3. Fire-Suppression systems.
 - 4. Mechanical systems piping and ducts.

5. Control Systems.
 6. Communication systems.
 7. Conveying systems.
 8. Electrical wiring systems.
 9. Operating systems of special construction in Division 13 Sections.
- D. Miscellaneous Elements: Do not cut and patch miscellaneous elements or related components in a manner that could change their load-carrying capacity that results in reducing their capacity to perform as intended, or that result in increased maintenance or decreased operational life or safety.
- E. Visual Requirements: Do not cut and patch construction in a manner that results in visual evidence of cutting and patching. Do not cut and patch construction exposed on the exterior or in occupied spaces in a manner that would, in Architect's opinion, reduce the building's aesthetic qualities. Remove and replace at no additional cost to the project construction that has been cut and patched in a visually unsatisfactory manner.
- F. Cutting and Patching Conference: Before proceeding, meet at Project site with parties involved in cutting and patching, including mechanical and electrical trades. Review areas of potential interference and conflict. Coordinate procedures and resolve potential conflicts before proceeding.

1.05 WARRANTY

- A. Remove, replace, patch and repair materials and surfaces cut or damaged during cutting and patching operations, by methods and with materials so as not to void any new or existing warranties.

PART 2 PRODUCTS

2.01 MATERIALS

- A. General: Comply with requirements specified in other sections.
- B. In-Place Materials: Use materials identical to in-place materials. For exposed surfaces, use materials that visually match in-place adjacent surfaces to the fullest extent possible.
1. If identical materials are unavailable or cannot be used, use materials that, when installed, will match the visual and functional performance of in-place materials.

PART 3 EXECUTION

3.01 EXAMINATION

- A. Examine surfaces to be cut and patched and conditions under which cutting, and patching are to be performed.
1. Compatibility: Before patching, verify compatibility with and suitability of substrates, including compatibility with in-place finishes or primers.
 2. Proceed with installation only after unsafe or unsatisfactory conditions have been corrected.

3.02 PREPARATION

- A. Temporary Support: Provide temporary support of Work to be cut.

- B. Protection: Protect in-place construction during cutting and patching to prevent damage. Provide protection from adverse weather conditions for portions of Project that might be exposed during cutting and patching operations.
- C. Adjoining Areas: Avoid interference with use of adjoining areas or interruption of free passage to adjoining areas.
- D. Existing Utility Services and Mechanical/Electrical Systems: Where existing services/systems are required to be removed, relocated, or abandoned, bypass such services/systems before cutting to minimize interruption to occupied areas.

3.03 PERFORMANCE

- A. General: Employ skilled workers to perform cutting and patching. Proceed with cutting and patching at the earliest feasible time, and complete without delay.
 - 1. Cut in-place construction to provide for installation of other components or performance of other construction, and subsequently patch as required to restore surfaces to their original condition.
- B. Cutting: Cut in-place construction by sawing, drilling, breaking, chipping, grinding, and similar operations, including excavation, using methods least likely to damage elements retained or adjoining construction. If possible, review proposed procedures with original Installer; comply with original installer's written recommendations.
 - 1. In general, use hand or small power tools designed for sawing and grinding, not hammering, and chopping. Cut holes and slots as small as possible, neatly to size required, and with minimum disturbance of adjacent surfaces. Temporarily cover openings when not in use.
 - 2. Finished Surfaces: Cut or drill from the exposed or finished side into concealed surfaces.
 - 3. Concrete Masonry: Cut using a cutting machine, such as an abrasive saw or diamond-core drill.
 - 4. Excavating and Backfilling: Comply with requirements in applicable Division 31 Sections where required by cutting and patching operations.
 - 5. Mechanical and Electrical Services: Cut off pipe or conduit in walls or partitions to be removed. Cap, valve, or plug and seal remaining portion of pipe or conduit to prevent entrance of moisture or other foreign matter after cutting.
 - 6. Proceed with patching after construction operations requiring cutting are complete.
- C. Patching: Patch construction by filling, repairing, refinishing, closing up, and similar operations following performance of other Work. Patch with durable seams that are as invisible as possible. Provide materials and comply with installation requirements specified in other Sections.
 - 1. Inspection: Where feasible, test and inspect patched areas after completion to demonstrate integrity of installation.
 - 2. Exposed Finishes: Restore exposed finishes of patched areas and extend finish restoration into retained adjoining construction in a manner that will eliminate evidence of patching and refinishing.
 - a. Clean piping, conduit, and similar features before applying paint or other finishing materials.
 - b. Restore damaged pipe covering to its original condition.
 - 3. Floors and Walls: Where walls or partitions that are removed extend one finished area into another, patch and repair floor and wall surfaces in the new space. Provide an even surface of uniform finish, color, texture, and appearance. Remove in-place floor and wall coverings and replace with new materials, if necessary, to achieve uniform color and appearance.

- a. Where patching occurs in a painted surface, apply primer and intermediate paint coats over the patch and apply final paint coat over entire unbroken surface containing patch. Provide additional coats until patch blends with adjacent surfaces.
 - 4. Ceilings: Patch, repair, or rehang in-place ceilings as necessary to provide an even-plane surface of uniform appearance.
 - 5. Exterior Building Enclosure: Patch components in a manner that restores enclosure to a weather tight condition.
- D. Cleaning: Clean area and spaces where cutting and patching are performed. Completely remove paint, mortar, oils, putty, and similar materials.

END OF SECTION

PART 1 GENERAL

1.01 SUMMARY

- A. Drawings and general provisions of the Agreement, including General Conditions and Division 01 of the Project Manual, apply to work of this Section.

PART 2 PRODUCTS

2.01 MATERIALS

- A. Cleaning Agents: Use cleaning materials and agents recommended by manufacturer or fabricator of the surface to be cleaned. Do not use cleaning agents that are potentially hazardous to health or property or that might damage finished surfaces.

