PURCHASE OF ASBESTOS ABATEMENT AND MOLD REMEDIATION ON AN INDEFINITE DELIVERY, INDEFINITE QUANTITY (IDIQ) BASIS AT ALAMO COLLEGES

REQUEST FOR COMPETITIVE SEALED PROPOSAL
CSP NO. 15C-031
Release Date: August 14, 2015

Proposals must be submitted to:
Alamo Colleges
Purchasing and Contract Administration Department
See addresses in “Instruction to Offerors”

Pre-Proposal Conference: September 3, 2015
Proposal Deadline: September 17, 2:00 p.m.
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**CSP NUMBER:** 15C-031  

**LOCATION OF WORK:** District Wide

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### ALAMO COLLEGES

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SECTION 00200
INSTRUCTIONS TO OFFERORS

This Section Includes:

A. Competitive Sealed Proposal Submission
B. Budget and Intent
C. Contract Time
D. Definitions
E. Contract Documents Identification
F. Availability of Documents
G. Examination of Documents
H. Inquiries and Addenda
I. Product Substitutions
J. Pre-Proposal Conference
K. Offeror Qualifications
L. Submission Procedure
M. Proposal Ineligibility
N. Performance Assurance
O. Additional Proposal Information
P. Proposal Evaluation Criteria
Q. Proposal Deadline
R. Duration of Offer
S. Acceptance of Offer
T. Family Code Certification
U. Franchise Tax Delinquency
V. Unit Price Schedules
W. Miscellaneous

A. COMPETITIVE SEALED PROPOSAL SUBMISSION

1. Proposals signed and under seal, executed, and dated will be received in the Purchasing and Contract Administration Department, located at 1743 N. Main Ave., Bldg. 41, Room 101, until 2:00 p.m. local prevailing time on September 17, 2015.

2. Amendments to submitted proposals will be permitted when received in writing prior to proposal opening and when endorsed by the same party or parties who signed and sealed the proposal.

3. Offerors may withdraw their proposal by written request at any time before the proposal deadline.

B. BUDGET AND INTENT

1. The maximum estimated budget for Asbestos Abatement and Mold Remediation is variable and at Alamo Colleges’ sole discretion.

2. There will be no guarantee on the amount or type of work to be performed. Prior to the start of any work to be performed under the contract resulting from this CSP, Alamo Colleges’ Facilities Department will define and describe the types of services to be performed for each project. The Contractor will submit an estimate for each project to the Facilities Department based on the Unit Prices provided. A purchase order will then be issued by the Purchasing Department which will serve as Contractor’s notice to proceed.
3. In the event of a conflict between the front-end documents (Instructions to Offerors, and General Conditions) and the technical specifications/drawings, the front-end documents will prevail. Further, in the event of a conflict between the technical specifications and the drawings, the specifications shall prevail. In all instances where discrepancies exist between the requirements of the individual sections of the whole documents, the most stringent requirement shall apply.

4. The work of this project shall comply with all applicable local, city and state codes, regulations and ordinances.

C. CONTRACT TIME

1. It is Alamo Colleges’ intent to Contract for 24 months from the date of the Agreement. If at the end of the contract term, services are satisfactory and negotiated contract prices remain unchanged, an option to extend the contract for another 12 months may be exercised. This renewal process may be exercised twice, for a possible total contract period of 48 months. Alamo Colleges may terminate this contract at any time if funds are restricted, withdrawn, or not approved, or if service is unsatisfactory.

2. Generally the work shall be scheduled during weekdays between the hours of 8:00 a.m. and 5:00 p.m. Contractor will be allowed to work in the evenings, holidays and/or weekends when given written approval from the Alamo Colleges Facilities Operations and Construction Management Department. The scheduled Alamo Colleges holidays are as follows:

- Thanksgiving Break: November 26 – 27, 2015
- Martin Luther King Jr. Day: January 18, 2016
- Spring Break: March 14 – 18, 2016
- Easter Holiday: March 25, 2016
- Fiesta Holiday: April 22, 2016
- Independence Day: July 4, 2016

Additionally, the Contractor shall schedule his work operations to meet Owner occupancy requirements during the contract period.

3. The Alamo Colleges require the work of this contract be completed no later than the total days specified from the date of “Notice to Proceed” for each Purchase Order.

D. DEFINITIONS

1. Proposal Documents: Contract Documents supplemented with Instructions to Offerors, Information Available to Offerors, Proposal Form and Appendices, and bid securities, identified.

2. Contract Documents: Defined in Section 00505.2, Article I

3. Proposal: Executed Proposal Form and required attachments submitted in accordance with these Instructions to Offerors.

4. Unit Price: Monetary sum per unit of work identified by the Offeror in the Proposal Form.
5. Any use of the terms “Bid” or “Bidding” contained in any of the Proposal or Contract Documents, and referring to the submission of a price or proposal by the Offeror for the intent of securing an award of the Contract, shall be understood to refer to the submission of a Competitive Sealed Proposal as set forth herein. Any use of the term “Bidder” contained in the Proposal or Contract Documents shall be understood to refer to the Offeror making the proposal.

6. Days: The term "Days" shall be construed to mean "Calendar days", unless otherwise indicated.

7. The terms “Alamo Colleges,” “Alamo Community College District,” “the District”, “Owner”, or “ACCD” shall have the same meaning.

E. **CONTRACT DOCUMENTS IDENTIFICATION**

The Contract Documents are identified as the Purchase of Asbestos Abatement and Mold Remediation as prepared by the Alamo Colleges.

F. **AVAILABILITY OF DOCUMENTS**

1. Printed Proposal Documents may be obtained beginning August 17, 2015, after 10:00 a.m. from the Alamo Colleges Purchasing and Contract Administration Department at 1743 N. Main Ave., Bldg. 41, Room 101, San Antonio, Texas, 78212-4299. Plans and drawings are available at no charge. Plans and drawings are also available on our website at http://www.alamo.edu/district/purchasing/bids/.

2. Partial sets of Proposal Documents will not be issued.

3. Proposal Documents are made available only for the purpose of obtaining offers for this Project. Their use does not grant a license for other purposes.

4. Awarded Contractor may obtain from Owner no more than six (6) additional sets of the Plans and Specifications at no additional cost.

G. **EXAMINATION OF DOCUMENTS**

1. Upon receipt of Proposal Documents verify documents are complete. Notify Alamo Colleges Purchasing and Contract Administration Department if documents are incomplete.

2. Immediately notify Tina Farias, (210) 485-0115 or email at tfarias7@alamo.edu upon finding discrepancies or omissions in the Proposal Documents.

3. Offerors are required to thoroughly familiarize themselves with all of the provisions of the Instructions, Conditions, and Requirements of the Contract, the Bonds, the Drawings, and Specifications. They are further required to inspect the site of the Work and inform themselves of all conditions affecting the execution of the work to be performed. The pre-proposal conference and site visit will satisfy the site inspection requirement.

H. **INQUIRIES AND ADDENDA**

1. All questions/inquiries concerning published construction related projects are to be directed to the Alamo Colleges Purchasing and Contract Administration Department.
Questions/Inquiries must be submitted, in writing, to Tina Farias, Alamo Colleges Purchasing and Contract Administration Department, as shown below in order of preference:

By email: tfarias7@alamo.edu

By U. S. Mail:
Alamo Community College District
Purchasing and Contract Administration Department
Attn: Tina Farias
1819 N. Main Ave., Box 693
San Antonio, TX 78212-4299

By hand delivery/ courier:
Alamo Community College District
Purchasing and Contract Administration Department
Attn: Tina Farias
1743 N. Main Ave., Bldg. 41, Room 101
San Antonio, TX 78212-4299

District policy C.2.3.4 states that no College district Board member or employee other than authorized Purchasing and Contract Administration Department personnel shall communicate with potential contractors/consultants (including professional designers, project management professionals and the potential contractors'/consultants' employees, subcontractors, officers or agents) who are interested in, or might reasonably become interested in, any particular construction-related procurement opportunity from the date of publication until the contract is executed. If Board members or non-authorized employees are contacted during this time by any potential contractors/consultants described above, they shall inform the potential contractor/consultant that such communication is prohibited, direct them to the Purchasing and Contract Administration department, and immediately report the contact to the Legal Affairs department.

Offerors who violate this policy may be subject to a range of sanctions including disqualification from competition for the procurement opportunity and/or other future procurement opportunities after Board of Trustees review. Employees who violate this policy may be subject to disciplinary action, including termination after review by the Chancellor.

Verbal responses to any question are not binding on any party. Responses to questions which are to be incorporated into specifications/drawings will be issued by formal written addendum.

2. If any person contemplating submitting a proposal for this contract is in doubt as to the true meaning of the Specifications, or other CSP documents, or any part thereof, they may submit to Tina Farias, the designated point of contact for the Purchasing and Contract Administration Department, on or before seven (7) calendar days prior to the schedule deadline for receipt of proposals, a request for clarification.

3. All such requests for information shall be made in writing and the person submitting the request will be responsible for its prompt delivery. Any interpretation of the proposal, if made, will be made only by Addendum duly issued. A copy of such addendum will be posted on Alamo colleges’ website (http://www.alamo.edu/district/purchasing/bids/) under the referenced CSP number for the project. An e-mailed notice will be sent to
known potential Offerors and become part of the Contract Documents. The Alamo
Colleges is not responsible for any other explanation or interpretation of the proposed
offer made or given prior to the award of the Contract. Offerors are to include resultant
costs in the Proposal Price.

I. PRODUCT SUBSTITUTIONS

1. Where Proposal Documents stipulate particular Products, substitution requests will be
considered by the Alamo Colleges Purchasing and Contract Administration Department
up to the time for receipt of Proposals. Alamo Colleges will make final determination of
equivalency of the proposed substitution.

2. To the extent that specific manufacturer’s name(s), model numbers, and stated
specifications were derived from technical literature on the equipment and/or supplies
and materials stated as desired, none of these should be construed as restrictive or
limiting. The intent and purpose is to provide prospective Offerors with frames or
reference regarding minimum requirements for each unit. Whenever an article of
material is described by using the term or equal if not inserted shall be implied. The
specified item shall be understood as indicating the type, function, minimum standard
design, efficiency, and quality desired and shall not be construed as to exclude other
manufactured products of comparable quality, design, and efficiency. The use of an or
equal item shall be subject to the following provisions: Full and complete catalog
illustrations, manufacturer’s specifications and descriptive, technical data defining in
detail the equipment or product proposed. Please submit all requests for substitutions
and approved equals to Tina Farias, in the Purchasing and Contract Administration
Department.

3. THE REQUIREMENTS OF THE TWO PRECEDING PARAGRAPHS TAKE
PRECEDENCE OVER ANY SUBSTITUTION REQUIREMENTS IN ANY
SUBSEQUENT PARAGRAPHS, DIVISIONS, SECTIONS, OR DRAWINGS.

J. PRE-PROPOSAL CONFERENCE

1. A pre-proposal meeting will be held on September 3, 2015 at 201 W. Sheridan,
Building E, Room 104 San Antonio, TX, 78204, promptly at 2:00 p.m. The pre-
proposal meeting is not mandatory; however, attendance is strongly encouraged to
allow Offerors the opportunity to ask questions of the Architects and/or Engineers
regarding the project.

2. Offerors are invited to attend.

3. Information relevant to Proposal Documents will be issued by Addendum.

K. OFFEROR BACKGROUND

To demonstrate qualification for performing the Work of this Contract, Offerors shall submit
written evidence of financial position, previous experience, current commitments, three (3)
current references and license to perform work in the State of Texas, Bexar County, City of
San Antonio.

L. SUBMISSION PROCEDURE

1. Submit one (1) original, three (3) complete copies and one (1) electronic copy in PDF
format of the Proposal on the forms provided, signed and sealed, clearly identified as
follows:
By U.S. Mail:
CSP #15C-031
Alamo Colleges
Purchasing and Contract Administration Department
Attn: Tina Farias
1819 N. Main Ave., Box 693
San Antonio, Texas 78212-4299

By hand delivery\ courier:
CSP #15C-031
Alamo Colleges
Purchasing and Contract Administration Department
Attn: Tina Farias
1743 N. Main Ave., Bldg. 41, Room 101
San Antonio, Texas 78212-4299

2. Each proposal received will be publicly opened and the name of Offeror and proposal sum read aloud. This is a Unit Price Contract, and the stipulated unit prices shall be inserted on the proposal sheet in words and figures. Conditional or unbalanced proposals will not be considered.

3. Proposals submitted by fax or by email will not be accepted.

4. Upon submission of a proposal, you agree to the following:

   The Purchasing & Contract Administration recommendation and summary analysis will be uploaded to the applicable Alamo Colleges Board of Trustees Committee agenda and will be viewable by the public on the Friday prior to the Tuesday Committee meeting where the contract award will be considered. Alamo Colleges will use best efforts to notify Offerors by email shortly before the availability date for their proposals.

   Alamo Colleges’ competitive response procedures are largely mandated by statute and do not permit the renegotiation of proposals after the submission deadline has passed. However, should you believe that Alamo Colleges has made a calculation error regarding your proposal after reviewing the limited web-available summary analysis; its Purchasing & Contract Administration Department offers an opportunity for bidders/proposers not recommended for contract award to submit comments or engage in discussion concerning the proposed contract award promptly after the contract award recommendation is made public. Written comments may be submitted, or a meeting can be scheduled at your request. Consent to Alamo Colleges’ recording of any verbal interview, at its discretion, is a condition of any interview. This opportunity will be subject to any additional requirements that may appear in any notice that you may receive from the Purchasing and Contract Administration Department in order to be considered. Efforts to contact individual Trustees or Alamo Colleges’ employees other than those in the Purchasing & Contract Administration Department regarding such matters are prohibited.

M. PROPOSAL INELIGIBILITY

Proposals that contain irregularities of any kind may be declared unacceptable at Alamo College’s discretion.

N. PERFORMANCE ASSURANCE
1. The awarded contractor(s) will receive a purchase order for projects less than $50,000 and a contract and purchase order for projects $50,000 and greater. Payment Bonds shall be delivered to the Alamo Colleges Purchasing and Contract Administration Office prior to contractor being issued a purchase order for any work, provided the work is $25,000 or greater. Performance Bonds shall be delivered to the Alamo Colleges Purchasing and Contract Administration Office prior to contractor being issued a purchase order for any work provided the work is $100,000 or greater. Such bonds are to be provided at no additional cost to the Alamo Colleges.

2. Performance and Payment Bonds must be in conformance with all requirements of Texas State Law. Such bonds must be issued by sureties duly authorized by the State of Texas. Such bonds must be in compliance with Section 2253 of the Texas Government Code and all other State laws. Additionally, sureties issuing bonds in an amount of $100,000 or greater must be listed as an approved surety in the U.S. Department of Treasury, Department Circular 570, most recent revision.

3. If the total for the proposed work is $25,000 or greater, Contractor will be required to execute a Payment Bond (AIA Form No. A311: Current Edition) in the form required by Section 2253 of the Texas Government Code in the amount equal to One Hundred Percent (100%) of the total amount as a security for payment of all persons performing labor and furnishing materials in connection with this contract. (Bonding Company is to furnish such forms.)

4. If the total for the proposed work is $100,000 or greater, Contractor is required, as a condition precedent to the execution of the Contract, to execute a Performance Bond (AIA Form No. A311: Current Edition), in an amount equal to One Hundred Percent (100%) of the total combined accepted proposals.

O. ADDITIONAL PROPOSAL INFORMATION

1. The cost of City or State sales tax shall not be included in the base proposal, any alternate or required unit prices for this project. The Alamo Colleges qualifies for exemption of the Texas Limited Sales, Excise and Use Taxes.

2. Offerors must state on the proposal form whether they owe State of Texas franchise taxes.

3. It is the policy of the Alamo Colleges to encourage participation by small, minority and/or women owned business enterprise clause (SMWBE’s) as consulting firms to the Alamo Colleges. The term "small, minority and/or women owned business enterprise" means a business which is a Corporation, Sole Proprietorship, Partnership or Joint Venture in which at least 51 percent is owned, operated, and controlled by a person or persons who are socially disadvantaged because of their identification as members of certain groups, who historically have suffered the effects of discriminatory practices.

   The Contractor agrees to use its best efforts to carry out this policy through award of subcontractors to small, minority and/or women owned business enterprises to the fullest extent consistent with the efficient performance of this Contract.

4. Each Offeror shall submit a fully completed SMWBE Subcontracting Plan (Appendix C) in section 00410. The Offeror shall list in Section 6 of Appendix C all the Subcontractors and/or major suppliers that they anticipate using for asbestos abatement or mold remediation projects that they may be awarded, including both SMWBE and non-SMWBE Subcontractors. The Alamo Colleges reserves the right to
comment, but is not obligated to comment, upon any proposed Subcontractor. No substitutions to the list will be allowed after the proposal opening except under the following listed conditions:

a. Prior to award, if the Alamo Colleges has reasonable objection to any such proposed entity, the Offeror shall submit a substitute to whom the Alamo Colleges has no reasonable objection; or the Offeror may have the option to withdraw his proposal without further recourse.

b. In the event of a proposed substitution, initiated by the Contractor, it shall be the responsibility of the Contractor to submit to the Alamo Colleges the best available tangible evidence demonstrating factual reasons for the proposed substitution. Criteria for the substitution of a Subcontractor include:

1. Prior to start of the Work, the Subcontractor withdraws proposal or otherwise refuses to perform the Work as originally proposed by the Subcontractor to the Contractor.

2. Upon start of the Work, the Subcontractor fails to perform in a good workmanlike manner in accordance with the Contract Documents and/or not in accordance with timely performance called for by either the Contractor or the Contract Documents.

The aforementioned list of Subcontractors shall be included with the Contractor’s proposal. If no Subcontractors are to be used, the form must still be submitted containing a notation that no Subcontractors will be used.

5. The Contractor affirms that he has not given, offered to give does not intend to give at any time hereafter any economic opportunity, contribution, future employment, gift, loan, gratuity, special discount, trip, favor, free lunch, or service to a public servant or elected official in connection with this contract.

6. The Alamo Colleges Facilities Project Manager is one or more individuals designated by the Facilities Operations and Construction Management Department to monitor the performance of the work.

7. This project requires State of Texas Worker’s Compensation Insurance coverage for the Contractor’s employees and all Subcontractors on this project. Prior to award, the recommended Contractor must provide an original certificate of insurance for worker’s compensation as described in Section 00811 of the CSP Documents.

8. Included in their Proposal all Offerors shall furnish Alamo Colleges with a statement from their insurers that if awarded Alamo Colleges will be provided with original certificates evidencing that the Offeror has all the required insurance types and levels as described in Section 00811, none of which shall be cancelled, altered or renewed until after thirty (30) days advance written notice received by Alamo Colleges District Director of Purchasing and Contract Administration.

9. Each Offeror shall determine whether their current business relationship with the District or an elected official of the District is subject to the requirements of Local Government Code section 176.001 and 176.006. Should the Offeror meet the stated requirements of the referenced legal sections, form CIQ included in section 00410 shall be completed and submitted to the Alamo Colleges in accordance with section
176.006.

10. The Contractor and Subcontractors shall pay all laborers, workmen, and mechanics employed in the construction thereof in accordance with the minimum wage rates prescribed in General Conditions of the Contract for Construction and Exhibit 1. Contractor is required to use Davis Bacon wage rates including weekly certified payrolls and to report this using the LCP Tracker Wage and Hour Compliance software. Alamo Colleges will provide access to this software to Contractor and Contractor’s Subcontractors. Refer to Section 00811, Paragraph 13.10.1

P. PROPOSAL EVALUATION CRITERIA

1. Pursuant to Texas Government Code, as amended, Alamo Colleges shall evaluate and consider all proposals based on a combination of price and other factors that Alamo Colleges determines provides the best value to Alamo Colleges, and may consider any of the following in determining to whom to award a Contract:

   a. The price;
   b. The Offeror’s Experience and Reputation;
   c. The Offeror’s Past Performance with Owners;
   d. Subcontractors and Suppliers Support (including SMWBE plan); and
   e. Construction Management Qualifications

2. Within 45 days after the date of opening the proposals, the District and project architect/engineers must evaluate and rank each proposal submitted in relation to the published project budget and selection criteria.

   Each proposal submitted must include all documentation, certifications and signatures. Incomplete proposals may be disqualified and not evaluated for award. The Alamo Colleges reserves the right to accept or reject any or all offers and to waive minor irregularities in any proposal submitted.

   Six broad selection criteria will be used to evaluate proposals as follows. The maximum amount of points available for each criteria section may vary depending on whether all components listed in each section are applicable to the current project or if additional components are added.

   a. **Price components** (44 points): Alamo Colleges will consider both the lump sum and each individual unit price for each ACM to be abated and the total price for all ACM unit prices multiplied by its associated estimated quantity. Alamo Colleges may consider any other contract terms inserted by the potential abatement contractor which may include length of abatement conditions, limitations, exceptions and exclusions.

   b. **Offeror’s Experience and Reputation** (20 points): Number of years doing business under current name and specific type of work (i.e. asbestos abatement) including work performed in connection with a school facility which was occupied and in use during time of work. Alamo Colleges will also consider the general reputation of the Offeror including, without limitation (1) knowledge, reliability, character, skill and stability; (2) record of timely completion of work, compliance with laws, and warranty service; (3) personnel and facilities for carrying out the Work; (4) safety record, safety procedures, and past claims or lawsuits; and (5) performance of satisfactory maintenance, repair, and service.
c. **Offeror’s Past Performance with Owners** (19 points): Any past or present abatement projects with ACCD and other school districts will be considered. Specifically, the basis of the evaluation will be:

1. The awarded abatement contractor’s ability to meet schedules.
2. Cooperation with Owner.
3. Proper and timely coordination of all trades and personnel in completing the project.
4. Demonstration of excellence in workmanship.
5. Safety Record.

d. **Subcontractors and Suppliers Support - Small Minority and/or Women Business Enterprise (SMWBE)** (8 points): The contractor’s selection of subcontractors, if any, and suppliers. Ability to accelerate subcontractor’s work to be completed ahead of schedule, and work with certified SMWBE contractors.

e. **Construction Management Qualifications** - (9 points): The abatement contractor’s evidence of sufficient resources necessary to manage, staff, and successfully perform the work contemplated under the proposal.

Each criterion will be rated at Maximum Score, In-between Score, Questionable (0 points), or Minimum Score (0 points) as defined below:

MAXIMUM SCORE: Abatement contractor exceeds the generally accepted standards of industry and exceeds project specific requirements.

SCORE BETWEEN MINIMUM AND MAXIMUM: Use mathematical methods to assign proper score for each criterion.

QUESTIONABLE: (0 points) Abatement contractor’s qualifications could not be adequately evaluated from information included with proposal. Additional information may be requested from offerors by a letter, email or through an interview to clarify criteria evaluated as Questionable. The offeror must respond within seventy-two (72) hours of verified receipt of a request of information. A non-timely response or a non-response will receive 0 points.

MINIMUM SCORE: (0 points) Abatement contractor does not meet the generally accepted standards of industry or minimum asbestos abatement guidelines required by state law. A non-response to a proposal item will receive 0 points.

Each of the six selection criteria may be further detailed by its components. A determination of an overall score of each selection criteria will be concluded based upon the rating of the components.

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Q. **PROPOSAL DEADLINE**

Proposals will be opened publicly with the name of the Offeror and proposal sum read aloud immediately after time for receipt of Proposals. Offerors may be present.

R. **DURATION OF OFFER**

Proposals shall remain open to acceptance for a period of one hundred twenty (120) calendar days after final Proposal deadline.

S. **ACCEPTANCE OF OFFER**

1. The Alamo Colleges reserves the right to accept or reject any or all offers.
2. The Board of Trustees of Alamo Colleges will award the contract in the best interest of the District.
3. The successful Offeror will be required to enter into a contract with the Alamo Colleges requiring full compliance and performance of the conditions of the Proposals, Drawings, and Specifications, within five (5) workdays of award of Contract. The following is the anticipated schedule for this project:

   A. Alamo Colleges Advertise CSP  
   B. Proposal Deadline  
   C. Anticipated Award of Contract  
   D. Offeror submits acceptable bonds and insurance  
   E. Contract Signed  
   F. Substantial completion

   Time is of the essence. Failure of Offeror to respond in a timely manner will jeopardize the number of remaining days allowed for substantial completion.

4. The Contractor shall obtain, at his expense, all permits, licenses, inspections, etc., required by the Alamo Community College District, the City of San Antonio, or any other jurisdiction having authority over this project.

T. **FAMILY CODE CERTIFICATION**

Prior to award of the contract, the Offeror to be recommended for award will be required to execute the following certification:

"Under Section 231.006, Family Code, the vendor or applicant certifies that the individual or business entity named in the contract, proposal or application is not ineligible to receive the specified grant, loan or payment and acknowledges that this contract may be terminated and payment may be withheld if this certification is inaccurate."

This certification is required for each person who is a sole proprietor, partner, shareholder, or owner with an ownership interest of at least 25 percent in the business entity submitting the proposal. The following information must be submitted for each
person meeting the previously described conditions and executing the certification: name; social security number; signature; and date.

U. **FRANCHISE TAX DELINQUENCY**

If the Contractor is subject to the requirements of the Texas Franchise Tax and becomes delinquent in the payment of said tax, then payments to the Contractor due under this Agreement may be withheld until such tax delinquency is remedied.

V. **UNIT PRICES**

Unit prices applicable to the project are listed in Section 00410 "Proposal Form." Unit price schedule must be completed. Failure to provide pricing as required may result in disqualification of a proposal.

W. **MISCELLANEOUS**

1. The awarded contractor(s) will receive a purchase order for projects less than $50,000, and a contract and purchase order for projects $50,000 and greater. Projects $25,000 and greater will require a payment bond, and projects $100,000 and greater will require payment and performance bonds.

2. Contract for abatement of asbestos containing materials (ACM) and mold remediation are required as the need arises at all District-Wide locations. District-Wide locations are the following:

   A. Alamo Community College District
      811 W. Houston
      San Antonio, Texas 78207

   B. George E. Killen Community Education and Service Center
      201 W. Sheridan
      San Antonio, Texas 78204

   C. Northwest Vista College
      3535 North Ellison Drive
      San Antonio, Texas 78251

   D. Palo Alto College
      1400 W. Villaret
      San Antonio, Texas 78224

   E. San Antonio College
      1819 N. Main
      San Antonio, Texas 78212

   F. St. Philip’s College
      1801 Martin Luther King Drive
      San Antonio, Texas 78203

   G. St. Philip’s College- Southwest Campus
      800 Quintana Road
      San Antonio, Texas 78211
Examples of projects which may need asbestos abatement include, but are not limited to, the following:

- Demolition/Site Clearance of Structures acquired by Alamo Colleges
- Building renovations
- ACM in mechanical rooms of existing facilities

ACM or mold remediation has not been identified at the above listed locations and there is no guaranteed amount of asbestos or mold to be removed.

