

**CONTRACT DOCUMENTS  
AND  
TECHNICAL SPECIFICATIONS  
FOR  
CENTENNIAL ARMS APARTMENTS  
ROOFING AND PARKING LOT REPAIRS**

**9829 N ST.  
LIVE OAK, CA 95953**

AUGUST 2, 2016

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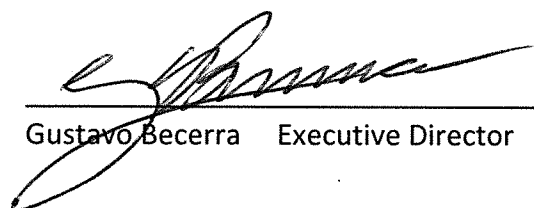
Regional Housing Authority of Sutter & Nevada Counties  
1455 Butte House Road  
Yuba City, CA 95993

Sealed BIDS for the replacement of roofing and related components at Centennial Arms Apartments, Building number 1, 9829 N Street, Live Oak, CA 95953 will be received at the office of the Regional Housing Authority of Sutter and Nevada Counties until **10:00am, (local time) Tuesday, August 23, 2016**, and then at said office publicly opened and read aloud.

CONTRACT DOCUMENTS may be obtained at a pre-bid inspection held on **Tuesday, August 2, 2016 at 10:00am** at the construction site.

Contract documents may also be obtained from Regional Housing Authority of Sutter and Nevada Counties at 1455 Butte House Road, Yuba City, CA 95993.

All contracts exceeding \$10,000 shall contain a provision requiring compliance with Executive Order 11246, entitled, "Equal Employment Opportunity", as amended by Executive Order 11375 and as supplemented in Department of Labor regulations (41 CFR Part 60).

  
\_\_\_\_\_  
Gustavo Becerra Executive Director

7-27-16  
Date



# AIA DOCUMENT A701-1997

## *Instructions to Bidders*

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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 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 other sample bidding and contract forms. The proposed Contract Documents consist of the form of Agreement between the Owner and Contractor, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications and all Addenda issued prior to execution of the Contract.
- 1.2 Definitions set forth in the General Conditions of the Contract for Construction, AIA Document A201, or in other Contract Documents are applicable to the Bidding Documents.
- 1.3 Addenda are written or graphic instruments issued by the Architect prior to the execution of the Contract which modify or interpret the Bidding Documents by additions, deletions, clarifications or corrections.
- 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 as the base, to which Work may be added or from which Work may be deleted for 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 the amount of 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 The Bidder by making a Bid represents that:
- 2.1.1 The Bidder has read and understands the Bidding Documents or Contract Documents, to the extent that such documentation relates to the Work for which the Bid is submitted, and for other portions of the Project, if any, being bid concurrently or presently under construction.
- 2.1.2 The Bid is made in compliance with the Bidding Documents.
- 2.1.3 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 personal observations with the requirements of the proposed Contract Documents.
- 2.1.4 The Bid is based upon the materials, equipment and systems required by the Bidding Documents without exception.



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## ARTICLE 3 BIDDING DOCUMENTS

### 3.1 COPIES

3.1.1 Bidders may obtain complete sets of the Bidding Documents from the issuing office designated in the Advertisement or Invitation to Bid in the number and for the deposit sum, if any, stated therein. The deposit will be refunded to Bidders who submit a bona fide Bid and return the Bidding Documents in good condition within ten days after receipt of Bids. The cost of replacement of missing or damaged documents will be deducted from the deposit. A Bidder receiving a Contract award may retain the Bidding Documents and the Bidder's deposit will be refunded.

3.1.2 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.

3.1.3 Bidders shall use complete sets of Bidding Documents in preparing Bids; neither the Owner nor Architect assumes responsibility for errors or misinterpretations resulting from the use of incomplete sets of Bidding Documents.

3.1.4 The Owner and Architect may make copies of the Bidding Documents available on the above terms for the purpose of obtaining Bids on the Work. No license or grant of use is conferred by issuance of copies of the Bidding Documents.

### 3.2 INTERPRETATION OR CORRECTION OF BIDDING DOCUMENTS

3.2.1 The Bidder shall carefully study and compare the Bidding Documents with each other, and with other work being bid concurrently or presently under construction to the extent that it relates to the Work for which the Bid is submitted, shall examine the site and local conditions, and shall at once report to the Architect errors, inconsistencies or ambiguities discovered.

3.2.2 Bidders and Sub-bidders requiring clarification or interpretation of the Bidding Documents shall make a written request which shall reach the Architect at least seven days prior to the date for receipt of Bids.

3.2.3 Interpretations, corrections and changes of the Bidding Documents will be made by Addendum. Interpretations, corrections and changes of the Bidding Documents made in any other manner will 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 No substitution will be considered prior to receipt of Bids unless written request for approval has been received by the Architect at least ten days prior to the date for receipt of Bids. Such requests shall include the name of the material or equipment for which it is to be substituted and a complete description of the proposed substitution including drawings, performance and test data, and other information necessary for an evaluation. A statement setting forth changes in other materials, equipment or other portions of the Work, including changes in the work of other contracts that incorporation of the proposed substitution would require, shall be included. 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.

3.3.3 If the Architect approves a proposed substitution prior to receipt of Bids, such approval will be set forth in an Addendum. Bidders shall not rely upon approvals made in any other manner.



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3.3.4 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 all who are known by the issuing office to have received a complete set of Bidding Documents.

3.4.2 Copies of Addenda will be made available for inspection wherever Bidding Documents are on file for that purpose.

3.4.3 Addenda will be issued no later than 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 Each Bidder shall ascertain prior to submitting a Bid 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 the Bidding Documents.

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

4.1.3 Sums shall be expressed in both words and figures. In case of discrepancy, the amount written in words shall govern.

4.1.4 Interlineations, alterations and erasures 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."

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 make no 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 of the Bidder and the nature of legal form of the Bidder. The Bidder shall provide evidence of legal authority to perform within the jurisdiction of the Work. Each copy shall be signed by the person or persons legally authorized to bind the Bidder to a contract. A Bid by a corporation shall further give 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.

#### 4.2 BID SECURITY

4.2.1 Each Bid shall be accompanied by a bid security in the form and amount required if so stipulated in the Instructions to Bidders. The Bidder pledges to enter into a Contract with the Owner on the terms stated in the Bid and will, 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. The amount of the bid security shall not be forfeited to the Owner in the event the Owner fails to comply with Paragraph 6.2.



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4.2.2 If a surety bond is required, it shall be written on AIA Document A310, Bid Bond, unless otherwise provided in the Bidding Documents, and the attorney-in-fact who executes the bond on behalf of the surety shall affix to the bond a certified and current copy of the power of attorney.

4.2.3 The Owner will have the right to retain the bid security of Bidders to whom an award is being considered until either (a) the Contract has been executed and bonds, if required, have been furnished, or (b) the specified time has elapsed so that Bids may be withdrawn or (c) all Bids have been rejected.

#### 4.3 SUBMISSION OF BIDS

4.3.1 All copies of the Bid, the bid security, if any, 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.

4.3.2 Bids shall be deposited at the designated location prior to the time and date for receipt of Bids. Bids received after the time and date for receipt of Bids will be returned unopened.

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

4.3.4 Oral, telephonic, telegraphic, facsimile or other electronically transmitted bids will not be considered.

#### 4.4 MODIFICATION OR WITHDRAWAL OF BID

4.4.1 A Bid may not be modified, withdrawn or canceled by the Bidder during the stipulated time period following the time and date designated for the receipt of Bids, and each Bidder so agrees in submitting a Bid.

4.4.2 Prior to the time and date designated for receipt of Bids, a Bid submitted may be modified or withdrawn by notice to the party receiving Bids at the place designated for receipt of Bids. Such notice shall be in writing over the signature of the Bidder. Written confirmation over the signature of the Bidder shall be received, and date- and time-stamped by the receiving party on or before the date and time set for receipt of Bids. A change shall be so worded as not to reveal the amount of the original Bid.

4.4.3 Withdrawn Bids may be resubmitted up to the date and time designated for the receipt of Bids provided that they are then fully in conformance with these Instructions to Bidders.

4.4.4 Bid security, if required, shall be in an amount sufficient for the Bid as resubmitted.

### ARTICLE 5 CONSIDERATION OF BIDS

#### 5.1 OPENING OF BIDS

At the discretion of the Owner, if stipulated in the Advertisement or Invitation to Bid, the properly identified Bids received on time will be publicly opened and will be read aloud. An abstract of the Bids may be made available to Bidders.

#### 5.2 REJECTION OF BIDS

The Owner shall have the right to reject any or all Bids. A Bid not accompanied by a required bid security or by other data required by the Bidding Documents, or a Bid which is in any way incomplete or irregular is subject to rejection.



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### 5.3 ACCEPTANCE OF BID (AWARD)

5.3.1 It is the intent of the Owner to award a Contract to the lowest qualified Bidder provided the Bid has been submitted in accordance with the requirements of the Bidding Documents and does not exceed the funds available. 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 own best interests.

5.3.2 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 low 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, a properly executed AIA Document A305, Contractor's Qualification Statement, unless such a Statement has been previously required and submitted as a prerequisite to the issuance of Bidding Documents.

### 6.2 OWNER'S FINANCIAL CAPABILITY

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

### 6.3 SUBMITTALS

6.3.1 The Bidder shall, as soon as practicable or as stipulated in the Bidding Documents, after notification of selection for the award of a Contract, furnish to the Owner through the Architect in writing:

- 1 a designation of the Work to be performed with the Bidder's own forces;
- 2 names of the manufacturers, products, and the suppliers of principal items or systems of materials and equipment proposed for the Work; 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 in writing 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, (1) withdraw the Bid or (2) submit an acceptable substitute person or entity with an adjustment in the Base Bid or Alternate Bid to cover 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.



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## 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. Bonds may be secured through the Bidder's usual sources.

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 If the Owner requires that bonds be secured from other than the Bidder's usual sources, changes in cost will be adjusted as provided in the Contract Documents.

### 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 be commenced prior thereto 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 Subparagraph 7.2.1.

7.2.2 Unless otherwise provided, the bonds shall be written on AIA Document A312, Performance Bond and Payment Bond. Both bonds shall be written in the amount of the Contract Sum.

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 thereto a certified and current copy of the power of attorney.

## ARTICLE 8 FORM OF AGREEMENT BETWEEN OWNER AND CONTRACTOR

Unless otherwise required in the Bidding Documents, the Agreement for the Work will be written on AIA Document A101, Standard Form of Agreement Between Owner and Contractor Where the Basis of Payment Is a Stipulated Sum.



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ATTACHMENT TO AIA DOCUMENT A701-1997, *INSTRUCTIONS TO BIDDERS*

The provisions of this Attachment shall delete, modify and supplement the provisions contained in the "*Instructions to Bidders*," AIA Document A701-1997 Edition. The provisions contained in this Attachment will supersede any conflicting provisions of the AIA Document. The term "Agency," as used in this Attachment, means the United States of America, acting through the United States Department of Agriculture.

ARTICLE 2, BIDDER'S REPRESENTATIONS

Add the following subparagraph:

2.1.5 This Bid has been arrived at independently, without consultation, communication, or agreement as to any matter relating to this Bid with any other Bidder or with any competitor.

ARTICLE 4, BIDDING PROCEDURES

Add the following to subparagraph 4.1.1:

Only one copy of the Bid is to be submitted.

Delete subparagraph 4.2.1 and substitute the following:

4.2.1 Each Bid must be accompanied by a Bid Bond payable to the Owner for five percent of the total amount of the Bid.

Delete subparagraph 4.2.2 and substitute the following:

4.2.2 The Bid Bond shall be written on a form identical to that included in the Bidding Documents, and the attorney-in-fact who executes the bond on behalf of the surety shall affix to the bond a certified and current copy of the power of attorney.

Add the words "payment and performance" before the word "bonds"; and add the following to subparagraph 4.2.3:

As soon as the Bid prices have been compared, the Owner will return the Bonds of all except the three lowest responsible Bidders. When the Agreement is executed, the bonds of the two remaining unsuccessful bidders will be returned. The Bid Bond of the successful Bidder will be retained until the Payment Bond and Performance Bond have been executed and approved, after which it will be returned.

Add the following to subparagraph to paragraph 4.2:

4.2.4 In the case of failure of the Bidder to execute the Agreement and obtain the Performance Bond and Payment Bond within the agreed time, the Owner may consider the Bidder in default, in which case the Bid Bond accompanying the bid shall become the property of the Owner.

Add the following subparagraphs to paragraph 4.3:

4.3.5 All applicable laws, ordinances, and the rules and regulations of all authorities having jurisdiction over construction of the Project shall apply to the Contract throughout.

4.3.6 The Bidder agrees to abide by the requirements under Executive Order No. 11246, as amended, including specifically the provisions of the Equal Opportunity Clause and the Standard Federal Equal Employment Opportunity Construction Contract Specifications set forth in the Supplementary Conditions.

4.3.7 Further, the Bidder agrees to abide by the requirements of section 319 of Public Law 101-121, which pertains to lobbying activities and applies to the recipients of contracts or subcontracts that exceed \$100,000 at any tier under a Federal loan that exceeds \$150,000 or a Federal Grant that exceeds \$100,000. Each Bid shall be accompanied by a completed lobbying certification form identical to that included in the Bidding Documents.

4.3.8 The Bidder agrees to abide by the requirements under 7 C.F.R. part 3017, which pertains to the debarment or suspension of a person from participating in a Federal program or activity. Each Bid exceeding \$25,000 shall be accompanied by a relevant completed certifications form identical to that included in the Bidding Documents.

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Delete subparagraph 4.4.1 and substitute the following:

4.4.1 No Bidder may withdraw, modify or cancel a Bid within 60 calendar days after the actual date of the opening thereof. Should there be reasons why the Contract cannot be awarded within the specified period, the time may be extended by mutual agreement between the Owner and the Bidder, and the concurrence of the Agency.

Delete the words ", if required," from subparagraph 4.4.4.



ARTICLE 5, CONSIDERATION OF BIDS

Delete subparagraph 5.3.2 and substitute the following:

5.3.2 The Owner shall have the right to accept Alternates in the sequence listed and to determine the low Bidder on the basis of the sum of the Base Bid and the Alternates accepted.

ARTICLE 7, PERFORMANCE BOND AND PAYMENT BOND

Delete subparagraph 7.1.1 and substitute the following:

7.1.1 Prior to execution of the Contract, the Bidder shall furnish bonds covering the faithful performance of the Contract and the payment of any obligations arising thereunder in such form and amount as the Owner may prescribe. Both bonds shall be separately written, each in the amount of the contract sum. The cost shall be included in the Bid.

Delete subparagraph 7.1.2 and substitute the following:

7.1.2 Surety companies executing bonds must hold a certificate of authority as an acceptable surety on Federal Bonds as listed in Treasury Circular 570, as amended, and be authorized to transact business in the State where the Project is located.

Delete subparagraph 7.1.3.

Delete subparagraph 7.2.1 and substitute the following:

7.2.1 The party to whom the Contract is awarded will be required to execute the Agreement and obtain a Performance Bond and Payment Bond within ten (10) calendar days from the date when the Notice of Award is delivered to the Bidder. The Notice shall be accompanied by the necessary Agreement and Bond forms.

Delete subparagraph 7.2.2 and substitute the following:

7.2.2 The bonds shall be written on forms identical to those included in the Bidding Documents.

(NOTE: Any additional provisions that are necessary to remain effective after execution of the Contract for Construction will be inserted here and continue in the same format.)

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**BID FORM**

Proposal of \_\_\_\_\_  
(hereinafter called "BIDDER"), organized and existing under the laws of the State of California  
doing business as \_\_\_\_\_ \* . To The Regional  
Housing Authority of Sutter and Nevada Counties (hereinafter called "OWNER").

In compliance with the Advertisement for Bids, Bidder hereby proposes to perform all work for  
the replacement of roofing and related components at Centennial Arms Apartments in strict  
accordance with the Contract Documents, within the time set forth therein, and at the prices  
stated below.

By submission of this BID, each Bidder certifies, and in the case of a joint BID each party thereto  
certifies as to its own organization, that this BID has been arrived at independently, without  
consultation, communication, or agreement as to any matter relating to this BID with any other  
BIDDER or with any competitor.

Bidder hereby agrees to commence work under this contract on or before a date to be specified  
in the Notice to Proceed and to fully complete the Project within forty five (45) consecutive  
calendar days thereafter. Bidder further agrees to pay as liquidated damages, the sum of  
\$40.00 for each consecutive calendar day thereafter as provided in Article 3 of the Owner-  
Contractor Agreement.

\*Insert "a corporation", "a partnership", or "an individual" as applicable.

Bidder acknowledges receipt of the following Addenda:

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Bidder agrees to perform all the work described in the Contract Documents for the following sum:

Total of Bid \_\_\_\_\_ (\$ \_\_\_\_\_)

Note: Bids shall include sales tax and all other applicable taxes and fees.

Respectfully submitted:

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Title

\_\_\_\_\_  
Address

\_\_\_\_\_  
License number

Seal – (if Bid is by a corporation) \_\_\_\_\_

BID BOND

KNOW ALL MEN BY THESE PRESENTS, that we, the undersigned, \_\_\_\_\_  
\_\_\_\_\_ as Principal, and  
\_\_\_\_\_ as Surety, are  
hereby held and firmly bound unto \_\_\_\_\_ as OWNER  
in the penal sum of \_\_\_\_\_  
for the payment of which, well and truly to be made, we hereby jointly and  
severally bind ourselves, successors and assigns.

Signed, this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

The Condition of the above obligation is such that whereas the Principal  
has submitted to \_\_\_\_\_ a certain  
BID, attached hereto and hereby made a part hereof enter into a contract  
in writing, for the \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

NOW THEREFORE,

- (a) If said BID shall be rejected, or
- (b) If said BID shall be accepted and the Principal shall execute  
and deliver a contract in the Form of Contract attachment hereto  
(properly completed in accordance with said BID) and shall furnish a  
BOND for faithful performance of said contract, and for the payment  
of all persons performing labor and/or furnishing materials in  
connection therewith, and shall in all other respects perform the  
agreement created by the acceptance of said BID, then this obligation  
shall be void, otherwise the same shall

remain in force and effect; it being expressly understood and agreed that the liability of the Surety for any and all claims hereunder shall, in no event, exceed the penal amount of this obligation as herein stated.

The Surety, for value received, hereby stipulates and agrees that the obligations of said Surety and its BOND shall be in no way impaired or affected by any extension of the time within which the OWNER may accept such BID; and said Surety does hereby waive notice of any such extension.

IN WITNESS WHEREOF, the Principal and the Surety have hereunto set their hands and seals, and such of them as are corporations have caused their corporate seals to be hereto affixed and these presents to be signed by their proper officers, the day and year first set forth above.

\_\_\_\_\_  
Principal (L.S.)

\_\_\_\_\_  
Surety

By: \_\_\_\_\_

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IMPORTANT - Surety companies executing BONDS must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the State where the project is located. Power of Attorney must be attached.

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COMPLIANCE STATEMENT

This statement relates to a proposed contract with \_\_\_\_\_

\_\_\_\_\_  
(Name of borrower or grantee)

who expects to finance the contract with assistance from either the Rural Housing Service (RHS), Rural Business-Cooperative Service (RBS), or the Rural Utilities Service (RUS) or their successor agencies, United States Department of Agriculture (whether by a loan, grant, loan insurance, guarantee, or other form of financial assistance). I am the undersigned bidder or prospective contractor, I represent that:

1. I  have,  have not, participated in a previous contract or subcontract subject to Executive Order 11246 (regarding equal employment opportunity) or a preceding similar Executive Order.
2. If I have participated in such a contract or subcontract, I  have,  have not, filed all compliance reports that have been required to file in connection with the contract or subcontract.  
 If the proposed contract is for \$50,000 or more: or  If the proposed nonconstruction contract is for \$50,000 or more and I have 50 or more employees, I also represent that:
3. I  have,  have not previously had contracts subject to the written affirmative action programs requirements of the Secretary of Labor.
4. If I have participated in such a contract or subcontract,  I have,  have not developed and placed on file at each establishment affirmative action programs as required by the rules and regulations of the Secretary of Labor.

I understand that if I have failed to file any compliance reports that have been required of me, I am not eligible and will not be eligible to have my bid considered or to enter into the proposed contract unless and until I make an arrangement regarding such reports that is satisfactory to either the RHS, RBS or RUS, or to the office where the reports are required to be filed.

I also certify that I do not maintain or provide for my employees any segregated facilities at any of my establishments, and that I do not permit my employees to perform their services at any location, under my control, where segregated facilities are maintained. I certify further that I will not maintain or provide for my employees any segregated facilities at any of my establishments, and that I will not permit my employees to perform their services at any location, under my control, where segregated facilities are maintained. I agree that a breach of this certification is a violation of the Equal Opportunity clause in my contract. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, restrooms and wash rooms, restaurants and other eating areas time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, creed, color, or national origin, because of habit, local custom, or otherwise. I further agree that (except where I have obtained identical certifications for proposed subcontractors for specific time periods) I will obtain identical certifications from proposed subcontractors prior to the award of subcontracts exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity clause; that I will retain such certifications in my files; and that I will forward the following notice to such proposed subcontractors (except where the proposed subcontractors have submitted identical certifications for specific time periods):

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According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays the valid OMB control number. The valid OMB control number for this information collection is 0575-0018. The time required to complete this information collection is estimated to average 10 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

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**NOTICE TO PROSPECTIVE SUBCONTRACTORS OF REQUIREMENTS FOR  
CERTIFICATIONS OF NON-SEGREGATED FACILITIES**

A certification of Nonsegregated Facilities, as required by the May 9, 1967, order (32F.R. 7439, may 19, 1967) on Elimination of Segregated Facilities, by the Secretary of Labor, must be submitted prior to the award of a subcontract exceeding \$ 10,000 which is not exempt from the provisions of the Equal Opportunity clause. The certification may be submitted either for each subcontract or for all subcontracts during a period (i.e., quarterly, semiannually, or annually).

NOTE: The penalty for making false statements in offers is prescribed in 18 U.S.C. 1001.

DATE \_\_\_\_\_

\_\_\_\_\_  
*(Signature of Bidder or Prospective Contractor)*

\_\_\_\_\_  
*Address (including Zip Code)*



# Executive Order 11246

## **EEO and Affirmative Action Guidelines for Federal Contractors Regarding Race, Color, Gender, Religion, and National Origin**

### BASIC PROVISIONS

Since 1965, the U.S. Department of Labor's Office of Federal Contract Compliance Programs (**OFCCP**) has been committed to ensuring that Government contractors comply with the equal employment opportunity (**EEO**) and the affirmative action provisions of their contracts.

OFCCP administers and enforces Executive Order 11246, as amended, which prohibits federal contractors and federally-assisted construction contractors and subcontractors, who do over \$10,000 in Government business in one year from discriminating in employment decisions on the basis of race, color, religion, sex, or national origin.

The Executive Order also requires Government contractors to take affirmative action to insure that equal opportunity is provided in all aspects of their employment.

### AFFIRMATIVE ACTION REQUIREMENTS

Each Government contractor with 50 or more employees and \$50,000 or more in government contracts is required to develop a written affirmative action program (AAP) for each of its establishments.

A written affirmative action program helps the contractor identify and analyze potential problems in the participation and utilization of women and minorities in the contractor's workforce.

If there are problems, the contractor will specify in its AAP the specific procedures it will follow and the good faith efforts it will make to provide equal employment opportunity.

Expanded efforts in outreach, recruitment, training and other areas are some of the affirmative steps contractors can take to help members of the protected groups compete for jobs on equal footing with other applicants and employees.

### ENFORCEMENT AND COMPLIANCE

#### Compliance Reviews

OFCCP conducts compliance reviews to investigate the employment practices of Government contractors. During a compliance review, a compliance officer examines the contractor's affirmative action program; checks personnel, payroll, and other employment records; interviews employees and company officials; and investigates virtually all aspects of employment in the company.

The investigator also checks to see whether the contractor is making special efforts to achieve equal opportunity through affirmative action. If problems are discovered,

OFCCP will recommend corrective action and suggest ways to achieve equal employment opportunity.

### Complaint Investigations

Individuals may file complaints if they believe they have been discriminated against by federal contractors or subcontractors. Complaints also may be filed by organizations on behalf of the person or persons affected.

Complaints must be filed within 180 days from the date of the alleged discrimination, although filing time can be extended for a good reason.

If a complaint filed under Executive Order 11246 involves discrimination against only one person, OFCCP will normally refer it to the EEOC. Cases involving groups of people or indicating patterns of discrimination are generally investigated and resolved by OFCCP. Complaints may be filed directly with any of OFCCP's regional or district offices throughout the country, or with OFCCP in Washington, D.C.

### Compliance Assistance

To help contractors understand their contractual obligations for EEO and affirmative action, OFCCP provides technical assistance. District office staff offers guidance to contractors on how to develop an affirmative program through company seminars, training programs held in conjunction with industry liaison groups, and one-on-one consultations on affirmative action practices and procedures.

### Enforcing Contract Compliance

When a compliance review discloses problems, OFCCP attempts to work with the contractor, often entering into a conciliation agreement. A conciliation agreement may include back pay, job offers, seniority credit, promotions or other forms of relief for victims of discrimination. It may also involve new training programs, special recruitment efforts, or other affirmative action measures.

When conciliation efforts are unsuccessful, OFCCP refers the case to the Office of the Solicitor for enforcement through administrative enforcement proceedings. A contractor cited for violating EEO and affirmative action requirements may have a formal hearing before an administrative law judge.

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If conciliation is not reached before or after the hearing, sanctions may be imposed. For example, a contractor could lose its government contracts or subcontracts or be debarred, i.e., declared ineligible for any future government contracts.

### Further Information

For more information about contract compliance, filing complaints, or compliance assistance, contact any of OFCCP's regional or district offices. All offices are listed in telephone directories under U.S. Department of Labor, Employment Standards Administration, Office of Federal Contract Compliance Programs.

# Executive Order 11246, As Amended

## **Executive Order 11246 - Equal Employment Opportunity**

SOURCE: The provisions of Executive Order 11246 of Sept. 24, 1965, appear at 30 FR 12319, 12935, 3 CFR, 1964-1965 Comp., p.339, unless otherwise noted.

Under and by virtue of the authority vested in me as President of the United States by the Constitution and statutes of the United States, it is ordered as follows:

### **Part I - Nondiscrimination in Government Employment**

[Part I superseded by EO 11478 of Aug. 8, 1969, 34 FR 12985, 3 CFR, 1966-1970 Comp., p. 803]

### **Part II - Nondiscrimination in Employment by Government Contractors and Subcontractors**

#### **Subpart A - Duties of the Secretary of Labor**

**SEC. 201.** The Secretary of Labor shall be responsible for the administration and enforcement of Parts II and III of this Order. The Secretary shall adopt such rules and regulations and issue such orders as are deemed necessary and appropriate to achieve the purposes of Parts II and III of this Order.

[Sec. 201 amended by EO 12086 of Oct. 5, 1978, 43 FR 46501, 3 CFR, 1978 Comp., p. 230]

#### **Subpart B - Contractors' Agreements**

**SEC. 202.** Except in contracts exempted in accordance with Section 204 of this Order, all Government contracting agencies shall include in every Government contract hereafter entered into the following provisions:

During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

(2) The contractor will, in all solicitations or advancements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive

consideration for employment without regard to race, color, religion, sex or national origin.

(3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The contractor will comply with all provisions of Executive Order No. 11246 of Sept. 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(5) The contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(6) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be cancelled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246 of Sept. 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(7) The contractor will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States." [Sec. 202 amended by EO 11375 of Oct. 13, 1967, 32 FR 14303, 3 CFR, 1966-1970 Comp., p. 684, EO 12086 of Oct. 5, 1978, 43 FR 46501, 3 CFR, 1978 Comp., p. 230]

**SEC. 203.** Each contractor having a contract containing the provisions prescribed in Section 202 shall file, and shall cause each of his subcontractors to file, Compliance Reports with the contracting agency or the Secretary of Labor as may be directed. Compliance Reports shall be filed within such times and shall contain such information as to the practices, policies, programs, and employment policies, programs, and employment statistics of the contractor and each subcontractor, and shall be in such form, as the Secretary of Labor may prescribe.

(b) Bidders or prospective contractors or subcontractors may be required to state whether they have participated in any previous contract subject to the provisions of

this Order, or any preceding similar Executive order, and in that event to submit, on behalf of themselves and their proposed subcontractors, Compliance Reports prior to or as an initial part of their bid or negotiation of a contract.

(c) Whenever the contractor or subcontractor has a collective bargaining agreement or other contract or understanding with a labor union or an agency referring workers or providing or supervising apprenticeship or training for such workers, the Compliance Report shall include such information as to such labor union's or agency's practices and policies affecting compliance as the Secretary of Labor may prescribe: Provided, That to the extent such information is within the exclusive possession of a labor union or an agency referring workers or providing or supervising apprenticeship or training and such labor union or agency shall refuse to furnish such information to the contractor, the contractor shall so certify to the Secretary of Labor as part of its Compliance Report and shall set forth what efforts he has made to obtain such information.

(d) The Secretary of Labor may direct that any bidder or prospective contractor or subcontractor shall submit, as part of his Compliance Report, a statement in writing, signed by an authorized officer or agent on behalf of any labor union or any agency referring workers or providing or supervising apprenticeship or other training, with which the bidder or prospective contractor deals, with supporting information, to the effect that the signer's practices and policies do not discriminate on the grounds of race, color, religion, sex or national origin, and that the signer either will affirmatively cooperate in the implementation of the policy and provisions of this Order or that it consents and agrees that recruitment, employment, and the terms and conditions of employment under the proposed contract shall be in accordance with the purposes and provisions of the order. In the event that the union, or the agency shall refuse to execute such a statement, the Compliance Report shall so certify and set forth what efforts have been made to secure such a statement and such additional factual material as the Secretary of Labor may require.

[Sec. 203 amended by EO 11375 of Oct. 13, 1967, 32 FR 14303, 3 CFR, 1966-1970 Comp., p. 684; EO 12086 of Oct. 5, 1978, 43 FR 46501, 3 CFR, 1978 Comp., p. 230]

**SEC. 204** (a) The Secretary of Labor may, when the Secretary deems that special circumstances in the national interest so require, exempt a contracting agency from the requirement of including any or all of the provisions of Section 202 of this **Order** in any specific contract, subcontract, or purchase **order**.

(b) The Secretary of Labor may, by rule or regulation, exempt certain classes of contracts, subcontracts, or purchase orders (1) whenever work is to be or has been performed outside the United States and no recruitment of workers within the limits of the United States is involved; (2) for standard commercial supplies or raw materials; (3) involving less than specified amounts of money or specified numbers of workers; or (4) to the extent that they involve subcontracts below a specified tier.

(c) Section 202 of this **Order** shall not apply to a Government contractor or subcontractor that is a religious corporation, association, educational institution, or society, with respect to the employment of individuals of a particular religion to

perform work connected with the carrying on by such corporation, association, educational institution, or society of its activities. Such contractors and subcontractors are not exempted or excused from complying with the other requirements contained in this **Order**.

(d) The Secretary of Labor may also provide, by rule, regulation, or order, for the exemption of facilities of a contractor that are in all respects separate and distinct from activities of the contractor related to the performance of the contract: provided, that such an exemption will not interfere with or impede the effectuation of the purposes of this **Order**: and provided further, that in the absence of such an exemption all facilities shall be covered by the provisions of this **Order**."