PART 3 EXECUTION

3.01 PROGRESS CLEANING

- A. General: Clean Project site and work areas daily, including common areas. Enforce requirements strictly. Dispose of materials lawfully.
 - 1. Coordinate progress cleaning for joint-use areas where more than one installer has worked.
- B. Site: Maintain Project site free of waste materials and debris.
- C. Work Areas: Clean areas where work is in progress to the level of cleanliness necessary for proper execution of the Work.
 - 1. Remove liquid spills promptly.
 - 2. Where dust would impair proper execution of the Work, broom-clean or vacuum the entire work area, as appropriate.
- D. Installed Work: Keep installed work clean. Clean installed surfaces according to written instructions of manufacturer or fabricator of product installed, using only cleaning materials specifically recommended. If specific cleaning materials are not recommended, use cleaning materials that are not hazardous to health or property and that will not damage exposed surfaces.
- E. Concealed Spaces: Remove debris from concealed spaces before enclosing the space.
- F. Exposed Surfaces in Finished Areas: Clean exposed surfaces and protect as necessary to ensure freedom from damage and deterioration at time of Substantial Completion.
- G. Waste Disposal: Do not bury or burn waste materials on-site. Do not wash waste materials down sewers or into waterways.
- H. During handling and installation, clean and protect construction in progress and adjoining materials already in place. Apply protective covering where required to ensure protection from damage or deterioration at Substantial Completion.
- I. Limiting Exposures: Supervise construction operations to assure that no part of the construction, completed or in progress, is subject to harmful, dangerous, damaging, or otherwise deleterious exposure during the construction period.

3.02 FINAL CLEANING

- A. General: Provide final cleaning. Conduct cleaning and waste-removal operations to comply with local laws and ordinances and Federal and local environmental and antipollution regulations.
- B. Cleaning: Employ experienced workers or professional cleaners for final cleaning. Clean each surface or unit to condition expected in an average commercial building cleaning and maintenance program. Comply with manufacturer's written instructions.
 - 1. The Contractor shall complete the following cleaning operations before requesting inspection for certification of Substantial Completion for entire Project or for a portion of Project:
 - a. Clean Project site, yard, and grounds, in areas disturbed by construction activities, including landscape development areas, of rubbish, waste material, litter, and other foreign substances.
 - b. Rake grounds that are neither planted nor paved to a smooth, even-textured surface.
 - c. Sweep paved areas broom clean. Remove petrochemical spills, stains, and other foreign deposits.
 - c. Remove snow and ice to provide safe access to building.
 - d. Clean transparent materials, including mirrors and glass in doors and windows. Remove glazing compounds and other noticeable, vision-obscuring materials. Replace chipped or broken glass and other damaged transparent materials. Polish mirrors and glass, taking care not to scratch surfaces.
 - e. Sweep concrete floors broom clean in unoccupied spaces.
 - f. Remove debris and surface dust from limited access spaces, including roofs, plenums, shafts, trenches, equipment vaults, manholes, attics, and similar spaces.
 - g. Vacuum carpet and similar soft surfaces, removing debris and excess nap; shampoo if visible soil or stains remain.
 - h. Wipe surfaces of plumbing, mechanical and electrical equipment, elevator equipment, and similar equipment. Remove excess lubrication, paint, and mortar droppings, and other foreign substances.
 - i. Clean exposed exterior and interior hard-surfaced finishes to a dirt-free condition, free of stains, films, and similar foreign substances.
 - j. Touch-up and otherwise repair and restore marred, exposed finishes and surfaces. Replace finishes and surfaces that cannot be satisfactorily repaired or restored or that already show evidence of repair or restoration.
 - 1) Do not paint over "UL" and similar labels, including mechanical and electrical nameplates.
 - k. Remove tools, construction equipment, machinery, and surplus material from Project site.
 - l. Clean roof areas of debris and foreign matter.
 - m. Remove temporary protection and labels not otherwise required to remain.
 - n. Seal and polish wood flooring.
 - o. Clean and polish wood flooring pursuant to manufacturer's published instructions.
 - p. Clean food service equipment.
 - q. Clean plumbing fixtures to a sanitary condition, free of stains, including stains resulting from water exposure.
 - r. Replace disposable air filters and clean permanent air filters. Clean exposed surfaces of diffusers, registers and grills.
 - s. Clean exposed fan blades.

- t. Clean light fixtures, lamps, globes, and reflectors to function with full efficiency. Replace burned-out bulbs, and those noticeably dimmed by hours of use, and defective and noisy starters in fluorescent and mercury vapor fixtures to comply with requirements for new fixtures.
 - u. Wipe surfaces of sprinkler riser, pipes and equipment. Remove excess lubrication, paint and mortar droppings, and other foreign substances.
 - v. Leave Project clean and ready for occupancy.
- C. Comply with safety standards for cleaning. Do not burn waste materials. Do not bury debris or excess materials on Owner's property. Do not discharge volatile, harmful or dangerous materials into drainage systems. Remove waste materials from Project site and dispose of lawfully.
- D. In the event that the Contractor, subcontractors, suppliers, etc., create excessive debris, damage, or any other items that require repair after the final cleaning, then the Architect shall determine such damage and assess back charges accordingly. Architect's decision is final.

3.02 MISCELLANEOUS REQUIREMENTS

- A. Transfer keys and logs to the Architect who will review and then deliver to the Owner.
- B. All contractors shall install new filters, strainers etc. on any equipment that was used during Construction.
 - 1. Contractor may clean certain filters and/or strainers with prior written approval from the Architect.

END OF SECTION

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PART 1 GENERAL

1.01 SUMMARY

- A. Drawings and general provisions of the Agreement, including General Conditions and Division 01 of the Project Manual, apply to work of this Section.
- B. This Section includes administrative and procedural requirements for contract closeout, including, but not limited to, the following:
 - 1. Inspection procedures
 - 2. Project Record Documents
 - 3. Operation and maintenance manuals
 - 4. Warranties
 - 5. Instruction of Owner's personnel
 - 6. Final cleaning
- C. Related Sections include the following:
 - 1. Section 017423 – Cleaning
 - 2. Section 017900 – Demonstration and Training

1.02 SUBSTANTIAL COMPLETION

- A. Preliminary Procedures: Before requesting Architect to determine date of Substantial Completion, complete the following. List items below that are incomplete in request.
 - 1. In the Application for Payment that coincides with, or first follows, the date Substantial Completion is claimed, show 100 percent completion for the portion of the Work claimed as substantially complete.
 - a. Include supporting documentation for completion as indicated in these Contract Documents and a statement showing an accounting of changes to the Contract Sum.
 - b. If 100 percent completion cannot be shown, prepare a list of items to be completed and corrected (punch list), the value of items on the list, and reasons why the Work is not complete.
 - 2. Advise Owner of pending insurance changeover requirements.
 - 3. Submit specific warranties, workmanship bonds, maintenance service agreements, final certifications and similar documents.
 - 4. Obtain and submit releases permitting Owner unrestricted use of the Work and access to services and utilities. Include occupancy permits, operating certificates, and similar releases.
 - 5. Prepare and submit Project Record Documents, operation and maintenance manuals, Final Completion construction photographs, damage or settlement surveys, property surveys, and similar final record information.
 - 6. Deliver tools, spare parts, extra materials and similar items to location designated by Owner. Label with manufacturer's name and model number where applicable.
 - 7. Make final changeover of permanent locks and deliver keys to Owner. Advise Owner's personnel of changeover in security provisions.
 - 8. Complete startup testing of systems.
 - 9. Submit test/adjust/balance records.
 - 10. Terminate and remove temporary facilities from Project site, along with mockups, construction tools, and similar elements.
 - 11. Advise Owner of changeover in heat and other utilities.
 - 12. Submit changeover information related to Owner's occupancy, use, operation, and maintenance.
 - 13. Complete final cleaning requirements, including touchup painting. See Section 017423 – Cleaning.