3. Scope of work--The work to be accomplished potentially includes asbestos abatement of the following types:

<table>
<thead>
<tr>
<th>Description</th>
<th>Unit of Measure</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Mobilization/Demobilization for each Purchase Order</td>
<td>Each Project</td>
</tr>
<tr>
<td>2. Floor Tile &amp; Mastic (No Carpet)</td>
<td>Square Feet</td>
</tr>
<tr>
<td>3. Floor Tile &amp; Mastic (Under Carpet)</td>
<td>Square Feet</td>
</tr>
<tr>
<td>4. HVAC Duct Mastic</td>
<td>Linear Feet</td>
</tr>
<tr>
<td>5. Pipe Insulation (Overhead)</td>
<td>Square Feet</td>
</tr>
<tr>
<td>6. Pipe Insulation (Crawl space)</td>
<td>Square Feet</td>
</tr>
<tr>
<td>7. Air Handler Pipe Wrap</td>
<td>Square Feet</td>
</tr>
<tr>
<td>8. Transite Pipe Removal</td>
<td>Square Feet</td>
</tr>
<tr>
<td>9. Loose Pipe Insulation (Crawl Space)</td>
<td>Square Feet</td>
</tr>
<tr>
<td>10. Soil Removal (Crawl Space)</td>
<td>Cubic Yard</td>
</tr>
</tbody>
</table>
11. Weekend/Weekday Overtime Work
   Supervisor and Technician  Per Hour
12. Drywall, walls and ceiling  Square Feet
13. 2" Hot Water ACM Pipe direct burial, not to exceed 10 foot depth  Linear Feet
14. 4" Chill Water ACM Pipe direct burial, not to exceed 10 foot depth  Linear Feet
15. Small scale short duration abatement consisting of up to each the following:
   a. 160 square feet of any listed unit of measure in square feet listed above,
   b. 260 linear feet of any listed unit of measure in linear feet listed above,
   c. One regular glove bag listed above, and
   d. Project mobilization/demobilization listed above.
16. Vibration Damper Cloth, Mechanical Rooms HVAC  Square Feet
17. Full Containment for HVAC Duct  Square Feet
18. Mobilization/Demobilization for Mold Remediation  Each Project
19. Removal & disposal of drywall for Mold Remediation  Square Feet
20. Removal of Gypsum Board Ceiling for Mold Remediation  Square Feet

The Owner has not conducted a survey of any facilities and further declares no guarantee concerning the quantity or types of work to be performed.

4. It is unknown as to the amount of each type of asbestos or mold to be removed. There is no guarantee the estimated amount will be removed by the awarded contractor. Determination of contract award will be based on the evaluation criteria listed in paragraph "P". Quantities to be abated over contract duration are unknown but unit costs are to remain unchanged.

5. Failure to provide proof of current TDH Licensure with the proposal may result in immediate disqualification of the proposal.

END OF SECTION 00200
SECTION 00306
CONTRACTOR'S ORGANIZATION/OPERATIONAL STATEMENT

This statement, fully executed, must accompany any proposal submitted to Alamo Colleges for Alamo Colleges to consider such proposal.

The undersigned certifies under oath that the information provided herein is true and sufficiently complete so as not to be misleading.

SUBMITTED BY:

NAME: ____________________________________________ Corporation _____

ADDRESS: ____________________________________________ Partnership _____

______________________________________________________ Individual _____

PRINCIPAL OFFICE: _________________________________ Joint Venture _____

PHONE: _________________________________ Other _____

FAX: _______________________________ EMAIL: ________________________________

NAME OF PROJECT (IF APPLICABLE)

Purchase of Asbestos Abatement and Mold Remediation at Alamo Colleges

TYPE OF WORK:

__ General Building Construction       ___ Site-work

__ HVAC       ___ Landscaping

__ Electrical       ___ Irrigation

__ Mechanical       ___ Plumbing

__ Concrete       ___ Roofing

__ Masonry       ___ Interior Finishes

__ Other _____________________________(Please specify)

1. Organization

1.1 How long has your organization been in business as a Contractor? _____ Years

1.2 How many years has your organization been in business under its present business name? _____ Years

Contractor Name: ___________________________________________________________
1.2.1 Under what other or former names has your organization operated?

________________________________________________________

________________________________________________________

1.3 If your organization is a corporation, answer the following:

1.3.1 Date of incorporation: ________________________________

1.3.2 State of incorporation: ______________________________

1.3.3 President's name: _________________________________

1.3.4 Vice-President's name: ______________________________

1.3.5 Secretary's name: _________________________________

1.3.6 Treasurer's name: _________________________________

1.4 If your organization is a partnership, answer the following:

1.4.1 Date of organization: _________________

1.4.2 Type of Partnership (if applicable) ________________________

1.4.3 Name(s) of general partner(s) __________________________

1.5 If your organization is individually owned, answer the following:

1.5.1 Date of organization: _____________________________

1.5.2 Name of owner: _________________________________

1.6 If the form of your organization is other than those listed above, describe it and name the principals:

________________________________________________________

________________________________________________________

2. Licensing

2.1 List jurisdictions and trade categories in which your organization is legally qualified to do business, and indicate registration or license numbers, if applicable.

________________________________________________________

________________________________________________________
2.2 List jurisdictions in which your organization’s partnership or trade name is filed.

________________________________________

3. Experience

3.1 List the categories of work that your organization normally performs with its own forces.

________________________________________

3.2 Claims and Suits. (If the answer to any of the questions below is yes, please attach details).

3.2.1 Has your organization ever failed to complete any work awarded to it?

☐ YES  ☐ NO

3.2.2 Are there any judgments, claims, arbitration proceedings or suits pending or outstanding against your organization or its officers?

☐ YES  ☐ NO

3.2.3 Has your organization filed any lawsuits or requested arbitration with regard to construction contracts within the last five years?

☐ YES  ☐ NO

3.3 Within the last five years, has any officer or principal of your organization ever been an officer or principal of another organization when it failed to complete a construction contract? (If the answer is yes, please attach details).

☐ YES  ☐ NO

3.4 On a separate sheet, list major projects your organization has in progress, giving the name of project, start date of the project, owner's contact person and phone number, architect, architect's contact person and phone number, contract amount, percent complete, and scheduled completion date.

3.4.1 State total worth of work in progress and under contract:

$__________________________.

3.5 On a separate sheet, list the major projects your organization has completed in the past five years, giving the name of project, owner, owner contact person and phone number, architect, architect's contact person and phone number, contract amount, dates of start and completion, method of project delivery, brief description of scope of work, status of occupancy of the facility during construction, and percentage of the cost of the work performed with your own forces.

Contractor Name: _______________________________________________________________
3.5.1 State average annual dollar amount of construction work performed during the past five years:

_____________________.

3.6 On a separate sheet, list the construction experience and present commitments of the key individuals of your organization.

3.7 List individuals and attach detailed resumes of the positions indicated below who may be assigned for the entire duration of the Project and may not be replaced except as allowed in the Contract Documents or approved in writing by Owner:

Project Manager: ________________________________

Assistant Project Manager: ________________________________

Project Superintendent: ________________________________

Assistant Project Superintendent: ________________________________

3.8 Provide evidence in an attachment of sufficient resources necessary to manage staff and successfully perform the Work. Provide a profile in addition to the above information to assist the Owner in its evaluation. Include an organizational structure and indicate the number and qualifications of key personnel. Include a discussion of the methods, tools, or procedures used to schedule the Work and complete projects on time. Include evidence of ability to obtain bonding, insurance and the ability to cover operating costs.

3.9 Describe in an attachment the Offeror’s system for the selection, award and management of subcontractors and suppliers. Include methods to encourage subcontractors to accelerate their work schedule.

4. References

4.1 Trade References:

<table>
<thead>
<tr>
<th>Name</th>
<th>Address</th>
<th>Telephone</th>
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<thead>
<tr>
<th>Name</th>
<th>Address</th>
<th>Telephone</th>
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<th>Address</th>
<th>Telephone</th>
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</tr>
</tbody>
</table>

Contractor Name: ________________________________
4.2 Surety:

4.2.1 Name of bonding company: ________________________________

4.2.2 Name, address, and phone number of agent:

<table>
<thead>
<tr>
<th>Name</th>
<th>Address</th>
<th>Telephone</th>
</tr>
</thead>
</table>

4.3 Surety:

4.3.1 Name of bonding company: ________________________________

4.3.2 Name, address, and phone number of agent:

5. Financing

5.1 Financial Statement. The Offeror must submit a current report of his financial condition sworn to before a Notary Public. Any offeror wishing to maintain confidentiality of financial information must include a written request for same with submission of the proposal.

For all business entities other than publicly held corporations, please provide the following:

Attach a financial statement, preferably audited, including your organization’s latest balance and income statement showing current assets, net fixed assets, other assets, current liabilities and other liabilities. Clearly indicate name and address of firm preparing financial statement, and date thereof. If the financial statement is not for the identical organization named above, explain below the relationship and financial responsibility of the organization whose financial statement is provided (parent, subsidiary, etc.)

6. Award to Nonresident Offerors

6.1 Is your business organized under the laws of the State of Texas?

☐ YES      ☐ NO

6.2 If no, what is your principal place of business?

__________________________________________

Contractor Name: ________________________________________________
Proposals from nonresident contractors shall be evaluated according to 
TEX. GOV’T CODE Section 2252.002.

7. Signature

7.1 Dated at ___________________________ this ______ day of ____________, 2015

Name of Organization ________________________________________________

By: ______________________________________________________________

Printed Name: ______________________________________________________

Title: ______________________________________________________________

____________________, being duly sworn, deposes and says that the
information provided herein is true and sufficiently complete so as not to be
misleading.

Subscribed and sworn before me this _____ day of ________________, 2015.

________________________________________
NOTARY PUBLIC, STATE OF TEXAS

My Commission Expires: ______________

________________________
Typed or Printed Name of Notary

Contractor Name: _________________________________________________
The undersigned Offeror, having examined the construction documents and the sites of the proposed work and being familiar with all of the conditions surrounding the construction of the proposed project, including the availability of materials and labor, hereby proposes to furnish all labor, materials, services, equipment and appliances required in connection with, or properly incidental to a contract for, Asbestos Abatement and Mold Remediation at Alamo in strict accordance with requirements of any specified Drawings and Specifications, and subsequent Addenda thereto issued before this date.

Submitted by: ______________________________________________________  
(Full Company Name)

Full address ______________________________________________________

____________________________________________________________________

Telephone: ________________________ fax: ______________________

Email Address: _____________________________________________________

1. OFFER

Having examined the Places of The Work and all matters referred to in the Instructions to Offerors, Proposal Documents and Contract Documents prepared by Alamo Colleges, for the above mentioned project, we the undersigned, hereby offer to enter into a Contract to perform the Work for the following Unit Prices:

A. UNIT PRICE SCHEDULE – ASBESTOS ABATEMENT AND MOLD REMEDIATION:

<table>
<thead>
<tr>
<th>Item No.</th>
<th>Description of the Event or Type of Asbestos Material</th>
<th>Unit Price</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Mobilization/Demobilization for each Purchase Order</td>
<td>$___________/each</td>
</tr>
<tr>
<td>2.</td>
<td>Floor Tile &amp; Mastic (No Carpet)</td>
<td>$_________/square foot</td>
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<tr>
<td>3.</td>
<td>Floor Tile &amp; Mastic (Under Carpet)</td>
<td>$_________/square foot</td>
</tr>
<tr>
<td>4.</td>
<td>HVAC Duct Mastic</td>
<td>$_________/linear foot</td>
</tr>
<tr>
<td>5.</td>
<td>Pipe Insulation (Overhead)</td>
<td>$_________/square foot</td>
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<tr>
<td>6.</td>
<td>Pipe Insulation (Crawl space)</td>
<td>$_________/square foot</td>
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<tr>
<td>7.</td>
<td>Air Handler Pipe Wrap</td>
<td>$_________/square foot</td>
</tr>
<tr>
<td>8.</td>
<td>Transite Pipe Removal</td>
<td>$_________/square foot</td>
</tr>
</tbody>
</table>
9. Loose Pipe Insulation (Crawl Space) $________/square foot
10. Soil Removal (Crawl Space) $________/cubic yard
11. Weekend/Weekday Overtime Work
   A. Technician $________/hour
   B. Supervisor $________/hour
12. Drywall, walls and ceiling $________/square foot
13. 2" Hot Water ACM Pipe, direct burial, up to 10 foot depth $________/linear feet
14. 4" Chill Water ACM Pipe, direct burial, up to 10 foot depth $________/linear feet
15. Small scale short duration abatement consisting of up to 160 square feet, 260 linear feet, one regular glove bag, and project mobilization/demobilization. $________/each
16. Vibration Damper Cloth, HVAC Mechanical Rooms $________/each
17. Full Containment for HVAC Duct $________/square feet
18. Mobilization/Demobilization for Mold Remediation $________/each project
19. Removal & disposal of drywall for Mold Remediation $________/square feet
20. Removal of Gypsum Board Ceiling for Mold Remediation $________/square feet

The above Unit Prices do not include the State of Texas Limited Sales, Excise and Use Tax.

4. ACCEPTANCE

This offer shall be open to acceptance for 120 calendar days from the proposal opening date. If this proposal is accepted by the Alamo Colleges within the time period stated above, we will:

   A. Execute the Agreement within three (3) working days of receipt of Notice of Award or as otherwise indicated in the Instructions to Offerors, Proposal Documents and Contract Documents.
B. Furnish the required bonds within three (3) working days of receipt of Notice of Award or as otherwise indicated in the Instructions to Offerors, Proposal Documents and Contract Documents.

C. Commence work within seven days after written Notice to Proceed or as otherwise indicated in the Instructions to Offerors, Proposal Documents and Contract Documents.

If the proposal is accepted within the time stated, and we fail to commence the Work or we fail to provide the required Bond(s), the security deposit shall be forfeited as damages to the Alamo Colleges by reason of our failure, limited in amount to the lesser of the face value of the security deposit or the difference between this proposal and the proposal upon which a Contract is signed.

5. CONTRACT TIME

A. Offeror agrees to substantially complete the work covered by this bid within 150 calendar days after notice to proceed.

B. The official date of substantial completion shall be determined by the design team and the Owner in accordance with the contract documents.

If the contractor fails to substantially complete the work by the dates established in the contract documents for substantial completion, liquidated damages will be assessed, not as a penalty, rather as a reasonable forecast of just compensation for damages. An amount will be deducted from the money due or to become due to the contractor as follows:

Liquidated Damages – Two Hundred Fifty Dollars ($250.00) per calendar day

6. ADDENDA

The following Addenda have been received. The modifications to the Contract Documents noted therein have been considered and all costs thereto are included in the Proposal Sum.

Addendum #______ Dated ____________ Addendum #______ Dated ____________

Addendum #______ Dated ____________ Addendum #______ Dated ____________

7. APPENDICES

Appendix A  Competitive Sealed Proposal Checklist
Appendix B  Certification of Non-Collusion
Appendix C  SMWBE Subcontracting Plan
Appendix D  Conflict of Interest Questionnaire

(APPENDIX A THRU D MUST BE SUBMITTED WITH PROPOSAL)

8. WAIVER OF CLAIM

By submitting a Proposal, each Offeror agrees to waive any claim it has or may have against the District, the Architect/Engineer, and their respective employees, arising out of or in connection with
the administration, evaluation, or recommendation of any Proposal; waiver of any requirements under the Proposal Documents; or the Contract Documents; acceptance or rejection of any proposals; and award of the Contract.

9. **PROPOSAL FORM CERTIFICATION/SIGNATURES**

By execution and submission of this Proposal, the Offeror hereby represents and warrants to Owner as follows: the Offeror has read and understands the Proposal Documents and the Contract Documents and this Proposal is made in accordance with the Proposal Documents.

The Corporate Seal of

______________________________  ___________________________________
Authorized Signature     Company Name   Date

(Offeror - print the full name of your firm)

was hereunto affixed in the presence of:

______________________________  _________________________________
(Authorized signing officer)   (Title)

If the proposal is a joint venture or partnership, add additional forms of execution for each member of the joint venture in the appropriate form or forms as above.
## APPENDIX A

### COMPETITIVE SEALED PROPOSAL CHECKLIST

<p>| | | | | | | | |</p>
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<tr>
<td>Y</td>
<td>N</td>
<td>1. Is bid surety in the amount of 5% of the total proposal amount attached?</td>
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<td></td>
<td></td>
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<tr>
<td>Y</td>
<td>N</td>
<td>2. Is statement from insurance company attached?</td>
<td></td>
<td></td>
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<td></td>
</tr>
<tr>
<td>Y</td>
<td>N</td>
<td>3. Is Contractor’s Organization/Operational Statement (section 00306) completed and attached?</td>
<td></td>
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<td></td>
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</tr>
<tr>
<td>Y</td>
<td>N</td>
<td>4. Was your firm represented at the pre-proposal conference?</td>
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<tr>
<td>Y</td>
<td>N</td>
<td>5. Did your firm inspect the job sites prior to submission of your proposal?</td>
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<tr>
<td>Y</td>
<td>N</td>
<td>6. Have all project specifications and proposal requirements been met?</td>
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<tr>
<td>Y</td>
<td>N</td>
<td>7. Is your proposal submitted in one original, six complete copies and one electronic copy in PDF format?</td>
<td></td>
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</table>

Please assist us in keeping your company information accurate and up to date by checking the appropriate blocks.

1. __ Dealer __ Manufacturer __ Jobber __ Retailer __ Factory Rep
   __ Individual __ Partnership __ Incorporated __ Publisher __ Non-profit
   __ Governmental Agency __ Educational Institution __ Professional Organization

2. __ Minority Owned Business, if so please state:
   __ Black __ Hispanic __ Native American __ Asian Pacific American
   __ Small Business __ Women-Owned

2. Is your business considered historically socially/economically disadvantaged?  
   ______ Yes ______ No

   If so, is your business currently certified as such? ______ Yes ______ No

   With whom? __________________________________________________________

4. Do you currently owe State of Texas franchise taxes? ________ Yes ______ No

   If the Contractor is subject to the requirements of the Texas Franchise Tax and becomes delinquent in the payment of said tax, then payments to the Contractor due under this Agreement may be withheld until such tax delinquency is remedied.

5. How did you learn about this project?

   ________________________________________________________________
APPENDIX A

COMPETITIVE SEALED PROPOSAL CHECKLIST

| Y___ N ___ | 1. Is bid surety in the amount of 5% of the total proposal amount attached? |
| Y___ N ___ | 2. Is statement from insurance company attached? |
| Y___ N ___ | 3. Is Contractor's Organization/Operational Statement (section 00306) completed and attached? |
| Y___ N ___ | 4. Was your firm represented at the pre-proposal conference? |
| Y___ N ___ | 5. Did your firm inspect the job sites prior to submission of your proposal? |
| Y___ N ___ | 6. Have all project specifications and proposal requirements been met? |
| Y___ N ___ | 7. Is your proposal submitted in one original, six complete copies and one electronic copy in PDF format? |

Please assist us in keeping your company information accurate and up to date by checking the appropriate blocks.

1. __ Dealer __ Manufacturer __ Jobber __ Retailer __ Factory Rep __ Individual __ Partnership __ Incorporated __ Publisher __ Non-profit __ Governmental Agency __ Educational Institution __ Professional Organization

2. __ Minority Owned Business, if so please state: __ Black __ Hispanic __ Native American __ Asian Pacific American __ Small Business __ Women-Owned

2. Is your business considered historically socially/economically disadvantaged? _______ Yes _______ No

If so, is your business currently certified as such? _______ Yes _______ No

With whom? __________________________________________________________

4. Do you currently owe State of Texas franchise taxes? _______ Yes _______ No

If the Contractor is subject to the requirements of the Texas Franchise Tax and becomes delinquent in the payment of said tax, then payments to the Contractor due under this Agreement may be withheld until such tax delinquency is remedied.

5. How did you learn about this project?

________________________________________________________________________
APPENDIX B
CERTIFICATION OF NON-COLLUSION

"The undersigned affirms that they are duly authorized to execute this contract, that this company, corporation, firm, partnership or individual has not prepared this Proposal in collusion with any other Offeror, and that the contents of this Proposal as to prices, terms or conditions of said Proposal have not been communicated by the undersigned nor by any employee or agent to any other person engaged in this type of business prior to the official opening of this Proposal.

FILL IN APPLICATION INFORMATION:

A CORPORATION, chartered in the State of ______________________, authorized to do business in the State of TEXAS.

A Partnership, composed of: ____________________________________________

An Individual, operating under the name of: __________________________________

Respectfully Submitted,

(SEAL: If Proposal is by a Corporation)

By: ____________________________________________

Signature

________________________________________

Name (Print or Type)

________________________

Position with Company

DATE: ____________________________

ADDRESS

PHONE: ____________________________

FAX: ____________________________

EMAIL: ____________________________
Guidelines on Utilization of Small Minority and/or Women Business Enterprise (SMWBE)
Alamo Colleges

SMWBE Program
Guidelines on Utilization of Small Minority and/or Women Business Enterprise (SMWBEs)

Table of Contents

- Alamo Colleges SMWBE Program Mission Statement page 3
- Alamo Colleges Small Minority and/or Women Owned Business Enterprise Clause page 4-5
- SMWBE Letter of Acknowledgement page 6
- SMWBE Subcontracting Plan page 7-9
- Self-Performance Justification page 9
- SMWBE Subcontracting Plan –Payment Request Form page 10
- Minority and Trade Organizations Contact Information page 11
Alamo Colleges SMWBE Program

Mission Statement

It is the policy of Alamo Colleges to encourage the use of Small, Minority, and/or Women-Owned Business Enterprises (SMWBE) and Historically Underutilized Businesses (HUBs) as herein below defined to assist the College and District departments in the implementation of this policy through race, ethnicity, and gender-neutral means. The purpose of this program is to ensure that SMWBE’s are provided the maximum practicable opportunity to participate in all supplier and contracting opportunities.
ACCD SMALL MINORITY AND/OR WOMEN OWNED BUSINESS ENTERPRISE CLAUSE

Alamo Colleges, its contractors, their subcontractors and suppliers, as well as all suppliers of all goods and services, shall not discriminate on the basis of race, color, religion, national origin, disability, gender or sexual orientation in the award and/or performance of contracts. All individuals and entities doing business, or anticipating doing business, with Alamo Colleges are encouraged to support and implement a program designed to achieve the goal of establishing equal opportunity for all. SMWBE groups include:

Black Americans - which includes persons having origins in any of the Black racial groups of Africa; Hispanic Americans - which includes persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race; Asian Pacific Americans - which includes persons whose origins are from Japan, China, Taiwan, Korea, Vietnam, Laos, Cambodia, the Philippines, Samoa, Guam, the U.S. Trust Territories of the Pacific and the Northern Marianas; Native American - which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians; Women - which includes all women of any ethnicity; and Small Business Enterprise.

Alamo Colleges Purchasing and Contract Administration Department maintains an active program for the identification and placement of SMWBE’s on solicitation mailing lists, and to provide information and other assistance to facilitate the use of such firms as contractors to the maximum extent practical. SMWBE’s seeking contracting opportunities should file a "Vendor Registration" with the Alamo Colleges Purchasing and Contract Administration Department, 1743 N. Main Ave. Building 41, Room 101, San Antonio, Texas 78212; telephone 210-485-0100 or at http://www.alamo.edu/uploadedFiles/District/Employees/Departments/Purchasing/docs/Vendor-Registration.pdf

Firms seeking contracting opportunities will be encouraged to use their best efforts to carry out this practice through subcontracting of small and/or minority business enterprises to the fullest extent consistent with efficient performance.
DEFINITIONS

1. TYPES OF ENTERPRISES

A. Minority Business Enterprise:

   Means a business enterprise that is owned/controlled and operated by one or more minority person(s). Minority persons include Blacks, Mexican-Americans and other persons of Hispanic origin, American Indians, Alaskan Natives, and Asians and Pacific Islanders. Minority person(s) shall collectively own, operate, and share in payments from such an enterprise in the manner hereinafter set forth.

B. Small Business Enterprise:

   Means a corporation, partnership, sole proprietorship or other legal entity for the purpose of making a profit, which is independently owned and operated, which includes small businesses as defined by certification agency.

C. Women Owned Business Enterprise:

   Means a sole proprietorship that is owned and controlled by a woman, a partnership at least 51.0% of whose assets or partnership interests are owned by one or more women, or a corporation, limited liability Company, or other form of entity, at least 51.0% of whose assets or ownership interests are owned by one or more women.

2. OWNERSHIP AND CONTROL

A. Owned:

   1. For a sole proprietorship to be deemed minority business enterprise, it must be owned by a minority person.

   2. For an enterprise doing business as a partnership, it is necessary that at least 51.0% of its assets or interests in the partnership property be owned by one or more minority person(s).

   3. For an enterprise doing business as a corporation, limited liability Company, or other form of entity, it is necessary that at least 51.0% of its assets or ownership interests be owned by one or more minority person(s).

B. Controlled/Operated:

   That the primary power to manage a business enterprise shall rest with minority person(s).

C. Share in Payments:

   Minority partners, proprietor, members, stockholders or other owners of the enterprise, as the case may be, shall be entitled to receive 51.0% or more of the total profits, bonuses, dividends, interest payments, commissions, consulting fees, rents, procurement, and subcontractor payments, and any other monetary distribution paid by the business enterprise.
Date

Mr. Gary O'Bar  
Director, Purchasing and Contract Administration  
Alamo Colleges  
1743 N. Main Ave. Bldg. 41, Rm 101  
San Antonio, TX 78212-4299  

Re: Small Minority and/or Women Owned Business Enterprise (SMWBE) Subcontracting Plan for: Asbestos Abatement and Mold Remediation Alamo Colleges, CSP No. 15C-031.  

Dear Mr. O'Bar:  

In accordance with the statement outlined in Appendix C, I have read and understand the Alamo Colleges guidelines for the utilization of Small Minority and/or Women Owned Business Enterprise (SMWBE). Also, I am pleased to forward this (SMWBE) subcontracting plan as an integral part of our submission in referencing the above project. 

This (SMWBE) subcontracting plan will include subcontracting opportunities representing an estimated cumulative percentage of _____%.  

I acknowledge that if I am selected as the asbestos abatement and mold remediation contractor for any upcoming projects, I will be required to provide the attached subcontracting plan inclusive of all (SMWBE) subcontractors and their certification document by an approved certifying agency. By completion of Section “6” of the (SMWBE) subcontracting plan, I affirm my intent to utilize the subcontractors selected to perform the scope of work to be subcontracted.  

Should we discover additional subcontractors claiming (SMWBE) status during the course of this contract we will notify you of the same. In addition, if for some reason a (SMWBE) is unable to fulfill its contract with us, we will notify you immediately in order to take the appropriate steps to amend this contractual obligation.  

Sincerely,  

(Project Executive)
ALAMO COLLEGES SMWBE Subcontracting Plan
- - Special Instructions/Additional Requirements - -

- For this CSP, respondents shall submit a letter of acknowledgment with a percentage included that respondents will be required to meet or exceed.
- A completed SMWBE Subcontracting Plan (pages 7, 8, and 9) must be submitted by selected contractor prior to Notice to Proceed issuance.
- Respondents who intend to Self-Perform all of their work shall submit a Subcontracting Plan for Self-Performance (Section 7).
- SMWBE Subcontracting Plan Prime Contractor Payment Request Form page 10 shall be submitted with each request for payment as a condition of payment.

