STATE OF WISCONSIN

CIRCUIT COURT

MILWAUKEE

VJS Construction Services, Inc. vs. City of West Allis et al **Electronic F Notice**

Electronic Filing

Case No. 2025CV008353 Class Code: Money Judgment FILED 09-25-2025 Anna Maria Hodges Clerk of Circuit Court 2025CV008353 Honorable Timothy Witkowiak-22 Branch 22

CITY OF WEST ALLIS 7525 WEST GREENFIELD AVENUE WEST ALLIS WI 53214

Case number 2025CV008353 was electronically filed with/converted by the Milwaukee County Circuit Court office. The electronic filing system is designed to allow for fast, reliable exchange of documents in court cases.

Parties who register as electronic parties can file, receive and view documents online through the court electronic filing website. A document filed electronically has the same legal effect as a document filed by traditional means. Electronic parties are responsible for serving non-electronic parties by traditional means.

You may also register as an electronic party by following the instructions found at http://efiling.wicourts.gov/ and may withdraw as an electronic party at any time. There is a fee to register as an electronic party. This fee may be waived if you file a Petition for Waiver of Fees and Costs Affidavit of Indigency (CV-410A) and the court finds you are indigent under §814.29, Wisconsin Statutes.

If you are not represented by an attorney and would like to register an electronic party, you will need to enter the following code on the eFiling website while opting in as an electronic party.

Pro Se opt-in code: 806f6d

Unless you register as an electronic party, you will be served with traditional paper documents by other parties and by the court. You must file and serve traditional paper documents.

Registration is available to attorneys, self-represented individuals, and filing agents who are authorized under Wis. Stat. 799.06(2). A user must register as an individual, not as a law firm, agency, corporation, or other group. Non-attorney individuals representing the interests of a business, such as garnishees, must file by traditional means or through an attorney or filing agent. More information about who may participate in electronic filing is found on the court website.

If you have questions regarding this notice, please contact the Clerk of Circuit Court at 414-278-4140.

Milwaukee County Circuit Court Date: September 25, 2025

STATE OF WISCONSIN

CIRCUIT COURT

MILWAUKEE

VJS Construction Services, Inc. vs. City of West Allis et al **Elec**t

Electronic Filing Notice

Case No. 2025CV008353 Class Code: Money Judgment FILED 09-25-2025 Anna Maria Hodges Clerk of Circuit Court 2025CV008353 Honorable Timothy Witkowiak-22 Branch 22

KUENY ARCHITECTS, LLC 10505 CORPORATE DRIVE, SUITE 100 PLEASANT PRAIRIE WI 53158

Case number 2025CV008353 was electronically filed with/converted by the Milwaukee County Circuit Court office. The electronic filing system is designed to allow for fast, reliable exchange of documents in court cases.

Parties who register as electronic parties can file, receive and view documents online through the court electronic filing website. A document filed electronically has the same legal effect as a document filed by traditional means. Electronic parties are responsible for serving non-electronic parties by traditional means.

You may also register as an electronic party by following the instructions found at http://efiling.wicourts.gov/ and may withdraw as an electronic party at any time. There is a fee to register as an electronic party. This fee may be waived if you file a Petition for Waiver of Fees and Costs Affidavit of Indigency (CV-410A) and the court finds you are indigent under §814.29, Wisconsin Statutes.

If you are not represented by an attorney and would like to register an electronic party, you will need to enter the following code on the eFiling website while opting in as an electronic party.

Pro Se opt-in code: 806f6d

Unless you register as an electronic party, you will be served with traditional paper documents by other parties and by the court. You must file and serve traditional paper documents.

Registration is available to attorneys, self-represented individuals, and filing agents who are authorized under Wis. Stat. 799.06(2). A user must register as an individual, not as a law firm, agency, corporation, or other group. Non-attorney individuals representing the interests of a business, such as garnishees, must file by traditional means or through an attorney or filing agent. More information about who may participate in electronic filing is found on the court website.

If you have questions regarding this notice, please contact the Clerk of Circuit Court at 414-278-4140.

Milwaukee County Circuit Court Date: September 25, 2025

STATE OF WISCONSIN

CIRCUIT COURT

MILWAUKEE

VJS Construction Services, Inc. vs. City of West Allis et al

Electronic Filing

Notice

Case No. 2025CV008353 Class Code: Money Judgment FILED 09-25-2025 Anna Maria Hodges Clerk of Circuit Court 2025CV008353 Honorable Timothy Witkowiak-22 Branch 22

GEOTEST, INC. 2135 SOUTH 116TH STREET WEST ALLIS WI 53227

Case number 2025CV008353 was electronically filed with/converted by the Milwaukee County Circuit Court office. The electronic filing system is designed to allow for fast, reliable exchange of documents in court cases.

Parties who register as electronic parties can file, receive and view documents online through the court electronic filing website. A document filed electronically has the same legal effect as a document filed by traditional means. Electronic parties are responsible for serving non-electronic parties by traditional means.

You may also register as an electronic party by following the instructions found at http://efiling.wicourts.gov/ and may withdraw as an electronic party at any time. There is a fee to register as an electronic party. This fee may be waived if you file a Petition for Waiver of Fees and Costs Affidavit of Indigency (CV-410A) and the court finds you are indigent under §814.29, Wisconsin Statutes.

If you are not represented by an attorney and would like to register an electronic party, you will need to enter the following code on the eFiling website while opting in as an electronic party.

Pro Se opt-in code: 806f6d

Unless you register as an electronic party, you will be served with traditional paper documents by other parties and by the court. You must file and serve traditional paper documents.

Registration is available to attorneys, self-represented individuals, and filing agents who are authorized under Wis. Stat. 799.06(2). A user must register as an individual, not as a law firm, agency, corporation, or other group. Non-attorney individuals representing the interests of a business, such as garnishees, must file by traditional means or through an attorney or filing agent. More information about who may participate in electronic filing is found on the court website.

If you have questions regarding this notice, please contact the Clerk of Circuit Court at 414-278-4140.

Milwaukee County Circuit Court Date: September 25, 2025

| STATE OF WISCONSIN : CIRCUIT COURT : MILWAUKEE COUNTY | Clerk of Circuit Court 2025CV008353 Honorable Timothy Witkowiak-22 Branch 22 |
|---|--|
| VJS CONSTRUCTION SERVICES, INC. W233 N2847 Roundy Circle West Pewaukee, WI 53072, Case No. | |
| Plaintiff, | |
| vs. Case Code: 30301, 30303 CITY OF WEST ALLIS 7525 West Greenfield Avenue West Allis, WI 53214, | |
| KUENY ARCHITECTS, LLC 10505 Corporate Drive, Suite 100 Pleasant Prairie, WI 53158, and | |
| GEOTEST, INC. 2135 South 116th Street West Allis, WI 53227, | |

Filed 09-25-2025

Page 1 of 23

SUMMONS

THE STATE OF WISCONSIN

Case 2025CV008353

Document 4

To each person named above as a Defendant:

Defendants.

You are hereby notified that the Plaintiff named above has filed a lawsuit or other legal action against you. The Complaint, which is attached, states the nature and basis of the legal action.

Within 45 days of receiving this summons, you must respond with a written answer, as that term is used in chapter 802 of the Wisconsin Statutes, to the Complaint. The court may reject or disregard an answer that does not follow the requirements of the statutes. The answer must be sent

or delivered to the court, whose address is Clerk of Circuit Court, Milwaukee County Courthouse, 901 North Ninth Street, Milwaukee, Wisconsin 53233, and to Lauren A. Triebenbach of Michael Best & Friedrich LLP, Plaintiff's attorneys, whose address is 790 North Water Street, Suite 2500, Milwaukee, WI 53202. You may have an attorney help or represent you.

If you do not provide a proper answer within 45 days, the court may grant judgment against you for the award of money or other legal action, or relief requested in the Complaint, and you may lose your right to object to anything that is or may be incorrect in the Complaint. A judgment may be enforced as provided by law. A judgment awarding money may become a lien against any real estate you own now or in the future and may also be enforced by garnishment or seizure of property.

Dated this 25th day of September, 2025.

Respectfully submitted,

MICHAEL BEST & FRIEDRICH LLP

By: Electronically signed by Lauren A. Triebenbach

Lauren A. Triebenbach, #1064377 latriebenbach@michaelbest.com 790 North Water Street, Suite 2500

Milwaukee, WI 53202 Telephone: 414.271.6560 Facsimile: 414.277.0656

Chelsea T. Zielke, #1101463 ctzielke@michaelbest.com 444 West Lake Street, Suite 3200 Chicago, IL 60606

Telephone: 312.222.0800 Facsimile: 312.222.0818

Attorneys for VJS Construction Services, Inc.

| Case 2025CV008353 | Document 4 | Filed 09-25-2025 | Page 3 of 23 |
|-------------------|------------|------------------|--------------|
|-------------------|------------|------------------|--------------|

FILED
09-25-2025
Anna Maria Hodges
Clerk of Circuit Court
2025CV008353
Honorable Timothy
Witkowiak-22
Branch 22

STATE OF WISCONSIN: CIRCUIT COURT: MILWAUKEE COUNTY

VJS CONSTRUCTION SERVICES, INC. W233 N2847 Roundy Circle West Pewaukee, WI 53072,

Case No. ____

Case Code: 30301, 30303

Plaintiff,

v.

CITY OF WEST ALLIS 7525 West Greenfield Avenue West Allis, WI 53214,

KUENY ARCHITECTS, LLC 10505 Corporate Drive, Suite 100 Pleasant Prairie, WI 53158, and

GEOTEST, INC. 2135 South 116th Street West Allis, WI 53227,

Defendants.

COMPLAINT

NOW COMES Plaintiff, VJS Construction Services, Inc. ("VJS"), by and through its attorneys, Michael Best & Friedrich LLP, and for its Complaint against Defendants, the City of West Allis (the "City"), Kueny Architects, LLC ("Kueny"), and GeoTest, Inc. ("GeoTest"), alleges and states as follows:

THE PARTIES

1. Plaintiff VJS Construction Services, Inc. ("VJS") is a Wisconsin corporation with its principal place of business is located at W233 N2847 Roundy Circle West, Pewaukee, Wisconsin 53072. VJS is the business of commercial construction.

- 2. Defendant City of West Allis (the "City") is a municipality located in Milwaukee County, Wisconsin. The City's principal place of business is located at 7525 West Greenfield Avenue, West Allis, Wisconsin 53214. The City is the owner of the property located at 1906 S. 53rd Street in West Allis, Wisconsin (the "Property").
- 3. Defendant Kueny Architects, LLC ("Kueny") is a Wisconsin limited liability company with its principal place of business located at 10505 Corporate Drive, Suite 100, Pleasant Prairie, Wisconsin 53158. Kueny's registered agent is Jon Wallenkamp located at 10505 Corporate Drive, Suite 100, Pleasant Prairie, Wisconsin 53158. Kueny is in the business of providing architectural and engineering services to commercial construction projects.
- 4. Defendant GeoTest, Inc. ("GeoTest") is a Wisconsin corporation with its principal place of business located at 2135 S 116th Street, West Allis, Wisconsin 53227. GeoTest's registered agent is Gregory Schmidt located at 2135 S 116th Street, West Allis, Wisconsin 53227. GeoTest is in the business of providing geotechnical engineering, construction materials engineering and testing as well as geological and industrial minerals laboratory testing services.

JURISDICTION AND VENUE

- 5. The Property at issue in this dispute is owned by the City and is located in Milwaukee County, Wisconsin.
- 6. Kueny advertises, markets and sells its construction services and products in Milwaukee County, Wisconsin.
 - 7. The City and GeoTest both have offices located in Milwaukee County, Wisconsin.
- 8. This Court has jurisdiction over the claims presented herein pursuant Wis. Stat. § 801.05(1), (3), and (5).
 - 9. Venue is proper in this county pursuant to Wis. Stat. § 801.50(2).

Document 4

FACTUAL ALLEGATIONS

10. At issue in this case is the construction of a new Department of Public Works ("DPW") Facility for the City to be located on the Property, which shall consist of a two-story main building, a warm storage building, a cold storage building, and a fueling station (collectively, the "Project").

I. Ursidae Acquisitions LLC Submits a Vacant Land Offer to Purchase the Property.

- Upon information and belief, prior to the City taking ownership of the Property, in 11. March 2018, the County of Milwaukee (the "County") accepted a Vacant Land Offer to Purchase the Property from Ursidae Acquisitions LLC ("Ursidae").
- 12. Upon information and belief, following the County's acceptance, Ursidae began environmental and geotechnical investigations on the Property at its own expense.
- 13. Upon information and belief, Ursidae obtained NR716 Site Investigation Report dated June 13, 2019 from Braun Intertec Corporation (the "NR716 Report") and submitted it to the Wisconsin Department of Natural Resources ("WDNR") in anticipation of future redevelopment of a portion of the Property. Over the next two years, Ursidae submitted revisions to the NR716 Report to the WDNR.
- 14. The NR716 Report states that it "documents investigative activities performed at the Site in March through May 2019 and provides a discussion of these data collected with respect to recognized environmental conditions identified in the Phase I ESA report prepared for the [Property]. This Site Investigation Report was prepared in accordance with Wisconsin Administrative Code (WAC), Chapter NR716. The findings of this report will be used to develop a Remedial Action Plan (RAP) for the [Property]." (Emphasis added).

- 15. While the NR716 Report described soil borings, no geotechnical engineering-related or construction-related recommendations pertaining to building foundations or slabs-ongrade are presented therein.
- 16. The NR716 Report states, "This report was prepared on behalf of and for use by Ursidae Acquisitions LLC. No other party has a right to rely on the contents of this Site Investigation Report without the written authorization of Braun Intertec Corporation (Braun Intertec)."
- 17. Upon information and belief, in or around July 7, 2023, Ursidae's due diligence period under the Offer to Purchase expired and was not extended further by the County. Ursidae notified the WDNR on or about July 7, 2023 that it was no longer in control of the Property.

II. The City Engages Kueny and GeoTest for a New DPW Facility on the Property.

- 18. Upon information and belief, in or about March 2023, the City purchased the Property.
- 19. Upon information and belief, the City obtained a copy of the NR716 Report from the WDNR either on its own or through its retained consultants.
- 20. On or around June 6, 2023, the City retained Kueny to analyze whether to acquire additional lands and to prepare conceptual designs for the City's future Department of Public Works facility.
- 21. On or about October 3, 2023, the City retained Kueny to provide architectural and engineering consulting services for the design, contract preparation, bidding, and recommendation of award for construction for the Department of Public Works facility.
- 22. Upon information and belief, Kueny worked with the City to develop the plans and specifications for the Project.

23. On or about May 21, 2024, the City entered into an engineering consultant services contract with GeoTest for materials testing at the City's future Department of Public Works facility.

III. GeoTest's Preliminary Geotechnical Engineering Report.

- 24. GeoTest was initially engaged in April 2023 to conduct a preliminary geotechnical engineering investigation. GeoTest conducted nine soil borings and authored a June 6, 2023 preliminary geotechnical engineering report, which was unsigned and unsealed (the "GeoTest Report").
- 25. The GeoTest Report noted that the soil conditions were clay and sandy soils based upon the nine soil borings, and based on the purported soil conditions identified, GeoTest proposed two options for foundation support: a rammed aggregate pier (RAP) system or shallow spread footings with over-excavation.
- 26. The GeoTest Report did not indicate that there was any presence of "very soft" soils and organic material on the Property.
- 27. The GeoTest Report also provided that the purpose of this investigation was to evaluate the property on a preliminary basis and also indicated that a final report would present full exploration results; however, no final report was ever commissioned by the City.
- 28. Upon information and belief, GeoTest issued a subsequent preliminary geotechnical report dated June 21, 2023 (the "Updated GeoTest Report").
- 29. Upon information and belief, GeoTest was provided a copy of the NR716 Report on or about April 21, 2023.

IV. The Invitation to Bid for the Construction of the DPW Facility.

30. On or around February 14, 2024, the City issued a Notice to Contractors advertising

that it was soliciting bids for the Project to be located on the Property.

- 31. Included with the Notice to Contractors were drawings prepared by Kueny as the architect of record; civil plans prepared by TerraTec Engineering as the civil engineer of record; structural drawings and foundation plans prepared by Kueny as the structural engineer of record; the GeoTest Report; and specifications prepared by Kueny (collectively, the "Bid Package").
- 32. The Updated GeoTest Report was not included in the Bid Package, nor was it provided to any of the bidders before the bid opening.
- 33. In Specification 00 21 13 Instructions to Bidders ("Instructions to Bidders"), the City stated, "It is assumed that no unusual conditions will be encountered during the actual performance of the Work."
- 34. Also in the Instructions to Bidders, the City stated, "Each Bidder by making a Bid represents that . . . [t]he Bid is based upon the materials, systems and equipment required by the Bidding Documents *without exception*." (Emphasis added).
- 35. Specification 31 66 00 Special Foundations prepared by Kueny and included in the Bid Package (the "Specifications") stated, "This work includes furnishing the material for and installation of either stone columns or rammed aggregate piers, hereafter collectively denoted as 'intermediate foundations' in locations as shown in the contract documents. <u>In either case</u>, the special foundations must utilize a displacement method." (Emphasis in original).
- 36. The Specifications also advised, "The intermediate foundation system shall have the capacity to support the wall and column footings to 4,500 psf... Under these loading conditions, the contractor is to provide design calculations and a guarantee that total post-construction settlements will not exceed one inch."
 - 37. The Bid Package was supplemented by five addenda.

- 38. The NR716 Report was not initially included in the Bid Package.
- 39. In response to questions received from bidders, the City issued Addendum 3, in which it provided a copy of the NR716 Report.
- 40. On or about March 13, 2024, VJS submitted a base bid in the amount of \$42,176,869.00 to perform the Project. With alternates, VJS' bid was \$50,708,523.50.
- 41. In preparing and submitting its bid, VJS relied upon the accuracy of the documents included in the Bid Package, including the GeoTest Report and the Kueny-prepared Specifications, both of which required the use of either stone columns or rammed aggregate piers.
 - 42. VJS was the lowest of the three bidders and was awarded the Project.

V. The Construction Agreement between the City and VJS.

- 43. The City and VJS executed an AIA A101-2007 Standard Form of Agreement between Owner and Contractor dated March 22, 2024 and executed on or about June 3, 2024, as amended by Amendment No. 1 to the Agreement between Owner and Contractor dated June 26, 2025, Amendment No. 2 to the Agreement between Owner and Contractor dated July 23, 2025, Amendment No. 3 to Agreement between Owner and Contractor dated August 5, 2025, and Amendment No. 4 to Agreement between Owner and Contractor dated September 9, 2025 (collectively, the "Construction Agreement") to construct the DPW Facility on the Property. A true and correct copy of the Construction Agreement is attached hereto as **Exhibit A**.
- 44. The Construction Agreement requires VJS to construct the Project on the Property in accordance with the "Contract Documents," which includes the Construction Agreement, "Conditions of the Contract (General, Supplementary, and other Conditions), Drawings, Specifications, and Addenda" issued prior to the execution of the Construction Agreement.

- 45. Under Section 6.2 of the Construction Agreement, any claim between the parties is to be litigated "in a court of competent jurisdiction."
- 46. Under Section 2.3.5 of the A201-2017 General Conditions of the Contract for Construction, which were incorporated into the Construction Agreement, (the "General Conditions"), "[t]he 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."
- 47. Under Section 3.7.4 of the General Conditions, "[i]f 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 or generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner and the Architect before conditions are disturbed and in no event later than 14 day safter first observance of the conditions." (Ex. A.)
- 48. Following such notification, under this section, the "Architect will promptly investigate such conditions and, if the Architect determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend that an equitable adjustment be made in the Contract Sum or Contract Time, or both. If the Architect determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the

Contract is justified, the Architect shall *promptly* notify the Owner and Contractor, stating the reasons." (*Id.*) (Emphasis added).

- 49. Finally, pursuant to this Section 3.7.4, "if either party disputes the Architect's determination or recommendation, that party may submit a Claim as provided in Article 15." (Id.)
- 50. According to Section 15.1.3.1 of the General Conditions, "Claims by either the Owner or Contractor . . . shall be initiated by notice to the other party and to the Initial Decision Maker [the Architect]. Claims by either party under this Section 15.1.3.1 shall be initiated within 21 days after the 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." (*Id.*)
- 51. Under Section 15.1.5 of the General Conditions, "[i]f the Contractor wishes to make a Claim for an increase in the Contract Sum, notice as provided in Section 15.1.3 shall be given before proceeding to execute the portion of the Work that is the subject of the Claim." (*Id.*)
- 52. Under Section 15.1.6.1 of the General Conditions, "[i]f the Contractor wishes to make a Claim for an increase in the Contract Time, notice as provided in Section 15.1.3 shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work." (*Id.*)
- 53. While Article 15 of the General Conditions references mediation, the City removed the entire mediation section in the Supplementary Conditions of the Construction Agreement, indicating that the parties were not required to mediate the dispute before proceeding with litigation.
- 54. Initially, under 15.2.6.1 of the General Conditions, "[e]ither party may, within 30 days from the date of receipt of an initial decision, demand in writing that the other party file for

9

¹ According to Section 1.1.8 of the Supplementary Conditions of the Construction Agreement and Article 6 of the Construction Agreement, Kueny, the architect, is the Initial Decision Maker.

mediation" and "[i]f such demand is made and the receiving party fails to file for mediation within 30 days after receipt thereof, then both parties waive their rights to mediate or pursue binding dispute resolution proceedings with respect to the initial decision."

- 55. However, the parties subsequently amended Section 15.2.6.1 of the General Conditions via Amendment No. 1 to the Agreement between Owner and Contractor dated June 25, 2025, Amendment No. 2 to the Agreement between Owner and Contractor dated July 23, 2025, Amendment No. 3 to Agreement between Owner and Contractor dated August 5, 2025, and Amendment No. 4 to Agreement between Owner and Contractor dated September 9, 2025.
- 56. According to Amendment No. 4 to the Agreement between Owner and Contractor dated September 9, 2025, the operative amendment, provides that the Construction Agreement shall be amended as follows: "Section 15.2.6.1 of the Agreement is amended to extend the time that either party shall have to initiate a legal action to September 26, 2025."

VI. VJS Begins Construction and Discovers Unknown or Concealed Conditions Causing Settlement in Areas 1-B/1-2

- 57. Following execution of the Construction Agreement, VJS engaged CNC Foundations Inc. ("CNC") to "furnish and pay for all labor, insurance, permits, materials, tools, supplies, equipment, taxes (if applicable) and services necessary to perform work associated with Contract Package 3160 Special Foundations for the City of West Allis New DPW Building Project."
- 58. CNC designed the foundations in accordance with the Specifications, proposing to install vibratory stone columns (VSCs).
- 59. VSCs are installed by using a vibratory probe that compacts and displaces the soil. Crushed aggregate or stone is then fed into the hole to form the dense, engineered column.
 - 60. In or around June 19, 2024, VJS began construction on the Property.

- 61. On or about January 24, 2025, VJS noted excessive settlement of a section of continuous foundation (a.k.a. strip footing). At the corner of the strip footing at column line 1.B-1.2 approximately 1-in of settlement occurred while only about 35% of the dead load was applied. Settlement of the strip footing varied from 0.5-in to 1-in east to west, and 0.25-in to 1-in north to south. This settlement caused the precast concrete panels in this area to shift out of plumb in both directions. Construction was halted and VJS was forced to investigate the root cause of the settlement.
- 62. On February 4, 2025, VJS provided the notice under Section 3.7.4 and 15.1.3 of the General Conditions to the City and Kueny regarding the concealed or unknown conditions of the soils at the Property, which would impact the structural integrity of the building at the grid intersection of 1-A.9 and 1-2 ("First Notice of Concealed or Unknown Conditions").
- 63. While VJS waited for a response to its First Notice of Concealed or Unknown Conditions, VJS had no choice but to conduct additional testing and investigation at the Property to determine the cause of the settlement and potential solutions.
- 64. VJS engaged GeoTest to perform twenty additional soil borings. Those borings identified organics in eight of the twenty additional soil borings, with organic content measured as high as 8.5%. Of those additional borings, those positioned near the foundation that settled the most show "very soft" clay (SPT N values of 1 to 3 blows per foot). This is a significant deviation from the soil conditions reported in the GeoTest Report.
- 65. Where organic content is measured in excess of 5%, neither the stone columns or rammed aggregate piers specified by Kueny and recommended by GeoTest are viable foundation systems.

- 66. Due to these findings revealing that the Property had "very soft" soils due to the amount of organic materials in the soils, a different and more expensive foundation system was required.
- 67. VJS also hired Wiss Janney Elstner Associates, Inc. ("WJE") to opine on the possible causes of settlement. During its investigation, WJE found that the calculated dead plus live load contact pressure at three of the reviewed column footings exceeded the allowable design pressure of 4,500 psf.
- 68. To correct Kueny's own mistake, Kueny advised VJS that it needed to change the foundation design to increase the structural loads, but only at two of the three locations. The following depicts the loads recommended by WJE versus Kueny:

| Location | WJE PSF | Kueny PSF |
|----------|---------|-----------|
| 1-B/1-2 | 6596 | 5059 |
| 1-G/1-2 | 5234 | 5748 |
| 1-K/1-2 | 5874 | 4669 |

Kueny directed VJS in an e-mail not to increase the load at location 1-K/1-2.

- 69. On April 25, 2025, over two and a half months after VJS submitted its First Notice of Concealed or Unknown Conditions, Kueny responded rejecting VJS's notice, claiming in part that because the 2023 soil borings from the GeoTest Report purportedly showed conditions similar to the area of settlement (they did not), the settlement issue was not an unforeseen or concealed physical condition.
- 70. On or around May 9, 2025, the City emailed VJS asserting that the NR716 Report referred to the presence of organic materials and thus VJS had notice that there were organics present in the soils at the Property.
- 71. On May 20, 2025, VJS submitted a Notice of Claim under the Construction Agreement to Kueny and the City pursuant to section 15.2.1 of the Construction Agreement (the

"First Notice of Claim"). The First Notice of Claim also constituted the notice under Wis. Stat. § 893.80(1d), to the extent it is required.²

- 72. In that First Notice of Claim, VJS requested that that under Section 15.1.3.1 of the General Conditions, Kueny, as designated as the Initial Decision Maker, determine that soils constitute a changed condition, entitling VJS to recover its costs identified in Change Order Request #57, as well as additional time to perform as shown in the construction schedule updated on May 14, 2025.
- 73. On May 28, 2025, Kueny provided a response indicating that there was not an unforeseen or concealed condition on the Project, and thus, rejecting that VJS' claim for additional costs and time under the First Notice of Claim.
- 74. On June 12, 2025, after not receiving any response from the City to the Notice, VJS contacted the City indicating that Kueny had rejected its First Notice of Claim as the Initial Decision Maker and inquiring whether the City was also rejecting VJS's claim for additional costs and time.
- 75. On June 13, 2025, the City responded, indicating that the City also denied VJS's claim.
- 76. Following this, the parties entered into four amendments to the Construction Agreement to extend the deadline for commencement of any litigation.
- 77. Change Order Request #57 was originally for \$1,279,362.00 but has increased to \$3,295,908.00 due to delays caused by the City and Kueny and the cost to increase the structural loads in three of the column footings due to a design error by Kueny.

_

² On June 13, 2025, the City advised VJS "that the provisions under Wis. Stat. 893.80 do not apply to a contract dispute."

VII. VJS Discovers Unknown or Concealed Condition in the Future Locations of Buildings 3 and 5.

- 78. GeoTest prepared a new Geotechnical Engineering Report on May 16, 2025, which was provided to VJS on May 19, 2025. In that report, GeoTest reported that new soil borings conducted in the locations where buildings 3 and 5 of the Project were to be located revealed the presence of organic material of up to 17%.
- 79. Based on this new report, VJS determined that the VSCs it had intended to install in the location for building 5 needed to be changed to grouted VSCs, which involves using grout to bolster the strength of the stone column. Because this deviated from the foundation systems specified by Kueny in the Specifications, VJS submitted a Notice of Concealed or Unknown Conditions to the City and Kueny on May 30, 2025 (the "Second Notice of Concealed or Unknown Conditions"), enclosing Change Order Request #58.
- 80. Kueny responded to the Second Notice of Concealed or Unknown Conditions on July 8, 2025 by adding the following annotation on VJS's Change Order Request: "THE REVISED DESIGN IS TO REFLECT THE PROJECT DATA GATHERED FROM BRAUN REPORT PROVIDED IN THE BID DOCUMENTS AND BORINGS CONDUCTED TO CONFIRM BUILDING 05 SITE DESIGN BASED ON BUILDING 01 DOCUMENTATION. BID DOCUMENTS INDICATE SOIL CHARACTERISTICS REFLECTED IN THE BUILDING 05 INFORMATION GATHERED. THE SPECIAL FOUNDATIONS CONTRACTOR IS RESPONISBLE TO REVIEW ALL DOCUMENTS DURING THE BID PERIOD AND PROVIDE THE ADEQUATE DESIGN FOR THE SOIL CONDITIONS PRESENT ON THE SITES AND PROVIDE ALL COSTS INCLUDED IN THEIR BID."
- 81. On July 16, 2025, VJS submitted a Notice of Claim under the Construction Agreement to Kueny and the City pursuant to section 15.2.1 of the Construction Agreement (the

"Second Notice of Claim"). The Second Notice of Claim also constituted the notice under Wis. Stat. § 893.80(1d), to the extent it is required.³

- 82. In that Second Notice of Claim, VJS requested that that under Section 15.1.3.1 of the General Conditions, Kueny, as designated as the Initial Decision Maker, determine that soils constitute a changed condition, entitling VJS to recover its costs identified in Change Order Request #58, as well as additional time to perform.
- 83. On July 28, 2025, Kueny provided a response indicating that the NR716 Report "provides multiple soil borings directly adjacent to building 03 and 05." Thus, Kueny rejected VJS' claim for additional costs and time under the Second Notice of Claim.
- 84. Critically, the Bid Package included no soil borings for the future locations of buildings 3 or 5, as there were no borings performed in this area by GeoTest in 2023 or by Braun in 2019.
 - 85. The amount sought by VJS in Change Order Request #58 was \$77,762.00.

VIII. VJS Discovers Unknown or Concealed Condition in the Location of Building 1, Remaining Area D.

- 86. GeoTest prepared a new Geotechnical Engineering Report on July 18, 2025. In that report, GeoTest provided data regarding new soil borings (Borings B-10 through B-35). These borings exhibited lower N-values, higher moisture contents, and higher organics (LOI) content, which were not present in the original drilled borings (Borings B-1 through B-9) referenced in the GeoTest Report.
- 87. Based on this new report, VJS determined that these new soil borings were evidence of an unforeseen change in site conditions. VJS submitted a Notice of Concealed or Unknown

_

³ On June 13, 2025, the City advised VJS "that the provisions under Wis. Stat. 893.80 do not apply to a contract dispute."

Conditions to the City and Kueny on August 5, 2025 (the "Third Notice of Concealed or Unknown Conditions"). In the Third Notice of Concealed or Unknown Conditions, VJS reported, "In areas of softer soil and organic soils not present in the original borings, these have higher risks for settlement, and we recommend the remedial measures at foundation locations in the area of these borings." VJS advised that it would provide the cost for remediation in a separate communication.

- 88. On September 8, 2025, VJS provided three options for the City's consideration, which ranged in price from \$867,993.00 to \$7,861,864.00. The City advised that it was up to VJS to determine which, if any option, to undertake, but stated that any cost would be borne by VJS without contribution from the City.
- 89. No written response has been received from the City or Kueny to the Third Notice of Concealed or Unknown Conditions.

COUNT I: BREACH OF CONTRACT (Against the City of West Allis)

- 90. VJS realleges and incorporates by reference the allegations of Paragraphs 1-89 above.
 - 91. The Construction Agreement is an enforceable contract between the City and VJS.
- 92. In the Construction Agreement, VJS agreed to perform certain work on the Project in accordance with the Contract Documents in exchange for the City's payment.
- 93. Based upon the information contained in the Bid Package, VJS elected to install VSCs as the foundation system for the Project.
- 94. However, once VJS began construction on the Property, VJS discovered unforeseen and/or concealed conditions on the Property, including unforeseen or concealed soil conditions, making the VSCs no longer appropriate to support the weight of the Project.

- 95. VJS provided notices of unforeseen and unknown conditions in accordance with the Construction Agreement, seeking additional costs to install a different and more expensive foundation system and an extension to the Project schedule.
- 96. The City breached the Construction Agreement by refusing to compensate VJS for the increased construction costs associated with the discovery of unknown and unforeseen conditions.
- 97. The City breached the Construction Agreement by refusing to allow VJS' claim for additional time to complete the Project based on the discovery of unknown and unforeseen conditions.
- 98. The City breached the Construction Agreement by failing to furnish information or services required of the City with reasonable promptness.
- 99. As a direct and proximate result of the City's breaches of the Construction Agreement, VJS has been damaged in excess of \$3,300,000.00, which shall include, but not be limited to, all costs, losses, and damages arising out of or relating to the concealed or unknown conditions.

COUNT II: NEGLIGENCE (Against Kueny)

- 100. VJS reallege and incorporate by reference the allegations of Paragraphs 1-99 above.
- 101. The City hired Kueny to design the Project.
- 102. As part of its obligations, Kueny was to provide drawings and specifications depicting and describing a Project that was capable of being constructed by the winning bidder.
 - 103. Kueny was aware of the NR716 Report and the findings in it.