[Sec. 204 amended by EO 13279 of Dec. 16, 2002, 67 FR 77141, 3 CFR, 2002 Comp., p. 77141 - 77144]

### **Subpart C - Powers and Duties of the Secretary of Labor and the Contracting Agencies**

**SEC. 205.** The Secretary of Labor shall be responsible for securing compliance by all Government contractors and subcontractors with this Order and any implementing rules or regulations. All contracting agencies shall comply with the terms of this Order and any implementing rules, regulations, or orders of the Secretary of Labor. Contracting agencies shall cooperate with the Secretary of Labor and shall furnish such information and assistance as the Secretary may require.

[Sec. 205 amended by EO 12086 of Oct. 5, 1978, 43 FR 46501, 3 CFR, 1978 Comp., p. 230]

**SEC. 206.** The Secretary of Labor may investigate the employment practices of any Government contractor or subcontractor to determine whether or not the contractual provisions specified in Section 202 of this Order have been violated. Such investigation shall be conducted in accordance with the procedures established by the Secretary of Labor.

(b) The Secretary of Labor may receive and investigate complaints by employees or prospective employees of a Government contractor or subcontractor which allege discrimination contrary to the contractual provisions specified in Section 202 of this Order.

[Sec. 206 amended by EO 12086 of Oct. 5, 1978, 43 FR 46501, 3 CFR, 1978 Comp., p. 230]

**SEC. 207.** The Secretary of Labor shall use his/her best efforts, directly and through interested Federal, State, and local agencies, contractors, and all other available instrumentalities to cause any labor union engaged in work under Government contracts or any agency referring workers or providing or supervising apprenticeship or training for or in the course of such work to cooperate in the implementation of the purposes of this Order. The Secretary of Labor shall, in appropriate cases, notify the Equal Employment Opportunity Commission, the Department of Justice, or other appropriate Federal agencies whenever it has reason to believe that the practices of any such labor organization or agency violate Title VI or Title VII of the Civil Rights Act of 1964 or other provision of Federal law.

[Sec. 207 amended by EO 12086 of Oct. 5, 1978, 43 FR 46501, 3 CFR, 1978 Comp., p. 230]

**SEC. 208.** The Secretary of Labor, or any agency, officer, or employee in the executive branch of the Government designated by rule, regulation, or order of the Secretary, may hold such hearings, public or private, as the Secretary may deem advisable for compliance, enforcement, or educational purposes.

(b) The Secretary of Labor may hold, or cause to be held, hearings in accordance with Subsection of this Section prior to imposing, ordering, or recommending the imposition of penalties and sanctions under this Order. No order for debarment of any contractor from further Government contracts under Section 209(6) shall be made without affording the contractor an opportunity for a hearing.

#### **Subpart D - Sanctions and Penalties**

**SEC. 209.** In accordance with such rules, regulations, or orders as the Secretary of Labor may issue or adopt, the Secretary may:

- (1) Publish, or cause to be published, the names of contractors or unions which it has concluded have complied or have failed to comply with the provisions of this Order or of the rules, regulations, and orders of the Secretary of Labor.
- (2) Recommend to the Department of Justice that, in cases in which there is substantial or material violation or the threat of substantial or material violation of the contractual provisions set forth in Section 202 of this Order, appropriate proceedings be brought to enforce those provisions, including the enjoining, within the limitations of applicable law, of organizations, individuals, or groups who prevent directly or indirectly, or seek to prevent directly or indirectly, compliance with the provisions of this Order.
- (3) Recommend to the Equal Employment Opportunity Commission or the Department of Justice that appropriate proceedings be instituted under Title VII of the Civil Rights Act of 1964.
- (4) Recommend to the Department of Justice that criminal proceedings be brought for the furnishing of false information to any contracting agency or to the Secretary of Labor as the case may be.
- (5) After consulting with the contracting agency, direct the contracting agency to cancel, terminate, suspend, or cause to be cancelled, terminated, or suspended, any contract, or any portion or portions thereof, for failure of the contractor or subcontractor to comply with equal employment opportunity provisions of the contract. Contracts may be cancelled, terminated, or suspended absolutely or continuance of contracts may be conditioned upon a program for future compliance approved by the Secretary of Labor.
- (6) Provide that any contracting agency shall refrain from entering into further contracts, or extensions or other modifications of existing contracts, with any non-complying contractor, until such contractor has satisfied the Secretary of Labor

that such contractor has established and will carry out personnel and employment policies in compliance with the provisions of this Order.

(b) Pursuant to rules and regulations prescribed by the Secretary of Labor, the Secretary shall make reasonable efforts, within a reasonable time limitation, to secure compliance with the contract provisions of this Order by methods of conference, conciliation, mediation, and persuasion before proceedings shall be instituted under subsection (a)(2) of this Section, or before a contract shall be cancelled or terminated in whole or in part under subsection (a)(5) of this Section.

[Sec. 209 amended by EO 12086 of Oct. 5, 1978, 43 FR 46501, 3 CFR, 1978 Comp., p. 230]

**SEC. 210.** Whenever the Secretary of Labor makes a determination under Section 209, the Secretary shall promptly notify the appropriate agency. The agency shall take the action directed by the Secretary and shall report the results of the action it has taken to the Secretary of Labor within such time as the Secretary shall specify. If the contracting agency fails to take the action directed within thirty days, the Secretary may take the action directly.

[Sec. 210 amended by EO 12086 of Oct. 5, 1978, 43 FR 46501, 3 CFR, 1978 Comp., p 230]

**SEC. 211.** If the Secretary shall so direct, contracting agencies shall not enter into contracts with any bidder or prospective contractor unless the bidder or prospective contractor has satisfactorily complied with the provisions of this Order or submits a program for compliance acceptable to the Secretary of Labor.

[Sec. 211 amended by EO 12086 of Oct. 5, 1978, 43 FR 46501, 3 CFR, 1978 Comp., p. 230]

**SEC. 212.** When a contract has been cancelled or terminated under Section 209(a)(5) or a contractor has been debarred from further Government contracts under Section 209(a)(6) of this Order, because of noncompliance with the contract provisions specified in Section 202 of this Order, the Secretary of Labor shall promptly notify the Comptroller General of the United States.

[Sec. 212 amended by EO 12086 of Oct. 5, 1978, 43 FR 46501, 3 CFR, 1978 Comp., p. 230]

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### **Subpart E - Certificates of Merit**

**SEC. 213.** The Secretary of Labor may provide for issuance of a United States Government Certificate of Merit to employers or labor unions, or other agencies which are or may hereafter be engaged in work under Government contracts, if the Secretary is satisfied that the personnel and employment practices of the employer, or that the personnel, training, apprenticeship, membership, grievance and representation, upgrading, and other practices and policies of the labor union or other agency conform to the purposes and provisions of this Order.



**SEC. 214.** Any Certificate of Merit may at any time be suspended or revoked by the Secretary of Labor if the holder thereof, in the judgment of the Secretary, has failed to comply with the provisions of this Order.

**SEC. 215.** The Secretary of Labor may provide for the exemption of any employer, labor union, or other agency from any reporting requirements imposed under or pursuant to this Order if such employer, labor union, or other agency has been awarded a Certificate of Merit which has not been suspended or revoked.

### **Part III - Nondiscrimination Provisions in Federally Assisted Construction Contracts**

**SEC. 301.** Each executive department and agency, which administers a program involving Federal financial assistance shall require as a condition for the approval of any grant, contract, loan, insurance, or guarantee there under, which may involve a construction contract, that the applicant for Federal assistance undertake and agree to incorporate, or cause to be incorporated, into all construction contracts paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to such grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, the provisions prescribed for Government contracts by Section 202 of this Order or such modification thereof, preserving in substance the contractor's obligations there under, as may be approved by the Secretary of Labor, together with such additional provisions as the Secretary deems appropriate to establish and protect the interest of the United States in the enforcement of those obligations. Each such applicant shall also undertake and agree (1) to assist and cooperate actively with the Secretary of Labor in obtaining the compliance of contractors and subcontractors with those contract provisions and with the rules, regulations and relevant orders of the Secretary, (2) to obtain and to furnish to the Secretary of Labor such information as the Secretary may require for the supervision of such compliance, (3) to carry out sanctions and penalties for violation of such obligations imposed upon contractors and subcontractors by the Secretary of Labor pursuant to Part II, Subpart D, of this Order, and (4) to refrain from entering into any contract subject to this Order, or extension or other modification of such a contract with a contractor debarred from Government contracts under Part II, Subpart D, of this Order.

[Sec. 301 amended by EO 12086 of Oct. 5, 1978, 43 FR 46501, 3 CFR, 1978 Comp., p. 230]

**SEC. 302.** "Construction contract" as used in this Order means any contract for the construction, rehabilitation, alteration, conversion, extension, or repair of buildings, highways, or other improvements to real property.

(b) The provisions of Part II of this Order shall apply to such construction contracts, and for purposes of such application the administering department or agency shall be considered the contracting agency referred to therein.

(c) The term "applicant" as used in this Order means an applicant for Federal assistance or, as determined by agency regulation, other program participant, with respect to whom an application for any grant, contract, loan, insurance, or guarantee is not finally acted upon prior to the effective date of this Part, and it includes such an applicant after he/she becomes a recipient of such Federal assistance.

**SEC. 303.** The Secretary of Labor shall be responsible for obtaining the compliance of such applicants with their undertakings under this Order. Each administering department and agency is directed to cooperate with the Secretary of Labor and to furnish the Secretary such information and assistance as the Secretary may require in the performance of the Secretary's functions under this Order.

(b) In the event an applicant fails and refuses to comply with the applicant's undertakings pursuant to this Order, the Secretary of Labor may, after consulting with the administering department or agency, take any or all of the following actions: (1) direct any administering department or agency to cancel, terminate, or suspend in whole or in part the agreement, contract or other arrangement with such applicant with respect to which the failure or refusal occurred; (2) direct any administering department or agency to refrain from extending any further assistance to the applicant under the program with respect to which the failure or refusal occurred until satisfactory assurance of future compliance has been received by the Secretary of Labor from such applicant; and (3) refer the case to the Department of Justice or the Equal Employment Opportunity Commission for appropriate law enforcement or other proceedings.

(c) In no case shall action be taken with respect to an applicant pursuant to clause (1) or (2) of subsection (b) without notice and opportunity for hearing.

[Sec. 303 amended by EO 12086 of Oct. 5, 1978, 43 FR 46501, 3 CFR, 1978 Comp., p. 230]

**SEC. 304.** Any executive department or agency which imposes by rule, regulation, or order requirements of nondiscrimination in employment, other than requirements imposed pursuant to this Order, may delegate to the Secretary of Labor by agreement such responsibilities with respect to compliance standards, reports, and procedures as would tend to bring the administration of such requirements into conformity with the administration of requirements imposed under this Order: Provided, That actions to effect compliance by recipients of Federal financial assistance with requirements imposed pursuant to Title VI of the Civil Rights Act of 1964 shall be taken in conformity with the procedures and limitations prescribed in Section 602 thereof and the regulations of the administering department or agency issued there under.

#### **Part IV - Miscellaneous**

**SEC. 401.** The Secretary of Labor may delegate to any officer, agency, or employee in the Executive branch of the Government, any function or duty of the Secretary under Parts II and III of this Order.

[Sec. 401 amended by EO 12086 of Oct. 5, 1978, 43 FR 46501, 3 CFR, 1978 Comp., p. 230]

**SEC. 402.** The Secretary of Labor shall provide administrative support for the execution of the program known as the "Plans for Progress."

**SEC. 403.** Executive Orders Nos. 10590 (January 19, 1955), 10722 (August 5, 1957), 10925 (March 6, 1961), 11114 (June 22, 1963), and 11162 (July 28, 1964), are hereby superseded and the President's Committee on Equal Employment

Opportunity established by Executive Order No. 10925 is hereby abolished. All records and property in the custody of the Committee shall be transferred to the Office of Personnel Management and the Secretary of Labor, as appropriate.

(b) Nothing in this Order shall be deemed to relieve any person of any obligation assumed or imposed under or pursuant to any Executive Order superseded by this Order. All rules, regulations, orders, instructions, designations, and other directives issued by the President's Committee on Equal Employment Opportunity and those issued by the heads of various departments or agencies under or pursuant to any of the Executive orders superseded by this Order, shall, to the extent that they are not inconsistent with this Order, remain in full force and effect unless and until revoked or superseded by appropriate authority. References in such directives to provisions of the superseded orders shall be deemed to be references to the comparable provisions of this Order.

[Sec. 403 amended by EO 12107 of Dec. 28, 1978, 44 FR 1055, 3 CFR, 1978 Comp., p, 264]

**SEC. 404.** The General Services Administration shall take appropriate action to revise the standard Government contract forms to accord with the provisions of this Order and of the rules and regulations of the Secretary of Labor.

**SEC. 405.** This Order shall become effective thirty days after the date of this Order.

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**U.S. DEPARTMENT OF AGRICULTURE**

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**Certification Regarding Debarment, Suspension, Ineligibility  
and Voluntary Exclusion - Lower Tier Covered Transactions**

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This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, 7 CFR part 3017, Section 3017.510, Participants' responsibilities. The regulations were published as Part IV of the January 30, 1989, Federal Register (pages 4722-4733). Copies of the regulations may be obtained by contacting the Department of Agriculture agency with which this transaction originated.

**(BEFORE COMPLETING CERTIFICATION, READ INSTRUCTIONS ON REVERSE)**

- (1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
  
- (2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

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Organization Name

PR/Award Number or Project Name

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Name(s) and Title(s) of Authorized Representative(s)

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Signature(s)

Date

Instructions for Certification

1. By signing and submitting this form, the prospective lower tier participant is providing the certification set out on the reverse side in accordance with these instructions.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this form that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this form that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction," without modification, in all lower tier covered transaction and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

NON-COLLUSIVE AFFIDAVIT

STATE OF CALIFORNIA

COUNTY OF SUTTER

\_\_\_\_\_, being first duly sworn, deposes and says:

That he/she is \_\_\_\_\_ of the firm of

\_\_\_\_\_  
(Firm Name)

the party making the foregoing bid; that such bids are genuine and not collusive or sham; that said bidder has not colluded, conspired, connived, or agreed, directly or indirectly, sought by agreement or collusion, or communication or conference, with any person, to fix the bid price of affiant or any other bidder, or to fix any overhead, profit or cost element of said bid price, or of any other bidder, or to secure any advantage against the Authority or any person interested in the proposed Contract; and that all statements in said bid are true.

That neither Members of Congress, Local or State Public Officials, or any employee or representative of the Authority is in any manner interested, directly or indirectly, in the bid to which this Non-Collusive Affidavit is attached, nor in the Contract which may be made pursuant to said bid, nor in any expected profits which may arise there from.

The undersigned further certifies that the bidder who submitted the bid to which this certification is attached, is not listed on the Controller General's list of ineligible bidders or contractors.

Bidder if Bidder is an individual:

---

(Name of Bidder)

Partner if Bidder if a partnership:

---

(Partner)

Officer if Bidder is a corporation:

---

(Officer)

Subscribed and sworn to before me this

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

---

NOTARY PUBLIC, STATE OF CALIFORNIA

MY COMMISSION EXPIRES: \_\_\_\_\_



CERTIFICATION FOR CONTRACTS, GRANTS AND LOANS

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant or Federal loan, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant or loan.

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant or loan, the undersigned shall complete and submit Standard Form - LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.

3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including contracts, subcontracts, and subgrants under grants and loans) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

\_\_\_\_\_  
(name)

\_\_\_\_\_  
(date)

\_\_\_\_\_  
(title)

oOo

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## DISCLOSURE OF LOBBYING ACTIVITIES

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352

Approved by OMB  
0348-0046

(See reverse for public burden disclosure.)

<b>1. Type of Federal Action:</b> <input type="checkbox"/> a. contract <input type="checkbox"/> b. grant <input type="checkbox"/> c. cooperative agreement <input type="checkbox"/> d. loan <input type="checkbox"/> e. loan guarantee <input type="checkbox"/> f. loan insurance	<b>2. Status of Federal Action:</b> <input type="checkbox"/> a. bid/offer/application <input type="checkbox"/> b. initial award <input type="checkbox"/> c. post-award	<b>3. Report Type:</b> <input type="checkbox"/> a. initial filing <input type="checkbox"/> b. material change <b>For Material Change Only:</b> year _____ quarter _____ date of last report _____
<b>4. Name and Address of Reporting Entity:</b> <input type="checkbox"/> Prime <input type="checkbox"/> Subawardee Tier _____, if known:  Congressional District, if known: 4c	<b>5. If Reporting Entity in No. 4 is a Subawardee, Enter Name and Address of Prime:</b>  Congressional District, if known:	
<b>6. Federal Department/Agency:</b>	<b>7. Federal Program Name/Description:</b>  CFDA Number, if applicable: _____	
<b>8. Federal Action Number, if known:</b>	<b>9. Award Amount, if known:</b> \$ _____	
<b>10. a. Name and Address of Lobbying Registrant</b> (if individual, last name, first name, MI):	<b>b. Individuals Performing Services</b> (including address if different from No. 10a) (last name, first name, MI):	
<b>11.</b> Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.	Signature: _____ Print Name: _____ Title: _____ Telephone No.: _____ Date: _____	
<b>Federal Use Only:</b>		Authorized for Local Reproduction Standard Form LLL (Rev. 7-97)

## INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.  
  
(b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).
11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503.

LABOR STANDARDS PROVISIONS

The following clauses shall be made part of the contract documents for projects subject to the Davis-Bacon and Related Acts:

(Section a) Davis-Bacon Act (40 U.S.C. 276a - 276a-7).

(1) Minimum Wages.

(i) All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project) will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (1)(iv) of this section, also, regular contributions made or costs incurred for more than a weekly period (but less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during each weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in paragraph (4) of this section. Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, that the employer's payroll records actually set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph (1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

(ii) This paragraph has been suspended indefinitely (58 FR 58955, Nov. 5, 1993).

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, provided, that the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program

(v) Additional Classifications.

(A) The Contracting Officer shall require that any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The Contracting Officer shall approve an additional classification and wage rate and fringe benefits therefor only when the following criteria have been met:

- (1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and
- (2) The classification is utilized in the area by the construction industry; and
- (3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the Contracting Officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the Contracting Officer to the Administrator of the Wage and Hour Division, Employment

Standards Administration, U.S. Department of Labor, Washington, D.C., 20210. The Administrator, or an authorized representative will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the Contracting Officer or will notify the Contracting Officer within the 30-day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the Contracting Officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the Contracting Officer shall refer the questions, including the views of all interested parties and the recommendation of the Contracting Officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the Contracting Officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (1)(v)(B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(2) Withholding. The Agency or Contracting Officer shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor, the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract, the Agency may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(3) Payrolls and basic records.

(i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under paragraph (1)(iv) of this section that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii) Payrolls.

(A) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the Agency if the Agency is a party to the contract, but if the Agency is not such a party, the contractor will submit the payrolls to the applicant, sponsor, or owner, as the case may be, for transmission to the Agency. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under paragraph (3)(i) of this section. This information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be purchased from the Superintendent of Documents (Federal Stock Number 029-005-00014-1), U.S. Government Printing Office, Washington, D.C. 20402. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors.



(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be maintained under paragraph (3)(i) of this section and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed in the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR Part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by subparagraph (3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under paragraph (3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the Agency or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Agency may, after written notice to the contractor, sponsor, applicant, or owner, take

such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(4) Apprentices and Trainees.

(i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification,

fringes shall be paid in accordance with that determination. In the event the Bureau of Apprenticeship and Training, or a State Apprenticeship Agency recognized by the Bureau, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

(5) Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

(6) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses contained in paragraphs (1) through (10) of this section and such other clauses as the Agency may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in this section.

(7) Contract termination: debarment. A breach of the contract clauses in this section may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

(8) Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

(9) Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the Contracting Officer, the U.S. Department of Labor, or the employees or their representatives.

(10) Certification of Eligibility.

(i) By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code 18 U.S.C. 1001.

(Section b) Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333).

(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) Violation; liability for unpaid wages; liquidating damages. In the event of any violation of the clause set forth in paragraph (1) of this section, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.

(3) Withholding of unpaid wages and liquidating damages. The Agency or Contracting Officer shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.

(4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.

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CERTIFICATION PURSUANT TO  
LABOR CODE SECTION 1861

- A. "I am aware of the provisions of Section 3700 of the Labor Code which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that Code, and I will comply with such provisions of that Code, and I will comply with such provisions before commencing the performance of the work of this Contract."
- B. "It is hereby mutually agreed that the Contractor shall forfeit to the Authority a penalty of \$25.00 for each calendar day, or portion thereof, for each worker paid by him/her, or subcontractor under him/her, less than the prevailing wage so stipulated and in addition the Contractor further agrees to pay to each worker the difference between the actual amount paid for each calendar day, or portion thereof, and the stipulated prevailing wage rate for the same. This provision shall not apply to properly indentured apprentices."
- C. "It is further agreed that the maximum hours a worker is to be employed is limited to eight hours a day and 40 hours a week and the Contractor shall forfeit, as a penalty to the Authority, \$25.00 for each worker employed in the execution of the Contract for each calendar day during which a worker is required or permitted to labor more than eight hours in any calendar day or more than 40 hours in any calendar week, in violation of Labor Code Sections 1810-1815, inclusive."
- D. "Travel and subsistence payments shall be paid to each worker needed to execute the work, as such travel and subsistence payments are defined in the applicable collective bargaining agreements filed in accordance with Labor Code Section 1773.8."
- E. "Properly indentured apprentices may be employed in the prosecution of the work. They must be so employed by any Contractor or subcontractor employing workers in any apprenticeable craft or trade, i.e., a craft or trade determined to be an apprenticeable occupation in accordance with rules and regulations prescribed by the Apprenticeship Council. Special attention is directed to that portion of Labor Code Section 1777.5 that requires such a Contractor or subcontractor to obtain from the Joint Apprenticeship Committee administering the apprenticeship standards of the craft or trade in the area of the site of the Contract work, a certificate approving the Contractor or sub-contractor, for employment and training of apprentices in such area unless already covered by local apprenticeship

standards. Upon the issuance of the certificate, the Contractor or subcontractor, unless exempt pursuant to Section 1777.5 of the Labor Code, shall employ the number of apprentices or the ratio of apprentices to journeymen/woman fixed in the certificate. If there is in the area of the site of the work a fund or funds to administer and conduct the apprenticeship program in any apprenticeable craft or trade, to which fund or funds other contractors in said area are, but the Contractor or subcontractor is not contributing, the Contractor or subcontractor shall contribute to said fund or funds in the same amount or upon the same basis and in the same manner as the other contractors do. For willful failure to comply with Section 1777.5 of the Labor Code the Contractor shall be denied the right to bid on a public works contract for a period of one year from the date the determination is made."

Contractor's Signature: \_\_\_\_\_

Printed Name & Title of Signer: \_\_\_\_\_  
\_\_\_\_\_

Date: \_\_\_\_\_



NOTICE OF AWARD

TO: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

PROJECT Description: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The OWNER has considered the BID submitted by you for the above described WORK in response to its Advertisement for Bids dated \_\_\_\_\_, 19\_\_\_\_, and Information for Bidders.

You are hereby notified that your BID has been accepted for items in the amount of \$ \_\_\_\_\_.

You are required by the Information for Bidders to execute the Agreement and furnish the required Contractor's Performance BOND, Payment BOND and certificates of insurance within ten (10) calendar days from the date of this Notice to you.

If you fail to execute said Agreement and to furnish said BONDS within ten (10) days from the date of this Notice, said OWNER will be entitled to consider all your rights arising out of the Owner's acceptance of your BID as abandoned and as a forfeiture of your BID BOND. The OWNER will be entitled to such other rights as may be granted by law.

You are required to return an acknowledged copy of this NOTICE OF AWARD to the OWNER.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
Owner

By \_\_\_\_\_

Title \_\_\_\_\_

ACCEPTANCE OF NOTICE

Receipt of the above NOTICE OF AWARD is hereby acknowledged

by \_\_\_\_\_  
this the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_. By

\_\_\_\_\_  
Title \_\_\_\_\_

oOo  
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**AIA**<sup>®</sup>

# Document A101<sup>™</sup> – 2007

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

AGREEMENT made as of the \_\_\_\_\_ day of \_\_\_\_\_  
in the year \_\_\_\_\_  
*(In words, indicate day, month and year.)*

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

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

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

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

The Owner and Contractor agree as follows.

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

AIA Document A201<sup>™</sup>-2007, 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.

## 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
- 10 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, 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.

### ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 3.1 The date of commencement of the Work shall be the date of this Agreement unless a different date is stated below or provision is made for the date to be fixed in a notice to proceed issued by the Owner.

*(Insert the date of commencement if it differs from the date of this Agreement or, if applicable, state that the date will be fixed in a notice to proceed.)*

If, prior to the commencement of the Work, the Owner requires time to file mortgages and other security interests, the Owner's time requirement shall be as follows:

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

Init.

§ 3.3 The Contractor shall achieve Substantial Completion of the entire Work not later than ( ) days from the date of commencement, or as follows:  
*(Insert number of calendar days. Alternatively, a calendar date may be used when coordinated with the date of commencement. If appropriate, insert requirements for earlier Substantial Completion of certain portions of the Work.)*

Portion of Work

Substantial Completion Date

, subject to adjustments of this Contract Time as provided in the Contract Documents.  
*(Insert provisions, if any, for liquidated damages relating to failure to achieve Substantial Completion on time or for bonus payments for early completion of the Work.)*

**ARTICLE 4 CONTRACT SUM**

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

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

§ 4.3 Unit prices, if any:  
*(Identify and state the unit price; state quantity limitations, if any, to which the unit price will be applicable.)*

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

§ 4.4 Allowances included in the Contract Sum, if any:  
*(Identify allowance and state exclusions, if any, from the allowance price.)*

Item	Price
------	-------

## ARTICLE 5 PAYMENTS

### § 5.1 Progress Payments

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

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

§ 5.1.3 Provided that an Application for Payment is received by the Architect not later than the day of a month, the Owner shall make payment of the certified amount to the Contractor not later than the \_\_\_\_\_ day of the \_\_\_\_\_ month. If an Application for Payment is received by the Architect after the application date fixed above, payment shall be made by the Owner not later than ( \_\_\_\_\_ ) days after the Architect receives the Application for Payment.  
*(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, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment.

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

- .1 Take that portion of the Contract Sum properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the Contract Sum allocated to that portion of the Work in the schedule of values, less retainage of \_\_\_\_\_ percent ( \_\_\_\_\_ %). Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute shall be included as provided in Section 7.3.9 of AIA Document A201™-2007, General Conditions of the Contract for Construction;
- .2 Add that portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction (or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing), less retainage of \_\_\_\_\_ percent ( \_\_\_\_\_ %);
- .3 Subtract the aggregate of previous payments made by the Owner; and
- .4 Subtract amounts, if any, for which the Architect has withheld or nullified a Certificate for Payment as provided in Section 9.5 of AIA Document A201-2007.

§ 5.1.7 The progress payment amount determined in accordance with Section 5.1.6 shall be further modified under the following circumstances:

- .1 Add, upon Substantial Completion of the Work, a sum sufficient to increase the total payments to the full amount of the Contract Sum, less such amounts as the Architect shall determine for incomplete Work, retainage applicable to such work and unsettled claims; and  
*(Section 9.8.5 of AIA Document A201-2007 requires release of applicable retainage upon Substantial Completion of Work with consent of surety, if any.)*
- .2 Add, if final completion of the Work is thereafter materially delayed through no fault of the Contractor, any additional amounts payable in accordance with Section 9.10.3 of AIA Document A201-2007.

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

*(If it is intended, prior to Substantial Completion of the entire Work, to reduce or limit the retainage resulting from the percentages inserted in Sections 5.1.6.1 and 5.1.6.2 above, and this is not explained elsewhere in the Contract Documents, insert here provisions for such reduction or limitation.)*

§ 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 Section 12.2.2 of AIA Document A201-2007, 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 the issuance of the Architect's final Certificate for Payment, or as follows:

### ARTICLE 6 DISPUTE RESOLUTION

#### § 6.1 Initial Decision Maker

The Architect will serve as Initial Decision Maker pursuant to Section 15.2 of AIA Document A201-2007, unless the parties appoint below another individual, not a party to this Agreement, to serve as 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.)*

#### § 6.2 Binding Dispute Resolution

For any Claim subject to, but not resolved by, mediation pursuant to Section 15.3 of AIA Document A201-2007, the method of binding dispute resolution shall be as follows:

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

- Arbitration pursuant to Section 15.4 of AIA Document A201-2007
- Litigation in a court of competent jurisdiction
- Other: *(Specify)*

**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 A201-2007.

§ 7.2 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201-2007.

**ARTICLE 8 MISCELLANEOUS PROVISIONS**

§ 8.1 Where reference is made in this Agreement to a provision of AIA Document A201-2007 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

§ 8.2 Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located. *(Insert rate of interest agreed upon, if any.)*

§ 8.3 The Owner's representative:  
*(Name, address and other information)*

§ 8.4 The Contractor's representative:  
*(Name, address and other information)*

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

§ 8.6 Other provisions:

**ARTICLE 9 ENUMERATION OF CONTRACT DOCUMENTS**

§ 9.1 The Contract Documents, except for Modifications issued after execution of this Agreement, are enumerated in the sections below.

§ 9.1.1 The Agreement is this executed AIA Document A101-2007, Standard Form of Agreement Between Owner and Contractor.

§ 9.1.2 The General Conditions are AIA Document A201-2007, General Conditions of the Contract for Construction.

§ 9.1.3 The Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages

Init.



**§ 9.1.4 The Specifications:**

*(Either list the Specifications here or refer to an exhibit attached to this Agreement.)*

Section	Title	Date	Pages
---------	-------	------	-------

**§ 9.1.5 The Drawings:**

*(Either list the Drawings here or refer to an exhibit attached to this Agreement.)*

Number	Title	Date
--------	-------	------

**§ 9.1.6 The Addenda, if any:**

Number	Date	Pages
--------	------	-------

Portions of Addenda relating to bidding requirements are not part of the Contract Documents unless the bidding requirements are also enumerated in this Article 9.

**§ 9.1.7 Additional documents, if any, forming part of the Contract Documents:**

.1 AIA Document E201™-2007, Digital Data Protocol Exhibit, if completed by the parties, or the following:

.2 Other documents, if any, listed below:

*(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201-2007 provides that bidding requirements such as advertisement or invitation to bid, Instructions to Bidders, sample forms and the Contractor's bid are not part of the Contract Documents unless enumerated in this Agreement. They should be listed here only if intended to be part of the Contract Documents.)*

Init.

**ARTICLE 10 INSURANCE AND BONDS**

The Contractor shall purchase and maintain insurance and provide bonds as set forth in Article 11 of AIA Document A201-2007.

*(State bonding requirements, if any, and limits of liability for insurance required in Article 11 of AIA Document A201-2007.)*

Type of Insurance or Bond

Limit of Liability or Bond Amount (\$0.00)

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

\_\_\_\_\_  
OWNER (Signature)

\_\_\_\_\_  
CONTRACTOR (Signature)

\_\_\_\_\_  
(Printed name and title)

\_\_\_\_\_  
(Printed name and title)

**CAUTION:** You should sign an original AIA Contract Document, on which this text appears in RED. An original assures that changes will not be obscured.

Init.