SECTION 1 - RESPONDENT AND SOLICITATION INFORMATION

a. Respondent (Company) Name: ________________________________
Point of Contact: ________________________________ Phone #: ________________________________

b. Is your company a certified SMWBE? ☐ - Yes ☐ - No

c. CSP #: ________________________________

SECTION 2 - SUBCONTRACTING INTENTIONS

☐ - Yes, I will be subcontracting portion(s) of the contract.
(If yes, in the spaces provided below, list the portions of work you will be subcontracting, and go to page 9.)

☐ - No, I will not be subcontracting any portion of the contract, and will be fulfilling the entire contract with my own resources.
(Go to page 9)

<table>
<thead>
<tr>
<th>Line Item # - Subcontracting Opportunity Description</th>
<th>Line Item # - Subcontracting Opportunity Description</th>
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<tbody>
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</table>
**SECTION 3** - SUBCONTRACTING OPPORTUNITY

Enter the line item number and description of the subcontracting opportunity you listed in SECTION 2.

Line Item #      Description: 

**SECTION 4** - NOTIFICATION OF SUBCONTRACTING OPPORTUNITY

Complying with a, b and c of this section constitutes Good Faith Effort towards the portion of work listed in SECTION 3. After performing the requirements of this section, complete SECTION 5, 6 and 8.

a. Provide written notification of the subcontracting opportunity listed in SECTION 3 to three (3) or more SMWBEs. You can use the State of Texas' Centralized Master Bidders List (CMBL), found at [http://www.window.state.tx.us/procurement/cmb/cmbhub.html](http://www.window.state.tx.us/procurement/cmb/cmbhub.html), and it's HUB Directory, found at [http://www.window.state.tx.us/procurement/cmb/hubonly.html](http://www.window.state.tx.us/procurement/cmb/hubonly.html). Also, the South Texas Regional Certification Agency's (STRCA) database at [http://sctrca.org/](http://sctrca.org/) to identify available SMWBEs. Note: Attach supporting documentation (letters, phone logs, fax transmittals, electronic mail, etc.) demonstrating evidence of the good faith effort performed.

b. Provide written notification of the subcontracting opportunity listed in SECTION 3 to a minority or women trade organization or development center to assist in identifying potential SMWBEs by disseminating the subcontracting opportunity to their members/participants. A list of trade organizations and development centers are available on page 13. Attach supporting documentation (letters, phone logs, fax transmittals, electronic mail, etc.) demonstrating evidence of the good faith effort performed.

c. Written notifications should include the scope of the work, information regarding the location to review plans and specifications, bonding and insurance requirements, required qualifications, and identify a contact person. Unless the contracting agency has specified a different time period, you must allow the SMWBEs no less than five (5) working days from their receipt of notice to respond, and provide notice of your subcontracting opportunity to a minority or women trade organization or development center no less than five (5) working days prior to the submission of your response to the contracting agency.

**SECTION 5** - SMWBE FIRMS CONTACTED FOR SUBCONTRACTING OPPORTUNITY

List three (3) certified SMWBEs you notified regarding the portion of work (subcontracting opportunity) listed in SECTION 3. Specify the vendor ID number, date you provided notice, and if you received a response. Note: Attach supporting documentation (letters, phone logs, fax transmittals, electronic mail, etc.) demonstrating evidence of the good faith effort performed.

<table>
<thead>
<tr>
<th>Company Name</th>
<th>VID #</th>
<th>Notice Date (mm/dd/yyyy)</th>
<th>Was Response Received?</th>
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**SECTION 6** - SUBCONTRACTOR SELECTION

List all the subcontractor(s), both SMWBE and non-SMWBE, you selected to perform the portion of work (subcontracting opportunity) listed in SECTION 3. Also, specify the expected percentage of work to be subcontracted, the approximate dollar value of the work to be subcontracted, and indicate if the company is a SMWBE.

<table>
<thead>
<tr>
<th>Company Name</th>
<th>VID #</th>
<th>Expected % of Contract</th>
<th>Approximate Dollar Amount</th>
<th>Certified SMWBE?</th>
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*If the subcontractor(s) you selected is not a SMWBE, provide written justification of your selection process below:
SECTION 7 - SELF PERFORMANCE JUSTIFICATION
(If you responded "No" to SECTION 2, you must complete SECTION 7 and 8.)

Does your response/proposal contain an explanation demonstrating how your company will fulfill the entire contract with its own resources?

☐ - Yes If Yes, in the space provided below, list the specific page/section of your proposal which identifies how your company will perform the entire contract with its own equipment, supplies, materials and/or employees.

☐ - No If No, in the space provided below, explain how your company will perform the entire contract with its own equipment, supplies, materials, and/or employees.

________________________________________________________

SECTION 8 - AFFIRMATION

As evidenced by my signature below, I affirm that I am an authorized representative of the respondent listed in SECTION 1, and that the information and supporting documentation submitted with the SMWBE Subcontracting Plan are true and correct. Respondent understands and agrees that, if awarded any portion of the solicitation:

- The respondent must submit monthly compliance reports (Payment Request Forms) to ACCD, verifying their compliance with the SMWBE Subcontracting Plan, including the use/expenditures they have made to subcontractors.

- The respondent must seek approval from Alamo Colleges prior to making any modifications to their SMWBE Subcontracting Plan.

- The respondent must, upon request, allow Alamo Colleges to perform on-site reviews of the company’s headquarters and/or work-site where services are to be performed and must provide documents regarding staff and other resources.

____________________________________  ________________________________  __________________  ___________________
Signature  Printed Name  Title  Date
# SMWBE Subcontracting Plan Payment Request Form

This form must be completed and submitted with each payment request to document compliance with your Subcontracting Plan.

<table>
<thead>
<tr>
<th>Subcontractor's Name</th>
<th>Subcontractor's VID or SMWBE Certificate Number</th>
<th>Total Contract $ Amount from Subcontracting plan with Subcontractor</th>
<th>Total $ Amount Paid This Period to Subcontractor</th>
<th>Total Contract $ Amount Paid to Date to Subcontractor</th>
<th>Object Code (agency use only)</th>
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**TOTALS:**  $  $  $  $

____________________________________ ___________________________ ___________________ ___________________
Signature Printed Name Title Date
SMWBE Helpful Resource Contacts

Purchasing & Contracting Department
Tina Farias – tfarias7@alamo.edu; (210) 485-0115
1743 N. Main Ave., Bldg. 40, Rm 101
San Antonio, Texas 78212

Websites- the ability to search/identify HUB and SWMBE firms

The South Texas Regional Certification Agency:
http://sctrca.org/

Texas Procurement and Support Services Division
http://www.window.state.tx.us/procurement/cmbi/cmbihub.html
This questionnaire reflects changes made to the law by H.B. 1491, 80th Leg., Regular Session.

This questionnaire is being filed in accordance with Chapter 176, Local Government Code By a person who has a business relationship as defined by Section 176.001(1-a) with a local Governmental entity and the person meets requirements under Section 176.006(a).

By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the person becomes aware of facts that require the statement to be filed. See Section 176.006, Local Government Code.

A person commits an offense if the person knowingly violates Section 176.006, Local Government Code. An offense under this section is a Class C misdemeanor.

| 1 | Name of person who has a business relationship with local governmental entity. |

2 | Check this box if you are filing an update to a previously filed questionnaire. 
   
   (This law requires that you file an update completed questionnaire with the appropriate filing authority not later than the 7th business day after the date the originally filed questionnaire becomes incomplete or inaccurate.)

3 | Name of local government officer with whom filer has employment or business relationship. 

   Name of Officer

   This section (item 3 including subparts A, B, C & D) must be completed for each officer with whom the filer has an employment or other business relationship as defined by Section 176.001(1-a), Local Government Code. Attach additional pages to this Form CIQ as necessary.

   A. Is the local government officer named in this section receiving or likely to receive taxable income, other than investment income, from the filer of the questionnaire?

      [ ] Yes  [ ] No

   B. Is the filer of the questionnaire receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer named in this section AND the taxable income is not received from the local governmental entity?

      [ ] Yes  [ ] No

   C. Is the filer of this questionnaire employed by a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership of 10 percent or more?

      [ ] Yes  [ ] No

   D. Describe each employment or business relationship with the local government officer named in this section.

4 | 

   Signature of person doing business with the governmental entity  
   Date

APPENDIX D - CSP #15C-031
AGREEMENT BETWEEN OWNER AND CONTRACTOR

PROJECT:  Purchase of Asbestos Abatement and Mold Remediation at Alamo Colleges

BID NUMBER:  15C-031

AGREEMENT

Made as of the ___ day of _________, 2015

BETWEEN the OWNER:  Alamo Community College District
1743 N. Main Ave., Bldg. 41, Room 101
San Antonio, Texas  78212-4299

and the Asbestos Abatement and Mold Remediation Firm:  _______________________

The Owner and the Contractor agree as set forth herein.
ARTICLE 1

THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, Instruction to the Bidders, the Completed Bid Form, the Conditions of the Contract (General and other Conditions), the Specifications, all Addenda issued prior to and all Modifications issued after execution of this Agreement. These form the Contract, and all are as fully a part of the Contract as if attached to this Agreement or repeated herein. An enumeration of the Contract Documents appears in Article 7.

ARTICLE 2

THE WORK

The Contractor shall perform all Asbestos Abatement and Mold Remediation as required by surveys, reports and documentation prepared by the Owner’s Environmental Services Firm on an Indefinite Delivery/Indefinite Quantity Basis. The Alamo Colleges has not performed any assessments or surveys at this time. Work will be issued via Purchase Order as needed at any of the Alamo Colleges previously specified locations.

ARTICLE 3

TERM/TIME OF COMMENCEMENT

Unless terminated in accordance with the applicable provision hereof, or extended by mutual agreement, the term of this Contract shall be twenty-four (24) months from the date hereof. If at the end of the contract term, services are satisfactory and negotiated contract prices remain unchanged, an option to extend the contract for an additional twelve (12) months may be exercised. This renewal process may be exercised twice, for a possible total contract period of forty-eight (48) months; Alamo Colleges may terminate this contract at any time if funds are restricted, withdrawn, or not approved or if service is unsatisfactory.

The work to be performed under this Contract shall be initiated upon receipt of a purchase order issued by the Purchasing department for each project from the Alamo Colleges’ Facilities Office.

ARTICLE 4

CONTRACT SUM

The Owner shall pay the Contractor in current funds for the performance of the Work in accordance with the unit prices identified in the Proposal Form, Section 00410.

ARTICLE 5

PROGRESS PAYMENTS

Based upon Applications for Payment submitted to the Owner by the Contractor and Project Certificates for Payment received by the Owner or his agent, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided in the Contract Documents for the period ending the twenty-fifth (25th) day of each month as follows:

Not later than forty-five (45) days following the end of the period covered by the Application for Payment and receipt of Certificate for Payment by the Owner or his agent, Ninety percent (90%)
of the portion of the Contract Sum properly allocable to materials and equipment suitably stored at the site or at some other location agreed upon in writing, for the period covered by the Application for Payment, less the aggregate of previous payments made by the Owner; and upon Substantial Completion of the Work, a sum sufficient to increase the total payments to Ninety percent (90%) of the Contract Sum, less such amounts as shall be determined for all incomplete Work and unsettled claims as provided in the Contract Documents.

If the Contractor is subject to the requirements of the Texas Franchise Tax and becomes delinquent in the payment of said tax, then payments to the Contractor due under this Agreement may be withheld until such tax delinquency is remedied.

ARTICLE 6

FINAL PAYMENT

Final Payment, constituting the entire unpaid balance of the Contract Sum, shall be paid by the Owner to the Contractor when the Work has been completed, the Contract fully performed, an Application for Final Payment has been received, and a Project Certificate for Payment which approves the final payment due the Contractor has been issued.

ARTICLE 7

MISCELLANEOUS PROVISIONS

7.1 Terms used in this Agreement which are defined in the Conditions of the Contract shall have the meanings designated in those Conditions.

7.2 The Contract Documents, which constitute the entire agreement between the Owner and the Contractor, are listed in Article 1 and except for Modifications issued after execution of this Agreement, are enumerated as follows:

Certification of Eligibility, Section 231.006, Family Code
Section 00410 – Unit Prices Schedule

7.3 Wage Rate Requirements (Reference article 13.10.1 of section 00811 “Supplementary Conditions”):

Whichever of the Applicable Federal Requirements and the applicable State Requirements apply to this Agreement shall be termed herein “Applicable Construction Requirements.”

THE PARTIES AGREE AND ACKNOWLEDGE THAT THE APPLICABLE CONSTRUCTION REQUIREMENTS OF THE AGREEMENT:

DO INCLUDE ______/______ DO NOT INCLUDE ______/______
(Strike out inapplicable phrase & mutually initial)

THE APPLICABLE FEDERAL REQUIREMENTS.

This agreement entered into as of the day and year first written above.
OWNER:
ALAMO COMMUNITY COLLEGE DISTRICT

Signature  Date

John Strybos, Associate Vice Chancellor of Facilities Operation and Construction Management

CONTRACTOR:

Signature  Date

Print Name
General Conditions of the Contract for Construction

For use with AIA Document G612–2001 Part B only.


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

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

This document has been approved and endorsed by The Associated General Contractors of America

THE OWNER:
(Name, legal status and address)

THE ARCHITECT:
(Name, legal status and address)

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ARTICLE 1  GENERAL PROVISIONS
§ 1.1 BASIC DEFINITIONS
§ 1.1.1 THE CONTRACT DOCUMENTS
The Contract Documents consist of the Agreement between Owner and Contractor (hereinafter 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 other documents such as bidding requirements (advertisement or invitation to bid, Instructions to Bidders, sample forms, the Contractor's bid or portions of Addenda relating to bidding requirements).

§ 1.1.2 THE CONTRACT
The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Architect and Contractor, (2) between the Owner and a Subcontractor or Sub-subcontractor, (3) between the Owner and Architect or (4) between any persons or entities other than the Owner and 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 or 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 THE PROJECT MANUAL
The Project Manual is a volume assembled for the Work which may include the bidding requirements, sample forms, Conditions of the Contract and Specifications.

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

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

§ 1.2.3 Unless otherwise stated in the Contract Documents, words which have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.
§ 1.3 CAPITALIZATION
§ 1.3.1 Terms capitalized in these General Conditions include those which 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
§ 1.4.1 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 EXECUTION OF CONTRACT DOCUMENTS
§ 1.5.1 The Contract Documents shall be signed by the Owner and Contractor. If either the Owner or Contractor or both do not sign all the Contract Documents, the Architect shall identify such unsigned Documents upon request.

§ 1.5.2 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.

§ 1.6 OWNERSHIP AND USE OF DRAWINGS, SPECIFICATIONS AND OTHER INSTRUMENTS OF SERVICE
§ 1.6.1 The Drawings, Specifications and other documents, including those in electronic form, prepared by the Architect and the Architect's consultants are Instruments of Service through which the Work to be executed by the Contractor is described. The Contractor may retain one record set. Neither the Contractor nor any Subcontractor, Sub-subcontractor or material or equipment supplier shall own or claim a copyright in the Drawings, Specifications and other documents prepared by the Architect or the Architect's consultants, and unless otherwise indicated the Architect and the Architect's consultants shall be deemed the authors of them and will retain all common law, statutory and other reserved rights, in addition to the copyrights. All copies of Instruments of Service, except the Contractor's record set, shall be returned or suitably accounted for to the Architect, on request, upon completion of the Work. The Drawings, Specifications and other documents prepared by the Architect and the Architect's consultants, and copies thereof furnished to the Contractor, are for use solely with respect to this Project. They are not to be used by the Contractor or any Subcontractor, Sub-subcontractor or material or equipment supplier on other projects or for additions to this Project outside the scope of the Work without the specific written consent of the Owner, Architect and the Architect's consultants. The Contractor, Subcontractors, Sub-subcontractors and material or equipment suppliers are authorized to use and reproduce applicable portions of the Drawings, Specifications and other documents prepared by the Architect and the Architect's consultants appropriate to and for use in the execution of their Work under the Contract Documents. All copies made under this authorization shall bear the statutory copyright notice, if any, shown on the Drawings, Specifications and other documents prepared by the Architect and the Architect's consultants. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with this Project is not to be construed as publication in derogation of the Architect's or Architect's consultants' copyrights or other reserved rights.

ARTICLE 2 OWNER
§ 2.1 GENERAL
§ 2.1.1 The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all matters requiring the Owner's approval or authorization. Except as otherwise provided in Section 4.2.1, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

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

§ 2.2 INFORMATION AND SERVICES REQUIRED OF THE OWNER
§ 2.2.1 The Owner shall, at the written request of the Contractor, prior to commencement of the Work and thereafter, furnish to the Contractor reasonable evidence that financial arrangements have been made to fulfill the Owner's obligations under the Contract. Furnishing of such evidence shall be a condition precedent to commencement or continuation of the Work. After such evidence has been furnished, the Owner shall not materially vary such financial arrangements without prior notice to the Contractor.
§ 2.2.2 Except for permits and fees, including those required under Section 3.7.1, which are the responsibility of the Contractor under the Contract Documents, the Owner shall secure and pay for necessary approvals, easements, assessments and charges required for construction, use or occupancy of permanent structures or for permanent changes in existing facilities.

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

§ 2.2.4 Information or services required of the Owner by the Contract Documents shall be furnished by the Owner with reasonable promptness. Any other information or services relevant to the Contractor's performance of the Work under the Owner's control shall be furnished by the Owner after receipt from the Contractor of a written request for such information or services.

§ 2.2.5 Unless otherwise provided in the Contract Documents, the Contractor will be furnished, free of charge, such copies of Drawings and Project Manuals as are reasonably necessary for execution of the Work.

§ 2.3 OWNER'S RIGHT TO STOP THE WORK

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

§ 2.4 OWNER'S RIGHT TO CARRY OUT THE WORK

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

ARTICLE 3 CONTRACTOR

§ 3.1 GENERAL

§ 3.1.1 The Contractor is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The term "Contractor" means the Contractor or the Contractor's authorized representative.

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

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

§ 3.2 REVIEW OF CONTRACT DOCUMENTS AND FIELD CONDITIONS BY CONTRACTOR

§ 3.2.1 Since the Contract Documents are complementary, before starting each portion of the Work, the Contractor shall carefully study and compare the various Drawings and other Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 2.2.3, shall take field measurements of any existing conditions related to that portion of the Work and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, any errors, inconsistencies or
omissions discovered by the Contractor shall be reported promptly to the Architect as a request for information in such form as the Architect may require.

§ 3.2.2 Any design errors or omissions noted by the Contractor during this review shall be reported promptly to the Architect, but 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. The Contractor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, building codes, and rules and regulations, but any nonconformity discovered by or made known to the Contractor shall be reported promptly to the Architect.

§ 3.2.3 If the Contractor believes that additional cost or time is involved because of clarifications or instructions issued by the Architect in response to the Contractor's notices or requests for information pursuant to Sections 3.2.1 and 3.2.2, the Contractor shall make Claims as provided in Sections 4.3.6 and 4.3.7. If the Contractor fails to perform the obligations of Sections 3.2.1 and 3.2.2, the Contractor shall pay such costs and damages to the Owner as would have been avoided if the Contractor had performed such obligations. The Contractor shall not be liable to the Owner or Architect for damages resulting from errors, inconsistencies or omissions in the Contract Documents or for differences between field measurements or conditions and the Contract Documents unless the Contractor recognized such error, inconsistency, omission or difference and knowingly failed to report it to the Architect.

§ 3.3 SUPERVISION AND CONSTRUCTION PROCEDURES

§ 3.3.1 The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for and have control over construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Work under the Contract, unless the Contract Documents give other specific instructions concerning these matters. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences or procedures, the Contractor shall evaluate the jobsite safety thereof and, except as stated below, shall be fully and solely responsible for the jobsite safety of such means, methods, techniques, sequences or procedures. If the Contractor determines that such means, methods, techniques, sequences or procedures may not be safe, the Contractor shall give timely written notice to the Owner and Architect and shall not proceed with that portion of the Work without further written instructions from the Architect. If the Contractor is then instructed to proceed with the required means, methods, techniques, sequences or procedures without acceptance of changes proposed by the Contractor, the Owner shall be solely responsible for any resulting loss or damage.

§ 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 The Contractor may make substitutions only with the consent of the Owner, after evaluation by the Architect and in accordance with a Change Order.

§ 3.4.3 The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Contract. The Contractor shall not permit employment of unfit persons or persons not 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 otherwise required or permitted by the Contract Documents, that the Work will be free from defects not inherent in the quality required or permitted, and that the Work will conform to the requirements of the Contract Documents. Work not conforming to these requirements, including substitutions
not properly approved and authorized, may be considered defective. The Contractor's warranty excludes remedy for
damage or defect caused by abuse, modifications not executed by the Contractor, improper or insufficient
maintenance, improper operation, or normal wear and tear and normal usage. If required by the Architect, the
Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

§ 3.6 TAXES
§ 3.6.1 The Contractor shall pay sales, consumer, use and similar taxes for the Work provided by the Contractor
which 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 AND NOTICES
§ 3.7.1 Unless otherwise provided in the Contract Documents, the Contractor shall secure and pay for the building
permit and other permits and governmental fees, licenses and inspections necessary for proper execution and
completion of the Work which are customarily secured after execution of the Contract and which are legally
required when bids are received or negotiations concluded.

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

§ 3.7.3 It is not the Contractor's responsibility to ascertain that the Contract Documents are in accordance with
applicable laws, statutes, ordinances, building codes, and rules and regulations. However, if the Contractor observes
that portions of the Contract Documents are at variance therewith, the Contractor shall promptly notify the Architect
and Owner in writing, and necessary changes shall be accomplished by appropriate Modification.

§ 3.7.4 If the Contractor performs Work knowing it to be contrary to laws, statutes, ordinances, building codes, and
rules and regulations without such notice to the Architect and Owner, the Contractor shall assume appropriate
responsibility for such Work and shall bear the costs attributable to correction.

§ 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.
.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 in sufficient time to avoid delay
in the Work.

§ 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. Important
communications shall be confirmed in writing. Other communications shall be similarly confirmed on written
request in each case.

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

§ 3.10.2 The Contractor shall prepare and keep current, for the Architect's approval, a schedule of submittals which is coordinated with the Contractor's construction schedule and allows the Architect reasonable time to review 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
§ 3.11.1 The Contractor shall maintain at the site for the Owner one record copy of the Drawings, Specifications, Addenda, Change Orders and other Modifications, in good order and marked currently to record field changes and selections made during construction, and one record copy of approved Shop Drawings, Product Data, Samples and similar required submittals. These shall be available to the Architect and shall be delivered to the Architect for submittal to the Owner upon completion of the Work.

§ 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 which illustrate materials, equipment or workmanship and establish standards by which the Work will be judged.

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

§ 3.12.5 The Contractor shall review for compliance with the Contract Documents, approve and submit to the Architect Shop Drawings, Product Data, Samples and similar submittals required by the Contract Documents 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. Submittals which are not marked as reviewed for compliance with the Contract Documents and approved by the Contractor may be returned by the Architect without action.

§ 3.12.6 By approving and submitting Shop Drawings, Product Data, Samples and similar submittals, the Contractor represents that the Contractor has determined and verified materials, field measurements and field construction criteria related thereto, or will do so, and has checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.

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

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

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

§ 3.16.1 ACCESS TO WORK

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

§ 3.17 ROYALTIES, PATENTS AND COPYRIGHTS

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

§ 3.18 INDEMNIFICATION

§ 3.18.1 To the fullest extent permitted by law and to the extent claims, damages, losses or expenses are not covered by Project Management Protective Liability insurance purchased by the Contractor in accordance with Section 11.3, 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 which 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 ADMINISTRATION OF THE CONTRACT

§ 4.1 ARCHITECT

§ 4.1.1 The Architect is the person lawfully licensed to practice architecture or an entity lawfully practicing architecture identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The term "Architect" means the Architect or the Architect's authorized representative.

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

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

§ 4.2 ARCHITECT'S 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 (1) during construction, (2) until final payment is due and (3) with the Owner's concurrence, from time to time during the one-year period for correction of Work described in Section 12.2. The Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents, unless otherwise modified in writing in accordance with other provisions of the Contract.

§ 4.2.2 The Architect, as a representative of the Owner, will visit the site at intervals appropriate to the stage of the Contractor's operations (1) to become generally familiar with and to keep the Owner informed about the progress and quality of the portion of the Work completed, (2) to endeavor to guard the Owner against defects and deficiencies in the Work, and (3) to determine in general if the Work 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 neither have control over or charge of, nor be responsible for, the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents, except as provided in Section 3.3.1.
§ 4.2.3 The Architect will not be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect will not have control over or charge of and will not be responsible for acts or omissions of the Contractor, Subcontractors, or their agents or employees, or any other persons or entities performing portions of the Work.

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

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

§ 4.2.6 The Architect will have authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect will have authority to require inspection or testing of the Work in accordance with Sections 13.5.2 and 13.5.3, whether or not such Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, material and equipment suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 4.2.7 The Architect will review and approve or take other appropriate action upon the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect's action will be taken with such reasonable promptness as to cause no delay in the Work or in the activities of the Owner, Contractor or separate contractors, while allowing sufficient time in the Architect's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Architect's review of the Contractor's submittals shall not relieve the Contractor of the obligations under Sections 3.3, 3.5 and 3.12. The Architect's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Architect, of any construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 4.2.8 The Architect will prepare Change Orders and Construction Change Directives, and may authorize minor changes in the Work as provided in Section 7.4.

§ 4.2.9 The Architect will conduct inspections to determine the date or dates of Substantial Completion and the date of final completion, will 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, and will issue a final Certificate for Payment upon compliance with the requirements of the Contract Documents.

§ 4.2.10 If the Owner and Architect agree, the Architect will provide one or more project representatives to assist in carrying out the Architect's responsibilities at the site. The duties, responsibilities and limitations of authority of such project representatives shall be as set forth in an exhibit to be incorporated in the Contract Documents.

§ 4.2.11 The Architect will interpret and decide matters concerning performance under and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If no agreement is made concerning the time within which interpretations required of the Architect shall be furnished in compliance with this Section 4.2, then delay shall not be recognized on account of failure by the Architect to furnish such interpretations until 15 days after written request is made for them.

§ 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 initial 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 so 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.

§ 4.3 CLAIMS AND DISPUTES

§ 4.3.1 Definition. A Claim is a demand or assertion by one of the parties seeking, as a matter of right, adjustment or interpretation of Contract terms, payment of money, extension of time or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Contractor arising out of or relating to the Contract. Claims must be initiated by written notice. The responsibility to substantiate Claims shall rest with the party making the Claim.

§ 4.3.2 Time Limits on Claims. Claims by either party must be initiated within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later. Claims must be initiated by written notice to the Architect and the other party.

§ 4.3.3 Continuing Contract Performance. Pending final resolution of a Claim except as otherwise agreed in writing or as provided in Section 9.7.1 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.

§ 4.3.4 Claims for Concealed or Unknown Conditions. If conditions are encountered at the site which are (1) subsurface or otherwise concealed physical conditions which differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature, which 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, then notice by the observing party shall be given to the other party promptly before conditions are disturbed and in no event later than 21 days after first observance of the conditions. The Architect will promptly investigate such conditions and, if they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend an equitable adjustment in the Contract Sum or Contract Time, or both. If the Architect determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall so notify the Owner and Contractor in writing, stating the reasons. Claims by either party in opposition to such determination must be made within 21 days after the Architect has given notice of the decision. If the conditions encountered are materially different, the Contract Sum and Contract Time shall be equitably adjusted, but if the Owner and Contractor cannot agree on an adjustment in the Contract Sum or Contract Time, the adjustment shall be referred to the Architect for initial determination, subject to further proceedings pursuant to Section 4.4.