- 104. Despite this, Kueny failed to account for the soil conditions identified in the NR716 Report and required the use of either stone columns or rammed aggregate piers in the Specifications. ⁴
- 105. Kueny owed the City and VJS the duty to exercise reasonable and ordinary care in preparing the Specifications for the Project.
- 106. The Specifications prepared by Kueny were improper because they specified a foundation system that that was ultimately incompatible with the soil conditions later discovered at the Property.
- 107. Kueny breached its duty to the City and VJS by failing to adequately include drawings and specifications that accounted for the soil conditions on the Property.
- 108. Kueny also breached its duty to the City and VJS by failing to promptly respond to VJS' notices of unknown or unforeseen conditions and to VJS' requests for information necessary to continue construction of the Project.
- 109. The aforementioned negligence was a substantial factor in causing the damages suffered by VJS, including without limitation, the City's refusal to grant VJS additional costs and a schedule extension associated with remediating the unforeseen or concealed soil conditions.
- 110. As a direct and proximate result of Kueny's negligence, VJS has been damaged in excess of \$3,300,000.00, which shall include, but not be limited to, all costs, losses, and damages arising out of or relating to the concealed or unknown conditions.

_

⁴ VJS does not concede that the NR716 Report provided information that would have necessitated a change in the design of the foundation systems due to the age of the report, lack of geotechnical engineering-related or construction-related recommendations pertaining to building foundations or slabs-on-grade, and more-recent soil borings in the GeoTest Report. But since the City and Kueny have taken the position that the NR716 Report should have provided notice to VJS of adverse soil conditions, then Kueny was negligent in requiring foundation systems that are incompatible with the soil borings included in that report.

COUNT III: NEGLIGENCE (Against GeoTest)

- 111. VJS reallege and incorporate by reference the allegations of Paragraphs 1-110 above.
- 112. The City hired GeoTest to conduct geotechnical testing on the Property and help determine the appropriate foundation support options for the foundation system of the Project.
 - 113. GeoTest only performed nine soil borings on the entire Property.
 - 114. GeoTest was aware of the NR716 Report and the findings in it.
- 115. Despite this, GeoTest failed to conduct a sufficient number of soil borings on the Property or to account for the soil conditions identified in the NR716 Report when recommending required the use of a rammed aggregate pier (RAP) system or shallow spread footings with over-excavation.
- 116. GeoTest owed the City and VJS a duty to exercise reasonable and ordinary care in conducting its geotechnical evaluation of the Property and drafting the GeoTest Report.
- 117. GeoTest's evaluation and its GeoTest Report failed to accurately reflect the soil conditions on the Property and what were appropriate options for foundation support for the Project.
- 118. GeoTest breached its duty to the City and VJS by failing to adequately investigation the soil conditions on the Property and account for them in its GeoTest Report.
- 119. Both the City and VJS relied upon the GeoTest Report and GeoTest's recommendations when determining the type of foundation system to use for the Project.
- 120. The aforementioned negligence was a substantial factor in causing the damages suffered by VJS, the City's refusal to grant VJS additional costs and a schedule extension associated with remediating the unforeseen or concealed soil conditions.

Page 22 of 23

121. As a direct and proximate result of GeoTest's negligence, VJS has been damaged in excess of \$3,300,000.00, which shall include, but not be limited to, all costs, losses, and damages arising out of or relating to the concealed or unknown conditions.

WHEREFORE, Plaintiff VJS Construction Services, Inc. respectfully requests the following relief, as allowed pursuant to the above-referenced facts, the applicable caselaw, and the governing statutes:

- A. A money judgment against the City of West Allis for damages in an amount to be determined by the trier of facts, plus all costs.
- B. A money judgment against Kueny Architects LLC for damages in an amount to be determined by the trier of facts, plus all costs.
- C. A money judgment against GeoTest, Inc. for damages in an amount to be determined by the trier of facts, plus all costs.
- D. For cost and disbursements, including attorneys' fees, incurred herein.
- E. For such other and further relief as the Court deems just and equitable.

[Balance of page intentionally left blank]

Dated this 25th day of September, 2025.

Respectfully submitted,

MICHAEL BEST & FRIEDRICH LLP

By: Electronically signed by Lauren A. Triebenbach

Page 23 of 23

Lauren A. Triebenbach, #1064377 latriebenbach@michaelbest.com 790 North Water Street, Suite 2500 Milwaukee, WI 53202

Telephone: 414.271.6560 Facsimile: 414.277.0656

Chelsea T. Zielke, #1101463 ctzielke@michaelbest.com 444 West Lake Street, Suite 3200 Chicago, IL 60606

Telephone: 312.222.0800 Facsimile: 312.222.0818

Attorneys for VJS Construction Services, Inc.

FILED 09-25-2025 Anna Maria Hodges Clerk of Circuit Court 2025CV008353 Honorable Timothy Witkowiak-22 Branch 22

Exhibit A



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

AGREEMENT made as of the Twenty-Second day of March in the year Two Thousand – Twenty-Four (2024)

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

BETWEEN the Owner:

(Name, legal status, address and other information)

City of West Allis 7525 W. Greenfield Avenue West Allis, WI 53214

and the Contractor:

(Name, legal status, address and other information)

VJS Construction Services, Inc. W233 N2847 Roundy Circle West Pewaukee, WI 53072

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

City of West Allis - The Project consists of a new Department of Public Works Facility consisting of a two-story main building, a warm storage building, a cold storage building, and a fueling station. The main building is 310,150 sq/ft and includes office space, garage parking, vehicle repair, and shops. The warm storage building is 33,000 sq/ft and the cold storage facility is 21,300 sq/ft. Along with the new facilities the entire site will be redeveloped. The hauling of all environmentally impacted materials, removal of the two existing underground tanks, and the clean-up of the 'Hot Spot' will not be part of this bid package.

The Architect:

(Name, legal status, address and other information)

Kueny Architects, LLC 10505 Corporate Drive Suite 100 Pleasant Prairie, WI 53158

The Owner and Contractor agree as follows.

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An Additions and Deletions Report that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

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

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

e-mail docinfo@aiacontracts.com. **User Notes:** (1700149319)

TABLE OF ARTICLES

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

EXHIBIT A INSURANCE AND BONDS

ARTICLE 1 THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary, and other Conditions), Drawings, Specifications, 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:

(Check one of the following boxes.)

|] | The date of this Agreement. |
|---|-----------------------------|
| | |

- A date set forth in a notice to proceed issued by the Owner.
- [X] Established as follows:

(Insert a date or a means to determine the date of commencement of the Work.)

Date of Commencement to be determined by Owner and Contractor

If a date of commencement of the Work is not selected, then the date of commencement shall be the date of this Agreement.

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

§ 3.3 Substantial Completion

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

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

User Notes: (1700149319)

- [] Not later than () calendar days from the date of commencement of the Work.
- [X] By the following date: Estimated date of Substantial Completion per the bid form is 469 days from Commencement of Work.
- § 3.3.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work are to be completed prior to Substantial Completion of the entire Work, the Contractor shall achieve Substantial Completion of such portions by the following dates:

Portion of Work

Substantial Completion Date

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

ARTICLE 4 CONTRACT SUM

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum shall be Fifty Million Seven Hundred Eight Thousand Five Hundred Twenty-Three Dollars and 50 Cents (\$ 50,708,523.50), subject to additions and deductions as provided in the Contract Documents.

§ 4.2 Alternates

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

| Item | Price |
|---|-------------|
| Alternates #1Storage Facility – Building #2 | \$3,662,288 |
| Alternates #2- Bin Storage – Building #3 | \$267,331 |
| Alternates #3- Fuel Island – Building #4 | \$672,033 |
| Alternates #4- Cold Storage/Building - Building #5 | \$2,487,680 |
| Alternates #5-Wash Bay Equipment | \$311,130 |
| Alternates #6- Repair Bay Crane | \$272,660 |
| Alternates #7- Weld Bay Crane | \$64,000 |
| Alternates #8- Vehicle lifts | \$75,235 |
| Alternates #9- CMP piping System by Contech with 10 | \$393,941 |
| mm lining, (Both inside and outside of pipe) | |
| Alternates #10- CMP piping System by Contech | \$0 |
| without 10 mm lining | |
| Alternates #11- RTU-1 and RTU-2 from the specified | \$0 |
| Carrier units to the revised Aaon units | |
| Alternates #12- Special Foundations under all floor | \$196,368 |
| slabs on grade for Building #1 | |
| Informational- Fire Pump | \$47,020.00 |

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

Item Price Conditions for Acceptance N/A

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

ItemPriceGeneral Allowance\$300,000

§ 4.4 Unit prices, if any:

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

Init.

AIA Document A101 – 2017. Copyright © 1915, 1918, 1925, 1937, 1951, 1958, 1961, 1963, 1967, 1974, 1977, 1987, 1991, 1997, 2007 and 2017. All rights reserved. "The American Institute of Architects," "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are trademarks of The American Institute of Architects. This document was produced at 11:07:26 ET on 03/22/2024 under Order No.2114519911 which expires on 03/21/2025, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents® Terms of Service. To report copyright violations, e-mail docinfo@aiacontracts.com.

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

Exhibit #1 Proposal / Bid Tab

§ 4.5 Liquidated damages, if any:

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

\$250.00 per Calendar Day as detailed in the Contract Documents

§ 4.6 Other:

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

N/A

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 twentieth (20) day of a month, the Owner shall make payment of the amount certified to the Contractor not later than the final day of the following month. If an Application for Payment is received by the Architect after the application date fixed above, payment of the amount certified shall be made by the Owner not later than thirty (30) 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 of values 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 In accordance with AIA Document A201TM—2017, General Conditions of the Contract for Construction, and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:
- § 5.1.6.1 The amount of each progress payment shall first include:
 - .1 That portion of the Contract Sum properly allocable to completed Work;
 - .2 That portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction, or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing; and
 - .3 That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified.
- § 5.1.6.2 The amount of each progress payment shall then be reduced by:
 - .1 The aggregate of any amounts previously paid by the Owner;
 - .2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A201–2017;

Init.

User Notes:

AIA Document A101 – 2017. Copyright © 1915, 1918, 1925, 1937, 1951, 1958, 1961, 1963, 1967, 1974, 1977, 1987, 1991, 1997, 2007 and 2017. All rights reserved. "The American Institute of Architects," "American Institute of Architects," "AlA," the AIA Logo, and "AIA Contract Documents" are trademarks of The American Institute of Architects. This document was produced at 11:07:26 ET on 03/22/2024 under Order No.2114519911 which expires on 03/21/2025, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents® Terms of Service. To report copyright violations, e-mail docinfo@aiacontracts.com.

(1700149319)

- Page 6 of 115
- .3 Any amount for which the Contractor does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Contractor intends to pay;
- .4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A201-2017; and
- .5 Retainage withheld pursuant to Section 5.1.7.

§ 5.1.7 Retainage

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

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

5% retainage will be held from Application for Payment

§ 5.1.7.1.1 The following items are not subject to retainage:

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

N/A

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

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

N/A

§ 5.1.7.3 Except as set forth in this Section 5.1.7.3, upon Substantial Completion of the Work, the Contractor may submit an Application for Payment that includes the retainage withheld from prior Applications for Payment pursuant to this Section 5.1.7. The Application for Payment submitted at Substantial Completion shall not include retainage as follows:

(Insert any other conditions for release of retainage upon Substantial Completion.)

N/A

- § 5.1.8 If final completion of the Work is materially delayed through no fault of the Contractor, the Owner shall pay the Contractor any additional amounts in accordance with Article 9 of AIA Document A201–2017.
- § 5.1.9 Except with the Owner's prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

§ 5.2 Final Payment

- § 5.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when
 - the Contractor has fully performed the Contract except for the Contractor's responsibility to correct .1 Work as provided in Article 12 of AIA Document A201–2017, and to satisfy other requirements, if any, which extend beyond final payment; and
 - 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:

Contractor has fully completed all of its obligations under the Contract Documents, and Owner is in receipt of a Certificate of Occupancy, as-built drawings, Final Payment is due once the punch list is completed and signed off by Architect and Owner

§ 5.3 Interest

Init.

User Notes: (1700149319) 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.)

5 %

ARTICLE 6 DISPUTE RESOLUTION

§ 6.1 Initial Decision Maker

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

N/A

§ 6.2 Binding Dispute Resolution

For any Claim subject to, but not resolved by, mediation pursuant to Article 15 of AIA Document A201–2017, the method of binding dispute resolution shall be as follows: (Check the appropriate box.)

Arbitration pursuant to Section 15.4 of AIA Document A201–2017
X] Litigation in a court of competent jurisdiction
Other (Specify)

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

ARTICLE 7 TERMINATION OR SUSPENSION

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

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

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

N/A

§ 7.2 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201–2017.

ARTICLE 8 MISCELLANEOUS PROVISIONS

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

§ 8.2 The Owner's representative:

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

Melinda K. Dejewski, PE City of West Allis 7525 W. Greenfield Ave West Allis WI 53214 Office: (414) 302-8374

Init.

AlA Document A101 – 2017. Copyright © 1915, 1918, 1925, 1937, 1951, 1958, 1961, 1963, 1967, 1974, 1977, 1987, 1991, 1997, 2007 and 2017. All rights reserved. "The American Institute of Architects," "AlA," the AlA Logo, and "AlA Contract Documents" are trademarks of The American Institute of Architects. This document was produced at 11:07:26 ET on 03/22/2024 under Order No.2114519911 which expires on 03/21/2025, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AlA Contract Documents® Terms of Service. To report copyright violations, e-mail docinfo@aiacontracts.com.

mdejewski@westalliswi.gov

§ 8.3 The Contractor's representative:

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

Luke Nelson VJS Construction Services, Inc Senior Project Manager W233N2847 Roundy Circle West Pewaukee, WI 53072 Office: (262) 446-6499 LNelson@vjscs.com

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

§ 8.5 Insurance and Bonds

- § 8.5.1 The Owner and the Contractor shall purchase and maintain insurance as set forth in AIA Document A101™_2017, Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum, Exhibit A, Insurance and Bonds, and elsewhere in the Contract Documents.
- § 8.5.2 The Contractor shall provide bonds as set forth in AIA Document A101™—2017 Exhibit A, and elsewhere in the Contract Documents.
- § 8.6 Notice in electronic format, pursuant to Article 1 of AIA Document A201–2017, may be given in accordance with AIA Document E203TM–2013, Building Information Modeling and Digital Data Exhibit, if completed, or as otherwise set forth below:

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

N/A

§ 8.7 Other provisions:

N/A

ARTICLE 9 ENUMERATION OF CONTRACT DOCUMENTS

- § 9.1 This Agreement is comprised of the following documents:
 - .1 AIA Document A101TM–2017, Standard Form of Agreement Between Owner and Contractor
 - .2 AIA Document A101TM–2017, Exhibit A, Insurance and Bonds
 - .3 AIA Document A201TM–2017, General Conditions of the Contract for Construction
 - 4 AIA Document E203TM–2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:

(Insert the date of the E203-2013 incorporated into this Agreement.)

E203 2013, Building Information Modeling and Digital Data is not applicable in the Agreement

.5 Drawings

NumberTitleDateExhibit #2Drawing Index

.6 Specifications

SectionTitleDatePagesExhibit #3Table of Content

Init.

User Notes: (1700149319)

.7 Addenda, if any:

| Number | Date | Pages |
|-------------|-------------------|-------|
| Addendum #1 | February 29, 2024 | 108 |
| Addendum #2 | March 1, 2024 | 34 |
| Addendum #3 | March 7, 2024 | 97 |
| Addendum #4 | March 8, 2024 | 29 |
| Addendum #5 | March 11, 2024 | 26 |

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

| .8 | Other | Exh | ibits: |
|----|-------|-----|--------|
|----|-------|-----|--------|

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

[] AIA Document E204TM—2017, Sustainable Projects Exhibit, dated as indicated below: (Insert the date of the E204-2017 incorporated into this Agreement.)

| l T | he S | usta | inab | ility | P | lan |
|---------|------|------|------|-------|---|-----|
| | | - | | | | |

_. .

Title

Date

Pages

[X] Supplementary and other Conditions of the Contract:

| Document | Title | Date | Pages |
|----------|----------------------------------|-------------------|-------|
| 00 73 00 | Supplementary General Conditions | February 13, 2024 | 10 |

.9 Other documents, if any, listed below:

(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201TM—2017 provides that the advertisement or invitation to bid, Instructions to Bidders, sample forms, the Contractor's bid or proposal, portions of Addenda relating to bidding or proposal requirements, and other information furnished by the Owner in anticipation of receiving bids or proposals, are not part of the Contract Documents unless enumerated in this Agreement. Any such documents should be listed here only if intended to be part of the Contract Documents.)

| | greement | | | | | |
|--|----------|--|--|--|--|--|
| | | | | | | |
| | | | | | | |

Melinda V.

OWNER (Signature)

Melinda K. Dejewski, / City Engineer

(Printed name and title)

CONTRACTOR (Signature)

Kevin Henrichs / Chief Financial Officer

(Printed name and title)

PROPOSAL

CITY OF WEST ALLIS

2024 PROJECT NO. 1906B

CITY OF WEST ALLIS NEW DPW FACILITY

Board of Public Works West Allis, Wisconsin

Gentlemen:

The undersigned, whose place of business is located at:

W233N2847 Roundy Cir W, Pewaukee, WI 53072

hereby submit the following proposal for doing all the work and furnishing all material, labor, tools, and plans, as set forth in the description in the Notice to Contractors, in and for the prices hereinafter specified in conformity with the contract documents and, if successful, hereby agrees to enter into a contract with the City of West Allis with such sureties as required and set forth in the aforesaid documents for the performance of said contract and in accordance with the terms and conditions set forth in the Contract Documents.

| The undersigned hereby certifies that all the statements are made on behalf of: |
|--|
| VJS Construction Services, Inc. |
| (Name of Corporation, Partnership) |
| |
| N/A |
| (Or person submitting bid) |
| A corporation organized and existing under the laws of the State |
| Of Wisconsin |
| A partnership consisting ofN/A |
| |
| An individual doing business as N/A |
| |
| in the City of Pewaukee State of Wisconsin |
| and agrees to complete the whole work to the satisfaction of the Common Council of the City of |

and agrees to complete the whole work to the satisfaction of the Common Council of the City of West Allis within the time limits specified under the "Special Provisions" and in case of failure to complete the work satisfactorily within the specified time limits the undersigned agrees to pay to the City of West Allis, without any delay, the account due as liquidated damages in accordance with "Special Provisions".

In signing and submitting this proposal, the Bidder assures the City of West Allis that the Contract Documents for this particular Project have been read and understood and that the furnishing of the subject work, material, labor, tools, plant and services are under the Bidder's control. If the Bidder's performance is contingent upon the acts of another party, the Bidder assures that it has the necessary commitments to complete the contract which may be awarded.

I, being first duly sworn, at ___Pewaukee/Wisconsin

Sworn Statement of Bidder As Required by Sec. 66.0901(7), Stats.

| | (City/State) |
|---|--|
| proposal from the plans, specifications | der that I have examined and carefully prepared this s and other contract documents and have checked the same al; and, this sworn statement is hereby made a part of the |
| 5 | Dated this 12th day of March, 20 24th Signature CFO |
| | Company Name VJS Construction Services, Inc. |
| | Address W233N2847 Roundy Cir W |
| _ | Pewaukee, WI 53072 |
| 1 | Phone No. (262) 542-9000 |
| 1 | Fax_ (262) 542-1371 |
| I | E-mail Address rriemenschneider@vjscs.com |

My commission expires 3-19

Subscribed and sworn to before me

this 12 day of March

Notary Public

MISCOMM

MINNAME M

State of Wisconsin Department of Workforce Development **Equal Rights Division**

Disclosure of Ownership

The statutory authority for the use of this form is prescribed in Sections 66.0903(12)(d), 66.0904(10)(d) and 103.49(7)(d), Wisconsin

The use of this form is mandatory. The penalty for failing to complete this form is prescribed in Section 103.005(12), Wisconsin Statutes.

Personal information you provide may be used for secondary purposes [Privacy Law, s. 15.04(1) (m), Wisconsin Statutes].

- (1) On the date a contractor submits a bid to or completes negotiations with a state agency, local governmental unit, or developer, investor or owner on a project subject to Section 66.0903, 66.0904 or 103.49, Wisconsin Statutes, the contractor shall disclose to such state agency, local governmental unit, or developer, investor or owner, the name of any "other construction business," which the contractor, or a shareholder, officer or partner of the contractor, owns or has owned within the preceding three (3) years.
- (2) The term "other construction business" means any business engaged in the erection, construction, remodeling, repairing, demolition, altering or painting and decorating of buildings, structures or facilities. It also means any business engaged in supplying mineral aggregate, or hauling excavated material or spoil as provided by Sections 66.0903(3), 66.0904(2), 103.49(2) and 103.50(2), Wisconsin Statutes.
- (3) This form must ONLY be filed, with the state agency project owner, local governmental unit project owner, or developer, investor or owner of a publicly funded private construction project that will be awarding the contract, if both (A) and (B) are met.
 - (A) The contractor, or a shareholder, officer or partner of the contractor:
 - (1) Owns at least a 25% interest in the "other construction business," indicated below, on the date the contractor submits a bid or completes negotiations; or
 - (2) Has owned at least a 25% interest in the "other construction business" at any time within the preceding three
 - (B) The Wisconsin Department of Workforce Development (DWD) has determined that the "other construction business" has failed to pay the prevailing wage rate or time and one-half the required hourly basic rate of pay, for hours worked in excess of the prevailing hours of labor, to any employee at any time within the preceding three (3) years.

Other Construction Business

| Business Name | | | | |
|--|--|------|-------|----------|
| Street Address or P O Box | | City | State | Zip Code |
| Business Name | | | | |
| Street Address or P O Box | | City | State | Zip Code |
| Business Name | | | | |
| Street Address or P O Box | | City | State | Zip Code |
| Business Name | | | | |
| Street Address or P O Box | | City | State | Zip Code |
| I hereby state under penalty of perjury that the information, contained in this document, is true and accurate according to my knowledge and belief. | | | | |
| Print the Name of Authorized Officer | | | | |
| Authorized Officer Signature Date Signed | | | | |
| Corporation, Partnership or Sole Proprietorship Name | | | | |
| Street Address or P O Box | | City | State | Zip Code |

If you have any questions call (608) 266-6861

STATE OF Wisconsin

NONCOLLUSION AFFIDAVIT

| COUNTY OF Waukesha) SS. | | |
|--------------------------|--|--|
| Kevin Henrichs | , being first duly sworn, deposes and says that: | |
| 1. He is Officer | | |

(owner, partner, officer, representative or agent)

the Bidder that has submitted the attached Bid.

VJS Construction Services, Inc.

- 2. He is fully informed respecting the preparation and contents of the attached Bid and of all pertinent circumstances respecting such Bid.
 - 3. Such Bid is genuine and is not a collusive or sham Bid.
- 4. Neither the said Bidder nor any of its officers, partners, owners, agents, representatives, employees or parties in interest, including this affiant, has in any way colluded, conspired, connived or agreed, directly or indirectly, with any other Bidder, firm or person to submit a collusive or sham Bid in connection with the Contract for which the attached Bid has been submitted or to refrain from bidding in connection with such Contract, or has in any manner, directly or indirectly, sought by agreement or collusion or communication or conference with any other Bidder, firm or person to fix the price or prices in the attached Bid or of any other Bidder, or to fix any overhead, profit or cost element of the Bid price or the Bid price of any other Bidder, or to secure, through any collusion, conspiracy, connivance or unlawful agreement, any advantage against the City or any person interested in the proposed Contract.

5. The price or prices quoted in the attached Bid are fair and proper and are not tainted by any collusion, conspiracy, connivance or unlawful agreement on the part of the Bidder or any of its agents, representatives, owners, employees or parties in interest, including this affiant.

Bidder, if the bidder is an individual.

Partner, if the bidder is a partnership.

Officer, if the bidder is a corporation.

Subscribed and sworn to before me

day of Warch 2024

Notary Public, State of Wisconsin 219-2026

My Commission:

CERTIFIED COPY OF RESOLUTION OF BOARD OF DIRECTORS VJS CONSTRUCTION SERVICES, INC.

Resolution to Authorize Signers of Performance Bonds

WHEREAS, the Corporation wishes to authorize the proper officers of the Corporation to enter into performance bonds on behalf of VJS CONSTRUCTION SERVICES, INC. (VJS).

THEREFORE, IT IS RESOLVED: That Craig Jorgensen, President and David Jorgensen, Executive Vice President, and Kevin Henrichs, Chief Financial Officer, are authorized to sign and execute performance bonds on behalf of VJS.

The undersigned hereby certifies that the foregoing is a true copy of the resolution adopted by the Board of Directors of the above-named Corporation, by action of the Board of Directors taken on September 27, 2023, and that the Board of Directors of said Corporation has and at the time of the adoption of said Resolution had full powers and lawful authority to exercise same.

Directors/Officers:

Treasurer/&/Executive Vice President

e President

Jason Schneider, Vice President

Joseph Jorgensen, Vice President

Craig Jorg

Patrick Andritsch, Vice President

Adopted at: Pewaukee, County of Waukesha, and State of Wisconsin

Attest:

Corporate Secretary, September 27, 2023

FEDERAL DEBARMENT OR SUSPENSION CERTIFICATION

Document 5



Non-Federal entities are prohibited from contracting with or making sub-awards under covered transactions, to parties that are suspended or debarred, or whose principals are suspended or debarred. Covered transactions include procurement of goods or services equal to or greater than \$100,000. Vendors receiving individual awards of \$100,000 or more, and all sub-recipients, must certify that the organizations and its principals are not suspended or debarred.

By submitting your offer and signing this certificate, vendor:

- 1. Certifies that neither it, nor its principals, are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- 2. Certifies that it will not enter into any subcontracts related to your offer, with any party, where it, or its principals, are debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

| Vendor Name: | VJS Construction Services, Inc. |
|----------------------------------|---------------------------------|
| Address: | W233N2847 Roundy Cir W |
| City/State/Zip: | Pewaukee, WI, 53072 |
| Phone: | (262) 542-9000 |
| Authorized Official - Name: | Craig Jorgensen |
| Authorized Official - Title: | President/CEO |
| Authorized Official - Signature: | a Jung |
| Date Signed: | 03.13.2024/ |

CONTRACT

CITY OF WEST ALLIS 2024 PROJECT NO. 1906B CITY OF WEST ALLIS NEW DPW FACILITY

| THIS AGREEME | NT made this _ | 22nd | day of | March | , 20_24 |
|----------------------|-----------------|-----------|--------------|-----------------|-----------------------|
| by and between | VJS Con | struction | Services, | Inc. | |
| hereinafter called 1 | the Contractor, | and the C | City of West | Allis, hereinat | fter called the City, |
| | | | WITNESSI | ETH: | |

THAT, WHEREAS, The City intends to complete installation of a new Department of Public Works Facility consisting of a two-story main building, a warm storage building, a cold storage building, and a fueling station:

West Allis Department of Public Works 1906 S. 53rd Street West Allis, WI 53219

WHEREAS, The Contractor has offered by proposal, in writing, to the Board of Public Works of the City, for furnishing the material, labor, tools, equipment, services and everything necessary for the proper construction and completion in a workmanlike manner of the work herein described for the City, for the price and within the time specified and according to the Contract Documents, and the City has awarded the work to the Contractor according to law.

NOW, THEREFORE, In consideration of the City paying to the Contractor for the performance of the aforesaid work according to the following prices, the Contractor, for himself, his heirs, executors, and administrators, or for itself and its successors, as the case may be, hereby covenants and agrees to and with the City as follows:

City of West Allis – New DPW Facility

BID FORM

(For reference only see Quest website) Contractor: VJS Construction Services, IncDivision of Work: General Contractor To: City of West Allis For: Department of Public Works Facility A. The undersigned, having familiarized themselves with the local conditions affecting the cost of the Work, and with the Bidding Documents including Invitation for Bids, Instructions to Bidders, Bid Form, Bid Bond, Agreement, Performance Bond, Labor and Material Payment Bond. Certificate of Insurance, Plans and Specifications, including all Addenda thereto; as prepared by Kueny Architects, LLC, and on file at the office of the Architect; hereby proposes to perform everything required to be performed and to provide and furnish all labor, materials, necessary tools, expendable equipment and al utilities and transportation services necessary to complete in a workmanlike manner all Work listed below, as follows: 1. GENERAL CONSTRUCTION a. Base Bid All labor, materials, services and equipment necessary for completion or the Work required for the (City of West Allis), the Sum of \$ Submitted Electronically Dollars (\$ \$ _____) In words b. Alternate No. 1 ADD to the base bid amount to Storage Facility - Building #2 the Sum of \$ Submitted Electronically Dollars (\$___\$___) In words c. Alternate No. 2 ADD/to the base bid amount to **Bin Storage – Building #3** the Sum of \$ Submitted Electronically Dollars (\$ _____ In words d. Alternate No. 3 ADD to the base bid amount to **Fuel Island – Building #4** the Sum of \$ Submitted Electronically Dollars (\$____\$ In words

City of West Allis - New DPW Facility

| e. | Alternate No. 4 |
|----|--|
| | ADD to the base bid amount to Cold Storage/Building - Building #5 , the Sum of |
| | \$Submitted Electronically Dollars (\$ \$) In words |
| f. | Alternate No. 5 |
| | ADD to the base bid amount to Wash Bay Equipment (11 11 26), the Sum of |
| | <pre>\$ Submitted Electronically Dollars (\$) In words</pre> |
| g. | Alternate No. 6 |
| | ADD to the base bid amount to Repair Bay Crane (41 22 00), the Sum of |
| | \$\frac{\\$\text{Submitted Electronically}}{\text{In words}}\text{Dollars (\\$_\\$)} |
| h. | Alternate No. 7 |
| | ADD to the base bid amount to Weld Bay Crane (41 22 00), the Sum of |
| | \$ Submitted Electronically Dollars (\$ \$) |
| i. | Alternate No. 8 |
| | ADD to the base bid amount to Vehicle lifts , the Sum of |
| | \$ Submitted Electronically Dollars (\$ \$) |
| | In words |
| j. | Alternate No. 9 |
| | ADD/DEDUCT to the base bid amount to use CMP piping System by Contech <u>wit</u> 10 mm lining, (Both inside and outside of pipe) the Sum of |
| | <pre>\$ Submitted Electronically Dollars (\$ \$)</pre> |

| k. | Alterr | nate | Nο | 10 |
|----|--------|------|------|----|
| n. | Alten | ıaıc | INU. | 10 |

ADD/DEDUCT to the base bid amount to use **CMP piping System by Contech without** 10 mm lining, the Sum of

I. Alternate No. 11

ADD/DEDUCT to the Base Bid amount to switch the **RTU-1 and RTU-2 from the specified Carrier units to the revised Aaon units**, to the the Sum of

\$Submitted Electronically Dollars (\$ \$ In words

m. Alternate No. 12

ADD/DEDUCT to the Base Bid amount to include **Special Foundations under all floor slabs on grade for Building #1**. Special foundations should be designed using the slab thickness shown on the drawings. Loading in Areas 'A' and 'B' shall be as shown on the drawings, loading in Areas 'C', 'D', 'E', and 'F' shall be as specified in Section 31 66 00, to the the Sum of

\$ Submitted Electronically Dollars (\$ \\$ In words

2. Unit Prices – FOR ALL GENERAL CONSTRUCTION

Should more or less Work of the following categories be required, adjustment will be made to the Contract Sum at the following unit prices, which shall include all expenses, transportation, trucking, restocking charges and overhead profit.

1). Unit Price 1A (Section 31 20 00)

Price per cubic yard of soil excavated, for additional depth required to reach good bearing soil for foundation walls and wall footings, the amount of

2). Unit Price 1B (Section 31 20 00)

Price per cubic yard of compacted backfill, in place, at floor slabs or asphalt paving, the amount of

| | | Submitted | Electron | nically | | | |
|-------|----------|---|--|---|------------------------------------|-------------|-------------------|
| | | \$ per cubic yard. | | Oollars (\$ <u>\$</u> | | |) |
| | | per cubic yard. | | | | | |
| | 3). | Unit Price 1C (Sec | tion 03 30 00 | 0) | | | |
| | | Price per cubic yar Reinforcement (in amount of | place) requir | ed for addition | | undation W | Valls, the |
| | | Submitted E | lectronio | cally Onlars (\$ \$ | |) | |
| | | per cubic yard or o | mitting same | θ. | | / | |
| | 4). | Unit Price 1D (Sec | tion 03 30 00 | 0) | | | |
| | | Price per cubic yar cubic yards include Submitted El | ed within the | bid amount of | | ebris beyo | nd the 5,000 |
| | | \$ | D | ollars (\$ <u>\$</u> | |) | |
| | | per cubic yards or | omitting sam | ne. | | | |
| | Sh ma | ormational Bids – ould more or less Wade to the Contract Scessary to adjust the | ork of the fo Sum for the f | ollowing catego following inforn | ries be require national bid, w | | |
| | 1). | Informational Bid # | 01 | | | | |
| | | ADD / DEDUCT - Fire suppression a the scope indicated | g pipe sizing nd Electrical d is and ADE | and a project Scopes of wo or DEDUCT. | deduct. Inform | national bi | d to include all |
| | | \$ Submitted | Electron | nically Collars(\$\$ | | , |) |
| | | In words | <u>-</u> | - τ (Ψ | | / | , |
| В. | | panying this Proposed by the Instruction | | | ount of ten per | rcent (10% | 6) of the Bid, as |
| C. | In acco | ord with part E of the Il reduce this Bid in | e Instructions | s to Bidders, w | | | substitutions, |
| | | Item Specified | | Substitution | | Reduc | ce Bid |
| N/ | A | | | | | | |
| . 4// | • | | | | | | |
| | | | | | | | |
| | | | | | | | |

before submission; that I have fully authority to make such statements, and Proposal in (its, their, my) behalf, and that said statements are true and correct.