14. Touch up and otherwise repair and restore marred exposed finishes to eliminate visual defects.
- B. Observation: Submit a written request for site visit for Substantial Completion. On receipt of request, Architect will either proceed with site visit or notify Contractor of unfulfilled requirements. Architect will prepare the Certificate of Substantial Completion after site visit or will notify Contractor of items, either on Contractor's list or additional items identified by Architect that must be completed or corrected before certificate will be issued.
1. Revisit: Request second site visit when the Work identified in first site visit as incomplete is completed or corrected.
 2. Results of completed observation will form the basis of requirements for Final Completion.
 3. The Architect will charge the Owner for this second visit. The Owner at its sole discretion may backcharge the Contractor for the Architect's time and material and reimbursable expenses. The amount of this change order is non-negotiable.
- C. Comply with the requirement of the General Conditions to the Contract.

1.03 FINAL COMPLETION

- A. Preliminary Procedures: Before requesting final site visit for determining date of Final Completion, complete the following:
1. Submit a final Application for Payment according to Section 012900 – Payment Procedures.
 - a. Submit an updated final statement, accounting for final additional changes to the Contract Sum.
 2. Submit certified copy of Architect's Substantial Completion observation list of items to be completed or corrected (punch list), endorsed and dated by Architect. The certified copy of the list shall state that each item has been completed or otherwise resolved for acceptance.
 3. Submit evidence of final, continuing insurance coverage complying with insurance requirements.
 4. Submit final meter readings for utilities, a measured record of stored fuel, and similar data as of the date of Substantial Completion or when the Owner took possession of and assumed responsibility for corresponding elements of the Work.
 5. Submit consent of surety to final payment.
 6. Submit pest-control final inspection report and warranty.
 7. Instruct Owner's personnel in operation, adjustment, and maintenance of products, equipment, and systems.
- B. Submit a written request for final observation for acceptance. On receipt of request, Architect will either proceed with site visit or notify Contractor of unfulfilled requirements. Architect will prepare final Certificate for Payment after site visit or will notify Contractor of construction that must be complete or corrected before certificate will be issued.
1. Revisit: Request second site visit when the Work identified in first site visit as incomplete is completed or corrected.
 2. The Architect will charge the Owner for this second visit. The Owner at its sole discretion may backcharge the Contractor for the Architect's time and material and reimbursable expenses. The amount of this change order is non-negotiable.

1.04 LIST OF INCOMPLETE ITEMS (PUNCH LIST)

- A. Preparation: Submit an electronic version or three (3) copies of list. Include name and identification of each space and area affected by construction operations for incomplete items and items needing correction including, if necessary, area disturbed by Contractor that are outside the limits of construction.
1. Organize list of spaces in sequential order, starting with exterior areas first and proceeding from lowest floor to highest floor.

2. Organize items applying to each space by major element, including categories for ceiling, individual walls, floors, equipment, and building systems.
3. Include the following information at the top of each page:
 - a. Project Name
 - b. Date
 - c. Name of Architect
 - d. Name of Contractor
 - e. Page Number
4. Each Prime Contractor shall prepare a detailed punch list of the interior and exterior of the entire project.
 - a. The Architect will review and comment on the Contractor's list.
 - b. If the Architect finds Contractor's punch list to be lacking or incomplete, Contractor shall re-issue a more thorough list.
 - c. If Contractor's list still remains incomplete after reissue, Architect will perform punch list.
 - d. Contractor will be back charged through change order for all Architect's time, materials and reimbursable expenses. The amount of this change order is non-negotiable.

1.05 PROJECT RECORD DOCUMENTS

- A. General: Do not use Project Record Documents for construction purposes. Protect Project Record Documents from deterioration and loss. Provide access to Project Record Documents for Architect's reference during normal working hours.
- B. Record Drawings: Maintain and submit on set of blue- or black-line white prints of Contract Drawings and Shop Drawings. Also include one disk.
 1. Mark Record Prints to show the actual installation where installation varies from that shown originally. Require individual or entity that obtained record data, such as Installer, subcontractor, or similar entity, to prepare the marked-up Record Prints.
 - a. Give particular attention to information on concealed elements that cannot be readily identified and recorded later.
 - b. Accurately record information in an understandable drawing technique.
 - c. Record data as soon as possible after obtaining it. Record and check the markup before enclosing concealed installations.
 - d. Mark Contract Drawings or Shop Drawings, whichever is most capable of showing actual physical conditions, completely and accurately. Where Shop Drawings are marked, show cross-reference on Record Drawings.
 2. Mark record sets with erasable, red-colored pencil or indelible red ink. Use other colors to distinguish between changes for different categories of the Work at the same location.
 3. Mark important additional information that was either shown schematically or omitted from the original Drawings.
 4. Note Construction Change Directive numbers, Change Order numbers alternate numbers and similar identification where applicable.
 5. Identify and date each Record Drawing; include the designation "PROJECT RECORD DRAWING" in a prominent location. Organize into manageable sets; bind each set with durable paper cover sheets. Include identification on cover sheets.
- C. Record Specifications: Submit one copy of Project's Specifications, including addenda and contract modifications. Mark copy to indicate the actual product installation where installation varies from that indicated in Specifications, addenda, and contract modifications. Also include one disk.