§ 4.3.5 Claims for Additional Cost. If the Contractor wishes to make Claim for an increase in the Contract Sum, written notice as provided herein shall be given before proceeding to execute the Work. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.6.

§ 4.3.6 If the Contractor believes additional cost is involved for reasons including but not limited to (1) a written interpretation from the Architect, (2) an order by the Owner to stop the Work where the Contractor was not at fault, (3) a written order for a minor change in the Work issued by the Architect, (4) failure of payment by the Owner, (5) termination of the Contract by the Owner, (6) Owner's suspension or (7) other reasonable grounds, Claim shall be filed in accordance with this Section 4.3.

§ 4.3.7 Claims for Additional Time

§ 4.3.7.1 If the Contractor wishes to make Claim for an increase in the Contract Time, written notice as provided herein shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay only one Claim is necessary.

§ 4.3.7.2 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.
§ 4.3.8 Injury or Damage to Person or Property. If either party to the Contract suffers injury or damage to person or property because of an act or omission of the other party, or of others for whose acts such party is legally responsible, written notice of such injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding 21 days after discovery. The notice shall provide sufficient detail to enable the other party to investigate the matter.

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

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

1. damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and
2. damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit except anticipated profit arising directly from the Work.

This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 14. Nothing contained in this Section 4.3.10 shall be deemed to preclude an award of liquidated direct damages, when applicable, in accordance with the requirements of the Contract Documents.

§ 4.4 RESOLUTION OF CLAIMS AND DISPUTES

§ 4.4.1 Decision of Architect. Claims, including those alleging an error or omission by the Architect but excluding those arising under Sections 10.3 through 10.5, shall be referred initially to the Architect for decision. An initial decision by the Architect shall be required as a condition precedent to mediation, arbitration or litigation of all Claims between the Contractor and Owner arising prior to the date final payment is due, unless 30 days have passed after the Claim has been referred to the Architect with no decision having been rendered by the Architect. The Architect will not decide disputes between the Contractor and persons or entities other than the Owner.

§ 4.4.2 The Architect will review Claims and within ten days of the receipt of the 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 Architect is unable to resolve the Claim if the Architect lacks sufficient information to evaluate the merits of the Claim or if the Architect concludes that, in the Architect's sole discretion, it would be inappropriate for the Architect to resolve the Claim.

§ 4.4.3 In evaluating Claims, the Architect 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 Architect in rendering a decision. The Architect may request the Owner to authorize retention of such persons at the Owner's expense.

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

§ 4.4.5 The Architect will approve or reject Claims by written decision, which shall state the reasons therefor and which shall notify the parties of any change in the Contract Sum or Contract Time or both. The approval or rejection of a Claim by the Architect shall be final and binding on the parties but subject to mediation and arbitration.

§ 4.4.6 When a written decision of the Architect states that (1) the decision is final but subject to mediation and arbitration and (2) a demand for arbitration of a Claim covered by such decision must be made within 30 days after the date on which the party making the demand receives the final written decision, then failure to demand arbitration within said 30 days' period shall result in the Architect's decision becoming final and binding upon the Owner and Contractor. If the Architect renders a decision after arbitration proceedings have been initiated, such decision may...
be entered as evidence, but shall not supersede arbitration proceedings unless the decision is acceptable to all parties concerned.

§ 4.4.7 Upon receipt of a Claim against the Contractor or at any time thereafter, the Architect or 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 Architect or the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

§ 4.4.8 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 prior to resolution of the Claim by the Architect, by mediation or by arbitration.

§ 4.5 MEDIATION

§ 4.5.1 Any Claim arising out of or related to the Contract, except Claims relating to aesthetic effect and except those waived as provided for in Sections 4.3.10, 9.10.4 and 9.10.5 shall, after initial decision by the Architect or 30 days after submission of the Claim to the Architect, be subject to mediation as a condition precedent to arbitration or the institution of legal or equitable proceedings by either party.

§ 4.5.2 The parties shall endeavor to resolve their Claims by mediation which, unless the parties mutually agree otherwise, shall be in accordance with the Construction Industry Mediation Rules of the American Arbitration Association currently in effect. Request for mediation shall be filed in writing with the other party to the Contract and with the American Arbitration Association. The request may be made concurrently with the filing of a demand for arbitration but, in such event, mediation shall proceed in advance of arbitration or legal or equitable 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.

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

§ 4.6 ARBITRATION

§ 4.6.1 Any Claim arising out of or related to the Contract, except Claims relating to aesthetic effect and except those waived as provided for in Sections 4.3.10, 9.10.4 and 9.10.5, shall, after decision by the Architect or 30 days after submission of the Claim to the Architect, be subject to arbitration. Prior to arbitration, the parties shall endeavor to resolve disputes by mediation in accordance with the provisions of Section 4.5.

§ 4.6.2 Claims not resolved by mediation shall be decided by arbitration which, unless the parties mutually agree otherwise, shall be in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association currently in effect. The demand for arbitration shall be filed in writing with the other party to the Contract and with the American Arbitration Association, and a copy shall be filed with the Architect.

§ 4.6.3 A demand for arbitration shall be made within the time limits specified in Sections 4.4.6 and 4.6.1 as applicable, and in other cases within a reasonable time after the Claim has arisen, and in no event shall it be made after the date when institution of legal or equitable proceedings based on such Claim would be barred by the applicable statute of limitations as determined pursuant to Section 13.7.

§ 4.6.4 Limitation on Consolidation or Joinder. No arbitration arising out of or relating to the Contract shall include, by consolidation or joinder or in any other manner, the Architect, the Architect's employees or consultants, except by written consent containing specific reference to the Agreement and signed by the Architect, Owner, Contractor and any other person or entity sought to be joined. No arbitration shall include, by consolidation or joinder or in any other manner, parties other than the Owner, Contractor, a separate contractor as described in Article 6 and other persons substantially involved in a common question of fact or law whose presence is required if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Architect or the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

§ 4.6.3 A demand for arbitration shall be made within the time limits specified in Sections 4.4.6 and 4.6.1 as applicable, and in other cases within a reasonable time after the Claim has arisen, and in no event shall it be made after the date when institution of legal or equitable proceedings based on such Claim would be barred by the applicable statute of limitations as determined pursuant to Section 13.7.
§ 5.3.1 By appropriate agreement, written where legally required for validity, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work, which the Contractor, by these Documents, assumes toward the Owner and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the
Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement which may be at variance with the Contract Documents. Subcontractors will similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

§ 5.4 CONTINGENT ASSIGNMENT OF SUBCONTRACTS
§ 5.4.1 Each subcontract agreement for a portion of the Work is assigned by the Contractor to the Owner provided that

1. assignment is effective only after termination of the Contract by the Owner for cause pursuant to Section 14.2 and only for those subcontract agreements which the Owner accepts by notifying the Subcontractor and Contractor in writing; and

2. assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

§ 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.

ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS
§ 6.1 OWNER'S RIGHT TO PERFORM CONSTRUCTION AND TO AWARD SEparate CONTRACTS
§ 6.1.1 The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and to award separate contracts in connection with other portions of the Project or other construction or operations on the site under Conditions of the Contract identical or substantially similar to these including those portions related to insurance and waiver of subrogation. If the Contractor claims that delay or additional cost is involved because of such action by the Owner, the Contractor shall make such Claim as provided in Section 4.3.

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

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

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

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

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

§ 6.2.3 The Owner shall be reimbursed by the Contractor for costs incurred by the Owner which are payable to a separate contractor because of delays, improperly timed activities or defective construction of the Contractor. The Owner shall be responsible to the Contractor for costs incurred by the Contractor because of delays, improperly timed activities, damage to the Work or defective construction of a separate contractor.
§ 6.2.4 The Contractor shall promptly remedy damage wrongfully caused by the Contractor to completed or partially completed construction or to property of the Owner or separate contractors as provided in Section 10.2.5.

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

§ 6.3 OWNER'S RIGHT TO CLEAN UP
§ 6.3.1 If a dispute arises among the Contractor, separate contractors and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish, the Owner may clean up and the Architect will allocate the cost among those responsible.

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

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

§ 7.1.3 Changes in the Work shall be performed under applicable provisions of the Contract Documents, and the Contractor shall proceed promptly, unless otherwise provided in the Change Order, Construction Change Directive or order for a minor change in the Work.

§ 7.2 CHANGE ORDERS
§ 7.2.1 A Change Order is a written instrument prepared by the Architect and signed by the Owner, Contractor and Architect, stating their agreement upon all of the following:
   .1 Change in the Work;
   .2 The amount of the adjustment, if any, in the Contract Sum; and
   .3 The extent of the adjustment, if any, in the Contract Time.

§ 7.2.2 Methods used in determining adjustments to the Contract Sum may include those listed in Section 7.3.3.

§ 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 7.3.6.

§ 7.3.4 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.
§ 7.3.5 A Construction Change Directive signed by the Contractor indicates the agreement of the Contractor 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.

§ 7.3.6 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the method and the adjustment shall be determined by the Architect 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, a reasonable allowance for overhead and profit. 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 7.3.6 shall be limited to the following:

.1 Costs of labor, including social security, old age and unemployment insurance, fringe benefits required by agreement or custom, and workers’ compensation insurance;
.2 Costs of materials, supplies and equipment, including cost of transportation, whether incorporated or consumed;
.3 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others;
.4 Costs of premiums for all bonds and insurance, permit fees, and sales, use or similar taxes related to the Work; and
.5 Additional costs of supervision and field office personnel directly attributable to the change.

§ 7.3.7 The amount of credit to be allowed by the Contractor to the Owner for a deletion or change which 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.

§ 7.3.8 Pending final determination of the total cost of a Construction Change Directive to the Owner, amounts not in dispute for such changes in the Work shall be included in Applications for Payment accompanied by a Change Order indicating the parties' agreement with part or all of such costs. For any portion of such cost that remains in dispute, the Architect will make an interim determination for purposes of monthly certification for payment for those costs. That 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 4.

§ 7.3.9 When the Owner and Contractor agree with the 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 shall be recorded by preparation and execution of an appropriate Change Order.

§ 7.4 MINOR CHANGES IN THE WORK

§ 7.4.1 The Architect will have authority to order minor changes in the Work not involving adjustment in the Contract Sum or extension of the Contract Time and not inconsistent with the intent of the Contract Documents. Such changes shall be effected by written order and shall be binding on the Owner and Contractor. The Contractor shall carry out such written orders promptly.

ARTICLE 8  TIME

§ 8.1 DEFINITIONS

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

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

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

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

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

§ 8.2.2 The Contractor shall not knowingly, except by agreement or instruction of the Owner in writing, prematurely commence operations on the site or elsewhere prior to the effective date of insurance required by Article 11 to be furnished by the Contractor and Owner. The date of commencement of the Work shall not be changed by the effective date of such insurance. Unless the date of commencement is established by the Contract Documents or a notice to proceed given by the Owner, the Contractor shall notify the Owner in writing not less than five days or other agreed period before commencing the Work to permit the timely filing of mortgages, mechanic's liens and other security interests.

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

§ 8.3 DELAYS AND EXTENSIONS OF TIME

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

§ 8.3.2 Claims relating to time shall be made in accordance with applicable provisions of Section 4.3.

§ 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.

§ 9.2 SCHEDULE OF VALUES

§ 9.2.1 Before the first Application for Payment, the Contractor shall submit to the Architect a schedule of values allocated to various portions of the Work, prepared in such form and supported by such data to substantiate its accuracy as the Architect may require. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment.

§ 9.3 APPLICATIONS FOR PAYMENT

§ 9.3.1 At least ten days before the date established for each progress payment, the Contractor shall submit to the Architect an itemized Application for Payment for operations completed in accordance with the schedule of values. Such application shall be notarized, if required, and supported by such data substantiating the Contractor's right to payment as the Owner or Architect may require, such as copies of requisitions from Subcontractors and material suppliers, and reflecting retainage if provided for in the Contract Documents.

§ 9.3.1.1 As provided in Section 7.3.8, such applications may include requests for payment on account of changes in the Work which 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 Such applications may not include requests for payment for portions of the Work for which the Contractor does not intend to pay to a Subcontractor or material supplier, unless such Work has been performed by others whom the Contractor intends to pay.

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

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§ 9.4 CERTIFICATES FOR PAYMENT
§ 9.4.1 The Architect will, within seven days after receipt of the Contractor's Application for Payment, either issue to the Owner a Certificate for Payment, with a copy to the Contractor, for such amount as the Architect determines is properly due, or notify the Contractor and Owner in writing of the Architect's reasons for withholding certification in whole or in part as provided in Section 9.5.1.

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

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

1. defective Work not remedied;
2. third party claims filed or reasonable evidence indicating probable filing of such claims unless security acceptable to the Owner is provided by the Contractor;
3. failure of the Contractor to make payments properly to Subcontractors or for labor, materials or equipment;
4. reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
5. damage to the Owner or another 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;
7. persistent failure to carry out the Work in accordance with the Contract Documents.

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

§ 9.6 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 promptly pay each Subcontractor, upon receipt of payment from the Owner, out of the amount paid to the Contractor on account of such Subcontractor's portion of the Work, the amount to which said Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of such 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 Neither the Owner nor Architect shall have an obligation to pay or to see to the payment of money to a Subcontractor except as may otherwise be required by law.

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

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

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

§ 9.7 FAILURE OF PAYMENT

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

§ 9.8 SUBSTANTIAL COMPLETION

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

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

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

§ 9.8.4 When the Work or designated portion thereof is substantially complete, the Architect will prepare a Certificate of Substantial Completion which shall establish the date of Substantial Completion, shall establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and 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. Purchasers are not permitted to reproduce this document. To report copyright violations of AIA Contract Documents, e-mail The American Institute of Architects' legal counsel, copyright@aia.org.
insurance, and shall fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 9.9.3 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.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect and will not be canceled or allowed to expire until at least 30 days' prior written notice has been given to the Owner, (3) a written statement that the Contractor knows of no substantial reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment and (5), if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts, releases and waivers of liens, claims, security interests or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien. If such lien remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging such lien, including all costs and reasonable attorneys' fees.

§ 9.10.3 If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Contractor or by issuance of Change Orders affecting final completion, and the Architect so confirms, the Owner shall, upon application by the Contractor and certification by the Architect, and without terminating the contract 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 or, if no agreement is reached, by decision of the Architect.

§ 9.10.1 Upon receipt of written notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Architect will promptly make such inspection and, when the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Architect will promptly issue a final Certificate for Payment stating that to the best of the Architect's knowledge, information and belief, and on the basis of the Architect's on-site visits and inspections, the Work has been completed in accordance with terms and conditions of the Contract Documents and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Architect's final Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

§ 9.9.2 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.

§ 9.10 FINAL COMPLETION AND FINAL PAYMENT

§ 9.10.2 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 or, if no agreement is reached, by decision of the Architect.

§ 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 written notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Architect will promptly make such inspection and, when the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Architect will promptly issue a final Certificate for Payment stating that to the best of the Architect's knowledge, information and belief, and on the basis of the Architect's on-site visits and inspections, the Work has been completed in accordance with terms and conditions of the Contract Documents and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Architect's final Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect and will not be canceled or allowed to expire until at least 30 days' prior written notice has been given to the Owner, (3) a written statement that the Contractor knows of no substantial reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment and (5), if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts, releases and waivers of liens, claims, security interests or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien. If such lien remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging such lien, including all costs and reasonable attorneys' fees.

§ 9.10.3 If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Contractor or by issuance of Change Orders affecting final completion, and the Architect so confirms, the Owner shall, upon application by the Contractor and certification by the Architect, and without terminating the contract 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.

§ 9.10.1 Upon receipt of written notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Architect will promptly make such inspection and, when the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Architect will promptly issue a final Certificate for Payment stating that to the best of the Architect's knowledge, information and belief, and on the basis of the Architect's on-site visits and inspections, the Work has been completed in accordance with terms and conditions of the Contract Documents and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Architect's final Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect and will not be canceled or allowed to expire until at least 30 days' prior written notice has been given to the Owner, (3) a written statement that the Contractor knows of no substantial reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment and (5), if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts, releases and waivers of liens, claims, security interests or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien. If such lien remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging such lien, including all costs and reasonable attorneys' fees.

§ 9.10.3 If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Contractor or by issuance of Change Orders affecting final completion, and the Architect so confirms, the Owner shall, upon application by the Contractor and certification by the Architect, and without terminating the contract or, if no agreement is reached, by decision of the Architect.

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Contract, make payment of the balance due for that portion of the Work fully completed and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Architect prior to certification of such payment. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of claims.

§ 9.10.4 The making of final payment shall constitute a waiver of Claims by the Owner except those arising from
1. liens, Claims, security interests or encumbrances arising out of the Contract and unsettled;
2. failure of the Work to comply with the requirements of the Contract Documents; or
3. terms of special warranties required by the Contract Documents.

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

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

§ 10.1 SAFETY PRECAUTIONS AND PROGRAMS

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

§ 10.2 SAFETY OF PERSONS AND PROPERTY

§ 10.2.1 The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury or loss to
1. employees on the Work and other persons who may be affected thereby;
2. the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody or control of the Contractor or the Contractor's Subcontractors or Sub-subcontractors; and
3. other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.

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

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

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

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

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

§ 10.2.7 The Contractor shall not load or permit any part of the construction or site to be loaded so as to endanger its safety.
§ 10.3 HAZARDOUS MATERIALS
§ 10.3.1 If reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and report the condition to the Owner and Architect in writing.

§ 10.3.2 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 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 qualifications of persons or entities who are to perform tests verifying the presence or absence of such material or substance or who are to perform the task of removal or safe containment of such material or substance. The Contractor and the Architect will promptly reply to the Owner in writing stating whether or not either has reasonable objection to the persons or entities proposed by the Owner. If either the Contractor or Architect has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Contractor and the Architect have no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Contractor. The Contract Time shall be extended appropriately and the Contract Sum shall be increased in the amount of the Contractor's reasonable additional costs of shut-down, delay and start-up, which adjustments shall be accomplished as provided in Article 7.

§ 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) and provided that such damage, loss or expense is not due to the sole negligence of a party seeking indemnity.

§ 10.4 The Owner shall not be responsible under Section 10.3 for materials and substances brought to the site by the Contractor unless such materials or substances were required by the Contract Documents.

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

§ 10.6 EMERGENCIES
§ 10.6.1 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 Section 4.3 and Article 7.

ARTICLE 11 INSURANCE AND BONDS
§ 11.1 CONTRACTOR'S LIABILITY INSURANCE
§ 11.1.1 The Contractor shall purchase from and maintain in a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located such insurance as will protect the Contractor from claims set forth below which may arise out of or result from the Contractor's operations under the Contract and for which the Contractor may be legally liable, whether such operations be by the Contractor or by a Subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:

1. Claims under workers' compensation, disability benefit and other similar employee benefit acts which are applicable to the Work to be performed;
2. Claims for damages because of bodily injury, occupational sickness or disease, or death of the Contractor's employees;
3. Claims for damages because of bodily injury, sickness or disease, or death of any person other than the Contractor's employees;
4. Claims for damages incurred by usual personal injury liability coverage;
5. Claims for damages, other than to the Work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom;
§ 11.1.2 The insurance required by Section 11.1.1 shall be written for not less than limits of liability specified in the Contract Documents or required by law, whichever coverage is greater. Coverages, whether written on an occurrence or claims-made basis, shall be maintained without interruption from date of commencement of the Work until date of final payment and termination of any coverage required to be maintained after final payment.

§ 11.1.3 Certificates of insurance acceptable to the Owner shall be filed with the Owner prior to commencement of the Work. These certificates and the insurance policies required by this Section 11.1 shall contain a provision that coverages afforded under the policies will not be canceled or allowed to expire until at least 30 days' prior written notice has been given to the Owner. If any of the foregoing insurance coverages are required to remain in force after final payment and are reasonably available, an additional certificate evidencing continuation of such coverage shall be submitted with the final Application for Payment as required by Section 9.10.2. Information concerning reduction of coverage on account of revised limits or claims paid under the General Aggregate, or both, shall be furnished by the Contractor with reasonable promptness in accordance with the Contractor's information and belief.

§ 11.2 OWNER'S LIABILITY INSURANCE
§ 11.2.1 The Owner shall be responsible for purchasing and maintaining the Owner's usual liability insurance.

§ 11.3 PROJECT MANAGEMENT PROTECTIVE LIABILITY INSURANCE
§ 11.3.1 Optionally, the Owner may require the Contractor to purchase and maintain Project Management Protective Liability insurance from the Contractor's usual sources as primary coverage for the Owner's, Contractor's and Architect's vicarious liability for construction operations under the Contract. Unless otherwise required by the Contract Documents, the Owner shall reimburse the Contractor by increasing the Contract Sum to pay the cost of purchasing and maintaining such optional insurance coverage, and the Contractor shall not be responsible for purchasing any other liability insurance on behalf of the Owner. The minimum limits of liability purchased with such coverage shall be equal to the aggregate of the limits required for Contractor's Liability Insurance under Sections 11.1.1.2 through 11.1.1.5.

§ 11.3.2 To the extent damages are covered by Project Management Protective Liability insurance, the Owner, Contractor and Architect waive all rights against each other for damages, except such rights as they may have to the proceeds of such insurance. The policy shall provide for such waivers of subrogation by endorsement or otherwise.

§ 11.3.3 The Owner shall not require the Contractor to include the Owner, Architect or other persons or entities as additional insureds on the Contractor's Liability Insurance coverage under Section 11.1.

§ 11.4 PROPERTY INSURANCE
§ 11.4.1 Unless otherwise provided, the Owner shall purchase and maintain, in a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located, property insurance written on a builder's risk "all-risk" or equivalent policy form in the amount of the initial Contract Sum, plus value of subsequent Contract modifications and cost of materials supplied or installed by others, comprising total value for the entire Project at the site on a replacement cost basis without optional deductibles. Such property insurance shall be maintained, unless otherwise provided in the Contract Documents or otherwise agreed in writing by all persons and entities who are beneficiaries of such insurance, until final payment has been made as provided in Section 9.10 or until no person or entity other than the Owner has an insurable interest in the property required by this Section 11.4 to be covered, whichever is later. This insurance shall include interests of the Owner, the Contractor, Subcontractors and Sub-subcontractors in the Project.

§ 11.4.1.1 Property insurance shall be on an "all-risk" or equivalent policy form and shall include, without limitation, insurance against the perils of fire (with extended coverage) and physical loss or damage including, without duplication of coverage, theft, vandalism, malicious mischief, collapse, earthquake, flood, windstorm, falsework, testing and startup, temporary buildings and debris removal including demolition occasioned by enforcement of any applicable legal requirements, and shall cover reasonable compensation for Architect's and Contractor's services and expenses required as a result of such insured loss.
§ 11.4.1.2 If the Owner does not intend to purchase such property insurance required by the Contract and with all of the coverages in the amount described above, the Owner shall so inform the Contractor in writing prior to commencement of the Work. The Contractor may then effect insurance which will protect the interests of the Contractor, Subcontractors and Sub-subcontractors in the Work, and by appropriate Change Order the cost thereof shall be charged to the Owner. If the Contractor is damaged by the failure or neglect of the Owner to purchase or maintain insurance as described above, without so notifying the Contractor in writing, then the Owner shall bear all reasonable costs properly attributable thereto.

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

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

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

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

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

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

§ 11.4.5 If during the Project construction period the Owner insures properties, real or personal or both, at or adjacent to the site by property insurance under policies separate from those insuring the Project, or if after final payment property insurance is to be provided on the completed Project through a policy or policies other than those insuring the Project during the construction period, the Owner shall waive all rights in accordance with the terms of Section 11.4.7 for damages caused by fire or other causes of loss covered by this separate property insurance. All separate policies shall provide this waiver of subrogation by endorsement or otherwise.

§ 11.4.6 Before an exposure to loss may occur, the Owner shall file with the Contractor a copy of each policy that includes insurance coverages required by this Section 11.4. Each policy shall contain all generally applicable conditions, definitions, exclusions and endorsements related to this Project. Each policy shall contain a provision that the policy will not be canceled or allowed to expire, and that its limits will not be reduced, until at least 30 days' prior written notice has been given to the Contractor.

§ 11.4.7 Waivers of Subrogation. The Owner and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents and employees, each of the other, and (2) the Architect, Architect's consultants, separate contractors described in Article 6, if any, and any of their subcontractors, sub-subcontractors, agents and employees, for damages caused by fire or other causes of loss to the extent covered by property insurance obtained pursuant to this Section 11.4 or other property insurance applicable to the Work, except such rights as they have to proceed of such insurance held by the Owner as fiduciary. The Owner or Contractor, as appropriate, shall require of the Architect, Architect's consultants, separate contractors described in Article 6, if any, and the subcontractors, sub-subcontractors, agents and employees of any of them, by appropriate agreements, written where legally required for validity, similar waivers each in favor of other parties enumerated herein. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a
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 required 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 which the Architect has not specifically requested to examine prior to its being covered, the Architect may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, costs of uncovering and replacement shall, by appropriate Change Order, be at the Owner's expense. If such Work is not in accordance with the Contract Documents, correction shall be at the Contractor's expense unless the condition was caused by the Owner or a separate contractor in which event the Owner shall be responsible for payment of such costs.

§ 12.2 CORRECTION OF WORK

§ 12.2.1 BEFORE OR AFTER SUBSTANTIAL COMPLETION

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

§ 12.2.2 AFTER SUBSTANTIAL COMPLETION

§ 12.2.2.1 In addition to the Contractor's obligations under Section 3.5, if, within one year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.9.1, or by terms of an applicable special warranty required by the Contract Documents,
any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of written notice from the Owner to do so unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the one-year period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor and to make a claim for breach of warranty. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner or Architect, the Owner may correct it in accordance with Section 2.4.

§ 12.2.2 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 performance of the Work.

§ 12.2.3 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.

§ 12.3 The Contractor shall remove from the site portions of the Work which are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner.

§ 12.4 The Contractor shall bear the cost of correcting destroyed or damaged construction, whether completed or partially completed, of the Owner or separate contractors caused by the Contractor's correction or removal of Work which is not in accordance with the requirements of the Contract Documents.

§ 12.5 Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations which the Contractor might have 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

§ 12.3.1 If theOwner prefers to accept Work which 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

§ 13.1.1 The Contract shall be governed by the law of the place where the Project is located.

§ 13.2 SUCCESSORS AND ASSIGNS

§ 13.2.1 The Owner and Contractor respectively bind themselves, their partners, successors, assigns and legal representatives to the other party hereto and to partners, successors, assigns and legal representatives of such other party in respect to covenants, agreements and obligations contained in the Contract Documents. Except as provided in Section 13.2.2, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make such an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

§ 13.2.2 The Owner may, without consent of the Contractor, assign the Contract to an institutional lender providing construction financing for the Project. In such event, the lender shall assume the Owner's rights and obligations under the Contract Documents. The Contractor shall execute all consents reasonably required to facilitate such assignment.