Please check one

February 13, 2024 Project # 2024-1906B

00 41 00-5 **BID FORM**

| | | Ci | ty of West Allis – New DPW Facility |
|------------|---|---------------------------------------|---|
| of t | the following: | | Contractor |
| Sole Owner | | Address | W233N2847 Roundy Cir W |
| | rporation <u>X</u> rtnership | | Pewaukee, WI, 53072 |
| Na | me of Partners: | Ву | Craig Jorgensen |
| К. | subcontractors with the Pursuant with the requireme | N ach Bidder is req proposal or with | tate of: Wiscons in KRAZ county of: Wa wices has other other ubscribed and sworn to before le this 13 day of March 2024 lotary Public: Wired to submit a complete list of nin 24 hours after bid due date. It ions to Bidders, the Bid is based on the n branch or subtitle of Work to be |
| | WORK | CONTRACTOR | CITY |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |

Filed 09-25-2025

Case 2025CV008353

Document 5

Page 24 of 115

CONSTRUCTION BY CONTRACTOR

PLANS AND SPECIFICATIONS PART OF THE CONTRACT

1. The Contractor agrees to provide certain material, all labor, tools, equipment and services and to do all things necessary for the proper construction and completion in a workmanlike manner of the work hereinbefore described and in conformity with the contract documents which include the (a) Notice to Contractors; (b) Instructions to Bidders; (c) General Conditions; (d) Specifications; (e) Special Provisions; (f) Proposals; (g) Plans; (h) Schedule of Fixed Prices; (i) Supplemental Agreements; (j) all addenda, and (k) Technical Requirements, (l) and all other documents listed in the Table of Contents which Contract Documents are hereby made a part of this contract as though set forth herein in full.

Specifications for Sewer and Water Construction in Wisconsin, 6th Ed., December 22, 2003, and addenda, are included by reference as part of the contract and are on file in the office of the City Engineer. In the event that any provision in any of the above Specifications conflicts with any provision in any other Contract Document, the provision in the Contract Document shall govern.

PERSONAL ATTENTION

CONTRACTOR NOT TO ASSIGN UNLESS WRITTEN CONSENT

2. The Contractor shall exercise, for the City's benefit, its best knowledge and skill and give its personal attention constantly to the faithful prosecution of the work and shall not assign by power of attorney or otherwise this contract or any interest therein or sublet any part of the work without the consent in writing of the Board of Public Works of said City. If the Contractor shall so assign or sublet without such written consent, then the Common Council of the City shall have the right in its discretion to rescind this contract and declare the same null and void and to relet the said work to some competent party; and the Contractor shall be liable to said City for such damages as the Common Council of the City shall determine, which determination thereof shall be final and conclusive on the parties hereto.

STARTING AND COMPLETION

3. The Contractor agrees to commence work under this contract within ten (10) days of the date to be specified in a written notice to proceed from the City and to complete all work included in this contract to the point of final acceptance by the City within the time limits prescribed in the Special Provisions.

Page 27 of 115

LIQUIDATED DAMAGES

4. The Contractor further covenants and agrees that the time limit for the completion of the work herein provided for is of the essence of this contract, and in case the Contractor shall fail to complete the work hereunder within the time aforesaid, the Contractor agrees to pay to the City the sum prescribed in the Special Provisions for each and every day the time consumed in said performance and completion exceeds the time hereinbefore allowed for that purpose, which said sum in view of the difficulty in ascertaining the loss which the City will suffer by reason of delay in the performance of the work hereunder is hereby agreed upon, fixed, and determined by the parties hereto as liquidated damages that the City will suffer by reason of said delay and default and not as a penalty and the City may deduct and retain the amount of such liquidated damages out of the moneys which may be due or become due under this contract.

It is hereby further agreed that the determination and acceptance by the City of the liquidated damages for the delay in the completion of the work shall be in addition to any other damages that the City may sustain by reason of any other breach of this contract.

CITY MAY RELET FOR IMPROPER PERFORMANCE

5. In case of improper or imperfect performance of the work herein specified by the Contractor in the event of written consent by the City, the City may suspend said work and order the entire reconstruction of the whole or any part or may, at its option, relet such partial or entire work to another competent party. The City may do likewise in case said work shall not be prosecuted with such diligence and with such number of men as to insure its completion within the time limited herein, or may employ men and secure material for the completion of the same and charge the cost thereof to the Contractor which sum may be deducted from any balance due the Contractor and without waiver of any rights of the City with respect to liquidated damages for the delay and completion of the work or for actual damages of the breach of any other part of this contract to be performed by said Contractor.

CONTRACTOR TO HOLD CITY HARMLESS FOR INJURIES OR DAMAGES TO THIRD PERSONS

6. The said Contractor further covenants and agrees to and with the City of West Allis that in the performance of this contract it will put up and maintain such barriers and lights as will effectively prevent the happening of any accident in consequence of any depressions, holes, or the accumulation of any obstruction or hazards of any nature whatsoever, made or suffered upon the premises, public sidewalks, highways or areas within the immediate vicinity of said construction; Contractor further covenants and agrees to indemnify and hold harmless the City against any and all claims and losses which arise as a result of any negligence, acts or omissions from the performance of the duties, work or service in connection with said project, excepting those claims or losses which are a direct result of

the "active" or "sole" negligence of the City; and that Contractor covenants and agrees that it shall and does hereby assume such liabilities and will pay on demand any and all damage or damages occasioned as above specified.

CONTRACTOR TO SAVE CITY HARMLESS FOR CLAIMS OF SUBCONTRACTORS. SECS. 779.14 & 779.15, STATS.

Document 5

7. It is Further Understood and Agreed that the Contractor shall save the City harmless from all claims or demands of any subcontractor employed by the Contractor or from any claims or demands of any person, firm or corporation furnishing any material, apparatus, fixtures, services, machinery or labor to the Contractor herein for the doing of the work referred to herein and of whatsoever kind or nature referred to and established by sec. 779.15, Stats., and Acts supplementary thereto.

CONTRACTOR TO PAY ALL CLAIMS FOR WORK UNDERTAKEN BY SURETY. SEC. 779.14, STATS.

8. It Is Further Understood and Agreed that the Contractor shall pay all claims for work and labor performed and materials furnished in or about the work herein referred to, and the Contractor shall pay to each and every person or party entitled thereto all claims for work or labor performed and materials furnished for or in or about said building or under this contract and it is understood and agreed that the liability of the Contractor under this contract and undertaking thereon shall continue and remain in force for a period of one year after the completion and acceptance of said contract as provided in sec. 779.14, Stats., and Acts supplementary thereto.

INDEMNIFYING AGREEMENT

9. To the fullest extent allowable by law, Contractor hereby indemnifies and shall defend and hold harmless the City of West Allis, its elected and appointed officials, officers, employees or authorized representatives or volunteers and each of them from and against any and all suits, actions, legal or administrative proceedings, claims, demands, damages, liabilities, interest, attorneys' fees, costs, and expenses of whatsoever kind or nature whether arising before, during, or after completion of the work hereunder and in any manner directly or indirectly caused, occasioned, or contributed to in whole or in part or claimed to be caused, occasioned, or contributed to in whole or in part, by reason of any act, omission, fault, or negligence, whether active or passive, of Contractor or of anyone acting under its direction or control or on its behalf in connection with or incident to the performance of this Agreement. Contractor's aforesaid indemnity and hold harmless agreement shall not be applicable to any liability caused by the sole fault, sole negligence, or willful misconduct of the City of West Allis, or its elected and appointed officials, officers, employees or authorized representatives or volunteers. This indemnity provision shall survive the termination or expiration of this Agreement.

Document 5

In any and all claims against the City of West Allis, its elected and appointed officials, officers, employees or authorized representatives or volunteers by an employee of Contractor, any subcontractor, or anyone for whose acts any of them may be liable, the indemnification obligation under this paragraph shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the Contractor or any subcontractor under worker's compensation, disability benefit, or other employee benefit laws.

No provision of this indemnification clause shall give rise to any duties not otherwise provided for by this Agreement or by operation of law. No provision of this indemnity clause shall be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity that would otherwise exist as to the City of West Allis, its elected and appointed officials, officers, employees or authorized representatives or volunteers under this or any other contract. This clause is to be read in conjunction with all other indemnity provisions contained in this Agreement. Any conflict or ambiguity arising between any indemnity provisions in this Agreement shall be construed in favor of indemnified parties except when such interpretation would violate the laws of the state in which the job site is located.

Contractor shall reimburse the City of West Allis, its elected and appointed officials, officers, employees or authorized representatives or volunteers for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided. Contractor's obligation to indemnify shall not be restricted to insurance proceeds, if any received by the City of West Allis, its elected and appointed officials, officers, employees or authorized representatives or volunteers.

DAMAGES TO CITY

10. If, upon any adjustment or determination of damages by the Common Council of the City of West Allis, said damages should exceed the amount due from the City to the Contractor, then in that case the Contractor covenants and agrees to pay the same to the said City on demand.

ESTIMATES OF WORK DONE AND ACCEPTANCE, SEC. 66.0901(9)(b), STATS.

11. The City hereby reserves the right to accept and make use of any portion of said work before the completion of the entire work without invalidating this Contract or binding itself to accept the remainder of the work or any portion thereof, whether completed or not. The Contractor shall prepare and present a schedule of materials delivered and work performed to the City Engineer. The City Engineer shall verify the schedule of work completed and materials furnished by actual inspection and shall then make, in writing, an approximate estimate of the amount of work done, and materials furnished and the value thereof, according to the terms of this contract. Said estimate shall be made only when the work progresses in accordance with the provisions of this contract, drawings,

Document 5

plans and specifications. The Common Council, upon recommendation of the Board of Public Works, shall grant to the Contractor the estimate of the amount and proportionate value of the work done, which shall entitle the Contractor to receive the amount thereof, less the retainage. The retainage shall be an amount equal to 5% of said estimate until 50% of the work has been completed. At 50% completion, further partial payment shall be made in full to the Contractor and no additional amount shall be retained unless the City Engineer certifies that the job is not proceeding satisfactorily, but amounts previously retained shall not be paid to the Contractor. At 50% completion or at any time thereafter when the progress of the work is not satisfactory, additional amounts may be retained but in no event shall the total retainage be more than 10% of the value of the work completed. When the work has been substantially completed, according to the plans and specifications, except for work which cannot be completed because of weather conditions, lack of materials or other reasons which in the judgment of the Board of Public Works are valid reasons for non-completion, the Board of Public Works may recommend to the Common Council that the City make additional payments, retaining at all times an amount sufficient to cover the estimated cost of the work still to be completed or in the alternative pay out the entire amount retained and receive from the Contractors guarantees in the form of a bond or other collateral sufficient to ensure completion of the job.

ACCEPTANCE AND PAYMENT OF WORK

The City of West Allis hereby covenants and agrees to and with the said Contractor, that 12. upon completion of said work according to the drawings, plans and specifications and the true intent and meaning of this contract and after acceptance of the work by the Common Council of the City of West Allis, the City of West Allis will pay or cause to be paid to said Contractor or its lawful assigns if consent thereto is given in writing, the balance due said Contractor after deducting all adjustments, damages or credits due the said City. The said Contractor agrees to surrender before the payment of said balance all satisfactions of any and all lien claims of whatever nature, together with releases and satisfactory evidence of releases of any and all claims of whatever nature in favor of any subcontractor, material man, laborer or person loaning or furnishing equipment or services of any nature to the effect that such persons have been fully paid or are no longer entitled to such lien or claim for lien.

CHANGED CONDITIONS

If the Contractor encounters physical conditions at the site of the work of an unusual 13. nature, differing materially from those which might be reasonably encountered and generally recognized as inherent in work of the character provided for, or implied in the Plans and Specifications, he shall promptly and before such conditions are unduly disturbed notify the City Engineer, in writing, of his intention to claim an adjustment in compensation. The City Engineer shall thereupon promptly investigate the conditions and, if he finds that such conditions do so materially differ and cause an increase or decrease in the cost of the contract or in the time required for performance of the contract, the contract will be modified, in writing, and an equitable adjustment made in accordance with the contract unit price, fixed extra price or time and material, as the case may be.

If the Contractor fails to give the City Engineer written and timely notice of his intention to claim an adjustment in compensation, as herein before provided, and to afford the City Engineer the opportunity to investigate any changed conditions claimed before they are unduly disturbed, the claim may be denied by the Board of Public Works.

GUARANTEE

14. All work shall be and is guaranteed to a period of one year from and after the completion date of the work. For purposes of this contract, the completion date is the date certified by the City Engineer. If, within said guarantee period, repairs or changes are required in connection with the work, which, in the opinion of the City Engineer, is rendered necessary as the result of the use of materials, equipment or workmanship which are inferior, defective or not in accordance with the terms of the contract, the Contractor shall promptly, upon receipt of the notice from the City Engineer, and without expense to the City, restore the work to a satisfactory condition, correct all defects, make good all damage to the structure, site or contents thereof, which damage, in the opinion of the City Engineer, results from the use of such inferior or defective materials, equipment or workmanship.

If, within ten (10) days after notice, the Contractor fails to comply with the terms of any guarantee herein contained, the City may have the defects corrected and the Contractor or his surety shall be liable for all expenses incurred; except, when, in the opinion of the City Engineer, delay in correcting the defects would cause serious cost or damage, repairs may be made by the City without notice being given to the Contractor and the Contractor shall pay the cost thereof.

All special guarantees or warranties applicable to specific parts of the work, as may be stipulated in the Contract Documents, shall be subject to the terms of this paragraph during the one-year guarantee period. All special guarantees and manufacturers warranties shall be delivered to the City Engineer before shop drawings on items of major equipment are approved, guarantees and warranties for other items shall be furnished prior to the acceptance of the work.

15. Nothing contained in the contract herein shall be construed to prevent the Board of Public Works or the Common Council from extending the time to complete the work under this

Document 5

contract and this contract is signed by the respective parties and the surety with the understanding that such extension of time may be given when considered proper, and shall not be deemed a modification or a change affecting the liability of the surety.

CHANGE OF MATERIAL

16. It is further agreed that any change of material different from that specified in the specifications shall, when agreed upon by the Contractor and Common Council in writing, be accepted by all parties in lieu of that so changed and shall in no way be considered as changing said contract, but all parties including the surety signing this contract do so with the knowledge that such changes are likely to be made.

DELAYS

17. The City shall not be liable to the Contractor and/or any subcontractor for claims or damages or monetary claims of any nature caused by or arising out of delays from any cause whatsoever, including but not limited to any time which may be specified for the notice to proceed under this contract. The sole remedy against the City for delays shall be the allowance to claimant of additional time for completion of work, the amount thereof to be reasonable as determined by the City Engineer.

IN WITNESS WHEREOF, The parties hereto have executed this instrument under their several seals, on the day and year first above written, the name and corporate seal of each corporate party hereto affixed and this instrument duly signed by its duly authorized representative.

Document 5

| VJ | S Construction Services, Inc. | _(Seal) |
|-----|---|----------------|
| W2 | Contractor 33N2847 Roundy Circle West, | _, |
| Pev | waukee, WI 53072 | _(Seal) |
| D | Business Address | CTION |
| Ву: | Signature & Title | SEAL CH |
| Ву: | Kevin P. Henrichs | ZSes Sons Tork |
| By: | | (Seal) |
| | Signature & Title | |
| By: | | _(Seal) |
| | Printed | |

Document 5

CORPORATE CERTIFICATE

| , certify, that I am the Secre | etary of the Corporation |
|--|--|
| Kevin P Henrichs | who signed this |
| Chief Financial Officer was then President of said Co. | |
| pehalf of said Corporation by a | uthority of its governing |
| Signature CITY OF WEST ALLIS | (SEAD) SEA |
| Mayor | Date: |
| City Administrator | Date: |
| , and I | |
| at will accrue under this contra | ct by the City of West Allis. |
| Comptroller | |
| | |
| Cit | ty Attorney |
| | Chief Financial Officer was then President of said Co pehalf of said Corporation by a Signature CITY OF WEST ALLIS Mayor City Administrator , and I at will accrue under this contra |

| STATE OF WISCONSIN) | |
|---|--|
|) SS. MILWAUKEE COUNTY) | |
| Kevin P. Henrichs | , an officer of |
| (Affiant) | , un officer of |
| VJS Construction Services, Inc. | , to wit, its |
| Chief Financial Officer | , being first duly sworn on oath, says: |
| (Title) | |
| That VJS Construction Services, Inc. | has no contractual |
| (Name of Contractor) | |
| of West Allis, Wisconsin; nor has any officer, agent or empiriterest either direct or indirect, present or prospective, absorbing which this bond pertains, as this affiant well knows. Dated at Pewaukee , Wisconsin, this 22nd (Affiant) Chief Financial Office | olute or conditional in the contract to day ofMarch, 20_24 |
| (Title) | <u>.</u> |
| Subscribed and sworn to before me this 22 day of March 2024 NOTARL NOTARL | |

NOTE: Affidavit must be executed by person who signs contract.

Bond No. 016242747



Document 5

Performance Bond

CONTRACTOR:

(Name, legal status and address)

VJS Construction Services, Inc. W233 N2847 Roundy Circle West Pewaukee, WI 53072

OWNER:

(Name, legal status and address)

City of West Allis 7525 W. Greenfield Avenue West Allis, WI 53214

SURETY:

(Name, legal status and principal place of business)

Liberty Mutual Insurance Company 175 Berkeley Street Boston, MA 02116 A MA Corporation

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

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

CONSTRUCTION CONTRACT

Date: March 22, 2024

Amount: \$ Fifty Million Seven Hundred Eight Thousand Five Hundred Twenty Three and 50/100 Dollars (\$50,708,523.50) Description:

(Name and location)

City of West Allis - The Project consists of a new Department of Public Works Facility consisting of a two-story main building, a warm storage building, a cold storage building, and a fueling station. The main building is 310,150 sq/ft and includes office space, garage parking, vehicle repair, and shops. The warm storage building is 33,000 sq/ft and the cold storage facility is 21,300 sq/ft. Along with the new facilities the entire site will be redeveloped. The hauling of all environmentally impacted materials, removal of the two existing underground tanks, and the clean-up of the 'Hot Spot' will not be part of this bid package.

Date: April 3, 2024

(Not earlier than Construction Contract Date)

Amount: \$ Fifty Million Seven Hundred Eight Thousand Five Hundred Twenty Three and 50/100 Dollars (\$50,708,523.50)

Modifications to this Bond:

See Section 16

(Corporate Seal)

NITICONTRACTOR AS PRINCIPAL

vices, Inc.

SURETY Company:

Signature: Liberty Mu

Name and Title:

William M. Smith Attorney-in-Fact

tional signatures appear on the last page of this Performance Bond.)

AGENT or BROKER:

McGriff Insurance Services, LLC 2000 International Park Drive, Suite 600 Birmingham, AL 35243 205-252-9871

ORYNFORMATION ONLY — Name, address and telephone) OWNER'S REPRESENTATIVE:

(Architect, Engineer or other party:)

Kueny Architects, LLC 10505 Corporate Drive, Suite 100 Pleasant Prairie, WI 53158

by reference.

- § 2 If the Contractor performs the Construction Contract, the Surety and the Contractor shall have no obligation under this Bond, except when applicable to participate in a conference as provided in Section 3.
- § 3 If there is no Owner Default under the Construction Contract, the Surety's obligation under this Bond shall arise after
 - .1 the Owner first provides notice to the Contractor and the Surety that the Owner is considering declaring a Contractor Default. Such notice shall indicate whether the Owner is requesting a conference among the Owner, Contractor and Surety to discuss the Contractor's performance. If the Owner does not request a conference, the Surety may, within five (5) business days after receipt of the Owner's notice, request such a conference. If the Surety timely requests a conference, the Owner shall attend. Unless the Owner agrees otherwise, any conference requested under this Section 3.1 shall be held within ten (10) business days of the Surety's receipt of the Owner's notice. If the Owner, the Contractor and the Surety agree, the Contractor shall be allowed a reasonable time to perform the Construction Contract, but such an agreement shall not waive the Owner's right, if any, subsequently to declare a Contractor Default;
 - .2 the Owner declares a Contractor Default, terminates the Construction Contract and notifies the Surety;
 - .3 the Owner has agreed to pay the Balance of the Contract Price in accordance with the terms of the Construction Contract to the Surety or to a contractor selected to perform the Construction Contract.
- § 4 Failure on the part of the Owner to comply with the notice requirement in Section 3.1 shall not constitute a failure to comply with a condition precedent to the Surety's obligations, or release the Surety from its obligations, except to the extent the Surety demonstrates actual prejudice.
- § 5 When the Owner has satisfied the conditions of Section 3, the Surety shall promptly and at the Surety's expense take one of the following actions:
- § 5.1 Arrange for the Contractor, with the consent of the Owner, to perform and complete the Construction Contract;
- § 5.2 Undertake to perform and complete the Construction Contract itself, through its agents or independent contractors;
- § 5.3 Obtain bids or negotiated proposals from qualified contractors acceptable to the Owner for a contract for performance and completion of the Construction Contract, arrange for a contract to be prepared for execution by the Owner and a contractor selected with the Owner's concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Construction Contract, and pay to the Owner the amount of damages as described in Section 7 in excess of the Balance of the Contract Price incurred by the Owner as a result of the Contractor Default; or
- § 5.4 Waive its right to perform and complete, arrange for completion, or obtain a new contractor and with reasonable promptness under the circumstances:
 - .1 After investigation, determine the amount for which it may be liable to the Owner and, as soon as practicable after the amount is determined, make payment to the Owner; or
 - .2 Deny liability in whole or in part and notify the Owner, citing the reasons for denial.
- § 6 If the Surety does not proceed as provided in Section 5 with reasonable promptness, the Surety shall be deemed to be in default on this Bond seven days after receipt of an additional written notice from the Owner to the Surety demanding that the Surety perform its obligations under this Bond, and the Owner shall be entitled to enforce any remedy available to the Owner. If the Surety proceeds as provided in Section 5.4, and the Owner refuses the payment or the Surety has denied liability, in whole or in part, without further notice the Owner shall be entitled to enforce any remedy available to the Owner.

- § 7 If the Surety elects to act under Section 5.1, 5.2 or 5.3, then the responsibilities of the Surety to the Owner shall not be greater than those of the Contractor under the Construction Contract, and the responsibilities of the Owner to the Surety shall not be greater than those of the Owner under the Construction Contract. Subject to the commitment by the Owner to pay the Balance of the Contract Price, the Surety is obligated, without duplication, for
 - .1 the responsibilities of the Contractor for correction of defective work and completion of the Construction Contract;
 - additional legal, design professional and delay costs resulting from the Contractor's Default, and resulting from the actions or failure to act of the Surety under Section 5; and
 - liquidated damages, or if no liquidated damages are specified in the Construction Contract, actual damages caused by delayed performance or non-performance of the Contractor.
- § 8 If the Surety elects to act under Section 5.1, 5.3 or 5.4, the Surety's liability is limited to the amount of this Bond.
- § 9 The Surety shall not be liable to the Owner or others for obligations of the Contractor that are unrelated to the Construction Contract, and the Balance of the Contract Price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than the Owner or its heirs, executors, administrators, successors and assigns.
- § 10 The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders and other obligations.
- § 11 Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the work or part of the work is located and shall be instituted within two years after a declaration of Contractor Default or within two years after the Contractor ceased working or within two years after the Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.
- § 12 Notice to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears.
- § 13 When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

§ 14 Definitions

- § 14.1 Balance of the Contract Price. The total amount payable by the Owner to the Contractor under the Construction Contract after all proper adjustments have been made, including allowance to the Contractor of any amounts received or to be received by the Owner in settlement of insurance or other claims for damages to which the Contractor is entitled, reduced by all valid and proper payments made to or on behalf of the Contractor under the Construction Contract.
- § 14.2 Construction Contract. The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and changes made to the agreement and the Contract Documents.
- § 14.3 Contractor Default. Failure of the Contractor, which has not been remedied or waived, to perform or otherwise to comply with a material term of the Construction Contract.
- § 14.4 Owner Default. Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.
- § 14.5 Contract Documents. All the documents that comprise the agreement between the Owner and Contractor.

| § 15 If this Bond is issued for an agreement between a Contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor. | | | | | | |
|--|----------------------|---|-------------------------------|--|--|--|
| § 16 Modifications to this | bond are as follows: | | | | | |
| (Space is provided below, CONTRACTOR AS PRINCI | | led parties. other than those SURETY | appearing on the cover page.) | | | |
| Company: | (Corporate Seal) | Company: | (Company) Coall | | | |
| | | | (Corporate Seal) | | | |
| Signature: | , | Signature: | (Corporate Seat) | | | |

Address:

Address:

Certification of Document's Authenticity

AIA® *Document D401*™ – 2003

I, William M. Smith, Attorney-in-Fact, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with this certification 16:48:22 CT on 04/03/2024 under Order No. 4104251021 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA# Document A312TM - 2010, Performance Bond, other than changes shown in the attached final document by underscoring added text and striking over deleted text.

William M. Smith, Attorney-in-Fact (Title) April 3, 2024 (Dated)

This Power of Attorney limits the acts of those named herein, and they have no authority to bind the Company except in the manner and to the extent herein stated.

> Liberty Mutual Insurance Company The Ohio Casualty Insurance Company West American Insurance Company

Certificate No: 8205020-016032

POWER OF ATTORNEY KNOWN ALL PERSONS BY THESE PRESENTS: That The Ohio Casualty Insurance Company is a corporation duly organized under the laws of the State of New Hampshire, that

| Liberty Mutual Insurance Company is a corporation duly organized under the laws of the State of Massachusetts, and West American Insurance Company is a corporation duly organized under the laws of the State of Indiana (herein collectively called the "Companies"), pursuant to and by authority herein set forth, does hereby name, constitute and appoint, Alisa B. Ferris, Anna Childress, Jeffrey M. Wilson, Mark W. Edwards II; Richard H. Mitchell; Robert R. Freel; Sam Audia; William M. Smith | | | | | | |
|---|---|--|--|--|--|--|
| of these presents an | Birmingham Medge and deliver, for and d shall be as binding upo | state of d on its behalf as sur n the Companies as | AL ety and as its act if they have bee | each individually if there be more than one named, its true and lawful attorney-in-fact to make, and deed, any and all undertakings, bonds, recognizances and other surety obligations, in pursuance and only signed by the president and attested by the secretary of the Companies in their own proper | | |
| persons. IN WITNESS WHER thereto this 11th | • | ey has been subscri | bed by an author | ized officer or official of the Companies and the corporate seals of the Companies have been affixed | | |



Liberty Mutual Insurance Company The Ohio Casualty Insurance Company West American Insurance Company

Not valid for mortgage, note, loan, letter of credit, currency rate, interest rate or residual value guarantees. State of PENNSYLVANIA County of MONTGOMERY

Company, The Ohio Casualty Company, and West American Insurance Company, and that he, as such, being authorized so to do, execute the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my notarial seal at King of Prussia, Pennsylvania, on the day and year first above written.



INSUR

This Power of Attorney is made and executed pursuant to and by authority of the following By-laws and Authorizations of The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company which resolutions are now in full force and effect reading as follows:

President may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in perian of the Corporation set forth in their respective powers or attorney, shall appoint such attorneys-in-fact, subject to the limitations set forth in their respective powers or attorney, shall appoint such attorneys in-fact, subject to the limitations set forth in their respective powers or attorney, shall appoint such attorneys in-fact, subject to the limitations set forth in their respective powers or attorney, shall appoint such attorneys in-fact, subject to the limitations set forth in their respective powers or attorney, shall appoint such attorneys in-fact, subject to the limitations set forth in their respective powers or attorney, shall appoint such attorneys in-fact, subject to the limitations set forth in their respective powers or attorney, shall appoint such attorneys in-fact, subject to the limitations set forth in their respective powers or attorney, shall appoint such attorneys in-fact, subject to the limitations set forth in their respective powers or attorney, shall appoint such attorneys in-fact, subject to the limitations set forth in their respective powers or attorneys.

ARTICLE XIII - Execution of Contracts: Section 5. Surety Bonds and Undertakings.

Any officer of the Company authorized for that purpose in writing by the chairman or the president, and subject to such limitations as the chairman or the president may prescribe, shall appoint such attorneys in-fact, as may be necessary to act in behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys in fact subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Company by their signature and execution of any such instruments and to attach thereto the seal of the Company. When so executed such instruments shall be as binding as if signed by the president and attested by the secretary.

Certificate of Designation - The President of the Company, acting pursuant to the Bylaws of the Company, authorizes David M. Carey, Assistant Secretary to appoint such attorneys-infact as may be necessary to act on behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety

Authorization - By unanimous consent of the Company's Board of Directors, the Company consents that facsimile or mechanically reproduced signature of any assistant secretary of the Company, wherever appearing upon a certified copy of any power of attorney issued by the Company in connection with surety bonds, shall be valid and binding upon the Company with the same force and effect as though manually affixed.

I, Renee C. Llewellyn, the undersigned, Assistant Secretary, The Ohio Casually Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company do hereby certify that the original power of attorney of which the foregoing is a full, true and correct copy of the Power of Attorney executed by said Companies, is in full force and effect and

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seals of said Companies this







Renee C. Llewellyn, Assistant Secretary

Bond No. 016242747



Document 5

Payment Bond

CONTRACTOR:

(Name, legal status and address) VJS Construction Services, Inc. W233 N2847 Roundy Circle West Pewaukee, WI 53072

SURETY:

(Name, legal status and principal place of business) Liberty Mutual Insurance Company 175 Berkeley Street Boston, MA 02116 A MA Corporation

OWNER:

(Name, legal status and address)

City of West Allis 7525 W. Greenfield Avenue West Allis, WI 53214

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

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

CONSTRUCTION CONTRACT

Date: March 22, 2024

Amount: \$ Fifty Million Seven Hundred Eight Thousand Five Hundred Twenty Three and 50/100 Dollars (\$50,708,523.50) Description:

(Name and location)
City of West Allis - The Project consists of a new Department of Public Works Facility consisting of a two-story main building, a warm storage building, a cold storage building, and a fueling station. The main building is 310,150 sq/ft and includes office space, garage parking, vehicle repair, and shops. The warm storage building is 33,000 sa/ft and the cold storage facility is 21,300 sa/ft. Along with the new facilities the entire site will be redeveloped. The hauling of all environmentally impacted materials, removal of the two existing underground tanks, and the clean-up of the 'Hot Spot' will not be part of this bid package.

BOND

Date: April 3, 2024

(Not earlier than Construction Contract Date)

Amount: \$ Fifty Million Seven Hundred Eight Thousand Five Hundred Twenty Three and 50/100 Dollars (\$50,708,523.50) Modifications to this Bond: None See Section 18

CONTRACTOR AS PRINCIPAL O Company:

(Corporate Geal)

VJS Construction

SURETY

(Corporate Seal)

Company: Liberty Mutual Insurance Company Signature:

Name and

William M. Smith Title: Attorney-in-Fact

Additional signatures appear on the last page of this Payment Bond.)

(FOR INFORMATION ONLY — Name, address and telephone)

AGENT or BROKER:

McGriff Insurance Services, LLC 2000 International Park Drive, Suite 600 Birmingham, AL 35243

205-252-9871

OWNER'S REPRESENTATIVE:

(Architect, Engineer or other party:)

Kueny Architects, LLC

10505 Corporate Drive, Suite 100 Pleasant Prairie, WI 53158

Init.

- § 1 The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Owner to pay for labor, materials and equipment furnished for use in the performance of the Construction Contract, which is incorporated herein by reference, subject to the following terms.
- § 2 If the Contractor promptly makes payment of all sums due to Claimants, and defends, indemnifies and holds harmless the Owner from claims, demands, liens or suits by any person or entity seeking payment for labor, materials or equipment furnished for use in the performance of the Construction Contract, then the Surety and the Contractor shall have no obligation under this Bond.
- § 3 If there is no Owner Default under the Construction Contract, the Surety's obligation to the Owner under this Bond shall arise after the Owner has promptly notified the Contractor and the Surety (at the address described in Section 13) of claims, demands, liens or suits against the Owner or the Owner's property by any person or entity seeking payment for labor, materials or equipment furnished for use in the performance of the Construction Contract and tendered defense of such claims, demands, liens or suits to the Contractor and the Surety.
- § 4 When the Owner has satisfied the conditions in Section 3, the Surety shall promptly and at the Surety's expense defend, indemnify and hold harmless the Owner against a duly tendered claim, demand, lien or suit.
- § 5 The Surety's obligations to a Claimant under this Bond shall arise after the following:
- § 5.1 Claimants, who do not have a direct contract with the Contractor,
 - .1 have furnished a written notice of non-payment to the Contractor, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were, or equipment was, furnished or supplied or for whom the labor was done or performed, within ninety (90) days after having last performed labor or last furnished materials or equipment included in the Claim; and
 - .2 have sent a Claim to the Surety (at the address described in Section 13).
- § 5.2 Claimants, who are employed by or have a direct contract with the Contractor, have sent a Claim to the Surety (at the address described in Section 13).
- § 6 If a notice of non-payment required by Section 5.1.1 is given by the Owner to the Contractor, that is sufficient to satisfy a Claimant's obligation to furnish a written notice of non-payment under Section 5.1.1.
- § 7 When a Claimant has satisfied the conditions of Sections 5.1 or 5.2, whichever is applicable, the Surety shall promptly and at the Surety's expense take the following actions:
- § 7.1 Send an answer to the Claimant, with a copy to the Owner, within sixty (60) days after receipt of the Claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed; and
- § 7.2 Pay or arrange for payment of any undisputed amounts.
- § 7.3 The Surety's failure to discharge its obligations under Section 7.1 or Section 7.2 shall not be deemed to constitute a waiver of defenses the Surety or Contractor may have or acquire as to a Claim, except as to undisputed amounts for which the Surety and Claimant have reached agreement. If, however, the Surety fails to discharge its obligations under Section 7.1 or Section 7.2, the Surety shall indemnify the Claimant for the reasonable attorney's fees the Claimant incurs thereafter to recover any sums found to be due and owing to the Claimant.
- § 8 The Surety's total obligation shall not exceed the amount of this Bond, plus the amount of reasonable attorney's fees provided under Section 7.3, and the amount of this Bond shall be credited for any payments made in good faith by the Surety.
- § 9 Amounts owed by the Owner to the Contractor under the Construction Contract shall be used for the performance of the Construction Contract and to satisfy claims, if any, under any construction performance bond. By the Contractor furnishing and the Owner accepting this Bond, they agree that all funds earned by the Contractor in the performance of the Construction Contract are dedicated to satisfy obligations of the Contractor and Surety under this Bond, subject to the Owner's priority to use the funds for the completion of the work.