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**ATTACHMENT TO AIA DOCUMENT A101-2007, *Standard Form of Agreement Between Owner and Contractor***

The provisions of this Attachment shall delete, modify and supplement the provisions contained in the "***Standard Form of Agreement Between Owner and Contractor***," AIA Document A101-2007 Edition. The provisions contained in this attachment shall supersede any conflicting provisions of the AIA Document. The term "Agency," as used in this Attachment, shall mean the United States of America, acting through the United States Department of Agriculture.

**ARTICLE 3, DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION**

3.1 Include the following in Article 3.1:

3.1 The date of commencement shall be contained in the Notice to Proceed.

3.3 Add the following to paragraph to Article 3.3:

If the work is not substantially complete on or before this date, or within this period of time, or extension thereof granted by the Owner, damage will be sustained by the Owner and that it is and will be impracticable and extremely difficult to fix the actual damage which the Owner will sustain in the event of and by reason of such delays. The Contractor shall pay to the Owner liquidated damages in the sum of \$ \_\_\_\_\_ for each calendar day of delay. Any sums that may be due the Owner as liquidated damages may be deducted from any monies due or to become due the Contractor under the Contract or may be collected from the Contractor's surety.

**ARTICLE 5, PAYMENTS**

5.1.6 Insert "five" and "5" in the appropriate spaces in Article 5.1.6.1 and Article 5.1.6.2.

5.1.6.1 Delete the last sentence of Article 5.1.6.1.

5.1.6.2 Delete the following from Article 5.1.6.2:

(or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing)

**ARTICLE 8, MISCELLANEOUS PROVISIONS**

8.6 Add the following paragraph to Article 8.6:

8.6.1 This Agreement shall not become effective until concurred in writing by the Agency. Such concurrence shall be evidenced by the signature of a duly authorized representative of the Agency in the space provided at the end of this Attachment to the Agreement. The concurrence so evidenced by the Agency shall in no way commit the Agency to render financial assistance to the Owner and is without liability to the Agency for any payment thereunder, but in the event such assistance is provided, the concurrence shall signify the provisions of this Agreement are consistent with Agency requirements.

**ARTICLE 9, ENUMERATION OF CONTRACT DOCUMENTS**

9.1.3 The following Documents should be referenced in Article 9.1.3, if applicable:

Attachment to the *Standard Form of Agreement Between Owner and Contractor* (RD Instruction 1942-A, Guide 27, Attachment 3)  
*General Conditions of the Contract for Construction*, AIA A201-2007  
Attachment to the *General Conditions of the Contract for Construction* (RD Instruction 1942-A, Guide 27, Attachment 4)  
Special Conditions

9.1.7 The following Documents should be referenced in Article 9.1.7, if applicable:

Invitation for Bids  
*Instructions to Bidders*, AIA A701-1997  
Attachment to the *Instructions to Bidders* (RD Instruction  
1924-A, Guide 27, Attachment 2)  
Bid For  
Bid Bond  
Compliance Statement (Form RD 400-6)  
Payment Bond  
Performance Bond  
Certification Regarding Debarment, Suspension,  
Ineligibility and Voluntary Exclusion - Lower Tier  
Covered Transactions (Form AD 1048)  
Disclosure of Lobbying Activities (SF-LLL)  
Certification for Contracts, Grants and Loans (RD  
Instruction 1940-Q, Exhibit A-1)

**ARTICLE 10, INSURANCE AND BONDS**

10.1 Add the following paragraph to Article 10:

The Constructor shall provide Performance & Payment Bonds on USDA/RD Forms, equal to 100% of the Contract Sum, prior to the start of construction. Surety companies executing Bonds must appear on the current Treasury Circular 570 and be authorized to transact business in Pennsylvania.

**SIGNATURE BLOCK:**

The following signature block shall replace the signature blocks following Article 10:

IN WITNESS WHEREOF, the parties hereto have executed, or caused to be executed by their duly authorized officials, this Agreement in duplicate on the respective dates indicated below:

**ATTEST:** \_\_\_\_\_  
Type Name \_\_\_\_\_  
Title \_\_\_\_\_  
Date \_\_\_\_\_

**OWNER:**

By \_\_\_\_\_  
Type Name \_\_\_\_\_  
Title \_\_\_\_\_  
Date \_\_\_\_\_

**ATTEST:** \_\_\_\_\_  
Type Name \_\_\_\_\_  
Title \_\_\_\_\_  
Date \_\_\_\_\_

**CONTRACTOR:**

By \_\_\_\_\_  
Type Name \_\_\_\_\_  
Title \_\_\_\_\_  
Date \_\_\_\_\_

**AGENCY CONCURRENCE:**

By \_\_\_\_\_  
Type Name \_\_\_\_\_  
Title \_\_\_\_\_  
Date \_\_\_\_\_

The concurrence so evidenced by the Agency shall in no way commit the Agency to render financial assistance to the Owner and is without liability to the Agency for any payment hereunder, but in the event such assistance is provided, the concurrence shall signify the provisions of this Agreement are consistent with Agency requirements.

CONCURRENCE

The United States of America, as potential lender or insurer of funds to defray the costs of this Contract, and without liability for any payments thereunder, hereby concurs in the form, content, and execution of this Contract.

U.S. Department of Agriculture  
Rural Development  
Rural Housing Service

Date

Rural Development Official

Title

This Contract shall not be in full force and effect until concurred with by the State Director or the State Director's delegate, Rural Development, U. S. Department of Agriculture.

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**PAYMENT BOND**

KNOW ALL PERSONS BY THESE PRESENTS: that

\_\_\_\_\_  
(Name of Contractor)

\_\_\_\_\_  
(Address of Contractor)

a \_\_\_\_\_, hereinafter called PRINCIPAL and  
(Corporation, Partnership or Individual)

\_\_\_\_\_  
(Name of Surety)  
hereinafter called SURETY, are held and firmly bound unto \_\_\_\_\_

\_\_\_\_\_  
(Name of Owner)

\_\_\_\_\_  
(Address of Owner)

hereinafter called OWNER and the United States of America acting through Rural Development hereinafter referred to as GOVERNMENT, and unto all persons, firms, and corporations who or which may furnish labor, or who furnish materials to perform as described under the contract and to their successors and assigns in the total aggregate penal sum of \_\_\_\_\_

\_\_\_\_\_ Dollars (\$ \_\_\_\_\_) in lawful money of the United States, for the payment or which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION is such that whereas, the PRINCIPAL entered into a certain contract with the OWNER, dated the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, a copy of which is hereto attached and made a part hereof for the construction of:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

NOW, THEREFORE, if the PRINCIPAL shall properly make payment to all persons, firms, and corporations furnishing materials for or performing labor in the prosecution of the WORK provided for in such contract, and any authorized extension or modification thereof, including all amounts due for materials, lubricants, oil, gasoline, coal and coke, repairs on machinery; equipment and tools, consumed or used in connection with the construction of such WORK, and for all labor cost incurred in such WORK including that by a SUBCONTRACTOR, and to any mechanic or materialman lienholder whether it acquires its lien by operation of State or Federal law; then this obligation shall be void, otherwise to remain in full force and effect.

PROVIDED, that beneficiaries or claimants hereunder shall be limited to the SUBCONTRACTORS, and persons, firms, and corporations having a direct contract with the PRINCIPAL or its SUBCONTRACTOR.

PROVIDED, FURTHER, that the said SURETY for value received hereby stipulates and agrees that no change, extension of the, alteration or addition to the terms of the contract or to the WORK to be performed thereunder or the SPECIFICATIONS accompanying the same shall in any way affect its obligation on this BOND, and in does hereby waive notice of any such change, extension of time, alteration or addition to the terms of this contract or to the WORK or to the SPECIFICATIONS.

PROVIDE, FURTHER, that no suit or action shall be commenced hereunder by any claimant: (a) Unless claimant, other than one having a direct contract with the PRINCIPAL (or with the GOVERNMENT in the event the GOVERNMENT is performing the obligations of the OWNER), shall have given written notice to any two of the following: The PRINCIPAL, the OWNER, or the SURETY above named within ninety (90) days after such claimant did or Performed the last of the work or labor, or furnished the last of the materials for which said claim is made, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were furnished, or for whom the work or labor was done or performed. Such notice shall be served by mailing the same by register mail or certified mail, postage prepaid, in an envelope addressed to the PRINCIPAL, OWNER, or SURETY, at any place where an office is regularly maintained for the transaction of business, or served in any manner in which legal process may be served in the state in which the aforesaid project is located, save that such service need not be made by a public officer. (b) After the expiration of one (1) year following the date of which PRINCIPAL ceased work on said CONTRACT, it being understood, however, that if any limitation embodied in the BOND is prohibited by any law controlling the construction hereof, such limitation shall be deemed to be amended so as to be equal to the minimum period of limitation permitted by such law.

PROVIDED, FURTHER, that it is expressly agreed that this BOND shall be deemed amended automatically and immediately, without formal and separate amendments hereto, upon amendment to the Contract not increasing the contract price more than 20 percent, so as to bind the PRINCIPAL and the SURETY to the full and faithful performance of the Contract as so amended. The term "Amendment", wherever used in this BOND and whether referring to this BOND, the contract or the loan Documents shall include any alteration, addition, extension or modification of any character whatsoever.

PROVIDED, FURTHER, that no final settlement between the OWNER or GOVERNMENT and the CONTRACTOR shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

IN WITNESS THEREOF, this instrument is executed in \_\_\_\_\_ Counterparts,  
each one of which shall be deemed an original, this the \_\_\_\_\_ day of  
\_\_\_\_\_, 20\_\_\_\_.

ATTEST:

\_\_\_\_\_  
(Principal) Secretary  
(SEAL)

\_\_\_\_\_  
Principal \_\_\_\_\_ (s)

\_\_\_\_\_  
Witness as to Principal

By \_\_\_\_\_ (s)

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(Address)

ATTEST:

\_\_\_\_\_  
Witness as to Surety

\_\_\_\_\_  
Surety

By \_\_\_\_\_  
Attorney-in-Fact

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(Address)

NOTE: Date of BOND must not be prior to date of Contract.

If CONTRACTOR is partnership, all partners should execute BOND.

IMPORTANT: Surety companies executing BONDS must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the state where the project is located.

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(5-12-87) SPECIAL PN

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**PERFORMANCE BOND**

KNOW ALL PERSONS BY THESE PRESENTS: that

\_\_\_\_\_  
(Name or Contractor)

\_\_\_\_\_  
(Address or Contractor)

a \_\_\_\_\_, hereinafter called PRINCIPAL, and  
(Corporation, Partnership, or Individual)

\_\_\_\_\_  
(Name of Surety)

\_\_\_\_\_  
(Address of Surety)

hereinafter called SURETY, are held and firmly bound unto \_\_\_\_\_

\_\_\_\_\_  
(Name of Owner)

\_\_\_\_\_  
(Address of Owner)

hereinafter called OWNER, and the United States of America acting through Rural Development hereinafter referred to as the GOVERNMENT in the total aggregate penal sum of \_\_\_\_\_

\_\_\_\_\_ Dollars (\$ \_\_\_\_\_) in lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION is such that whereas, the PRINCIPAL entered into a certain contract with the OWNER, dated the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_, a copy of which is hereto attached and made a part hereof for the construction of:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

NOW, THEREFORE, if the PRINCIPAL shall well, truly and faithfully perform its duties, all the undertakings, covenants, terms, conditions, and agreements of said contract during the original term thereof, and any extensions thereof which may be granted by the OWNER, or GOVERNMENT, with or without notice to the SURETY and during the guaranty period and if the PRINCIPAL shall satisfy

all claims and demands incurred under such contract, and shall fully indemnify and save harmless the OWNER and GOVERNMENT from all costs and damages which it may suffer by reason of failure to do so, and shall reimburse and repay the OWNER and GOVERNMENT all outlay and expense which the OWNER and GOVERNMENT may incur in making good any default, then this obligation shall be void, otherwise to remain in full force and effect.

PROVIDED, FURTHER, that the liability of the PRINCIPAL AND SURETY hereunder to the GOVERNMENT shall be subject to the same limitations and defenses as maybe, Available to then against a claim hereunder by the OWNER, provided, however, that the GOVERNMENT may, at its option, perform any obligations of the OWNER required by the contract.

PROVIDED, FURTHER, that the said SURETY, for value received hereby, stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract or to WORK to be performed thereunder or the SPECIFICATIONS accompanying same shall in any way affect its obligation on this BOND, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract or to the WORK or to the SPECIFICATIONS.

PROVIDED, FURTHER, that it is expressly agreed that the BOND shall be deemed amended automatically and immediately, without formal and separate amendments hereto, upon amendment to the Contract not increasing the contract price more than 20 percent, so as to bind the PRINCIPAL and the SURETY to the full and faithful performance of the CONTRACT as so amended. The term "Amendment", wherever used in this BOND, and whether referring to this BOND, the Contract or the Loan Documents shall include any alteration, addition, extension, or modification of any character whatsoever.

PROVIDED, FURTHER, that no final settlement between the OWNER or GOVERNMENT and the PRINCIPAL shall abridge the right of the other beneficiary hereunder, whose claim may be unsatisfied. The OWNER and GOVERNMENT are the only beneficiaries hereunder.



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NOTICE TO PROCEED

TO: \_\_\_\_\_ DATE: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ Project: \_\_\_\_\_  
\_\_\_\_\_

You are hereby notified to commence WORK in accordance with the Agreement dated \_\_\_\_\_, 19\_\_, on or before \_\_\_\_\_, 19\_\_, and you are to complete the WORK within \_\_\_\_\_ consecutive calendar days thereafter. The date of completion of all WORK is therefore \_\_\_\_\_, 19\_\_.

\_\_\_\_\_  
Owner

By \_\_\_\_\_

Title \_\_\_\_\_

ACCEPTANCE OF NOTICE

Receipt of the above NOTICE TO PROCEED is hereby acknowledged by \_\_\_\_\_  
\_\_\_\_\_

This the \_\_\_\_\_, 19\_\_

By \_\_\_\_\_

Title \_\_\_\_\_

Employer Identification  
Number \_\_\_\_\_

oOo

1/1

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# AIA<sup>®</sup> Document A201<sup>™</sup> – 2007

## General Conditions of the Contract for Construction

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

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

THE OWNER:  
*(Name, legal status and address)*

THE ARCHITECT:  
*(Name, legal status and address)*

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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. Unless specifically enumerated in the Agreement, the Contract Documents do not include the advertisement or invitation to bid, Instructions to Bidders, sample forms, other information furnished by the Owner in anticipation of receiving bids or proposals, the Contractor's bid or proposal, or portions of Addenda relating to bidding requirements.

#### **§ 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, (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 and certify termination of the Agreement under Section 14.2.2.

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

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

§ 1.2.2 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 will retain all common law, statutory and other reserved rights, including copyrights. The Contractor, Subcontractors, Sub-subcontractors, and material or equipment 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 this 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 material or equipment suppliers are authorized to use and reproduce the Instruments of Service provided to them solely and exclusively for execution of the Work. All copies made under this authorization shall bear the copyright notice, if any, shown on the Instruments of Service. The Contractor, Subcontractors, Sub-subcontractors, and material or equipment suppliers may not use the Instruments of Service on other projects or for additions to this Project outside the scope of the Work without the specific written consent of the Owner, Architect and the Architect's consultants.

### § 1.6 Transmission of Data in Digital Form

If the parties intend to transmit Instruments of Service or any other information or documentation in digital form, they shall endeavor to establish necessary protocols governing such transmissions, unless otherwise already provided in the Agreement or the Contract Documents.

## 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 Information and Services Required of the Owner

§ 2.2.1 Prior to commencement of the Work, the Contractor may request in writing that the Owner provide reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. Thereafter, the Contractor may only request such evidence if (1) the Owner fails to make payments to the Contractor as the Contract Documents require; (2) a change in the Work materially changes the Contract Sum; or (3) the Contractor identifies in writing a reasonable concern regarding the Owner's ability to make payment when due. The Owner shall furnish such evidence as a condition precedent to commencement or continuation of the Work or the portion of the Work affected by a material change. After the Owner furnishes the evidence, the Owner shall not materially vary such financial arrangements without prior notice to the Contractor.

§ 2.2.2 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.

§ 2.2.3 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.

§ 2.2.4 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.

§ 2.2.5 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.

### § 2.3 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 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.

### § 2.4 Owner's Right to Carry Out the Work

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a ten-day period after receipt of written notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such deficiencies. In such case an appropriate Change Order shall be issued deducting from payments then or thereafter due the Contractor the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Architect's additional services made necessary by such default, neglect or failure. Such action by the Owner and amounts charged to the Contractor are both subject to prior approval of the Architect. If payments then or thereafter due the Contractor are not sufficient to cover such amounts, the Contractor shall pay the difference to 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 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.

§ 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 2.2.3, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating coordination and construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, the Contractor shall promptly report to the Architect any errors, inconsistencies or omissions discovered by or made known to the Contractor as a request for information in such form as the Architect may require. It is recognized that the Contractor's review is made in the 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 make 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 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, unless the Contract Documents give other specific instructions concerning these matters. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences or procedures, the Contractor shall evaluate the jobsite safety thereof and, except as stated below, shall be fully and 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 written notice to the Owner and Architect and shall not proceed with that portion of the Work without further written instructions from the Architect. If the Contractor is then instructed to proceed with the required means, methods, techniques, sequences or procedures without acceptance of changes proposed by the Contractor, the Owner shall be solely responsible for any loss or damage arising solely from those Owner-required 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.

**§ 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, 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 authorized by the Architect in accordance with Sections 3.12.8 or 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.

### § 3.5 Warranty

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.

### § 3.6 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.

### § 3.7 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.

§ 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 performs Work knowing it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Contractor shall assume appropriate responsibility for such Work and shall bear the costs attributable to correction.

### § 3.7.4 Concealed or Unknown Conditions

If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner and the Architect before conditions are disturbed and in no event later than 21 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 an equitable adjustment 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 in writing, stating the reasons. If either party disputes the Architect's determination or recommendation, that party may proceed 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 employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the Work. 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, as soon as practicable after award of the Contract, shall furnish in writing to the Owner through the Architect the name and qualifications of a proposed superintendent. The Architect may reply within 14 days to the Contractor in writing stating (1) whether the Owner or the Architect has reasonable objection to the proposed superintendent or (2) that the Architect requires additional time to review. Failure of the Architect to reply 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.

### § 3.10 Contractor's Construction Schedules

§ 3.10.1 The Contractor, promptly after being awarded the Contract, shall prepare and submit for the Owner's and Architect's information a Contractor's construction schedule for the Work. The schedule shall not exceed time limits current under the Contract Documents, shall be revised at appropriate intervals as required by the conditions of the Work and Project, shall be related to the entire Project to the extent required by the Contract Documents, and shall provide for expeditious and practicable execution of the Work.

§ 3.10.2 The Contractor shall prepare a submittal schedule, promptly after being awarded the Contract and thereafter as necessary to maintain a current submittal schedule, and shall submit the schedule(s) for the Architect's approval. The Architect's approval shall not unreasonably be 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, 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.

### § 3.11 Documents and Samples at the Site

The Contractor shall maintain at the site for the Owner one copy of the Drawings, Specifications, Addenda, Change Orders and other Modifications, in good order and marked currently to indicate field changes and selections made during construction, and one copy of approved Shop Drawings, Product Data, Samples and similar required submittals. These shall be available to the Architect and shall be 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 the way by which 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 requirements of the Contract Documents by the Architect's approval of Shop Drawings, Product Data, Samples or similar submittals unless the Contractor has specifically informed the Architect in writing of such deviation at the time of submittal and (1) the Architect has given written approval to the specific deviation as a minor change in the Work, or (2) a Change Order or Construction Change Directive has been issued authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples or similar submittals by the Architect's approval thereof.

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

§ 3.12.10 The Contractor shall not be required to provide professional services that constitute the practice of architecture or engineering unless such services are specifically required by the Contract Documents for a portion of the Work or unless the Contractor needs to provide such services in order to carry out the Contractor's responsibilities for construction means, methods, techniques, sequences and procedures. The Contractor shall not be required to provide professional services in violation of applicable law. If professional design services or certifications by a design professional related to systems, materials or equipment are specifically required of the Contractor by the Contract Documents, the Owner and the Architect will specify all performance and design criteria that such services must satisfy. The Contractor shall cause such services or certifications to be provided by a properly licensed design professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings and other submittals prepared by such professional. Shop Drawings and other submittals related to the Work designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to the Architect. The Owner and the Architect shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications and approvals performed or provided by such design professionals, provided the Owner and Architect have specified to the Contractor all performance and design criteria that such services must satisfy. Pursuant to this Section 3.12.10, the Architect will review, approve or take other appropriate action on submittals only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Contractor shall not be responsible for the adequacy of the performance and design criteria specified in the Contract Documents.

### § 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, and 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 and patching shall be restored to the condition existing prior to the cutting, fitting and 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 such construction by the Owner or a separate contractor except with written consent of the Owner and of such separate contractor; such consent shall not be unreasonably withheld. The Contractor shall not unreasonably withhold from the Owner or a separate contractor the Contractor's 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 or 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 Owner shall be entitled to reimbursement from the Contractor.

### **§ 3.16 Access to Work**

The Contractor shall provide the Owner and Architect 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 such defense or loss when a particular design, process or product of a particular manufacturer or manufacturers is required by the Contract Documents, or where the copyright violations are contained in Drawings, Specifications or other documents prepared by the Owner or Architect. However, if the Contractor has reason to believe that the required design, process or product is an infringement of a copyright or a patent, the Contractor shall be responsible for such loss unless such information is promptly furnished to the Architect.

### **§ 3.18 Indemnification**

**§ 3.18.1** To the fullest extent permitted by law the Contractor shall indemnify and hold harmless the Owner, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described in this Section 3.18.

**§ 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.

## **ARTICLE 4 ARCHITECT**

### **§ 4.1 General**

**§ 4.1.1** 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.

**§ 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.

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

#### § 4.2 Administration of the Contract

§ 4.2.1 The Architect will provide administration of the Contract as described in the Contract Documents and will be an Owner's representative during construction until 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 inspections to check the quality or quantity of the Work. The Architect will not have control over, charge of, or responsibility for, the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents, except as provided in Section 3.3.1.

§ 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 report to the Owner (1) known deviations from the Contract Documents and from the most recent construction schedule submitted by the Contractor, and (2) 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 Facilitating Contract Administration

Except as otherwise provided in the Contract Documents or when direct communications have been specially authorized, the Owner and Contractor shall endeavor to communicate with each other through the Architect about matters arising out of or relating to the Contract. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with Subcontractors and material suppliers shall be through the Contractor. Communications by and with separate contractors shall be through the Owner.

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

§ 4.2.6 The Architect has authority to 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 13.5.2 and 13.5.3, whether or not such 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, material and equipment 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, unless otherwise specifically stated by the Architect, 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 authorize 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 inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion pursuant to Section 9.8; receive and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract and 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 duties, responsibilities and limitations of authority of such project representatives shall be as set forth in an exhibit to be incorporated in the Contract Documents.

§ 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.

## 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 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 or the bidding requirements, the Contractor, as soon as practicable after award of the Contract, shall furnish in writing to the Owner through the Architect the names of persons or entities (including those who are to furnish materials or equipment fabricated to a special design) proposed for each principal portion of the Work. The Architect may reply within 14 days to the Contractor in writing stating (1) whether the Owner or the Architect has reasonable objection to any such proposed person or entity or (2) that the Architect requires additional time for review. Failure of the Owner or Architect to reply 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 previously selected if the Owner or Architect makes reasonable objection to such substitution.

### § 5.3 Subcontractual Relations

By appropriate agreement, written where legally required for validity, 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, which the Contractor, by these Documents, assumes toward the Owner and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, 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.

### § 5.4 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 in writing; 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 such 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 Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and to award separate contracts in connection with other portions of the Project or other construction or operations on the site under Conditions of the Contract identical or substantially similar to these including those portions related to insurance and waiver of subrogation. If the Contractor claims that delay or additional cost is involved because of such action by the Owner, the Contractor shall make such Claim as provided in Article 15.

§ 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 other separate contractors and the Owner in reviewing their construction schedules. The Contractor shall make any revisions to the construction schedule deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the 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, the Owner shall be deemed to be subject to the same obligations and to have the same rights that apply to the Contractor 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 report to the Architect apparent discrepancies or defects in such other construction that would render it unsuitable for such proper execution and results. Failure of the Contractor so to report shall constitute an acknowledgment that the Owner's or separate contractor's completed or partially completed construction is fit and proper to receive the Contractor's Work, except as to defects not then reasonably discoverable.

§ 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 the Contractor wrongfully causes to completed or partially completed construction or to property of the Owner or separate contractors 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.

## 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, 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.

§ 7.1.2 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, and the Contractor shall proceed promptly, unless otherwise provided in the Change Order, Construction Change Directive or order for a minor change in the Work.

### § 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.

### § 7.3 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 7.3.7.

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

§ 7.3.5 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.

§ 7.3.6 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.

§ 7.3.7 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Architect shall determine the method and the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase 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 7.3.7 shall be limited to the following:

- .1 Costs of labor, including social security, old age and unemployment insurance, fringe benefits required by agreement or custom, and workers' compensation insurance;
- .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 related to the Work; and
- .5 Additional costs of supervision and field office personnel directly attributable to the change.

§ 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 has authority to order minor changes in the Work not involving adjustment in the Contract Sum or extension of the Contract Time and not inconsistent with the intent of the Contract Documents. Such changes will be effected by written order signed by the Architect and shall be binding on the Owner and Contractor.

### 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, prematurely commence operations on the site or elsewhere prior to the effective date of insurance required by Article 11 to be furnished by the Contractor and Owner. The date of commencement of the Work shall not be changed by the effective date of such insurance.

§ 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 an act or neglect of the Owner or Architect, or of an employee of either, or of a separate contractor employed by the Owner; or by changes ordered in the Work; or by labor disputes, fire, unusual delay in deliveries, unavoidable casualties or other causes beyond the Contractor's control; or by delay authorized by the Owner pending mediation and arbitration; or by other causes that the Architect determines may justify delay, then the Contract Time shall be extended by Change Order for such reasonable time as the Architect may determine.

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

§ 8.3.3 This Section 8.3 does not preclude recovery of damages for delay by either party under other provisions of the Contract Documents.

### ARTICLE 9 PAYMENTS AND COMPLETION

#### § 9.1 Contract Sum

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.

#### § 9.2 Schedule of Values

Where the Contract is based on a stipulated sum or Guaranteed Maximum Price, the Contractor shall submit to the Architect, before the first Application for Payment, a schedule of values allocating the entire Contract Sum to the various portions of the Work and prepared in such form and supported by such data to substantiate its accuracy as the Architect may require. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's 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. Such application shall be notarized, if required, and supported by such data substantiating the Contractor's right to payment as the Owner or Architect may require, such as copies of requisitions from Subcontractors and material 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 material 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, material suppliers, or other persons or entities making a claim by reason of having provided labor, materials and equipment relating to the Work.

### **§ 9.4 Certificates for Payment**

**§ 9.4.1** The Architect will, within seven days after receipt of the Contractor's Application for Payment, either issue to the Owner a Certificate for Payment, with a copy to the Contractor, for such amount as the Architect determines is properly due, or notify the Contractor and Owner in writing of the Architect's reasons for withholding certification in whole or in part 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 comprising the Application for Payment, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated and that the quality of the Work is in accordance with the Contract Documents. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion and to specific qualifications expressed by the Architect. The issuance of a Certificate for Payment will further constitute a representation that the Contractor is entitled to payment in the amount certified. However, the issuance of a Certificate for Payment will not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and material 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 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.

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

§ 9.5.3 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 material or equipment suppliers 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 Architect will reflect such payment on the next Certificate for Payment.

#### § 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.

§ 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.

§ 9.6.3 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 material and equipment 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 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, except as may otherwise be required by law.

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

§ 9.6.6 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the 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 and 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, shall create any fiduciary liability or tort liability on the part of the Contractor for breach of trust or shall entitle any person or entity to an award of punitive damages against the Contractor for breach of the requirements of this provision.

#### § 9.7 Failure of Payment

If the Architect does not issue a Certificate for Payment, through no fault of the Contractor, within seven days after receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor within seven days after

the date established in the Contract Documents the amount certified by the Architect or awarded by binding dispute resolution, then the Contractor may, upon seven additional days' written notice to the Owner and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shut-down, delay and start-up, plus interest as provided for in the Contract Documents.

#### **§ 9.8 Substantial Completion**

**§ 9.8.1** Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the 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 an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect's inspection discloses any item, whether or not included on the Contractor's list, which is not sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work or designated portion thereof for its intended use, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Architect. In such case, the Contractor shall then submit a request for another inspection by the Architect to determine Substantial Completion.

**§ 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, shall establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance, and shall 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 such Certificate. Upon such acceptance and consent of surety, if any, the Owner shall make payment of retainage applying to such 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 as required under Section 11.3.1.5 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 written notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Architect will promptly make such inspection and, 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 inspections, the Work has been completed in accordance with terms and conditions of 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.

§ 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 and will not be canceled or allowed to expire until at least 30 days' prior written notice has been given to the Owner, (3) a written statement that the Contractor knows of no substantial 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 and (5), if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts, 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. If such lien 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 such lien, 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 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 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; or
- .3 terms of special warranties required by the Contract Documents.

§ 9.10.5 Acceptance of final payment by the Contractor, a Subcontractor or material 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 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 or the Contractor's Subcontractors or Sub-subcontractors; 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 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 owners and users of adjacent sites and utilities.

§ 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, except damage or loss 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, written notice of such 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

§ 10.3.1 The Contractor is responsible for compliance with any requirements included in the Contract Documents regarding hazardous materials. 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 report the condition to the Owner and Architect in writing.

§ 10.3.2 Upon receipt of the Contractor's written notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Contract Documents, the Owner shall furnish in writing to the Contractor and Architect the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of such material or substance or who are to perform the task of removal or safe containment of such 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 in the amount of the Contractor's reasonable additional costs of shut-down, delay and start-up.

§ 10.3.3 To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Subcontractors, Architect, Architect's consultants and agents and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of

the Work in the affected area if in fact the material or substance presents the risk of bodily injury or death as described in Section 10.3.1 and has not been rendered harmless, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), except to the extent that such damage, loss or expense is due to the fault or negligence of the party seeking indemnity.

§ 10.3.4 The Owner shall not be responsible under this Section 10.3 for 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 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 indemnify the Owner for the cost and expense the Owner incurs (1) for remediation of a material or substance 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 indemnify 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 Liability Insurance

§ 11.1.1 The Contractor shall purchase from and maintain in a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located such insurance as will protect the Contractor from claims set forth below which may arise out of or result from the Contractor's operations and completed operations under the Contract and for which the Contractor may be legally liable, whether such operations be by the Contractor or by a Subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:

- .1 Claims under workers' compensation, disability benefit and other similar employee benefit acts that are applicable to the Work to be performed;
- .2 Claims for damages because of bodily injury, occupational sickness or disease, or death of the Contractor's employees;
- .3 Claims for damages because of bodily injury, sickness or disease, or death of any person other than the Contractor's employees;
- .4 Claims for damages insured by usual personal injury liability coverage;
- .5 Claims for damages, other than to the Work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom;
- .6 Claims for damages because of bodily injury, death of a person or property damage arising out of ownership, maintenance or use of a motor vehicle;
- .7 Claims for bodily injury or property damage arising out of completed operations; and
- .8 Claims involving contractual liability insurance applicable to the Contractor's obligations under Section 3.18.