§ 13.3 WRITTEN NOTICE

§ 13.3.1 Written notice shall be deemed to have been duly served if delivered in person to the individual or a member of the firm or entity or to an officer of the corporation for which it was intended, or if delivered at or sent by registered or certified mail to the last business address known to the party giving notice.
§ 13.4 RIGHTS AND REMEDIES
§ 13.4.1 Duties and obligations imposed by the Contract Documents and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights and remedies otherwise imposed or available by law.

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

§ 13.5 TESTS AND INSPECTIONS
§ 13.5.1 Tests, inspections and approvals of portions of the Work required by the Contract Documents or by laws, ordinances, rules, regulations or orders of public authorities having jurisdiction shall be made at an appropriate time. 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 which do not become requirements until after bids are received or negotiations concluded.

§ 13.5.2 If the Architect, Owner or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection or approval not included under Section 13.5.1, the Architect will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection or approval by an entity acceptable to the Owner, and the Contractor shall give timely notice to the Architect of when and where tests and inspections are to be made so that the Architect may be present for such procedures. Such costs, except as provided in Section 13.5.3, shall be at the Owner's expense.

§ 13.5.3 If such procedures for testing, inspection or approval under Sections 13.5.1 and 13.5.2 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, all costs made necessary by such failure including those of repeated procedures and compensation for the Architect's services and expenses shall be at the Contractor's expense.

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

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

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

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

§ 13.7 COMMENCEMENT OF STATUTORY LIMITATION PERIOD
§ 13.7.1 As between the Owner and Contractor:

.1 Before Substantial Completion. As to acts or failures to act occurring prior to the relevant date of Substantial Completion, any applicable statute of limitations shall commence to run and any alleged cause of action shall be deemed to have accrued in any and all events not later than such date of Substantial Completion;

.2 Between Substantial Completion and Final Certificate for Payment. As to acts or failures to act occurring subsequent to the relevant date of Substantial Completion and prior to issuance of the final Certificate for Payment, any applicable statute of limitations shall commence to run and any alleged cause of action shall be deemed to have accrued in any and all events not later than the date of issuance of the final Certificate for Payment; and

.3 After Final Certificate for Payment. As to acts or failures to act occurring after the relevant date of issuance of the final Certificate for Payment, any applicable statute of limitations shall commence to...
run and any alleged cause of action shall be deemed to have accrued in any and all events not later than the date of any act or failure to act by the Contractor pursuant to any Warranty provided under Section 3.5, the date of any correction of the Work or failure to correct the Work by the Contractor under Section 12.2, or the date of actual commission of any other act or failure to perform any duty or obligation by the Contractor or Owner, whichever occurs last.

ARTICLE 14   TERMINATION OR SUSPENSION OF THE CONTRACT

§ 14.1 TERMINATION BY THE CONTRACTOR

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

.1 Issuance of an order of a court or other public authority having jurisdiction which requires all Work to be stopped;

.2 An act of government, such as a declaration of national emergency which requires all Work to be stopped;

.3 Because the Architect has not issued a Certificate for Payment and has not notified the Contractor of the reason for withholding certification as provided in Section 9.4.1, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Contract Documents; or

.4 The Owner has failed to furnish to the Contractor promptly, upon the Contractor's request, reasonable evidence as required by Section 2.2.1.

§ 14.1.2 The Contractor may terminate the Contract if, through no act or fault of the Contractor or a Subcontractor, Sub-subcontractor or their agents or employees or any other persons performing portions of the Work under direct or indirect contract with the Contractor, repeated suspensions, delays or interruptions of the entire Work by the Owner as described in Section 14.3 constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less.

§ 14.1.3 If one of the reasons described in Section 14.1.1 or 14.1.2 exists, the Contractor may, upon seven days' written notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work executed and for proven loss with respect to materials, equipment, tools, and construction equipment and machinery, including reasonable overhead, profit and damages.

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

§ 14.2 TERMINATION BY THE OWNER FOR CAUSE

§ 14.2.1 The Owner may terminate the Contract if the Contractor

.1 persistently or repeatedly refuses or fails to supply enough properly skilled workers or proper materials;

.2 fails to make payment to Subcontractors for materials or labor in accordance with the respective agreements between the Contractor and the Subcontractors;

.3 persistently disregards laws, ordinances, or rules, regulations or orders of a public authority having jurisdiction; or

.4 otherwise is guilty of substantial breach of a provision of the Contract Documents.

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

.1 take possession of the site and 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
§ 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 Architect, upon application, and this obligation for payment shall survive termination of the Contract.

§ 14.3 SUSPENSION BY THE OWNER FOR CONVENIENCE

§ 14.3.1 The Owner may, without cause, order the Contractor in writing to suspend, delay or interrupt the Work in whole or in part for such period of time as the Owner may determine.

§ 14.3.2 The Contract Sum and Contract Time shall be adjusted for increases in the cost and time caused by suspension, delay or interruption as described in Section 14.3.1. Adjustment of the Contract Sum shall include profit. No adjustment shall be made to the extent

1. that performance is, was or would have been so suspended, delayed or interrupted by another cause for which the Contractor is responsible; or

2. that an equitable adjustment is made or denied under another provision of the Contract.

§ 14.4 TERMINATION BY THE OWNER FOR CONVENIENCE

§ 14.4.1 The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause.

§ 14.4.2 Upon receipt of written notice from the Owner of such termination for the Owner's convenience, the Contractor shall

1. cease operations as directed by the Owner in the notice;

2. take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and

3. except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.

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

The following provisions modify, change, delete or add to the "General Conditions of the Contract for Construction (AIA201-1997)". Except as expressly modified below, each Article, Paragraph, Subparagraph, Sentence or Clause of the General Conditions shall remain unaltered and in full force and effect.

1.1.1 DELETE THE FIRST SENTENCE AND SUBSTITUTE THE FOLLOWING: The Contract or Contract Documents consist of the General Conditions of the Contract for Construction (AIA201-1997) (sometimes referred to as the "Agreement between Owner and Contractor" or 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.

1.2.1.1 In event of either inconsistency between Drawings and Specifications or ambiguity in any Document not clarified by Addenda, the better quality or greater amount of Work or materials shall be estimated, furnished and performed in accordance with Architect's interpretation.

2.1.2 DELETE ENTIRE PARAGRAPH.

2.2.1 DELETE ENTIRE PARAGRAPH.

3.2.1 DELETE THE ENTIRE PARAGRAPH AND SUBSTITUTE THE FOLLOWING: Since the Contract Documents are complementary, before starting each portion of the Work, the Contractor shall carefully study and compare the various Drawings and other Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Subparagraph 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. Any errors, inconsistencies or omissions discovered by the Contractor shall be reported in writing promptly to the Owner in such form as the Owner may require.

3.2.1.1 Contractor shall also carefully study and compare Contract Documents with existing conditions at Project site and shall at once report in writing to Owner any error, inconsistency or omission he may discover or any materials, systems, procedures, or methods of construction, either shown on Contract Drawings or specified, which he feels are incorrect, inadequate, obsolete, or unsuitable for purpose intended, or which he would not be satisfied to warranty as specified. Contractor shall not proceed with any work in such areas until written instructions are received from Owner or Architect.

3.2.3 DELETE THE ENTIRE PARAGRAPH AND SUBSTITUTE THE FOLLOWING: If the Contractor believes that additional cost or time is involved because of clarifications or instructions issued by the Owner or Architect in response to the Contractor's notices or requests for information pursuant to Subparagraphs 3.2.1, 3.2.1.1 and 3.2.2, the Contractor shall make Claims as provided in Subparagraphs 4.3.6 and 4.3.7. If the Contractor fails to perform the obligations of Subparagraphs 3.2.1, 3.2.1.1 and 3.2.2, the Contractor shall pay such costs and damages to the Owner as would have been avoided if the Contractor had performed such obligations.

3.2.4 Failure to report a conflict in Contract Documents shall be deemed evidence that Contractor has elected to proceed in the more expensive manner.

3.3.1 DELETE THE LAST SENTENCE.
3.3.1.1 On trench excavations in excess of five feet in depth, Contractor shall bear sole responsibility for design and execution of acceptable trenching and shoring procedures in accordance with relevant State of Texas requirements and OSHA 1926.652-653. Contractor shall pay a qualified engineer to prepare detailed plans and specifications directing Contractor in safe execution of trenching and shoring.

3.3.3.1 Before ordering any material or doing any work, Contractor shall verify all dimensions and check all conditions in order to assure himself that they are the same as those on Drawings. Any inconsistency shall be brought to attention of Owner. In the event discrepancies occur between ordered material and actual conditions and Owner was not notified beforehand, costs to correct such discrepancies shall be borne by Contractor.

3.5.2 Contractor and each Subcontractor shall submit to the Owner a written guarantee, prior to release of final payment, on forms provided by the architect, for materials, equipment and workmanship for a one-year period beginning on the date of Substantial Completion. The Contractor shall be responsible for correcting and/or repairing deficiencies and/or latent defects of materials and/or workmanship uncovered during the warranty period at no cost to the Owner. In addition, the Contractor shall respond promptly in the event that the work requires correction.

Before final payment, Contractor shall:
A. Obtain warranties, executed in duplicate by responsible Subcontractors, suppliers, and manufacturers, leaving the date of beginning of time of warranty until the Date of Substantial Completion.
B. Verify that the documents are in proper form and contain full information.
C. Co-sign warranties when required.
D. Retain warranties and bonds until time specified for submittal to the Architect.
E. Bind all warranties in commercial quality 8-1/2 x 11 inch three-ring binders, with hardback cleanable, plastic covers.
F. Label the cover of each binder with a typed or printed title "WARRANTIES," along with the title of Project; name, address and telephone number of Contractor and name of its responsible principal.
G. The warranty notebook shall also contain a Table of Contents, with each item identified by the number and title of the specification section under which the product is specified.
H. Separate each warranty with index tab sheets keyed to the Table of Contents listing.

3.5.3 Upon Owner's request on a warranty issue the Contractor will be required to submit a proposed schedule for correction of a warranty item to the Owner and shall coordinate with the Owner. Immediately upon completion of corrective work of a warranty item, the Contractor will be required to secure Owner's acceptance in writing. Failure to get Owner's acceptance will jeopardize acknowledgement of repair work performed by the Contractor or his subcontractor(s).

3.5.4 The Contractor shall warrant for a period of twelve (12) months that the building(s) shall be watertight and leak proof at every point and in every area, except where leaks can be attributed to damage to the building(s) by external forces beyond Contractor's control or the Contractor has timely notified the Owner in writing of details, conditions or systems which would prevent such watertight construction due to design features (and not due to faulty construction). The Contractor shall, immediately upon notification by the Owner of water penetration, determine the source of water penetration, and at its own expense, do any work necessary to make the building(s) watertight in accordance with Contract Documents. Contractor shall also, at its own expense, repair or replace any other damaged material,
finishes, and furnishings, damaged as a result of this water penetration, to return the building(s) to its (their) original condition.

3.5.5 Except when a longer warranty time is specifically called for in the Specification Sections or is otherwise provided by law, the General Warranty shall be for twelve (12) months and shall be in form and content otherwise satisfactory to the Owner.

3.5.6 All warranties shall include labor and materials and shall be signed by the Manufacturer or Subcontractor as case may be and countersigned by the Contractor.

3.6.2 The Owner qualifies for exemption from State and Local Sales Taxes under Chapter 151 of the Tax Code of the State of Texas. Contractor may claim exemption from payment of applicable State and Local Sales Taxes by complying with such procedures as may be prescribed by the State Comptroller of Public Accounts. However, Contractor shall pay all necessary local, county and state taxes, compensation tax, social security and withholding payments as required by law. He shall indemnify and save harmless the Owner of and from all claims and demands made by failure of Contractor or Subcontractors to comply with the provisions of any or all said laws and amendments.

3.7.1 DELETE sub-section 3.7.1 and REPLACE with the following:

Unless otherwise provided in the Contract Documents, the Contractor shall secure the building permit and other permits and governmental fees, licenses and inspections necessary for proper execution and completion of the Work, which are customarily secured after execution of the Contract and which are legally required when bids are received or negotiations concluded. Unless otherwise specified, the Owner shall bear the cost of all such permits, fees, licenses and inspections.

3.9.1 DELETE LAST TWO SENTENCES AND ADD TO THE END: the project superintendent shall be on-site each calendar day work is being performed.

3.9.2 Contractor shall provide adequate supervision at the job site at all times. The Architect and Owner may but shall not be obligated to determine adequacy of supervision. A full time job superintendent shall be provided. The superintendent must be approved by the Owner and Architect and will be replaced by Contractor upon disapproval. Contractor's job site representative shall be equipped with a telephone pager and/or cellular telephone on his person at all times to ensure proper communication with the Architect and Owner.

3.10.2 DELETE "approval" and SUBSTITUTE "review" in the second line

3.10.3 SUBSTITUTE THE FOLLOWING: The Contractor promptly after being awarded the contract shall prepare and submit for the Owner’s and Architect’s information a contractor’s construction schedule for the work. The schedule shall not exceed time limits current under the contract documents, shall be revised at appropriate intervals as required by the conditions of the work and project, shall be related to the entire project to the extent required by the contract documents, and shall provide for expeditious and practical execution of the work. The contractor’s construction schedule shall be updated and submitted with each application for payment. Each revised schedule shall be expeditious and practical for the execution of the work. Failure to perform in general accordance with the most recent schedules shall constitute grounds for termination for default at the option of Owner.

3.11.1 ADD AT THE END: Upon completion of the Work and as a condition of final payment, the Contractor shall submit full size of “As-Built” Record Documents with all actual locations, additions, deletions, corrections, revisions and other changes made during
construction and not otherwise documented on the drawings and shall be signed by the Contractor and Subcontractor involved. Contractor shall then deliver the Contractor's marked record set to the Architect. Project Record Drawings shall include all revisions issued by the Design Team during the construction phase of the project.

3.11.2 Contractor shall:

A. Maintain at the site for Architect and Owner one record copy of:
   1. Contract Drawings;
   2. Specifications;
   3. Addenda;
   4. Change Orders and other Modifications to the Contract;
   5. Reviewed Shop Drawings, Product Data and Samples;
   6. Field test records;
   7. Inspection certificates;
   8. Manufacturers' certificates;
   9. One set of plans for record, with "as built" changes recorded.

B. Store Record Documents and Samples in Field Office apart from documents used for construction and provide files, racks and secure storage for Record Documents and Samples.

C. Label and file Record Documents and Samples in accordance with the section number listings in the Table of Contents of this Project Manual.

D. Maintain Record Documents and Samples in a clean, dry and legible condition and not use Record Documents for construction purposes.

E. Keep Record Documents and Samples available for inspection by Architect/Engineer and Owner.

F. Record information on a set of blue line opaque drawings and in a copy of a Project Manual.

G. Provide felt tip marking pens, maintaining separate colors for each major system, for recording information.

H. Record information concurrently with construction progress. Do not conceal any work until required information is recorded.

I. Legibly mark Contract Drawings and Shop Drawings to record actual construction, including:
   1. Measured depths of elements of foundation in relation to finish first floor datum.
   2. Measured horizontal and vertical locations of underground utilities and appurtenances, referenced to permanent surface improvements.
   3. Measured locations of internal utilities and appurtenances concealed in construction, referenced to visible and accessible features of construction.
   4. Field changes of dimension and detail.
   5. Changes made by Modifications.
   6. Details not on original Contract Drawings.
   7. References to related Shop Drawings and Modifications.
   8. Mark HVAC unit Serial Number and Rooms that unit serves on reproducible mechanical plans for the entire project.

3.12.1.1 Contractor shall review and submit to the Architect for approval all Shop Drawings, Product Data and Samples in compliance with requirements. Each Shop Drawing must show the project name and number and identify each element of drawings by reference to sheet number and detail, schedule, or room number in Contract Documents. In addition, each Shop Drawing shall identify field dimensions and show its relationship to adjacent or critical features of work or products.
3.12.2.1 In connection with Product Data, Contractor shall:
A. Mark each copy of standard printed data to identify the pertinent products, referenced to Specification Section and Article number and show reference standards, performance characteristics and capacities, wiring and piping diagrams and controls, component parts, finishes, dimensions, and required clearances.
B. Modify manufacturers’ standard schematic drawings and diagrams to supplement standard information and to provide information specifically applicable to the work and delete information not applicable.

3.12.3.1 In connection with Samples, Contractor shall:
A. Submit a full range of manufacturers’ standard finishes except when more restrictive requirements are specified, indicating colors, textures, and patterns, for Architect’s selection.
B. Submit Samples to illustrate functional characteristics of products, including parts and attachments.
C. Indicate approved Samples which may be used in the work are indicated in the specification section.
D. Label each Sample with the identification used in transmittal letters.
E. Provide field Samples of finishes at project, at location acceptable to Architect.

3.12.5.1 In connection with Contractor reviews, Contractor shall:
A. Determine and verify field measurements, field construction criteria, manufacturer’s catalog numbers and conformance of submittal with requirements of Contract Documents.
B. Coordinate submittals with requirements of work and of Contract Documents.
C. Sign or initial each sheet of Shop Drawings and Product Data and each sample label to certify compliance with the requirements of Contract Documents.
D. Notify Architect in writing at time of submittal of any deviations from requirements of Contract Documents.

3.12.5.2 In connection with Submittals, Contractor shall:
A. Transmit Submittals in accordance with approved Progress Schedule and in such sequence as to avoid delay in the Work, allowing time for checking, correcting, resubmitting and rechecking.
B. Apply Contractor's stamp, sign or initial, each page of each Submittal, to review, verification of products, field dimensions and
C. Coordinate each Submittal with the requirement of work and Contract Documents.
D. Coordinate Submittals into logical groupings to facilitate interrelation of the several items, such as:
   1. Finishes which involve Architect's selection of colors, textures, or patterns.
   2. Associated items which require correlation for efficient function or for installation.
   3. No colors shall be selected for the project until all Shop Drawings and Submittal data pertaining to colors have been submitted in order to properly coordinate all colors.
E. Submit the number of opaque reproductions of Shop Drawings required by Contractor plus two copies to be retained by Architect.
F. Submit number of copies of Product Data and manufacturers' instructions required by Contractor, plus two copies to be retained by Architect.
G. Submit number of Samples specified in individual specifications sections.
H. Submit transmittal letters which identify the project by title and number and identify the work and product by specification section and article.
I. Number Submittals consecutively.
3.12.5.3 In connection with resubmittals, Contractor shall
A. Make resubmittals under procedures specified for initial submittals and identify changes made since previous Submittal. Resubmittals shall have same number as original, plus a letter.
B. Distribute reproductions of Shop Drawings, copies of Product Data, and Samples, which bear the Architect's stamp of approval to job site files, Record Documents files, subcontractors, suppliers, and others who may require such information.
C. Forward an information copy of each transmittal letter simultaneously with submission to the Architect, but shall not submit Shop Drawings, etc. to Owner.

3.12.10 DELETE THE FOLLOWING: "provided the Owner and Architect have specified to the Contractor all performance and design criteria that such services must satisfy. Pursuant to this Subparagraph the Architect will review, approve or take other appropriate action on submittals only for the limited purpose of conformance with information given and the design concept expressed in the Contract Documents. The Contractor shall not be responsible for the adequacy of the performance or design criteria required by the Contract Documents."

3.14.1.1 Cutting of structural members shall be done only with the prior approval of Architect. Cutting and patching shall be the responsibility of the crafts requiring such for installation of their materials or equipment, but must be done by mechanics. Cutting and patching shall be done so as to avoid damage to other work. All patching shall be done with new products in accordance with the requirements of the Contract Documents.

3.15.1.1 During construction, Contractor shall
A. Execute periodic cleaning to keep the job site and adjacent properties free of waste materials, rubbish and windblown debris.
B. Provide on-site containers for the collection of waste materials, debris and rubbish.
C. Remove waste materials, debris and rubbish from the site periodically and dispose of it at legal disposal areas away from the site.
D. Clean interior spaces prior to the start of finish painting and continue cleaning on an as-needed basis until painting is finished.
E. Schedule operations so that dust and other contaminants resulting from the cleaning process will not fall on new or newly-coated surfaces.

3.15.1.2 After construction is complete Contractor shall:
A. Employ skilled workmen for final cleaning.
B. Remove grease, mastic adhesive, dust, dirt, stains, fingerprints, labels and other foreign materials from all sight-exposed interior and exterior surfaces.
C. Wash and shine glazing and mirrors.
D. Polish glossy surfaces to a clear shine.
E. Vacuum clean carpeted and similar soft surfaces.
F. Clean (damp mop with clean mop and water) resilient and hard surface floors repeating as necessary until no visible residue remains on floors.
G. Clean plumbing to a sanitary condition.
H. Clean surfaces of all equipment and remove excess lubrication.
I. Clean permanent filters and replace disposable filters in ventilating systems if units were operated during construction and clean ducts, blowers and coils.
J. Clean light fixtures
K. Remove waste, foreign matter and debris from roofs, gutters, area ways and drainage ways.
L. Remove waste, debris and surplus materials from the site.
M. Remove stains, spills and foreign substances from paved areas.
N. Broom clean exterior concrete and paved surfaces and rake clean the grounds.

3.18 DELETE THE ENTIRE PARAGRAPH (BOTH SUBSECTIONS) AND SUBSTITUTE THE FOLLOWING: Contractor hereby agrees to indemnify and hold harmless Owner and its trustees, employees, and agents (the 'indemnities') from and against all claims, causes of action, losses, liability, costs, and expenses (including reasonable attorneys' fees) which arise out of or are caused by the acts or omissions of the Contractor, except to the extent the same are caused by the negligence of the indemnities.

3.19 ADDITIONAL REQUIREMENTS

3.19.1 Contractor agrees to comply with all laws and lawful regulations applicable to any activities carried out in the name of or on behalf of Owner under the provisions of the Owner - Contractor Agreement and/or any amendments to it. Contractor agrees that all financial settlements, billings, and reports rendered to Owner, as provided for in the Owner - Contractor Agreement and/or any amendments to it, will to the best of his knowledge reflect properly the facts about all activities and transactions handled for the account of Owner, which data may be relied upon as being complete and accurate in any further recording and reporting made by Owner, for whatever purpose. Contractor agrees to notify Owner promptly upon discovery of any instance where the Contractor fails to comply with provisions of this Paragraph, or where Contractor has reason to believe the data covered by this Paragraph is no longer accurate and complete.

3.19.2 Contractor specifically agrees to comply with and abide by Sections 101 and 102 of the Immigration Reform and Control Act 1986. Furthermore, Contractor agrees to cooperate with and assist Owner in the institution of necessary procedures to comply with any regulations promulgated pursuant to said Act.

3.19.3 The Contractor shall halt the affected work when notified of a proposed change, or if unsatisfactory results are anticipated and shall proceed only after receiving additional written instructions from the Architect.

3.19.4 The Contractor shall establish and maintain bench marks, and all other grade, lines, and levels necessary for the Work; report errors and inconsistencies to the Architect, in writing, before commencing work; confirm the placement of the building on the Site to the Architect after all lines are staked out. The Contractor shall be responsible for the accuracy of the layout and shall make all corrections necessary to achieve an accurate layout of all Work.

3.19.5 The Contractor shall arrange to accommodate NIC work. When information is inadequate, the Contractor shall request further instructions before proceeding.

3.19.6 The Contractor shall prepare quotations, for proposed changes in the Work as directed by the Architect. Quotations shall be in a "break-down" form giving the number of units, unit cost of materials, hours of labor, hourly cost of labor, tool costs, overhead and profit; shall be based on the approved Schedule of Values or unit costs; and shall reflect credits as well as extras.

3.19.7 The Contractor shall secure required inspection and occupancy certificates, and transmit them to the Architect.

3.20 CONFIDENTIAL INFORMATION

3.20.1 All Work shall be considered confidential by Contractor. Contractor agrees to use its best efforts to prevent information and data which it or its employees, agents, or subcontractors
obtain directly or indirectly concerning the Work, the Work site, or any of the Owner's property, plans or operations, from being disclosed to any persons, companies, or others, without the prior written consent of the Owner.

3.20.2 Contractor agrees that it will not make, nor consent to, publicity releases or announcements concerning the Owner - Contractor Agreement or Contractor's participation in the Work. Contractor shall not take photographs of the Work Site or any of Owner's property without first obtaining Owner's written consent. Contractor shall require each of its subcontractors and agents to agree to the same limitations and obligations provided in this Paragraph.

3.20.3 The provisions of this Section 3.20 shall remain binding obligations on Contractor after completion, expiration, or termination of this Agreement until Owner reasonably determines that the confidential information referred to herein has become part of the public domain by means other than disclosures or releases prohibited by this Agreement, or until the date five (5) years after completion of the Work, whichever occurs first."

3.21 MEETINGS

3.21.1 The Contractor shall send his qualified representative(s) to periodic meetings held at such time and such place as the Architect or the Owner shall designate. Contractor shall be responsible for securing attendance of its subcontractors, suppliers or vendors at such meetings, if deemed necessary by the Owner or Architect.

3.22 REPRESENTATION AND WARRANTIES OF CONTRACTOR

3.22.1 The Contractor represents and warrants the following to the Owner (in addition to the other representations and warranties contained in the Contract Documents), as an inducement to the Owner to execute the Contract Documents, which representation and warranties shall survive the termination and the final completion of the Work:

a. that Contractor is financially solvent, able to pay its debts as they mature and is possessed of sufficient working capital to complete the Work and perform its obligations under the Contract Documents;

b. that Contractor is able to furnish the plant, tools, materials, equipment and labor required to complete the Work and perform his obligations hereunder and has sufficient experience and competence to do so;

c. that Contractor is authorized to do business in the State where the Project is located and properly licensed by all necessary governmental and public quasi-public authorities having jurisdiction over him and over the Work and the site of the Project;

d. that Contractor's execution of the Contract Documents and its performance thereof is within its duty authorized powers; and

e. that Contractor's duly authorized representative has visited the site of the Work, familiarized himself with the local conditions under which the Work is to be performed and correlated his observations with the requirements of the Contract Documents.

4.1.2 DELETE ENTIRE PARAGRAPH AND SUBSTITUTE THE FOLLOWING:
Owner reserves the right to appoint a representative empowered to act for Owner during construction and to supersede the Architect’s Construction phase responsibility. Similarly,
from time to time, Owner may expand or reduce Owner’s delegation of powers to the Architect, with Owner so notifying Contractor of any such changes. The Architects shall not be construed as a third-party beneficiary to the Contract and can in no way object to any expansion or reduction of powers as set forth herein. In no event, however, shall Owner have control over or charge of, or be responsible for, construction means, methods, techniques, sequences or procedures, or for safety precautions or programs in connection with the work since these are solely the Contractor’s responsibility. The Owner will not be responsible for the Contractor’s failure to carry out the Work in accordance with the Contract Documents. The Owner will not have control over or charge of and will not be responsible for the acts or omissions of Contractor Subcontractors, or their agents or employees, or of any other persons performing portions of the Work

4.1.3 DELETE ENTIRE PARAGRAPH.

4.2.2 INSERT: "as between the Architect and the Contractor" between "[H]owever and "the Architect" in the second sentence.