User Notes:

- § 10 The Surety shall not be liable to the Owner, Claimants or others for obligations of the Contractor that are unrelated to the Construction Contract. The Owner shall not be liable for the payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligation to make payments to, or give notice on behalf of, Claimants or otherwise have any obligations to Claimants under this Bond.
- § 11 The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders and other obligations.
- § 12 No suit or action shall be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the state in which the project that is the subject of the Construction Contract is located or after the expiration of one year from the date (1) on which the Claimant sent a Claim to the Surety pursuant to Section 5.1.2 or 5.2, or (2) on which the last labor or service was performed by anyone or the last materials or equipment were furnished by anyone under the Construction Contract, whichever of (1) or (2) first occurs. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.
- § 13 Notice and Claims to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears. Actual receipt of notice or Claims, however accomplished, shall be sufficient compliance as of the date received.
- § 14 When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.
- § 15 Upon request by any person or entity appearing to be a potential beneficiary of this Bond, the Contractor and Owner shall promptly furnish a copy of this Bond or shall permit a copy to be made.

§ 16 Definitions

- § 16.1 Claim. A written statement by the Claimant including at a minimum:
 - .1 the name of the Claimant;
 - .2 the name of the person for whom the labor was done, or materials or equipment furnished;
 - .3 a copy of the agreement or purchase order pursuant to which labor, materials or equipment was furnished for use in the performance of the Construction Contract;
 - .4 a brief description of the labor, materials or equipment furnished;
 - .5 the date on which the Claimant last performed labor or last furnished materials or equipment for use in the performance of the Construction Contract;
 - .6 the total amount earned by the Claimant for labor, materials or equipment furnished as of the date of the Claim;
 - .7 the total amount of previous payments received by the Claimant; and
 - .8 the total amount due and unpaid to the Claimant for labor, materials or equipment furnished as of the date of the Claim.
- § 16.2 Claimant. An individual or entity having a direct contract with the Contractor or with a subcontractor of the Contractor to furnish labor, materials or equipment for use in the performance of the Construction Contract. The term Claimant also includes any individual or entity that has rightfully asserted a claim under an applicable mechanic's lien or similar statute against the real property upon which the Project is located. The intent of this Bond shall be to include without limitation in the terms 'labor, materials or equipment' that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental equipment used in the Construction Contract, architectural and engineering services required for performance of the work of the Contractor and the Contractor's subcontractors, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials or equipment were furnished.
- § 16.3 Construction Contract. The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and all changes made to the agreement and the Contract Documents.

- § 16.4 Owner Default. Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.
- § 16.5 Contract Documents. All the documents that comprise the agreement between the Owner and Contractor.
- § 17 If this Bond is issued for an agreement between a Contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.
- § 18 Modifications to this bond are as follows:

| (Space is provided below for add CONTRACTOR AS PRINCIPAL | litional signatures of add | ded parties, other than those appearing on the cover page.) SURETY | | |
|--|----------------------------|--|------------------|--|
| Company: Signature: | (Corporate Seal) | Company: Signature: | (Corporate Seal) | |
| Name and Title: Address: | | Name and Title: Address: | | |

Certification of Document's Authenticity

Document 5

AIA® Document D401™ - 2003

I, William M. Smith, Attorney-in-Fact, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with this certification 16:51:24 CT on 04/03/2024 under Order No. 4104251021 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIAst Document A312TM - 2010, Payment Bond, other than changes shown in the attached final document by underscoring added text and striking over deleted text.

(Signed)

William M. Smith, Attorney-in-Fact
(Title)

April 3, 2024 (Dated) This Power of Attorney limits the acts of those named herein, and they have no authority to bind the Company except in the manner and to the extent herein stated.

> Liberty Mutual Insurance Company The Ohio Casualty Insurance Company West American Insurance Company

Certificate No. 8205020-016032

POWER OF ATTORNEY KNOWN ALL PERSONS BY THESE PRESENTS: That The Ohio Casualty Insurance Company is a corporation duly organized under the laws of the State of New Hampshire, that

| Liberty Mutual Insura under the laws of the | nce Company is a corpora State of Indiana (herein c | ation duly organized of ollectively called the | under the laws of "Companies"), pu | the State of Massachusetts, and West American Insurance Company is a corporation duly organized insuant to and by authority herein set forth, does hereby name, constitute and appoint, Alisa B. |
|--|--|--|---------------------------------------|---|
| Ferris, Anna Childi | ress, Jeffrey M. Wilson | Mark W. Edwards | s II; Richard H. | Mitchell; Robert R. Freel; Sam Audia; William M. Smith |
| | | 5183 | | |
| | | | | each individually if there be more than one named, its true and lawful attorney-in-fact to make and deed, any and all undertakings, bonds, recognizances and other surety obligations, in pursuance and other surety obligations, in pursuance on duly signed by the president and attested by the secretary of the Companies in their own proper |
| IN WITNESS WHER | FOE this Power of Attorn | ev has been subscrib | ned by an authori | zed officer or official of the Companies and the corporate seals of the Companies have been affixed |

2021 thereto this 11th day of March







Liberty Mutual Insurance Company The Ohio Casualty Insurance Company West American Insurance Company

David M. Carey, Assistant Secretary

value guarantees. State of PENNSYLVANIA County of MONTGOMERY

credit

of

letter

loan, lette residual

note, l

Not valid for mortgage, not currency rate, interest rate

2021 before me personally appeared David M. Carey, who acknowledged himself to be the Assistant Secretary of Liberty Mutual Insurance March Company, The Ohio Casualty Company, and West American Insurance Company, and that he, as such, being authorized so to do, execute the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my notarial seal at King of Prussia, Pennsylvania, on the day and year first above written.



ommonwealth of Pennsylvania - Notary Sea Teresa Pastella Notary Public Montgomery County My commission expires March 28, 2025 Commission number 1126044 nnsylvania Association of Notaries

This Power of Attorney is made and executed pursuant to and by authority of the following By-laws and Authorizations of The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company which resolutions are now in full force and effect reading as follows:

ARTICLE IV - OFFICERS: Section 12. Power of Attorney.

Any officer or other official of the Corporation authorized for that purpose in writing by the Chairman or the President, and subject to such limitation as the Chairman or the President may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Corporation to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact, subject to the limitations set forth in their respective powers of attorney, shall For bon please have full power to bind the Corporation by their signature and execution of any such instruments and to attach thereto the seal of the Corporation. When so executed, such instruments shall be as binding as if signed by the President and attested to by the Secretary. Any power or authority granted to any representative or attorney-in-fact under the provisions of this article may be revoked at any time by the Board, the Chairman, the President or by the officer or officers granting such power or authority.

ARTICLE XIII - Execution of Contracts: Section 5. Surety Bonds and Undertakings.

Any officer of the Company authorized for that purpose in writing by the chairman or the president, and subject to such limitations as the chairman or the president may prescribe. shall appoint such attorneys in-fact, as may be necessary to act in behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Company by their signature and execution of any such instruments and to attach thereto the seal of the Company. When so executed such instruments shall be as binding as if signed by the president and attested by the secretary.

Certificate of Designation - The President of the Company, acting pursuant to the Bylaws of the Company, authorizes David M. Carey, Assistant Secretary to appoint such attorneys-infact as may be necessary to act on behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety

Authorization - By unanimous consent of the Company's Board of Directors, the Company consents that facsimile or mechanically reproduced signature of any assistant secretary of the Company, wherever appearing upon a certified copy of any power of attorney issued by the Company in connection with surety bonds, shall be valid and binding upon the Company with the same force and effect as though manually affixed.

I, Renee C. Llewellyn, the undersigned, Assistant Secretary, The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company do hereby certify that the original power of attorney of which the foregoing is a full, true and correct copy of the Power of Attorney executed by said Companies, is in full force and effect and

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seals of said Companies this







Renee C. Llewellyn, Assistant Secretary

Total

2024-1906B DPW Facility (#8972854)

03/13/2024 02:00 PM CDT

City of West Allis - DPW Facility **VJS Construction General Contractor** Services, Inc. \$42,176,869.00 Base Bid Alternate #1 -Storage Facility – Building #2 \$3,662,288.00 Alternate #2 - Bin Storage – Building #3 \$267,331.00 Alternate #3 - Fuel Island – Building #4 \$672,033.00 Alternate #4 -Cold Storage/Building - Building #5 \$2,487,680.00 Alternate #5 - Wash Bay Equipment (11 11 26) \$311,130.00 Alternate #6 - Repair Bay Crane (41 22 00) \$272,660.00 Alternate #7 - Weld Bay Crane (41 22 00) \$64,000.00 Alternate #8 - Vehicle lifts \$75,235.00 Alternate #9 CMP piping System by Contech with 10 mm lining, (Both inside and outside of pipe) \$393,941.00 Alternate #10 - CMP piping System by Contech without 10 mm lining \$0.00 Alternate #11 RTU-1 and RTU-2 from the specified Carrier units to the revised Aaon units \$0.00 Alternate #12 - Special Foundations under all floor slabs on grade for Building #1 \$196,368.00 Unit price 1A \$9.89 x 50 yds \$494.50 Unit price 1B \$42.09 x 50 yds \$2,104.50 Unit price 1C \$1,575.49 x 50 yds \$78,774.50 Unit price 1D \$11.90 x 50 yds \$595.00 Informational Bids - Fire Pump (Add/Deduct) \$47,020.00 \$50,708,523.50

Document 5

Exhibit #2

| TTLE CHEET | | 1A250 1A301 | Building Axonometrics Building Sections | STRUCTUR | | 1P412 | Plumbing Piser - Waste-Vent - Area B Plumbing Piser - Waste-Vent - Area C | 1E202 1E203 | Lighting Plan - Area C Lighting Plan - Area D | 2P 480 | Plumbing Piser - Otom - Building 2 |
|--|------------------------|----------------|---|----------------|---|----------------|--|----------------|---|-----------|--|
| 1 Title Sheet | | 14302 | Building Dections | 10100 | Otructural Project Otandards | 19414 | Plumbing Riser - Waste Vert Area D | 1E204 | Lighting Plan - Area E | MECHAN | 1011 |
| Tipe Uneer | | 14303 | Building Dections | 13201 | Foundation Plan - Areas A/B | 1P415 | Plumbing Riser - Waste Vent Area E/F | 1E205 | Lighting Plan - Area F | 2M101 | Building 2 - Mechanical Plan |
| UILDING 01 | | 14400 | Wall Sections | 10202 | Foundation Plan - Areas C/D/E/F | 19420 | Plumbing Riser - Water | 16211 | Lighting Plan - Mezzanine Area C & E | 2M102 | Building 2 - Mechanical Plan |
| TVIL. | | 14401 | Wall Sections | 10203 | Foundation Plan - Additional Below Grade Work | 1P421 | Plumbing Riser - Water - Area A Office | 1E221 | Lighting Plan - Second Floor - Area A & B | DOI 160 | District of the Control of the Contr |
| 1 Existing Conditions Map | | 10402 | Wall Sections | 10301 | Floor Framing Plan - Areas A & B | 19422 | Plumbing Risers - Water - Area B Office | 1E222 | Lighting Plan - Second Floor - Area D | ELECTRA | CAL |
| 2 Site Prep and Erosion Co | teni Pitna | 14403 | Wall Sections | 10302 | Floor Framing Plans - Area C | 19423 | Plumbing Risers - Water - Area C Chops | 1E300 | Overall Power Plan | 2E201 | Lighting Plan - Building 2 |
| 3 Dimension Plan | | 14404 | Wall Sections | 10303 | Floor Framing Plan - Area D1 | 1P424 | Plumbing Risers - Water - Area C Shops Copy 1 | 1E301 | Pouer Plan - Area A & B | 2E301 | Pouer Plan - Building 2 |
| 4 Grading / Paving Plan | | 14405 | Wall Sections | 10304 | Floor Framino Plan - Area D2 | 1P425 | Plumbing Risers - Water - Area D | 1E302 | Pouer Plan - Area C | 2E302 | Pouer Plan - Building 2 Poof Plan |
| S Utility Plan | | 10406 | Wall Sections | 10305 | Floor Framing Plan - Area E | 19426 | Plumbing Rigers - Water - Areas E/F | 15303 | Pouer Plan - Area D | | |
| Construction Details | | 14407 | Wall Sections | 10311 | Poof Framing Plan - Areas A & B | 1P427 | Plumbing Risers - Water - Areas E/F Overall | 1E304 | Pouer Plan - Area E | BUILDING | 0.04 |
| | | 14408 | Wall Dections | 10312 | Foot Framing Plans - Area C | 1P430 | Plumbing Piser - Storm - Building 1 - Overall | 1E305 | Pouer Plan - Area F | ARCHITE | CTURAL |
| ENERAL ARCHITECTURAL | | 14409 | Wall Dections | 10313 | Poof Framing Plan - Area D1 | 1P431 | Plumbing Piser - Storm - Building 1 - Enlarged | 1E311 | Pouer Plan - Mezzanine - Area C & E | 44201 | Floor Plan - Overall Plan - Fuel Isla |
| 000 Areas Plan - Overall Fac | r | 14410 | Wall Sections | 10314 | Pool Framing Plan - Area D2 | 1P432 | Plumbing Piser - Otom - Building 1 - Enlarged | 1E321 | Power Plan - Upper Floor - Area A & B | 44202 | Roof Island - Exterior Bevations |
| 001 Architectural Legends an | Clandards | 14411 | Wall Sections | 10815 | Poor Framing Plan - Area E | 1P433 | Plumbing Piser - Otom - Building 1 - Enlarged | 1E322 | Power Plan - Upper Level - Area D | 44301 | Fuel Island - Sections |
| 002 Wall Types and Typical 0 | tale: | 14412 | Wall Dections | 10401 | Structural Sections - Parking Ramps | 1P440 | Plumbing Riser - Natural Gas - Overall | 1E331 | Poof Power Plan | | |
| 004 Code Plan - Overall First | oor | 14413 | Wall Dections | 10500 | Otructural Details | 1P441 | Plumbing Piser - Natural Gas - Enlarged | 1E401 | Lighting Ochedule | BULDING | 0 05 |
| 005 Code Plan - Overall Deci | | 14414 | Wall Dections | 10501 | Otructural Details | 1P442 | Plumbing Piser - Natural Gas - Enlarged | 1E403 | Electrical Notes and Details | ARCHITE | |
| 000 Code Plans and Ochedul | | 14415 | Wall Dections | 10502 | Otructural Detail | 1P445 | Plumbing Piser - Natural Gas - Enlarged | 1E404 | Electrical Details | SA201 | Floor Plan - Overall Plan - Cold St |
| 007 Egress Plans | | 14416 | Wall Dections | | | 1P444 | Plumbing Riser - Natural Gas - Enlarged | 1E501 | Electrical Riser | 5A202 | Roof & Mezzanine Plan |
| 008 Egress Plans | | 18417 | Wall Dections | FIRE PROT | | 1P445 | Plumbing Piser - Natural Gas - Building 2 | 16601 | Panel Ochedules | SA203 | Exterior Elevations |
| 000 Egress Plans and Othed | 15 | 1A418 | Wall Dections | 1FA101 | Fire Alarm Plan | PS00 | Plumbing Ochedules | 1E602 | Panel Ochedules | 5A204 | Enlarged Ctairs - Plans and Details |
| | | 14419 | Wall Dections | 1FA102 | Fire Alarm Mezzanine | P000 | Plumbing Details | 1E603 | Panel Ochedules | SA301 | Building Dections |
| RCHITECTURAL SITE | | 1A500 | Architectural Details | 1FA108 | Fire Alarm 2nd Floor & Mezzanine | P602 | Plumbing Details - Firestopping | | | 54302 | Dections and Enlarged Plans |
| A100 Architectural Dite Plan - I | sting Conditions | 14501 | Architectural Details | 1FA104 | Roof Fire Protection Plan | | | TECHNOL | | SA401 | Wall Dections |
| A101 Architectural Dite Plan | | 14502 | Architectural Details | 1FA201 | Fire Alarm Notes and Details | MECHANI | | 107101 | Technology Plan - Overall Dite | 5A402 | Wall Section |
| A102 Landzcape Plan | | 1A503 | Architectural Details | 1FP101 | Fire Protection Plan | 1M100 | Main Building Overall Plan | 1П201 | Technology Plan - Overall Plan | | |
| A 108 Landscape Enlarged Pla | | 14601 | Door and Harduare Schedules - First Floor | 1FP102 | Fire Protection 2nd Floor & Mezzanine | 1M101 | First Floor Office Mechanical Plan | 1/1202 | Technology Plan - Area A/B | STRUCTI | |
| A104 Oite Details and Otandan | | 14602 | Door and Hardu are Ochedules - Decond Floor | | | 1M102 | Ohops Mechanical Plan | 1/1203 | Technology Plan - Area O'E | 50201 | Foundation Plan |
| | | 14603 | Door Panels, Frames, and Details | PLUMBING | | 111103 | Vehicle Storage Mechanical Plan | 1/1204 | Technology Plan - Decond Floor - Overall Plan | 50301 | Framing Plans |
| RCHITECTURAL | | 14700 | Interior Elevations | 1P110 | Waste/Vent Plan - Overall | 1M104 | Pepair Bay Mechanical Plan | 117205 | Technology Plan - Decond Floor - Area A/B | 50302 | Bin Storage - Roof Framing and D |
| A200 Floor Plan - Overall First A201 Floor Plan - Area A | oor / VP-1 | 14701 | Interior Elevations Interior Elevations | 1P111 1P112 | Waste/Vent Plans - Area A Office Waste/Vent Plans - Area B Office | 1M105 1M106 | Poof Mechanical Plan Mezzanine Mechanical Plan | 1/7500 | Technology Standards and Details | | DIFICTION |
| 4201 Pioor Plan - Area A 4202 Pioor Plan - Area B | | 14702 | Interior Elevations | 19112 | Waste/Vent Plans - Area & Office Waste/Vent Plans - Area C Shops | 1M110 | Main Building Decord Floor Plan | BUE DING | | SFA101 | Fire Atam Plan - Building S |
| A202 Ploor Plan - Area C | | 14704 | Interior Elevations | 19114 | Waste/Vent Plans - Area C Unique Waste/Vent Plans - Area D Vehicle Parking | 14111 | Second Floor Office Mechanical Plan | ARCHITE | | SEA 101 | Fire Alaim Plan - Building 5 |
| A204 Floor Plan - Area C A204 Floor Plan - Area D1 | | 14704 | Interior Elevations | 1P114 | WasterVent Plans - Area D Venicle Paning WasterVent Plans - Area E.F. Repair/Wash | 1M112 | Vehicle Storage Second Floor Mechanical Plan | 2A201 | Floor Plan - Overall Plan | PLUMBIN | |
| 4204 Ploor Plan - Area D1 4205 Ploor Plan - Area D2 | | 14705 | Interior Elevations | 19115 | WasterVent Plan - Overall Record Roor | 1M112 | Venice storage second Floor Mechanical Plan First Floor Office Zone Man | 24201 | Roof Plan | CP100 | Plumbing Plans - Ruikling S |
| 4206 Ploor Plan - Area E | | 14707 | Interior Elevations | 19121 | Waster/ent Plans - Area AlB Office Second Floor | 11/122 | Decond Floor Office Zone Map | 24203 | Exterior Elevations - Building 00:03 | SP 100 | Plumbing Pizer - Storm - Building S |
| 4200 Floor Plan - Area E | | 14708 | Caseund Details | 19122 | | | | | | 5F-43U | Filmong Picer - Com - Building : |
| 4207 Floor Plans - Area F 4208 Floor Plans - Enlarged R | and to the State State | 14700 | Caseson Details | 19122 | Waste/Vent Plans - Area C Shops Mezzanine Waste/Vent Plans - Area D Vehicle Parking Second Floor | 1M502 1M501 | Hydronic Risers First Floor Office Hydronic Piping | 24301 | Building Sections Building Sections - Toilet Enlarged Plans & Elevations | MECHAN | |
| 4200 Floor Plans - Enlarged P | | 14710 | Case unit Details | 19124 | Waste/Vent Plans - Area & Repair & Wash Bay Mezzanines | 1M502 | Vehicle Ramp Hydronic Snou Met | 24401 | Wall fleetings | SM101 | Storage Buildings Mechanical Plan |
| 4210 Floor Plan - Mezzanine | G - PEST PROOF | 14800 | Finish Plan - Typical Details and Ochedules | 19125 | Waste/Vent Plans - Area F Wash Bay Mezzanine | 1M502 | Wash Bay Hydronic Snow Met | 24402 | Wall Decions | SMINI | anage busings mechanical Pain |
| #211 Floor Plan - Overall Seco | Elect Office (UR.) | 14801 | Finish Plans - Overall First Floor / VP-1 | 1P210 | Water Gas Plan - Overall | M201 | Mechanical Ochedules and Notes | 2.402 | THE SECOND | ELECTR | CH |
| 4212 Floor Plan - Decond Floo | | 14802 | Finish Plans - First Floor - Area A.B. | 19211 | Water Bas Plan - Area A Office | M202 | Mechanical Ochedules and Notes | ARCHITEC | THEAT | SE201 | Lighting Plan - Building 5 |
| #212 Floor Plan - Decomo Floo #213 Floor Plan - Decomo Floo | | 14903 | Finish Plans - Overall Second Floor / VP-2 | 19212 | Water Gas Plan - Area B Office | M202 | Mechanical Dichedules and Notes Mechanical Dichedules and Notes | 24403 | Wall Decion | SE301 | Power Plan - Building 5 |
| 4214 Floor Plan - Decond Floor | | 14904 | Finish Plans - Decord Floor - Area A/R | 19212 | Water Bas Plan - Area C Shops | M204 | Mechanical Ventilation Echedules | 24400 | 11.00 | SE302 | Pouer Plan - Building 5 Roof Plan |
| #214 Floor Plan - Decond Floo #215 Floor Plan - Decond Floo | | 14804 | Floor Plan - Mezzanine - Finish Plans | 1P214 | Water Gas Plan - Area D Vehicle Parking | M204 | Mechanical Ochedules and Details | STRUCTU | RAL | Grand tot | |
| 4216 Floor Plans - Enlarged P | | 14806 | Ceiling Plans - Overall First Floor / VP-1 | 1P215 | Water Gas Plans - Area E.F. Repair Wash | M301 | Medianical Decions | 20201 | Foundation Plan | | |
| 4217 Roof Plan - Overall | | 14807 | Ceiling Plans - First Floor - Area A/B | 1P220 | Water Gas Plan - Overall Decord Floor | M401 | BAD Control Riser and Notes | 20201 | Framing Plans | | |
| A218 Poof Plans - Area A/B | | 14808 | Ceiling Plans - First Floor - Area C | 1P221 | Water Gas Plans - Area A/B Office Second Floor | M001 | VENDOR EQUIPMENT SCHEDULES | 2000/1 | | | |
| A220 Exterior Elevations - Are | BC. | 14809 | Ceiling Plans - First Floor - Area D | 1P222 | Water Gas Plans - Area C Shoos Mezzanine | M602 | VENDOR EQUIPMENT SCHEDULES | FIRE PRO | TECTION | | |
| A221 Exterior Beyations - Are | | 14810 | Celling Plans - First Floor - Area E-F | 1P223 | Water Gas Plans - Area O Unique Mezzanne Water Gas Plans - Area D Vehicle Parking Second Floor | 10002 | TEMPORE EGGP MENT GOREDUCEG | 2FA 101 | Fire Atam Plan - Building 2 | | |
| 4222 Exterior Elevations - Ares | | 14811 | Ceiling Plans - Overall Second Floor / VP-2 | 1P224 | Water Gas Plans - Area E/F Repair & Wash Bay | ELECTRIC | 24 | 21.0101 | | | |
| 4200 Poor Plans - Enlarged D | | 14812 | Ceiling Plans - Decond Floor - Area A/B | Il and | Mezzanies | 1E101 | Electrical Dite Plan | PLUMBIN | 1 | | |
| 4201 Floor Plans - Enlarged D | | 14813 | Ceiling Plans - Second Floor - Area D | 1P\$00 | Plumbing Plan - Roof | 1E102 | Electrical Dite Photometric | 2P100 | Waste Vent Plans - Building 2 | | |
| 1222 Floor Plant - Enlarged D | | 14814 | Ceiling Plans - Mezzanine | 1P410 | Plumbing Riser - Waste/Vent | 1F103 | Electrical Elevations | 29200 | Water Gas Plans - Building 2 | | |
| 4233 Floor Plans - Enlarged S | | 14815 | Details - Interior Finish and Ceilings | 1P411 | Plumbing Risers - Waste/Vent - Area A/B Office | 1E201 | Lighting Plan - Area A & B | 2P300 | Roof Plumbing Plan - Building 2 | | |
| | | | | | | | | | | | |

Public Works Facility City of West Allis

1906 South 53rd Street West Allis WI, 53219

BID SET DRAWINGS FEBRUARY 13, 2024

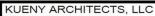






Exhibit #3

TABLE OF CONTENTS

Title Page 1 page **Table of Contents** 6 pages **BIDDING AND CONTRACT DOCUMENTS** 00 21 13 INSTRUCTIONS TO BIDDERS 10 pages 00 31 21 INFORMATION AVAILABLE TO BIDDERS (add infiltration report) 1 page 00 40 00 CITY OF WEST ALLIS CONTRACT.......25 pages 00 40 0A CITY OF WEST ALLIS PROPOSAL...... 6 pages 00 52 00 AIA A101 STANDARD AGREEMENT BETWEEN OWNER 00 73 00 SUPPLEMENTARY GENERAL CONDITIONS...... 8 pages **SPECIFICATIONS** 01 20 00 PAYMENT AND CHANGE ORDER PROCEDURES 6 pages 01 30 00 PROJECT COORDINATION 6 pages 01 31 19 PROJECT MEETINGS 4 pages

February 13, 2024 Project # 2024-1906B TC-1
TABLE OF CONTENTS

| 01 45 00 | QUALITY REQUIREMENTS | 4 | pages |
|----------|--|------|-------|
| 01 50 00 | TEMPORARY FACILITIES AND CONTROLS | . 13 | pages |
| 01 60 00 | MATERIAL AND EQUIPMENT | 7 | pages |
| 01 70 00 | CONTRACT CLOSEOUT | 9 | pages |
| 01 73 29 | CUTTING AND PATCHING | 3 | pages |
| 01 77 16 | FINAL CLEANING | 4 | pages |
| DIVISION | 2 EXISTING CONDITIONS | | |
| 02 41 16 | BUILDING DEMOLITION | 4 | pages |
| DIVISION | 3 CONCRETE | | |
| 03 30 00 | CAST-IN-PLACE CONCRETE | 3 | pages |
| 03 35 43 | POLISHED CONCRETE SURFACES | 5 | pages |
| 03 41 00 | STRUCTURAL PRECAST CONCRETE (Plant Cast) | . 10 | pages |
| DIVISION | 4 MASONRY | | |
| 04 20 00 | UNIT MASONRY | . 10 | pages |
| DIVISION | 5 METALS | | |
| 05 12 00 | STRUCTURAL STEEL FRAMING | 6 | pages |
| 05 21 00 | STEEL JOISTS AND TRUSS GIRDERS | 5 | pages |
| 05 30 00 | METAL DECKING | 6 | pages |
| 05 41 00 | STRUCTURAL METAL STUD FRAMING | 7 | pages |
| 05 50 00 | METAL FABRICATIONS | 5 | pages |
| DIVISION | 6 WOOD, PLASTICS AND COMPOSITES | | |
| 06 10 00 | ROUGH CARPENTRY | 5 | pages |
| 06 40 00 | ARCHITECTURAL WOODWORK | 6 | pages |
| 06 61 00 | SOLID POLYMER FABRICATIONS | 4 | pages |
| DIVISION | 7 THERMAL AND MOISTURE PROTECTION | | |

| 07 11 00 DAMPPROOFING | 4 pages |
|--|----------|
| 07 13 00 SELF-ADHERING SHEET WATERPROOFING LOW TEMP | 5 pages |
| 07 21 00 INSULATION | 6 pages |
| 07 27 26 FLUID-APPLIED MEMBRANE AIR BARRIERS, VAPOR PERMEABLE | 13 pages |
| 07 53 00 SINGLE PLY ELASTOMERIC SHEET ROOFING | 8 pages |
| 07 60 00 FLASHING AND SHEET METAL | 5 pages |
| 07 84 00 FIRESTOPPING | 10 pages |
| 07 92 13 SEALANTS AND CAULKING | 5 pages |
| DIVISION 8 OPENINGS | |
| 08 11 00 METAL DOORS AND FRAMES | 6 pages |
| 08 14 29 WOOD DOORS (Pre-Finished) | 4 pages |
| 08 30 00 SPECIAL DOORS | 6 pages |
| 08 34 14 BULLET RESISTANT BAFFLE SYSTEMS | 4 pages |
| 08 41 13 ALUMINUM ENTRANCES AND STOREFRONTS | 6 pages |
| 08 44 13 GLAZED ALUMINUM CURTAIN WALLS | 16 pages |
| 08 71 00 HARDWARE | 5 pages |
| 08 80 00 GLAZING | 6 pages |
| DIVISION 9 FINISHES | |
| 09 29 00 GYPSUM BOARD | 7 pages |
| 09 31 00 CERAMIC TILE | 5 pages |
| 09 51 00 ACOUSTICAL CEILINGS | 5 pages |
| 09 54 26 WOOD CEILING PANELS | 3 pages |
| 09 65 00 RESILIENT FLOORING | 6 pages |
| 09 68 00 CARPET | 6 pages |
| 09 74 13 WOOD WALL PANELING | 3 pages |

| 09 91 00 PAINTING |
|--|
| DIVISION 10 SPECIALTIES |
| 10 11 00 VISUAL DISPLAY UNITS |
| 10 14 19 SIGNAGE |
| 10 28 13 TOILET ACCESSORIES |
| 10 51 13 METAL LOCKERS 5 pages |
| 10 75 00 FLAGPOLES 4 pages |
| 10 80 00 MISCELLANEOUS SPECIALTIES |
| DIVISION 11 EQUIPMENT |
| 11 11 19 LUBRICATION DISPENSING SYSTEMS AND WASTE OIL SYSTEMS |
| 11 11 26 TOUCHLESS WASH SYSTEM |
| 11 11 28 FUEL DISPENSING SYSTEMS AND ISLAND CANOPY 5 pages |
| 11 11 30 KEY ACTIVATED MANAGEMENT SYSTEM 8 pages |
| |
| DIVISION 12 FURNISHINGS |
| DIVISION 12 FURNISHINGS 12 21 00 WINDOW COVERINGS |
| |
| 12 21 00 WINDOW COVERINGS |
| 12 21 00 WINDOW COVERINGS |
| 12 21 00 WINDOW COVERINGS 2 pages DIVISION 14 CONVEYING SYSTEMS 12 pages 14 20 00 ELEVATORS 12 pages 14 40 00 LIFTS 9 pages |
| 12 21 00 WINDOW COVERINGS 2 pages DIVISION 14 CONVEYING SYSTEMS 14 20 00 ELEVATORS 12 pages 14 40 00 LIFTS 9 pages DIVISION 21 FIRE SUPPRESSION 5 pages |
| 12 21 00 WINDOW COVERINGS 2 pages DIVISION 14 CONVEYING SYSTEMS 12 pages 14 20 00 ELEVATORS 12 pages 14 40 00 LIFTS 9 pages DIVISION 21 FIRE SUPPRESSION 5 pages 21 05 29 HANGERS AND SUPPORTS 5 pages 21 11 00: FIRE SUPPRESSION SPRINKLERS 9 pages DIVISION 22 PLUMBING 22 05 00 COMMON WORK RESULTS FOR PLUMBING 7 pages 22 05 13 COMMON MOTOR REQUIREMENTS FOR |
| 12 21 00 WINDOW COVERINGS |
| 12 21 00 WINDOW COVERINGS |

| 22 11 00 FACILITY WATER DISTRIBUTION 22 11 19 PLUMBING SPECIALTIES 22 13 00 FACILITY SANITARY SEWERAGE 22 14 26.19 TRENCH DRAINS 22 14 00 FACILITY STORM DRAINAGE 22 34 00 FUEL-FIRED DOMESTIC WATER HEATERS 22 44 00 PLUMBING FIXTURES 22 45 00 EMERGENCY PLUMBING FIXTURES 22 47 00 DRINKING FOUNTAINS AND WATER COOLERS | 8 5 8 | pages pages pages pages |
|--|---|---|
| DIVISION 23 HEATING, VENTILATING AND AIR CONDITIONING | | |
| 23 05 00 COMMON WORK RESULTS FOR HVAC | 9 9 | pages pages pages |
| 23 09 23 DIRECT-DIGITAL CONTROL SYSTEM FOR HVAC | . 13 8 9 6 7 4 5 4 | pages pages pages pages pages pages pages pages pages pages pages |
| 23 89 00 METAL DUCTS | 2 | pages |
| DIVISION 26 ELECTRICAL | | |
| 26 05 00 ELECTRICAL PROVISIONS 26 05 03 EQUIPMENT WIRING CONNECTIONS 26 05 18 PENETRATION FIRESTOPPING FOR ELECTRICAL 26 05 19 LOW VOLTAGE ELECTRCIAL POWER CONDUCTORS AND CABLES 26 05 26 GROUNDING AND BONDING FOR ELECTRICAL SYSTEMS 26 05 29 HANGERS AND SUPPORTS FOR ELECTRICAL SYSTEMS 26 05 33 RACEWAY AND BOXES FOR ELECTRICAL SYSTEMS 26 05 53 IDENTIFICATIONS FOR ELECTRICAL SYSTEMS 26 05 73 ARC FLASH HAZARD ANALYSIS/SHORT-CIRCUIT/COORDINATION STUDY | 5 4 8 4 | pages pages pages pages pages |
| | | |

| 26 09 23 LIGHTING CONTROL DEVICES 3 pages 26 14 10 WIRING DEVICES 4 pages 26 22 00 LOW VOLTAGE TRANSFORMERS 3 pages 26 24 13 SWITCHBOARDS 6 pages 26 24 16 PANELBOARDS 3 pages 26 28 19 ENCLOSED SWITCHES 2 pages 26 28 26 TRANSFER SWITCHES 5 pages 26 29 13 ENCLOSED CONTROLLERS 2 pages 26 29 23 VARIABLE FREQUENCY DRIVES 10 pages 26 32 13 PACKAGED ENGINE GENERATORS 12 pages 26 43 14 SURGE PROTECTIVE DEVICES FOR SERVICE ENTRANCE 4 pages 26 51 00 INTERIOR LIGHTING 5 pages 26 56 00 EXTERIOR LIGHTING 2 pages 26 56 13 LIGHTING POLES 10 pages |
|---|
| DIVISION 27 COMMUNICATIONS |
| 27 00 00 COMMUNICATIONS |
| DIVISION 28 ELECTRONIC SAFETY AND SECURITY |
| 28 31 00 FIRE DETECTION AND ALARM |
| DIVISION 31 EARTHWORK |
| 31 20 00 EARTHWORK |
| DIVISION 32 EXTERIOR IMPROVEMENTS |
| 32 12 00 ASPHALTIC CONCRETE PAVING |
| 32 31 13 CHAIN-LINK FENCES AND GATES |
| 32 31 19 ORNAMENTAL FENCES AND GATES |
| 32 90 00 LANDSCAPING |
| DIVISION 33 UTILITIES 33 50 00 MINI-BULK STORAGE AND DISPENSING SYSTEM |
| DIVISION 48 ELECTRICAL POWER GENERATION (SEE VOLUME 02) |
| 41 22 00 HOISTS AND CRANES |

$lap{AIA}^{\circ}$ Document A101 $^{\circ}$ – 2017 Exhibit A

Insurance and Bonds

This Insurance and Bonds Exhibit is part of the Agreement, between the Owner and the Contractor, dated the day of in the year (In words, indicate day, month and year.)

for the following **PROJECT**:

(Name and location or address)

City of West Allis New DPW Facility 1906 S. 53rd Street West Allis, WI 53219

THE OWNER:

(Name, legal status and address)

City of West Allis 7525 W. Greenfield Avenue West Allis WI 53214

THE CONTRACTOR:

(Name, legal status and address)

TBD

TABLE OF ARTICLES

A.1 GENERAL

A.2 OWNER'S INSURANCE

A.3 CONTRACTOR'S INSURANCE AND BONDS

SPECIAL TERMS AND CONDITIONS A.4

ARTICLE A.1 GENERAL

The Owner and Contractor shall purchase and maintain insurance, and provide bonds, as set forth in this Exhibit. As used in this Exhibit, the term General Conditions refers to AIA Document A201TM_2017, General Conditions of the Contract for Construction.