§ 11.1.2 The insurance required by Section 11.1.1 shall be written for not less than limits of liability specified in the Contract Documents or required by law, whichever coverage is greater. Coverages, whether written on an occurrence or claims-made basis, shall be maintained without interruption from the date of commencement of the Work until the date of final payment and termination of any coverage required to be maintained after final payment, and, with respect to the Contractor's completed operations coverage, until the expiration of the period for correction of Work or for such other period for maintenance of completed operations coverage as specified in the Contract Documents.

§ 11.1.3 Certificates of insurance acceptable to the Owner shall be filed with the Owner prior to commencement of the Work and thereafter upon renewal or replacement of each required policy of insurance. These certificates and the insurance policies required by this Section 11.1 shall contain a provision that coverages afforded under the policies will not be canceled or allowed to expire until at least 30 days' prior written notice has been given to the Owner. An additional certificate evidencing continuation of liability coverage, including coverage for completed operations, shall

be submitted with the final Application for Payment as required by Section 9.10.2 and thereafter upon renewal or replacement of such coverage until the expiration of the time required by Section 11.1.2. Information concerning reduction of coverage on account of revised limits or claims paid under the General Aggregate, or both, shall be furnished by the Contractor with reasonable promptness.

§ 11.1.4 The Contractor shall cause the commercial liability coverage required by the Contract Documents to include (1) the Owner, the Architect and the Architect's consultants as additional insureds for claims caused in whole or in part by the Contractor's negligent acts or omissions during the Contractor's operations; and (2) the Owner as an additional insured for claims caused in whole or in part by the Contractor's negligent acts or omissions during the Contractor's completed operations.

#### § 11.2 Owner's Liability Insurance

The Owner shall be responsible for purchasing and maintaining the Owner's usual liability insurance.

#### § 11.3 Property Insurance

§ 11.3.1 Unless otherwise provided, the Owner shall purchase and maintain, in a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located, property insurance written on a builder's risk "all-risk" or equivalent policy form in the amount of the initial Contract Sum, plus value of subsequent Contract Modifications and cost of materials supplied or installed by others, comprising total value for the entire Project at the site on a replacement cost basis without optional deductibles. Such property insurance shall be maintained, unless otherwise provided in the Contract Documents or otherwise agreed in writing by all persons and entities who are beneficiaries of such insurance, until final payment has been made as provided in Section 9.10 or until no person or entity other than the Owner has an insurable interest in the property required by this Section 11.3 to be covered, whichever is later. This insurance shall include interests of the Owner, the Contractor, Subcontractors and Sub-subcontractors in the Project.

§ 11.3.1.1 Property insurance shall be on an "all-risk" or equivalent policy form and shall include, without limitation, insurance against the perils of fire (with extended coverage) and physical loss or damage including, without duplication of coverage, theft, vandalism, malicious mischief, collapse, earthquake, flood, windstorm, falsework, testing and startup, temporary buildings and debris removal including demolition occasioned by enforcement of any applicable legal requirements, and shall cover reasonable compensation for Architect's and Contractor's services and expenses required as a result of such insured loss.

§ 11.3.1.2 If the Owner does not intend to purchase such property insurance required by the Contract and with all of the coverages in the amount described above, the Owner shall so inform the Contractor in writing prior to commencement of the Work. The Contractor may then effect insurance that will protect the interests of the Contractor, Subcontractors and Sub-subcontractors in the Work, and by appropriate Change Order the cost thereof shall be charged to the Owner. If the Contractor is damaged by the failure or neglect of the Owner to purchase or maintain insurance as described above, without so notifying the Contractor in writing, then the Owner shall bear all reasonable costs properly attributable thereto.

§ 11.3.1.3 If the property insurance requires deductibles, the Owner shall pay costs not covered because of such deductibles.

§ 11.3.1.4 This property insurance shall cover portions of the Work stored off the site, and also portions of the Work in transit.

§ 11.3.1.5 Partial occupancy or use in accordance with Section 9.9 shall not commence until the insurance company or companies providing property insurance have consented to such partial occupancy or use by endorsement or otherwise. The Owner and the Contractor shall take reasonable steps to obtain consent of the insurance company or companies and shall, without mutual written consent, take no action with respect to partial occupancy or use that would cause cancellation, lapse or reduction of insurance.

#### § 11.3.2 Boiler and Machinery Insurance

The Owner shall purchase and maintain boiler and machinery insurance required by the Contract Documents or by law, which shall specifically cover such insured objects during installation and until final acceptance by the Owner; this insurance shall include interests of the Owner, Contractor, Subcontractors and Sub-subcontractors in the Work, and the Owner and Contractor shall be named insureds.

### § 11.3.3 Loss of Use Insurance

The Owner, at the Owner's option, may purchase and maintain such insurance as will insure the Owner against loss of use of the Owner's property due to fire or other hazards, however caused. The Owner waives all rights of action against the Contractor for loss of use of the Owner's property, including consequential losses due to fire or other hazards however caused.

§ 11.3.4 If the Contractor requests in writing that insurance for risks other than those described herein or other special causes of loss be included in the property insurance policy, the Owner shall, if possible, include such insurance, and the cost thereof shall be charged to the Contractor by appropriate Change Order.

§ 11.3.5 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, the Owner shall waive all rights in accordance with the terms of Section 11.3.7 for damages caused by fire or other causes of loss covered by this separate property insurance. All separate policies shall provide this waiver of subrogation by endorsement or otherwise.

§ 11.3.6 Before an exposure to loss may occur, the Owner shall file with the Contractor a copy of each policy that includes insurance coverages required by this Section 11.3. Each policy shall contain all generally applicable conditions, definitions, exclusions and endorsements related to this Project. Each policy shall contain a provision that the policy will not be canceled or allowed to expire, and that its limits will not be reduced, until at least 30 days' prior written notice has been given to the Contractor.

### § 11.3.7 Waivers of Subrogation

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, and (2) the Architect, Architect's consultants, separate contractors described in Article 6, 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 covered by property insurance obtained pursuant to this Section 11.3 or other property insurance applicable to the Work, except such rights as they have to proceeds of such insurance held by the Owner as fiduciary. The Owner or Contractor, as appropriate, shall require of the Architect, Architect's consultants, separate contractors described in Article 6, if any, and the subcontractors, sub-subcontractors, agents and employees of any of them, by appropriate agreements, written where legally required for validity, similar waivers each in favor of other parties enumerated herein. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged.

§ 11.3.8 A loss insured under the Owner's property insurance 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 11.3.10. The Contractor shall pay Subcontractors their just shares of insurance proceeds received by the Contractor, and by appropriate agreements, written where legally required for validity, shall require Subcontractors to make payments to their Sub-subcontractors in similar manner.

§ 11.3.9 If required in writing by a party in interest, the Owner as fiduciary shall, upon occurrence of an insured loss, give bond for proper performance of the Owner's duties. The cost of required bonds shall be charged against proceeds received as fiduciary. The Owner shall deposit in a separate account proceeds so received, which the Owner shall distribute in accordance with such agreement as the parties in interest may reach, or as determined in accordance with the method of binding dispute resolution selected in the Agreement between the Owner and Contractor. If after such loss no other special agreement is made and unless the Owner terminates the Contract for convenience, replacement of damaged property shall be performed by the Contractor after notification of a Change in the Work in accordance with Article 7.

§ 11.3.10 The Owner as fiduciary shall have power to adjust and settle a loss with insurers unless one of the parties in interest shall object in writing within five days after occurrence of loss to the Owner's exercise of this power; if such objection is made, the dispute shall be resolved in the manner selected by the Owner and Contractor as the method of binding dispute resolution in the Agreement. If the Owner and Contractor have selected arbitration as the method of binding dispute resolution, the Owner as fiduciary shall make settlement with insurers or, in the case of a dispute over distribution of insurance proceeds, in accordance with the directions of the arbitrators.



#### § 11.4 Performance Bond and Payment Bond

§ 11.4.1 The Owner shall have the right to require the Contractor to 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 execution of the Contract.

§ 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.

### 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, costs of uncovering and replacement shall, by appropriate Change Order, be at the Owner's expense. If such Work is not in accordance with the Contract Documents, such costs and the cost of correction shall be at the Contractor's expense unless the condition was caused by the Owner or a separate contractor in which event the Owner shall be responsible for payment of such costs.

#### § 12.2 Correction of Work

##### § 12.2.1 Before or After Substantial Completion

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

##### § 12.2.2 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 an applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of written notice from the Owner to do so unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the one-year period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor and to make a claim for breach of warranty. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner or Architect, the Owner may correct it in accordance with Section 2.4.

§ 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, whether completed or partially completed, of the Owner or separate contractors 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.

### ARTICLE 13 MISCELLANEOUS PROVISIONS

#### § 13.1 Governing Law

The Contract shall be governed by the law of the place where the Project is located except that, if the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 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 such 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 such assignment.

#### § 13.3 Written Notice

Written notice shall be deemed to have been duly served if delivered in person to the individual, to a member of the firm or entity, or to an officer of the corporation for which it was intended; or if delivered at, or sent by registered or certified mail or by courier service providing proof of delivery to, the last business address known to the party giving notice.

#### § 13.4 Rights and Remedies

§ 13.4.1 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.

§ 13.4.2 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 there under, except as may be specifically agreed in writing.

#### § 13.5 Tests and Inspections

§ 13.5.1 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 (1) tests, inspections or approvals that do not become requirements until after bids are received or negotiations concluded, and (2) tests, inspections or approvals where building codes or applicable laws or regulations prohibit the Owner from delegating their cost to the Contractor.

§ 13.5.2 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 13.5.1, 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 13.5.3, shall be at the Owner's expense.

§ 13.5.3 If such procedures for testing, inspection or approval under Sections 13.5.1 and 13.5.2 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.

§ 13.5.4 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.

§ 13.5.5 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.

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

#### § 13.6 Interest

Payments due and unpaid under the Contract Documents shall bear interest from the date payment is due at such rate as the parties may 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.

#### § 13.7 Time Limits on Claims

The Owner and Contractor shall commence all claims and causes of action, whether in contract, tort, breach of warranty or otherwise, against the other arising out of or related to the Contract in accordance with the requirements of the final dispute resolution method selected in the Agreement within the time period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Contractor waive all claims and causes of action not commenced in accordance with this Section 13.7.

### ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT

#### § 14.1 Termination by the Contractor

§ 14.1.1 The Contractor may terminate the Contract if the Work is stopped for a period of 30 consecutive days through no act or fault of the Contractor or a Subcontractor, Sub-subcontractor or their agents or employees or any other persons or entities performing portions of the Work under direct or indirect contract with the Contractor, 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 Because the Architect has not issued a Certificate for Payment and has not notified the Contractor of the reason for withholding certification as provided in Section 9.4.1, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Contract Documents; or
- .4 The Owner has failed to furnish to the Contractor promptly, upon the Contractor's request, reasonable evidence as required by Section 2.2.1.

§ 14.1.2 The Contractor may terminate the Contract if, through no act or fault of the Contractor or a Subcontractor, Sub-subcontractor or their agents or employees or any other persons or entities performing portions of the Work under direct or indirect contract with the Contractor, 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 seven days' written notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work executed, including reasonable overhead and profit, costs incurred by reason of such termination, and damages.

§ 14.1.4 If the Work is stopped for a period of 60 consecutive days through no act or fault of the Contractor or a Subcontractor or their agents or employees or any other persons performing portions of the Work under contract with the Contractor because the Owner has repeatedly failed to fulfill the Owner's obligations under the Contract Documents with respect to matters important to the progress of the Work, the Contractor may, upon seven additional days' written notice to the Owner and the Architect, terminate the Contract and recover from the Owner as provided in Section 14.1.3.

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

**§ 14.2.1** The Owner may terminate the Contract if the Contractor

- .1 repeatedly refuses or fails to supply enough properly skilled workers or proper materials;
- .2 fails to make payment to Subcontractors for materials or labor in accordance with the respective agreements between the Contractor and the Subcontractors;
- .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.

**§ 14.2.2** When any of the above reasons exist, the Owner, upon certification by the Initial Decision Maker that sufficient cause exists to justify such action, may without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' written notice, terminate employment of the Contractor and may, 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 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.

**§ 14.3 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 as described in Section 14.3.1. Adjustment of the Contract Sum shall include profit. No adjustment shall be made to the extent

- .1 that performance is, was or would have been so suspended, delayed or interrupted by another cause for which the 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 written notice from the Owner of such termination for the Owner's convenience, the Contractor shall

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

**§ 14.4.3** In case of such termination for the Owner's convenience, the Contractor shall be entitled to receive payment for Work executed, and costs incurred by reason of such termination, along with reasonable overhead and profit on the Work not executed.

## 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, 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.

#### § 15.1.2 Notice of Claims

Claims by either the Owner or Contractor must be initiated by written 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 must 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.

#### § 15.1.3 Continuing Contract Performance

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. The Architect will prepare Change Orders and issue Certificates for Payment in accordance with the decisions of the Initial Decision Maker.

#### § 15.1.4 Claims for Additional Cost

If the Contractor wishes to make a Claim for an increase in the Contract Sum, written notice as provided herein shall be given before proceeding to execute the Work. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4.

#### § 15.1.5 Claims for Additional Time

§ 15.1.5.1 If the Contractor wishes to make a Claim for an increase in the Contract Time, written notice as provided herein 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.

§ 15.1.5.2 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.

#### § 15.1.6 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 except anticipated profit arising directly from the Work.

This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 14. Nothing contained in this Section 15.1.6 shall be deemed to preclude an award of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.

#### § 15.2 Initial Decision

§ 15.2.1 Claims, excluding those arising under Sections 10.3, 10.4, 11.3.9, and 11.3.10, shall be referred to the Initial Decision Maker for initial decision. The Architect will serve as the Initial Decision Maker, unless otherwise indicated in the Agreement. Except for those Claims excluded by this Section 15.2.1, an initial decision shall be required as a condition precedent to mediation of any Claim arising prior to the date final payment is due, unless 30 days have passed after the Claim has been referred to the Initial Decision Maker with no 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 such 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 an initial decision, demand in writing that the other party file for mediation within 60 days of the initial decision. If such a demand is made and the party receiving the demand fails to file for mediation within the time required, 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 15.1.6 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 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

**§ 15.4 Arbitration**

§ 15.4.1 If the parties have selected arbitration as the method for binding dispute resolution in the Agreement, any Claim subject to, but not resolved by, mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of the Agreement. A demand for arbitration shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the arbitration. The party filing a notice of demand for arbitration must assert in the demand all Claims then known to that party on which arbitration is permitted to be demanded.

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

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

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

**§ 15.4.4 Consolidation or Joinder**

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

§ 15.4.4.2 Either party, at its sole discretion, may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.

§ 15.4.4.3 The Owner and Contractor grant to any person or entity made a party to an arbitration conducted under this Section 15.4, whether by joinder or consolidation, the same rights of joinder and consolidation as the Owner and Contractor under this Agreement.

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ATTACHMENT TO AIA DOCUMENT A201-2007, *General Conditions of the Contract for Construction*

The provisions of this attachment shall delete, modify and supplement the provisions contained in the "*General Conditions of the Contract for Construction*," AIA Document A201-2007 Edition. The provisions contained in this attachment will supersede any conflicting provisions of the AIA Document. The term "Agency," as used in this Attachment, shall mean the United States of America, acting through the United States Department of Agriculture.

ARTICLE 1, GENERAL PROVISIONS

Add the following subparagraph:

1.2.4 Concurrence of the Contract by the Agency is required before it is effective.

ARTICLE 2, OWNER

Delete subparagraph 2.2.5 and substitute the following:

2.2.5 The Contractor will be furnished, free of charge, \_\_\_\_\_ copies of the Drawings and Projects Manuals necessary for execution of the Work. Additional copies will be available from the Architect at the cost of reproduction and handling.

ARTICLE 4, ARCHITECT

Add the following to subparagraph 4.1.1:

The term "Architect" means the Architect, or the Engineer when the nature of the work is within the authority granted engineers by the State licensure law, or an authorized representative of the Architect or Engineer.

ARTICLE 5, SUBCONTRACTORS

Add the following to subparagraph 5.2.2:

The Contractor shall not contract with any party who is suspended or debarred by any Federal government agency from participating in Federally assisted construction projects

or to whom the Owner or the Architect has made reasonable and timely objection.

ARTICLE 7, CHANGES IN THE WORK

Delete the words ", Construction Change Directive" from subparagraph 7.1.1.

Insert the words ", Agency " after the word "Owner," and delete the words "; a Construction Change Directive requires agreement by the Owner and Architect and may or may not be agreed to by the Contractor" in subparagraph 7.1.2.

Delete the words "Construction Change Directive" from subparagraph 7.1.3.

Delete subparagraph 7.2.1 and substitute the following:

7.2.1 A Change Order is a written order to the Contractor utilizing Form RD 1924-7, "Contract Change Order," or AIA G-701 signed by the Owner, Architect, Contractor, and the Agency representative. It is issued after the execution of the Contract, authorizing a change in the Work or an adjustment in the Contract Sum or the Contract Time. The Contract Sum and the Contract Time may be changed only by Change Order. The Contractor's signing of a Change Order indicates complete agreement therein.

Add subparagraph 7.2.2:

7.2.2 Methods used in determining adjustments to the Contract Sum may include any of the following:

- .1 Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluating.
- .2 Unit prices stated in the Contract Documents or subsequently agreed upon.

Add the following sentence to paragraph 7.3: "A Construction Change Directive may be used only for a change in response to an emergency as described in paragraph 10.4."

ARTICLE 8, TIME

Add the following subparagraphs:

8.2.4 The Notice to Proceed shall be issued within twenty (20) calendar days of the execution of the Agreement by the Owner. Should there be reasons why the Notice to Proceed cannot be issued within such period, the time may be extended by mutual agreement of the Owner and Contractor, with the concurrence of the Agency. If the Notice to Proceed has not been issued within the twenty (20) calendar day period or within the period mutually agreed, the Contractor may terminate the Agreement without further liability on the part of either party.

8.3.4 As outlined in Article 3 of the Agreement, the Contractor agrees to pay liquidated damages to the Owner for each calendar day the Contractor shall be in default.

ARTICLE 9, PAYMENTS AND COMPLETION

Delete clause 9.3.1.1 and substitute the following:

9.3.1.1 Work performed and materials supplied under a Change Order may be included for payment only after the Change Order has been approved by all appropriate parties, including the Agency.

Add the words ", using AIA Document 702, 'Application and Certificate for Payment' or Form RD 1924-18, 'Partial Payment Estimate'," after "Certificate for Payment" in subparagraph 9.4.1.

Add the following subparagraph:

9.6.8 No progress payments will be made that deplete the retainage, nor place in escrow any funds that are required for retainage, nor invest the retainage for the benefit of the Contractor. Retainage will not be adjusted until after construction is substantially complete.

Replace the word "seven" with the words "fifteen (15)" in the first sentence , third line of subparagraph 9.7.

Delete subparagraph 9.8.5, after the first sentence, and substitute the following:

9.8.5 When the Work has been substantially completed, except for Work which cannot be completed because of weather conditions, lack of materials or other reasons, which, in the judgment of the Owner, are valid reasons for non-completion, the Owner may make additional payments, retaining at all times an amount sufficient to cover the estimated cost of the Work still to be completed. Provide a copy of the Certificate to the Agency.

Delete subparagraphs 9.9.1 through 9.9.3 and substitute the following:

9.9.1 The Contractor agrees to the use and occupancy of a portion or unit of the Project before formal acceptance by the Owner under the following conditions:

- .1 A "Certificate of Substantial Completion" shall be prepared and executed as provided in subparagraph 9.8.4, except that when, in the opinion of the Architect, the Contractor is chargeable with unwarranted delay in completing the Work or other Contract requirements, the signature of the Contractor will not be required. The Certificate of Substantial Completion shall be accompanied by a written endorsement of the Contractor's insurance carrier and surety permitting occupancy by the Owner during the remaining period of the Project Work. Occupancy and use by the Owner shall not commence until authorized by public authorities having jurisdiction over the Work.
- .2 Occupancy by the Owner shall not be construed by the Contractor as being an acceptance of that part of the Project to be occupied.
- .3 The Contractor shall not be held responsible for any damage to the occupied part of the Project resulting from the Owner's occupancy.
- .4 Occupancy by the Owner shall not be deemed to constitute a waiver of existing claims in behalf of the Owner or Contractor against each other.
- .5 If the Project consists of more than one building, and one of the buildings is to be

occupied, the Owner, prior to occupancy of that building, shall secure permanent property insurance on the building to be occupied and necessary permits which may be required for use and occupancy.

9.9.2 With the exception of clause 9.9.1.5, use and occupancy by the Owner prior to Project acceptance does not relieve the Contractor of responsibility to maintain all insurance and bonds required of the Contractor under the Contract Documents until the Project is completed and accepted by the Owner.

Delete the second and third sentences of subparagraph 9.10.2.

#### ARTICLE 11, INSURANCE AND BONDS

Replace the words "the Contract Documents" with the words "subparagraph 11.1.5" in the first sentence of subparagraph 11.1.2.

Add the following subparagraph:

11.1.5. Insurance shall be:

- .1 Written with a limit of liability of not less than \$500,000 for all damages arising out of bodily injury, including death, at any time resulting therefrom, sustained by any one person in any one accident; and a limit of liability of not less than \$500,000 aggregate for any such damages sustained by two or more persons in any one accident. Insurance shall be written with a limit of liability of not less than \$200,000 for all property damage sustained by any one person in any one accident; and a limit of liability of not less than \$200,000 aggregate for any such damage sustained by two or more persons in any one accident, or,
- .2 Written with a combined bodily injury and damage liability of not less than \$700,000 per occurrence; and with an aggregate of not less than \$700,000 per occurrence.

Add the following sentence to the end of subparagraph 11.3.1

The policy shall name as the insured the Contractor and the Owner.

Insert the word "Owner" after the words "protect the interests of the" in the second sentence of subparagraph 11.3.1.2.

Add the following sentence to the end of subparagraph 11.3.6:

The provisions of this subparagraph shall apply to the Contractor if the Contractor purchases and maintains said insurance coverage.

Delete subparagraph 11.3.7 in its entirety.

Delete subparagraph 11.4.1 and substitute the following:

11.4.1 The Contractor shall furnish the Owner bonds covering faithful performance of the Contract and payment of obligations arising thereunder within ten (10) calendar days after receipt of the Notice of Award. The surety company executing the bonds must hold a certificate of authority as an acceptable surety on Federal bonds as listed in Treasury Circular 570, and be authorized to transact business in the State where the Project is located. The bonds (using the forms included in the Bidding Documents) shall each be equal to the amount of the Contract Sum. The cost of these bonds shall be included in the Contract Sum

Add the following subparagraphs:

11.4.1.1 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 power of attorney.

11.4.1.2 If at any time a surety on any such bond is declared bankrupt or loses its right to do business in the State in which the work is to be performed or is removed from the list of surety companies accepted on Federal Bonds, the Contractor shall within ten (10) calendar days after notice from the Owner to do so, substitute an acceptable bond in such form and sum and signed by such other surety or sureties as may be satisfactory to the Owner. The premiums of such bond shall be paid by any Contractor. No further payment shall be deemed due nor shall be made until the new surety or sureties shall have furnished an acceptable bond to the Owner.

ARTICLE 13, MISCELLANEOUS PROVISIONS

Add the following paragraphs:

13.8 LANDS AND RIGHTS-OF WAY

13.8.1 Prior to the start of construction, the Owner shall obtain all lands and rights-of-way necessary for the execution and completion of work to be performed under this contract.

13.9 EQUAL OPPORTUNITY REQUIREMENTS

Non-discrimination in Employment by Federally Assisted Construction Contractors, by Executive Order 11246.

13.9.1 This section summarizes Executive Order 11246, which prohibits employment discrimination and requires employers holding non-exempt Federal contracts and subcontracts and federally-assisted construction contracts and subcontracts in excess of \$10,000 to take affirmative action to ensure equal employment opportunity without regard to race, color, religion, sex, or national origin. The Executive Order requires, as a condition for the approval of any federally assisted construction contract, that the applicant incorporate nondiscrimination and affirmative action clauses into its non-exempt federally assisted construction contracts.

13.9.2 Executive Order 11246, is administered and enforced by the Office of Federal Contract Compliance Programs (OFCCP), an agency in the U.S. Department of Labor's Employment Standards Administration. OFCCP has issued regulations at 41 C.F.R. chapter 60 implementing the Executive Order. The regulations at 41 C.F.R. part 60-4 establish the procedures which the Agency, as an administering agency, must follow when making grants, contracts, loans, insurance or guarantees involving federally assisted construction which is not exempt from the requirements of Executive Order 11246. The regulations which apply to Federal or federally assisted construction contractors also are published at 41 C.F.R. part 60-4.

13.9.3 OFCCP has established numerical goals for minority and female utilization in construction work. The goals are expressed in percentage terms for the contractor's aggregate workforce in each trade. OFCCP has set goals for minority utilization based on the percentage of minorities in the civilian labor force in the relevant area. There is

a single nationwide goal of 6.9 percent for utilization of women. The goals apply to all construction work in the covered geographic area, whether or not it is federal, federally assisted or non-federal. A notice advises bidders of the applicable goals for the area where the project is to be located.

13.9.4 Application. This section applies to all of a construction contractor's or subcontractor's employees who are engaged in on-site construction including those construction employees who work on a non-Federal or non-Federally assisted construction site.

13.9.4.1 Agency officials will notify the appropriate Regional Director of OFCCP that an Agency financed construction contract has been awarded, and that the equal opportunity clauses are included in the contract documents.

13.9.4.2 The Regional Director, OFCCP-DOL, will enforce the non-discrimination requirements of Executive Order 11246.

13.9.5 The prospective contractor or subcontractor must comply with the Immigration Reform and Control Act of 1986, by completing and retaining Form I-9, "Employment Eligibility Verification," for employees hired. This form is available from the Immigration and Naturalization Service, and Department of Justice.

13.9.6 The prospective contractor or subcontractor must submit Form RD 400-6, "Compliance Statement," to the applicant and an Agency official as part of the bid package, prior to any contract bid negotiations and comply with the Executive Order 11246 as stated in the contract documents.

#### 13.10 STATUTES

13.10.1 The Contractor and each Subcontractor shall comply with the following statutes (and with regulations issued pursuant thereto, which are incorporated herein by reference):

13.10.1.1 Copeland Anti-Kickback Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 C.F.R. part 3). This Act provides that each Contractor shall be prohibited from inducing, by any means, any person in connection with construction to give up any part of the compensation to which the person is otherwise entitled.



13.10.1.2 Clean Air Act (42 U.S.C. 7414), section 114, and Water Pollution Control Act (33 U.S.C. 1813), section 308. Under Executive Order 11738 and Environmental Protection Agency (EPA) regulations 40 C.F.R. part 15, all Contracts in excess of \$100,000 are required to comply with these Acts. The Acts require the Contractor to:

- .1 Notify the Owner of the receipt of any communication from EPA indicating that a facility to be utilized in the performance of the Contract is under consideration to be listed on the EPA list of Violating Facilities.
- .2 Certify that any facility to be utilized in the performance of any nonexempt Contractor or Subcontractor is not listed on the EPA list of Violating Facilities as of the date of the Contract Award.
- .3 Include or cause to be included the above criteria and requirements of paragraphs .1 and .2 in every nonexempt subcontract, and that the Contractor will take such action as the Government may direct as a means of enforcing such provisions.

13.10.1.3 Restrictions on Lobbying (Public Law 101-121, section 319) as supplemented in Department of Agriculture regulations (7 C.F.R. part 3018). This statute applies to the recipients of contracts or subcontracts that exceed \$100,000 at any tier under a Federal loan that exceeds \$150,000 or a Federal grant that exceeds \$100,000. If applicable, the Contractor must complete a certification form on lobbying activities related to the specific Federal loan or grant that is a funding source for this contract. The certification and disclosure forms shall be provided by the Owner.

#### 13.11 RECORDS

13.11.1 If the Contract is based on a negotiated Bid, the Owner, the Agency, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the Contractor which are pertinent to a specific Federal loan program for the purpose of making audit, examination, excerpts, and transcriptions. The Contractor shall maintain records for at least three years after the Owner makes final payment and all other pending matters are closed.

### 13.12 ENVIRONMENTAL REQUIREMENTS

13.12.1 Mitigation Measures - The contractor shall comply with applicable mitigation measures established in the environmental assessment for the project. These may be obtained from the Agency representative.

13.12.2 The Contractor, when constructing a Project involving trenching, excavating, or other earth moving activity, shall comply with the following environmental constraints:

13.12.2.1 Endangered Species, Historic Preservation, Human Remains and Cultural Items, Hazardous Materials, and Paleontology - Any excavation or other earth moving activity by the Contractor that provides evidence of the presence of endangered or threatened species or their critical habitat, uncovers a historical or archaeological artifact, human remains or cultural items, hazardous materials, a fossil or other paleontological materials will require the Contractor to:

- .1 Temporarily stop work;
- .2 Provide immediate notice to the Architect and the Agency, and in the case of potentially hazardous materials, provide immediate notice to local first responders and take such measures as necessary to protect the public and workers;
- .3 Take reasonable measures as necessary to protect the discovered materials or protected resource;
- .4 Abide by such direction as provided by the Agency, or Agencies responsible for resource protection or hazardous materials management; and
- .5 Resume work only upon notice from the Architect and the Agency.

13.12.3 Lead-Based Paint - The Contractor and Owner shall comply with applicable Agency requirements of the Lead-Based Paint Poisoning Prevention Act, as amended (42 U.S.C. 4821), and the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851) for rehabilitation work on residential property built prior to 1978.

13.13 DEBARMENT AND SUSPENSION

13.13.1 The Contractor shall comply with the requirements of 7 C.F.R. part 3017, which pertains to the debarment or suspension of a person from participating in a Federal program or activity.

ARTICLE 15 CLAIMS AND DISPUTES

Add the words "may be" after "on the parties but" in the last sentence of subparagraph 15.2.5.

Replace the word "shall" with the word "may" in the first sentence, first occurrence of subparagraph 15.3.2

15.4.1.2 The arbitrators will select a hearing location as close to the Owner's locale as possible.

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Position 3

UNITED STATES DEPARTMENT OF AGRICULTURE  
RURAL DEVELOPMENT  
RURAL HOUSING SERVICE  
CERTIFICATION OF NO IDENTITY OF INTEREST (101)

Applicant/Borrower Name:	Project Name:
	Location: (Town, Country, State)

IDENTITY OF INTEREST STATEMENT

An Identity of Interest occurs:

- (1) When there is any financial interest between the applicant/borrower and/or management entity and the supplying entity.
- (2) When one or more of the officers, directors, stockholders or partners of the applicant/borrower or management entity is also an officer, director, stockholder, or partner of the supplying entity.
- (3) When any officer, director, stockholder, or partner of the applicant/borrower and/or management entity has a 10 percent or more financial interest in the supplying entity.
- (4) When the supplying entity advances any funds to the applicant/borrower and/or management entity.
- (5) When the supplying entity provides or pays on behalf of the applicant/borrower and/or management entity the cost of any materials and/or services in connection with obligations under the management plan/management agreement.
- (6) When the supplying entity takes stock or any interest in the applicant/borrower and/or management entity as part of the consideration to be paid them.
- (7) When there exists or comes into being any side deals, agreements, contracts or understandings entered into thereby altering, amending, or canceling any of the management plan/management agreement documents, organization documents or other legal documents pertaining to the property, except as approved by the Agency.