4.2.3 INSERT: "As between the Architect and the Contractor" at the beginning of the first sentence.

4.2.8 INSERT: "subject to approval by Owner" between "Directives" and "and may." ADD AT THE END: All Change Orders or Constructive Change Directives affecting price/cost or the schedule may not be approved by the Architect but are subject to Owner's consideration and approval."

4.2.12 DELETE LAST SENTENCE.

4.3.7.3 Abnormal weather conditions not reasonably anticipated shall mean weather conditions which prevent work on the Project which have a direct effect on Contractor's predefined critical work sequence. Contractor's schedule shall take into consideration normal seasonal weather conditions number of precipitation days for each month, as defined by the National Weather Service 30-year average along with muddy site days directly related to precipitation days indicated.

4.3.10 DELETE ENTIRE PARAGRAPH.

4.4.5 DELETE LAST SENTENCE.

4.4.6 DELETE ENTIRE PARAGRAPH.

4.5 DELETE MEDIATION AND PROVIDE DISPUTE RESOLUTION.

4.5.1 DELETE THE ENTIRE PARAGRAPH AND SUBSTITUTE THE FOLLOWING:
If the parties cannot reach agreement through negotiation within ten business days after notice of a dispute is provided to either party, (and subject to the dispute resolution panel option described below) the parties agree to submit to mediation all claims, demands, disputes, controversies, and differences of whatever kind, nature that may arise between the parties, upon demand. The parties agree that mediation is a condition precedent to litigation. The parties shall attempt to agree on a mediator. If the parties cannot agree on a mediator, the parties may each select mediators to co-mediate the dispute, as long as in no event more than two mediators are chosen. The cost of the mediation will be shared equally by both parties and will
take place in Bexar County, Texas. For purposes of this Section, “parties” includes the officers, agents, and employees of each party. At Owner's option, in lieu of mediation and as a condition precedent to initiating legal action, any claims, demands, disputes, controversies, and differences that may arise between the parties, of whatever nature or kind, may be submitted to a dispute resolution panel, established pursuant to Owner's applicable dispute resolution programs. In the event the claims, demands, disputes, controversies, and differences that may arise between the parties, of whatever nature or kind, are not resolved to our mutual satisfaction, resort may be made to the courts. HOWEVER, BOTH PARTIES EXPRESSLY WAIVE THEIR RIGHTS TO DEMAND TRIAL BY JURY.

4.5.2 DELETE THE ENTIRE PARAGRAPH AND SUBSTITUTE THE FOLLOWING:
Any dispute which cannot be resolved through negotiation, mediation or other within six months of the date of the initial demand for it by Owner or Contractor may then be submitted to the appropriate court for resolution. The use of any ADR procedures will not be construed under the doctrines of laches, waiver or estoppel to affect adversely the rights of either party. Nothing in this section will prevent either party from resorting to judicial proceedings if (a) good faith efforts to resolve the dispute under these procedures have been unsuccessful or (b) interim relief from a court is necessary to prevent serious and irreparable injury to one party or to others.

4.6 DELETE ENTIRE SECTION TITLED "ARBITRATION."

5.2.1.1 Not later than ten days after date of execution of the Contract, Contractor shall furnish in writing to Owner through Architect names of persons or entities proposed as manufacturers for each of products identified in the Project Manual and, where applicable, name of installing Subcontractor.

5.2.4 DELETE ENTIRE PARAGRAPH AND SUBSTITUTE THE FOLLOWING: The Contractor shall notify the Owner prior to changing any Subcontractor, person or entity previously selected and provisions of subparagraph 5.2.1 shall apply to the replacement.

5.4.2 DELETE ENTIRE SENTENCE AND SUBSTITUTE THE FOLLOWING: Upon such assignment, if the Work has been suspended for more than 30 days, the Subcontractor's compensation may be equitably adjusted for increases in cost resulting from the suspension.

6.2.3 DELETE ENTIRE SENTENCE.

7.2.3 Work requiring approved change order should not be commenced until the Contractor has received written authorization to proceed from Owner. Work completed without such authorization, except in emergencies, may (at Owner's option) not be recognized or paid for by Owner.

7.3.1 DELETE AND SUBSTITUTE THE FOLLOWING:
A Construction Change Directive is a written order prepared by the Architect and signed and issued by Owner directing a change in the Work and stating a proposed basis for 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.

7.3.4 DELETE AND SUBSTITUTE THE FOLLOWING:
Upon receipt of a Construction Change Directive, the Contractor shall promptly proceed with the change in the Work involved and advise the Owner of the Contractor's agreement or disagreement with the method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the Contract Sum or Contract Time.

7.3.6  
DELETE AND SUBSTITUTE THE FOLLOWING:  
If the Contractor does not respond promptly or disagrees with the method of adjustment in the Contract Sum, the method and the adjustment shall be determined by the Owner on the basis of reasonable expenditure and savings of those performing the Work attributable to the change. In such case, and also under Clause 7.3.3.3, the Contractor shall keep and present, in such form as the Owner prescribes, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Subparagraph 7.3.6 shall be limited to the following:  

(Subsequent paragraphs --7.3.6.1 to 7.3.6.5 remain the same).

7.3.6.6  
Allowance for combined overhead and profit included in total cost to Owner shall be based on following schedule:

1. For Contractor, for Work performed by Contractor's own forces, 10 percent of cost.
2. For Contractor, Work performed by Contractor's Subcontractor, 10 percent of amount due Subcontractor.
3. For each Subcontractor or Sub-Subcontractor involved, for Work performed by that Subcontractor's or Sub-Subcontractor's own forces, a mutually-acceptable fixed fee or percentage of cost, maximum 15 percent of cost.
4. For each Subcontractor, for work performed by Subcontractor's Sub-Subcontractors, a mutually acceptable fixed fee or percentage of cost, maximum 10 percent of amount due Sub-Subcontractor.
5. Cost to which overhead and profit is to be applied shall be determined in accordance with Subparagraph 7.3.6.
6. 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 Subcontracts. Labor and materials shall be itemized in manner prescribed above. Where major costs items are Subcontracts, they shall be itemized also. In no case will a change involving over $100.00 be approved without such itemization.

8.1.5  
Claims for extension of time shall be stated in whole or half calendar days. Time is of the essence.

8.3.1  
DELETE THE FOLLOWING PHRASE: "pending mediation and arbitration"

9.2.1.1.  
The Schedule of Values shall be in such form and detail as is acceptable to the Architect and Owner.

9.3.1.1.1  
A. The Owner, upon execution of the Contract, will establish a retained percentage to be applied to the value of the work completed under the Contract and the delivered price of material stored at the site or in approved warehouse. The amount of this retainage shall not exceed ten (10) percent nor be less than five (5) percent.
B. If, at any time after fifty (50) percent of the work has been completed, the Owner finds that satisfactory progress of the work is being made, the retained percentage may be reduced by the Owner in writing.
C. Contractor shall submit applications for payment in triplicate on forms approved by the Architect along with periodical estimates of work completed for which partial payment is requested.

D. Provided application for payment is received by the Architect and the Construction Supervisor not later than the 20th day of the month, the Owner will make payment to Contractor not later than the 10th day of the following month. If an application for payment is received by the Architect and Construction Supervisor after application date fixed above, payment shall be made by the Owner not later than fifty-one (51) days after the Architect receives the Application for Payment.

9.3.2.1 Payment for materials stored on or off site will be approved only when supported by invoices for specific materials and properly executed insurance certificates. No overhead or profit charges will be paid on stored materials. Insurance certificates for materials stored off site shall be specific as to the materials or equipment covered and their location. Owner shall be named as an insured party. All invoices and insurance certificates described above shall be submitted by Contractor with the application for payment. Failure to follow the procedure as indicated may result in non-payment for stored materials.

9.3.3 DELETE AND SUBSTITUTE AS FOLLOWS:
The Contractor warrants that upon submittal of an application for payment all work for which certificates for payment have been previously issued and payments received from the Owner shall, to the best of the Contractor’s knowledge, information and belief, be free and clear of liens, claims, security interests or encumbrances in favor of the Contractor, subcontractors, material suppliers, or other persons or entities making a claim by reason of having provided labor, materials and equipment relating to the work. The Contractor is required to provide a notarized percentage release of liens for prior applications for payment with each current certificate of payment.

9.3.4 ADD THE FOLLOWING: Prior to approval of the Application for Payment, the Architect shall be provided an opportunity to review the on-site record construction drawings for completeness.

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

9.5.1.8 Failure to submit written plan indicating action by Contractor to regain time schedule for completion of Work within Contract Time.
9.5.2 ADD THE FOLLOWING AT THE END: The Owner shall not be deemed in default by reason of withholding payment as provided for in Subparagraph 9.5.1.

9.6.1 ADD THE FOLLOWING AT THE END: Notwithstanding the foregoing, the Owner may refuse to make payment on any Request for Payment (including, without limitation, the final Certificate for Payment) for any default under the Contract Documents, including but not limited to those defaults set forth in clauses 9.5.1.1 through 9.5.1.7 hereof. The Owner shall not be deemed in default by reason of withholding payment while any of such defaults remain uncured.

9.6.7 DELETE LAST SENTENCE.

9.7.1 DELETE THE PHRASE: "or awarded by arbitration"

9.8.1 ADD THE FOLLOWING AT THE END: The Work will not be considered suitable for Substantial Completion review until all Project systems included in the Work are operational as designed and scheduled, all designated or required governmental inspections and certifications have been made and posted, designated instruction of Owner's personnel in the operation of systems has been completed, and all final finishes within the Contract Documents are in place. In general, the only remaining Work shall be minor in nature, so that the Owner and/or Owner's tenants could occupy the building on that date and the completion of the Work by the Contractor would not materially interfere or hamper the Owner's or Owner's tenants' (or those claiming by, through or under Owner) normal business operations. As a further condition of Substantial Completion acceptance, the Contractor shall certify that all remaining Work, the same being solely of a "punch-list" nature, will be completed within forty five (45) consecutive calendar days.

9.8.2 DELETE AND SUBSTITUTE AS FOLLOWS: When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete and has received a temporary or permanent Certificate of Occupancy therefore, the Architect will prepare for Owner's acceptance a Certificate of Substantial Completion which shall include a recommendation to Owner as to the actual date of Substantial Completion and shall fix the time within which the Contractor shall complete the items listed therein which time shall be no longer than 45 days after the Scheduled Substantial Completion Date. Preparation of the Architect's list and the Owner's acceptance thereof shall establish the actual date of Substantial Completion of the Work. AND 2. Delete the word “Substantial” in line 27 and substitute “Final”

9.10.2.1 The following additional items must be submitted to the Architect prior to final payment:
A. Warranties as required by this contract.
B. Operation and maintenance manuals.
C. Receipts for delivery of extra stock.
D. Two copies of "As Built" drawings.
E. Certificate of Occupancy.
F. AIA Form G706 (or Owner-approved equivalent) Affidavit of Payment of Debts and Claims.
G. AIA Form G707 (or Owner-approved equivalent) consent of Surety to Final Payment.

9.10.4 DELETE ENTIRE PARAGRAPH.

10.3.2 DELETE ENTIRE PARAGRAPH.
10.3.3 DELETE ENTIRE PARAGRAPH.

10.4 DELETE THE PHRASE: "unless such materials or substances were required by the Contract Documents"

10.5 DELETE ENTIRE PARAGRAPH.

11.1.1.9 ADD: Liability insurance shall include all major divisions of coverage and be on a comprehensive basis, including:

| .1 Premises Operations (including X, C and U coverage as applicable). |
| .2 Independent Contractor's Protective. |
| .3 Products and Completed Operations. |
| .4 Personal Injury Liability with Employment Exclusion deleted. |
| .5 Contractual, including specified provision for Contractor's obligation under Paragraph 3.18. |
| .6 Owned, non-owned and hired motor vehicles. |
| .7 Broad-Form Property Damage including Completed Operations. |

11.1.2 DELETE AND SUBSTITUTE AS FOLLOWS: The insurance required by Section 11.1.1 shall be written for not less than limits of liability specified below as part of the Contract Documents or other limits that may be required by law, whichever coverage is greater. Coverages shall be maintained without interruption from date of commencement of the Work until date of final payment and termination of any coverage required to be maintained after final payment. Comprehensive General Liability coverages specified in this section shall be written on an occurrence basis.

### Commercial General Liability

**Bodily Injury:**
- Each Occurrence: $1,000,000
- Aggregate: $2,000,000

**Property Damage Providing X, C, and U Coverage with broad form completed:**
- Each Occurrence: $1,000,000
- Aggregate: $2,000,000

**Products and Completed Operations to be maintained one year after final payment:**
- Aggregate: $2,000,000

### Contractual Liability

**Bodily Injury:**
- Each Occurrence: $1,000,000
- Aggregate: $2,000,000

**Property Damage**
- Each Occurrence: $1,000,000
- Aggregate: $2,000,000

### Automobile Liability

- per person/per accident CSL: $1,000,000

- Personal Injury with Employment Exclusion deleted
- Aggregate: $1,000,000

### Worker's Compensation

- Statutory Texas

### Employer's Liability
Bodily Injury by Accident Each Accident $1,000,000
Bodily Injury by Disease Each Disease $1,000,000
Bodily Injury by Disease Policy Limit $1,000,000

Umbrella Insurance applying over and above the listed coverage's of at least $10,000,000 per occurrence in excess of the required primary coverage.

11.1.3.1 A. Definitions:

- A "certificate of coverage" (certificate) may be either a certificate of insurance, a certificate of authority to self insure issued by the commission, or a coverage agreement (TWCC-81, TWCC-83, or TWCC-84) showing statutory workers’ compensation insurance coverage for the person's or entity's employees providing services on a project, for the duration of the project.
- "Duration of the project" includes the time from the beginning of work on the project until Contractor's work on the project has been completed and accepted by Owner.
- "Persons providing services on the project" ("subcontractor" in Section Texas Labor Code) include all persons or entities performing all or part of the services Contractor has undertaken to perform on the project, regardless of whether that person contracted directly with Contractor and regardless of whether that person has employees. This includes, without limitation, independent contractors, subcontractors, leasing companies, motor carriers, owner-operators, employees of any such entity, or employees of any entity who furnish persons to provide services on the project.
- "Services" include, without limitation, providing, hauling or delivering equipment or materials, or providing labor, transportation, or other service related to a project. "Services" does not include activities unrelated to the project, such as food and beverage vendors, office supply deliveries, and delivery of portable toilets.

B. Contractor must provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.001(44) for all employees of Contractor providing services on the project for the duration of the project.

C. Contractor must provide a certificate of coverage to Owner prior to being given notice to proceed and within 20 calendar days of award.

D. If the coverage period shown on Contractor's current certificate of coverage ends during the duration of the project, Contractor must, prior to the end of the coverage period, file a new certificate of coverage with Owner showing that coverage has been extended.

E. Contractor shall obtain from each person providing services on a project, and provide to Owner:
1. a certificate of coverage, prior to that person's beginning work on the project, and
2. no later than seven (7) days after receipt by Contractor, a new certificate of coverage or extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project.

F. Contractor shall retain all required certificates of coverage for the duration of the project and for one year thereafter.

G. Contractor shall notify Owner in writing by certified mail or personal delivery, within ten (10) days after Contractor either knows or should have known, of any change that materially affects the provision of coverage of any person providing services on the project.
H. Contractor shall post on each project site a notice, in the text, form and manner
prescribed by the Texas Workers' Compensation Commission, informing all persons
providing services on the project that they are required to be covered and stating
how a person may verify coverage and report lack of coverage.

I. Contractor shall contractually require each person with whom it contracts to provide
services on a project to:
1. provide coverage, based on proper reporting of classification codes and
   payroll amounts and filing of any coverage agreements, which meets the
   statutory requirements of Texas Labor Code, Section 401.011(44) for all of
   its employees providing services on the project, for the duration of the
   project;
2. provide Contractor, prior to that person's beginning work on the project, a
   certificate of coverage showing that coverage is being provided for all
   employees of that person providing, for the duration of the project;
3. provide Contractor, prior to the end of the coverage period, a new certificate
   of coverage showing extension of coverage, if the coverage period shown
   on the current certificate of coverage ends during the duration of the
   project;
4. obtain from each other person with whom it contracts and provide to
   Contractor:
   a. a Certificate of Coverage, prior to the other person beginning work
      on the project; and
   b. a new Certificate of Coverage showing extension of coverage, prior
      to the end of the coverage period, if the coverage period shown
      on the current Certificate of Coverage ends during the duration of
      the project;
5. retain all required Certificates of Coverage on file for the duration of the
   project and for one year thereafter;
6. Owner in writing by certified mail or personal delivery, within ten (10) days
   after the person knows or should have known, of any change that materially
   affects the provision of coverage of any person providing services on the
   project; and
7. contractually require each person with whom it contracts, to perform as
   required by paragraphs (1) - (7) with the Certificates of Coverage to be
   provided to the person for whom they are providing services.

J. By executing this contract or providing or causing to be provided a Certificate of
Coverage, Contractor is representing to Owner that all employees of Contractor
who will provide services on the project will be covered by workers' compensation
coverage for the duration of the project, that the coverage will be based on proper
reporting of classification codes and payroll amounts, and that all coverage
agreements will be filed with the appropriate insurance carrier or, in the case of a
self-insured, with the commission's Division of Self-Insurance Regulation.

K. Contractor's failure to comply with any of these provisions is a breach of contract
by Contractor which entitles Owner to declare the Contract void if Contractor does
not remedy the breach within ten days after receipt of notice of breach from Owner.

11.1.3.2 Contractor shall provide and maintain, until the Work covered in this Contract is completed
and accepted by the Owner, "builder's risk" property insurance upon the entire work at the
site to the full insurable value thereof. If not covered under the all risk insurance or
otherwise provided in the Contract Documents, the Contractor shall effect and maintain
similar property insurance on portions of the Work stored off the site or in transit when such
portions of the Work are to be included in an Application for Payment. This insurance shall
include the interest of the Owner, the Contractor, Subcontractors and sub-subcontractors in
the Work and shall insure against the perils of fire and extended coverage and shall include 'all-risk' insurance for physical loss or damage, including, without duplication of coverage, theft, vandalism and malicious mischief, and shall contain an installation floater. This all-risk policy shall be written incorporating TWIA 21 (Actual Completed Value Form). Such insurance shall be evidenced by the kind policy which does not have to be adjusted or reported upon periodically, but provides constant insurance at full 100% of all insurable values as they are created during construction by performance of the general contract. The certificate of insurance must include the names of the insured contractor and the Alamo Community College District.

11.1.3.3 Each policy of insurance listed above to be purchased and maintained by Contractor and each certificate of insurance for said insurance shall contain a complete waiver of subrogation against Owner, Architect and Architect's Engineers. Each certificate shall also list Owner, Architect and Architect's Engineers as a party insured.

11.1.4 Contractor agrees to waive subrogation against the Owner, its officers, employees, and elected representatives for injuries, including death, property damage, or any other loss to the extent same may be covered by the proceeds of insurance and Contractor agrees to provide that all provisions of the Contract concerning liability, duty, and standard of care together with the indemnification provision, shall be underwritten by contractual liability coverage sufficient to include such obligations within applicable policies.

11.2 DELETE ENTIRE SECTION TITLED "OWNER'S LIABILITY INSURANCE"

11.3 DELETE ENTIRE SECTION TITLED "PROJECT MANAGEMENT PROTECTIVE LIABILITY INSURANCE"

11.4.1 SUBSTITUTE THE FOLLOWING PHRASES IN THE FIRST SENTENCE: Delete "Owner" and insert "Contractor"

11.4.1.2 DELETE THE ENTIRE PARAGRAPH AND SUBSTITUTE THE FOLLOWING: Contractor shall insure the buildings and other work included in this contract against loss or damage by fire and against loss or damage covered by the Standard Extended Coverage Insurance Endorsement. The amount of the insurance at all times shall be at least equal to the amount paid on account of work or materials furnished or delivered but not yet paid for by the Owner. The policies shall be in the names of the Owner and Contractor, as their interests may appear and certificates of insurance as to the amount and type of coverage shall be delivered to the Owner before progress payments are made. Contractor shall also, provide insurance coverage for portions of Work stored off site after written approval of Owner at value established in approval and also for portions of Work in transit.

11.4.1.3 DELETE THE ENTIRE PARAGRAPH AND SUBSTITUTE THE FOLLOWING: If Owner is damaged by failure of Contractor to maintain such insurance, then Contractor shall bear all reasonable costs properly attributed thereto.

11.4.2 DELETE ENTIRE PARAGRAPH.

11.4.3 DELETE THE LAST SENTENCE.

11.4.4 CHANGE TO READ AS FOLLOWS: If the Contractor requests in writing that insurance for risks other than those described herein or other special causes of loss be included in the property insurance policy, the Contractor shall, if possible, include such insurance, and the cost thereof shall be charged to the Contractor.
11.4.5 DELETE ENTIRE PARAGRAPH.

11.4.6 DELETE ENTIRE PARAGRAPH.

11.4.7 DELETE ENTIRE PARAGRAPH.

11.4.8 DELETE ENTIRE PARAGRAPH.

11.4.9 DELETE ENTIRE PARAGRAPH.

11.4.10 CHANGE TO READ AS FOLLOWS: The Owner shall have power to adjust and settle a loss with insurers unless one of the parties in interest shall object in writing within five days after occurrence of loss to the Owner's exercise of this power.

11.5.1 DELETE THE ENTIRE PARAGRAPH AND SUBSTITUTE THE FOLLOWING: Performance and Payment Bonds shall be delivered to the Owner prior to execution of the Contract, and within 3 (three) working days after notification of award of contract as described in the Contract.

11.5.2 DELETE THE ENTIRE PARAGRAPH AND SUBSTITUTE THE FOLLOWING: Payment Bonds shall be delivered to the Owner prior to execution of the Contract, provided the contract sum is $25,000 or greater. Performance Bonds shall be delivered to the Owner prior to execution of the Contract, provided the contract sum is $100,000 or greater. Such bonds are to be provided at no additional cost to the Owner.

11.5.3 Contractor is required, as a condition precedent to the execution of the Contract, to execute a Performance Bond (AIA Form No. A311), in an amount equal to One Hundred Percent (100%) of the contract amount. Further, to insure payment of all bills, the Contractor will be required to execute a Payment Bond (AIA Form No. A311) in the form required by Section 2253 of the Texas Government Code in the amount equal to One Hundred Percent (100%) of the contract amount, as security for payment of all persons performing labor and furnishing materials in connection with this Contract. (Bonding Company is to furnish such forms).

11.5.4 Performance and Payment Bond must be in conformance with all requirements of Texas State Law. Such bonds must be issued by sureties duly authorized by the State of Texas. Such bonds must be in compliance with Section 2253 of the Texas Government Code and all other State laws. Additionally, sureties issuing bonds in an amount of $100,000 or greater must be listed as an approved surety in the U.S. Department of Treasury, Department Circular 570, most recent revision.

12.2.2 DELETE THE LAST TWO (2) SENTENCES.

13.2.2 DELETE ENTIRE PARAGRAPH.

13.5.1 DELETE THE ENTIRE PARAGRAPH AND SUBSTITUTE THE FOLLOWING: Tests, Inspections and approvals of portions of the Work required by the Contract Documents or by laws, ordinances, rules, regulations, or orders of public authorities having jurisdiction shall be made at an appropriate time. Unless otherwise provided in the specifications or drawings, the Contractor shall make arrangements for such tests, inspections and approvals with the Owner's designated testing firm, with the appropriate public authority, and the Owner shall bear all related costs of the tests, inspections and approvals. The Contractor shall give the Architect timely notice of when and where tests and inspections are to be made so the Architect may observe such procedures.

13.5.2 ADD AT THE END: and an appropriate Change Order shall be issued.
13.6.1 DELETE THE ENTIRE PARAGRAPH AND SUBSTITUTE THE FOLLOWING:
Payments due the Contractor and unpaid under this Agreement shall bear interest at the rate of one percent (1%) per month beginning forty-five (45) days after receipt of the approved Application for Payment by the Owner or his agent, except for approved Applications for Payment on which a good faith dispute exists. Good faith disputes are those disputes regarding payment requests submitted by the Contractor which have been challenged by the Owner or its agent within 45 days of the receipt of the application for payment by the Architect. Where disputes ripen into litigation, the parties expressly agree that, from the date of the filing of the civil suit, any payments due and unpaid shall bear interest at the rate of ten percent per annum.

13.7.1.1 CHANGE TO READ AS FOLLOWS:
Before Substantial Completion. As to acts or failures to act occurring prior to the relevant date of Substantial Completion, any applicable statute of limitations shall commence to run and any alleged cause of action shall be deemed to have accrued in any and all events on the later of the date of Substantial Completion or the date of discovery.

13.7.1.2 CHANGE TO READ AS FOLLOWS:
Between Substantial Completion and Final Certificate for Payment. As to acts or failures to act occurring subsequent to the relevant date of Substantial Completion and prior to issuance of the final Certificate for Payment, any applicable statute of limitations shall commence to run and any alleged cause of action shall be deemed to have accrued in any and all events on the date of issuance of the final Certificate for Payment or date of discovery, which last occurs, and

13.7.1.3 CHANGE TO READ AS FOLLOWS:
After Final Certificate for Payment. As to acts or failures to act occurring after the relevant date of issuance of the final Certificate for Payment, any applicable statute of limitations shall commence to run and any alleged cause of action shall be deemed to have accrued in any and all events not later than the date of any act or failure to act by the Contractor pursuant to any Warranty provided under Paragraph 3-5, the date of any correction of the Work or failure to correct the Work by the Contractor under Paragraph 12.2, or the date of actual commission of any other act or failure to perform any duty or obligation by the Contractor or Owner or date of discovery, whichever occurs last.

13.8 EQUAL OPPORTUNITY
13.8.1 Contractor and Contractor's Subcontractors shall not discriminate against any employee or applicant for employment because of race, religion, color, sex or national origin. Contractor shall take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, religion, color, sex or national origin. Such actions shall include, but not be limited to, following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth policies of nondiscrimination.

13.8.2 Contractor and Contractor's 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 or national origin.

13.9 SEXUAL HARASSMENT
Sexual harassment of employees of the Contractor or employees/students of the Owner by employees of the Contractor is strictly forbidden. Any employee of the Contractor who is found to have engaged in such conduct shall be subject to appropriate disciplinary action by
the Contractor, including removal from the job site.

13.10 WAGE RATES/CERTIFIED PAYROLLS

13.10.1 The Contractor and Contractor’s Subcontractors shall cause all persons performing work on the Project to be properly classified by reference to, and be paid fully in compliance with, Chapter 2258 of the Texas Government Code, as that Chapter may be amended or recodified from time to time, and the wage and hour payment and payroll reporting requirements of the federal Davis Bacon and Related Acts, as those Acts may be amended or recodified from time to time (DBRA), adopted by Alamo Colleges to comply with Chapter 2258 according to the Davis-Bacon Wage Rate Determinations published at the website of the federal Department of Labor applicable to this Agreement (“Applicable State Requirements”).

Any agreement involving any use of federal funds within the meaning of DBRA would require the Contractor and Contractor’s Subcontractors to fully comply with (i) ALL DBRA requirements, which exceed those required by Alamo Colleges’ DBRA requirements adopted for compliance with Chapter 2258 by, without limitation, requiring the posting of federally required notices at the jobsite (“Notice Requirements”), and (ii) the Copeland “Anti-Kickback” Act (collectively, “Applicable Federal Requirements”).