OWNER'S INSURANCE ARTICLE A.2

§ A.2.1 General

Prior to commencement of the Work, the Owner shall secure the insurance, and provide evidence of the coverage, required under this Article A.2 and, upon the Contractor's request, provide a copy of the property insurance policy or policies required by Section A.2.3. The copy of the policy or policies provided shall contain all applicable conditions, definitions, exclusions, and endorsements.

§ A.2.2 Liability Insurance

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

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An Additions and Deletions Report that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

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

This document is intended to be used in conjunction with AIA Document A201®-2017, General Conditions of the Contract for Construction. Article 11 of A201®-2017 contains additional insurance provisions.

Init.

§ A.2.3.1 Unless this obligation is placed on the Contractor pursuant to Section A.3.3.2.1, the Owner shall purchase and maintain, from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located, property insurance written on a builder's risk "all-risks" completed value or equivalent policy form and sufficient to cover the total value of the entire Project on a replacement cost basis. The Owner's property insurance coverage shall be no less than the amount of the initial Contract Sum, plus the value of subsequent Modifications and labor performed and materials or equipment supplied by others. The property insurance shall be maintained until Substantial Completion and thereafter as provided in Section A.2.3.1.3, unless otherwise provided in the Contract Documents or otherwise agreed in writing by the parties to this Agreement. This insurance shall include the interests of the Owner, Contractor, Subcontractors, and Sub-subcontractors in the Project as insureds. This insurance shall include the interests of mortgagees as loss payees.

§ A.2.3.1.1 Causes of Loss. The insurance required by this Section A.2.3.1 shall provide coverage for direct physical loss or damage, and shall not exclude the risks of fire, explosion, theft, vandalism, malicious mischief, collapse, earthquake, flood, or windstorm. The insurance shall also provide coverage for ensuing loss or resulting damage from error, omission, or deficiency in construction methods, design, specifications, workmanship, or materials. Sub-limits, if any, are as follows:

(Indicate below the cause of loss and any applicable sub-limit.)

| Causes of Loss | Sub-Limit |
|----------------|-----------|
| N/A | N/A |

§ A.2.3.1.2 Specific Required Coverages. The insurance required by this Section A.2.3.1 shall provide coverage for loss or damage to falsework and other temporary structures, and to building systems from testing and startup. The insurance shall also cover debris removal, including demolition occasioned by enforcement of any applicable legal requirements, and reasonable compensation for the Architect's and Contractor's services and expenses required as a result of such insured loss, including claim preparation expenses. Sub-limits, if any, are as follows: (Indicate below type of coverage and any applicable sub-limit for specific required coverages.)

| Coverage | Sub-Limit |
|----------|-----------|
| N/A | N/A |

- § A.2.3.1.3 Unless the parties agree otherwise, upon Substantial Completion, the Owner shall continue the insurance required by Section A.2.3.1 or, if necessary, replace the insurance policy required under Section A.2.3.1 with property insurance written for the total value of the Project that shall remain in effect until expiration of the period for correction of the Work set forth in Section 12.2.2 of the General Conditions.
- § A.2.3.1.4 Deductibles and Self-Insured Retentions. If the insurance required by this Section A.2.3 is subject to deductibles or self-insured retentions, the Owner shall be responsible for all loss not covered because of such deductibles or retentions.
- § A.2.3.2 Occupancy or Use Prior to Substantial Completion. The Owner's occupancy or use of any completed or partially completed portion of the Work prior to Substantial Completion shall not commence until the insurance company or companies providing the insurance under Section A.2.3.1 have consented in writing to the continuance of coverage. The Owner and the Contractor shall take no action with respect to partial occupancy or use that would cause cancellation, lapse, or reduction of insurance, unless they agree otherwise in writing.

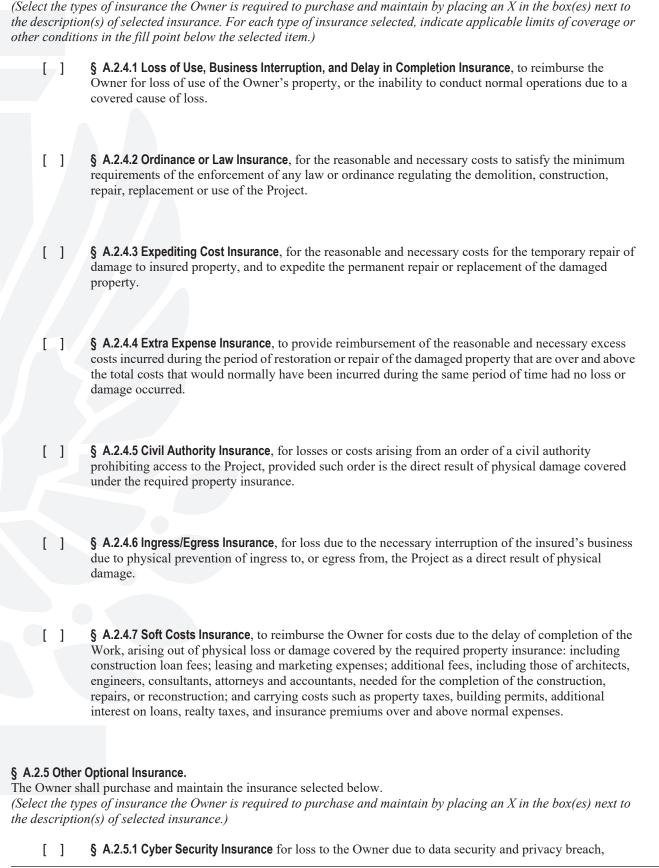
§ A.2.3.3 Insurance for Existing Structures

If the Work involves remodeling an existing structure or constructing an addition to an existing structure, the Owner shall purchase and maintain, until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, "all-risks" property insurance, on a replacement cost basis, protecting the existing structure against direct physical loss or damage from the causes of loss identified in Section A.2.3.1, notwithstanding the undertaking of the Work. The Owner shall be responsible for all co-insurance penalties.

§ A.2.4 Optional Extended Property Insurance.

The Owner shall purchase and maintain the insurance selected and described below.

Init.



Init.

including costs of investigating a potential or actual breach of confidential or private information. (Indicate applicable limits of coverage or other conditions in the fill point below.)

§ A.2.5.2 Other Insurance

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

Coverage Limits N/A N/A

ARTICLE A.3 CONTRACTOR'S INSURANCE AND BONDS

§ A.3.1 General

- § A.3.1.1 Certificates of Insurance. The Contractor shall provide certificates of insurance acceptable to the Owner evidencing compliance with the requirements in this Article A.3 at the following times: (1) prior to commencement of the Work; (2) upon renewal or replacement of each required policy of insurance; and (3) upon the Owner's written request. An additional certificate evidencing continuation of commercial liability coverage, including coverage for completed operations, shall be submitted with the final Application for Payment and thereafter upon renewal or replacement of such coverage until the expiration of the periods required by Section A.3.2.1 and Section A.3.3.1. The certificates will show the Owner, the Architect, and the Architect's consultants as an additional insured on the Contractor's Commercial General Liability and excess or umbrella liability policy or policies.
- § A.3.1.2 Deductibles and Self-Insured Retentions. The Contractor shall disclose to the Owner any deductible or selfinsured retentions applicable to any insurance required to be provided by the Contractor.
- § A.3.1.3 Additional Insured Obligations. To the fullest extent permitted by law, the Contractor shall cause the commercial general liability coverage 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 for which loss occurs during completed operations. The additional insured coverage shall be primary and non-contributory to any of the Owner's general liability insurance policies and shall apply to both ongoing and completed operations. To the extent commercially available, the additional insured coverage shall be no less than that provided by Insurance Services Office, Inc. (ISO) forms CG 20 10 07 04, CG 20 37 07 04, and, with respect to the Architect and the Architect's consultants, CG 20 32 07 04. The additional insurance shall be evidenced in the form of a Policy Endorsement acceptable to the Village.

§ A.3.2 Contractor's Required Insurance Coverage

§ A.3.2.1 The Contractor shall purchase and maintain the following types and limits of insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Contractor shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, unless a different duration is stated below: (If the Contractor is required to maintain insurance for a duration other than the expiration of the period for correction of Work, state the duration.)

N/A

§ A.3.2.2 Commercial General Liability

- § A.3.2.2.1 Commercial General Liability insurance for the Project written on an occurrence form with policy limits of not less than One Million Dollars (\$ 1,000,000) each occurrence, Two Million Dollars (\$ 2,000,000) general aggregate, and One Million Dollars (\$1,000,000) aggregate for products-completed operations hazard, providing coverage for claims including
 - .1 damages because of bodily injury, sickness or disease, including occupational sickness or disease, and death of any person;
 - .2 personal injury and advertising injury;
 - .3 damages because of physical damage to or destruction of tangible property, including the loss of use of such property;

- .4 bodily injury or property damage arising out of completed operations; and
- .5 the Contractor's indemnity obligations under Section 3.18 of the General Conditions.
- § A.3.2.2.2 The Contractor's Commercial General Liability policy under this Section A.3.2.2 shall not contain an exclusion or restriction of coverage for the following:
 - Claims by one insured against another insured, if the exclusion or restriction is based solely on the fact .1 that the claimant is an insured, and there would otherwise be coverage for the claim.
 - .2 Claims for property damage to the Contractor's Work arising out of the products-completed operations hazard where the damaged Work or the Work out of which the damage arises was performed by a Subcontractor.
 - .3 Claims for bodily injury other than to employees of the insured.
 - Claims for indemnity under Section 3.18 of the General Conditions arising out of injury to employees of the insured.
 - .5 Claims or loss excluded under a prior work endorsement or other similar exclusionary language.
 - .6 Claims or loss due to physical damage under a prior injury endorsement or similar exclusionary
 - .7 Claims related to residential, multi-family, or other habitational projects, if the Work is to be performed on such a project.
 - 8. Claims related to roofing, if the Work involves roofing.
 - .9 Claims related to exterior insulation finish systems (EIFS), synthetic stucco or similar exterior coatings or surfaces, if the Work involves such coatings or surfaces.
 - Claims related to earth subsidence or movement, where the Work involves such hazards. .10
 - Claims related to explosion, collapse and underground hazards, where the Work involves such hazards.
- § A.3.2.3 Automobile Liability covering vehicles owned, hired, and non-owned vehicles used, by the Contractor, including the loading and unloading thereof, with policy limits of not less than One Million Dollars (\$1,000,000) per occurrence, for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles along with any other statutorily required automobile coverage.
- § A.3.2.4 The Contractor may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella insurance policies result in the same or greater coverage as the coverages required under Section A.3.2.2 and A.3.2.3, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers.
- § A.3.2.5 Workers' Compensation at statutory limits.
- § A.3.2.6 Employers' Liability with policy limits not less than One Million Dollars (\$1,000,000) each accident, One Million Dollars (\$ 1,000,000) each employee, and One Million Dollars (\$ 1,000,000) policy limit.
- § A.3.2.7 Jones Act, and the Longshore & Harbor Workers' Compensation Act, as required, if the Work involves hazards arising from work on or near navigable waterways, including vessels and docks
- § A.3.2.8 If the Contractor is required to furnish professional services as part of the Work, the Contractor shall procure Professional Liability insurance covering performance of the professional services, with policy limits of not less than Two Million Dollars (\$ 2,000,000) per claim and Two Million Dollars (\$ 2,000,000) in the aggregate.
- § A.3.2.9 If the Work involves the transport, dissemination, use, or release of pollutants, the Contractor shall procure Pollution Liability insurance, with policy limits of not less than Two Million Dollars (\$ 2,000,000) per claim and Two Million Dollars (\$ 2,000,000) in the aggregate.
- § A.3.2.10 Coverage under Sections A.3.2.8 and A.3.2.9 may be procured through a Combined Professional Liability and Pollution Liability insurance policy, with combined policy limits of not less than Two Million Dollars (\$ 2,000,000) per claim and Two Million Dollars (\$2,000,000) in the aggregate.

- § A.3.2.11 Insurance for maritime liability risks associated with the operation of a vessel, if the Work requires such activities, with policy limits of not less than N/A (\$ N/A) per claim and N/A (\$ N/A) in the aggregate.
- § A.3.2.12 Insurance for the use or operation of manned or unmanned aircraft, if the Work requires such activities, with policy limits of not less than N/A (\$ N/A) per claim and N/A (\$ N/A) in the aggregate.

§ A.3.3 Contractor's Other Insurance Coverage

§ A.3.3.1 Insurance selected and described in this Section A.3.3 shall be purchased from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Contractor shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, unless a different duration is stated below:

(If the Contractor is required to maintain any of the types of insurance selected below for a duration other than the expiration of the period for correction of Work, state the duration.)

§ A.3.3.2 The Contractor shall purchase and maintain the following types and limits of insurance in accordance with Section A.3.3.1.

(Select the types of insurance the Contractor is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance. Where policy limits are provided, include the policy limit in the appropriate fill point.)

[X] § A.3.3.2.1 Property insurance of the same type and scope satisfying the requirements identified in

Section A.2.3, which, if selected in this section A.3.3.2.1, relieves the Owner of the responsibility to purchase and maintain such insurance except insurance required by Section A.2.3.1.3 and Section A.2.3.3. The Contractor shall comply with all obligations of the Owner under Section A.2.3 except to the extent provided below. The Contractor shall disclose to the Owner the amount of any deductible, and the Owner shall be responsible for losses within the deductible. Upon request, the Contractor shall provide the Owner with a copy of the property insurance policy or policies required. The Owner shall adjust and settle the loss with the insurer and be the trustee of the proceeds of the property insurance in accordance with Article 11 of the General Conditions unless otherwise set forth below: (Where the Contractor's obligation to provide property insurance differs from the Owner's obligations as described under Section A.2.3, indicate such differences in the space below. Additionally, if a party other than the Owner will be responsible for adjusting and settling a loss with the insurer and acting as the trustee of the proceeds of property insurance in accordance with Article 11 of the General Conditions, indicate the responsible party below.)

- 1 § A.3.3.2.2 Railroad Protective Liability Insurance, with policy limits of not less than (\$) per claim and (\$) in the aggregate, for Work within fifty (50) feet of railroad property.
- § A.3.3.2.3 Asbestos Abatement Liability Insurance, with policy limits of not less than (\$) per claim [] and (\$) in the aggregate, for liability arising from the encapsulation, removal, handling, storage, transportation, and disposal of asbestos-containing materials.
- [] § A.3.3.2.4 Insurance for physical damage to property while it is in storage and in transit to the construction site on an "all-risks" completed value form.
- § A.3.3.2.5 Property insurance on an "all-risks" completed value form, covering property owned by the

Contractor and used on the Project, including scaffolding and other equipment.

§ A.3.3.2.6 Other Insurance

[]

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

Coverage Limits

§ A.3.4 Performance Bond and Payment Bond

The Contractor shall provide surety bonds, from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located, as follows: (Specify type and penal sum of bonds.)

Type Penal Sum (\$0.00) Payment Bond 100% of the Contract Documents Performance Bond 100% of the Contract Documents

Payment and Performance Bonds shall be AIA Document A312TM, Payment Bond and Performance Bond, or contain provisions identical to AIA Document A312TM, current as of the date of this Agreement.

SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Insurance and Bonds Exhibit, if any, are as follows:

- § A.4.1 The obligations of the contractor under the provisions of this Article shall not extend to the liability of the Architect, his agents, or employees arising out of (1) the preparation or approval of maps, drawings, opinions, reports, surveys, change orders, designs, or specifications, or (2) the giving of or the failure to give directions or instructions by the Architect, his agents or employees to the extent that such giving or failure to give is the cause of the injury or damage.
- § A.4.2 The property insurance for the work as described in Paragraph A.2.3.1, which will be purchased by the Owner, requires a deductible of \$1,000, which deductible shall be paid by the Contractor.
- § A.4.3 All insurance coverages shall be provided by insurance companies having policy holder ratings no lower than "A" and financial rating not lower than "XII" In the Best's Insurance Guide" latest edition in effect as of the date of the Contract.
- § A.4.4 The Contractor is responsible for determining that Subcontractors are adequately insured against claims arising out of relating to the Work. The premium cost and charges for such insurance shall be paid by each Subcontractor.
- § A.4.5 The limits of liability as stated may be arrived by using a Split-Limit or a Combined Single Limit basis. However, the total limit of liability shall not be less than that stated in the requirements.

THIS PAGE INTENTIONALLY LEFT BLANK

General Conditions of the Contract for Construction

for the following PROJECT:

(Name and location or address)
City of West Allis New DPW Facility
1906 S. 53rd Street
West Allis, WI 53219

THE OWNER:

(Name, legal status and address)
City of West Allis
7525 W. Greenfield Avenue
West Allis, WI 53214

THE ARCHITECT:

(Name, legal status and address)

Kueny Architects, LLC 10505 Corporate Drive Suite 100 Pleasant Prairie, WI 53158

TABLE OF ARTICLES

- 1 GENERAL PROVISIONS
- 2 OWNER
- 3 CONTRACTOR
- 4 ARCHITECT
- 5 SUBCONTRACTORS
- 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS
- 7 CHANGES IN THE WORK
- 8 TIME
- 9 PAYMENTS AND COMPLETION
- 10 PROTECTION OF PERSONS AND PROPERTY
- 11 INSURANCE AND BONDS
- 12 UNCOVERING AND CORRECTION OF WORK
- 13 MISCELLANEOUS PROVISIONS
- 14 TERMINATION OR SUSPENSION OF THE CONTRACT
- 15 CLAIMS AND DISPUTES

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

For guidance in modifying this document to include supplementary conditions, see AIA Document A503™, Guide for Supplementary Conditions.

INDEX

(Topics and numbers in bold are Section headings.)

Acceptance of Nonconforming Work

9.6.6, 9.9.3, **12.3** Acceptance of Work

9.6.6, 9.8.2, 9.9.3, 9.10.1, 9.10.3, 12.3

Access to Work

3.16, 6.2.1, 12.1

Accident Prevention

10

Acts and Omissions

3.2, 3.3.2, 3.12.8, 3.18, 4.2.3, 8.3.1, 9.5.1, 10.2.5,

10.2.8, 13.3.2, 14.1, 15.1.2, 15.2

Addenda

1.1.1

Additional Costs, Claims for 3.7.4, 3.7.5, 10.3.2, 15.1.5

Additional Inspections and Testing

9.4.2, 9.8.3, 12.2.1, **13.4**

Additional Time, Claims for

3.2.4, 3.7.4, 3.7.5, 3.10.2, 8.3.2, **15.1.6**

Administration of the Contract

3.1.3, **4.2**, 9.4, 9.5

Advertisement or Invitation to Bid

1.1.1

Aesthetic Effect

4.2.13

Allowances

3.8

Applications for Payment

4.2.5, 7.3.9, 9.2, **9.3**, 9.4, 9.5.1, 9.5.4, 9.6.3, 9.7, 9.10 Approvals

Approvais

2.1.1, 2.3.1, 2.5, 3.1.3, 3.10.2, 3.12.8, 3.12.9, 3.12.10.1, 4.2.7, 9.3.2, 13.4.1

Arbitration

8.3.1, 15.3.2, 15.4

ARCHITECT

4

Architect, Definition of

4.1.

Architect, Extent of Authority

2.5, 3.12.7, 4.1.2, 4.2, 5.2, 6.3, 7.1.2, 7.3.4, 7.4, 9.2, 9.3.1, 9.4, 9.5, 9.6.3, 9.8, 9.10.1, 9.10.3, 12.1, 12.2.1,

13.4.1, 13.4.2, 14.2.2, 14.2.4, 15.1.4, 15.2.1

Architect, Limitations of Authority and Responsibility 2.1.1, 3.12.4, 3.12.8, 3.12.10, 4.1.2, 4.2.1, 4.2.2, 4.2.3,

4.2.6, 4.2.7, 4.2.10, 4.2.12, 4.2.13, 5.2.1, 7.4, 9.4.2,

9.5.4, 9.6.4, 15.1.4, 15.2

Architect's Additional Services and Expenses

2.5, 12.2.1, 13.4.2, 13.4.3, 14.2.4

Architect's Administration of the Contract

3.1.3, 3.7.4, 15.2, 9.4.1, 9.5 Architect's Approvals

2.5, 3.1.3, 3.5, 3.10.2, 4.2.7

Architect's Authority to Reject Work

3.5, 4.2.6, 12.1.2, 12.2.1

Architect's Copyright

1.1.7, 1.5

Architect's Decisions

3.7.4, 4.2.6, 4.2.7, 4.2.11, 4.2.12, 4.2.13, 4.2.14, 6.3,

7.3.4, 7.3.9, 8.1.3, 8.3.1, 9.2, 9.4.1, 9.5, 9.8.4, 9.9.1,

13.4.2, 15.2

Architect's Inspections

3.7.4, 4.2.2, 4.2.9, 9.4.2, 9.8.3, 9.9.2, 9.10.1, 13.4

Architect's Instructions

3.2.4, 3.3.1, 4.2.6, 4.2.7, 13.4.2

Architect's Interpretations

4.2.11, 4.2.12

Architect's Project Representative

4.2.10

Architect's Relationship with Contractor

1.1.2, 1.5, 2.3.3, 3.1.3, 3.2.2, 3.2.3, 3.2.4, 3.3.1, 3.4.2, 3.5, 3.7.4, 3.7.5, 3.9.2, 3.9.3, 3.10, 3.11, 3.12, 3.16,

3.18, 4.1.2, 4.2, 5.2, 6.2.2, 7, 8.3.1, 9.2, 9.3, 9.4, 9.5,

9.7, 9.8, 9.9, 10.2.6, 10.3, 11.3, 12, 13.3.2, 13.4, 15.2

Architect's Relationship with Subcontractors 1.1.2, 4.2.3, 4.2.4, 4.2.6, 9.6.3, 9.6.4, 11.3

Architect's Representations

9.4.2, 9.5.1, 9.10.1

Architect's Site Visits

3.7.4, 4.2.2, 4.2.9, 9.4.2, 9.5.1, 9.9.2, 9.10.1, 13.4

Asbestos

10.3.1

Attorneys' Fees

3.18.1, 9.6.8, 9.10.2, 10.3.3

Award of Separate Contracts

6.1.1, 6.1.2

Award of Subcontracts and Other Contracts for Portions of the Work

5.2

Basic Definitions

1.1

Bidding Requirements

1.1.1

Binding Dispute Resolution

8.3.1, 9.7, 11.5, 13.1, 15.1.2, 15.1.3, 15.2.1, 15.2.5,

15.2.6.1, 15.3.1, 15.3.2, 15.3.3, 15.4.1

Bonds, Lien

7.3.4.4, 9.6.8, 9.10.2, 9.10.3

Bonds, Performance, and Payment

7.3.4.4, 9.6.7, 9.10.3, **11.1.2**, 11.1.3, **11.5**

Building Information Models Use and Reliance

Building Permit

3.7.1

Capitalization

1.3

Certificate of Substantial Completion

9.8.3, 9.8.4, 9.8.5

Certificates for Payment

4.2.1, 4.2.5, 4.2.9, 9.3.3, **9.4**, 9.5, 9.6.1, 9.6.6, 9.7,

9.10.1, 9.10.3, 14.1.1.3, 14.2.4, 15.1.4

Certificates of Inspection, Testing or Approval

13.4.4

Certificates of Insurance 9.10.2

Change Orders

1.1.1, 3.4.2, 3.7.4, 3.8.2.3, 3.11, 3.12.8, 4.2.8, 5.2.3, 7.1.2, 7.1.3, **7.2**, 7.3.2, 7.3.7, 7.3.9, 7.3.10, 8.3.1, 9.3.1.1, 9.10.3, 10.3.2, 11.2, 11.5, 12.1.2

Change Orders, Definition of

CHANGES IN THE WORK

2.2.2, 3.11, 4.2.8, 7, 7.2.1, 7.3.1, 7.4, 8.3.1, 9.3.1.1,

Claims, Definition of

15.1.1

Claims, Notice of 1.6.2, 15.1.3

CLAIMS AND DISPUTES

3.2.4, 6.1.1, 6.3, 7.3.9, 9.3.3, 9.10.4, 10.3.3, **15**, 15.4 Claims and Timely Assertion of Claims

Claims for Additional Cost

3.2.4, 3.3.1, 3.7.4, 7.3.9, 9.5.2, 10.2.5, 10.3.2, **15.1.5**

Claims for Additional Time

3.2.4, 3.3.1, 3.7.4, 6.1.1, 8.3.2, 9.5.2, 10.3.2, **15.1.6**

Concealed or Unknown Conditions, Claims for 3.7.4

Claims for Damages

3.2.4, 3.18, 8.3.3, 9.5.1, 9.6.7, 10.2.5, 10.3.3, 11.3, 11.3.2, 14.2.4, 15.1.7

Claims Subject to Arbitration

15.4.1

Cleaning Up

3.15, 6.3

Commencement of the Work, Conditions Relating to 2.2.1, 3.2.2, 3.4.1, 3.7.1, 3.10.1, 3.12.6, 5.2.1, 5.2.3, 6.2.2, 8.1.2, 8.2.2, 8.3.1, 11.1, 11.2, **15.1.5**

Commencement of the Work, Definition of 8.1.2

Communications

3.9.1, 4.2.4

Completion, Conditions Relating to 3.4.1, 3.11, 3.15, 4.2.2, 4.2.9, 8.2, 9.4.2, 9.8, 9.9.1, 9.10, 12.2, 14.1.2, 15.1.2

COMPLETION, PAYMENTS AND

Completion, Substantial

3.10.1, 4.2.9, 8.1.1, 8.1.3, 8.2.3, 9.4.2, 9.8, 9.9.1,

9.10.3, 12.2, 15.1.2

Compliance with Laws

2.3.2, 3.2.3, 3.6, 3.7, 3.12.10, 3.13, 9.6.4, 10.2.2, 13.1, 13.3, 13.4.1, 13.4.2, 13.5, 14.1.1, 14.2.1.3, 15.2.8,

15.4.2, 15.4.3

Concealed or Unknown Conditions

3.7.4, 4.2.8, 8.3.1, 10.3

Conditions of the Contract

1.1.1, 6.1.1, 6.1.4

Consent, Written

3.4.2, 3.14.2, 4.1.2, 9.8.5, 9.9.1, 9.10.2, 9.10.3, 13.2, 15.4.4.2

Consolidation or Joinder

15.4.4

CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

1.1.4.6

Construction Change Directive, Definition of

Construction Change Directives

1.1.1, 3.4.2, 3.11, 3.12.8, 4.2.8, 7.1.1, 7.1.2, 7.1.3, **7.3**, 9.3.1.1

Construction Schedules, Contractor's 3.10, 3.11, 3.12.1, 3.12.2, 6.1.3, 15.1.6.2

Contingent Assignment of Subcontracts

5.4, 14.2.2.2

Continuing Contract Performance

15.1.4

Contract, Definition of

1.1.2

CONTRACT, TERMINATION OR SUSPENSION OF THE

5.4.1.1, 5.4.2, 11.5, 14

Contract Administration

3.1.3, 4, 9.4, 9.5

Contract Award and Execution, Conditions Relating to 3.7.1, 3.10, 5.2, 6.1

Contract Documents, Copies Furnished and Use of 1.5.2, 2.3.6, 5.3

Contract Documents, Definition of

1.1.1

Contract Sum

2.2.2, 2.2.4, 3.7.4, 3.7.5, 3.8, 3.10.2, 5.2.3, 7.3, 7.4, 9.1, 9.2, 9.4.2, 9.5.1.4, 9.6.7, 9.7, 10.3.2, 11.5, 12.1.2, 12.3, 14.2.4, 14.3.2, 15.1.4.2, 15.1.5, 15.2.5

Contract Sum, Definition of

9.1

Contract Time

1.1.4, 2.2.1, 2.2.2, 3.7.4, 3.7.5, 3.10.2, 5.2.3, 6.1.5, 7.2.1.3, 7.3.1, 7.3.5, 7.3.6, 7, 7, 7.3.10, 7.4, 8.1.1, 8.2.1, 8.2.3, 8.3.1, 9.5.1, 9.7, 10.3.2, 12.1.1, 12.1.2, 14.3.2, 15.1.4.2, 15.1.6.1, 15.2.5

Contract Time, Definition of

8.1.1

CONTRACTOR

Contractor, Definition of

3.1, 6.1.2

Contractor's Construction and Submittal Schedules

3.10, 3.12.1, 3.12.2, 4.2.3, 6.1.3, 15.1.6.2

Contractor's Employees

2.2.4, 3.3.2, 3.4.3, 3.8.1, 3.9, 3.18.2, 4.2.3, 4.2.6, 10.2, 10.3, 11.3, 14.1, 14.2.1.1

Contractor's Liability Insurance

Contractor's Relationship with Separate Contractors and Owner's Forces

3.12.5, 3.14.2, 4.2.4, 6, 11.3, 12.2.4

Copies Furnished of Drawings and Specifications 1.5, 2.3.6, 3.11

Copyrights 1.5, **3.17**

Correction of Work

2.5, 3.7.3, 9.4.2, 9.8.2, 9.8.3, 9.9.1, 12.1.2, **12.2**, 12.3, 15.1.3.1, 15.1.3.2, 15.2.1

Correlation and Intent of the Contract Documents 1.2

Cost, Definition of

7.3.4

Costs

2.5, 3.2.4, 3.7.3, 3.8.2, 3.15.2, 5.4.2, 6.1.1, 6.2.3, 7.3.3.3, 7.3.4, 7.3.8, 7.3.9, 9.10.2, 10.3.2, 10.3.6, 11.2, 12.1.2, 12.2.1, 12.2.4, 13.4, 14

Cutting and Patching

3.14, 6.2.5

Damage to Construction of Owner or Separate Contractors

3.14.2, 6.2.4, 10.2.1.2, 10.2.5, 10.4, 12.2.4

Damage to the Work

3.14.2, 9.9.1, 10.2.1.2, 10.2.5, 10.4, 12.2.4

Damages, Claims for

3.2.4, 3.18, 6.1.1, 8.3.3, 9.5.1, 9.6.7, 10.3.3, 11.3.2,

11.3, 14.2.4, 15.1.7 Damages for Delay

6.2.3, 8.3.3, 9.5.1.6, 9.7, 10.3.2, 14.3.2

Date of Commencement of the Work, Definition of 8.1.2

Date of Substantial Completion, Definition of 8.1.3

Day, Definition of

8.1.4

Decisions of the Architect 3.7.4, 4.2.6, 4.2.7, 4.2.11, 4.2.12, 4.2.13, 6.3, 7.3.4, 7.3.9, 8.1.3, 8.3.1, 9.2, 9.4, 9.5.1, 9.8.4, 9.9.1, 13.4.2,

14.2.2, 14.2.4, 15.1, 15.2

Decisions to Withhold Certification

9.4.1, **9.5**, 9.7, 14.1.1.3

Defective or Nonconforming Work, Acceptance, Rejection and Correction of

2.5, 3.5, 4.2.6, 6.2.3, 9.5.1, 9.5.3, 9.6.6, 9.8.2, 9.9.3, 9.10.4, 12.2.1

Definitions

1.1, 2.1.1, 3.1.1, 3.5, 3.12.1, 3.12.2, 3.12.3, 4.1.1, 5.1, 6.1.2, 7.2.1, 7.3.1, 8.1, 9.1, 9.8.1, 15.1.1

Delays and Extensions of Time

3.2, **3.7.4**, 5.2.3, 7.2.1, 7.3.1, **7.4**, **8.3**, 9.5.1, **9.7**, 10.3.2, **10.4**, 14.3.2, **15.1.6**, 15.2.5

Digital Data Use and Transmission

1.7

Disputes

6.3, 7.3.9, 15.1, 15.2

Documents and Samples at the Site

Drawings, Definition of

1.1.5

Drawings and Specifications, Use and Ownership of

Effective Date of Insurance

8.2.2

Emergencies

10.4, 14.1.1.2, **15.1.5**

Employees, Contractor's

3.3.2, 3.4.3, 3.8.1, 3.9, 3.18.2, 4.2.3, 4.2.6, 10.2, 10.3.3,

11.3, 14.1, 14.2.1.1

Equipment, Labor, or Materials

1.1.3, 1.1.6, 3.4, 3.5, 3.8.2, 3.8.3, 3.12, 3.13, 3.15.1, 4.2.6, 4.2.7, 5.2.1, 6.2.1, 7.3.4, 9.3.2, 9.3.3, 9.5.1.3,

9.10.2, 10.2.1, 10.2.4, 14.2.1.1, 14.2.1.2

Execution and Progress of the Work

1.1.3, 1.2.1, 1.2.2, 2.3.4, 2.3.6, 3.1, 3.3.1, 3.4.1, 3.7.1, 3.10.1, 3.12, 3.14, 4.2, 6.2.2, 7.1.3, 7.3.6, 8.2, 9.5.1,

9.9.1, 10.2, 10.3, 12.1, 12.2, 14.2, 14.3.1, 15.1.4

Extensions of Time

3.2.4, 3.7.4, 5.2.3, 7.2.1, 7.3, 7.4, 9.5.1, 9.7, 10.3.2,

10.4, 14.3, 15.1.6, **15.2.5**

Failure of Payment

9.5.1.3, **9.7**, 9.10.2, 13.5, 14.1.1.3, 14.2.1.2

Faulty Work

(See Defective or Nonconforming Work)

Final Completion and Final Payment

4.2.1, 4.2.9, 9.8.2, **9.10**, 12.3, 14.2.4, 14.4.3

Financial Arrangements, Owner's

2.2.1, 13.2.2, 14.1.1.4

GENERAL PROVISIONS

AlA Document A201™ - 2017. Copyright © 1911, 1915, 1918, 1925, 1937, 1951, 1958, 1961, 1963, 1966, 1970, 1976, 1987, 1997, 2007 and 2017 by The American Institute of Architects, All rights reserved, WARNING: This AIA® Document is protected by U.S. Copyright Law and International Treaties. Unauthorized reproduction or distribution of this AIA® Document, or any portion of it, may result in severe civil and criminal penalties, and will be prosecuted to the maximum extent possible under the law. To report copyright violations of AIA Contract Documents, e-mail The American Institute of Architects' legal counsel, copyright@aia.org.