1. Give particular attention to information on concealed products and installations that cannot be readily identified and recorded later.
 2. Mark copy with the proprietary name and model number of products, materials, and equipment furnished, including substitutions and product options selected.
 3. Note related Change Orders, Record Drawings, and Product Data, where applicable.
- D. Record Product Data: Submit one copy of each Product Data submittal. Mark one set to indicate the actual product installation where installation varies substantially from that indicated in Product Data.
1. Give particular attention to information on concealed products and installations that cannot be readily identified and recorded later.
 2. Include significant changes in the product delivered to Project site and changes in manufacturer's written instructions for installation.
 3. Include related Change Orders, Record Drawings, and Record Specifications, Addenda, Modifications, Approved product data, Approved Shop Drawings, Field test and inspection reports, Manufacturer's published instructions, Field record surveys, MSDS sheets, where applicable.
- E. Record Sample Submitted: Immediately prior to Substantial Completion, the Contractor shall communicate with the Architect to determine which Samples are to be transmitted to the Owner for record purposes. Comply with the Owner's instructions regarding delivery to the Owner's Sample storage area.
- F. Miscellaneous Record Submittals: Assemble miscellaneous records required by other Specification Sections for miscellaneous record keeping and submittal in connection with actual performance of the Work. Bind or file miscellaneous records and identify each, ready for continued use and reference.

1.06 OPERATING AND MAINTENANCE MANUALS

- A. Provide written data describing care, operation, and maintenance of following:
1. Finishes and materials.
 2. Roofing and waterproofing systems.
 3. Mechanical systems and equipment.
 4. Electrical systems and equipment.
 5. Building automation systems.
 6. Fire suppression and supervisory systems.
 7. Security and alarm systems.
 8. All pedestrian doors, overhead doors and fire shutter(s).
 9. Finish floor products.
 10. MSDS sheets on any product.
 11. See individual technical sections for further information requirements.
- B. Preliminary Submittal: submit one (1) copies of each manual to the Architect after review. Allow ten (10) days for Architect's review and comment. Time is exclusive of all time for delivery. Execute required changes and modifications.
- C. Assemble a complete set of operation and maintenance data indicating the operation and maintenance of each system, subsystem, and piece of equipment not part of a system. Include operation and maintenance data required in individual Specification Sections and as follows:
1. Operation Data:
 - a. Emergency instructions and procedures.
 - b. System, subsystem, and equipment descriptions, including operating standards.

- c. Operating procedures, including startup, shutdown, seasonal and weekend operations.
 - d. Descriptions of controls and sequence of operations.
 - e. Piping diagrams.
- 2. Maintenance Data:
 - a. Manufacturer's information, including list of spare parts.
 - b. Name, address and telephone number of Installer or supplier.
 - c. Maintenance procedures.
 - d. Maintenance and service schedules for preventive and routine maintenance.
 - e. Maintenance record forms.
 - f. Sources of spare parts and maintenance materials.
 - g. Copies of maintenance service agreements.
 - h. Copies of warranties and bonds.
 - i. Wiring diagrams.
 - j. Fixture lamping schedule.
- D. Organize operation and maintenance manuals into suitable sets of manageable size. Bind and index data in heavy-duty, 3 ring, vinyl-covered, loose-leaf binders, in thickness necessary to accommodate contents, with pocket inside covers to receive folded oversized sheets. Identify each binder on front and spine with the printed title "OPERATION AND MAINTENANCE MANUAL", Project name, and subject matter of contents.
- E. Maintenance Manual Table of Contents:
 - 1. This list shall include, but not limited to, the following:
 - a. Project title and description; names of Contractor's responsible officers or managers, addresses, and telephone numbers.
 - b. Names of each subcontractor's, sub-subcontractor's, and supplier's responsible officer's or manager's, addresses, telephone numbers, and the products and systems provided
 - 2. Product data: provide information applicable to the Work. Delete information not relevant - Specific Sections:
 - a. General
 - (1) Include specific reference to all tags and labels
 - b. HVAC
 - (1) Include specific reference to all tags and labels
 - c. Plumbing
 - (1) Include specific reference to all tags and labels
 - d. Electrical
 - (1) Include specific reference to all labels
 - e. Approved Shop Drawings
 - f. Approved Product Data
 - g. Manufacturer's published instructions
 - h. Drawings as built
 - i. Field record survey
 - j. Alarm Systems
 - (1) Include specific reference to all labels
 - k. Security
 - (1) Include specific reference to all labels
 - l. Sprinkler
 - (1) Include specific reference to all tags and labels
 - m. MSDS sheets
 - n. Lists of spare parts
 - o. Field test and inspection reports
 - p. Others as necessary

3. Drawings: provide equipment and system diagrams illustrating specific interrelationships with and within the Work. Do not use Project Record Documents as maintenance Drawings.
4. Finishes and materials:
 - a. Provide manufacturer's published instructions for cleaning and maintenance.
 - b. Provide inspection and maintenance schedules.
 - c. Provide lists of chemicals adverse to finish or material.
5. Equipment and systems:
 - a. Provide description of units and system. Describe normal operating characteristics and functional limits.
 - b. Provide descriptions and sources of replacement parts.
 - c. Provide color-coded diagrams as installed.
 - d. Provide manufacturer's published instructions for operating and maintenance.
 - e. Provide inspection and maintenance schedules.
 - f. Provide schedules and Drawings indicating component locations and cross references to field identification.

1.07 WARRANTIES

- A. Submittal Time: Submit written warranties on request of Architect for designated portions of the Work where commencement of warranties other than date of Substantial Completion is indicated.
 1. Warranties will only begin if the item, system, etc. is in good Working order and has been accepted by the Owner.
- B. Partial Occupancy: Submit properly executed warranties within 15 days of completion of designated portions of the Work that are complete and occupied or used by Owner during construction period by separate agreement with Contractor.
- C. Organize warranty documents into an orderly sequence based on the table of contents of the Project Manual.
 1. Bind warranties and bonds in heavy-duty, 3-ring, vinyl-covered, loose-leaf binders, thickness as necessary to accommodate contents, and sized to receive 8 ½ x 11 paper.
 2. Provide heavy paper dividers with plastic-covered tabs for each separate warranty. Mark tab to identify the product or installation. Provide a typed description of the product or installation, including the name of the product and the name, address and telephone number of Installer.
 3. Identify each binder on the front and spine with the typed or printed title "WARRANTIES", Project name, and name of Contractor.
- D. Provide additional copies of each warranty to include in operation and maintenance manuals.

PART 2 PRODUCTS

2.01 MATERIALS

- A. Cleaning Agents: Use cleaning materials and agents recommended by manufacturer or fabricator of the surface to be cleaned. Do not use cleaning agents that are potentially hazardous to health or property or that might damage finished surfaces.