I, \_\_\_\_\_ (please print name), hereby certify that I have read the identity of interest statement above and understand what the USDA, Rural Development, Rural Housing Service (herein referred to as the Agency), has determined constitutes an identity of interest. I further certify that NO identity of interest relationship exists.

I also hereby certify, under penalty of law\*, and with knowledge that this information may be verified, that the information submitted is true and accurate. I further understand that failure to disclose any identity of interest to the Agency will also subject me to any administrative remedies available to the Agency. Such remedies may include suspension and debarment from participating in any Federal program.

I further understand and agree that I will complete an Identity of Interest Disclosure/Qualification Certificate if at any time my circumstances change, and an identity of interest relationship is formed.

\_\_\_\_\_  
Applicant/Borrower Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Applicant/Borrower Signature

\_\_\_\_\_  
Date

\*Warning: Section 1001 of Title 18, United States Code provides: "Whoever, in any matter within the jurisdiction of the executive, legislative, or Judicial branch of the Government of the United States, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, makes any materially false, fictitious, or fraudulent statement or representation, or makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry shall be fined under this title or imprisoned not more than 5 years, or both."

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB number. The valid OMB number for this information collection is 0575-0189. The time required to complete this information collection is estimated to average 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

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UNITED STATES DEPARTMENT OF AGRICULTURE  
RURAL DEVELOPMENT  
RURAL HOUSING SERVICE  
IDENTITY OF INTEREST DISCLOSURE/QUALIFICATION CERTIFICATE

SECTION 1: TO BE COMPLETED BY ALL APPLICANTS/BORROWERS	
Applicant/Borrower Name:	Project Name:
	Location: (Town, Country, State)

IDENTITY OF INTEREST STATEMENT

An Identity of Interest occurs:

- (1) When there is any financial interest between the applicant/borrower and/or management entity and the supplying entity.
- (2) When one or more of the officers, directors, stockholders or partners of the applicant/borrower or management entity is also an officer, director, stockholder, or partner of the supplying entity.
- (3) When any officer, director, stockholder, or partner of the applicant (borrower and/or management entity has 10 percent or more financial interest in the supplying entity.
- (4) When the supplying entity advances any funds to the applicant/borrower and/or management entity.
- (5) When the supplying entity provides or pays on behalf of the applicant/borrower and/or management entity the cost of any materials and/or services in connection with obligations under the management plan/management agreement.
- (6) When the supplying entity takes stock or any interest in the applicant/borrower and/or management entity as part of the consideration to be paid them.
- (7) When there exists or comes into being any side deals, agreements, contracts or understandings entered into thereby altering, amending, or canceling any of the management plan/management agreement documents, organization documents or other legal documents pertaining to the property, except as approved by the Agency.

I, \_\_\_\_\_ (please print name), hereby certify that I have read the identity of interest statement above and understand what the USDA, Rural Development, Rural Housing Service (herein referred to as the Agency), has determined constitutes an identity of interest. I further certify that an identity of interest relationship exists and hereby disclose on the following page(s) of this qualification form those entities with which I HAVE an identity of interest relationship.

I hereby certify, under penalty of law\*, and with knowledge that this information may be verified, that the information submitted is true and accurate. I further understand that failure to disclose any identity of interest to the Agency will also subject me to any administrative remedies available to the Agency. Such remedies may include suspension and debarment from participating in any Agency or Federal program.

I further understand and agree that I will update this Disclosure/Qualification Certificate if my circumstances change, and I agree to provide a new Disclosure/Qualification Certificate at any time requested by the Agency.

This Certification shall be in effect for a period of three years beginning on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Applicant/Borrower Signature

**\*Warning:** Section 1001 of Title 18, United States Code provides, "Whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, makes any materially false, fictitious, or fraudulent statement or representation, or makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry shall be fined under this title or imprisoned not more than 5 years, or both."

*According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0575-0189. The time required to complete this information collection is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.*

IDENTITY OF INTEREST QUALIFICATION

SECTION II: TO BE COMPLETED BY THE PRINCIPAL FOR EACH BUSINESS OR TRADE WITH AN IDENTITY OF INTEREST (101) RELATIONSHIP WITH A CONTRACTING ENTITY. Use additional sheets for each 101 entity, if necessary.

101 Entity Name: \_\_\_\_\_
Type of Entity: Contractor [ ] Subcontractor [ ] Architect [ ] Attorney [ ] Property Management [ ]
Trade or Business: \_\_\_\_\_
Supplier of: Material [ ] Labor [ ] Both [ ] Service [ ]
Describe IOI Entity's Relationship to Applicant/Borrower: \_\_\_\_\_
Address: \_\_\_\_\_

Telephone Number: \_\_\_\_\_
Taxpayer Identification Number: \_\_\_\_\_
Number of Full-time Employees: \_\_\_\_\_ Part-time: \_\_\_\_\_ Years in Business: \_\_\_\_\_
Personnel (those responsible for completion of the contracted work): \_\_\_\_\_

Principal of IOI Entity: \_\_\_\_\_ Address: \_\_\_\_\_
Home Telephone Number: \_\_\_\_\_
Social Security Number: \_\_\_\_\_
Years in Business: \_\_\_\_\_
Training: \_\_\_\_\_
License(s) Held (include license numbers): \_\_\_\_\_
Name, Address and Telephone Number of Licensing Agencies: \_\_\_\_\_

Percent of Total Annual Compensation from Company: \_\_\_\_\_ %
Disclose any criminal convictions or debarment from Local, State, or Federal Government Programs: \_\_\_\_\_

Disclose Any Current or Pending Legal Actions Against the Company or any of its Principals: \_\_\_\_\_

Do any of the 101 companies function as "pass-throughs," i.e., does the 101 company purchase goods or services from another party and pass those goods or services through to the project? For each pass-through arrangement, respond to the statements below. (Use additional sheets as necessary.)

- Name the IOI company involved.
Explain how the IOI compensation is determined.
Explain why it is more advantageous for the project to use the pass-through arrangement than to purchase directly from the ultimate supplier.

Attach fee schedules for all IOI companies disclosed.

I certify, under penalty of law\*, that the business in which I am employed is an ongoing trade or business qualified and properly licensed to undertake the work for which I intend to contract. I further certify, under penalty of law\*, and with knowledge that this information may be verified, that the information submitted is true and accurate.

(Signature)
IOI Entity Principal

Date

\*Warning: Section 1001 of Title 18, United States Code provides, "Whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, makes any materially false, fictitious, or fraudulent statement or representation, or makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry shall be fined under this title or imprisoned not more than 5 years, or both."



Form RD 1924-7  
(Rev. 2-97)

UNITED STATES DEPARTMENT OF AGRICULTURE  
RURAL DEVELOPMENT AND  
FARM SERVICE AGENCY

CONTRACT CHANGE ORDER

ORDER NO.
DATE
STATE
COUNTY

CONTRACT FOR

OWNER

To

(Contractor)

You are hereby requested to comply with the following changes from the contract plans and specifications:

Description of Changes (Supplemental Plans and Specifications Attached)	DECREASE in Contract Price	INCREASE in Contract Price
	\$	\$
TOTALS	\$ 0.00	0.00
NET CHANGE IN CONTRACT PRICE	\$ 0.00	0.00

JUSTIFICATION:

The amount of the Contract will be (Decreased) (Increased) By The Sum Of: \_\_\_\_\_

Dollars (\$ \_\_\_\_\_).

The Contract Total Including this and previous Change Orders Will Be: \_\_\_\_\_

Dollars (\$ \_\_\_\_\_).

The Contract Period Provided for Completion Will Be (Increased) (Decreased) (Unchanged) : \_\_\_\_\_ Days.

This document will become a supplement to the contract and all provisions will apply hereto.

Requested \_\_\_\_\_ (Owner) \_\_\_\_\_ (Date)

Recommended \_\_\_\_\_ (Owner's Architect/Engineer) \_\_\_\_\_ (Date)

Accepted \_\_\_\_\_ (Contractor) \_\_\_\_\_ (Date)

Approved by Agency \_\_\_\_\_ (Name and Title) \_\_\_\_\_ (Date)

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0575-01042. The time required to complete this information collection is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

- ORIGINAL-BORROWER'S CASE FOLDER
- COPY-CONTRACTOR
- COPY-BORROWER

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Form RD 1924-18  
(Rev. 6-97)

UNITED STATES DEPARTMENT OF AGRICULTURE  
RURAL DEVELOPMENT  
FARM SERVICE AGENCY

**PARTIAL PAYMENT ESTIMATE**

CONTRACT NO. \_\_\_\_\_

PARTIAL PAYMENT ESTIMATE NO. \_\_\_\_\_

PAGE \_\_\_\_\_

OWNER: \_\_\_\_\_

CONTRACTOR: \_\_\_\_\_

PERIOD OF ESTIMATE

FROM \_\_\_\_\_ TO \_\_\_\_\_

CONTRACT CHANGE ORDER SUMMARY

ESTIMATE

No.	Agency Approval Date	Amount		
		Additions	Deductions	
				1. Original Contract .....
				2. Change Orders ..... \$0.00
				3. Revised Contract (1 + 2) ..... \$0.00
				4. Work Completed* .....
				5. Stored Materials* .....
				6. Subtotal (4 + 5) ..... \$0.00
				7. Retainage* .....
				8. Previous Payments .....
				9. Amount Due (6-7-8) ..... \$0.00
TOTALS		\$0.00	\$0.00	* Detailed breakdown attached
NET CHANGE		\$0.00	\$0.00	

CONTRACT TIME

Original (days) \_\_\_\_\_  
Revised \_\_\_\_\_  
Remaining \_\_\_\_\_

On Schedule

Yes  
 No

Starting Date \_\_\_\_\_  
Projected Completion \_\_\_\_\_

CONTRACTOR'S CERTIFICATION:

The undersigned Contractor certifies that to the best of their knowledge, information and belief the work covered by this payment estimate has been completed in accordance with the contract documents, that all amounts have been paid by the contractor for work for which previous payment estimates was issued and payments received from the owner, and that current payment shown herein is now due.

Contractor \_\_\_\_\_

By \_\_\_\_\_

Date \_\_\_\_\_

APPROVED BY OWNER:

Owner \_\_\_\_\_

By \_\_\_\_\_

Date \_\_\_\_\_

ARCHITECT OR ENGINEER'S CERTIFICATION:

The undersigned certifies that the work has been carefully inspected and to the best of their knowledge and belief, the quantities shown in this estimate are correct and the work has been performed in accordance with the contract documents.

Architect or Engineer \_\_\_\_\_

By \_\_\_\_\_

Date \_\_\_\_\_

ACCEPTED BY AGENCY:

The review and acceptance of this estimate does not attest to the correctness of the quantities shown or that the work has been performed in accordance with the contract documents.

By \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0575-0042. The time required to complete this information collection is estimated to average 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed and completing and reviewing the collection of information.



## Application and Certificate for Payment

<b>TO OWNER:</b>	<b>PROJECT:</b> _____	<b>APPLICATION NO:</b> _____	<b>Distribution to:</b>
<b>FROM CONTRACTOR:</b>	VIA ARCHITECT:	<b>PERIOD TO:</b> _____	OWNER: <input type="checkbox"/>
		<b>CONTRACT FOR:</b> General Construction	ARCHITECT: <input type="checkbox"/>
		<b>CONTRACT DATE:</b> _____ / _____ / _____	CONTRACTOR: <input type="checkbox"/>
		<b>PROJECT NOS:</b> _____ / _____ / _____	FIELD: <input type="checkbox"/>
			OTHER: <input type="checkbox"/>

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:** \_\_\_\_\_ **Date:** \_\_\_\_\_

By: \_\_\_\_\_

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

### CONTRACTOR'S APPLICATION FOR PAYMENT

Application is made for payment, as shown below, in connection with the Contract Continuation Sheet, AIA Document G703, 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
  - b. 0 % of Stored Material (Column F on 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  
(Line 3 less Line 6)

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
<b>TOTALS</b>	<b>\$ 0.00</b>	<b>\$ 0.00</b>
NET CHANGES by Change Order		\$ 0.00

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User Notes: (2463686792)

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Date \_\_\_\_\_

Dear Sir:

I hereby acknowledge the receipt of \_\_\_\_\_ dollars  
(\$ \_\_\_\_\_) in full payment of my contract dated \_\_\_\_\_ for improvement work which I did for you and  
which is described in my contract.

I certify that I have paid in full for all materials purchased and all labor employed in the performance of this contract, and that there  
are no claims against me under this contract on account of injuries sustained by workers employed by me or by subcontractors  
thereunder. I hereby release you from any claims arising by virtue of this contract.

I am attaching Form RD 1924-10, "Release by Claimants," signed by all persons from whom I have purchased materials and by all  
subcontractors and all persons employed in connection with my contract with the above-named borrower.

**WARNING**

The statements and representations made above are made in connection with construction financed in whole or  
in part by the United States Department of Agriculture (USDA). The statements and representations will be  
used to determine the release of USDA provided funds. The making of any false statement or misrepresentation  
herein may be a crime punishable under Title 18 U.S.C. § 1001 which provides in part: "Whoever, in any matter  
within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals or  
covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or  
representations, or makes or uses any false writing or statement or entry, shall be fined under [title 18 of the United  
States code] or imprisoned not more than five years, or both.

Sincerely,

\_\_\_\_\_  
Contractor

Position 6

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0575-0042. The time required to complete this information collection is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

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**RELEASE BY CLAIMANTS**

The undersigned, having received payment in full for all labor, materials, supplies, or equipment supplied to \_\_\_\_\_, Contractor, or to any subcontractor, in the construction or repair of the improvements upon the property located at:

\_\_\_\_\_

\_\_\_\_\_, and furnished in the execution and fulfillment of contract between said Contractor and \_\_\_\_\_ Owner, dated

\_\_\_\_\_, do (does) hereby release and waive any and all claims, liens, and lien rights, of any kind, nature, or description whatsoever, against said property and the Owner thereof, and against said Contractor.

<i>Lien or Claimant</i>	<i>Work or Materials</i>	<i>Amount</i>	<i>Date</i>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
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_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0575-0042. The time required to complete this information collection is estimated to average 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

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**ESTIMATE AND CERTIFICATE OF ACTUAL COST**

This form is to be used by the contractor and borrower to estimate the cost of construction and total PROJECT NUMBER (Borrower ID Number) development cost, or to certify the actual cost of project construction and development.

BORROWER/OWNER-BUILDER	CONTRACTOR
NAME OF PROJECT	LOCATION

This certificate is made pursuant to existing regulations of the United States of America acting through the Rural Development in order to induce the Government to provide or extend assistance. As part of that inducement, the following certifications are made:

Check and Complete Applicable Box:

A. ESTIMATE

I certify that the estimates of costs as set forth through line 44 in the ESTIMATED COST column are true and correct as computed by me \_\_\_\_\_ or as given to me by the subcontractors or payees named, as general contractor or owner-builder for the development of the project described above, as determined from the plans and specifications accepted, signed and dated by the Rural Development State Director of Rural Development or the State Director's delegated representative, on \_\_\_\_\_ 20\_\_\_\_. As borrower or owner-builder for the development of the project described above, I certify that the estimates of cost as set forth from line 44 in the ESTIMATED COST column are true and correct as computed by me or as given to me by the subcontractors or payees named. Subsequent to this estimate and prior to final payment, when directed by Rural Development, I agree to furnish a certification of actual cost. The estimate and the final certification will be in accordance with Rural Development regulations requiring estimates and certifications.

B. ACTUAL COST

I certify that the actual cost of labor, materials, and necessary services for the construction of the physical improvements in connection with the project described above, after deduction of all rebates, adjustments, or discounts made or to be made to the undersigned borrower or general contractor, or any corporation, trust partnership, joint venture, or other legal or business entity in which the undersigned borrower or general contractor, or any of their members, stockholders, officers, directors, beneficiaries, or partners hold any interest, is as represented herein. The deduction of such rebates, adjustments, or discounts from actual hard costs will not be used to increase builder's profit over and above the final estimated amount. I further certify that all soft costs associated with construction of the project as set forth on lines 45 through 57 are correct as represented herein.

*According to the Paperwork Reduction Act of 1995, an agency may not conduct a sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0575-0042. The time required to complete this information collection is estimated to average 2 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.*



Line	Div	Trade Item	Estimated Cost	Paid	Actual Cost To Be Paid	Total	Name of Subcontractor or Payee	101 *
1	3	Concrete						
2	4	Masonry						
3	5	Metals						
4	6	Rough Carpentry						
5	6	Finish Carpentry						
6	7	Waterproofing						
7	7	Insulation						
8	7	Roofing						
9	7	Sheet Metal						
10	8	Doors						
11	8	Windows						
12	8	Glass						
13	9	Drywall						
14	9	Tile Work						
15	9	Acoustical						
16	9	Resilient Flooring						
17	9	Painting and Decorating						
18	10	Specialties						
19	11	Special Equipment						
20	11	Cabinets						
21	11	Appliances						
22	12	Blinds and Shades, Artwork						
23	12	Carpets						
24	13	Special Construction						
25	14	Elevators						
26	15	Plumbing and Hot Water						
27	15	Heat and Ventilation						
28	15	Air Conditioning						
29	16	Electrical						
30	2	Earth Work						
31	2	On-Site Utilities						
32	2	Roads and Walks						
33	2	On-Site Improvements						
34	2	Lawns and Planting						
35	2	Unusual On-Site Conditions						
36	2	Off-Site Development						
37		Miscellaneous (Labor and Materials)						
38		Total Hard Costs						
39	1	General Requirements	*					
40		General Overhead	*					
41		Other Fees Paid By Contractor	*					
42		Total Costs						

NOTE: (If additional space is required for these other items, append Ruler thereto, with references and initial. When more than one subcontractor is performing a trade item, the attached work sheet must be completed giving the information indicated.) Form RD 1924-13 (Rev. 12-98)

\* Breakdown on page 4.

CONTRACTOR'S AND BORROWER'S ESTIMATE AND CERTIFICATE OF ACTUAL COST						
Line	Trade Item	Estimated Cost	Paid	Actual Cost To Be Paid	Total	Name of Subcontractor or Payee
43	Balance Bvlt. Forward (line 42)					
	Builder's Profit					
44	Total Construction Cost					
45	Architectural Fees					
46	Survey and Engineering					
47	Financing Costs Loan Fees					
48	Interest During Construction					
49	Closing Costs & Legal Fees					
50	Land Cost or Value					
51	Nonprofit O&M Capital					
52	Tap and or Impact Fees					
53	Tax Credit Fees					
54	Environmental Fees					
55	Market Study Cost					
56						
57						
58	Total Development Cost					

"Whoever, in any matter, with the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals or covers up by trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations; or makes or uses any false writing or statement or entry, shall be fined under this title or imprisoned not more than five years, or both."

**WARNING: Section 1001 of Title 18, United States Code provides: Furthermore, submission of false information relating to the content of this Estimate and Certificate of Actual Cost will subject the submitter to any and all administrative remedies available to USDA. Such remedies may include suspension and debarment from participating in any Rural Development or other Federal program.**



The undersigned hereby certifies that: *(check as appropriate)*

There has not been and is not now any identity of interest between or among the borrower and/or general contractor on the one hand and any subcontractor, material supplier, equipment lessor, or payee on the other (including any of their members, officers, directors, beneficiaries, or partners).

Attached to and made part of this certificate is a signed statement fully describing any rebates, adjustments, discounts, or any other devices which may have or have had the effect of reducing cost, and all amounts shown above as "to be paid in cash" will be so paid within forty-five (45) days.

ESTIMATES:

Date \_\_\_\_\_

Lines I through 44 (Name of Contractor) \_\_\_\_\_

By: \_\_\_\_\_ (Signature)

Title: \_\_\_\_\_

ACTUAL

Date \_\_\_\_\_

Lines I through 44 (Name of Contractor) \_\_\_\_\_

By: \_\_\_\_\_ (Signature)

Title: \_\_\_\_\_



### BUILDER'S WARRANTY

Names and Address of Purchasers or Owners

Property

For good and valuable consideration, the undersigned Warrantor hereby warrants to the Purchasers or Owners identified above and to the successors or transferees, all of whom are hereinafter referred to as Owners that:

The building, including appurtenances located on the property identified above, is constructed or improved in substantial conformity with the drawings and specifications which have been accepted in writing by the respective USDA Agency. This warranty applies to all workmanship, materials, and the installation of equipment (including, but not limited to, the heating system, water heater, ranges and refrigerator).

The Owners shall give written notice to the Warrantor promptly after the discovery of any defective condition. Such written notice must be given to the Warrantor during the period of warranty. The period of warranty shall be (a) in the case of new construction or rehabilitation, one year from the date of initial occupancy of the completed or rehabilitated building, or (b) in the case of improvements made to an existing building owned by the Owners prior to the improvements being made, one year from the date of the completion of the work.

It is agreed and understood that this warranty shall apply only to those defective conditions of which the Warrantor has been given written notice during the period of warranty.

Warrantor further agrees that warrantor will take any necessary actions to correct such defective conditions within \_\_\_\_\_ days

of receipt of written notice. If such action is not taken within \_\_\_\_\_ days, the Owners may, at their option, contract with another party for the correction of the defects. Warrantor agrees to pay any expenses incurred by the Owners to correct defects covered by this warranty.

This warranty shall be in addition to, and in no way reduce, all other rights and privileges which such Owners may have under any other law or instrument, and shall be binding on the Warrantor notwithstanding any provision to the contrary contained in the contract of purchase or any other instrument executed by the Owners.

This warranty is executed, in part, for the purpose of inducing the United States Department of Agriculture, (USDA) to make, insure, or guarantee a loan on the Property.

If this warranty is signed by anyone other than the Warrantor, the person signing for the Warrantor represents and certifies that the person is authorized to execute same by the Warrantor and by the person's signature the Warrantor is bound under the terms and conditions of this warranty

NOTES: A- The warrantor must complete all three copies except dates, meet with owner to agree on notification period, sign and give to the Owner with the final request for payment.

Owner must meet with Warrantor to agree on warranty notification period and to date and sign the warranty, owner must retain original, and forward one copy to contractor, and one to the respective USDA Agency with the final request for payment.

B. This warranty shall be required in all cases involving new construction or rehabilitation of buildings including those built under contract, those built for sale without the respective USDA Agency's required construction inspections and those under conditional commitment procedures.

#### WARNING

Section 100 I of Title 18, United States Code provides: "Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully ... makes any false, fictitious or fraudulent statements or representation, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined not more than \$250,000 or imprisoned not more than five years, or both."

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0575-0042. The time required to complete this information collection is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

In addition to the preceding warranty, the following items are covered by a company warranty or guarantee as follows:

Item	Serial & Model No.	Name and Address of Company	No. Yrs. or Mos. of Warranty
Heating System			
Kitchen Range			
Water Heater			
Refrigerator			
Manufactured Home			
Other			
Other			

**NOTICE TO OWNERS: ANY NOTICE OF DEFECTIVE WORKMANSHIP, MATERIALS OR NONCONFORMITY MUST BE DELIVERED TO THE WARRANTOR NO LATER THAN**

(Warrantor shall insert date one (1) year from initial occupancy, date of conveyance of title or date of completion, whichever is applicable.) All plastic pipe used in this job will carry a 5 -year warranty from the date shown by the Warrantor above.

We have furnished the above company warranties or guarantees to the Owners for their use. If this warranty covers a manufactured home, we certify that the manufactured home property substantially complies with the plans and specifications and the manufactured home sustained no hidden damage during transportation and, if manufactured in separate sections, that the sections were properly joined and sealed according to the manufacturer's specifications.

The Warrantor has signed this warranty this \_\_\_\_\_ day of \_\_\_\_\_,

\_\_\_\_\_ , \_\_\_\_\_

\_\_\_\_\_  
(Warrantor's Address)

\_\_\_\_\_  
Warrantor (Signature & Title) (SEAL)

Receipt of this warranty is acknowledged this \_\_\_\_\_ day of \_\_\_\_\_ , \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
Owner(s)

# DRAFT AIA® Document G704™ - 2000

## Certificate of Substantial Completion

PROJECT:  
*(Name and address)*

PROJECT NUMBER: /  
CONTRACT FOR: General Construction  
CONTRACT DATE:

TO OWNER:  
*(Name and address)*

TO CONTRACTOR:  
*(Name and address)*

OWNER:   
ARCHITECT:   
CONTRACTOR:   
FIELD:   
OTHER:

PROJECT OR PORTION OF THE PROJECT DESIGNATED FOR PARTIAL OCCUPANCY OR USE SHALL INCLUDE:

The Work performed under this Contract has been reviewed and found, to the Architect's best knowledge, information and belief, to be substantially complete. Substantial Completion is the stage in the progress of the Work when the Work or designated portion is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use. The date of Substantial Completion of the Project or portion designated above is the date of issuance established by this Certificate, which is also the date of commencement of applicable warranties required by the Contract Documents, except as stated below:

Warranty

Date of Commencement

\_\_\_\_\_  
ARCHITECT

BY

\_\_\_\_\_  
DATE OF ISSUANCE

A list of items to be completed or corrected is attached hereto. 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. Unless otherwise agreed to in writing, the date of commencement of warranties for items on the attached list will be the date of issuance of the final Certificate of Payment or the date of final payment.

Cost estimate of Work that is incomplete or defective: \$0.00

The Contractor will complete or correct the Work on the list of items attached hereto within Zero (0) days from the above date of Substantial Completion.

\_\_\_\_\_  
CONTRACTOR

BY

\_\_\_\_\_  
DATE

The Owner accepts the Work or designated portion as substantially complete and will assume full possession at \_\_\_\_\_ (time) on \_\_\_\_\_ (date).

\_\_\_\_\_  
OWNER

BY

\_\_\_\_\_  
DATE

The responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance shall be as follows:

*(Note: Owner's and Contractor's legal and insurance counsel should determine and review insurance requirements and coverage.)*

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## Summary of Work

### General

PROJECT DESCRIPTION – Provide all labor, fittings, fabrication, equipment, appurtenances, transportation and services required necessary for and incidental to the completion of work indicated by the Contract Documents entitled:

#### Roofing Replacement at Centennial Arms Apartments, Building #1

CONTRACT – Single Contract: All work under this Contract will be executed under one prime contract between Owner and General Contractor.

EXAMINATION OF SITE – Failure to visit site will not relieve Contractor from necessity of furnishing materials or performing work that may be required to complete work in accordance with Drawings and Specifications without additional cost to Owner. Contractor is responsible for “field verifying” all measurements, Owner is not responsible for variation between drawings and work site.

CONTRACTOR’S USE OF PREMISES – The contractor shall use his best efforts to avoid disrupting the tenants and adjacent Property Owners. Contractor shall limit his use of the premises for work and for storage. Coordinate use of premises under direction of the Owner. Assume full responsibility for the protection and safekeeping of products under this Contract, stored on the site. Move any stored products, under Contractor’s control, which interfere with operations of the Owner or separate contractor.

LICENSE, FEES, AND PERMITS – General Contractor shall arrange for all required inspections and pay for all license and inspection fees, as needed.

### Execution

Remove existing roofing and inspect plywood sheathing. Provide Regional Housing Authority with a written estimate of any necessary repairs to the structure. Replace all metal flashings and appurtenances. Install a new built-up asphalt roofing system as per specifications. Touch any painted areas damaged during construction.

**END OF SECTION**

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**PROJECT COORDINATION**

The requirements of the General Conditions, apply to the work of this section.

**PART 1 – GENERAL**

Contractor shall: Coordinate work of his own employees and subcontractors, expedite his work to assure compliance with schedule.

**CONSTRUCTION ORGANIZATION AND START-UP**

Contractor shall establish on-site lines of authority and communications regarding the following:.

Schedule and conduct preconstruction meeting and progress meetings.

Establish procedures for project communications.

- Use “Request For Information” (RFI) form for all correspondence with Owner; use form at end of section.
- Submittals.
- Recommendations.
- Schedules.
- Resolution of conflicts.

Interpret Contract Documents

- Consult with Owner to obtain interpretation.
- Assist in resolution of questions or conflicts which may arise.
- Transmit written interpretations.

Control the use of Site:

- Supervise field engineering and site layout.
- Allocate field office and storage space, and work and storage areas.
- Establish access, traffic and parking allocations and regulations.
- Monitor use of site during construction.

Obtain permits and approvals

- Building permits and special permits required for Work or for temporary facilities.
- Obtain inspections for Work and for temporary facilities.

Control the use of Site.

- Allocate field office and storage space, and work and storage areas.
- Establish access, traffic and parking allocations and regulations.
- Monitor use of site during construction.

### CONTRACTOR'S DUTIES

General Contractor responsible for field verification of Field Conditions as follows:

- Verify actual field conditions as related to drawing dimensions.
- Report discrepancies which will prevent proper performance of work, to the Owner in writing.

General Contractor responsible for Construction Schedules as specified in Spec. Section 01300.

General Contractor responsible for processing Shop Drawings, Product Data and Samples as specified in Spec. Section 01300.

General Contractor responsible for preparing Coordination Drawings as required to resolve conflicts and to assure coordination of the work.

- Submit to Owner
- Reproduce and distribute copies to concerned parties after Owner review.

General Contractor responsible for Inspection and Testing:

- Inspect work to assure performance in accord with requirements of Contract Documents.
- Administer special testing and inspections of suspect Work.
- Reject Work which does not comply with requirements of Contract Documents.
- Coordinate Testing Laboratory Services:
- Verify that required laboratory personnel are present.
- Verify that tests are made in accordance with specified standards.
- Review test reports for compliance with specified criteria.
- Recommend and administer any required retesting.

General Contractor responsible for monitoring the use of temporary utilities as follows:

- Verify that adequate services are provided and maintained.
- Coordinate use of Owners facilities.
-



General Contractor responsible for monitoring periodic cleaning as follows:

- Enforce compliance with specifications
- Resolve any conflicts

General Contractor responsible for arrangement for delivery and storage of Owner-furnished products.

- Inspect for condition at delivery.

Changes and Substitutions – General Contractor responsible for the following:

- Recommend necessary and desirable changes to Owner.
- Review requests for changes and substitutions; submit recommendations to Owner.

General Contractor to provide cost control for Project:

- Unit costs
- Actual costs for labor and materials.
- Other basis requiring accounting records.

General Contractor responsible for maintaining Reports and Records at Job Site, available to Owner.

- Weekly log of progress of Work. (sample at the end of this section 1300)
- Records:
- Contracts.
- Purchase Orders.
- Materials and equipment records
- Applicable handbooks, codes and standards.

Obtain information and maintain file of record documents.

Assemble documentation for handling of claims and disputes.

#### **CONTRACTOR CLOSE-OUT DUTIES**

General Contractor responsible for conducting and inspection at completion of Work to assure that :

- Specified cleaning has been accomplished.
- Temporary facilities have been removed from site.

**Project Coordination**

**01040-4**

At Substantial Completion, General Contractor to comply with all requirements as specified in Spec. Section 01700.

**END OF SECTION**

## REGULATORY REQUIREMENTS

### PART 1 - GENERAL

#### SUMMARY

Specific reference in the Specifications to codes and regulations or requirements of regulatory agencies shall mean the latest printed edition of each adopted by the regulatory agency at the date of Bid unless the document is shown dated.