Governing Law

Guarantees (See Warranty)

Hazardous Materials and Substances

10.2.4, **10.3**

Identification of Subcontractors and Suppliers

5.2.1

Indemnification

3.17, **3.18**, 9.6.8, 9.10.2, 10.3.3, 11.3

Information and Services Required of the Owner

2.1.2, **2.2**, 2.3, 3.2.2, 3.12.10.1, 6.1.3, 6.1.4, 6.2.5, 9.6.1, 9.9.2, 9.10.3, 10.3.3, 11.2, 13.4.1, 13.4.2,

14.1.1.4, 14.1.4, 15.1.4

Initial Decision 15.2

Initial Decision Maker, Definition of

1.1.8

Initial Decision Maker, Decisions

14.2.4, 15.1.4.2, 15.2.1, 15.2.2, 15.2.3, 15.2.4, 15.2.5

Initial Decision Maker, Extent of Authority 14.2.4, 15.1.4.2, 15.2.1, 15.2.2, 15.2.3, 15.2.4, 15.2.5

Injury or Damage to Person or Property

10.2.8, 10.4

Inspections

3.1.3, 3.3.3, 3.7.1, 4.2.2, 4.2.6, 4.2.9, 9.4.2, 9.8.3, 9.9.2,

9.10.1, 12.2.1, 13.4

Instructions to Bidders

1.1.1

Instructions to the Contractor

3.2.4, 3.3.1, 3.8.1, 5.2.1, 7, 8.2.2, 12, 13.4.2

Instruments of Service, Definition of

1.1.7

Insurance

6.1.1, 7.3.4, 8.2.2, 9.3.2, 9.8.4, 9.9.1, 9.10.2, 10.2.5, 11

Insurance, Notice of Cancellation or Expiration

11.1.4, 11.2.3

Insurance, Contractor's Liability

11.1

Insurance, Effective Date of

8.2.2, 14.4.2

Insurance, Owner's Liability

Insurance, Property

10.2.5, 11.2, 11.4, 11.5

Insurance, Stored Materials

9.3.2

INSURANCE AND BONDS

11

Insurance Companies, Consent to Partial Occupancy

9.9.1

Insured loss, Adjustment and Settlement of

11.5

Intent of the Contract Documents

1.2.1, 4.2.7, 4.2.12, 4.2.13

Interest

13.5

Interpretation

1.1.8, 1.2.3, **1.4**, 4.1.1, 5.1, 6.1.2, 15.1.1

Interpretations, Written

4.2.11, 4.2.12

Judgment on Final Award

15.4.2

Labor and Materials, Equipment

1.1.3, 1.1.6, **3.4**, 3.5, 3.8.2, 3.8.3, 3.12, 3.13, 3.15.1, 5.2.1, 6.2.1, 7.3.4, 9.3.2, 9.3.3, 9.5.1.3, 9.10.2, 10.2.1,

10.2.4, 14.2.1.1, 14.2.1.2

Labor Disputes

8.3.1

Laws and Regulations

1.5, 2.3.2, 3.2.3, 3.2.4, 3.6, 3.7, 3.12.10, 3.13, 9.6.4, 9.9.1, 10.2.2, 13.1, 13.3.1, 13.4.2, 13.5, 14, 15.2.8, 15.4

Liens

2.1.2, 9.3.1, 9.3.3, 9.6.8, 9.10.2, 9.10.4, 15.2.8

Limitations, Statutes of 12.2.5, 15.1.2, 15.4.1.1

Limitations of Liability

3.2.2, 3.5, 3.12.10, 3.12.10.1, 3.17, 3.18.1, 4.2.6, 4.2.7,6.2.2, 9.4.2, 9.6.4, 9.6.7, 9.6.8, 10.2.5, 10.3.3, 11.3,

12.2.5, 13.3.1

Limitations of Time

2.1.2, 2.2, 2.5, 3.2.2, 3.10, 3.11, 3.12.5, 3.15.1, 4.2.7, 5.2, 5.3, 5.4.1, 6.2.4, 7.3, 7.4, 8.2, 9.2, 9.3.1, 9.3.3,

9.4.1, 9.5, 9.6, 9.7, 9.8, 9.9, 9.10, 12.2, 13.4, 14, 15,

15.1.2, 15.1.3, 15.1.5

Materials, Hazardous

10.2.4, 10.3

Materials, Labor, Equipment and

1.1.3, 1.1.6, 3.4.1, 3.5, 3.8.2, 3.8.3, 3.12, 3.13, 3.15.1, 5.2.1, 6.2.1, 7.3.4, 9.3.2, 9.3.3, 9.5.1.3, 9.10.2, 10.2.1.2,

10.2.4, 14.2.1.1, 14.2.1.2

Means, Methods, Techniques, Sequences and

Procedures of Construction

3.3.1, 3.12.10, 4.2.2, 4.2.7, 9.4.2

Mechanic's Lien

2.1.2, 9.3.1, 9.3.3, 9.6.8, 9.10.2, 9.10.4, 15.2.8

8.3.1, 15.1.3.2, 15.2.1, 15.2.5, 15.2.6, **15.3**, 15.4.1,

15.4.1.1

Minor Changes in the Work

1.1.1, 3.4.2, 3.12.8, 4.2.8, 7.1, **7.4**

MISCELLANEOUS PROVISIONS

Modifications, Definition of

1.1.1

Modifications to the Contract

1.1.1, 1.1.2, 2.5, 3.11, 4.1.2, 4.2.1, 5.2.3, 7, 8.3.1, 9.7, 10.3.2

Mutual Responsibility

6.2

Nonconforming Work, Acceptance of

9.6.6, 9.9.3, **12.3**

Nonconforming Work, Rejection and Correction of 2.4, 2.5, 3.5, 4.2.6, 6.2.4, 9.5.1, 9.8.2, 9.9.3, 9.10.4, 12.2

Notice

1.6, 1.6.1, 1.6.2, 2.1.2, 2.2.2., 2.2.3, 2.2.4, 2.5, 3.2.4, 3.3.1, 3.7.4, 3.7.5, 3.9.2, 3.12.9, 3.12.10, 5.2.1, 7.4, 8.2.2 9.6.8, 9.7, 9.10.1, 10.2.8, 10.3.2, 11.5, 12.2.2.1, 13.4.1, 13.4.2, 14.1, 14.2.2, 14.4.2, 15.1.3, 15.1.5, 15.1.6, 15.4.1

Notice of Cancellation or Expiration of Insurance 11.1.4, 11.2.3

Notice of Claims

1.6.2, 2.1.2, 3.7.4, 9.6.8, 10.2.8, **15.1.3**, 15.1.5, 15.1.6, 15.2.8, 15.3.2, 15.4.1

Notice of Testing and Inspections

13.4.1, 13.4.2

Observations, Contractor's

3.2, 3.7.4

Occupancy

2.3.1, 9.6.6, 9.8

Orders, Written

1.1.1, 2.4, 3.9.2, 7, 8.2.2, 11.5, 12.1, 12.2.2.1, 13.4.2, 14.3.1

OWNER

2

Owner, Definition of

2.1.1

Owner, Evidence of Financial Arrangements 2.2, 13.2.2, 14.1.1.4

Owner, Information and Services Required of the 2.1.2, **2.2**, 2.3, 3.2.2, 3.12.10, 6.1.3, 6.1.4, 6.2.5, 9.3.2, 9.6.1, 9.6.4, 9.9.2, 9.10.3, 10.3.3, 11.2, 13.4.1, 13.4.2, 14.1.1.4, 14.1.4, 15.1.4

Owner's Authority

1.5, 2.1.1, 2.3.32.4, 2.5, 3.4.2, 3.8.1, 3.12.10, 3.14.2, 4.1.2, 4.2.4, 4.2.9, 5.2.1, 5.2.4, 5.4.1, 6.1, 6.3, 7.2.1, 7.3.1, 8.2.2, 8.3.1, 9.3.2, 9.5.1, 9.6.4, 9.9.1, 9.10.2, 10.3.2, 11.4, 11.5, 12.2.2, 12.3, 13.2.2, 14.3, 14.4, 15.2.7

Owner's Insurance

11.2

Owner's Relationship with Subcontractors 1.1.2, 5.2, 5.3, 5.4, 9.6.4, 9.10.2, 14.2.2

Owner's Right to Carry Out the Work **2.5**, 14.2.2

Owner's Right to Clean Up

6.3

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

6.1

Owner's Right to Stop the Work

2.4

Owner's Right to Suspend the Work

14.3

Owner's Right to Terminate the Contract 14.2, 14.4

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

1.1.1, 1.1.6, 1.1.7, **1.5**, 2.3.6, 3.2.2, 3.11, 3.17, 4.2.12, 5.3

Partial Occupancy or Use

9.6.6, **9.9**

Patching, Cutting and

3.14, 6.2.5 Patents

3.17

Payment, Applications for

4.2.5, 7.3.9, 9.2, **9.3**, 9.4, 9.5, 9.6.3, 9.7, 9.8.5, 9.10.1, 14.2.3, 14.2.4, 14.4.3

Payment, Certificates for

 $4.2.5,\,4.2.9,\,9.3.3,\,\textbf{9.4},\,9.5,\,9.6.1,\,9.6.6,\,9.7,\,9.10.1,$

9.10.3, 14.1.1.3, 14.2.4

Payment, Failure of

9.5.1.3, **9.7**, 9.10.2, 13.5, 14.1.1.3, 14.2.1.2

Payment, Final

4.2.1, 4.2.9, **9.10**, 12.3, 14.2.4, 14.4.3

Payment Bond, Performance Bond and

7.3.4.4, 9.6.7, 9.10.3, **11.1.2**

Payments, Progress

9.3, **9.6**, 9.8.5, 9.10.3, 14.2.3, 15.1.4

PAYMENTS AND COMPLETION

9

Payments to Subcontractors

5.4.2, 9.5.1.3, 9.6.2, 9.6.3, 9.6.4, 9.6.7, 14.2.1.2

PCB 10.3.1

Performance Bond and Payment Bond

7.3.4.4, 9.6.7, 9.10.3, **11.1.2**

Permits, Fees, Notices and Compliance with Laws

2.3.1, **3.7**, 3.13, 7.3.4.4, 10.2.2

PERSONS AND PROPERTY, PROTECTION OF

Polychlorinated Biphenyl

10.3.1

Product Data, Definition of

3.12.2

Product Data and Samples, Shop Drawings

3.11, **3.12**, 4.2.7

Progress and Completion

4.2.2, **8.2**, 9.8, 9.9.1, 14.1.4, 15.1.4

Progress Payments

9.3, **9.6**, 9.8.5, 9.10.3, 14.2.3, 15.1.4

Project, Definition of

1.1.4

Project Representatives

4.2.10

Property Insurance

10.2.5, **11.2**

Proposal Requirements

1.1.1

PROTECTION OF PERSONS AND PROPERTY 10

Regulations and Laws

1.5, 2.3.2, 3.2.3, 3.6, 3.7, 3.12.10, 3.13, 9.6.4, 9.9.1, 10.2.2, 13.1, 13.3, 13.4.1, 13.4.2, 13.5, 14, 15.2.8, 15.4

Rejection of Work

4.2.6, 12.2.1

Filed 09-25-2025

Releases and Waivers of Liens Specifications, Definition of 9.3.1, 9.10.2 1.1.6 Representations **Specifications** 3.2.1, 3.5, 3.12.6, 8.2.1, 9.3.3, 9.4.2, 9.5.1, 9.10.1 1.1.1, **1.1.6**, 1.2.2, 1.5, 3.12.10, 3.17, 4.2.14 Representatives Statute of Limitations 2.1.1, 3.1.1, 3.9, 4.1.1, 4.2.10, 13.2.1 15.1.2, 15.4.1.1 Responsibility for Those Performing the Work Stopping the Work 3.3.2, 3.18, 4.2.2, 4.2.3, 5.3, 6.1.3, 6.2, 6.3, 9.5.1, 10 2.2.2, 2.4, 9.7, 10.3, 14.1 Retainage Stored Materials 9.3.1, 9.6.2, 9.8.5, 9.9.1, 9.10.2, 9.10.3 6.2.1, 9.3.2, 10.2.1.2, 10.2.4 **Review of Contract Documents and Field** Subcontractor, Definition of **Conditions by Contractor** 5.1.1 **3.2**, 3.12.7, 6.1.3 **SUBCONTRACTORS** Review of Contractor's Submittals by Owner and Subcontractors, Work by 3.10.1, 3.10.2, 3.11, 3.12, 4.2, 5.2, 6.1.3, 9.2, 9.8.2 1.2.2, 3.3.2, 3.12.1, 3.18, 4.2.3, 5.2.3, 5.3, 5.4, 9.3.1.2, Review of Shop Drawings, Product Data and Samples by Contractor **Subcontractual Relations** 3.12 **5.3**, 5.4, 9.3.1.2, 9.6, 9.10, 10.2.1, 14.1, 14.2.1 **Rights and Remedies** Submittals 3.10, 3.11, 3.12, 4.2.7, 5.2.1, 5.2.3, 7.3.4, 9.2, 9.3, 9.8,1.1.2, 2.4, 2.5, 3.5, 3.7.4, 3.15.2, 4.2.6, 5.3, 5.4, 6.1, 6.3, 7.3.1, 8.3, 9.5.1, 9.7, 10.2.5, 10.3, 12.2.1, 12.2.2, 9.9.1, 9.10.2, 9.10.3 12.2.4, **13.3**, 14, 15.4 Submittal Schedule Royalties, Patents and Copyrights 3.10.2, 3.12.5, 4.2.7 3.17 Subrogation, Waivers of Rules and Notices for Arbitration 6.1.1, **11.3** 15.4.1 Substances, Hazardous Safety of Persons and Property 10.3 **10.2**, 10.4 **Substantial Completion Safety Precautions and Programs** 4.2.9, 8.1.1, 8.1.3, 8.2.3, 9.4.2, **9.8**, 9.9.1, 9.10.3, 12.2, 3.3.1, 4.2.2, 4.2.7, 5.3, **10.1**, 10.2, 10.4 Samples, Definition of Substantial Completion, Definition of 3.12.3 Substitution of Subcontractors Samples, Shop Drawings, Product Data and 5.2.3, 5.2.4 3.11, **3.12**, 4.2.7 Samples at the Site, Documents and Substitution of Architect 3.11 2.3.3 Schedule of Values Substitutions of Materials **9.2**, 9.3.1 3.4.2, 3.5, 7.3.8 Schedules, Construction Sub-subcontractor, Definition of 3.10, 3.12.1, 3.12.2, 6.1.3, 15.1.6.2 5.1.2 **Subsurface Conditions** Separate Contracts and Contractors 1.1.4, 3.12.5, 3.14.2, 4.2.4, 4.2.7, 6, 8.3.1, 12.1.2 3.7.4 Separate Contractors, Definition of Successors and Assigns 6.1.1 13.2 Shop Drawings, Definition of **Superintendent 3.9**, 10.2.6 **Supervision and Construction Procedures Shop Drawings, Product Data and Samples** 3.11, 3.12, 4.2.7 1.2.2, **3.3**, 3.4, 3.12.10, 4.2.2, 4.2.7, 6.1.3, 6.2.4, 7.1.3, 7.3.4, 8.2, 8.3.1, 9.4.2, 10, 12, 14, 15.1.4 Site, Use of **Suppliers 3.13**, 6.1.1, 6.2.1 Site Inspections 1.5, 3.12.1, 4.2.4, 4.2.6, 5.2.1, 9.3, 9.4.2, 9.5.4, 9.6, 3.2.2, 3.3.3, 3.7.1, 3.7.4, 4.2, 9.9.2, 9.4.2, 9.10.1, 13.4 9.10.5, 14.2.1 Site Visits, Architect's Surety 3.7.4, 4.2.2, 4.2.9, 9.4.2, 9.5.1, 9.9.2, 9.10.1, 13.4 5.4.1.2, 9.6.8, 9.8.5, 9.10.2, 9.10.3, 11.1.2, 14.2.2,

Special Inspections and Testing

4.2.6, 12.2.1, 13.4

15.2.7

Surety, Consent of 9.8.5, 9.10.2, 9.10.3

Surveys

1.1.7, 2.3.4

Suspension by the Owner for Convenience

14.3

Suspension of the Work

3.7.5, 5.4.2, 14.3

Suspension or Termination of the Contract

5.4.1.1, 14

Taxes

3.6, 3.8.2.1, 7.3.4.4

Termination by the Contractor

14.1, 15.1.7

Termination by the Owner for Cause

5.4.1.1, **14.2,** 15.1.7

Termination by the Owner for Convenience

14.4

Termination of the Architect

2.3.3

Termination of the Contractor Employment

14.2.2

TERMINATION OR SUSPENSION OF THE CONTRACT

14

Tests and Inspections

3.1.3, 3.3.3, 3.7.1, 4.2.2, 4.2.6, 4.2.9, 9.4.2, 9.8.3, 9.9.2,

9.10.1, 10.3.2, 12.2.1, **13.4**

TIME

8

Time, Delays and Extensions of

3.2.4, 3.7.4, 5.2.3, 7.2.1, 7.3.1, 7.4, **8.3**, 9.5.1, 9.7,

10.3.2, 10.4, 14.3.2, 15.1.6, 15.2.5

Time Limits

2.1.2, 2.2, 2.5, 3.2.2, 3.10, 3.11, 3.12.5, 3.15.1, 4.2, 5.2, 5.3, 5.4, 6.2.4, 7.3, 7.4, 8.2, 9.2, 9.3.1, 9.3.3, 9.4.1, 9.5,

9.6, 9.7, 9.8, 9.9, 9.10, 12.2, 13.4, 14, 15.1.2, 15.1.3,

15.4

Time Limits on Claims

3.7.4, 10.2.8, 15.1.2, 15.1.3

Title to Work

9.3.2, 9.3.3

UNCOVERING AND CORRECTION OF WORK

12

Uncovering of Work

12.1

Unforeseen Conditions, Concealed or Unknown

3.7.4, 8.3.1, 10.3

Unit Prices

7.3.3.2, 9.1.2

Use of Documents

1.1.1, 1.5, 2.3.6, 3.12.6, 5.3

Use of Site

3.13, 6.1.1, 6.2.1

Values, Schedule of

9.2, 9.3.1

Waiver of Claims by the Architect

13.3.2

Waiver of Claims by the Contractor

9.10.5, 13.3.2, **15.1.7**

Waiver of Claims by the Owner

9.9.3, 9.10.3, 9.10.4, 12.2.2.1, 13.3.2, 14.2.4, **15.1.7**

Waiver of Consequential Damages

14.2.4, 15.1.7

Waiver of Liens

9.3, 9.10.2, 9.10.4

Waivers of Subrogation

6.1.1, **11.3**

Warranty

3.5, 4.2.9, 9.3.3, 9.8.4, 9.9.1, 9.10.2, 9.10.4, 12.2.2,

15.1.2

Weather Delays

8.3, 15.1.6.2

Work, Definition of

1.1.3

Written Consent

1.5.2, 3.4.2, 3.7.4, 3.12.8, 3.14.2, 4.1.2, 9.3.2, 9.10.3,

13.2, 13.3.2, 15.4.4.2

Written Interpretations

4.2.11, 4.2.12

Written Orders

1.1.1, 2.4, 3.9, 7, 8.2.2, 12.1, 12.2, 13.4.2, 14.3.1

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 or proposal 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. The Initial Decision Maker shall not show partiality to the Owner or Contractor and shall not be liable for results of interpretations or decisions rendered in good faith.

§ 1.2 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.

§ 1.2.1.1 The invalidity of any provision of the Contract Documents shall not invalidate the Contract or its remaining

provisions. If it is determined that any provision of the Contract Documents violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Contract Documents shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Contract.

- § 1.2.2 Organization of the Specifications into divisions, sections and articles, and arrangement of Drawings shall not control the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade.
- § 1.2.3 Unless otherwise stated in the Contract Documents, words that have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.

§ 1.3 Capitalization

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

§ 1.4 Interpretation

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

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

- § 1.5.1 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and retain all common law, statutory, and other reserved rights in their Instruments of Service, including copyrights. The Contractor, Subcontractors, Subsubcontractors, and suppliers shall not own or claim a copyright in the Instruments of Service. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the Architect's or Architect's consultants' reserved rights.
- § 1.5.2 The Contractor, Subcontractors, Sub-subcontractors, and suppliers are authorized to use and reproduce the Instruments of Service provided to them, subject to any protocols established pursuant to Sections 1.7 and 1.8, solely and exclusively for execution of the Work. All copies made under this authorization shall bear the copyright notice, if any, shown on the Instruments of Service. The Contractor, Subcontractors, Sub-subcontractors, and suppliers may not use the Instruments of Service on other projects or for additions to the Project outside the scope of the Work without the specific written consent of the Owner, Architect, and the Architect's consultants.

§ 1.6 Notice

- § 1.6.1 Except as otherwise provided in Section 1.6.2, where the Contract Documents require one party to notify or give notice to the other party, such notice shall be provided in writing to the designated representative of the party to whom the notice is addressed and shall be deemed to have been duly served if delivered in person, by mail, by courier, or by electronic transmission if a method for electronic transmission is set forth in the Agreement.
- § 1.6.2 Notice of Claims as provided in Section 15.1.3 shall be provided in writing and shall be deemed to have been duly served only if delivered to the designated representative of the party to whom the notice is addressed by certified or registered mail, or by courier providing proof of delivery.

§ 1.7 Digital Data Use and Transmission

The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties will use AIA Document E203TM_2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 1.8 Building Information Models Use and Reliance

Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203TM–2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202TM–2013, Project Building Information Modeling Protocol Form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building

information model, and each of their agents and employees.

ARTICLE 2 OWNER

§ 2.1 General

- § 2.1.1 The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all matters requiring the Owner's approval or authorization. Except as otherwise provided in Section 4.2.1, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.
- § 2.1.2 The Owner shall furnish to the Contractor, within fifteen days after receipt of a written request, information necessary and relevant for the Contractor to evaluate, give notice of, or enforce mechanic's lien rights. Such information shall include a correct statement of the record legal title to the property on which the Project is located, usually referred to as the site, and the Owner's interest therein.

§ 2.2 Evidence of the Owner's Financial Arrangements

- § 2.2.1 Prior to commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. The Contractor shall have no obligation to commence the Work until the Owner provides such evidence. If commencement of the Work is delayed under this Section 2.2.1, the Contract Time shall be extended appropriately.
- § 2.2.2 Following commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract only if (1) the Owner fails to make payments to the Contractor as the Contract Documents require; (2) the Contractor identifies in writing a reasonable concern regarding the Owner's ability to make payment when due; or (3) a change in the Work materially changes the Contract Sum. If the Owner fails to provide such evidence, as required, within fourteen days of the Contractor's request, the Contractor may immediately stop the Work and, in that event, shall notify the Owner that the Work has stopped. However, if the request is made because a change in the Work materially changes the Contract Sum under (3) above, the Contractor may immediately stop only that portion of the Work affected by the change until reasonable evidence is provided. If the Work is stopped under this Section 2.2.2, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided in the Contract Documents.
- § 2.2.3 After the Owner furnishes evidence of financial arrangements under this Section 2.2, the Owner shall not materially vary such financial arrangements without prior notice to the Contractor.
- § 2.2.4 Where the Owner has designated information furnished under this Section 2.2 as "confidential," the Contractor shall keep the information confidential and shall not disclose it to any other person. However, the Contractor may disclose "confidential" information, after seven (7) days' notice to the Owner, where disclosure is required by law, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or by court or arbitrator(s) order. The Contractor may also disclose "confidential" information to its employees, consultants, sureties, Subcontractors and their employees, Sub-subcontractors, and others who need to know the content of such information solely and exclusively for the Project and who agree to maintain the confidentiality of such information.

§ 2.3 Information and Services Required of the Owner

- § 2.3.1 Except for permits and fees that are the responsibility of the Contractor under the Contract Documents, including those required under Section 3.7.1, the Owner shall secure and pay for necessary approvals, easements, assessments and charges required for construction, use or occupancy of permanent structures or for permanent changes in existing facilities.
- § 2.3.2 The Owner shall retain an architect lawfully licensed to practice architecture, or an entity lawfully practicing architecture, in the jurisdiction where the Project is located. That person or entity is identified as the Architect in the Agreement and is referred to throughout the Contract Documents as if singular in number.
- **§ 2.3.3** If the employment of the Architect terminates, the Owner shall employ a successor to whom the Contractor has no reasonable objection and whose status under the Contract Documents shall be that of the Architect.
- § 2.3.4 The Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the

site of the Project, and a legal description of the site. The Contractor shall be entitled to rely on the accuracy of information furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

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

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

§ 2.4 Owner's Right to Stop the Work

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

§ 2.5 Owner's Right to Carry Out the Work

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a ten-day period after receipt of notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such default or neglect. Such action by the Owner and amounts charged to the Contractor are both subject to prior approval of the Architect and the Architect may, pursuant to Section 9.5.1, withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Architect's additional services made necessary by such default, neglect, or failure. If current and future payments are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner. If the Contractor disagrees with the actions of the Owner or the Architect, or the amounts claimed as costs to the Owner, the Contractor may file a Claim pursuant to Article 15.

ARTICLE 3 CONTRACTOR

§ 3.1 General

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

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

§ 3.2 Review of Contract Documents and Field Conditions by Contractor

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

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

capacity as a contractor and not as a licensed design professional, unless otherwise specifically provided in the Contract Documents.

- § 3.2.3 The Contractor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Contractor shall promptly report to the Architect any nonconformity discovered by or made known to the Contractor as a request for information in such form as the Architect may require.
- § 3.2.4 If the Contractor believes that additional cost or time is involved because of clarifications or instructions the Architect issues in response to the Contractor's notices or requests for information pursuant to Sections 3.2.2 or 3.2.3, the Contractor shall submit Claims as provided in Article 15. If the Contractor fails to perform the obligations of Sections 3.2.2 or 3.2.3, the Contractor shall pay such costs and damages to the Owner, subject to Section 15.1.7, as would have been avoided if the Contractor had performed such obligations. If the Contractor performs those obligations, the Contractor shall not be liable to the Owner or Architect for damages resulting from errors, inconsistencies or omissions in the Contract Documents, for differences between field measurements or conditions and the Contract Documents, or for nonconformities of the Contract Documents to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities.

§ 3.3 Supervision and Construction Procedures

- § 3.3.1 The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for, and have control over, construction means, methods, techniques, sequences, and procedures, and for coordinating all portions of the Work under the Contract. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences, or procedures, the Contractor shall evaluate the jobsite safety thereof and shall be solely responsible for the jobsite safety of such means, methods, techniques, sequences, or procedures. If the Contractor determines that such means, methods, techniques, sequences or procedures may not be safe, the Contractor shall give timely notice to the Owner and Architect, and shall propose alternative means, methods, techniques, sequences, or procedures. The Architect shall evaluate the proposed alternative solely for conformance with the design intent for the completed construction. Unless the Architect objects to the Contractor's proposed alternative, the Contractor shall perform the Work using its alternative means, methods, techniques, sequences, or procedures.
- § 3.3.2 The Contractor shall be responsible to the Owner for acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the Work for, or on behalf of, the Contractor or any of its Subcontractors.
- § 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 approved by the Architect in accordance with Section 3.12.8 or ordered by the Architect in accordance with Section 7.4, the Contractor may make substitutions only with the consent of the Owner, after evaluation by the Architect and in accordance with a Change Order or Construction Change Directive.
- § 3.4.3 The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Work. The Contractor shall not permit employment of unfit persons or persons not properly skilled in tasks assigned to them.

§ 3.5 Warranty

§ 3.5.1 The Contractor warrants to the Owner and Architect that materials and equipment furnished under the Contract will be of good quality and new unless the Contract Documents require or permit otherwise. The Contractor further warrants that the Work will conform to the requirements of the Contract Documents and will be free from defects, except for those inherent in the quality of the Work the Contract Documents require or permit. Work, materials, or equipment not conforming to these requirements may be considered defective. The Contractor's warranty excludes

remedy for damage or defect caused by abuse, alterations to the Work not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Architect, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

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

§ 3.6 Taxes

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

§ 3.7 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 14 days after first observance of the conditions. The Architect will promptly investigate such conditions and, if the Architect determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend that an equitable adjustment be made in the Contract Sum or Contract Time, or both. If the Architect determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall promptly notify the Owner and Contractor, stating the reasons. If either party disputes the Architect's determination or recommendation, that party may submit a Claim as provided in Article 15.

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

§ 3.8 Allowances

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

- § 3.8.2 Unless otherwise provided in the Contract Documents,
 - .1 allowances shall cover the cost to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;
 - .2 Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit, and other expenses contemplated for stated allowance amounts shall be included in the Contract Sum but not in the allowances; and

- .3 whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Section 3.8.2.1 and (2) changes in Contractor's costs under Section 3.8.2.2.
- § 3.8.3 Materials and equipment under an allowance shall be selected by the Owner with reasonable promptness.