Contractor and Contractor’s Subcontractors shall apply BOTH the Applicable Federal Requirements and the Applicable State Requirements in the performance of this Agreement, without regard for whether or not the Applicable Federal Requirements would otherwise apply to the Work.

The wage rates listed in EXHIBIT 1 below have been ascertained and determined by the Owner as the Davis-Bacon Wage Rate Determinations published at the website of the federal Department of Labor applicable to this Agreement for the classifications listed. The value of prevailing fringe benefits must be included in the total compensation wage rate. The Contractor and each subcontractor shall compensate all laborers, workmen and mechanics employed by them in the execution of this contract not less than such rates for each craft or type or workman or mechanic needed to execute the contract. In the event the prescribed wages are not in compliance with BOTH the Applicable Federal Requirements and the Applicable State Requirements, then both such requirements shall prevail. In the event a conflict exists for the same classification between two different wage determinations, the Contractor and each subcontractor must pay compensation at the higher rate. This determination of prevailing wages shall not be construed to prohibit the payment of more than the rates listed. Nothing contained in this paragraph shall create any claim or cause of actions by such laborer, workman or mechanic against the District for wages payable by the Contractor or any subcontractor.

Without limitation, Contractor shall at least weekly send a reliable representative to the Project job site to digitally photograph with imprinted date and time notation, and promptly send a duplicate thereof to Alamo Colleges’ Associate Vice-Chancellor for Facilities or designee, the required notice statement set forth in Exhibit 1 as evidence of compliance, by posting, with the Notice Requirements.

The Contractor and Contractor’s Subcontractors shall prepare and submit weekly certified payroll reports to the Owner or designated Owner’s agent for each week that work is performed. The reports shall attest that laborers and mechanics were paid prevailing wages and fringe benefits in accordance with the Applicable Construction Requirements. The reports shall be submitted on U.S. Department of Labor (DOL) Form WH-347 or equivalent.

The Contractor and Contractor’s Subcontractors shall each be provided access to Alamo Colleges’ LCP Tracker Wage and Hour Compliance Software for submission of the reports. A representative of the Contractor and each of the Contractor’s Subcontractors shall be trained in use of the LCP Tracker Software and submission of the reports.
13.11 ANTI-KICKBACK PROVISIONS

13.11.1 No person employed in the construction, renovation or repair of any Owner project shall be induced, by any means, to give up to any Contractor, subcontractor, public official, or any other employee of the Owner part of the compensation to which he is otherwise entitled.

13.11.2 No employee of the Owner, or the Architect/Engineer who is authorized on behalf of the Owner to negotiate, make, accept, or approve or participate in negotiating any architectural, engineering, insurance, inspection, contract, subcontract, change order, or material supply, purchase order/subcontract shall have any interest whatsoever or receive any compensation in connection with the aforementioned duties.

13.12 RIGHT TO AUDIT

13.12.1 Contractor's records, which shall include, but not be limited to, accounting records, written policies and procedures, subcontract files (including proposals of successful and unsuccessful offerors), original estimates, estimating worksheets, correspondence, change order files (including documentation covering negotiated settlements), and any other supporting evidence necessary to substantiate charges related to this contract (all of the foregoing hereinafter referred to as "records") shall be open to inspection and subject to audit and/or reproduction, during normal working hours, by Owner's agent or its authorized representative to the extent necessary to adequately permit evaluation and verification of any invoices, payments or claims submitted by the Contractor or any of his payees pursuant to the execution of the contract. Such records necessary to evaluate and verify direct and indirect costs (including overhead allocations) as they may apply to costs associated with this contract.

13.12.2 For the purpose of such audits, inspections, examinations and evaluations, the Owner's agent or authorized representative shall have access to said records from the effective date of this contract, for the duration of the work, and until three (3) years after the day of final payment by Owner to Contractor pursuant to this contract.

13.12.3 Owner's agent or its authorized representative shall have access to the Contractor's facilities, shall have access to all necessary records, and shall be provided adequate and appropriate work space, in order to conduct audits in compliance with this article. Owner's agent or its authorized representative shall give auditees reasonable advance notice of intended audits.

13.12.4 Contractor shall require all subcontractors, insurance agents, and material suppliers (payees) to comply with the provisions of this article by insertion of the requirements hereof in a written contract agreement between the Contractor and payee. Failure to obtain such written contracts which include such provisions shall be reason to exclude some or all of the related payees' costs from amounts payable to the Contractor pursuant to this contract.

13.12.5 If an audit inspection or examination in accordance with this article discloses overcharges (of any nature) by the Contractor to the Owner in excess of two percent (2%) of the total contract billings, the actual cost of the Owner's audit shall be paid by the Contractor.

14.1.1.4 DELETE ENTIRE SENTENCE.

14.1.2 DELETE ENTIRE PARAGRAPH.

14.1.3 CHANGE TO READ AS FOLLOWS: If one of the reasons described in Subparagraph 14.1.1 or 14.1.2 exists, the Contractor may, upon seven days' written notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work executed and for proven loss with respect to materials, equipment, tools, and construction equipment and machinery, including reasonable overhead, and profit.
EXHIBIT 1
ACCD WAGE RATE DETERMINATION

In its resolution of December 17, 2013, the Board of Trustees of the Alamo Community College District (ACCD) adopted the following prevailing Davis Bacon Wage Rates which shall become part of this contract and full compliance with such shall be required.

The Alamo Community College District (or "Owner") is the contracting agency for this construction project. The following statute requires the contracting agency to specify the generally prevailing rates of wages in contracts that are proposal:

Texas Government Code 2258.021 et seq. "Duty of Governmental Entity to Pay Prevailing Wage Rates"

Pursuant to the requirements of this statute, it has been determined that the following rates of wages are paid to various classifications of workers in the locality of this project.

Accordingly, the prevailing wage determination for Building Construction Trades shall be paid to all workers for work located INSIDE a boundary line placed five feet beyond the drip line of building structures, and the prevailing wage determination for Heavy Highway Trades shall be paid to all workers for work located OUTSIDE a boundary line placed five feet beyond the drip line of building structures. In the event a conflict exists for the same classification between two different wage determinations, the Contractor and each subcontractor must pay compensation at the higher rate. A copy of the applicable wage rate schedule for this project (one or both) is attached to this Exhibit.

Wage rates are the minimum total hourly compensation that must be paid by the Contractor and Subcontractor(s). The value of prevailing fringe benefits must be included in the total compensation wage rate. Workers in classifications where rates are not identified shall be paid not less than the general prevailing rate of "Laborer". All hours of work over 40 hours per week are overtime and will be compensated at the rate of 1 and 1/2 times the regular wage.

Apprentices/trainees/helpers, where not otherwise specified, may be compensated at a rate determined mutually by the worker and employer, commensurate with the experience and skill of the worker but a rate neither less than 60% of the journeyman's wage nor less than the "Laborer" rate. At no time shall a journeyman supervise more than two of apprentices, trainees or helpers. All apprentices/trainees/helpers shall be under the direct supervision of a journeyman. The terms journeyman and apprentice apply to both union and independent workers, and are not intended to imply that these positions are union workers only.

The Contractor is required to post copies of this wage rate schedule in a prominent, easily accessible place at the work site. If a worker determines that wages paid are not in compliance with wage rates required for the appropriate classification, he or she should report the discrepancy to the Ethics Hotline, phone 1-866-294-3696, http://www.ethicspoint.com.

Additionally, the following statement shall be posted beside the wage determination schedule in English and Spanish:

"All complaints of violations by your employer in not paying the posted wage rates for the type of work you do should be reported to the Ethics Hotline, phone 1-866-294-3696, http://www.ethicspoint.com. No employee who files a complaint concerning underpayment of wages shall be discharged or in other manner be discriminated against by the Contractor for filing a complaint."

ANNUNCIO PARA EMPLEADOS DE CONTRATISTAS

"Toda queja de injusticias cometidas por el contratista por no pagar el sueldo establecido sugun el tipo de trabajo que Ud. haga, se debe reportar a Ethics Hotline, phone 1-866-294-3696, http://www.ethicspoint.com. Ningun empleado que registre quejas referentes a irregularidades en su sueldo sera discriminado o despedido por el contratista/jefe por registrar la queja."
ALAMO COLLEGES' PURCHASING SUPPLEMENTARY CONDITIONS
Exhibit 1.2
Texas Government Code Chapter 2258

GOVERNMENT CODE
TITLE 10. GENERAL GOVERNMENT
SUBTITLE F. STATE AND LOCAL CONTRACTS AND FUND MANAGEMENT
CHAPTER 2258. PREVAILING WAGE RATES
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2258.001. DEFINITIONS. In this chapter:
(1) "Locality in which the work is performed" means:
   (A) for a contract for a public work awarded by the state, the political
        subdivision of the state in which the public work is located:
        (i) which may include a county, municipality, county and
            municipality, or district, except as provided by Subparagraph
            (ii); and
        (ii) which, in a municipality with a population of
            500,000 or more, may only include the geographic limits of
            the municipality; or
   (B) for a contract for a public work awarded by a political subdivision
        of the state, the geographical limits of the political subdivision.
(2) "Public body" means a public body awarding a contract for a public
    work on behalf of the state or a political subdivision of the state.
(3) "Worker" includes a laborer or mechanic.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.49 (a), eff. Sept. 1, 1995. Amended by Acts 2001, 77th

Sec. 2258.002. APPLICABILITY OF CHAPTER TO PUBLIC WORKS. (a) This chapter
applies only to the construction of a public work, including a building, highway, road, excavation,
and repair work or other project development or improvement, paid for in whole or in part from
public funds, without regard to whether the work is done under public supervision or direction.
(b) This chapter does not apply to work done directly by a public utility company under an order of a public authority.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.49 (a), eff. Sept. 1, 1995.

Sec. 2258.003. LIABILITY. An officer, agent, or employee of a public body is not
liable in a civil action for any act or omission implementing or enforcing this chapter unless the
action was made in bad faith.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.49 (a), eff. Sept. 1, 1995.

SUBCHAPTER B. PAYMENT OF PREVAILING WAGE RATES

Sec. 2258.021. RIGHT TO BE PAID PREVAILING WAGE RATES. (a) A worker employed
on a public work by or on behalf of the state or a political subdivision of the state shall be paid:
(1) not less than the general prevailing rate of per diem
    wages for work of a similar character in the locality in which the work is performed; and
(2) not less than the general prevailing rate of per diem wages for legal
    holiday and overtime work.
(b) Subsection (a) does not apply to maintenance work.
(c) A worker is employed on a public work for the purposes of this section if the worker is
    employed by a contractor or subcontractor in the execution of a contract for the public work with
    the state, a political subdivision of the state, or any officer or public body of the state or a political
subsection of the state.


Sec. 2258.022. DETERMINATION OF PREVAILING WAGE RATES. (a) For a contract for a public work awarded by a political subdivision of the state, the public body shall determine the general prevailing rate of per diem wages in the locality in which the public work is to be performed for each craft or type of worker needed to execute the contract and the prevailing rate for legal holiday and overtime work by:

1. conducting a survey of the wages received by classes of workers employed on projects of a character similar to the contract work in the political subdivision of the state in which the public work is to be performed; or

2. using the prevailing wage rates as determined by the United States Department of Labor in accordance with the Davis-Bacon Act (40 U.S.C. Section 276a et seq.), and its subsequent amendments.

(b) This subsection applies only to a public work located in a county bordering the United Mexican States or in a county adjacent to a county bordering the United Mexican States. For a contract for a public work awarded by the state, the public body shall determine the general prevailing rate of per diem wages in the locality in which the public work is to be performed for each craft or type of worker needed to execute the contract and the prevailing rate for legal holiday and overtime work as follows. The public body shall conduct a survey of the wages received by classes of workers employed on projects of a character similar to the contract work both statewide and in the political subdivision of the state in which the public work is to be performed. The public body shall also consider the prevailing wage rate as determined by the United States Department of Labor in accordance with the Davis-Bacon Act (40 U.S.C. Section 276a et seq.), and its subsequent amendments, but only if the survey used to determine that rate was conducted within a three-year period preceding the date the public body calls for bids for the public work. The public body shall determine the general prevailing rate of per diem wages in the locality based on the higher of:

1. the rate determined from the survey conducted in the political subdivision;

2. the arithmetic mean between the rate determined from the survey conducted in the political subdivision and the rate determined from the statewide survey; and

3. if applicable, the arithmetic mean between the rate determined from the survey conducted in the political subdivision and the rate determined by the United States Department of Labor.

(c) The public body shall determine the general prevailing rate of per diem wages as a sum certain, expressed in dollars and cents.

(d) A public body shall specify in the call for bids for the contract and in the contract itself the wage rates determined under this section.

(e) The public body's determination of the general prevailing rate of per diem wages is final.


Sec. 2258.023. PREVAILING WAGE RATES TO BE PAID BY CONTRACTOR AND SUBCONTRACTOR; PENALTY. (a) The contractor who is awarded a contract by a public body or a subcontractor of the contractor shall pay not less than the rates determined under Section 2258.022 to a worker employed by it in the execution of the contract.

(b) A contractor or subcontractor who violates this section shall pay to the state or a
political subdivision of the state on whose behalf the contract is made, $60 for each worker employed for each calendar day or part of the day that the worker is paid less than the wage rates stipulated in the contract. A public body awarding a contract shall specify this penalty in the contract.

(c) A contractor or subcontractor does not violate this section if a public body awarding a contract does not determine the prevailing wage rates and specify the rates in the contract as provided by Section 2258.022.

(d) The public body shall use any money collected under this section to offset the costs incurred in the administration of this chapter.

(e) A municipality is entitled to collect a penalty under this section only if the municipality has a population of more than 10,000.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.49 (a), eff. Sept. 1, 1995.

Sec. 2258.024. RECORDS. (a) A contractor and subcontractor shall keep a record showing:

(1) the name and occupation of each worker employed by the contractor or subcontractor in the construction of the public work; and

(2) the actual per diem wages paid to each worker.

(b) The record shall be open at all reasonable hours to inspection by the officers and agents of the public body.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.49 (a), eff. Sept. 1, 1995.

Sec. 2258.025. PAYMENT GREATER THAN PREVAILING RATE NOT PROHIBITED. This chapter does not prohibit the payment to a worker employed on a public work an amount greater than the general prevailing rate of per diem wages.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.49 (a), eff. Sept. 1, 1995.

Sec. 2258.026. RELIANCE ON CERTIFICATE OF SUBCONTRACTOR. A contractor is entitled to rely on a certificate by a subcontractor regarding the payment of all sums due those working for the subcontractor until the contrary has been determined.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.49 (a), eff. Sept. 1, 1995.

SUBCHAPTER C. ENFORCEMENT; CIVIL AND CRIMINAL PENALTIES

Sec. 2258.051. DUTY OF PUBLIC BODY TO HEAR COMPLAINTS AND WITHHOLD PAYMENT. A public body awarding a contract, and an agent or officer of the public body, shall:

(1) take cognizance of complaints of all violations of this chapter committed in the execution of the contract; and

(2) withhold money forfeited or required to be withheld under this chapter from the payments to the contractor under the contract, except that the public body may not withhold money from other than the final payment without a determination by the public body that there is good cause to believe that the contractor has violated this chapter.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.49 (a), eff. Sept. 1, 1995.

Sec. 2258.052. COMPLAINT; INITIAL DETERMINATION. (a) On receipt of information, including a complaint by a worker, concerning an alleged violation of Section 2258.023 by a contractor or subcontractor, a public body shall make an initial determination as to whether good cause exists to believe that the violation occurred.

(b) A public body must make its determination under Subsection.
(a) before the 31st day after the date the public body receives the information.

(c) A public body shall notify in writing the contractor or subcontractor and any affected worker of its initial determination.

(d) A public body shall retain any amount due under the contract pending a final determination of the violation.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.49 (a), eff. Sept. 1, 1995.

Sec. 2258.053. ARBITRATION REQUIRED FOR UNRESOLVED ISSUE. (a) An issue relating to an alleged violation of Section 2258.023, including a penalty owed to a public body or an affected worker, shall be submitted to binding arbitration in accordance with the Texas General Arbitration Act (Article 224 et seq., Revised Statutes) if the contractor or subcontractor and any affected worker do not resolve the issue by agreement before the 15th day after the date the public body makes its initial determination under Section 2258.052.

(b) If the persons required to arbitrate under this section do not agree on an arbitrator before the 11th day after the date that arbitration is required under Subsection (a), a district court shall appoint an arbitrator on the petition of any of the persons.

(c) A public body is not a party in the arbitration.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.49 (a), eff. Sept. 1, 1995.

Sec. 2258.054. ARBITRATION AWARD; COSTS. (a) If an arbitrator determines that Section 2258.023 has been violated, the arbitrator shall assess and award against the contractor or subcontractor:

1. penalties as provided by Section 2258.023 and this section; and
2. all amounts owed to the affected worker.

(b) An arbitrator shall assess and award all reasonable costs, including the arbitrator’s fee, against the party who does not prevail. Costs may be assessed against the worker only if the arbitrator finds that the claim is frivolous. If the arbitrator does not find that the claim is frivolous and does not make an award to the work, costs are shared equally by the parties.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.49 (a), eff. Sept. 1, 1995.

Sec. 2258.055. ARBITRATION DECISION AND AWARD FINAL. The decision and award of the arbitrator is final and binding on all parties and may be enforced in any court of competent jurisdiction.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.49 (a), eff. Sept. 1, 1995.

Sec. 2258.056. PAYMENT BY PUBLIC BODY TO WORKER; ACTION TO RECOVER PAYMENT. (a) A public body shall use any amounts retained under this chapter to pay the worker the difference between the amount the worker received in wages for labor on the public work at the rate paid by the contractor or subcontractor and the amount the worker would have received at the general prevailing wage rate as provided in the arbitrator’s award.

(b) The public body may adopt rules, orders, or ordinances relating to the manner in which a reimbursement is made.

(c) If the amounts retained by a public body under this chapter are not sufficient for the public body to pay the worker the full amount owed, the worker has a right of action against the contractor or subcontractor and the surety of the contractor or subcontractor to recover the amount owed, reasonable attorney’s fees, and court costs.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.49 (a), eff. Sept. 1, 1995.

Sec. 2258.057. WITHHOLDING BY CONTRACTOR. (a) A contractor may withhold from a subcontractor sufficient money to cover an amount withheld from the contractor by a public body because the subcontractor violated this chapter.
(b) If the contractor has made a payment to the subcontractor, the contractor may withhold money from any future payments owed to the subcontractor or sue the subcontractor or the subcontractor’s surety for the amount withheld from the contractor by a public body because of the subcontractor’s violation.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.49 (a), eff. Sept. 1, 1995.

Sec. 2258.058. CRIMINAL OFFENSE. (a) An officer, agent, or representative of the state or of a political subdivision of the state commits an offense if the person willfully violates or does not comply with a provision of this chapter.

(b) A contractor or subcontractor of a public work under this chapter, or an agent or representative of the contractor or subcontractor, commits an offense if the person violates Section 2258.024.

(c) An offense under this section is punishable by:
   (1) a fine not to exceed $500;
   (2) confinement in jail for a term not to exceed six months; or
   (3) both a fine and confinement

Added by Acts 1995, 74th Leg., ch 76, Sec 5.49(a), eff Sept. 1, 1995
(1) Minimum wages. (i) All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (a)(1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in §5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph (a)(1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

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

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.
(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

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

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

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

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

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

(3) **Payrolls and basic records.** (i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid.

Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii)(A) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the (write in name of appropriate federal agency) if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant, sponsor, or owner, as the case may be, for transmission to the (write in name of agency). The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee’s social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at http://www.dol.gov/esa/whd/forms/wh347instr.htm or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the (write in name of appropriate federal agency) if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit them to the applicant, sponsor, or owner, as the case may be, for transmission to the (write in name of agency), the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security number.
numbers to the prime contractor for its own records, without weekly submission to the sponsoring government agency (or the applicant, sponsor, or owner).

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

(1) That the payroll for the payroll period contains the information required to be provided under §5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under §5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

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

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

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

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

(iii) The contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the (write the name of the agency) or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(4) **Apprentices and trainees**—(i) **Apprentices.** Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program,
who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

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

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

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

(6) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the (write in the name of the Federal agency) may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

(7) Contract termination: debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

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

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

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

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


(b) Contract Work Hours and Safety Standards Act. The Agency Head shall cause or require the contracting officer to insert the following clauses set forth in paragraphs (b)(1), (2), (3), and (4) of this section in full in any contract in an amount in excess of $100,000 and subject to the overtime provisions
of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by §5.5(a) or §4.6 of part 4 of this title. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

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

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

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

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

(c) In addition to the clauses contained in paragraph (b), in any contract subject only to the Contract Work Hours and Safety Standards Act and not to any of the other statutes cited in §5.1, the Agency Head shall cause or require the contracting officer to insert a clause requiring that the contractor or subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the contract for all laborers and
mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. Further, the Agency Head shall cause or require the contracting officer to insert in any such contract a clause providing that the records to be maintained under this paragraph shall be made available by the contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the (write the name of agency) and the Department of Labor, and the contractor or subcontractor will permit such representatives to interview employees during working hours on the job.
BUILDING CONSTRUCTION PROJECTS (does not include single family homes or apartments up to and including 4 stories).

Note: Executive Order (EO) 13658 establishes an hourly minimum wage of $10.10 for 2015 that applies to all contracts subject to the Davis-Bacon Act for which the solicitation is issued on or after January 1, 2015. If this contract is covered by the EO, the contractor must pay all workers in any classification listed on this wage determination at least $10.10 (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract. The EO minimum wage rate will be adjusted annually. Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts.

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ASBE0087-014 01/01/2014

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<td>ASBESTOS WORKER/HEAT &amp; FROST INSULATOR (Duct, Pipe and Mechanical System Insulation)</td>
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BOIL0074-003 01/01/2014

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ELEC0060-003 06/01/2014

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* ELEC0060-004 06/01/2015

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<table>
<thead>
<tr>
<th>Description</th>
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<tr>
<td>Voltage Wiring)</td>
<td>$27.82</td>
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<td>ELEVATOR MECHANIC</td>
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<td>28.385</td>
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<td>Footnote: A. 6% under 5 years based on regular hourly rate for all hours worked. 8% over 5 years based on regular hourly rate for all hours worked. New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, the Friday after Thanksgiving Day, Christmas Day, and Veterans Day.</td>
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<td>POWER EQUIPMENT OPERATOR</td>
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<tr>
<td>Cranes</td>
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<td>Bricklayer</td>
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<td>Carpenter (Form Work Only)</td>
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<td>Carpenter, Excludes Acoustical Ceiling Installation, Drywall Hanging, Form Work, and Metal Stud Installation</td>
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<td>Drywall Finisher/Taper</td>
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<td>Laborer: Pipelayer</td>
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<td>Laborer: Landscape and Irrigation</td>
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<tr>
<td>Operator: Backhoe/Excavator/Trackhoe</td>
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<tr>
<td>Classification</td>
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<td>OPERATOR: Bobcat/Skid</td>
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<tr>
<td>OPERATOR: Bulldozer</td>
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<td>OPERATOR: Drill</td>
<td>$14.50</td>
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<td>OPERATOR: Forklift</td>
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<td>OPERATOR: Grader/Blade</td>
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<td>OPERATOR: Mechanic</td>
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<td>ROOFER</td>
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<td>TRUCK DRIVER: Flatbed Truck</td>
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<tr>
<td>TRUCK DRIVER: Water Truck</td>
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</tbody>
</table>

**WELDERS** - Receive rate prescribed for craft performing operation to which welding is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (ii)).

The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the
cited type(s) of construction in the area covered by the wage
determination. The classifications are listed in alphabetical
order of "Identifiers" that indicate whether the particular
rate is a union rate (current union negotiated rate for local),
a survey rate (weighted average rate) or a union average rate
(weighted union average rate).

Union Rate Identifiers

A four letter classification abbreviation identifier enclosed
in dotted lines beginning with characters other than "SU" or
"UAVG" denotes that the union classification and rate were
prevailing for that classification in the survey. Example:
PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of
the union which prevailed in the survey for this
classification, which in this example would be Plumbers. 0198
indicates the local union number or district council number
where applicable, i.e., Plumbers Local 0198. The next number,
005 in the example, is an internal number used in processing
the wage determination. 07/01/2014 is the effective date of the
most current negotiated rate, which in this example is July 1,
2014.

Union prevailing wage rates are updated to reflect all rate
changes in the collective bargaining agreement (CBA) governing
this classification and rate.

Survey Rate Identifiers

Classifications listed under the "SU" identifier indicate that
no one rate prevailed for this classification in the survey and
the published rate is derived by computing a weighted average
rate based on all the rates reported in the survey for that
classification. As this weighted average rate includes all
rates reported in the survey, it may include both union and
non-union rates. Example: SULA2012-007 5/13/2014. SU indicates
the rates are survey rates based on a weighted average
calculation of rates and are not majority rates. LA indicates
the State of Louisiana. 2012 is the year of survey on which
these classifications and rates are based. The next number, 007
in the example, is an internal number used in producing the
wage determination. 5/13/2014 indicates the survey completion
date for the classifications and rates under that identifier.

Survey wage rates are not updated and remain in effect until a
new survey is conducted.

Union Average Rate Identifiers

Classification(s) listed under the UAVG identifier indicate
that no single majority rate prevailed for those
classifications; however, 100% of the data reported for the
classifications was union data. EXAMPLE: UAVG-OH-0010
08/29/2014. UAVG indicates that the rate is a weighted union
average rate. OH indicates the state. The next number, 0010 in
the example, is an internal number used in producing the wage
determination. 08/29/2014 indicates the survey completion date
for the classifications and rates under that identifier.

A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current negotiated/CBA rate of the union locals from which the rate is based.

----------------------------------------------------------------

WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

* an existing published wage determination
* a survey underlying a wage determination
* a Wage and Hour Division letter setting forth a position on a wage determination matter
* a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour Regional Office for the area in which the survey was conducted because those Regional Offices have responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

   Branch of Construction Wage Determinations  
   Wage and Hour Division  
   U.S. Department of Labor  
   200 Constitution Avenue, N.W.  
   Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

   Wage and Hour Administrator  
   U.S. Department of Labor  
   200 Constitution Avenue, N.W.  
   Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative
Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

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END OF GENERAL DECISION
TECHNICAL SPECIFICATIONS
DIVISION 1 - GENERAL REQUIREMENTS

SECTION 01010
SUMMARY OF WORK - ASBESTOS ABATEMENT/MOLD REMEDIATION

PART 1 - GENERAL. All asbestos abatement and/or mold remediation work will be accomplished by an EPA accredited and Texas licensed asbestos abatement contractor and/or mold remediation contractor. The Contractor will be responsible for providing security for the asbestos or mold remediation work area(s) as well as all labor, materials, equipment and asbestos or mold waste disposal.