#### REGULATORY REQUIREMENTS

Perform the Work in conformance with the applicable requirements of regulatory agencies including, but not limited to, the following codes:

- California Building Code 2013 Edition
- California Code of Regulations (CCR):
  1. Title 24, Building Standards (including Energy Standards and Handicapped Access regulations).
- California Plumbing Code 2013 Edition
- California Mechanical Code 2013 Edition
- California Electrical Code 2013 Edition
- California Fire Code 2013 Edition
- Local ordinances and amendments to the above codes.
- California Occupational Safety and Health Administration (Cal OSHA).
- Occupational Safety and Health Administration (OSHA): Hazard Communications Standard.
- Uniform Federal Accessibility Standards

#### CONFLICTS

When conflicts between above referenced Regulatory Requirements occur, General Contractor shall comply with the one establishing the more stringent requirement.

When conflicts between above referenced Regulatory Requirement and Contract Documents occur, General Contractor shall comply with the one establishing the more stringent requirement.

**END OF SECTION**

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## APPLICABLE STANDARDS

### PART 1 - GENERAL

The requirements of the General Conditions apply to the work of this section.

#### SCOPE

Reference is made to codes and standards which establish qualities and types of workmanship and materials, and which establish methods for testing and reporting on the pertinent characteristics. Where materials or workmanship are required by these Contract Documents to meet or exceed the specifically named code or standard, provide materials and workmanship which meet or exceed the specifically named code or standard. In the event local laws, ordinances, or codes exceed the requirements of those indicated, the local requirements supersede the specified requirements.

When requested by the Owner, deliver to the Owner all required proof that the materials or workmanship, or both, meet or exceed the requirements of the specifically named code or standard. Such proof shall be in the form acceptable to the Owner and will generally be required to be copies of a certified report of tests conducted by a testing agency accepted by the Owner.

Specific naming of codes or standards occurs on the Drawings and in other Sections of these Specifications. Compliance with all laws, ordinances, and regulations of authorities having jurisdiction is an integral requirement of this Contract whether mentioned or not in the Contract Documents. Proof of compliance shall be signed approval by the respective authorities having jurisdiction. All costs relative thereto shall be borne by the Contractor.

In procuring and installing all items in this Work, verify the detailed requirements of the specifically named codes and standards as well as all requirements mandated by law, ordinance and authority regulation and verify that the items procured and installed in this Work meet or exceed the specified requirements.

The Owner reserves the right to reject items incorporated into the Work which fail to meet the stated minimum requirements. The Owner further reserves the right, and without prejudice to other recourse may accept such items not complying with specified requirements subject to an adjustment in the Contract Amount, as accepted by the Owner.

Standards referenced in the Specifications are usually referred to by the abbreviation of the organization's name and the designation of the document (e.g., ASTM A36). Documents in

common use may be referred by its own designation (e.g., the National Electrical Code is published by the National Fire protection Association as NFPA-70 but is usually referred to as NEC and is part of a series of documents or standards referred to as the National Fire Code). Unless otherwise indicated, references are to the latest issue of the publication available on the date stipulated for the receipt of bids or the latest code adopted by the authorities having jurisdiction.

**STANDARDS ORGANIZATIONS**

AASHTO	American Association of State Highway and Transportation Officials 444 North Capitol Street, NW Washington, DC 20001	AWS	American Welding Society 2501 NW 7th Street Miami, FL 3 25
		AWWA	American Water Works Assoc., Inc. American Concrete Institute P. O Box 19150 Redford Station Detroit, MI 48219
ACI			6666 West Quinsy Ave Denver, CO 80235
		AWPA	American Wood Preserves
AISI	Ass'n American Iron and Steel Institute Road 1000 16th Street, N.W. Washington, C.D. 20036		7735 Old Georgetown  Suite 444 Bethesda, MD 20014
AMCA	Air Movement and Control Bureau Association, Inc. 30 University Heights  Arlington Heights, Il 60004	AWPB	American Wood Preserves  2740 So Randolph St Suite 444  Arlington, VA 22206
ANSI	American National Standards Institute Institute Building 1430 Broadway New York, NY 10018	AI	Asphalt  College Park, MD 20740
		BHMA	Builders Hardware  Association 60 East 42nd Street New York, NY 10017
APA	Manufacturers American Petroleum Association 2101 "L" Street, N.W. Washington, D.C. 20037		

APA	American Plywood Association Association, Inc. 1119 A Street Tacoma, WA 98401	CGA	Compressed Gas  500 5th Avenue New York, NY 10036
APHA	American Public Health Association 1015 15th Street, N.W. Washington, D.C. 20005	CISPI	Cast Iron Soil Pipe Institute 2029 K Street Washington, DC 20006
ARI	Air-Conditioning and Refrigeration 1815 North Fort Myer Drive Arlington, VA 22209	CI	Chlorine Institute, Inc. 342 Madison Avenue New York, N.Y. 10017
ASHRAE	American Society of Heating, Manufacturing Refrigerating, and Air-  Conditioning Engineers  345 East 47th Street 10017 New York, NY 10017	CSMA	Chemical Specialties  Association  50 East 41st Street  New York, New York
ASTM	American Society for Testing and Materials Institute 1916 Race Street Philadelphia, PA 19103		IFI Industrial Fasteners  1505 E. Ohio Building Cleveland, O H 44114
IAPMO	International Association of Plumbing and Mechanical Officials 5032 Alhambra Ave Los Angeles, CA 90032	PS SMACNA	See NBS  Sheet Metal and Air Contractors Nat'l  8224 Old Courthouse
ICBO	Road International Conference of Building Officials 5360 South Workman Mill Road Council Whittier, CA 90601	SSPC	Tyson's Corner Vienna, VA 22180 Steel Structures Painting  4400 Fifth Avenue Pittsburgh, PA 15213
IEEE	Institute of Electrical and Electronics Engineers, Inc. 345 East 47th Street New York, NY 10017	TCA	Tile Council of America P.O. Box 326 Princeton, NJ 08540

IES	<p>Illuminating Engineering Society 346 East 47th Street New York, NY 10017</p>	<p>UBC</p> <p>UL</p>	<p>See ICBO</p> <p>Underwriters' Laboratories,</p>
MSS	<p>Inc. Manufacturers Standardization Society of Valve &amp; Fittings Industry 1815 North Myer Drive Arlington, VA 22209 -See IAPMO</p>	<p>UMC</p>	<p>333 Pfingsten Road Northbrook, IL 60662</p> <p>Uniform Mechanical Code</p>
MBMA	<p>Metal Building Manufacturers See IAPMO Association 1230 Keith Building Standards - See NBS Cleveland, OH 44115</p>	<p>UPC</p> <p>VPS</p> <p>WRI</p>	<p>Uniform Plumbing Code -</p> <p>Voluntary Product</p> <p>Wire Reinforcement</p>
NBS	<p>Institute National Bureau of Standards Suite 611 Office of Weights and Measures Room A209, Metrology Building Washington, DC 20234 Administration</p>	<p>Fed. Spec.</p> <p>and other</p>	<p>7900 Westpark Drive McLean, VA 22101</p> <p>General Services Specifications Sales Washington Navy Yard,</p>
NBHA	<p>National Builders Hardware Assoc. Building 1197 515 Madison Avenue New York, NY 10016</p>		<p>Publications Washington, DC 20407</p>
NEBB	<p>National Environmental Balancing Bureau 1611 North Kent Street Documents Arlington, VA 22209 Office</p>		<p>or</p> <p>Superintendent of</p> <p>U.S. Government Printing Washington, DC 20402</p>
NEC	<p>See NEPA</p>	<p>NSF</p>	<p>National Sanitation</p>
NEMA	<p>Foundation National Electrical Manufacturers Assoc. 2101 L Street, NW Washington, DC 20037</p>		<p>NSF Building 3475 Plymouth Road Ann Arbor, MI 48106</p>
NFPA	<p>National Fire Protection Association</p>		



470 Atlantic Avenue  
Boston, MA 02110

**END OF SECTION**

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PART 1

DEFINITIONS

Terms used on the Drawings or in the Specifications in addition to those shown in General Conditions shall have the following meanings:

<u>TERM</u>	<u>MEANING</u>
As directed	"As interpreted by the Architect under General Conditions Article 4."
As required	"By Code; by good building practice; by the Condition prevailing; by Contract Documents; by Owner, or by Architect."
As selected	"By Architect."
By others	Work on this Project that is outside the scope of Work to be performed by Contractor under this Contract, but that will be performed by Owner, other contractors, or other means. All work to be coordinated by the Contractor.
By Owner	Work on this Project that will be performed by Owner, or his agents, at his cost, but coordinated by the Contractor.
	EqualIn the opinion of the Architect. The burden of proof of equality is the responsibility of the Contractor. See Section 01630.
(E)	Existing.
(N)	New.
Furnish	"Supply only, do not install."
Install	"Install or apply only, do not furnish."
	NICNot in Contract; Work on this Project that is outside the scope of Work to be performed by the Contractor under this Contract.
Offsite	Outside the area described by the property lines.
Owner-furnished	"Owner will furnish at his cost and Contractor-installed."

	Contractor will install under his Contract for this Work.
Project	Total construction of which Work performed under the Contract Documents may be the whole or a part.
Project Manual	Bidding Requirements, Contract Forms, Contract, Conditions, and Specifications.
Provide	"Furnish and install."
Shown	"As indicated on the Drawings."
Site	Geographical location of the Project.
Specified	"As written in Project Manual."

**END OF SECTION**

## APPLICATION FOR PAYMENT/CHANGE ORDER REQUIREMENTS

### PART 1 – GENERAL

The requirements of the general conditions apply to the work of this section.

**SCHEDULE OF AMOUNTS FOR CONTRACT PAYMENTS:** Contractor within seven days following the contract signing, will submit to the Owner a Schedule of amounts for contract payments, listing projected dates and amounts of pay requests, along with dates when payments will be due. The schedule of amounts shall be developed using each item of the chart as a line item. Upon request of the Owner, support the values with data which will substantiate their correctness. The Schedule of amounts, unless objected to by the Owner, shall be used only as the basis for the Contractor's Application for Payment.

**APPLICATION FOR PAYMENT:** Submit Applications for Payment to the Owner in accordance with the schedule established by the Conditions of the Contract and Agreement between Owner and Contractor.

Refer to the following related sections:

- A. Agreement between Owner and Contractor
- B. Conditions of the Contract: Progress payments, retainages, and final payment.

### APPLICATION FOR PAYMENT – FORMANT AND DATA REQUIRED

Submit an itemized application for payment including material costs, labor costs and contractor mark up. Provide all required information, including that for Change Orders executed prior to date of submittal of application. Fill in summary of dollar values to agree with respective totals indicated on Schedule of Amounts. Application shall include certification with signature of a responsible officer of the Contractor firm.

**LIEN RELEASES:** The contractor will be required to sign a Conditional Waiver and Lien Release at the time of Application for Payment submission and sign an Unconditional Waiver and Lien Release when payment is released.

**SUBSTANTIATING DATA FOR PROGRESS PAYMENTS:** When the Owner requires substantiating data, the Contractor shall submit suitable information with a cover letter identifying the project, application number and date, detailed list of enclosures and for stored products, the

item number and identification as shown on the application and the description of specific material.

#### CHANGE ORDER – FORMAT AND DATA REQUIRED

Designate in writing the member of Contractor's organization who is authorized to accept changes in the Work and who is responsible for informing others in the Contractor's employ of the authorization of changes in the Work.

**PRELIMINARY PROCEDURES:** Owner may initiate changes by submitting a Proposal Request to the Contractor. Request to include detailed description of the change, products, and location of the change in the Project with supplementary or revised drawings and specifications. The General Contractor is to be Provided the projected time span form making the change, and a specific statement as to whether overtime work is, or is not, authorized along with a specific period of time during which the requested price will be considered valid. Such request is for information only, and is not an instruction to execute the changes, nor to stop Work in progress.

Contractor may initiate changes by submitting a Proposal Request to the Owner, containing description of the proposed changes, statement of the reason for making the changes, statement of the effect on the Contract Time, statement of the effect on the work of separate contractors and documentation supporting any change in Contract Sum or Contract Time, as appropriate. Contract Sum changes shall be accompanied by labor hour rated and total hours and material cost details.

**LUMP-SUM/FIXED PRICE CHANGE ORDER:** Owner will sign and date the Change Order as authorization for the Contractor to proceed with the changes. Contractor to sign and date the Change Order to indicate agreement with the terms therein.

**TIME AND MATERIAL CHANGE ORDER/CONSTRUCTION CHANGE:** Owner will issue a Construction Change Authorization directing the Contractor to proceed with the changes. At completion of the change, Contractor shall submit itemized accounting and supporting data as provided in the Article "Documentation of Proposals and Claims" of this Section. Owner will determine the allowable cost of such work, as provided in the General Conditions and Supplementary Conditions. Owner and Contractor to sign and date the Change Order to indicate their agreement therewith.

## DOCUMENTATION OF PROPOSALS AND CLAIMS

Support each quotation for a lump-sum proposal, and for each unit price which has not previously been established, with sufficient substantiating data to allow Owner to evaluate the quotation.

On request provide the following additional data to support time and cost computations.

- Labor required
- Equipment required
- Products required
- Recommended source of purchase and unit cost
- Quantities required
- Taxes, insurance, and bonds
- Credit for work deleted from Contract, similarly documented
- Overhead and profit
- Justification for any change in Contract Time

Support each claim for additional costs, and for work done on a time and material/force account basis, with the documentation as required for a lump-sum proposal, plus additional information, including the following:

- Name of the Owner's authorized agent who ordered the work, and date of the order
- Dates and times work was performed and by whom
- Time record, summary of hours worked and hourly rates paid

Receipts and invoices for:

- Equipment used, listing dates and times of use
- Products used, listing quantities
- Subcontractors

## CONSTRUCTION CHANGE AUTHORIZATION

IN lieu of Proposal Request, Owner may issue a Construction Change Authorization for Contractor to proceed with a change for subsequent inclusion in a Change Order. The authorization will describe changes in the Work, both additions and deletions, with attachments of revised Contract Documents to define details of the change, and will designate the method of determining any change in the Contract Sum and any change in Contract Time, Owner will sign and date the Construction Change Authorization as authorization for the

Contractor to proceed with the changes. Contractor shall sign and date the Construction Change Authorization to indicate agreement with the terms therein.

#### CORRELATION WITH CONTRACTOR'S SUBMITTALS

Periodically revise Schedule of Amounts and Request for Payment forms to record each change as a separate item of Work, and to record the adjusted Contract Sum. Periodically revise the Construction Schedule to reflect each change in Contract time.

Upon completion of work under a Change Order, enter pertinent changes in Record Documents.

#### CLOSE OUT DOCUMENTATION

Final Close-out Payment and Change Order documentation will be delivered to the Owner's office no later than **30 calendar days** after substantial completion. Notwithstanding the foregoing without limiting Owner's rights herein, in the event that General Contractor does not deliver documentation, through no fault or delay of Owner, the Owner may determine that all sums due the contractor have been paid and no further payment is due and the contract is complete, or alternately the **Owner may deduct the sum of \$500.00 for each day** beyond the documentation period that the contractor has failed to deliver all final close-out documentation.

**End of Section**



## CONSTRUCTION SCHEDULES

The requirements of the General Conditions and Division 1 apply to all work hereunder.

### PART 1 - GENERAL

#### SCOPE OF SCHEDULES

Submit to Owner for approval the following chart and progress reports as specified herein.

Project schedule chart: CPM or PERT, all trades, including early purchase schedule.

Project Schedule Limitations: The project schedule and work is limited to 7am – 6pm Monday thru Saturday, no Sundays or Holidays. Work must be performed with reasonable accommodation to residents in area, the larger site area is a residential area that is currently occupied by residents.

PROGRESS REPORTS: Weekly progress reports, to be faxed or e-mailed to Owner's office each Friday by 6 P.M., Pacific Standard Time. Each report to list work completed that week, along with conformance with schedule and days remaining. If any work is behind schedule, the contractor shall provide a written explanation of what is being done to correct any possible delay to the overall completion of the work. Report is to be accompanied by digital images documenting site progress taken with digital camera.

### PART 2 - EXECUTION

Within seven days following the signing of the contract, and before submitting any applications for payment, the Contractor shall prepare an itemized breakdown of tasks and activities performed for the expeditious prosecution of the work. Acknowledging the fact that time is of the essence, and that the final completion date is denoted in the Owner-Contractor agreement, each task and activity shall be clearly defined by milestones and completion dates. Information shall be presented in network form indicating the inter-relationship and time sequence of each task and activity.

Upon completion of that portion of the chart affecting any specific subcontractor, he shall indicate his acceptance of and his contractual obligation to be bound by the chart by endorsing same in writing. Subsequent changes to the chart may be acknowledged by initialing on the original copy of the chart.

Maintaining the work schedule agreed to and delineation of the chart shall be the responsibility of the Contractor. Substitution of material or equipment other than specified in the Contract Documents in order to maintain the schedule will not be approved. It is the Contractor's sole responsibility that all specified products be approved, ordered, and received per the schedule.

CHART: Chart shall indicate, with calendar date line, major goals with specific dates to be reached to maintain the mandated completion date. Chart shall include the following:

- Purchase dates required for "long-lead" items.
- Dates for start of fabrication of special materials and equipment, their installation and required testing.
- Dates when critical design selections must be made for finishes and products.
- Tasks (e.g. HVAC, electrical, plumbing, drywall, etc.) or activities which, once begun, must continue uninterrupted until conclusion and those which can commence and will commence, stop, restart and then complete.
- Time required for each phase of each task and listing each subtask for each major category (e.g. rough work, offsite fabrication, finish work, beginning and completion dates for each element of construction, installation of fitting and fixtures).
- Integrate timing of job activity with shop drawing and submittal schedule called for in Section 01300. List date as to when all shop drawings are to be submitted to Owner's office, and when all reviewed shop drawings are to be returned to Contractor.

If, at any time, any portion of the work falls more than one week behind schedule, the Owner shall notify the Contractor of his obligation to increase labor and equipment at no cost to the Owner until such portion of the work is back on the approved schedule. If, as specified in the Bid Form, Section 00310, the Contractor is behind schedule and the Contractor does not comply with the written direction of the Owner or his representative, the Owner or his representative reserves the right to:

- Terminate the contract with the Contractor, and hire a new contractor to complete the Work.
- Hire additional labor to bring Work in line with schedule, with the cost of that labor to be deducted from the Contract amount.

**END OF SECTION**

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## Storage, Handling and Delivery

The requirements of the General Conditions and Division 1 apply to all work hereunder.

### PART 1 - GENERAL

GENERAL: All materials should be delivered, stored and handled in a manner that protects them from damage, moisture, dirt and intrusion of foreign materials. Ordering and delivery of materials should be planned according to the work progress to minimize storage on site, where there are higher possibilities of damages and deterioration of materials.

Materials delivered should be checked against the specifications and approved samples. The following are some verification to be carried out on the delivered materials:

The following are verification to be carried out on the delivered materials:

- Verification
- Materials
- Structural defects, dimensional tolerances, surface finishes and physical damage  
Type, grade and size
- Type and condition of packaging
- Quality of sand and silt content
- Delivered in original packaging, shelf life from date of production and batch reference
- Precast components
- Bricks

## PART 2 - SPECIAL DETAILED REQUIREMENTS

A) All building products should be handled in a manner that avoids excessive stresses, damages and cracks to the components, especially during demoulding and handling in site yards.

B) The location of the lifting devices access should be situated to prevent excessive stress and any and all breaking of building components.

C) Building Components should not be stored on ground level, provide water free storage such as pallets and waterproof covering to prevent wear from weather such as rain and wind.

D) Proper packaging, delivery, handling and storage of building products should allow for adequate air circulation around materials as needed and required for certain building materials.

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**END OF SECTION**

## PROJECT CLOSE-OUT

The requirements of the General Conditions and Division 1 apply to all work hereunder.

### PART 1 – GENERAL:

#### NOTICE OF COMPLETION:

The Owner, when supplied with a Notice of Substantial Completion by the Contractor shall file with the municipality a Notice of Completion. A copy of the filing shall be furnished to the Contractor.

#### SUBSTANTIAL COMPLETION:

When the Contractor believes he has achieved substantial completion he will prepare and forward to the Owner, a list of the work to be completed or corrected and dates for the completion or correction. 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.

Upon receipt of the Contractor's list, the Owner will schedule a punch list review at the site with the General Contractor and an Owner's Representative to review the quality and completeness of the work and conformance with the construction documents. At that time, the Owner will list deficiencies, corrections and work to be completed.

If the Owner determines that the project is substantially complete he will issue a certificate of substantial completion. This will terminate the Time of Completion listed in the Contractor's bid and start the schedule for Final Completion as listed in Section 1700.

If the Owner determines the work is **not** substantially complete, he will issue a list of work to be completed. The Contractor shall then submit a request for another inspection by the Owner to determine substantial completion. *Additional trips to the site for purposes of reviewing the work will be at the cost of the Contractor and will be deducted from payments made by Owner to the General Contractor.*

After the General Contractor has completed all work, corrective or otherwise, he will notify the Owner that the project is ready for final inspection. The Owner will verify completion of the Contract work.

Final payment and scheduling of retention release will not be processed until a final review of the project verifies completion and other items required in this section are complete.

#### FINAL COMPLETION:

Final completion with all punch list items corrected will occur within **10 calendar days** after substantial completion.

#### CLOSE-OUT DOCUMENTATION:

Final close-out documentation, drawings and submittals, as defined in section 01700, will be delivered to the Owner's office no later than **30 calendar days** after substantial completion. Notwithstanding the foregoing without limiting Owner's rights herein, in the event that the General Contractor does not deliver documentation, through no fault or delay of Owner, **Owner**

may deduct the sum of \$100.00 for each business day beyond the documentation period that the Contractor has failed to deliver all final close-out documentation. The Owner will also delay release of any retention monies until all close-out documentation documents are provided by the General Contractor.

#### RECORD DRAWINGS:

Store documents and samples apart from documents used for construction. Maintain documents in a clean, dry, legible condition and in good order. Do not use record documents for construction purposes. Make documents and samples available at all time for inspection by Owner. Label each document "PROJECT RECORDS" in neat large printed letters. Record information concurrently with construction progress, including the following if applicable:

- a. Depths of various elements of foundation in relation to finish floor datum.
- b. Horizontal and vertical locations of underground utilities and appurtenances, referenced to permanent surface improvements.
- c. Location of internal utilities and appurtenances concealed in the construction, referenced to visible and accessible features in the structure.
- d. Field changes of dimension and detail.
- e. Changes made by Field Order or by Change Order.
- f. Details not on original contract drawings.

Transfer all record information in a neat and legible manner to reproducible drawings, and at Contractor close-out, deliver Record Documents to Owner's Representative.

#### PERMIT AND PERMIT SET DRAWINGS:

At completion of project close-out, signed permits and permit set drawings to be returned to Owner.

#### PART 2 – MAINTENANCE MANUALS AND INSTRUCTIONS

Preparation of data shall be done by personnel trained and experienced in maintenance and operation of described products.

Identify each volume with typed or printed title, "OPERATING AND MAINTENANCE INSTRUCTION", including the following,

- a. Contractor, name of responsible principal, address and telephone number.
- b. A list of each product required to be included, indexed to content of the volume.
- c. List with each product, name, address and telephone number of:
  - 1) Subcontractor or installer.
  - 2) Maintenance contractor, as appropriate.
  - 3) Identify area of responsibility of each
  - 4) Local source of supply for parts and replacement.
- d. Identify each product by product name and other identifying symbols as set forth in Contract Documents.

Provide copy of each warranty, bond and service contract issued. Provide information sheet for Owner's personnel, giving proper procedures in event of failure and instances which might affect validity of warranties or bonds. Provide instructions for care and maintenance, including Manufacturer's recommendations for types of cleaning agents and methods and recommended schedule for cleaning and maintenance.



### PART 3 – SPECIAL GUARANTEES/WARRANTIES

These special guarantees are an extension of the guarantee of work called for in “General Conditions.” During the normal one year guarantee period, any repairs or replacements required because of damage to other work caused by defective material/workmanship failures shall be by Contractor at no cost to the Owner.

#### SEALANTS:

Guarantee caulking-sealant work to remain watertight for a period of 3 years.

#### ROOFING:

Guarantee roof to remain watertight for a period of 3 years.

Assemble warranties, bonds and service and maintenance contracts, executed by each of the respective manufacturer’s suppliers, and subcontractors. Provide two (each) original signed copies, including the following:

- a. Product or work item
- b. Firm, with name of principal, address and telephone number.
- c. Scope
- d. Date of warranty, bond or service and maintenance contract
- e. Duration of warranty, bond or service maintenance contract
- f. Provide information for Owner’s personnel

#### TIME OF SUBMITTALS:

For equipment or component parts of equipment, put into service during progress of construction, make submittals **within 10 days after inspection and acceptance**. For other equipment, make submittals within ten days after Date of Substantial Completion, prior to final request for payment.

**END OF SECTION**

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## SLURRY SEAL

### SLURRY SEAL SPECIFICATIONS -(1%, 3% Latex Minimum)

#### DESCRIPTION

The Contractor shall furnish all labor, equipment, material, supplies, signage, traffic control, and other incidentals necessary to provide a Slurry Seal. Slurry Seal shall consist of a mixture of an approved emulsified asphalt, mineral aggregate, water, and specified additives, proportioned, mixed and uniformly spread over a properly prepared asphalt surface. The completed Slurry Seal shall leave a homogeneous mat, adhere firmly to the prepared surface, and have a skid-resistant surface texture throughout its service life.

#### MATERIALS

Emulsified Asphalt Material – The liquid emulsion shall be water-based emulsified asphalt comprised of straight-run vacuum tower bottoms, synthetic SBR latex polymer, and emulsification agents. The SBR polymer shall be co-milled during the emulsification process such that a bicontinuous polymer-asphalt network is formed upon curing of the finished emulsion. The emulsion shall be pumpable and suitable for use in a Slurry Seal machine.

The emulsified asphalt shall conform to the requirements of the ASTM specification for quick set CQS with revisions as indicated in the table below. In addition, the emulsion shall contain 1%, 3% minimum SBR latex solids based on weight of asphalt cement. The slurry seal mixture shall contain an emulsion content of 10 – 20% by weight of dry aggregate which shall be determined in the laboratory by an approved mix design process. The residual asphalt content shall be 5 – 15% based on weight of dry aggregate.

Tests on CQS Emulsion	Minimum	Maximum	Test Method
Viscosity, Saybolt Furol, 25°C, sec, (a)	20	100	ASTM D 244
Particle Charge Test	Positive		ASTM D 244
Sieve Test, % (a)		0.1	ASTM D 6933
Distillation: (b)			AASHTO T 59
Residue, %	60		AASHTO T 59
Polymer:			
Polymer Solids Based on Weight of Asphalt, %	1, 3		Supplier Cert.
Polymer Type:	SBR Latex		Supplier Cert.
Tests on Residue (b)			
Penetration, 25°C, 100g, 5s	40		ASTM D 5
Ductility, 25°C, 5 cm/min, cm	40		ASTM D 113
Solubility in Trichloroethylene, %	97.5		ASTM D 2042
Elastic Recover, 77 F, 10cm, 1h, %	40		ASTM D 5976

The specification for Slurry Emulsion is in accordance with the material properties and test methods as specified by ISSA, ASTM, and AASHTO.

- (a) This test requirement on representative samples is waived if successful application of the material has been achieved in the field.

## SLURRY SEAL

- (b) Residue by evaporation is intended to provide rapid determination of the percent residue and to provide material for tests on residue. If the percent residue or any test on the residue fails to meet specifications, the tests will be repeated using the distillation test specified by AASHTO T59. For polymer modified emulsions, the distillation and evaporation tests will be modified to include 400F maximum temperature to be held for 15 minutes.
- (c) If the solubility of the residue is less than 97.5%, the base asphalt binder for the emulsion shall be tested. The solubility of the base asphalt binder shall be greater than 99 percent.

**AGGREGATE** - The aggregate shall consist of manufactured granite crusher fines. The smooth textured crusher fines shall have less than 1.25% water absorption. The aggregate shall be gray in color with 100% fractured faces, clean and free from organic matter or other deleterious substances and clay balls. Oversized granular material and/or presence of clay balls will require the project to be stopped and shall meet the following requirements:

Gradation Table -A!!!!regate (percent passing) <sup>(a)</sup>(b)

Sieve Size	Type II	Type III	Tolerance
3/8"	100	100	+ or - 5%
No.4	90-100	70-90	+ or - 5%
No. 8	65-90	45-70	+ or - 5%
No.16	45-70	28-50	+ or - 5%
No.30	30-50	19-34	+ or - 5%
No.50	18-30	12-25	+ or - 4%
No. 100	10-21	7-18	+ or - 3%
No.200	5-15	5-15	+ or - 2%

- (a) Meets ISSA gradation.
- (b) If oversize material is present, screening through a Yi" screen will be required prior to delivery to the slurry machine. If clay balls are present, the aggregate may not be used.
- Resistance to Degradation (ASTM C131grading D) 20% maximum loss
  - Soundness of Aggregate (ASTM C88) 15% maximum loss
  - Sand Equivalent (ASTM D 2419) 55% maximum
  - LA Abrasion (AASHTO T96) 20% maximum loss

**Mineral Filler:** Hydrated lime, limestone dust, or other approved filler meeting the requirements of ASTM 0242 shall be used if required by the mix design. They shall be considered as part of the dry aggregate.

**Water:** All water used shall be potable and free of dissolved materials which may affect the mix characteristics or finished characteristics of the product.

**Additives:** Additives may be used to accelerate or retard the break-set of the Slurry Seal or to improve the resulting finished surface. The use of additives in the Slurry mix (or individual materials) shall be made initially in quantities predetermined by the mix design with field adjustments, if required, after approval by the Project Manager.

## SLURRY SEAL

Slurry Seal Mix Design Specifications: Before work begins, the Contractor shall submit a mix design covering the specific materials to be used on the project. The mix design shall identify the job mix formula and present test results for the required specifications verifying the compatibility of the aggregate and the modified CQS-IHL. The mix design shall follow the standards and guidelines as set forth by ISSA. The Slurry mixture shall meet the following specifications:

ISSA TEST NO.	DESCRIPTION	SPECIFICATION
ISSA TB-100	Wet-Track Abrasion Loss, six (6) day Soak	75 g/ft <sup>2</sup> (807 g/m <sup>2</sup> )
ISSA TB-109	Sand Adhesion by wheel tester	50 g/ft <sup>2</sup> Maximum
ISSA TB-105	Asphalt Content (based on dry aggregate)	5 -15%
Trial Mix Characteristics		
ISSA TEST NO.	DESCRIPTION	SPECIFICATION
ISSA TB-113/3.5	Mix Characteristics	No excess free liquids in mix No excessively dry or stiff mix
ISSA TB-113/3.6	Mix Time at 77°F	180 seconds minimum
ISSA TB-113/3.6	Mix Time at 100°F	120 seconds minimum
ISSA TB-113/3.7	Set Time at 77°F Displacement	30 minutes maximum
ISSA TB-113/3.8	Clear blot	30 minutes maximum
Cured Trial Mix Evaluation (24hr-77°F cured mix from ISSA TI 13/3.6 - 30 second mix)		
ISSA TI 13/4.1	Surface Examination	No tackiness No Shininess
ISSA TI 13/4.2	Fines Flotation	No fines flotation
ISSA TI 13/4.3	Internal Adhesion	95% minimum coating, all size particles securely held in mix, no asphalt/aggregate segregation
Wet Stripping Test - modified to a 10 minute boiling period (24hr 77°F cured mix from ISSA TI 13/3.6 - 30 second mix)		
ISSA TI 14	Coated aggregate integrity	95% minimum coating report solid, broken, crumbly, etc.
ISSA TI39	Cohesion Value at 77°F	30 min 12 kg-cm min 60 min report 2 hr report 4hr report 24hr solid spin (26 in-lb)

Composition of mixture: The owner shall approve the design mix and all Slurry Seal materials and methods prior to use and shall designate the proportions to be used within the following limits:

- Residual Asphalt: 5% – 15% by dry weight of aggregate.
- Emulsion Content: 10% - 20% by dry weight if aggregate.
- Mineral Filler: 0.5% to 2% by dry weight of aggregate.
- Polymer Content: 1%, 3% minimum based on weight of asphalt cement.