PART 3 EXECUTION

3.01 DEMONSTRATION AND TRAINING

H2M architects + engineers
Village of Mount Kisco-Additions/Alterations at
Mutual & Independent Fire Stations

CLOSEOUT PROCEDURES
017700-6

- A. See Section 017900.
- B. Project Record Drawings
 - 1. Upon completion of the Work, and review of the record drawings by the Architect, prepare two final sets of record drawings and submit to Architect. Include one disk of the record drawings.
 - 2. The cost of furnishing above prints and preparing these record drawings shall be included in the Contract price.

3.02 TAGS AND LABELS

- A. Provide and install brass valve tags on all plumbing, gas, HVAC, and sprinkler systems, valves, handles, gates, dampers etc. Refer to specific sections for additional requirements.
 - 1. Project Operating and Maintenance Data Manual shall have a section that lists and identifies all tags.
- B. Provide legible, machine printed, indelible labels for all electrical boxes, breakers, mains, switches, etc.
- C. Provide legible, machine printed, indelible labels for all security, alarm, communications or similar systems.

3.03 START-UP REPORT

- A. Contractor must submit a completed mechanical system start-up report.
 - 1. Report must be signed and witnessed by an authorized representative of the manufacturer.
 - 2. Start-up includes but is not limited to all HVAC units, boiler(s) and any other type of heating or cooling unit or system.

3.04 SPARE PARTS AND MAINTENANCE MATERIALS

- A. Provide spare parts, maintenance materials, tools, and other items as required by each Section.
- B. Retain in original shipping containers except when removal is necessary for inspection or verification.
- C. Maintain labels legible and intact. Maintain manufacturer's published information with respective item.
- D. Handle and store in the same manner as required for that which is installed in the Work.
- E. Recipient: Shall be delivered to the Owner. Storage area will be designated by the Owner.

3.05 MISCELLANEOUS REQUIREMENTS

- A. Transfer keys to the Owner who will review and then deliver to the Owner.
- B. Provide generator(s) with full tank of fuel at date of Substantial Completion.
- C. Contractor shall install new filter, strainers etc. on any equipment that was used during Construction.
 - 1. Contractor may clean certain filters and/or strainers with prior written approval from the Architect.

- D. Contractor shall replace any floor drain/sink grate and/or cleanout cover that is stained or does not appear to be in a “brand new” condition.

3.06 CONTRACT CLOSE OUT FORMS AND INSTRUCTIONS

- A. AIA Document G704 – Certification of Substantial Completion (Issued by Architect)
 - 1. The G704 must be signed and dated by an authorized representative of the Contractor.
 - 2. Three signed originals must be submitted to the Architect.
- B. AIA Document G706 – Contractor’s Affidavit of Payment of Debts and Claims (Document Included at the end of this Section).
- C. AIA Document G706A – Affidavit and Waiver of Lien (Document Included at the end of this Section)
 - 1. Fill in all blanks of the form completely.
 - 2. The G706A must be signed and dated by Contractor’s authorized representative and notarized.
 - 3. Three signed and notarized originals must be submitted to the Architect.
- D. AIA Document G707 – Consent of Surety to Final Payment (Document Included at the end of this Section)
 - 1. Fill in all blanks of the form completely.
 - 2. The G707 must be signed and dated by the Surety’s authorized representative and notarized.
 - 3. Three signed and notarized originals must be submitted to the Architect.
- E. AIA Document G702/CMa – Application and Certificate for Payment
 - 1. Submit four (4) originals of the final G702/CMa, signed by Contractor’s authorized representative and notarized.
 - 2. Include with each copy of the final G702/CMa a Release of Lien from each Subcontractor.
- F. Final Release and Waiver of Lien (Document Included at the end of this Section)

FORM 017700 CCK

AIR LEAKAGE, COMPONENT CERTIFICATION AND VAPOR RETARDER REQUIREMENTS

Check the boxes for work completed:

<input type="checkbox"/>	All joints and penetrations are caulked, gasketed or covered with a moisture vapor-permeable wrapping material installed in accordance with the manufacturer's installation instructions.
<input type="checkbox"/>	Windows, doors and skylights certified as meeting leakage requirements.
<input type="checkbox"/>	Component R-Values and U-factors labeled as certified.
<input type="checkbox"/>	Insulation installed according to manufacturer's instructions, in substantial contact with the surface being insulated, and in a manner that achieves the rated R-value without compressing the insulation.
<input type="checkbox"/>	Overhead doors are completely weather sealed.
<input type="checkbox"/>	Outdoor air intake and exhaust openings in the building envelope are equipped with motorized dampers.
<input type="checkbox"/>	Recessed lighting fixtures installed in the building envelope are Type IC rated as meeting ASTM E283, are sealed with gasket or caulk.
<input type="checkbox"/>	The vapor retarder is continuous on the warm side of the entire building envelope, is properly sealed, and undamaged. (Detailed photographic proof required.)
<input type="checkbox"/>	All weatherstripping is unbroken, without gaps and snug to joined surfaces.

General Contractor

Date

END OF SECTION

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DRAFT AIA® Document G706™ – 1994

Contractor's Affidavit of Payment of Debts and Claims

PROJECT: *(Name and address)*

Additions/Alterations –
Independent Fire Station
322 Lexington Ave
Mount Kisco, NY 10549

ARCHITECT'S PROJECT NUMBER:

CONTRACT FOR:

CONTRACT DATED:

TO OWNER: *(Name and address)*

Village of Mount Kisco »« »
«Village Hall, 104 Main Street
Mount Kisco, NY 10549

OWNER: ☐

ARCHITECT: ☐

CONTRACTOR: ☐

SURETY: ☐

OTHER: ☐

STATE OF:

COUNTY OF:

The undersigned hereby certifies that, except as listed below, payment has been made in full and all obligations have otherwise been satisfied for all materials and equipment furnished, for all work, labor, and services performed, and for all known indebtedness and claims against the Contractor for damages arising in any manner in connection with the performance of the Contract referenced above for which the Owner or Owner's property might in any way be held responsible or encumbered.