§ 3.9 Superintendent

- § 3.9.1 The Contractor shall 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 notify the Owner and Architect of the name and qualifications of a proposed superintendent. Within 14 days of receipt of the information, the Architect may notify the Contractor, stating whether the Owner or the Architect (1) has reasonable objection to the proposed superintendent or (2) requires additional time for review. Failure of the Architect to provide notice within the 14-day period shall constitute notice of no reasonable objection.
- § 3.9.3 The Contractor shall not employ a proposed superintendent to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not change the superintendent without the Owner's consent, which shall not unreasonably be withheld or delayed.

§ 3.10 Contractor's Construction and Submittal Schedules

- § 3.10.1 The Contractor, promptly after being awarded the Contract, shall submit for the Owner's and Architect's information a Contractor's construction schedule for the Work. The schedule shall contain detail appropriate for the Project, including (1) the date of commencement of the Work, interim schedule milestone dates, and the date of Substantial Completion; (2) an apportionment of the Work by construction activity; and (3) the time required for completion of each portion of the Work. The schedule shall provide for the orderly progression of the Work to completion and shall not exceed time limits current under the Contract Documents. The schedule shall be revised at appropriate intervals as required by the conditions of the Work and Project.
- § 3.10.2 The Contractor, promptly after being awarded the Contract and thereafter as necessary to maintain a current submittal schedule, shall submit a submittal schedule for the Architect's approval. The Architect's approval shall not be unreasonably delayed or withheld. The submittal schedule shall (1) be coordinated with the Contractor's construction schedule, and (2) allow the Architect reasonable time to review submittals. If the Contractor fails to submit a submittal schedule, or fails to provide submittals in accordance with the approved submittal schedule, the Contractor shall not be entitled to any increase in Contract Sum or extension of Contract Time based on the time required for review of submittals.
- § 3.10.3 The Contractor shall perform the Work in general accordance with the most recent schedules submitted to the Owner and Architect.

§ 3.11 Documents and Samples at the Site

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

§ 3.12 Shop Drawings, Product Data and Samples

- § 3.12.1 Shop Drawings are drawings, diagrams, schedules, and other data specially prepared for the Work by the Contractor or a Subcontractor, Sub-subcontractor, manufacturer, supplier, or distributor to illustrate some portion of the Work.
- § 3.12.2 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams, and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.
- § 3.12.3 Samples are physical examples that illustrate materials, equipment, or workmanship, and establish standards by which the Work will be judged.

- § 3.12.5 The Contractor shall review for compliance with the Contract Documents, approve, and submit to the Architect, Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents, in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Owner or of Separate Contractors.
- § 3.12.6 By submitting Shop Drawings, Product Data, Samples, and similar submittals, the Contractor represents to the Owner and Architect that the Contractor has (1) reviewed and approved them, (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so, and (3) checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.
- § 3.12.7 The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples, or similar submittals, until the respective submittal has been approved by the Architect.
- § 3.12.8 The Work shall be in accordance with approved submittals except that the Contractor shall not be relieved of responsibility for deviations from the requirements of the Contract Documents by the Architect's approval of Shop Drawings, Product Data, Samples, or similar submittals, unless the Contractor has specifically notified the Architect of such deviation at the time of submittal and (1) the Architect has given written approval to the specific deviation as a minor change in the Work, or (2) a Change Order or Construction Change Directive has been issued authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples, or similar submittals, by the Architect's approval thereof.
- § 3.12.9 The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples, or similar submittals, to revisions other than those requested by the Architect on previous submittals. In the absence of such notice, the Architect's approval of a resubmission shall not apply to such revisions.
- § 3.12.10 The Contractor shall not be required to provide professional services that constitute the practice of architecture or engineering unless such services are specifically required by the Contract Documents for a portion of the Work or unless the Contractor needs to provide such services in order to carry out the Contractor's responsibilities for construction means, methods, techniques, sequences, and procedures. The Contractor shall not be required to provide professional services in violation of applicable law.
- § 3.12.10.1 If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of the Contractor by the Contract Documents, the Owner and the Architect will specify all performance and design criteria that such services must satisfy. The Contractor shall be entitled to rely upon the adequacy and accuracy of the performance and design criteria provided in the Contract Documents. The Contractor shall cause such services or certifications to be provided by an appropriately licensed design professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings, and other submittals prepared by such professional. Shop Drawings, and other submittals related to the Work, designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to the Architect. The Owner and the Architect shall be entitled to rely upon the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals, provided the Owner and Architect have specified to the Contractor the performance and design criteria that such services must satisfy. Pursuant to this Section 3.12.10, the Architect will review and 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.
- § 3.12.10.2 If the Contract Documents require the Contractor's design professional to certify that the Work has been performed in accordance with the design criteria, the Contractor shall furnish such certifications to the Architect at the

time and in the form specified by the Architect.

§ 3.13 Use of Site

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

§ 3.14 Cutting and Patching

- § 3.14.1 The Contractor shall be responsible for cutting, fitting, or patching required to complete the Work or to make its parts fit together properly. All areas requiring cutting, fitting, or patching shall be restored to the condition existing prior to the cutting, fitting, or patching, unless otherwise required by the Contract Documents.
- § 3.14.2 The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner or Separate Contractors by cutting, patching, or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter construction by the Owner or a Separate Contractor except with written consent of the Owner and of the Separate Contractor. Consent shall not be unreasonably withheld. The Contractor shall not unreasonably withhold, from the Owner or a Separate Contractor, its consent to cutting or otherwise altering the Work.

§ 3.15 Cleaning Up

- § 3.15.1 The Contractor shall keep the premises and surrounding area free from accumulation of waste materials and rubbish caused by operations under the Contract. At completion of the Work, the Contractor shall remove waste materials, rubbish, the Contractor's tools, construction equipment, machinery, and surplus materials from and about the Project.
- § 3.15.2 If the Contractor fails to clean up as provided in the Contract Documents, the Owner may do so and the Owner shall be entitled to reimbursement from the Contractor.

§ 3.16 Access to Work

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

§ 3.17 Royalties, Patents and Copyrights

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

§ 3.18 Indemnification

- § 3.18.1 To the fullest extent permitted by law, the Contractor 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 Architect is the person or entity retained by the Owner pursuant to Section 2.3.2 and identified as such in the Agreement.

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

§ 4.2 Administration of the Contract

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

§ 4.2.2 The Architect will visit the site at intervals appropriate to the stage of construction, or as otherwise agreed with the Owner, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine in general if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect will not be required to make exhaustive or continuous on-site 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.

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

§ 4.2.4 Communications

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

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

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

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

Sections 3.3, 3.5, and 3.12. The Architect's review shall not constitute approval of safety precautions or of any construction means, methods, techniques, sequences, or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

- § 4.2.8 The Architect will prepare Change Orders and Construction Change Directives, and may order minor changes in the Work as provided in Section 7.4. The Architect will investigate and make determinations and recommendations regarding concealed and unknown conditions as provided in Section 3.7.4.
- § 4.2.9 The Architect will conduct 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 Owner shall notify the Contractor of any change in the duties, responsibilities and limitations of authority of the Project representatives.
- § 4.2.11 The Architect will interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness.
- § 4.2.12 Interpretations and decisions of the Architect will be consistent with the intent of, and reasonably inferable from, the Contract Documents and will be in writing or in the form of drawings. When making such interpretations and decisions, the Architect will endeavor to secure faithful performance by both Owner and Contractor, will not show partiality to either, and will not be liable for results of interpretations or decisions rendered in good faith.
- § 4.2.13 The Architect's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.
- § 4.2.14 The Architect will review and respond to requests for information about the Contract Documents. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If appropriate, the Architect will prepare and issue supplemental Drawings and Specifications in response to the requests for information.

ARTICLE 5 SUBCONTRACTORS

§ 5.1 Definitions

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

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

- § 5.2.1 Unless otherwise stated in the Contract Documents, the Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect of the persons or entities proposed for each principal portion of the Work, including those who are to furnish materials or equipment fabricated to a special design. Within 14 days of receipt of the information, the Architect may notify the Contractor whether the Owner or the Architect (1) has reasonable objection to any such proposed person or entity or (2) requires additional time for review. Failure of the Architect to provide notice within the 14-day period shall constitute notice of no reasonable objection.
- § 5.2.2 The Contractor shall not contract with a proposed person or entity to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.
- § 5.2.3 If the Owner or Architect has reasonable objection to a person or entity proposed by the Contractor, the

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

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

§ 5.3 Subcontractual Relations

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

§ 5.4 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
 - assignment is effective only after termination of the Contract by the Owner for cause pursuant to Section 14.2 and only for those subcontract agreements that the Owner accepts by notifying the Subcontractor and Contractor; and
 - .2 assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

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

- § 5.4.2 Upon such assignment, if the Work has been suspended for more than 30 days, the Subcontractor's compensation shall be equitably adjusted for increases in cost resulting from the suspension.
- § 5.4.3 Upon assignment to the Owner under this Section 5.4, the Owner may further assign the subcontract to a successor contractor or other entity. If the Owner assigns the subcontract to a successor contractor or other entity, the Owner shall nevertheless remain legally responsible for all of the successor contractor's obligations under the subcontract.

ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS § 6.1 Owner's Right to Perform Construction and to Award Separate Contracts

- § 6.1.1 The term "Separate Contractor(s)" shall mean other contractors retained by the Owner under separate agreements. The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and with Separate Contractors retained under Conditions of the Contract substantially similar to those of this Contract, including those provisions of the Conditions of the Contract related to insurance and waiver of subrogation.
- § 6.1.2 When separate contracts are awarded for different portions of the Project or other construction or operations on the site, the term "Contractor" in the Contract Documents in each case shall mean the Contractor who executes each separate Owner-Contractor Agreement.
- § 6.1.3 The Owner shall provide for coordination of the activities of the Owner's own forces and of each Separate

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

Page 84 of 115

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

§ 6.2 Mutual Responsibility

- § 6.2.1 The Contractor shall afford the Owner and Separate Contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Contractor's construction and operations with theirs as required by the Contract Documents.
- § 6.2.2 If part of the Contractor's Work depends for proper execution or results upon construction or operations by the Owner or a Separate Contractor, the Contractor shall, prior to proceeding with that portion of the Work, promptly notify the Architect of apparent discrepancies or defects in the construction or operations by the Owner or Separate Contractor that would render it unsuitable for proper execution and results of the Contractor's Work. Failure of the Contractor to notify the Architect of apparent discrepancies or defects prior to proceeding with the Work shall constitute an acknowledgment that the Owner's or Separate Contractor's completed or partially completed construction is fit and proper to receive the Contractor's Work. The Contractor shall not be responsible for discrepancies or defects in the construction or operations by the Owner or Separate Contractor that are not apparent.
- § 6.2.3 The Contractor shall reimburse the Owner for costs the Owner incurs that are payable to a Separate Contractor because of the Contractor's delays, improperly timed activities or defective construction. The Owner shall be responsible to the Contractor for costs the Contractor incurs because of a Separate Contractor's delays, improperly timed activities, damage to the Work or defective construction.
- **§ 6.2.4** The Contractor shall promptly remedy damage that the Contractor wrongfully causes to completed or partially completed construction or to property of the Owner or Separate Contractor as provided in Section 10.2.5.
- **§ 6.2.5** The Owner and each Separate Contractor shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 3.14.

§ 6.3 Owner's Right to Clean Up

If a dispute arises among the Contractor, Separate Contractors, and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish, the Owner may clean up and the Architect will allocate the cost among those responsible.

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. The Contractor shall proceed promptly with changes in the Work, unless otherwise provided in the Change Order, Construction Change Directive, or order for a minor change in the Work.

§ 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 7.3.4.

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

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

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

- § 7.3.6 Upon receipt of a Construction Change Directive, the Contractor shall promptly proceed with the change in the Work involved and advise the Architect of the Contractor's agreement or disagreement with the method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the Contract Sum or Contract Time.
- § 7.3.7 A Construction Change Directive signed by the Contractor indicates the Contractor's agreement therewith, including adjustment in Contract Sum and Contract Time or the method for determining them. Such agreement shall be effective immediately and shall be recorded as a Change Order.
- § 7.3.8 The amount of credit to be allowed by the Contractor to the Owner for a deletion or change that results in a net decrease in the Contract Sum shall be actual net cost as confirmed by the Architect. When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change.
- § 7.3.9 Pending final determination of the total cost of a Construction Change Directive to the Owner, the Contractor may request payment for Work completed under the Construction Change Directive in Applications for Payment. The

Architect will make an interim determination for purposes of monthly certification for payment for those costs and certify for payment the amount that the Architect determines, in the Architect's professional judgment, to be reasonably justified. The Architect's interim determination of cost shall adjust the Contract Sum on the same basis as a Change Order, subject to the right of either party to disagree and assert a Claim in accordance with Article 15.

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

§ 7.4 Minor Changes in the Work

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

ARTICLE 8 TIME

§ 8.1 Definitions

- § 8.1.1 Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work.
- § 8.1.2 The date of commencement of the Work is the date established in the Agreement.
- § 8.1.3 The date of Substantial Completion is the date certified by the Architect in accordance with Section 9.8.
- § 8.1.4 The term "day" as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.

§ 8.2 Progress and Completion

- § 8.2.1 Time limits stated in the Contract Documents are of the essence of the Contract. By executing the Agreement, the Contractor confirms that the Contract Time is a reasonable period for performing the Work.
- § 8.2.2 The Contractor shall not knowingly, except by agreement or instruction of the Owner in writing, commence the Work prior to the effective date of insurance required to be furnished by the Contractor and Owner.
- § 8.2.3 The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time.

§ 8.3 Delays and Extensions of Time

- § 8.3.1 If the Contractor is delayed at any time in the commencement or progress of the Work by (1) an act or neglect of the Owner or Architect, of an employee of either, or of a Separate Contractor; (2) by changes ordered in the Work; (3) by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, adverse weather conditions documented in accordance with Section 15.1.6.2, or other causes beyond the Contractor's control; (4) by delay authorized by the Owner pending mediation and binding dispute resolution; or (5) by other causes that the Contractor asserts, and the Architect determines, justify delay, then the Contract Time shall be extended for such reasonable time as the Architect may determine.
- § 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

§ 9.1.1 The Contract Sum is stated in the Agreement and, including authorized adjustments, is the total amount payable

by the Owner to the Contractor for performance of the Work under the Contract Documents.

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

§ 9.2 Schedule of Values

Where the Contract is based on a stipulated sum or Guaranteed Maximum Price, the Contractor shall submit a schedule of values to the Architect before the first Application for Payment, allocating the entire Contract Sum to the various portions of the Work. The schedule of values shall be prepared in the form, and supported by the data to substantiate its accuracy, required by the Architect. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment. Any changes to the schedule of values shall be submitted to the Architect and supported by such data to substantiate its accuracy as the Architect may require, and unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's subsequent Applications for Payment.

§ 9.3 Applications for Payment

- § 9.3.1 At least ten days before the date established for each progress payment, the Contractor shall submit to the Architect an itemized Application for Payment prepared in accordance with the schedule of values, if required under Section 9.2, for completed portions of the Work. The application shall be notarized, if required, and supported by all data substantiating the Contractor's right to payment that the Owner or Architect require, such as copies of requisitions, and releases and waivers of liens from Subcontractors and suppliers, and shall reflect retainage if provided for in the Contract Documents.
- § 9.3.1.1 As provided in Section 7.3.9, such applications may include requests for payment on account of changes in the Work that have been properly authorized by Construction Change Directives, or by interim determinations of the Architect, but not yet included in Change Orders.
- § 9.3.1.2 Applications for Payment shall not include requests for payment for portions of the Work for which the Contractor does not intend to pay a Subcontractor or supplier, unless such Work has been performed by others whom the Contractor intends to pay.
- § 9.3.2 Unless otherwise provided in the Contract Documents, payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed upon in writing. Payment for materials and equipment stored on or off the site shall be conditioned upon compliance by the Contractor with procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest, and shall include the costs of applicable insurance, storage, and transportation to the site, for such materials and equipment stored off the site.
- § 9.3.3 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information, and belief, be free and clear of liens, claims, security interests, or encumbrances, in favor of the Contractor, Subcontractors, suppliers, or other persons or entities that provided labor, materials, and equipment relating to the Work.

§ 9.4 Certificates for Payment

- § 9.4.1 The Architect will, within seven days after receipt of the Contractor's Application for Payment, either (1) issue to the Owner a Certificate for Payment in the full amount of the Application for Payment, with a copy to the Contractor; or (2) issue to the Owner a Certificate for Payment for such amount as the Architect determines is properly due, and notify the Contractor and Owner of the Architect's reasons for withholding certification in part as provided in Section 9.5.1; or (3) withhold certification of the entire Application for Payment, and notify the Contractor and Owner of the Architect's reason for withholding certification in whole as provided in Section 9.5.1.
- § 9.4.2 The issuance of a Certificate for Payment will constitute a representation by the Architect to the Owner, based on the Architect's evaluation of the Work and the data in the Application for Payment, that, to the best of the Architect's knowledge, information, and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The

foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion, and to specific qualifications expressed by the Architect. However, the issuance of a Certificate for Payment will not be a representation that the Architect has (1) made exhaustive or continuous on-site 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 suppliers and other data requested by the Owner to substantiate the Contractor's right to payment; or (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 9.5 Decisions to Withhold Certification

§ 9.5.1 The Architect may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Architect's opinion the representations to the Owner required by Section 9.4.2 cannot be made. If the Architect is unable to certify payment in the amount of the Application, the Architect will notify the Contractor and Owner as provided in Section 9.4.1. If the Contractor and Architect cannot agree on a revised amount, the Architect will promptly issue a Certificate for Payment for the amount for which the Architect is able to make such representations to the Owner. The Architect may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued, to such extent as may be necessary in the Architect's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from acts and omissions described in Section 3.3.2, because of

- .1 defective Work not remedied;
- .2 third party claims filed or reasonable evidence indicating probable filing of such claims, unless security acceptable to the Owner is provided by the Contractor;
- .3 failure of the Contractor to make payments properly to Subcontractors or suppliers for labor, materials or
- .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 either party disputes the Architect's decision regarding a Certificate for Payment under Section 9.5.1, in whole or in part, that party may submit a Claim in accordance with Article 15.
- § 9.5.3 When the reasons for withholding certification are removed, certification will be made for amounts previously withheld.
- § 9.5.4 If the Architect withholds certification for payment under Section 9.5.1.3, the Owner may, at its sole option, issue joint checks to the Contractor and to any Subcontractor or supplier to whom the Contractor failed to make payment for Work properly performed or material or equipment suitably delivered. If the Owner makes payments by joint check, the Owner shall notify the Architect and the Contractor shall reflect such payment on its next Application for Payment.

§ 9.6 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 suppliers amounts paid by the Owner to the Contractor for subcontracted Work. If the Contractor fails to furnish such evidence within seven days, the Owner shall have the right to contact Subcontractors and suppliers

to ascertain whether they have been properly paid. Neither the Owner nor Architect shall have an obligation to pay, or to see to the payment of money to, a Subcontractor or supplier, except as may otherwise be required by law.

- § 9.6.5 The Contractor's payments to suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.
- § 9.6.6 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Contract Documents.
- § 9.6.7 Unless the Contractor provides the Owner with a payment bond in the full penal sum of the Contract Sum, payments received by the Contractor for Work properly performed by Subcontractors or provided by suppliers shall be held by the Contractor for those Subcontractors or suppliers who performed Work or furnished materials, or both, under contract with the Contractor for which payment was made by the Owner. Nothing contained herein shall require money to be placed in a separate account and not commingled with money of the Contractor, create any fiduciary liability or tort liability on the part of the Contractor for breach of trust, or entitle any person or entity to an award of punitive damages against the Contractor for breach of the requirements of this provision.
- § 9.6.8 Provided the Owner has fulfilled its payment obligations under the Contract Documents, the Contractor shall defend and indemnify the Owner from all loss, liability, damage or expense, including reasonable attorney's fees and litigation expenses, arising out of any lien claim or other claim for payment by any Subcontractor or supplier of any tier. Upon receipt of notice of a lien claim or other claim for payment, the Owner shall notify the Contractor. If approved by the applicable court, when required, the Contractor may substitute a surety bond for the property against which the lien or other claim for payment has been asserted.

§ 9.7 Failure of Payment

If the Architect does not issue a Certificate for Payment, through no fault of the Contractor, within 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' notice to the Owner and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided for in the Contract Documents.

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

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

§ 9.9 Partial Occupancy or Use

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

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

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

§ 9.10 Final Completion and Final Payment

§ 9.10.1 Upon receipt of the Contractor's notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Architect will promptly make such inspection. 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 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, (3) a written statement that the Contractor knows of no reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment, (5) documentation of any special warranties, such as manufacturers' warranties or specific Subcontractor warranties, and (6) if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts and releases and waivers of liens, claims, security interests, or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien, claim, security interest, or encumbrance. If a lien, claim, security interest, or encumbrance remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging the lien, claim, security interest, or encumbrance, including all costs and reasonable attorneys' fees.

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

constitute a waiver of Claims.

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

- 1 liens, Claims, security interests, or encumbrances arising out of the Contract and unsettled;
- .2 failure of the Work to comply with the requirements of the Contract Documents;
- .3 terms of special warranties required by the Contract Documents; or
- .4 audits performed by the Owner, if permitted by the Contract Documents, after final payment.

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

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

§ 10.1 Safety Precautions and Programs

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

§ 10.2 Safety of Persons and Property

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

- .1 employees on the Work and other persons who may be affected thereby;
- .2 the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody, or control of the Contractor, a Subcontractor, or a Sub-subcontractor; and
- .3 other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures, and utilities not designated for removal, relocation, or replacement in the course of construction.
- § 10.2.2 The Contractor shall comply with, and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, bearing on safety of persons or property or their protection from damage, injury, or loss.
- § 10.2.3 The Contractor shall implement, erect, and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards; promulgating safety regulations; and notifying the owners and users of adjacent sites and utilities of the safeguards.
- § 10.2.4 When use or storage of explosives or other hazardous materials or equipment, or unusual methods are necessary for execution of the Work, the Contractor shall exercise utmost care and carry on such activities under supervision of properly qualified personnel.
- § 10.2.5 The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Sections 10.2.1.2 and 10.2.1.3 caused in whole or in part by the Contractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Sections 10.2.1.2 and 10.2.1.3. The Contractor may make a Claim for the cost to remedy the damage or loss to the extent such damage or loss is attributable to acts or omissions of the Owner or Architect or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Section 3.18.
- § 10.2.6 The Contractor shall designate a responsible member of the Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the Owner and Architect.
- § 10.2.7 The Contractor shall not permit any part of the construction or site to be loaded so as to cause damage or create an unsafe condition.

§ 10.2.8 Injury or Damage to Person or Property

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

§ 10.3 Hazardous Materials and Substances

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

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

§ 10.3.3 To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the 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 hazardous materials or substances the Contractor brings to the site unless such materials or substances are required by the Contract Documents. The Owner shall be responsible for hazardous materials or substances required by the Contract Documents, except to the extent of the Contractor's fault or negligence in the use and handling of such materials or substances.

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

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

§ 10.4 Emergencies

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

ARTICLE 11 INSURANCE AND BONDS

§ 11.1 Contractor's Insurance and Bonds

§ 11.1.1 The Contractor shall purchase and maintain insurance of the types and limits of liability, containing the

- § 11.1.2 The Contractor shall provide surety bonds of the types, for such penal sums, and subject to such terms and conditions as required by the Contract Documents. The Contractor shall purchase and maintain the required bonds from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located.
- § 11.1.3 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished.
- § 11.1.4 Notice of Cancellation or Expiration of Contractor's Required Insurance. Within three (3) business days of the date the Contractor becomes aware of an impending or actual cancellation or expiration of any insurance required by the Contract Documents, the Contractor shall provide notice to the Owner of such impending or actual cancellation or expiration. Upon receipt of notice from the Contractor, the Owner shall, unless the lapse in coverage arises from an act or omission of the Owner, have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by the Contractor. The furnishing of notice by the Contractor shall not relieve the Contractor of any contractual obligation to provide any required coverage.

§ 11.2 Owner's Insurance

- § 11.2.1 The Owner shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Owner shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located.
- § 11.2.2 Failure to Purchase Required Property Insurance. If the Owner fails to purchase and maintain the required property insurance, with all of the coverages and in the amounts described in the Agreement or elsewhere in the Contract Documents, the Owner shall inform the Contractor in writing prior to commencement of the Work. Upon receipt of notice from the Owner, the Contractor may delay commencement of the Work and may obtain insurance that will protect the interests of the Contractor, Subcontractors, and Sub-Subcontractors in the Work. When the failure to provide coverage has been cured or resolved, the Contract Sum and Contract Time shall be equitably adjusted. In the event the Owner fails to procure coverage, the Owner waives all rights against the Contractor, Subcontractors, and Subsubcontractors to the extent the loss to the Owner would have been covered by the insurance to have been procured by the Owner. The cost of the insurance shall be charged to the Owner by a Change Order. If the Owner does not provide written notice, and the Contractor is damaged by the failure or neglect of the Owner to purchase or maintain the required insurance, the Owner shall reimburse the Contractor for all reasonable costs and damages attributable thereto.
- § 11.2.3 Notice of Cancellation or Expiration of Owner's Required Property Insurance. Within three (3) business days of the date the Owner becomes aware of an impending or actual cancellation or expiration of any property insurance required by the Contract Documents, the Owner shall provide notice to the Contractor of such impending or actual cancellation or expiration. Unless the lapse in coverage arises from an act or omission of the Contractor: (1) the Contractor, upon receipt of notice from the Owner, shall have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by either the Owner or the Contractor; (2) the Contract Time and Contract Sum shall be equitably adjusted; and (3) the Owner waives all rights against the Contractor, Subcontractors, and Subsubcontractors to the extent any loss to the Owner would have been covered by the insurance had it not expired or been cancelled. If the Contractor purchases replacement coverage, the cost of the insurance shall be charged to the Owner by an appropriate Change Order. The furnishing of notice by the Owner shall not relieve the Owner of any contractual obligation to provide required insurance.

§ 11.3 Waivers of Subrogation

§ 11.3.1 The Owner and Contractor waive all rights against (1) each other and any of their subcontractors, subsubcontractors, agents, and employees, each of the other; (2) the Architect and Architect's consultants; and (3) Separate Contractors, if any, and any of their subcontractors, sub-subcontractors, agents, and employees, for damages caused by fire, or other causes of loss, to the extent those losses are covered by property insurance required by the Agreement or other property insurance applicable to the Project, except such rights as they have to proceeds of such insurance. The

Owner or Contractor, as appropriate, shall require similar written waivers in favor of the individuals and entities identified above from the Architect, Architect's consultants, Separate Contractors, subcontractors, and subsubcontractors. The policies of insurance purchased and maintained by each person or entity agreeing to waive claims pursuant to this section 11.3.1 shall not prohibit this waiver of subrogation. This waiver of subrogation shall be effective as to a person or entity (1) even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, (2) even though that person or entity did not pay the insurance premium directly or indirectly, or (3) whether or not the person or entity had an insurable interest in the damaged property.

§ 11.3.2 If during the Project construction period the Owner insures properties, real or personal or both, at or adjacent to the site by property insurance under policies separate from those insuring the Project, or if after final payment property insurance is to be provided on the completed Project through a policy or policies other than those insuring the Project during the construction period, to the extent permissible by such policies, the Owner waives all rights in accordance with the terms of Section 11.3.1 for damages caused by fire or other causes of loss covered by this separate property insurance.

§ 11.4 Loss of Use, Business Interruption, and Delay in Completion Insurance

The Owner, at the Owner's option, may purchase and maintain insurance that will protect the Owner against loss of use of the Owner's property, or the inability to conduct normal operations, due to fire or other causes of loss. The Owner waives all rights of action against the Contractor and Architect for loss of use of the Owner's property, due to fire or other hazards however caused.

§11.5 Adjustment and Settlement of Insured Loss

§ 11.5.1 A loss insured under the property insurance required by the Agreement shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause and of Section 11.5.2. The Owner shall pay the Architect and Contractor their just shares of insurance proceeds received by the Owner, and by appropriate agreements the Architect and Contractor shall make payments to their consultants and Subcontractors in similar manner.

§ 11.5.2 Prior to settlement of an insured loss, the Owner shall notify the Contractor of the terms of the proposed settlement as well as the proposed allocation of the insurance proceeds. The Contractor shall have 14 days from receipt of notice to object to the proposed settlement or allocation of the proceeds. If the Contractor does not object, the Owner shall settle the loss and the Contractor shall be bound by the settlement and allocation. Upon receipt, the Owner shall deposit the insurance proceeds in a separate account and make the appropriate distributions. Thereafter, if no other agreement is made or the Owner does not terminate the Contract for convenience, the Owner and Contractor shall execute a Change Order for reconstruction of the damaged or destroyed Work in the amount allocated for that purpose. If the Contractor timely objects to either the terms of the proposed settlement or the allocation of the proceeds, the Owner may proceed to settle the insured loss, and any dispute between the Owner and Contractor arising out of the settlement or allocation of the proceeds shall be resolved pursuant to Article 15. Pending resolution of any dispute, the Owner may issue a Construction Change Directive for the reconstruction of the damaged or destroyed Work.

ARTICLE 12 UNCOVERING AND CORRECTION OF WORK

§ 12.1 Uncovering of Work

§ 12.1.1 If a portion of the Work is covered contrary to the Architect's request or to requirements specifically expressed in the Contract Documents, it must, if requested in writing by the Architect, be uncovered for the Architect's examination and be replaced at the Contractor's expense without change in the Contract Time.

§ 12.1.2 If a portion of the Work has been covered that the Architect has not specifically requested to examine prior to its being covered, the Architect may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, the Contractor shall be entitled to an equitable adjustment to the Contract Sum and Contract Time as may be appropriate. If such Work is not in accordance with the Contract Documents, the costs of uncovering the Work, and the cost of correction, shall be at the Contractor's expense.

§ 12.2 Correction of Work

§ 12.2.1 Before Substantial Completion

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

Contractor's expense.

§ 12.2.2 After Substantial Completion

§ 12.2.2.1 In addition to the Contractor's obligations under Section 3.5, if, within one year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.9.1, or by terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of notice from the Owner to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. 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 2.5.

- § 12.2.2.2 The one-year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual completion of that portion of the Work.
- § 12.2.2.3 The one-year period for correction of Work shall not be extended by corrective Work performed by the Contractor pursuant to this Section 12.2.
- § 12.2.3 The Contractor shall remove from the site portions of the Work that are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner.
- § 12.2.4 The Contractor shall bear the cost of correcting destroyed or damaged construction of the Owner or Separate Contractors, whether completed or partially completed, caused by the Contractor's correction or removal of Work that is not in accordance with the requirements of the Contract Documents.
- § 12.2.5 Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

§ 12.3 Acceptance of Nonconforming Work

If the Owner prefers to accept Work that is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

ARTICLE 13 MISCELLANEOUS PROVISIONS

§ 13.1 Governing Law

The Contract shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 15.4.

§ 13.2 Successors and Assigns

- § 13.2.1 The Owner and Contractor respectively bind themselves, their partners, successors, assigns, and legal representatives to covenants, agreements, and obligations contained in the Contract Documents. Except as provided in Section 13.2.2, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.
- § 13.2.2 The Owner may, without consent of the Contractor, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner's rights and obligations under the Contract Documents. The Contractor shall execute all consents reasonably required to facilitate the assignment.

§ 13.3 Rights and Remedies

§ 13.3.1 Duties and obligations imposed by the Contract Documents and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights, and remedies otherwise imposed or available by law.

§ 13.3.2 No action or failure to act by the Owner, Architect, or Contractor shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed upon in writing.

§ 13.4 Tests and Inspections

§ 13.4.1 Tests, inspections, and approvals of portions of the Work shall be made as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules, and regulations or lawful orders of public authorities. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections, and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections, and approvals. The Contractor shall give the Architect timely notice of when and where tests and inspections are to be made so that the Architect may be present for such procedures. The Owner shall bear costs of tests, inspections, or approvals that do not become requirements until after bids are received or negotiations concluded. The Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations so require.

§ 13.4.2 If the Architect, Owner, or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection, or approval not included under Section 13.4.1, the Architect will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection, or approval, by an entity acceptable to the Owner, and the Contractor shall give timely notice to the Architect of when and where tests and inspections are to be made so that the Architect may be present for such procedures. Such costs, except as provided in Section 13.4.3, shall be at the Owner's expense.

§ 13.4.3 If procedures for testing, inspection, or approval under Sections 13.4.1 and 13.4.2 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, all costs made necessary by such failure, including those of repeated procedures and compensation for the Architect's services and expenses, shall be at the Contractor's expense.

§ 13.4.4 Required certificates of testing, inspection, or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the Architect.

§ 13.4.5 If the Architect is to observe tests, inspections, or approvals required by the Contract Documents, the Architect will do so promptly and, where practicable, at the normal place of testing.

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

§ 13.5 Interest

Payments due and unpaid under the Contract Documents shall bear interest from the date payment is due at the rate the parties agree upon in writing or, in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT

§ 14.1 Termination by the Contractor

§ 14.1.1 The Contractor may terminate the Contract if the Work is stopped for a period of 30 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, for any of the following reasons:

- .1 Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;
- .2 An act of government, such as a declaration of national emergency, that requires all Work to be stopped;
- .3 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 reasonable evidence as required by Section 2.2.