## SLURRY SEAL

Water(Potable):	As required to provide proper consistency.
Application Rate (average):	16-20 lbs. per square yard (Type II) 18-22 lbs. per square yard (Type III)

**Equipment:** The material shall be mixed by either a truck mounted or self propelled micro-surfacing mixing machine. The machine shall employ continuous flow mixing and be able to accurately deliver and proportion the aggregate, emulsified asphalt, mineral filler and water to a revolving multi-blade mixer and discharge the mixed product on a continuous flow basis. The machine shall have sufficient storage capacity for aggregate, emulsified asphalt, mineral filler and water to maintain an adequate supply to the proportioning controls.

Individual volume or weight controls for proportioning each material to be added to the mix shall be provided. Each material control device shall be calibrated and properly marked. The aggregate feed to the mixer shall be equipped with a revolution counter or similar device so the amount of aggregate used may be determined at any time. The emulsion pump shall be a heated positive displacement type and shall be equipped with a revolution counter or similar device so that the amount of emulsion used may be determined at any time.

The mixing machine shall be equipped with a water pressure system and nozzle type spray bar to provide a water spray immediately ahead of and outside the spreader box. The mixing machine shall be equipped with an approved fines feeder that shall provide a uniform, positive, accurately metered, predetermined amount of the specified mineral filler.

**Spreading Equipment:** The paving mixture shall be spread uniformly by means of a mechanical type squeegee box attached to the mixer, equipped with paddles and/or augers to agitate and spread the materials throughout the box. A front seal shall be provided to insure no loss of the mixture at the road contact surface. The rear seal shall act as final strike off and shall be adjustable. The mixture shall be spread to fill cracks and minor surface irregularities and leave a uniform skid resistant application of aggregate and asphalt on the surface. The spreader box and rear strike-off shall be so designed and operated that a uniform consistency is achieved to produce a free flow of material to the rear strike-off. No "burlap" will be permitted to be drug behind the squeegee box except along the seams where a 2' to 3' wide burlap "blanket" will be permitted to be drug to the extent necessary to achieve an acceptable finish at the seams as determined by the owner. Rut filling equipment will require adjustable steel strike-off plates. The seam where two spreads join shall be neat appearing and uniform. All excess material shall be removed from ends of each job site immediately.

**Calibration:** Each mixing unit to be used during performance of the work shall be calibrated in the presence of the Project Manager prior to construction. Previous calibration documentation covering the exact materials to be used may be acceptable, provided they were made during the same calendar year. The documentation shall include an individual calibration of each material at various settings, which can be related to each machine's metering devices. No machine will be allowed to work on the project until all calibrations have been completed and/or accepted by the Project Manager.

**Lines:** Care shall be taken to insure straight lines along curbs and shoulders. No runoff on these areas will be permitted. Lines at intersections shall be kept straight to provide a good appearance.

## SLURRY SEAL

**Handwork:** Approved hand squeegees, with burlap drags, shall be used to spread Slurry in areas not accessible to the Slurry spreader box. Care shall be exercised in leaving no unsightly appearance from handwork.

**Curing:** Areas receiving Slurry Seal will be allowed to cure from three to five hours or until the treated pavement will not be damaged by traffic. The Contractor will protect the area with suitable barricades or markers for the full curing period. Areas damaged within 24 hours of application of Slurry, or prior to moving to new work locations, shall be repaired by the Contractor at their expense.

**Surface Preparation:** Immediately prior to applying the Slurry Seal, the surface shall be cleared of all loose material, oil spots, vegetation and other objectionable material. Any standard cleaning method will be acceptable. If water is used, cracks shall be allowed to dry thoroughly before Slurry surfacing. Manholes, valve boxes, drop inlets and other service entrances shall be protected from the Slurry Seal by a suitable method. The Project Manager shall approve the surface preparation prior to surfacing.

**Weather Limitations:** The Slurry Seal shall not be applied if either the pavement or air temperature is below 50°F (10°C) and falling, but may be applied when both pavement and air temperatures are above 45° F (7°C) and rising. No Slurry Seal shall be applied when air temperatures will be below freezing within 24 hours. The mixture shall not be applied when weather conditions prolong opening to traffic beyond a reasonable time.

**Notification:** All homeowners and businesses affected by the paving shall be notified 24 hours in advance of the surfacing. Suitable tow-away signs may be posted prior to the surfacing. Should work not occur on the specified day, a new notification will be distributed. The notification shall be in a form of written posting, stating the time and date that the surfacing will take place.

**Traffic Control:** Suitable methods shall be used by the contractor to protect the Slurry Seal from damage from all types of vehicular traffic. Opening to traffic does not constitute acceptance of the work. The Project Manager shall be notified of the methods to be used. In areas that are subject to an increased rate of sharp-turning vehicles, additional time may be required for a more complete cure of the Slurry Seal mat to prevent damage. Slight tire marks may be evident in these areas after opening but will diminish over time with rolling traffic. If these areas are not severely rutted, they should be considered as normal characteristics of a Slurry Seal.

**Clean Up:** All areas, such as man-ways, gutters and intersections, shall have the Slurry Seal removed as specified by the Project Manager. The Contractor shall remove any debris associated with the performance of the work on a daily basis.

**Traffic and Lane Markings:** Sweep and clean surface to eliminate material and dust. Use chlorinated-rubber based traffic lane marking paint, factory mixed, quick drying, and non-bleeding. Color shall be white except handicap symbols and cross hatching shall be blue. Apply paint with mechanical equipment to produce uniform straight edges. Apply in 2 coats at manufacturer's recommended rates. Apply markings as per the existing.

END OF SECTION

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## SECTION 07 51 00

## BUILT-UP ASPHALT ROOFING

## PART 1 GENERAL

## 1.1 SECTION INCLUDES

- A. Asphaltic built-up roofing.
- B. Insulation.

## 1.2 RELATED SECTIONS

- A. Section 07620: Sheet Metal Flashing and Trim: Metal flashing and counter flashing installation and requirements.

## 1.3 REFERENCES

- A. Factory Mutual (FM Global) - Approval Guide.
  - 1. Factory Mutual Standard 4470 - Approval Standard for Class 1 Roof Covers.
- B. Underwriters Laboratories (UL) - Roofing Systems and Materials Guide (TGFU R1306).
- C. American Society for Testing and Materials (ASTM) - Annual Book of ASTM Standards.
  - 1. ASTM C 208 - Standard Specification for Cellulosic Fiber Insulating Board.
  - 2. ASTM C 728 - Standard Specification for Perlite Thermal Insulation Board.
  - 3. ASTM C 1289 - Standard Specification for Faced Rigid Cellular Polyisocyanurate Thermal Insulation Board.
  - 4. ASTM D 41 - Standard Specification for Asphalt Primer Used in Roofing, Dampproofing and Waterproofing.
  - 5. ASTM D 312 - Standard Specification for Asphalt Used in Roofing.
  - 6. ASTM D 1863 - Standard Specification for Mineral Aggregate Used on Built-Up Roofs.
  - 7. ASTM D 2178 - Standard Specification for Asphalt Glass Felt Used in Roofing and Waterproofing.
  - 8. ASTM D 3672 - Specification for Venting Asphalt-Saturated and Coated Inorganic Felt Base Sheet Used in Roofing.
  - 9. ASTM D 3909 - Standard Specification for Asphalt Roll Roofing (Glass Felt)

Surfaced With Mineral Granules.

10. ASTM D 4586 - Standard Specification for Asphalt Roof Cement, Asbestos-Free.
11. ASTM D 4601 - Standard Specification for Asphalt-Coated Glass Fiber Base Sheet Used in Roofing.
12. ASTM D 4897 - Standard Specification for Asphalt-Coated Glass-Fiber Venting Base Sheet Used in Roofing.
13. ASTM D 6163 - Standard Specification for Styrene Butadiene Styrene (SBS) Modified Bituminous Sheet Materials Using Glass Fiber Reinforcements.
14. ASTM D 6164 - Standard Specification for Styrene Butadiene Styrene (SBS) Modified Bituminous Sheet Materials Using Polyester Reinforcements.
15. ASTM D 6222 - Standard Specification for Atactic Polypropylene (APP) Modified Bituminous Sheet Materials Using Polyester Reinforcements.

- D. Sheet Metal and Air Conditioning Contractors National Association, 1nc. (SMACNA) - Architectural Sheet Metal Manual.
- E. Asphalt Roofing Manufacturers Association (ARMA).
- F. National Roofing Contractors Association (NRCA).
- G. American Society of Civil Engineers (ASCE).
  1. ASCE 7 - Minimum Design Loads for Buildings and Other Structures.

#### 1.4 DEFINITIONS

- A. Roofing Terminology: Refer to ASTM D1079 and the glossary of the National Roofing Contractors Association (NRCA) Roofing and Waterproofing Manual for definitions of roofing terms related to this section.

#### 1.5 PERFORMANCE REQUIREMENTS

- A. Provide an installed roofing membrane and base flashing system that does not permit the passage of water and will withstand the design pressures calculated in accordance with the most current revision of ASCE 7.
- B. GAF shall provide all primary roofing materials that are physically and chemically compatible when installed in accordance with manufacturers current application requirements.

#### 1.6 SUBMITTALS

- A. Submit under provisions of Section 01300.
- B. Product Data : Provide 2 sheets for each type of product indicated in this section.
- C. Shop Drawings: Provide manufacturers standard details and approved shop drawings for the roof system specified.
- D. Samples: Provide samples of insulations, fasteners, membrane materials and accessories for verification of quality.

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### 1.7 QUALITY ASSURANCE

- A. Manufacturer Qualifications: GAF shall provide a roofing system that meets or exceeds all criteria listed in this section.
- B. Installer Qualifications:
  - 1. Installer shall be classified as an Approved Contractor as defined and certified by GAF.
- C. Source Limitations: Components listed shall be provided by a single manufacturer or approved by the primary roofing manufacturer.
- D. Final Inspection: Manufacturer's representative shall provide a comprehensive final inspection after completion of the roof system. All application errors shall be addressed and final punch list completed.

### 1.8 PRE-INSTALLATION CONFERENCE

- A. Prior to scheduled commencement of the roofing installation and associated work, conduct a meeting at the project site with the installer, architect, owner, GAF representative and any other persons directly involved with the performance of the work. The installer shall record conference discussions to include decisions, agreements and open issues and furnish copies of recorded discussions to each attending party. The primary purpose of the meeting is to review foreseeable methods and procedures related to roofing work.

### 1.9 REGULATORY REQUIREMENTS

- A. Work shall be performed in a safe, professional manner, conforming to all federal, state and local codes.
- B. Exterior Fire Test Exposure: Provide a roofing system achieving a UL Class rating for roof slopes indicated.
  - 1. UL Class A rating.
- C. Windstorm Classification: Provide a roofing system which will achieve the required uplift resistance as calculated in accordance with ASCE 7-05 or as listed in the current FM Approval Guide. Corners and perimeter areas shall be calculated in accordance with ASCE 7-05.
  - 1. 60 psf of uplift resistance

### 1.10 DELIVERY, STORAGE AND HANDLING

- A. Deliver roofing materials to the site in original containers, with factory seals intact. Products shall carry either a GAF or BMCA label.
- B. Store pail goods in their original undamaged containers in a clean, dry location within their specified temperature range.
- C. Store roll goods on end on pallets in a clean, dry, protected area. Take care to prevent damage to roll ends or edges. Do not double stack modified bitumen products.

- D. Do not expose materials to moisture in any form before, during or after delivery to the site. Reject delivery of materials that show evidence of contact with moisture.
- E. Remove manufacturer supplied plastic covers from materials provided with such. Use "breathable" type covers such as canvas tarpaulins to allow venting and protection from weather and moisture. Cover and protect materials at the end of each work day. Do not remove any protective tarpaulins until immediately before the material will be installed.
- F. Materials shall be stored above 55 degrees F (12.6 degrees C) a minimum of 24 hours prior to application.
- G. Store and dispose of solvent-based materials and materials used with solvent-based materials, in accordance with requirements of local authorities having jurisdiction.

#### 1.11 PROJECT CONDITIONS

- A. Weather:
  - 1. Proceed with roofing only when existing and forecasted weather conditions permit.
  - 2. Ambient temperatures shall be above 45 degrees F (7.2 degrees C) when applying hot asphalt or water based adhesives.

#### 1.12 WARRANTY

- A. Provide Manufacturers standard Labor and Material Guarantee where the manufacturer agrees to repair or replace the portion of the roofing materials, which have resulted in a leak due to a manufacturing defect or defects caused by ordinary wear and tear.
  - 1. Duration: Ten (10) years from the date of completion.

### PART 2 PRODUCTS

#### 2.1 MANUFACTURERS

- A. Acceptable Manufacturer: GAF, Commercial Roofing Products, which is located at: 1361 Alps Rd. ; Wayne, NJ 07470; Toll Free Tel: 800-ROOF-411; Tel: 973-628-3000; Fax: 973-628-3451; Email: [cfontenot@gaf.com](mailto:cfontenot@gaf.com); Web: [www.gaf.com](http://www.gaf.com)
- B. Substitutions: Pre-approved equal.
- C. Requests for substitutions will be considered in accordance with provisions of Section 01600.

#### 2.2 ROOF BOARD

- A. Underlayment or overlayment board with a water-resistant and silicone treated gypsum core with glass fiber facers embedded on both sides and pre-primed on one side. GP Dens-Deck Prime Roof Board, distributed by BMCA.
  - 1. Board Thickness:
  - 2. Thermal Resistance (R value) of:

### 2.3 INSULATION ACCESSORIES

- A. Cant Strip: Factory fabricated rigid perlite strip cut at angles to provide a true 45 degree angle between horizontal and vertical surfaces, EnergyGuard Perlite Cant Strip, by BMCA.
- B. Tapered Edge Strip: Factory fabricated rigid perlite strip cut at angles to provide a smooth transition between differences in elevation. EnergyGuard Tapered Edge Strip, by BMCA.

### 2.4 SHEET MATERIALS

- A. Dry Sheathing Paper: Red Rosin Paper, unsaturated.
- B. Asphalt coated glass fiber reinforced base sheet: Conforms to or exceeds requirements of ASTM D 4601, Type II, UL Type G2 BUR. Each roll contains three (3) squares (320 sf) of material, approximately 39.4 inches by 97.5 feet (1000 mm by 29700 mm); 75 lb (34.1 kg), GAFGLAS #75 base sheet.
- C. Heavy duty, asphalt coated, glass fiber reinforced base sheet: Conforms to or exceeds requirements of ASTM D 4601, Type II, UL Type G2 BUR. Each roll contains two (2) squares (214 sf) of material, approximately 39.4 inches by 65.2 feet (1000 mm by 19900 mm); 75 lbs. (34.1 kg), GAFGLAS #80 ULTIMA base sheet.
- D. Asphalt coated, glass fiber reinforced, mechanically fastened venting base sheet: Conforms to or exceeds requirements of ASTM D 3672 Type II and ASTM D 4897, Type II and UL Type G2 BUR. Each roll contains one square of material, approximately 39.4 inches by 32.6 feet (1000 mm by 9900 mm); 69 lb (31 kg), GAFGLAS STRATAVENT Eliminator Nailable base sheet.
- E. Asphalt coated, glass fiber reinforced, asphalt applied venting base sheet, has 1/2 inch (13 mm) perforations, 3 in a row with groups spaced 3 inches (76 mm) apart on center: Conforms to or exceeds requirements of ASTM D 3672 Type II and ASTM D 4897, Type II and UL Type G2 BUR. Each roll contains one square of material, approximately 39.4 inches by 32.6 feet (1000 mm by 9900 mm); 60 lb (27.3 kg), GAFGLAS STRATAVENT Eliminator Perforated base sheet.
- F. Asphalt coated glass fiber ply sheet, strong and lightweight. Conforms to or exceeds requirements of ASTM D 2178 Type IV and UL Type G1 BUR. Each roll contains five (5) squares (530 sf) of material, approximately 39.4 inches by 161.8 feet (1000 mm by 49300 mm), 40 lb (18.2 kg), GAFGLAS Ply 4 ply sheet.
- G. Premium asphalt coated glass fiber ply sheet with flexible Design: Conforms to or exceeds requirements of ASTM D 2178 Type VI and UL Type G1 BUR. Each roll contains five (5) squares (530 sf) of material, approximately 39.4 inches by 161.8 feet (1m by 49.3 m), 44 lb (20 kg), GAFGLAS FlexPly 6 ply sheet.
- H. Asphalt coated mineral surfaced cap sheet for use as the finish ply in the application of hot applied built-up roofs. Complies with ASTM D 3909 Type III and UL Type G3 BUR. Each roll contains one square of material, approximately 39.4 inches by 32.6 feet (1000 mm by 9900 mm); 76 lb (34.6 kg), GAFGLAS Mineral Surfaced Cap Sheet.
  - 1. Color: to be selected by owner or architect from standard GAF selections.

- I. ENERGYSTAR rated, asphalt coated mineral surfaced cap sheet with elastomeric coating for use as the finish ply in the application of hot applied built-up roofs. Complies with ASTM D 3909 Type III and UL Type G3 BUR. Each roll contains one square of material, approximately 39.4 inches by 32.6 feet (1000 mm by 9900 mm); 76 lb (34.6 kg), GAFGLAS EnergyCap Cap Sheet.
  - J. Mineral surfaced cap sheet coated with modified asphalt for use as the finish ply in the application of hot applied built-up roofs. Complies with ASTM D 3909 Type III and UL Type G3 BUR. Each roll contains one square of material, approximately 39.4 inches by 32.6 feet (1000 mm by 9900 mm); 76 lb (34.6 kg), GAFGLAS 601 Cap Sheet.
    - 1. Color: to be selected by owner or architect from standard GAF selections.
- 2.5 BITUMEN / ADHESIVE
- A. Asphalt bitumen: ASTM D 312.
- 2.6 FLASHING MATERIALS
- A. Fiberglass reinforced SBS modified asphalt base sheet: Each roll contains three squares of roofing material, approximately 39.4 inches by 97.5 feet (1 m by 29.7 m); 67 lb (30.4 kg), Ruberoid Modified Base Sheet.
  - B. Smooth surfaced modified bitumen membrane with a non-woven fiberglass reinforcing mat coated with flexible, SBS polymer-modified asphalt. Each roll contains one and one-half squares of material, approximately 39.4 inches by 49.1 feet (1 m by 14 m); 95 lb (43 kg), Ruberoid 20 base / ply sheet.
  - C. Smooth surfaced modified bitumen membrane with a non-woven polyester reinforcing mat coated with flexible, SBS polymer-modified asphalt. Conforms to or exceeds requirements of ASTM D 6164 Type I Grade S. Each roll contains one square of material, approximately 39.4 inches by 33.6 feet (1m by 10.3 m), 88 lb (40 kg), Ruberoid Mop Smooth base / ply sheet.
  - D. Granule-surfaced modified bitumen membrane with a non-woven polyester reinforcing mat coated with flexible, SBS polymer-modified asphalt. Conforms to or exceeds requirements of ASTM D 6164 Type I Grade G. Each roll contains one square of material, approximately 39.4 inches by 33.6 feet (1 mm by 10.3 m), 102 lb (46.4 kg), Ruberoid Mop Granule flashing membrane.
  - E. Fire retardant modified bitumen membrane with a non-woven polyester reinforcing mat coated with flexible, SBS polymer-modified asphalt. Conforms to or exceeds the requirements of ASTM D 6164 Type I Grade G. Each roll contains one (1) square of material, approximately 39.4 inches by 33.6 feet (1 m by 10.3 m), 103 lb (46.7 kg), Ruberoid Mop 170 FR flashing membrane.
  - F. Fire-retardant, granule-surfaced modified bitumen membrane with a non-woven polyester reinforcing mat coated with flexible, SBS polymer-modified asphalt. Conforms to or exceeds requirements of ASTM D 6164 Type II Grade G. Each roll contains one square of material, approximately 39.4 inches by 33.6 feet (1 m by 10.3 m), 102 lb (46.4 kg), Ruberoid Mop FR flashing membrane.
  - G. Smooth surfaced modified bitumen membrane with a non-woven polyester reinforcing mat coated with APP polymer-modified asphalt. Conforms to or exceeds

requirements of ASTM D 6222 Type I Grade S. Each roll contains one square of material, approximately 39.4 inches by 32.9 feet (1 m by 10 m), 87 lb (39.5 kg) Ruberoid Torch Smooth flashing membrane.

- H. Granule surfaced modified bitumen membrane with a non-woven polyester reinforcing mat coated with APP polymer-modified asphalt. Conforms to or exceeds requirements of ASTM D 6222 Type I Grade G. Each roll contains one square of material, approximately 39.4 inches by 32.9 feet (1000 mm by 10000 m), 102 lb (46.4 kg) Ruberoid Torch Granule flashing membrane.
- I. Fire retardant, granule surfaced modified bitumen membrane with a non-woven polyester reinforcing mat coated with APP polymer-modified asphalt. Conforms to or exceeds the requirements of ASTM D 6222 Type II Grade G. Each roll contains 3/4 square of material, approximately 39.4 inches by 24.6 feet (1 m by 7 m), 90 lb (40.9 kg) Ruberoid Torch FR flashing membrane.
- J. Smooth surfaced modified bitumen membrane with a non-woven fiberglass reinforcing mat coated with flexible, SBS polymer-modified asphalt. Specifically designed for heat weld application. Conforms to or exceeds requirements of ASTM D 6163 Type I Grade S. Each roll contains one and one-half squares of material, approximately 39.4 inches by 49.1 feet (1 m by 14 m); 90 lb (41 kg), Ruberoid SBS Heat-Weld 25 base / ply sheet.
- K. Smooth surfaced modified bitumen membrane with a non-woven polyester reinforcing mat coated with flexible, SBS polymer-modified asphalt. Specifically designed for heat weld application. Conforms to or exceeds requirements of ASTM D 6164 Type I Grade S. Each roll contains one square of material, approximately 39.4 inches by 33.6 feet (1 m by 10.3 m), 88 lb (46.4 kg), Ruberoid SBS Heat-Weld Smooth base / ply sheet.
- L. Granule surfaced modified bitumen membrane with a non-woven polyester reinforcing mat coated with flexible, SBS polymer-modified asphalt. Specifically designed for heat weld application. Conforms to or exceeds requirements of ASTM D 6164 Type I Grade G. Each roll contains one (1) square of material, approximately 39.4 inches by 33.6 feet (1 m by 10.3 m), 102 lb (46.4 kg), Ruberoid SBS Heat-Weld Granule flashing membrane.
- M. Fire-retardant, granule surfaced modified bitumen membrane with a non-woven polyester reinforcing mat coated with flexible, SBS polymer-modified asphalt. Specifically designed for heat weld application. Conforms to or exceeds the requirements of ASTM D 6164 Type I Grade G. Each roll contains one (1) square of material, approximately 39.4 inches by 33.6 feet (1 m by 10.3 m), 103 lb (46.7 kg), Ruberoid SBS Heat-Weld 170FR flashing membrane.
- N. Fire retardant modified bitumen membrane containing a high tensile woven fiberglass scrim, coated with an SBS polymer-modified asphalt and covered with a protective foil facing with built-in moisture control channels. Conforms to or exceeds requirements of ASTM D 6298. Each roll contains one square of material, approximately 39.75 inches by 33.4 feet (1 m by 10.1 m); 101 lb (45.8 kg), Ruberoid ULTRACLAD SBS flashing membrane.

- O. Asphalt-coated, fiberglass mat flashing sheet. Each roll contains 2 squares (214 sf) of material, approximately 39.4 inches by 65.2 feet (1 m by 19.9 m). Roll weight 76 lb (34.5 kg), GAFGLAS Flashing.

## 2.7 SURFACING

- A. Leak Buster Matrix 303 Premium Fibered Aluminum Roof Coating, conforming to or exceeding, ASTM D 2824, Type III, heavy bodied with special reinforcing fibers.
- B. Special asphalt roofing bitumen conforming to or exceeding ASTM D 312, Type I.
- C. Mineral aggregate used in built up roofing, ASTM D 1863, 400 lb per square (20 kg/sm). Fines, dirt or organic materials are not acceptable.

## 2.8 ACCESSORIES

- A. Mechanical Fasteners:
  - 1. DrillTec Standard Screws: Alloy steel fastener with CR-10 coating with a .220 inch (5.5 mm) diameter thread: Factory Mutual Standard 4470 Approved, #3 Phillips truss head or hex head.
  - 2. Tape and N12 BAB or N12 FAB Staples, by Senco.
- B. One Way Vents:
  - 1. Pressure relief device consisting of a one-piece spun aluminum vent pre-flashed with modified bitumen. Internally, the vent contains a neoprene valve that allows air pressure and moisture vapor to escape out of the system without allowing additional air and moisture vapor to return. The One Way MVent, by Mweld.
- C. Standard Vents:
  - 1. A spun aluminum vent, pre-flashed with modified bitumen designed to waterproof soil pipes and roofing protrusions. The Standard MVent, by Mweld.
- D. Adjustable Vents:
  - 1. A two-piece roof-flashing unit consisting of a pre-flashed spun aluminum base and a flexible upper boot, allowing for waterproofing of tall or awkward roof protrusions. The Adjustable MVent, by Mweld.
- E. Plumbing Vents:
  - 1. A pre-flashed with modified bitumen membrane and is designed to waterproof vent pipes. It can be used as a pipe cover to replace finger and cap flashing on standard vent pipe details. The Pre-Flashed Plumbing Vent, by Mweld.
- F. Drains:
  - 1. A spun aluminum (or copper) roof drain with gravel guard, strainer cap and waterproofing plumbing seal attached. Pre-flashed with modified bitumen and available in full and insert sizes to accommodate new construction and retrofit applications. The MDrain, by Mweld.
  - 2. A Pre-flashed metal through-wall roof drain designed for easy installation to aid in quick lateral removal of water. The Mscupper, by Mweld.



- G. Sealant Pans:
  - 1. A structural urethane outer shell, bonded to the roof surface, filled with a urethane rubber sealant. The urethane sealant conforms to the shape of any roof penetration through a roof surface to protect the roof system from moisture. The M-Curb and M-Thane, by Mweld.
- H. Expansion Joint Covers:
  - 1. Factory fabricated assemblies used to accommodate three-dimensional joints in a roof structure. Heavy reinforced flexible cover with a flexible flame retardant foam bellows for support. Nailing flanges conform to curb irregularities. The Metalastic Expansion Joint Cover, by BMCA.
- I. Gravel Guard:
  - 1. Three-piece fascia system with roof flange design that creates water and wind proof seals at the building perimeter. The Gravel Guard MB, by BMCA.

### PART 3 EXECUTION

#### 3.1 EXAMINATION

- A. Verify that the surfaces and site conditions are ready to receive work.
- B. Verify that the deck is supported and secured.
- C. Verify that the deck is clean and smooth, free of depressions, waves or projections and properly sloped to drains, valleys, eaves, scuppers or gutters.
- D. Verify that the deck surfaces are dry and free of ice or snow.
- E. Verify that all roof openings or penetrations through the roof are solidly set and that all flashings are tapered.

#### 3.2 SUBSTRATE PREPARATION

- A. Oriented Strand Board (OSB) Deck:
  - 1. Oriented Strand Board shall carry a Structural 1 rating when used as a decking material.
  - 2. Preservatives or fire retardants used to treat decking shall be compatible with roofing materials.
  - 3. The deck shall be installed over joists that are spaced 24 inches (610 mm) o.c. or less.
  - 4. The deck shall be installed so that all four sides of each panel bear on and are secured to joist and cross blocking; the APA/Engineered Wood Association (APA) recommendations. "H" clips are not acceptable.
  - 5. Panels shall be installed with a 1/8 inch to 1/4 inch (3 mm to 6 mm) gap between panels and shall match vertically at joints to within 1/8 inch (3mm).
  - 6. Decking shall be kept dry and roofed promptly after installation.
  - 7. Tape and staple fastening systems may be used on wood decks when they comply with local building codes.
  - 8. When light metal wall ties or other structural metal are exposed on top of the wood deck, cover them with a heavy ply of a roofing sheet, such as Stratavent Eliminator Nailable Base Sheet, extending 2 inches to 6 inches (51 mm to 152 mm) beyond the metal in all directions. Nail in place before applying the base ply.

9. Attach an acceptable base sheet through flat metal caps or use nails with attached 1 inch (25 mm) square or round metal caps that have a minimum withdrawal resistance of 40 pounds each (178 N).

B. Recover

1. Suitable roofs for recover shall be free of dust, dirt, debris and any contaminants that may adversely affect the performance of the new roof. Areas of substantial deck deflection or membrane imperfections shall be corrected prior to installing any new roofing.
2. For recover installations over single-ply, fluid applied, coal tar and metal roofs, contact GAF Contractor Services for prior approval and technical requirements.
3. Taking test cuts to verify the existing roof construction and condition. Three test cuts shall be made for roofs under 100 squares (930 sm) and one test cut per 100 squares (930 sm) above the minimum amount.
4. Existing substrates and insulation (if applicable) shall be dry over the majority of the roof area. Wet or deteriorated areas of insulation and substrate shall be removed and replaced with new materials. When adhering insulation or new roofing directly to the existing roof surface, the existing roof system components shall be well attached to each other and their substrate.
5. All applicable code requirements shall be met for recover over an existing roofing system.
6. When Stratavent Eliminator Venting Base Sheet is used as the first ply, the surface of the old smooth membrane shall be primed using Matrix 307 Asphalt/concrete Primer and allowed to dry.

3.3 INSTALLATION - GENERAL

- A. Install GAF's GAFGLAS roofing system according to all current application requirements in addition to those listed in this section.
- B. GAF Specification #: \_\_\_\_\_.
- C. When the slope of the roof is 1 inch per foot or greater, install all plies parallel with the slope of the roof and install intermediate wood nailers as required for the specific roof slope. Plies shall extend over ridges and nailed on 6 inches centers
- D. Start the application of membrane plies at the low point of the roof or at the drains, so that the flow of water is over or parallel to, but never against the laps.

3.4 BITUMEN

- A. Do not mix different types of asphalt.
- B. Use only ASTM D 312, Type II, Type III or Type IV Steep Asphalt. On slopes up to 1/2 inch per foot (40 mm/1000 mm), flat ASTM Type II asphalt may be used except in Florida, Texas, New Mexico, Arizona and California. Type IV asphalt shall be used on all slopes greater than 1/2 inches (13 mm) per foot (40 mm/1000 mm).
- C. Application with hot asphalt requires continuous, uniform interply mopping rates of 25 lb +/- 20 percent per 100 square feet (1.2 kg/sm) of roof area.
- D. Application temperature of the asphalt shall be at the Equiviscous Temperature

(EVT) with a tolerance of +/- 25 degrees F (13.9 degrees C), at which a viscosity of 125 centipoise is attained. When using mechanical asphalt applicators, the target viscosity shall be 75 centipoise.