EXCEPTIONS:

SUPPORTING DOCUMENTS ATTACHED HERETO:

1. Consent of Surety to Final Payment. Whenever Surety is involved, Consent of Surety is required. AIA Document G707, Consent of Surety, may be used for this purpose

Indicate Attachment ☐ Yes ☒ No

CONTRACTOR: *(Name and address)*

BY:

(Signature of authorized representative)

The following supporting documents should be attached hereto if required by the Owner:

1. Contractor's Release or Waiver of Liens, conditional upon receipt of final payment.
2. Separate Releases or Waivers of Liens from Subcontractors and material and equipment suppliers, to the extent required by the Owner, accompanied by a list thereof.
3. Contractor's Affidavit of Release of Liens (AIA Document G706A).

(Printed name and title)

Subscribed and sworn to before me on this date:

Notary Public:

My Commission Expires:

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DRAFT AIA® Document G706™ – 1994

Contractor's Affidavit of Payment of Debts and Claims

PROJECT: *(Name and address)*

Additions/Alterations – Mutual
Fire Station
99 Main St
Mount Kisco, NY 10549

ARCHITECT'S PROJECT NUMBER:

CONTRACT FOR:

CONTRACT DATED:

TO OWNER: *(Name and address)*

Village of Mount Kisco »« »
«Village Hall, 104 Main Street
Mount Kisco, NY 10549

OWNER: ☐

ARCHITECT: ☐

CONTRACTOR: ☐

SURETY: ☐

OTHER: ☐

STATE OF:

COUNTY OF:

The undersigned hereby certifies that, except as listed below, payment has been made in full and all obligations have otherwise been satisfied for all materials and equipment furnished, for all work, labor, and services performed, and for all known indebtedness and claims against the Contractor for damages arising in any manner in connection with the performance of the Contract referenced above for which the Owner or Owner's property might in any way be held responsible or encumbered.

EXCEPTIONS:

SUPPORTING DOCUMENTS ATTACHED HERETO:

1. Consent of Surety to Final Payment. Whenever Surety is involved, Consent of Surety is required. AIA Document G707, Consent of Surety, may be used for this purpose

Indicate Attachment ☐ Yes ☒ No

CONTRACTOR: *(Name and address)*

BY:

(Signature of authorized representative)

The following supporting documents should be attached hereto if required by the Owner:

1. Contractor's Release or Waiver of Liens, conditional upon receipt of final payment.
2. Separate Releases or Waivers of Liens from Subcontractors and material and equipment suppliers, to the extent required by the Owner, accompanied by a list thereof.
3. Contractor's Affidavit of Release of Liens (AIA Document G706A).

(Printed name and title)

Subscribed and sworn to before me on this date:

Notary Public:

My Commission Expires:

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DRAFT AIA[®] Document G706A[™] – 1994

Contractor's Affidavit of Release of Liens

PROJECT: *(Name and address)*

Additions/Alterations – Independent
Fire Station
322 Lexington Ave
Mount Kisco, NY 10549

TO OWNER: *(Name and address)*

Village of Mount Kisco »« »
«Village Hall, 104 Main Street
Mount Kisco, NY 10549

**ARCHITECT'S PROJECT
NUMBER:**

**CONTRACT FOR:
CONTRACT DATED:**

OWNER: ☐

ARCHITECT: ☐

CONTRACTOR: ☐

SURETY: ☐

OTHER: ☐

**STATE OF:
COUNTY OF:**

The undersigned hereby certifies that to the best of the undersigned's knowledge, information and belief, except as listed below, the Releases or Waivers of Lien attached hereto include the Contractor, all Subcontractors, all suppliers of materials and equipment, and all performers of Work, labor or services who have or may have liens or encumbrances or the right to assert liens or encumbrances against any property of the Owner arising in any manner out of the performance of the Contract referenced above.

EXCEPTIONS:

SUPPORTING DOCUMENTS ATTACHED HERETO:

1. Contractor's Release or Waiver of Liens, conditional upon receipt of final payment.
2. Separate Releases or Waivers of Liens from Subcontractors and material and equipment suppliers, to the extent required by the Owner, accompanied by a list thereof.

CONTRACTOR: *(Name and address)*

BY:

*(Signature of authorized
representative)*

(Printed name and title)

Subscribed and sworn to before me on this date:

Notary Public:

My Commission Expires:

PAGE INTENTIONALLY BLANK

DRAFT AIA[®] Document G706A[™] – 1994

Contractor's Affidavit of Release of Liens

PROJECT: *(Name and address)*

Additions/Alterations – Mutual Fire
Station
99 Main St
Mount Kisco, NY 10549

**ARCHITECT'S PROJECT
NUMBER:**

**CONTRACT FOR:
CONTRACT DATED:**

TO OWNER: *(Name and address)*

Village of Mount Kisco »« »
«Village Hall, 104 Main Street
Mount Kisco, NY 10549

OWNER: ☐

ARCHITECT: ☐

CONTRACTOR: ☐

SURETY: ☐

OTHER: ☐

**STATE OF:
COUNTY OF:**

The undersigned hereby certifies that to the best of the undersigned's knowledge, information and belief, except as listed below, the Releases or Waivers of Lien attached hereto include the Contractor, all Subcontractors, all suppliers of materials and equipment, and all performers of Work, labor or services who have or may have liens or encumbrances or the right to assert liens or encumbrances against any property of the Owner arising in any manner out of the performance of the Contract referenced above.

EXCEPTIONS:

SUPPORTING DOCUMENTS ATTACHED HERETO:

1. Contractor's Release or Waiver of Liens, conditional upon receipt of final payment.
2. Separate Releases or Waivers of Liens from Subcontractors and material and equipment suppliers, to the extent required by the Owner, accompanied by a list thereof.

CONTRACTOR: *(Name and address)*

BY:

*(Signature of authorized
representative)*

(Printed name and title)

Subscribed and sworn to before me on this date:

Notary Public:

My Commission Expires:

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DRAFT AIA® Document G707™ – 1994

Consent Of Surety to Final Payment

PROJECT: *(Name and address)*
Additions/Alterations – Independent Fire
Station
322 Lexington Ave
Mount Kisco, NY 10549

ARCHITECT'S PROJECT NUMBER:

CONTRACT FOR:

CONTRACT DATED:

TO OWNER: *(Name and address)*
Village of Mount Kisco »« »
«Village Hall, 104 Main Street
Mount Kisco, NY 10549

OWNER: ☐

ARCHITECT: ☐

CONTRACTOR: ☐

SURETY: ☐

OTHER: ☐

In accordance with the provisions of the Contract between the Owner and the Contractor as indicated above, the
(Insert name and address of Surety)

on bond of
(Insert name and address of Contractor)

hereby approves of the final payment to the Contractor, and agrees that final payment to the Contractor shall not relieve the
Surety of any of its obligations to
(Insert name and address of Owner)

Princeton First Aid & Rescue Squad, Inc. »« »
«237 North Harrison Street
Princeton, NJ 08540

as set forth in said Surety's bond.