- § 14.1.2 The Contractor may terminate the Contract if, through no act or fault of the Contractor, a Subcontractor, a Subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, repeated suspensions, delays, or interruptions of the entire Work by the Owner as described in Section 14.3, constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less.
- § 14.1.3 If one of the reasons described in Section 14.1.1 or 14.1.2 exists, the Contractor may, upon seven days' notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work executed, as well as reasonable overhead and profit on Work not executed, and costs incurred by reason of such termination.
- § 14.1.4 If the Work is stopped for a period of 60 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, or their agents or employees or any other persons or entities performing portions of the Work 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' 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 or suppliers in accordance with the respective agreements between the Contractor and the Subcontractors or suppliers;
 - .3 repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or
 - .4 otherwise is guilty of substantial breach of a provision of the Contract Documents.
- § 14.2.2 When any of the reasons described in Section 14.2.1 exist, and upon certification by the Architect that sufficient cause exists to justify such action, the Owner may, without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:
 - .1 Exclude the Contractor from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;
 - .2 Accept assignment of subcontracts pursuant to Section 5.4; and
 - .3 Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.
- § 14.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 14.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.
- § 14.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including compensation for the Architect's services and 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 under 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 notice from the Owner of such termination for the Owner's convenience, the Contractor shall

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

§ 14.4.3 In case of such termination for the Owner's convenience, the Owner shall pay the Contractor for Work properly executed; costs incurred by reason of the termination, including costs attributable to termination of Subcontracts; and the termination fee, if any, set forth in the Agreement.

ARTICLE 15 CLAIMS AND DISPUTES

§ 15.1 Claims

§ 15.1.1 Definition

A Claim is a demand or assertion by one of the parties seeking, as a matter of right, payment of money, a change in the Contract Time, or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Contractor arising out of or relating to the Contract. The responsibility to substantiate Claims shall rest with the party making the Claim. This Section 15.1.1 does not require the Owner to file a Claim in order to impose liquidated damages in accordance with the Contract Documents.

§ 15.1.2 Time Limits on Claims

The Owner and Contractor shall commence all Claims and causes of action against the other and arising out of or related to the Contract, whether in contract, tort, breach of warranty or otherwise, in accordance with the requirements of the binding dispute resolution method selected in the Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Contractor waive all Claims and causes of action not commenced in accordance with this Section 15.1.2.

§ 15.1.3 Notice of Claims

§ 15.1.3.1 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered prior to expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party and to the Initial Decision Maker with a copy sent to the Architect, if the Architect is not serving as the Initial Decision Maker. Claims by either party under this Section 15.1.3.1 shall be initiated within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later.

§ 15.1.3.2 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party. In such event, no decision by the Initial Decision Maker is required.

§ 15.1.4 Continuing Contract Performance

§ 15.1.4.1 Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 14, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents.

§ 15.1.4.2 The Contract Sum and Contract Time shall be adjusted in accordance with the Initial Decision Maker's decision, subject to the right of either party to proceed in accordance with this Article 15. The Architect will issue Certificates for Payment in accordance with the decision of the Initial Decision Maker.

§ 15.1.5 Claims for Additional Cost

If the Contractor wishes to make a Claim for an increase in the Contract Sum, notice as provided in Section 15.1.3 shall be given before proceeding to execute the portion of the Work that is the subject of the Claim. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4.

§ 15.1.6 Claims for Additional Time

§ 15.1.6.1 If the Contractor wishes to make a Claim for an increase in the Contract Time, notice as provided in Section

15.1.3 shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay, only one Claim is necessary.

§ 15.1.6.2 If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated, and had an adverse effect on the scheduled construction.

§ 15.1.7 Waiver of Claims for Consequential Damages

The Contractor and Owner waive Claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes

- 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;
- .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 15.1.7 shall be deemed to preclude assessment of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.

§ 15.2 Initial Decision

§ 15.2.1 Claims, excluding those where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2 or arising under Sections 10.3, 10.4, and 11.5, shall be referred to the Initial Decision Maker for initial decision. The Architect will serve as the Initial Decision Maker, unless otherwise indicated in the Agreement. Except for those Claims excluded by this Section 15.2.1, an initial decision shall be required as a condition precedent to mediation of any Claim. If an initial decision has not been rendered within 30 days after the Claim has been referred to the Initial Decision Maker, the party asserting the Claim may demand mediation and binding dispute resolution without a decision having been rendered. Unless the Initial Decision Maker and all affected parties agree, the Initial Decision Maker will not decide disputes between the Contractor and persons or entities other than the Owner.

§ 15.2.2 The Initial Decision Maker will review Claims and within ten days of the receipt of a Claim take one or more of the following actions: (1) request additional supporting data from the claimant or a response with supporting data from the other party, (2) reject the Claim in whole or in part, (3) approve the Claim, (4) suggest a compromise, or (5) advise the parties that the Initial Decision Maker is unable to resolve the Claim if the Initial Decision Maker lacks sufficient information to evaluate the merits of the Claim or if the Initial Decision Maker concludes that, in the Initial Decision Maker's sole discretion, it would be inappropriate for the Initial Decision Maker to resolve the Claim.

§ 15.2.3 In evaluating Claims, the Initial Decision Maker may, but shall not be obligated to, consult with or seek information from either party or from persons with special knowledge or expertise who may assist the Initial Decision Maker in rendering a decision. The Initial Decision Maker may request the Owner to authorize retention of such persons at the Owner's expense.

§ 15.2.4 If the Initial Decision Maker requests a party to provide a response to a Claim or to furnish additional supporting data, such party shall respond, within ten days after receipt of the request, and shall either (1) provide a response on the requested supporting data, (2) advise the Initial Decision Maker when the response or supporting data will be furnished, or (3) advise the Initial Decision Maker that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Initial Decision Maker will either reject or approve the Claim in whole or in part.

§ 15.2.5 The Initial Decision Maker will render an initial decision approving or rejecting the Claim, or indicating that the Initial Decision Maker is unable to resolve the Claim. This initial decision shall (1) be in writing; (2) state the reasons therefor; and (3) notify the parties and the Architect, if the Architect is not serving as the Initial Decision Maker, of any change in the Contract Sum or Contract Time or both. The initial decision shall be final and binding on the parties but subject to mediation and, if the parties fail to resolve their dispute through mediation, to binding dispute resolution.

§ 15.2.6 Either party may file for mediation of an initial decision at any time, subject to the terms of Section 15.2.6.1.

- § 15.2.6.1 Either party may, within 30 days from the date of receipt of an initial decision, demand in writing that the other party file for mediation. If such a demand is made and the party receiving the demand fails to file for mediation within 30 days after receipt thereof, then both parties waive their rights to mediate or pursue binding dispute resolution proceedings with respect to the initial decision.
- § 15.2.7 In the event of a Claim against the Contractor, the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.
- § 15.2.8 If a Claim relates to or is the subject of a mechanic's lien, the party asserting such Claim may proceed in accordance with applicable law to comply with the lien notice or filing deadlines.

§ 15.3 Mediation

- § 15.3.1 Claims, disputes, or other matters in controversy arising out of or related to the Contract, except those waived as provided for in Sections 9.10.4, 9.10.5, and 15.1.7, shall be subject to mediation as a condition precedent to binding dispute resolution.
- § 15.3.2 The parties shall endeavor to resolve their Claims by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of binding dispute resolution proceedings but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration is stayed pursuant to this Section 15.3.2, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.
- § 15.3.3 Either party may, within 30 days from the date that mediation has been concluded without resolution of the dispute or 60 days after mediation has been demanded without resolution of the dispute, demand in writing that the other party file for binding dispute resolution. If such a demand is made and the party receiving the demand fails to file for binding dispute resolution within 60 days after receipt thereof, then both parties waive their rights to binding dispute resolution proceedings with respect to the initial decision.
- § 15.3.4 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

§ 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. The Arbitration shall be conducted in the place where the Project is located, unless another location is mutually agreed upon. 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 Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party 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 Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party 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 those of the Owner and Contractor under this Agreement.

SUPPLEMENTARY CONDITIONS

The following supplements modify AIA Document A201–2017, General Conditions of the Contract for Construction. Where a portion of the General Conditions is modified or deleted by these Supplementary Conditions, the unaltered portions of the General Conditions shall remain in effect.

ARTICLE 1 GENERAL PROVISIONS

§ 1.1.1 The Contract Documents

The Contract Documents 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 or proposal requirements.

§ 1.1.8 Initial Decision Maker

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

- § 1.2.1 In the event of inconsistencies among the Contract Documents, the Architect is to interpret them to reflect the design intent.
- § 1.2.1.2 In clarifying ambiguities or settling disputes, the following order of precedence of the Contract Documents shall be used:
 - a. Modifications.
 - b. The Agreement.
 - c. Addenda, with those of later date having precedence over those of earlier date.
 - d. The Supplementary Conditions.
 - e. The General Conditions of the Contract for Construction.
 - f. Written Dimensions.
 - g. Scaled Dimensions.
 - h. Detailed Drawings.
 - i. General Drawings

In the case of an inconsistency between Drawings and Specification or within either Document not clarified by Addendum, the better quality or greater quantity of Work shall be provided in accord with the Architect's interpretation.

§ 1.5.1 The Owner shall be deemed the authors and owners of Architect's and Architect's consultants' respective Instruments of Service, including the Drawings and Specifications, and own all common law, statutory, and other reserved rights in their Instruments of Service, including copyrights. The Architect, Architect's consultants, Contractor, Subcontractors, Subsubcontractors, and suppliers shall not own or claim a copyright in the Instruments of Service. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the Owner's reserved rights. § 1.5.2 The Architect, Architect's consultants, Contractor, Subcontractors, Sub-subcontractors, and suppliers are authorized to use and reproduce the Instruments of Service, subject to any protocols established pursuant to Sections 1.7 and 1.8, solely and exclusively for execution of the Work. All copies made under this authorization shall bear the copyright notice, if any, shown on the Instruments of Service. The Architect and Architect's consultants may use the Instruments of Service on other projects or for additions to the Project outside the scope of the Work without the specific written consent of the Owner. The Contractor, Subcontractors, Sub-subcontractors, and

City of West Allis – New DPW Facility suppliers may not use the Instruments of Service on other projects or for additions to the Project outside the scope of the Work without the specific written consent of the Owner.

ARTICLE 2 OWNER

- § 2.1.2 (Deleted in its entirety.)
- § 2.2 Evidence of the Owner's Financial Arrangements (Deleted in its entirety.)
- § 2.3.1 The Owner shall secure and pay for the building, mechanical, electrical, and plumbing plan review permits, the environmental impact fees due to water and sewer connections, and the zoning regulation fees and permits as required by the jurisdiction listed elsewhere in the specification. The Contractor shall secure and pay for all building construction permits, other permits and governmental fees, licenses and inspections necessary for proper execution of and completion of their Contract which are legally required when bids are received, or negotiations concluded.
- § 2.3.2 The Owner may retain an architect of its choosing lawfully licensed to practice architecture, or an entity of its choosing lawfully practicing architecture, in the jurisdiction where the Project is located. That person or entity is identified as the Architect in the Agreement and is referred to throughout the Contract Documents as if singular in number.
- § 2.3.3 (Deleted in its entirety.)
- § 2.3.4 The Owner shall furnish surveys describing physical characteristics, and legal limitations for the site of the Project, and a legal description of the site. The Contractor shall furnish utility locations and exercise proper precautions relating to the safe performance of the Work.
- § 2.3.6 The Owner shall furnish the Contract Documents to the Contractor in digital format. If the Contractor requires paper documents, the Contractor shall be responsible for the costs of producing such paper documents.

ARTICLE 3 CONTRACTOR

- § 3.2.3 (Deleted in its entirety.)
- § 3.2.5 The Owner is entitled to reimbursement from the Contractor for amounts paid to the Architect for evaluating and responding to the Contractor's requests for information that are not prepared in accordance with the Contract Documents or where the requested information is available to the Contractor from a careful study and comparison of the Contract Documents, field conditions, other Owner-provided information, Contractor-prepared coordination drawings, or prior Project correspondence or documentation.
- § 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. When the Contract Documents give specific instructions concerning construction methods and means, the Contractor will review such instructions (including those recommended by Manufacturers) and advise the Architect if the specified procedures deviate from good construction practice or will affect any warranties. The Contractor shall propose alternative means, methods, techniques, sequences, or procedures that only if the proposal is included within the Contractor's general warranty. Any alternative procedure which the Contractor will warrant. The Architect shall evaluate the proposed alternative solely for conformance with the design intent for the completed construction. Unless the Architect objects to the Contractor's proposed alternative, the Contractor shall perform the Work using its alternative means, methods, techniques, sequences, or procedures.
- § 3.4.2.1 After the Contract has been executed, the Owner and Architect may consider requests for the substitution of products in place of those specified. The Owner and Architect may, but are not obligated to, consider only those substitution requests that are in full conformance with the

City of West Allis – New DPW Facility conditions set forth in the General Requirements (Division 1 of the Specifications). By making requests for substitutions, the Contractor:

- 1. represents that it has personally investigated the proposed substitute product and determined that it is equal or superior in all respects to the product specified;
- 2. represents that it will provide the same warranty for the substitution as it would have provided for the product specified;
- 3. certifies that the cost data presented is complete and includes all related costs for the substituted product and for Work that must be performed or changed as a result of the substitution, except for the Architect's redesign costs, and waives all claims for additional costs related to the substitution that subsequently become apparent;
- 4. agrees that it shall, if the substitution is approved, coordinate the installation of the accepted substitute, making such changes as may be required for the Work to be complete in all respects: and
- 5. represents that the request includes a written representation identifying any potential effect the substitution may have on the Project's achievement of a Sustainable Measure or the Sustainable Objective.
- § 3.4.2.2 The Owner shall be entitled to reimbursement from the Contractor for amounts paid to the Architect for reviewing the Contractor's proposed substitutions and making agreed-upon changes in the Drawings and Specifications resulting from such substitutions.
- § 3.6 The Owner is wholly exempt from sales and use tax. Payment of sales tax shall be excluded from this Project. The Owner shall provide to Architect or Contractor a Certificate of Exempt Status (CES) number and/or Wisconsin Department of Revenue Form S-211 upon request.
- § 3.7.1 The Owner shall secure and pay for the building, mechanical, electrical, and plumbing plan review permits, the environmental impact fees due to water and sewer connections, and the zoning regulation fees and permits as required by the jurisdiction listed elsewhere in the specification. The Contractor shall secure and pay for all building construction permits, other permits and governmental fees, licenses and inspections necessary for proper execution of and completion of their Contract which are legally required when bids are received, or negotiations concluded.
- § 3.8.2.3 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 except when installation is specified as part of the allowance in the General Requirements (Division 1 of the Specifications).
- § 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. The Superintendent shall have a minimum of ten years of experience with commercial construction projects of similar size and complexity. The Superintendent shall not also perform the functions of a Project Manager. The Project Manager tasks shall be performed as described in Section 01 30 00. This superintendent will also be responsible for resolving all Punch List items after inspection by the Owner and Architect.
- § 3.12.4 Shop Drawings, Product Data, Samples, and similar submittals are incorporated into the Contract Documents.
- § 3.12.11 The Architect's review of Contractor's submittals will be limited to examination of an initial submittal and Two (2) resubmittals. The Contractor shall reimburse the Owner for amounts paid to the Architect for evaluation of additional resubmittals.
- § 3.18.3 In agreeing to this indemnification provision, the Owner does not waive any defenses, immunities, limitations on damages, or other legal status afforded to it under federal or state law and expressly maintains the right to assert any defense, immunity, limitation, or other legal status in any subsequent action or proceeding.

ARTICLE 4 ARCHITECT

§ 4.2.2.1 The Owner is entitled to reimbursement from the Contractor for amounts paid to the Architect for site visits made necessary by the fault of the Contractor or by defects and deficiencies in the Work.

§ 4.2.4 Communications

The Owner and Contractor shall include the Architect in all communications that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Contractor otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with Subcontractors and suppliers shall be through the Contractor. Communications by and with Separate Contractors shall be through the Owner. The Contract Documents may specify other communication protocols. Any direct communication between Owner and Contractor that affect the performance or administration of the Contract shall be made or confirmed in writing, with copies to the Architect, and that any such communications that represent a modification of the Contract requirements will be documented appropriately. Any communications among the Architect and Subcontractors should be confirmed in writing to the Contractor.

- § 4.2.7.1 In no case will the Architect's review period on any submittal be less than 10 days after receipt of the submittal from the Contractor.
- § 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 and the plans approved by the Owner.
- § 4.2.14.1 Contractor's requests for information shall be prepared and submitted in accordance with Division 1 "General Requirements" sections on the form included in the Contract Documents. The Architect will return without action requests for information that do not conform to requirements of the Contract Documents.
- § 4.2.15 The Architect shall copy the Owner on any communications with the Contractor where the Architect authorizes any changes to Contract Documents, including Change Orders, Construction Change Directives, and other Modifications, Shop Drawings, or the approved aesthetic appearance of the Work.

ARTICLE 5 SUBCONTRACTORS

- § 5.2.1.1 Not later than 14 days from the Contract Date, the Contractor shall provide a list showing the name of the Manufacturers proposed to be used for each of the products identified in the General Requirements of the Specifications (Division 1) and, where applicable, the name of the installing Subcontractor.
- § 5.2.1.2 The Architect will promptly reply in writing to the Contractor stating whether the Owner or the Architect, after due investigation, has reasonable objection to any such proposal. If adequate data on any proposed Manufacturer or installer is not available, the Architect may state that action will be deferred until the Contractor provides further data. Failure of the Owner or Architect to reply promptly shall constitute notice of no reasonable objection. Failure to object to a Manufacturer shall not constitute a waiver of any of the requirements of the Contract Documents, and all products furnished by the listed Manufacturer must conform to such requirements.
- § 5.2.3 (Deleted in its entirety.)
- § 5.4 (Deleted in its entirety.)

ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

§ 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

ARTICLE 7 CHANGES IN THE WORK

- § 7.2.2 For each change in the Work with an increase or decrease in the Contract Sum, the Contractor shall submit a Potential Change Request prior to starting any work for review by the Architect.
- § 7.2.3 Each Potential Change Request shall include the detailed documentation as specified in Subparagraphs 7.3.4.1 through 7.3.4.5. The allowance for overhead and profit shall be as specified in Subparagraph 7.3.11 of this Section.
- § 7.2.4 The Contractor shall not begin the Work of a Potential Change Request until notified by the Architect unless a written Construction Change Directive is issued. Work of a Potential Change Order undertaken without an approved Construction Change Directive will be at the Contractor's own risk.
- § 7.2.5 A Change Order will be issued comprised of one or more approved Potential Change Requests at appropriate intervals.
- § 7.3.4 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Architect shall determine the adjustment on the basis of reasonable expenditures and saving of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, an allowance for overhead and profit in accord with the schedule set forth in Clause 7.3.11.1 through 7.3.11.5 below. In such case, and also under Section 7.3.3.3, the Contractor shall keep and present, in such form as the Architect may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Section 7.3.4 shall be limited to the following:
 - .1 Costs of labor, including applicable payroll taxes, fringe benefits required by agreement or custom, workers' compensation insurance, and other employee costs approved by the Architect.
 - **.2** Costs of materials, supplies, and equipment, including cost of transportation, whether incorporated or consumed;
 - **.3** Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others;
 - .4 Costs of premiums for all bonds and insurance, permit fees, and sales, use, or similar taxes, directly related to the change; and
 - .5 Costs of supervision and field office personnel directly attributable to the change.
- § 7.3.11 In Subparagraph 7.3.7 the allowance for overhead and profit combined, included in the total cost to the Owner, shall be based on the following schedule:
 - **.1** For the Contractor, for any Work performed by the Contractor's own forces, **5** percent of the cost.
 - **.2** For the Contractor, for Work performed by the Contractor's Subcontractor, **2.5** percent of the amount due the Subcontractor.
 - **.3** For each Subcontractor or Sub-subcontractor involved, for any Work performed by the Subcontractor's own forces, five percent of the cost.
 - .4 In order to facilitate checking of quotations for extras or credits, all proposals, except those so minor that their propriety can be seen by inspection, shall be accompanied by a

- complete itemization of costs including labor, materials and Subcontractors. Labor and materials shall be itemized in the manner prescribed above. Where major cost items are Subcontracts, they shall be itemized also. In no case will a change involving over \$500.00 be approved without such itemization.
- .5 The Architect will have access to all records and costs from prime contractors, subcontractors, and suppliers for the base bid work, alternatives and change orders in order to evaluate certificates of payment and change order requests.
- § 7.4 Minor Changes in the Work. The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time or any change in the aesthetic of the Work. The Architect's order for minor changes shall be in writing. If the Contractor believes that the proposed minor change in the Work will affect the Contract Sum or Contract Time, the Contractor shall notify the Architect and shall not proceed to implement the change in the Work. If the Contractor performs the Work set forth in the Architect's order for a minor change without prior notice to the Architect that such change will affect the Contract Sum or Contract Time, the Contractor waives any adjustment to the Contract Sum or extension of the Contract Time.

ARTICLE 8 TIME

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

ARTICLE 9 PAYMENTS AND COMPLETION

- § 9.2 Schedule of Values (Deleted in its entirety.)
- § 9.3.1 At least fifteen days before the date established for each progress payment, the Contractor shall submit to the Architect an itemized Application for Payment prepared in accordance with the schedule of values, if required under Section 9.2, for completed portions of the Work. The application shall be notarized, if required, and supported by all data substantiating the Contractor's right to payment that the Owner or Architect require, such as copies of requisitions, and releases and waivers of liens from Subcontractors and suppliers, and shall reflect retainage if provided for in the Contract Documents. The form of Application for Payment, duly notarized, shall be a current authorized edition of AIA Document G702™−1992, Application and Certificate for Payment, supported by a current
- authorized edition of AIA Document G703[™]–1992, Continuation Sheet. § 9.3.1.3 Until the Work is 50 percent complete; the Owner will pay 95 percent of the amount due
- § 9.3.1.3 Until the Work is 50 percent complete; the Owner will pay 95 percent of the amount due the Contractor on account of progress payments. At the time the Work is 50 percent complete and thereafter, if the progress of the work is satisfactory to the Architect, the Architect will (on presentation by the Contractor of Consent of Surety for each Application) authorize any remaining partial payments to be paid in full, but amounts previously retained shall not be paid to the Contractor.
- § 9.3.1.4 At 50 percent completion or any time after 50 percent completion when the progress of the work is not satisfactory, additional amounts may be retained up to a total retainage of 10 percent of the value of the work completed.
- § 9.3.3.1 The first payment application shall be accompanied by the Contractor's partial waiver of lien only, for the full amount of the payment. Each subsequent monthly payment application shall be accompanied by the Contractor's partial waiver, and by the partial waivers of Subcontractors and suppliers who were included in the immediately preceding payment application to the extent of the payment. Application for final payment shall be accompanied by final waivers of lien from the Contractor, Subcontractors and Suppliers who have not previously furnished such final

- § 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 thirty 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' notice to the Owner and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided for in the Contract Documents.
- § 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. The Agreement for the project contains a Liquidated Damages Clause. Substantial Completion must occur prior to the project being considered complete. No extensions for weather or other items known to the Contractor prior to bidding will be considered. Extensions for strikes or any unforeseen items will be determined by the Architect.
- § 9.8.3 Upon receipt of the Contractor's list, the Architect will notify the Owner that the Architect will make an inspection to determine whether the Work or designated portion thereof is substantially complete. The Architect shall make the inspection at a time when the Owner's representative can attend. 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.
- § 9.8.3.1 The Architect will perform no more than two (2) inspections to determine whether the Work or a designated portion thereof has attained Substantial Completion in accordance with the Contract Documents. The Owner is entitled to reimbursement from the Contractor for amounts paid to the Architect for any additional inspections.
- § 9.8.4 When the Work or designated portion thereof is substantially complete, the Architect will prepare a Certificate of Substantial Completion that shall establish the date of Substantial Completion; establish responsibilities of the Owner and Contractor for security, maintenance. heat, utilities, damage to the Work and insurance; and fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Final Acceptance by West Allis Common Council.
- § 9.10.1 Upon receipt of the Contractor's notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Architect will notify the Owner that the Architect will make a final inspection. The architect shall arrange for a time when the Owner's representative can attend and promptly make such inspection. When the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed and the West Allis Common Council accepts the work as final, 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 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.
- § 9.10.1.1 The Architect will perform no more than two (2) inspections to determine whether the Work or a designated portion thereof has attained Final Completion in accordance with the Contract Documents. The Owner is entitled to reimbursement from the Contractor for amounts

paid to the Architect for any additional inspections.

§ 9.11.1 The Owner may suffer financial loss if the Project is not Substantially Compete on the date set forth in the Contract Documents. The Contractor (and the Contractor's Surety) shall be liable for and shall pay to the Owner the sums hereinafter stipulated and fixed, agree and liquidated damages for each calendar day of delay until the Work is Substantially Complete: \$10,000 per calendar day.

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

- § 10.2.3.1 If reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in affected area and report the condition to the Owner and Architect in writing. The Owner, Contractor and Architect shall then proceed in the same manner described in Subparagraph 10.2.5.
- § 10.2.3.2 The Owner shall be responsible for obtaining the services of a licensed laboratory to verify a presence or absence of the material or substance is found to be present, to verify that it has been rendered harmless. Unless otherwise required by the Contract Documents, the Owner shall furnish in writing to the Contractor and Architect the names and qualification 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 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.
- § 10.2.4.1 When use or storage of explosives, or other hazardous materials, substances or equipment, or unusual methods, are necessary for execution of the Work, the Contractor shall give the Owner reasonable advance notice.
- § 10.3.3.1 Notwithstanding the foregoing, nothing contained within this Contract is intended to be waiver or estoppel of the City of West Allis or its insurer's ability to rely upon the limitations, defenses and immunities set forth under Wisconsin law, including, but not limited to, those contained in Wisconsin Statute Sections 893.80, 895.52 and 345.05. To the extent that indemnification is available and enforceable, the City of West Allis or its insurer shall not be liable, in indemnity or contribution, for an amount greater than the limit of the liability for municipal claims established under Wisconsin law. The City's obligation to indemnify hereunder is subject to the availability and limits of applicable insurance coverage. Under no circumstances shall the City of West Allis be required to indemnify the Contractor, Subcontractor or Architect, or their agents or employees, for their own negligent or intentional conduct. This language must apply to all indemnity obligations that are sought against the City in this Contract.

ARTICLE 11 INSURANCE AND BONDS

§ 11.3 (Deleted in its entirety.)

ARTICLE 12 UNCOVERING AND CORRECTION OF WORK

§ 12.2.1 Before Final Completion

The Contractor shall promptly correct Work rejected by the Architect or failing to conform to the requirements of the Contract Documents, discovered before Final 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 Final Completion

§ 12.2.2.1 In addition to the Contractor's obligations under Section 3.5, if, within one year after the date of Final Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.9.1, or by terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of notice from the Owner to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. 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 2.5.

- § 12.2.2.2 The one-year period for correction of Work shall be extended with respect to portions of Work first performed after Final Completion by the period of time between Final Completion and the actual completion of that portion of the Work.
- § 12.2.2.3 The one-year period for correction of Work shall be extended by corrective Work performed by the Contractor pursuant to this Section 12.2.
- § 12.2.2.4 Upon request by the Owner and prior to the expiration of one year from the date of Final Completion, the Architect will conduct, and the Contractor shall attend, a meeting with the Owner to review the facility operations and performance.
- § 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. Warranty requirements shall be extended to all corrected work.

ARTICLE 13 MISCELLANEOUS PROVISIONS

§ 13.5 Interest (Deleted in its entirety.)

§ 13.6 Non-Discrimination

The Contractor and all Subcontractors shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin or age. The Contractor shall take affirmative action to insure that applicants are employed, and that employees are treated during employment without regard to their race, religion, color, sex, national origin or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates or 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 setting forth the policies of non-discrimination. The Contractor and all Subcontractors shall, in all solicitations or advertisements for employees placed by them or on their behalf, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, national origin or age.

ARTICLE 15 CLAIMS AND DISPUTES

§ 15.1.6.2 If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the

February 13, 2024 Project # 2024-1906B 00 73 00-9 SUPPLEMENTARY GENERAL CONDITIONS

period of time, could not have been reasonably anticipated, and had an adverse effect on the scheduled construction. Normal weather shall be determined based on records for the nearest station of the United States Environmental Data Service. Claims for additional time based on adverse weather will only be allowed in the event that they have a material effect on the exterior construction portions of the project.

§ 15.1.6.3 The time for completion stated on the Bid Form shall be consecutive calendar days with no allowance assumed for unusual weather. The Architect will maintain a daily weather record to verify any claims for an extension of time of an increase in the Contract sum because of bad weather. The Contractor will be expected to have included in his Bid a sum to cover working continuously in the normal temperature conditions found at the building site. Contractor is not expected to work in the rain or snow.

§ 15.3 Mediation (Deleted in its entirety.)

§ 15.4 Arbitration (Deleted in its entirety.)

<u>AMENDMENT NO. 1 TO THE AGREEMENT BETWEEN OWNER AND CONTRACTOR</u>

This Amendment No. 1 ("Amendment") to the AIA A101-2017 Standard Form of Agreement between Owner and Contractor dated as of March 22, 2024 (the "A101") and associated AIA A201-2017 General Conditions of the Contract for Construction (the "A201"), as amended by the Supplementary Conditions ("Supplementary Conditions"; collectively with the A101 and A201, the "Agreement") by and between VJS Construction Services, Inc. ("Contractor") and City of West Allis ("Owner") is effective as of June 26, 2025

The parties agree that the Agreement shall be amended as follows:

1. Section 15.2.6.1 of the Agreement is amended to extend the time that either party shall have from the date of an initial decision to initial a legal action from 30 days to 60 days.

The parties hereby accept and agree to the terms of the Agreement as modified by this Amendment as of the date written above. Except as amended herein, the terms of the Agreement remain unchanged. Owner and Contractor reserve all rights related to claims presented through the date of this Amendment.

CONTRACTOR:

| Od fr |
|---------------------------------|
| By: David Jorgensen |
| Title: Executive Vice President |
| OWNER: |
| CITY OF WEST ALLIS |

VJS CONSTRUCTION SERVICES, INC.

By: Kail Decker
Title: City Attorney

AMENDMENT NO. 2 TO THE AGREEMENT BETWEEN OWNER AND CONTRACTOR

This Amendment No. 2 ("Amendment") to the AIA A101-2017 Standard Form of Agreement between Owner and Contractor dated as of March 22, 2024 (the "A101") and associated AIA A201-2017 General Conditions of the Contract for Construction (the "A201"), as amended by the Supplementary Conditions ("Supplementary Conditions"; collectively with the A101 and A201, the "Agreement") by and between VJS Construction Services, Inc. ("Contractor") and City of West Allis ("Owner") is effective as of July 23, 2025

The parties agree that the Agreement shall be amended as follows:

Document 5

1. Section 15.2.6.1 of the Agreement is amended to extend the time that either party shall have to initiate a legal action to August 8, 2025.

The parties hereby accept and agree to the terms of the Agreement as modified by this Amendment as of the date written above. Except as amended herein, the terms of the Agreement remain unchanged. Owner and Contractor reserve all rights related to claims presented through the date of this Amendment.

CONTRACTOR:

VJS CONSTRUCTION SERVICES, INC.

Title: Executive Vice President

OWNER:

CITY OF WEST ALLIS

Title: City Attorney

AMENDMENT NO. 3 TO THE AGREEMENT BETWEEN OWNER AND CONTRACTOR

This Amendment No. 3 ("Amendment") to the AIA A101-2017 Standard Form of Agreement between Owner and Contractor dated as of March 22, 2024 (the "A101") and associated AIA A201-2017 General Conditions of the Contract for Construction (the "A201"), as amended by the Supplementary Conditions ("Supplementary Conditions"; collectively with the A101 and A201, the "Agreement") by and between VJS Construction Services, Inc. ("Contractor") and City of West Allis ("Owner") is effective as of August 5, 2025.

The parties agree that the Agreement shall be amended as follows:

Document 5

1. Section 15.2.6.1 of the Agreement is amended to extend the time that either party shall have to initiate a legal action to September 12, 2025.

The parties hereby accept and agree to the terms of the Agreement as modified by this Amendment as of the date written above. Except as amended herein, the terms of the Agreement remain unchanged. Owner and Contractor reserve all rights related to claims presented through the date of this Amendment.

CONTRACTOR:

VJS CONSTRUCTION SERVICES, INC.

Title: Executive Vice President

OWNER:

CITY OF WEST ALLIS

Title: Kail Decker, City Attorney

AMENDMENT NO. 4 TO THE AGREEMENT BETWEEN OWNER AND CONTRACTOR

This Amendment No. 4 ("Amendment") to the AIA A101-2017 Standard Form of Agreement between Owner and Contractor dated as of March 22, 2024 (the "A101") and associated AIA A201-2017 General Conditions of the Contract for Construction (the "A201"), as amended by the Supplementary Conditions ("Supplementary Conditions"; collectively with the A101 and A201, the "Agreement") by and between VJS Construction Services, Inc. ("Contractor") and City of West Allis ("Owner") is effective as of September 9, 2025.

The parties agree that the Agreement shall be amended as follows:

Document 5

1. Section 15.2.6.1 of the Agreement is amended to extend the time that either party shall have to initiate a legal action to September 26, 2025.

The parties hereby accept and agree to the terms of the Agreement as modified by this Amendment as of the date written above. Except as amended herein, the terms of the Agreement remain unchanged. Owner and Contractor reserve all rights related to claims presented through the date of this Amendment.

CONTRACTOR:

VJS CONSTRUCTION SERVICES, INC.

Title: Executive Vice President

OWNER:

CITY OF WEST ALLIS

Kail Decker, City Attorney