- E. For all SBS modified asphalt flashings; the minimum application temperature of the asphalt shall be at the EVT or 425 degrees F (218 degrees C), whichever is greater, with a rolling bank (puddle) of mopping asphalt across the full width of the roll.
- F. Do not heat the asphalt to or above its flash point or hold the asphalt at temperatures above the finished blowing temperature for more than 4 hours.
- G. Do not keep heated tankers above 325 degrees F (163 degrees C) overnight.

### 3.5 INSULATION - GENERAL

- A. Do not apply roof insulation or roofing until all other work trades have completed jobs that require them to traverse the deck on foot or with equipment. A vapor retarder coated lightly with asphalt may be applied to protect the inside of the structure prior to the insulation and final roofing installation. Before the application of the insulation, any damage or deterioration to the vapor retarder shall be repaired.
- B. Do not install wet, damaged or warped insulation boards.
- C. Install insulation boards with staggered board joints in one direction (unless taping joint).
- D. Install insulation boards snug. Gaps between board joints shall not exceed 1/4 inch (6 mm). All gaps in excess of 1/4 inch (6 mm) shall be filled with like insulation material.
- E. Wood nailers shall be 3-1/2 inches (89 mm) minimum width or 1 inch (25 mm) wider than metal flange. They shall be of equal thickness as the insulation with a minimum 1 inch (25 mm) thickness. All nailers shall be securely fastened to the deck.
- F. Do not kick insulation boards into place.
- G. Miter and fill the edges of the insulation boards at ridges, valleys and other changes in plane to prevent open joints or irregular surfaces. Avoid breaking or crushing of the insulation at the corners.
- H. Do not install insulation over old lightweight insulating concrete decks without the use of a vapor retarder. Insulation shall not be installed over new lightweight insulating concrete.
- I. Cant strips shall be installed at the intersection of the roof and all walls, parapets, curbs or transitions approaching 90 degrees, to be flashed. They shall be approximately 4 inches (102 mm) in horizontal and 4 inches (102 mm) in vertical dimension. The face of the cant shall have an incline of not more than 45 degrees with the roof.
- J. Roof tape, if required over insulation joints, shall be laid evenly, smoothly and embedded in a uniform coating of hot steep asphalt with 4 inches (102 mm) end

laps. Care shall be taken to assure smooth application of tape and full embedment of the tape in the asphalt.

- K. Do not install any more insulation than will be completely waterproofed each day.

### 3.6 INSULATION - BASE LAYER

- A. The insulation shall be securely attached to the roof deck. A minimum FMRC 1-60 attachment is recommended. Refer to FMRC Approval Guide for FM fastening patterns. Factory Mutual requires fastener density increased in corner areas for FM 1-60 and perimeter and corner area fastener density increases for FM 1-90 or greater. Refer to FM Loss Prevention Data Sheets 1-7, 1-28 and 1-49.
- B. Use only fasteners with a minimum 3 inch (76 mm) stress plate when mechanically attaching insulation. Do not attach insulation with nails.
- C. Install insulation layers, maximum 4 feet by 4 feet (1.22m by 1.22m) board size, in a full and uniform mopping of hot asphalt applied at the rate of 25 lb/square (1.2 kg/sm) +/- 20 percent. Press each board firmly into place. Stagger the joints of additional layers in relation to the insulation joints in the layer(s) below by a minimum of 6 inches (152 mm) to eliminate continuous vertical gaps.
- D. The substrate shall be free of debris, dust, dirt, oil, grease and standing water before applying the adhesive.
- E. Install insulation layers applied with beads of Oly Bond 500 spaced 12 inches (305 mm) O.C. Approximate coverage rate is one (1) gallon per 100 square feet (0.42 l/sm), depending on the substrate. Allow the foam to rise 1/2 inch to 3/4 inch. Press each board firmly into place. Stagger the joints of additional layers in relation to the insulation joints in the layer(s) below by a minimum of 6 inches (152 mm) to eliminate continuous vertical gaps.
- F. The substrate shall be free of debris, dust, dirt, oil, grease and standing water before applying the adhesive.
- G. Install insulation layers applied with 3/4 inch (19 mm) beads of Insta-Stik spaced 12 inches (305 mm) O.C. Press each board firmly into place. Stagger the joints of additional layers in relation to the insulation joints in the layer(s) below by a minimum of 6 inches (152 mm) to eliminate continuous vertical gaps.
- H. Loose lay the base layer of insulation for subsequent layers to be simultaneously attached. Minimal fastening shall be performed to avoid movement of the boards.

### 3.7 INSULATION - SUBSEQUENT LAYERS

- A. The insulation shall be securely attached to the roof deck. A minimum FMRC 1-60 attachment is recommended. Refer to FMRC Approval Guide for FM fastening patterns. Factory Mutual requires fastener density increased in corner areas for FM 1-60 and perimeter and corner area fastener density increases for FM 1-90 or greater. Refer to FM Loss Prevention Data Sheets 1-7, 1-28 and 1-49.
- B. Multiple layers of insulation of the same, non-tapered insulation material may be simultaneously mechanically fastened with approved fasteners and plates through

the top layer of insulation to the structural deck. Individual layers of insulation shall not exceed 3 inches (7.6 mm) in thickness nor total thickness of all layers shall not exceed 5 inches (127 mm) without written approval of GAF Contractor Services.

- C. Use only fasteners with a minimum 3 inch (76 mm) stress plate when mechanically attaching insulation. Do not attach insulation with nails.
- D. Install insulation layers, maximum 4 feet by 4 feet (1220 mm by 1220 mm) board size, in a full and uniform mopping of hot asphalt applied at the rate of 25 lb/square (1.2 kg/sm) +/- 20 percent. Press each board firmly into place. Stagger the joints of additional layers in relation to the insulation joints in the layer(s) below by a minimum of 6 inches (152 mm) to eliminate continuous vertical gaps.
- E. The substrate shall be free of debris, dust, dirt, oil, grease and standing water before applying the adhesive.
- F. Install insulation layers applied with beads of Oly Bond 500 spaced 12 inches (305 mm) O.C. Approximate coverage rate is one (1) gallon per 100 square feet (0.42 l/sm), depending on the substrate. Allow the foam to rise 1/2 inch to 3/4 inch (13 mm to 19 mm). Press each board firmly into place. Stagger the joints of additional layers in relation to the insulation joints in the layer(s) below by a minimum of 6 inches (152 mm) to eliminate continuous vertical gaps.
- G. The substrate shall be free of debris, dust, dirt, oil, grease and standing water before applying the adhesive.
- H. Install insulation layers applied with 3/4 inch (19 mm) beads of Insta-Stik spaced 12 inches (305 mm) O.C. Press each board firmly into place. Stagger the joints of additional layers in relation to the insulation joints in the layer(s) below by a minimum of 6 inches (152 mm) to eliminate continuous vertical gaps.
- I. Do not install more insulation than can be completely waterproofed each day.

### 3.8 BASE SHEET

- A. Base Sheet:
  - 1. Roll the base sheet out over the deck and allow it to relax. Lap the base sheet so the flow of water is over or parallel to, but never against the laps.
  - 2. Lap the base sheet 2 inches (51 mm) and 4 inches (102 mm) on the ends. Keeping the base sheet taut, push out all wrinkles and buckles ahead as fastening proceeds.
  - 3. Turn base sheet up to the top of the cant.
  - 4. Stagger adjacent end laps a minimum of 18 inches (457 mm).
  - 5. A minimum FMRC 1-60 attachment is recommended. Refer to FMRC Approval Guide for FM Fastening patterns. Factory Mutual requires fastener density increases in perimeter and corner zones for FM 1-60 and FM 1-90 or greater. Refer to FM Loss Prevention Data Sheets 1-7, 1-28, 1-29 and 1-49.
- B. Interply Sheets:
  - 1. One-ply interply application: Install full width ply sheets, lapping 2 inches (51 mm) on the sides and 4 inches (10.2 cm) on the ends. Stagger adjacent end laps a minimum of 18 inches (457 mm) apart. Where installed over base

- sheet, stagger ply sheet's side and end laps from underlying plies.
2. Two-ply interply application: Install 19 11/16 inches (500 mm) and 39 3/8 inches (1000 mm) width starter plies and follow with a second 39 3/8 inches (1000 mm) width sheet with a maximum of 17 11/16 inches (449 mm) exposure, applied shingle fashion. Lap felts 20 11/16 inches (526 mm) with an 18 11/16 inches (475 mm) exposure and 6 inches (152 mm) on end laps. Stagger adjacent end laps a minimum of 18 inches (457 mm).
  3. Three ply interply application: Install starter strips of 13 1/8 inches (333 mm), 26 1/4 inches (667 mm) and 39 3/8 inches (1000 mm) widths and follow with a second full 39 3/8 inches (1000 mm) width sheet with a maximum 11 1/8 inches (283 mm) exposure, applied shingle style. Lap felts 26 15/16 inches (684 mm) with a 127/16 inches (316 mm) exposure and lap 6 inches (152 mm) at ends. Stagger adjacent end laps a minimum of 18 inches (457 mm).
  4. Four-ply application: Install starter strips of 9 7/8 inches (251 mm), 19 11/16 inches (500 mm), 29 1/2 inches (749 mm) and 39 3/8 inches (1000 mm) widths and follow with a second full 39 3/8 inches (1000 mm) width sheet with a maximum 7-7/8 inches (200 mm) exposure, applied shingle style. Lap felts 30-1/16 inches (764 mm) with a 9-5/16 inches (236 mm) exposure and lap 6 inches (152 mm) at ends. Stagger adjacent end laps a minimum of 18 inches (457 mm).

C. Base Sheets:

1. Roll out perforated base sheet dry, granule-surface down, directly over isocyanurate insulation
2. Roll out perforated base sheet dry, granule-surface down, directly over the asphalt primed structural concrete deck
3. Roll out perforated base sheet dry, granule-surface down, directly over the asphalt primed existing smooth built up roof.
4. Lap the base sheet 2 inches (51 mm) and 4 inches (102 mm) on the ends, with adjacent laps a minimum of 18 inches (457 mm) apart.
5. Turn base sheet past the top of the cant and continue up the vertical wall terminating at final base flashing height.
6. At edge terminations, turn the membrane down the face of the wall 2 inches (51 mm) and install the subsequent system ply/plies in hot asphalt over the perforated base sheet. The hot asphalt used to install the subsequent ply/plies mopped over the surface flows through the perforations to attach the base sheet and membrane system to the substrate.

D. Interply Sheets:

1. One-ply interply application: Install full width ply sheets, lapping 2 inches (51 mm) on the sides and 4 inches (102 mm) on the ends. Stagger adjacent end laps a minimum of 18 inches (457 mm) apart. Where installed over base sheet, stagger ply sheet's side and end laps from underlying plies.
2. Two-ply interply application: Install 19-11/16 inches (500 mm) and 39-3/8 inches (1000 mm) width starter plies and follow with a second 39-3/8 inches (1000 mm) width sheet with a maximum of 17-11/16 inches (449 mm) exposure, applied shingle fashion. Lap felts 20-11/16 inches (526 mm) with an 18-11/16 inches (475 mm) exposure and 6 inches (152 mm) on end laps. Stagger adjacent end laps a minimum of 18 inches (457 mm).

3.9 SURFACING APPLICATION

## A. Cap Sheet:

1. Begin the application of the GAFGLAS Mineral Surfaced Cap Sheet at the low points of the roof so that the flow of water is never against the laps. Parallel lap lines of cap sheet shall not coincide with the lap lines of the underlying plies wherever possible. Application shall be over and parallel to the underlying roofing membrane.
2. GAFGLAS Mineral Surface Cap sheet shall not be installed in full-length rolls. It shall be cut into shorter lengths, stacked and relaxed prior to installation. If the ambient temperature is 65 degree F or above, the roll can be cut in lengths up to 18 feet (5486 mm). If the temperature is below 65 degree F, the roll shall be cut in lengths no greater than 12 feet (3658 mm). Failure to cut and relax the cap sheet prior to installation may result in wrinkles, ridges and fishmouths.
3. Embed the cap sheet in steep roofing asphalt applied at the nominal rate of 25 pounds per 100 square feet. Side laps shall be a minimum of 2 inches (51 mm) and end laps a minimum of 6 inches (152 mm). End laps shall be staggered by a minimum of 3 feet (76 mm). Uniformity of the separation of side laps is desirable for best appearance. All sheets shall be free of wrinkles, buckles, blisters, fishmouths or voids. End laps shall be nailed on all slopes exceeding 1 inch per foot.
4. There are three acceptable methods of application:
  - a. The flop in method involves setting the precut sheet with mineral surfaced side down adjacent to the area where it is to be applied with the lap of the previous course exposed. Solidly mop with roofing asphalt the full sheet width to be covered including the lap. The GAFGLAS Mineral Surfaced Cap Sheet shall be picked up at each end and at the outside edge, turned over and set immediately into the hot mopping.
  - b. The fly in method involves mopping the full width of the area to be covered and then picking up a precut sheet and setting it immediately into the hot mopping.
  - c. The re-roll method involves setting the precut sheet so it is in its exact final position, re-rolling it and then mopping immediately ahead of the roll as it is rolled in place.
5. Brooming of the GAFGLAS Mineral Surfaced Cap Sheet shall be performed to ensure complete adhesion. When implementing the in the flop in and fly in methods, tension shall be placed on the precut sheet as it is being set to avoid wrinkles or buckles in the sheet.

## B. Aggregate Surfacing:

1. Aggregate surfacing may only be installed on roofs with slopes less than 3 inches per foot (250 mm/1000 mm).
2. Not less than 400 lb/square (195 kg/sm) of gravel or 300 lb/square (14.6 kg/sm) of slag shall be applied in a flood coat of 60 lb/square (2.9 kg/sm) of hot asphalt.
3. Gravel at the time of application shall be hard, durable, opaque and free of clay, loam, sand or other foreign substances and comply with ASTM D 1863.
4. Asphalt shall conform to the latest revision of ASTM D 312 Type III or IV.
5. No more asphalt shall be applied at one time than can be immediately covered with gravel or slag.

C. Coating:

1. For a smooth surfaced GAFGLAS roof, the following coatings may be used with the limits indicated:
  - a. ASTM D-312, Type I asphalt may be used on slopes of up to 1/2 inch per foot (42 mm/1000 mm) (North and South Zones only), applied at the rate of 20 pounds per 100 square feet (10 kg/sm).
  - b. Leak Buster Matrix Fibered Aluminum Roof Coating may be used on slopes of 1/4 inch per foot (21 mm/1000 mm) or more (positive drainage, no ponding water), applied at the rate of approximately 1-1/2 to 2 gallons per 100 square feet. Steep asphalt at the laps shall be allowed to age at least 60-90 days and shall be free of dust and dirt prior to the application of Matrix Fibered Aluminum Coating.
  - c. Leak Buster Matrix Fibered or Non-Fibered Emulsion may be used on slopes of up to 6 inches per foot (500 mm/1000 mm), applied at the rate of approximately 3 gallons per 100 square feet. Steep Roofing Asphalt at the laps shall be allowed to age at least one week and be free of dust and dirt prior to the application of Matrix Emulsion.
2. Coating shall be applied directly to the roofing felts.
3. Surfacing may be delayed for up to 90 days; however, the surface shall be clean and dry before proceeding with the coating.
4. Reapplication of the coating shall be employed as part of a periodic maintenance program. The frequency will vary depending on climatic conditions.
5. Coating of asphalt prior to the application of surface coatings will affect the UL ratings. For UL approved coatings over GAFGLAS systems, contact GAF Contractor Services.

### 3.10 FLASHING APPLICATION

A. Bituminous Base Flashings:

1. Install GAF base flashing over all cant strips, horizontal to vertical transitions, roof edges and roof penetrations. Flashings are to be secured in accordance with current GAF application guidelines.
2. Nailable curbs and walls shall be covered with a layer of approved GAFGLAS Base Sheet or backer ply fastened 8 inches (203 mm) o.c. in all directions with approved fasteners. All vertical laps shall be 4 inches (102 mm). Base sheet or backer ply shall extend out onto the field of the roof as shown in the applicable GAF construction detail.
3. Prime all metal and masonry surfaces with asphalt primer and allow adequate drying time prior to adhering flashing plies.
4. Backer plies installed over masonry or other non-nailable substrates shall be cut into manageable lengths to ensure adequate adhesion to the cant strip and vertical surfaces without excessive voids. All vertical laps shall be 4 inches (102 mm). Backer plies shall extend onto the field of the roof as shown in the applicable GAF construction detail.
5. The finished ply of base flashing shall be run vertically to provide a selvage edge that will aid in achieving proper adhesion at the 3 inches (76 mm) vertical laps. If the sheet is run horizontally, the vertical laps shall be a minimum of 6 inches (152 mm) and the selvage edge shall be removed from the sheet or fully covered by the counterflashing. The finished flashing ply shall extend out onto the field of the roof as shown in the applicable GAF



- construction detail and shall be extended a minimum of 4 inches (102 mm) beyond the edge of the prior flashing plies. The flashing shall be soundly adhered to the parapet, cant area and roof surface to result in a minimum void, non-bridging construction.
6. Base flashing heights shall be a minimum of 8 inches (203 mm) and a maximum of 24 inches (610 mm) above the roofline.
  7. Use only Type III or Type IV hot asphalt. Maintain asphalt at the Equiviscous Temperature (EVT) +/- 25 degree F (13.9 degree C) for all base and ply sheets used in flashing details. Apply flashing membranes at the EVT temperature or 425 degree F (218 degree C) whichever is greater. Firmly press sheets into the adhesive and immediately nail the top of the flashing as specified in the appropriate flashing detail.
  8. Corner membrane flashings for outside corners and inside corners or other membrane reinforcements are required to ensure that base flashing corners are sealed at cant areas. An alternate method of corner reinforcing is to install a smooth MB membrane reinforcement piece on the prepared corner substrate prior to final surfacing membrane. Refer to BUR Flashing Details section of the GAF Application and Specifications Manual.
- B. Bituminous Base Flashings:
1. Install GAF base flashing over all cant strips, horizontal to vertical transitions, roof edges and roof penetrations. Flashings are to be secured in accordance with current GAF application guidelines.
  2. Nailable curbs and walls shall be covered with a layer of approved GAFGLAS® Base Sheet or backer ply fastened 8 inches (20.3 cm) o.c. in all directions with approved fasteners. All vertical laps shall be 4 inches (10.2 cm). Base sheet or backer ply shall extend out onto the field of the roof as shown in the applicable GAF construction detail.
  3. Prime all metal and masonry surfaces with asphalt primer and allow adequate drying time prior to adhering flashing plies.
  4. Backer plies installed over masonry or other non-nailable substrates shall be cut into manageable lengths to ensure adequate adhesion to the cant strip and vertical surfaces without excessive voids. All vertical laps shall be 4 inches (10.2 cm). Backer plies shall extend onto the field of the roof as shown in the applicable GAF construction detail.
  5. The finished ply of base flashing shall be run vertically to provide a selvage edge that will aid in achieving proper adhesion at the 3 inches (7.6 cm) vertical laps. If the sheet is run horizontally, the vertical laps shall be a minimum of 6 inches (15.2 cm) and the selvage edge shall be removed from the sheet or fully covered by the counterflashing. The finished flashing ply shall extend out onto the field of the roof as shown in the applicable GAF construction detail and shall be extended a minimum of 4 inches (10.2 cm) beyond the edge of the prior flashing plies. The flashing shall be soundly adhered to the parapet, cant area and roof surface to result in a minimum void, non-bridging construction.
  6. Base flashing heights shall be a minimum of 8 inches (20.3 cm) and a maximum of 24 inches (61.0 cm) above the roofline.
  7. Use only trowel-grade modified adhesive. Apply using a trowel or wide-edged putty knife with a uniform 1/8 inches thickness throughout. Firmly press sheets into the adhesive and immediately nail the top of the flashing as specified in the appropriate flashing detail.

8. Corner membrane flashings, such as bowties inches for outside corners and footballs inches for inside corners or other membrane reinforcements are required to ensure that base flashing corners are sealed at cant areas. An alternate method of corner reinforcing is to install a smooth MB membrane reinforcement piece on the prepared corner substrate prior to final surfacing membrane. Refer to BUR Flashing Details section of the GAF Application and Specifications Manual.

C. Bituminous Base Flashings:

1. Install GAF base flashing over all cant strips, horizontal to vertical transitions, roof edges and roof penetrations. Flashings are to be secured in accordance with current GAF application guidelines.
2. Nailable curbs and walls shall be covered with a layer of approved GAFGLAS Base Sheet or backer ply fastened 8 inches (203 mm) o.c. in all directions with approved fasteners. All vertical laps shall be 4 inches (102 mm). Base sheet or backer ply shall extend out onto the field of the roof as shown in the applicable GAF construction detail.
3. Prime all metal and masonry surfaces with asphalt primer and allow adequate drying time prior to adhering flashing plies.
4. Backer plies installed over masonry or other non-nailable substrates shall be cut into manageable lengths to ensure adequate adhesion to the cant strip and vertical surfaces without excessive voids. All vertical laps shall be 4 inches (102 mm). Backer plies shall extend onto the field of the roof as shown in the applicable GAF construction detail.
5. The finished ply of base flashing shall be run vertically to provide a selvage edge that will aid in achieving proper adhesion at the 3 inches (76 mm) vertical laps. If the sheet is run horizontally, the vertical laps shall be a minimum of 6 inches (152 mm) and the selvage edge shall be removed from the sheet or fully covered by the counterflashing. The finished flashing ply shall extend out onto the field of the roof as shown in the applicable GAF construction detail and shall be extended a minimum of 4 inches (102 mm) beyond the edge of the prior flashing plies. The flashing shall be soundly adhered to the parapet, cant area and roof surface to result in a minimum void, non-bridging construction.
6. Base flashing heights shall be a minimum of 8 inches (203 mm) and a maximum of 24 inches (610 mm) above the roofline.
7. Apply the propane torch flame uniformly across the back surface of the membrane and lap areas until the compound reaches the proper application temperature and exhibits a slight sheen. Be careful during application to ensure the complete burn-off of release films where present on the underside of the rolls, membrane selvage edges or both surfaces as applicable. Avoid overheating, as it may result in damage to or the membrane or improper adhesion. Move the flame from side to side in the shape of an L, applying approximately 75 percent of the heat to the membrane and 25 percent to the substrate or underlying plies including the lap area of the previously installed courses. The membrane is slowly unrolled as heat is applied to ensure proper adhesion. Immediately nail the top of the flashing as specified in flashing detail.
8. Corner membrane flashings, for outside corners and inside corners or other membrane reinforcements are required to ensure that base flashing corners are sealed at cant areas. An alternate method of corner reinforcing is to install a smooth MB membrane reinforcement piece on the prepared corner substrate prior to final surfacing membrane. Refer to BUR Flashing Details section of the GAF Application and Specifications Manual.

D. Sheet Metal:

1. Metal shall not be used as a component of base flashing. GAF assumes no responsibility for damage to the roofing system caused by the movement of accessory metal.
2. Metal shall not be used as a component of base flashing.
3. All metal edge details scheduled to be included in the Edge to Edge Coverage of the Diamond Pledge Guarantee shall be submitted and approved in writing by the manufacturer prior to project commencement.
4. When it is unavoidable to use metal in the roofing system (i.e., lead flange at drains, gravel stops), treated wood nailers and insulation stops, 1 inches (25 mm) wider than the metal flange, shall be provided for metal flange securement. Metal flanges shall always be set on top of the roof membrane with modified trowel grade cold adhesive applied material for SBS roof systems. The metal flange is then sealed using the applicable construction detail to meet applicable guarantee requirements. Metal accessories (gravel stops, counter flashing, etc.) shall be 16 oz. (0.56 mm) copper, 24 gauge (0.71 mm) galvanized or stainless steel, 2-1/2 to 4 lb (1.1 to 1.8 kg) lead or 0.032 inches (0.81 mm) aluminum.
5. Fabricate and install all sheet metal materials as shown in applicable construction details. Refer to SMACNA (Sheet Metal and Air Conditioning Contractors National Association, Inc.) for guidance on sheet metal treatments not addressed in this Manual.
6. Clean metal and apply asphalt primer to all sheet metal surfaces that will come into contact with asphalt or other bituminous materials; allow the primer adequate time to dry.
7. Use fastener types compatible with the sheet metal type.
  - a. Copper or lead-coated copper: use copper or bronze fasteners.
  - b. Lead and galvanized steel: use galvanized or cadmium-plated sheet fasteners.
  - c. Aluminum: use aluminum fasteners.
  - d. Stainless steel: use stainless steel fasteners.
8. Metal counter-flashing shall have a minimum 4 inches (102 mm) face with a drip lip. The bottom edge of the counterflashing shall cover the roofing membrane and/or base flashing by a minimum of 4 inches (102 mm). Metal counter flashing used for masonry walls, wooden walls or through wall metal flashings shall be a two piece design to allow for installation and later removal. Metal counter-flashings for stucco, EIFS, wood siding or similar materials shall be designed to receive and set as a base for those materials, such as "Z" type flashing, while providing for securement of separate metal counter-flashing to cover base flashings. Metal end joints shall be lapped 3 inches (76 mm) or more. Adequate fasteners shall be provided to secure against wind forces. Skirt fasteners shall be watertight.
9. Metal termination bars shall be a minimum of 1/10 inches (3 mm) thick by 1 inch (25 mm) wide with preformed sealant edge lap. Bar shall have 1/4 inches (6 mm) by 3/8 inches (10 mm) slotted holes on 4 inches (102 mm) centers to facilitate mechanical anchorage.
10. Metal flanges for gravel stops, eave strips and pitch pockets to be used in

conjunction with roofing shall be primed (both sides), set in modified trowel grade cold adhesive applied material for SBS roof systems. Flanges shall be a minimum of 3-1/2 inches (89 mm) wide for gravel stops or eave strips and 4 inches (102 mm) wide for projections and extensions through the roof. The gravel stop lip shall be at least 3/4 inches (19 mm) high. Eave strip lips shall be at least 3/8 inches (10 mm) high. Provisions shall be made for securing the skirt to the face of the wall. This may be wood nailer strips for masonry and metal construction. In all cases, gravel stop and eave strip nailer shall be fastened to the deck or deck system with adequate resistance against wind forces.

11. Stacks shall have metal sleeve flashing a minimum of 8 inches (203 mm) high. Pitch pockets for brackets, supports, pad-eyes, etc., shall have a 4 inches (102 mm) minimum height metal sleeve.
12. On reroofing projects, provisions shall be made for reinstallation of existing sheet metal duct work, equipment, coping metal and counter-flashing removed in conjunction with the new work. Also, provide for cleaning and repairing of existing defective sheet metal and replacement of missing and irreparable sheet metal to match existing types. Light gauge sheet metal flashings which are incorporated into the Ruberoid roof system are not suitable for re-use and shall be replaced with new material.
13. Conduits and piping such as electrical and gas lines shall be set on wood blocking or some other form of support. Wood blocking/supports shall be set on doubler pads (an additional layer of the roof membrane).

### 3.11 WALKWAYS

- A. Walkways for normal rooftop traffic may be constructed from two plies of modified bituminous membranes.
- B. Construct walkways prior to the application of field surfacing by solidly adhering a first ply of smooth surfaced membrane to the field of the roof and then adhering a granule surfaced of membrane to the surface of the first ply.
- C. Walkway sections shall be no longer than 10 feet (3000 mm), with a 6 inches (152 mm) minimum gap between each section to allow for drainage.
- D. Surface the roof around and between the pads, making sure the selvage edge of the Ruberoid membrane is covered.

### 3.12 ROOF PROTECTION

- A. Protect all partially and fully completed roofing work from other trades until completion.
- B. Whenever possible, stage materials in such a manner that foot traffic is minimized over completed roof areas.
- C. When it is not possible to stage materials away from locations where partial or complete installation has taken place, temporary walkways and platforms shall be installed in order to protect all completed roof areas from traffic and point loading during the application process.

- D. Temporary tie-ins shall be installed at the end of each workday and removed prior to commencement of work the following day.

### 3.13 CLEAN-UP

- A. All work areas are to be kept clean, clear and free of debris at all times.
- B. Do not allow trash, waste or debris to collect on the roof. These items shall be removed from the roof on a daily basis.
- C. All tools and unused materials shall be collected at the end of each workday and stored properly off of the finished roof surface and protected from exposure to the elements.
- D. Dispose of or recycle all trash and excess material in a manner conforming to current EPA regulations and local laws.
- E. Properly clean the finished roof surface after completion and make sure the drains and gutters are not clogged.
- F. Clean and restore all damaged surfaces to their original condition.

### 3.14 MAINTENANCE

- A. Inspections to the roof shall be performed annually by a GAF Master Select contractor.
- B. An annual roofing system maintenance program shall be performed by a Master Select contractor in accordance with GAF's 10 Point Maintenance Program provided with your Diamond Pledge guarantee.
- C. Submit copies of the roof inspection form, accompanying photographs (a minimum of 6 photos showing the condition of the roof and critical details) and a record of all roofing system maintenance to the GAF Contractor Services Department within sixty (60) days of the anniversary date of the completion of the roofing system. Annual roof inspections shall be started within the first two (2) years of the guarantee term.

END OF SECTION

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## SHEET METAL FLASHING & TRIM

The requirements of the General Conditions and Division 1 apply to all work hereunder.

### PART 1 - GENERAL

SCOPE - Furnish and install all sheet metal work as shown on the drawings and as specified herein, including, but not limited to:

- All flashings necessary to make the roofing waterproof.
- All flashings required for window and door openings.
- Rain Gutters and Downspouts
- Furnace Flue Vents

### PART 2 - PRODUCTS

#### MATERIAL:

Galvanized Sheet Metal - Shall be cold rolled sheet steel with not less than 1.25 oz. per square foot "Commercial Class" zinc coating prime finish, conforming to ASTM A-93. 24 Gauge galvanized iron unless otherwise noted.

Type B Gas Vent - Amerivent Furnace Roof Kit model # 3EK / 4EK or equivalent. Diameter to match flue pipe from furnace. (VIF 3"-4")

Rain Gutters and Downspouts – Gutters to be a 5" pre-finished seamless gutter of 26 gauge galvanized sheet metal. Color to be white. Downspouts to be 2"x3" and match the gutter. Provide leaf guard. Submit sample of leaf guard to Owner for approval.

**Ad.1** Note: No gutter, downspout, or leader can drain on to a roof or roofing and must discharge into a masonry / concrete splashblock a minimum of 24" long directing water away from building perimeter.

Solder - Shall be grade 95% tin and 5% lead

Nails and Fasteners - Shall be the same material as that of items to be fastened, unless noted otherwise. Type, gauges, and lengths, etc. as required for job conditions.

### PART 3 - EXECUTION

#### APPLICATION:

**Sheet Metal & Flashing**  
**07620**

Flashing - Lap all joints a minimum of six inches and fill with a non-hardening sealant material. Coordinate installation of flashings with all trades involved. All exposed edges shall be soldered and beaded or hemmed as required for strength and appearance. The sheet metal work shall be closely fitted neatly to the framework.

Shop prime uncoated ferrous metal and galvanized sheet steel where hereinafter specified for surfaces which are inaccessible after fabrication or installation.

Type B Gas Vent – install per manufacturer instructions and SMACNA standards for sloped shingle roofing

Gutters and Downspouts – Attach gutters to sheathing over building felt. Provide gutter support straps not more than 48” apart. Anchor straps to rafters with 2 ½” exterior screws or 2 – 2” HDG nail. Seal all corners and end caps with sealant. Cover gutters with leaf guard leaving a 12” opening at ends and over downspouts. Attach downspouts with a minimum of two straps and not to exceed 48” spacing.

**END OF SECTION**