IN WITNESS WHEREOF, the Surety has hereunto set its hand on this date:
(Insert in writing the month followed by the numeric date and year.)

(Surety)

(Signature of authorized representative)

(Printed name and title)

Attest:
(Seal):

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DRAFT AIA® Document G707™ – 1994

Consent Of Surety to Final Payment

PROJECT: *(Name and address)*
Additions/Alterations – Mutual Fire Station
99 Main St
Mount Kisco, NY 10549

ARCHITECT'S PROJECT NUMBER:

CONTRACT FOR:

CONTRACT DATED:

TO OWNER: *(Name and address)*
Village of Mount Kisco »« »
«Village Hall, 104 Main Street
Mount Kisco, NY 10549

OWNER: ☐

ARCHITECT: ☐

CONTRACTOR: ☐

SURETY: ☐

OTHER: ☐

In accordance with the provisions of the Contract between the Owner and the Contractor as indicated above, the
(Insert name and address of Surety)

on bond of
(Insert name and address of Contractor)

hereby approves of the final payment to the Contractor, and agrees that final payment to the Contractor shall not relieve the
Surety of any of its obligations to
(Insert name and address of Owner)

Princeton First Aid & Rescue Squad, Inc. »« »
«237 North Harrison Street
Princeton, NJ 08540

as set forth in said Surety's bond.

IN WITNESS WHEREOF, the Surety has hereunto set its hand on this date:
(Insert in writing the month followed by the numeric date and year.)

(Surety)

(Signature of authorized representative)

(Printed name and title)

Attest:
(Seal):

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FINAL RELEASE AND WAIVER OF LIEN

PROJECT: Additions/Alterations at **Independent Station**
OWNER: Village of Mount Kisco
ARCHITECT: H2M architects + engineers
 3 Lear Jet Lane, Suite 205
 Latham, NY 12110
 Ph: (518) 765-5105; Fax: (518) 765-5107

CONTRACTOR: _____

SUPPLIER: _____

FINAL ADJUSTED CONTRACT AMOUNT: _____

The UNDERSIGNED has received in full, payment totaling \$_____ for all work, labor, materials, equipment and services in connection with the project named above and in accordance with a contract entered into by and between the Owner_____ and Contractor_____ on the date of _____.

The UNDERSIGNED hereby releases and discharges the Owner and Architect listed above from any and all claims, liability, actions, suits and/or demands of every kind and character, including but not limited to claims for labor and/or materials and/or equipment and/or additional work and/or delays under the aforesaid contract in any way growing out of or connected with said contract. The undersigned does hereby covenant and agree not to claim or file a mechanic's lien or any other lien against the contract and/or premises for materials furnished or labor performed in connection with such a project. This document specifically relates to any and all causes of action in law or in equity against the Owner or Architect to the Contract and the Project.

The UNDERSIGNED further warrants that

- 1) All subcontractors employed by the undersigned upon this project have been fully paid to this date hereof;
- 2) All workmen employed by it or its subcontractors upon this project have been fully paid to this date hereof;
- 3) All materialmen from whom the undersigned or its subcontractors have purchased materials used in this project have been paid for the materials delivered on or prior to this date;
- 4) None of such workmen and/or materialmen have any claim or demand or right of lien, and;
- 5) He/She is an authorized officer with full power to execute this Final Release and Waiver of Lien.

(a) IN WITNESS WHEREOF, the undersigned has caused this receipt, release and waiver of lien to be signed this _____ day of _____, 20__.

 (Individual or partner)

-OR-

(b) IN WITNESS WHEREOF, the undersigned has caused its corporate seal to be hereunto affixed and this receipt, release and waiver of lien to be signed by its duly authorized officer this _____ day of _____, 20__.

 (Name of Corporation)

By: _____

(Signature)

Title: _____

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FINAL RELEASE AND WAIVER OF LIEN

PROJECT: Additions/Alterations at **Mutual Station**
OWNER: Village of Mount Kisco
ARCHITECT: H2M architects + engineers
 3 Lear Jet Lane, Suite 205
 Latham, NY 12110
 Ph: (518) 765-5105; Fax: (518) 765-5107

CONTRACTOR: _____

SUPPLIER: _____

FINAL ADJUSTED CONTRACT AMOUNT: _____

The UNDERSIGNED has received in full, payment totaling \$_____ for all work, labor, materials, equipment and services in connection with the project named above and in accordance with a contract entered into by and between the Owner_____ and Contractor_____ on the date of _____.

The UNDERSIGNED hereby releases and discharges the Owner and Architect listed above from any and all claims, liability, actions, suits and/or demands of every kind and character, including but not limited to claims for labor and/or materials and/or equipment and/or additional work and/or delays under the aforesaid contract in any way growing out of or connected with said contract. The undersigned does hereby covenant and agree not to claim or file a mechanic's lien or any other lien against the contract and/or premises for materials furnished or labor performed in connection with such a project. This document specifically relates to any and all causes of action in law or in equity against the Owner or Architect to the Contract and the Project.

The UNDERSIGNED further warrants that

- 1) All subcontractors employed by the undersigned upon this project have been fully paid to this date hereof;
- 2) All workmen employed by it or its subcontractors upon this project have been fully paid to this date hereof;
- 3) All materialmen from whom the undersigned or its subcontractors have purchased materials used in this project have been paid for the materials delivered on or prior to this date;
- 4) None of such workmen and/or materialmen have any claim or demand or right of lien, and;
- 5) He/She is an authorized officer with full power to execute this Final Release and Waiver of Lien.

(a) IN WITNESS WHEREOF, the undersigned has caused this receipt, release and waiver of lien to be signed this _____ day of _____, 20__.

 (Individual or partner)

-OR-

(b) IN WITNESS WHEREOF, the undersigned has caused its corporate seal to be hereunto affixed and this receipt, release and waiver of lien to be signed by its duly authorized officer this _____ day of _____, 20__.

 (Name of Corporation)

By: _____

(Signature)

Title: _____

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PART 1 GENERAL

1.01 RELATED DOCUMENTS

- A. Drawings and general provisions of the Agreement, including General Conditions and Division 01 of the Project Manual, apply to work of this Section.

1.02 SUMMARY

- A. Section includes administrative and procedural requirements for instruction Owner's personnel, including the following:
 - 1. Instruction in operation and maintenance of systems, subsystems, and equipment.
 - 2. Demonstration and training video recordings.

1.03 SUBMITTALS

- A. Instruction Program: Submit three (3) copies of outline of instructional program for demonstration and training, including a list of training modules and a schedule of proposed dates, times, length of instruction time, and instructors' names for each training module. Include learning objective and outline for each training module.
- B. Qualification Data: For firms and persons specified in "Quality Assurance" Article to demonstrate their capabilities and experience. Include lists of completed projects with project names and addresses, names and addresses of Architects and Owners, and other information specified.
- C. Attendance Record: For each training module, submit list of participants and length of instruction time.
- D. Evaluations: For each participant and for each training module, submit results and documentation of performance-based test.
- E. Provide approved final Operations and Maintenance Manuals for use during the training sessions.

1.04 QUALITY ASSURANCE

- A. Facilitator Qualifications: A firm or individual experienced in training or educating maintenance personnel in a training program similar in content and extent to that indicated for this Project, and whose work has resulted in training or education with a record of successful learning performance.
- B. Instructor Qualifications: A factory-authorized service representative experienced in operation and maintenance procedures and training.
- C. Schedule training only after system subject of training has been fully tested and is fully operational.

1.05 COORDINATION

- A. Coordinate instruction schedule with Owner's operations. Adjust schedule as required to minimize disrupting Owner's operations and to ensure availability of Owner's personnel.

- B. Coordinate instructors, including providing notification of dates, times, length of instruction time, and course content.
- C. Coordinate content of training modules with content of approved emergency, operation, and maintenance manuals. Do not submit instruction program until operation and maintenance date have been reviewed and approved by Architect.

PART 2 PRODUCTS

2.01 INSTRUCTION PROGRAM

- A. Program Structure: Develop an instruction program that includes individual training modules for each system and for equipment not part of a system, as required by individual Specification Sections.
- B. Training Modules: Develop a learning objective and teaching outline for each module. Include a description of specific skills and knowledge that participant is expected to master. For each module include instruction for the following:
 - 1. Basis of System Design, Operational Requirements, and Criteria: Include the following:
 - a. System, subsystem, and equipment descriptions.
 - b. Performance and design criteria if Contractor is delegated design responsibility.
 - c. Operating standards.
 - d. Regulatory requirements.
 - e. Equipment function.
 - f. Operating characteristics.
 - g. Limiting conditions.
 - h. Performance curves.
 - 2. Documentation: Review the following items in detail:
 - a. Emergency manuals.
 - b. Systems and equipment operation manuals.
 - c. Systems and equipment maintenance manuals.
 - d. Product maintenance manuals.
 - e. Project Record Documents.
 - f. Identification systems.
 - g. Warranties and bonds.
 - h. Maintenance service agreements and similar continuing commitments.
 - 3. Emergencies: Include the following, as applicable:
 - a. Instructions on meaning of warnings, trouble indications, and error messages.
 - b. Instructions on stopping.
 - c. Shutdown instructions for each type of emergency.
 - d. Operating instructions for conditions outside of normal operating limits.
 - e. Sequences for electric or electronic systems.
 - f. Special operating instructions and procedures.
 - 4. Operations: Include the following, as applicable:
 - a. Startup procedures.
 - b. Equipment or system break-in procedures.
 - c. Routine and normal operating instructions.
 - d. Regulation and control procedures.
 - e. Control sequences.
 - f. Safety procedures.
 - g. Instructions on stopping.
 - h. Normal shutdown instructions.

- i. Operating procedures for emergencies.
- j. Operating procedures for system, subsystem, or equipment failure.
- k. Seasonal and weekend operating instructions.
- l. Required sequences for electric or electronic systems.
- m. Special operating instructions and procedures.
- 5. Adjustments: Include the following:
 - a. Alignments.
 - b. Checking adjustments.
 - c. Noise and vibration adjustments.
 - d. Economy and efficiency adjustments.
- 6. Troubleshooting: Include the following:
 - a. Diagnostic instructions.
 - b. Test and inspection procedures.
- 7. Maintenance: Include the following:
 - a. Inspection procedures.
 - b. Types of cleaning agents to be used and methods of cleaning.
 - c. List of cleaning agents and methods of cleaning detrimental to product.
 - d. Procedures for routine cleaning.
 - e. Procedures for preventive maintenance.
 - f. Procedures for routine maintenance.
 - g. Instruction on use of special tools.
- 8. Repairs: Include the following:
 - a. Diagnosis instructions.
 - b. Repair instructions.
 - c. Disassembly; component removal, repair, and replacement; and reassembly instructions.
 - d. Instructions for identifying parts and components.
 - e. Review of spare parts needed for operation and maintenance.

PART 3 EXECUTION

3.01 PREPARATION

- A. Assemble educational materials necessary for instruction, including documentation and training module. Assemble training modules into a combined training manual.
- B. Set up instructional equipment at instruction location.
- C. Provide the final training manual, a site specific agenda and the resume of the training instructor to the Architect and Clerk of the Works.

3.02 INSTRUCTION

- A. Facilitator: Engage a qualified facilitator to prepare instruction program and training modules, to coordinate instructors, and to coordinate between Contractor and Owner for number of participants, instruction times, and location.
- B. Engage qualified instructors to instruct Owner's personnel to adjust, operate, and maintain systems, subsystems, and equipment not part of a system.
 - 1. Owner will furnish Contractor with names and positions of participants.
 - 2. Schedule training only after system has been tested and is fully operational.

- C. Scheduling: Provide instruction at mutually agreed on times. For equipment that requires seasonal operation, provide similar instruction at start of each season. Schedule training with Owner, through the Clerk of Works with at least fourteen days advance notice. Start up and commission of systems must be completed before scheduling instructional session.
- D. Review all valve tags, labeling and access locations and provide summary or plans of all valves, shutoffs and maintenance access locations.
- E. Evaluation: At conclusion of each training module, assess and document each participant's mastery of module by use of a demonstration performance-based test.
- F. Cleanup: Collect used and leftover educational materials and remove from Project site. Remove instructional equipment. Restore systems and equipment to condition existing before initial training use.
- G. Taping: Provide CD of training session in digital format requested by Owner and provide copies to Owner within 10 days of training session.

END OF SECTION