1.01 SUMMARY SCOPE OF WORK:

The Alamo Community College District (the "Owner") has periodic requirements for asbestos abatement and/or mold remediation activities. These requirements arise as a result of land acquisition which requires demolition and clearance of existing structures and/or planned building renovations of currently existing ACCD facilities in which asbestos containing materials (ACM) are known to be present. Asbestos containing materials (ACM) surveys have been completed on some of the existing structures but not on all facilities at all locations. The presence of ACM on new land acquisition is currently unknown but would potentially be identified as part of the pre-acquisition process and may require abatement during the contract period of this contract. Mold remediation activities are needed periodically at ACCD locations.

The abatement activities must comply with these Specifications, Federal Environmental Protection Agency (EPA), the Occupational Safety and Health Administration (OSHA), and State of Texas Regulations. Whenever there is a conflict or overlap of the above references, the most stringent provisions will apply. The identified ACM may be classified as "non-friable" or "friable" material. All EPA, OSHA, State and local regulations that apply to friable and non-friable ACM are included as part of these Technical Specifications. The abatement contractor will be responsible for the transport and disposal of the asbestos waste materials to a duly licensed landfill facility permitted to accept asbestos waste. Mold waste can be disposed of as normal construction debris.

1.02 RELATED DOCUMENTS:

The preceding sections of these Bid Documents apply to this IDQ as well as the specified regulations.

1.03 WORK EXECUTION:

The contractor is expected to comply with all applicable regulations and utilize the recommended methods and procedures recognized by the industry at the current time and in the same geological location of each project. This is in addition to those specific methods and procedures identified in Division 2 of these Technical Specifications. A specific Work Plan for asbestos abatement will be provided for each project as required by Texas Asbestos Health Protection Rules (TAHPR). These specific Work Plans will be utilized in addition to these Technical Specification requirements. For
mold remediation projects, a mold remediation protocol will be provided for each mold project.

1.04 CONTRACTOR RESPONSE:

Time will be of the essence in removing the asbestos containing materials or mold from the facilities that are identified. The contractor shall be prepared to commence work as soon as possible after issuance of each Purchase Order. The DSHS ten (10) day Notification Form for asbestos abatement must be submitted to the DSHS no later than two (2) days after the Purchase Order/Notice to Proceed date or as indicated on the Purchase Order. All work must be completed within the time period specified. The five (5) day Mold Remediation Notification form will also be submitted no later than two (2) days after the Purchase Order/Notice to Proceed is issued.

1.05 CONTRACTOR USE OF PREMISES:

The Contractor shall limit his use of the premises to the work indicated within these specifications unless a change order has been approved in writing.

1.06 USE OF THE SITE:

The Contractor will confine operations at each site to the area requiring abatement or mold remediation and the general site area associated with the proximity of the subject facility. Portions of the site beyond areas on which the indicated work is required are not to be disturbed. The Contractor will not unreasonably encumber the site with materials or equipment. If asbestos waste is required to be stored overnight, it will be properly labeled and secured to preclude unauthorized disturbance of the waste materials.

The Contractor will only park required vehicles in designated areas. When vehicles are parked and unattended, vehicles will be locked to prevent use by unauthorized persons. The Owner will not be held responsible for loss of materials or equipment utilized for abatement activities.

PART 2 - PRODUCTS (Not Applicable)

PART 3 - EXECUTION (Not Applicable)

-END OF SECTION-
SECTION 01020
CODES, REGULATIONS, STANDARDS, AND NOTIFICATIONS - ASBESTOS ABATEMENT/MOLD REMEDIATION

PART 1 - GENERAL

1.01 GENERAL APPLICABILITY OF CODES, REGULATIONS AND STANDARDS:

Except to the extent that more explicit or more stringent requirements are written directly into the contract documents, all applicable codes, regulations, and standards have the same force and effect and are made a part of the contract documents by reference as if copied directly into the contract documents, or as if published copies are bound herewith.

1.02 DESCRIPTION:

This section sets forth governmental regulations and industry standards which are included and incorporated herein by reference and made a part of these specifications. This section also sets forth those notices and permits which are known to the Owner and which either must be applied for and received, or which must be given to governmental agencies before work can commence.

1.03 RELATED DOCUMENTS:

The preceding sections of these Specifications, the general provisions of the Contract including all General and Supplementary Conditions and Amendments, any drawings provided and any other information provided, apply to the provisions of this section.

1.04 DESCRIPTION OF COMPLIANCE:

The Contractor shall assume full responsibility and liability for the compliance with all applicable Federal, State and local regulations pertaining to work practices, hauling, disposal and protection of workers, visitors to the site, and persons occupying areas adjacent to the site. The Contractor is responsible for providing medical examinations and maintaining medical records of personnel as required by the applicable Federal, State and local regulations. The Contractor shall hold the Owner and Consultant harmless for a failure to comply with any applicable work standards, hauling, disposal, safety, health or other regulation on the part of himself, his employees or his subcontractors. The Contractor will hold the Owner, the Consultant Agency and the Consultant harmless for any negligent acts on the part of himself, his employees, or his subcontractors. The Contractor will defend the Owner, the Consultant Agency and the Consultant in any law suits arising out of any negligent acts on the part of himself, his employees, or his subcontractor.

1.05 FEDERAL REQUIREMENTS:

Federal requirements which govern asbestos abatement work or hauling and disposal of asbestos waste materials include but are not limited to the following:

A. U.S. Department of Labor, Occupational Safety and Health Administration, (OSHA):
1. 29 CFR §1926.1101, titled, "Occupational Exposure to Asbestos, Tremolite, Anthophyllite, and Actinolite", October 11, 1994;


B. U.S. Environmental Protection Agency (EPA):


3. 40 CFR part 763, Subpart E, §§763.80-763.99, and Appendices A and B, titled, "Asbestos-Containing Materials in Schools" (AHERA rules), July 1, 1992;


7. 40 CFR Part 763, Subpart F, Appendix A, Section 1, titled, "Polarized Light Microscopy", July 1, 1992;


9. 49 CFR Chapter I, Part 172, Appendix A, Subchapter C, October 1, 1992; and

C. EPA Guidance Documents:

EPA guidance documents which discuss asbestos abatement work or hauling and disposal of asbestos waste materials are listed below. These documents are made part of this section by reference. EPA maintains an information number (800) 334-8571 and publications can be ordered from (800) 424-9065 (554-1404) in Washington, DC:


1.06 STATE REQUIREMENTS:

A. The authority to enforce the rules regarding demolition and renovations under the National Emissions Standards for Hazardous Air Pollutants (NESHAP) (40 CFR, Part 61, Subpart M, Sections 61.140, 16.141, 61.145, 61.146, 61.148, 61.150, 61.152 and 61.157) was added to the Texas Asbestos Health Protection Rules (TAHPR) by the Texas Board of Health on January 28, 1994. The added authority became effective on February 23, 1994, following its publication in the Texas Register. This addition provides the Texas Department of State Health Services (DSHS) with the authority to perform inspections and enforce the NESHAP regulations.

B. Texas Department of State Health Services, Division of Occupational Health, Texas Asbestos Health Protection Rules, dated October 26, 1992 as adopted under Texas Civil Statutes, Article 4477-3a, Section 12, which provides the Board of Health with the authority to adopt rules covering asbestos removal, encapsulation, or enclosure, including licensing and regulation; Senate Bill 1341 and House Bill 79, 72nd

C. Texas Department of State Health Services Indoor Air Quality Program, Toxic Substances Control Division, Texas Mold Assessment and Remediation Rules. The latest revision is dated May 2004.

1.07 LOCAL REQUIREMENTS:

Abide by all local requirements if these requirements are more stringent than State and Federal requirements which govern asbestos abatement work or hauling and disposal of asbestos waste materials.

1.08 STANDARDS:

A. Standards which govern asbestos abatement work or hauling and disposal of asbestos waste materials include but are not limited to the following:

American National Standards Institute (ANSI)
1430 Broadway
New York, NY 10018
(212) 354-3300

1. Fundamentals Governing the Design and Operation of Local Exhaust Systems Publications Z9.2-79

2. Practices for Respiratory Protection Publication Z88.2

B. Standards which govern encapsulation work include but are not limited to the following:

American Society for Testing and Materials (ASTM)
1916 Race Street
Philadelphia, PA 19103
(215) 299-5400


2. Safety and Health Requirements Relating to Occupational exposure to Asbestos - E-849-8211

1.09 NOTICES:

As a result of the change in NESHAP authority being transferred to the DSHS, a form that replaces the previous DSHS form (April 7, 1993) and the TNRCC form (ACB-99B and C) (March 1, 1991) has been issued by the DSHS. This form combines the requirements of both NESHAP and
TAHPR regulations and should be utilized for notification purposes. All notifications should now be sent to the Notification section of the asbestos Branch of the Texas Department of State Health Services.

The required forms may be obtained from any of the Regional DSHS offices or by calling the DSHS office at 1-800-572-5548 or 1-512-834-6600. The new notification form should be mailed to:

ENVIRONMENTAL HEALTH NOTIFICATION GROUP
ATTENTION: ASBESTOS DEPARTMENT OF STATE HEALTH SERVICES
P.O. BOX 143538
AUSTIN, TEXAS 78714-3538

The form is entitled: TEXAS DEPARTMENT OF STATE HEALTH SERVICES
DEMOLITION/RENOVATION NOTIFICATION FORM

The notification form for mold is titled Mold Remediation Notification Form and should be mailed to:

ENVIRONMENTAL HEALTH NOTIFICATION GROUP
DEPARTMENT OF STATE HEALTH SERVICES
1100 WEST 49TH STREET
AUSTIN TX 78756

1.10 DSHS FEES:

The Owner will be responsible for any fees imposed on asbestos abatement or mold remediation activities adopted by DSHS.

1.11 LICENSES:

Maintain current licenses as required by the Texas Department of State Health Services Rules as adopted under Texas Civil Statutes, Article 4477-3a, Section 12 for the removal, transporting, disposal or other regulated activity relative to the work of this contract.

1.12 SUBMITTALS:

The Contractor will complete the required notification forms for Owners signature. These forms will be prepared within two (2) days following Notice to Proceed and submitted. Submittal will be such to allow for the required ten (10) day or five (5) day notification of the regulatory agency prior to project start date.
PART 2 - PRODUCTS (Not Applicable)

PART 3 - EXECUTION (Not Applicable)

- END OF SECTION -
SECTION 01030
PERSONNEL AND RESPIRATORY PROTECTION

PART 1 - GENERAL.

The Contractor will assign only properly trained and licensed personnel to each project. The Contractor will also provide respiratory protection for assigned personnel in accordance with these specifications and the following regulations:

- 29 CFR 1910.1001
- 29 CFR 1910.134
- 29 CFR 1926.1101
- 40 CFR 763.120
- ANSI Standards Z88.2-1980
- CGS Pamphlet G-7
- CGS Specification G-7.1
- NIOSH and MSHA Standards
- Texas Department of Health Asbestos Protection Rules
- Texas Mold Assessment and Remediation Rules

In case of conflict, the most stringent requirements are applicable for each project. The most current publication is the applicable specified regulation.

1.01 RELATED DOCUMENTS:

The preceding sections of these bid documents and specifications apply to each project as well as the specified regulations.

1.02 PERSONNEL:

The abatement Contractor and assigned personnel to each project will have the following minimum requirements.

A. The Abatement Contractor will have been in the asbestos abatement business for at least one (1) year and have completed at least five (5) asbestos abatement projects all of which are of comparable complexity and dollar value with this project. The Company must not have defaulted on any project while being in business under the current name. The Company will carry liability insurance for asbestos abatement work and will be licensed in the State of Texas. The Company is required to have an adequate member of qualified personnel available for each project. The Company will have an established written Standard Operating Procedure (SOP) for training, medical surveillance, entry, exit procedures, respiratory protection, and a health and safety program. The Company will have all required equipment, materials and supplies available and in adequate quantity, capacity and numbers to perform the work of this project so as not to cause delays.
B. The Contractor's Project Supervisor will have at least two (2) years abatement construction experience of which at least one (1) year will be as a Supervisor. The Supervisor will have a valid license as required by the Texas Asbestos Health Protection Rules and be current on his/her training and medical certification.

C. The Contractor's assigned laborers will have all required specialized training in abatement construction as required by OSHA and EPA regulations. The laborers will be trained in the Company's Standard Operating Procedures, Health and Safety Program, and asbestos hazards and respiratory protection. Laborers will have current medical records/certifications and other OSHA requirements as well as a valid license as required by the Texas Asbestos Health Protection Rules.

D. The Contractor will be a licensed mold remediation company with a licensed mold remediation contractor. Only registered mold remediation workers will be assigned to ACCD projects.

1.03 RESPIRATORY PROTECTION PROGRAM (RPP):

The Contractor will have previously developed, implemented and be maintaining a respiratory protection program consisting of the following elements:

A. Written statement of company policy, including assignment of individual responsibility, accountability, and authority for required activities of the respiratory protection program.

B. Written Standard Operating Procedures governing the selection and use of respirators.

C. Respiratory selection (from NIOSH/MSHA approved and certified models) on the basis of hazards to which the worker is exposed.

D. Medical examination of workers to determine whether or not they may be assigned an activity where respiratory protection is required.

E. User training in the proper use and limitations of respirators (as well as a way to evaluate the skill and knowledge obtained by the worker through training).

F. Respiratory fit testing.

G. Regular cleaning and disinfecting of respirators.

H. Routine inspection of respirators during cleaning, and at least once a month and after each use for those respirators designated for emergency use.

I. Storage of respirators in convenient, clean, and sanitary locations.
J. Surveillance of work area conditions and degree of employee exposure (e.g., through air monitoring).

K. Regular inspection and evaluation of the continued effectiveness of the program.

L. Recognition and resolution of special problems as they affect respirator use (e.g., facial hair, eye glasses, etc.).

M. Proper respirator use (procedures for donning and doffing respirators when entering and exiting the abatement area).

**1.06 PERSONNEL PROTECTION:**

The Contractor will provide the following as a minimum for worker protection:

A. During the removal of friable asbestos material, as a minimum, powered air purifying respirators (PAPRs) will be utilized until such time (two (2) days or evidence of previous results using the same procedures) that air monitoring results indicate that half-face respirators may be used. These respirators must meet NIOSH standards for the type of respirators used. Half-face respirators are acceptable for floor tile mastic removal, glovebag operations and mold remediation activities.

B. Workers will be provided protective clothing from the time of first disturbance of asbestos containing or mold contaminated materials until final cleanup is completed.

**PART 2 - EQUIPMENT**

**2.01 AIR PURIFYING RESPIRATORS:**

A. Provide half-face or full face respirators.

B. Provide as a minimum, HEPA type filters labeled with NIOSH and MSHA Certification for "Radionuclides, Dust, Fumes, Mists including Asbestos - Containing Dusts and Mists" and color coded in accordance with ANSI Z22.8 (1980). In addition, a chemical cartridge section may be added, if required, if solvents, etc. are in use. In this case, provide cartridges that have each section of the combination canister label with the appropriate color code and NIOSH/MSHA Certification.

**2.02 PROTECTIVE CLOTHING:**

Provide disposable protective clothing, gloves and proper footwear.

**2.03 MATERIALS:**

A. Scrapers, brushes, brooms, staple guns, shovels, ladders and scaffolds of suitable
height and length, water hoses to reach all areas, airless spray equipment; and other hand tools such as electric cords, electric power with ground fault interruption for safety will be required and will be furnished by the contractor.

B. Polyethylene sheeting of 6 mil in thickness that is clear, opaque or black shades, moisture resistant duct tape capable of continuously sealing polyethylene through project abatement duration, posters signs, notices and barrier tape.

C. Polyethylene bags of 6 mil thickness for asbestos containing waste.

PART 3 - EXECUTION

3.01 GENERAL:


Require that respiratory protection be used at all times that there is any possibility of disturbance of asbestos-containing materials whether intentional or accidental.

Require that a respirator be worn by anyone in a work area at all times, regardless of activity, during a period that starts with any operation which could cause airborne fiber release until the area has been cleared by the owner's representative.

Regardless of Airborne Fiber Levels: Require that the minimum level of respiratory protection used be half-face air-purifying respirators with high efficiency (HEPA) filters.

Do not allow the use of single-use, disposable, or quarter-face respirators for any purpose.

Require protective clothing to be worn by all workers in the work area at all times.

3.02 FIT TESTING:

Initial Fitting: Provide initial fitting of respiratory protection during a respiratory protection course of training set up and administered by a qualified instructor. Fit types of respirator to be actually worn by each individual. Allow an individual to use only those respirators for which he/she has been trained and fit tested.

Upon Each Wearing: Require that each time an air-purifying respirator is put on, it be checked for fit with a positive and negative pressure fit test in accordance with the manufacturer's instruction or ANSI Z88.2 (1980).

3.03 TYPE OF RESPIRATORY PROTECTION REQUIRED:

Provide Respiratory Protection as indicated in paragraph below. When paragraph below does not apply, determine the proper level of protection by dividing the expected or actual airborne fiber count in the work area by the "protection factors" given below. The level of respiratory protection which supplies an airborne fiber level inside the respirator, at the breathing zone of the wearer, at or
below the permissible exposure limit (PEL) is the minimum level of protection allowed.

3.04 PERMISSIBLE EXPOSURE LIMIT (PEL):

8-Hour Time Weighted Average (TWA) of asbestos fibers to which any worker may be exposed shall not exceed the following:

Fibers: For purposes of this section fibers are defined as all fibers regardless of composition as counted in the OSHA Reference Method (ORM), NIOSH P&CAM 239 or 7400 procedure, or asbestos fibers of any size as counted using either a scanning or transmission electron microscope.

Time Weighted Average (TWA) - The goal is to provide a level no higher than 0.01 f/cc inside the mask using respirators having the following protection factors.

3.05 RESPIRATORY PROTECTION FACTOR:

<table>
<thead>
<tr>
<th>RESPIRATOR TYPE</th>
<th>PROTECTION FACTOR</th>
</tr>
</thead>
<tbody>
<tr>
<td>Air Purifying:</td>
<td></td>
</tr>
<tr>
<td>Negative pressure respirator</td>
<td></td>
</tr>
<tr>
<td>High efficiency filter</td>
<td></td>
</tr>
<tr>
<td>Half facepiece</td>
<td>10</td>
</tr>
<tr>
<td>Air Purifying:</td>
<td></td>
</tr>
<tr>
<td>Negative pressure respirator</td>
<td></td>
</tr>
<tr>
<td>High efficiency filter</td>
<td></td>
</tr>
<tr>
<td>Full facepiece</td>
<td>50</td>
</tr>
</tbody>
</table>

| Powered - Air Purifying:                |                   |
| Positive pressure respirator           |                   |
| High efficiency filter                 |                   |
| Half or Full facepiece                 | 100               |

3.06 AIR PURIFYING RESPIRATORS:

Negative pressure - half or full face mask: Supply a sufficient quantity of respirator filters approved for asbestos, so that workers can change filters during the work day. Require that respirators be wet-rinsed, and filters discarded, each time a worker leaves the work area. Require that new filters be installed each time a worker re-enters the work area. Store respirators and filters at the job site in the changing area and protect totally from exposure to asbestos prior to their use.

Powered air purifying - half or full face mask: Supply a sufficient quantity of high efficiency respirator filters approved for asbestos so that workers can change filters at any time that flow through the face piece decreases to the level at which the manufacturer recommends filter replacement. Require that regardless of flow, filter cartridges be replaced after 40 hours of use. Require that HEPA elements in filter cartridges be protected from wetting during showering.
require entire exterior housing of respirator including blower unit, filter cartridges, hoses, battery pack, face mask, belt, and cords to be washed each time a worker leases the work area. Caution should be used to avoid shorting battery pack during washing. Provide an extra battery pack for each respirator so that one can be charging while one is in use.

- END OF SECTION -
SECTION 01040
AIR MONITORING AND LABORATORY TEST SERVICES

PART 1 - GENERAL

The air monitoring for this project will be accomplished by the Owner's Representative as an independent third party under a separate contractual agreement.

1.01 DESCRIPTION OF WORK

Area air monitoring will be accomplished depending on exact methods of abatement to be employed by the abatement contractor, but will include as a minimum, inside the containment, outside the decon entrance and the negative air exhaust.

Contractor OSHA personnel air monitoring is required by the Contractor during abatement activities. This is the responsibility of the Contractor, however, the Owner's third party representative will provide laboratory analysis of the air samples, if requested, by the Contractor. The owner's third party representative does not assume any liability for Contractor employees, or any subcontractor.

The minimum air sampling at each abatement area will include:

Background

- Minimum of three (3) (may be used to adjust lower limits on other samples)

Personal

- Full workshift - twenty-five percent (25%) of the workers (half-face respirator usage: <0.1 fiber/cc)

Clearance

- Minimum of three (3) per containment

Blanks

- One (1) for each ten (10) samples or two (2) per day

All air sampling results shall be posted within the vicinity of the Decon Clean Room within 24-hours of collection. All air sample results will be given to the Contractor's Supervisor. Air samples shall be collected and analyzed in accordance with NIOSH Method 7400. Personnel air samples will be collected and analyzed in accordance with OSHA Method ORM. All samples will be analyzed on-site by an experienced and NIOSH 582 trained air sampling technician. Table 1 contains the sampling parameters.
<table>
<thead>
<tr>
<th>Sample Location</th>
<th>Frequency Rate</th>
<th>Sample Rate (liters/min.)</th>
<th>Sample Volume (liters)</th>
<th>Detection Limit (fibers/cc)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Baseline</td>
<td>Prior to Work</td>
<td>2-9</td>
<td>1,250-3,000</td>
<td>0.002</td>
</tr>
<tr>
<td>Work Area</td>
<td>Daily</td>
<td>2-9</td>
<td>1,250-3,000</td>
<td>0.002</td>
</tr>
<tr>
<td>Occupied Areas (If Required)</td>
<td>Minimum: 3/Day</td>
<td>2-9</td>
<td>1,250-3,000</td>
<td>0.002</td>
</tr>
<tr>
<td>Neg Air Exhaust</td>
<td>Minimum: 1/Day per Exhaust Unit</td>
<td>2-9</td>
<td>1,250-3,000</td>
<td>0.002</td>
</tr>
<tr>
<td>Workers</td>
<td>25%</td>
<td>2.0 - 2.5</td>
<td>480-900</td>
<td>0.002</td>
</tr>
<tr>
<td>Clearance</td>
<td>Minimum of Three (3)</td>
<td>2-9</td>
<td>1,250 Min.</td>
<td>0.002</td>
</tr>
<tr>
<td>Blanks</td>
<td>1/10 Samples (2 min/day)</td>
<td>--</td>
<td>--</td>
<td>--</td>
</tr>
</tbody>
</table>

The air monitoring technician shall document the following for each sample:

- Location of sample (Name and SSN of personnel sampled)
- Duration of sample (Start and End Times)
- Flow rate (Start, During, and End Rates)
- Total sample time
- Sampling pumps and calibrator type
- Name of person collecting the sample
- Type of respirator worn if worker monitoring

1.02 RELATED DOCUMENTS

The preceding section of these specifications, the general provisions of the Contract including all General and Supplementary Conditions and Amendments, the provided information applies to the provisions of this section.

1.03 AREA AND PROJECT CLEARANCES

Final visual inspection and project clearances will be provided by the Owner's third party representative. Final clearance will be in accordance with ASTM E1368-90, Standard Practice, for visual Inspection of Asbestos Abatement Projects and a clearance limit of 0.01 f/cc for PCM will be utilized. Mold clearances will be specified in the mold remediation protocol and will consist of air samples after a period of air scrubbing.
PART 2 - PRODUCTS (NOT APPLICABLE)

PART 3 - EXECUTION (NOT APPLICABLE)

- END OF SECTION -
PART 1 - GENERAL

This section provides specifications for removal of friable asbestos materials.

1.01 RELATED DOCUMENTS

The contents of the preceding Divisions and Sections of these specifications, along with the general provisions of the Contract including General and Supplementary Conditions, apply to the work of this section.

1.02 RELATED WORK SPECIFIED ELSEWHERE

Disposal of the asbestos containing waste is specified in Section 02020.

1.03 ON-SITE REQUIRED DOCUMENTATION

The Contractor will keep on site the following documentation in a loose leaf folder. This folder will be available for inspection at all times work is in progress.

A. Copies of all Notifications.
B. Worker Sign In/Out Log.
C. Current licensing, medical and training certifications.
D. Respiratory Protection training and work acknowledgement forms.
E. Contractor Stand Operating Procedures for removal of all types of asbestos containing materials.
F. Security Health and Safety Site Specific Plan.
G. Contingency Plans and Arrangements to be able to convert from non-friable to friable asbestos conditions.
H. Copies of MSDS of all related materials being utilized. (No hazardous or flammable chemicals/solvents will be authorized for use on site.)
I. Daily Project Activity Logs.
J. Final Inspection Reports.

K. Waste Manifests.

PART 2 - PRODUCTS

2.01 GENERAL

The following products may be utilized for this project.

A. Wetting Materials: Wet methods for asbestos removal will be utilized. For wetting prior to disturbance of asbestos containing materials use either amended water or a removal encapsulant.

1. Amended Water: If amended water is utilized, provide water to which a surfactant has been added. Use a mixture of surfactant and water which results in the wetting of the asbestos containing material and retardation of the material equal to or greater than that provided by the use of one ounce of a surfactant consisting of 50% polyoxyethylene ester and 50% polyoxyethylene ether mixed with five (5) gallons of water.

2. Removal Encapsulant: If a removal encapsulant material is utilized, use a penetrating type encapsulant designed specifically for removal of asbestos containing material. Use a material which results in the wetting of the asbestos containing material and retardation of fiber release during disturbance of the material equal to or greater than that provided by water amended with a surfactant consisting of 50% polyoxyethylene ester and 50% polyoxyethylene ether mixed with five (5) gallons of water.

3. Removal Solvents: No removal solvents that are classified as hazardous or flammable will be utilized on site. If removal solvents are utilized, only those solvents that are specifically designed for removal of asbestos containing materials will be authorized. IN NO CASE WILL SOLVENTS OR ANY OTHER CHEMICALS WITH A FLASH POINT OF LESS THAN 140°F BE USED.

B. Polyethylene Sheet: Use single polyethylene film sheet in the largest sheet size possible to minimize seams, which is 6.0 mils in thickness and is either clear, frosted or black/opaque in color. Four (4) mil sheets may be utilized for containment walls.

C. Duct Tape: Provide duct tape in 2" or 3" widths as indicated with an adhesive which is formulated to aggressively stick to sheet polyethylene.

D. Spray Cement: Provide spray adhesive in aerosol cans which is specifically formulated to stick tenaciously to sheet polyethylene.

E. Disposal bags: Provide 6 mil thick leak-tight polyethylene bags labeled with one of the two
labels with text as follows:

FIRST LABEL:

CAUTION
CONTAINS ASBESTOS FIBERS
AVOID OPENING OF BREAKING CONTAINER
BREATHING ASBESTOS IS HAZARDOUS TO YOUR HEALTH

SECOND LABEL:

DANGER
CONTAINS ASBESTOS FIBERS
AVOID CREATING DUST
CANCER AND LUNG DISEASE HAZARD
BREATHING AIRBORNE ASBESTOS, TREMOLITE, ANTHOPHYLITE OR
ACTINOLITE FIBERS IS HAZARDOUS TO YOUR HEALTH

F. Lock-back Encapsulant: Use a Lock-Back Encapsulant that satisfies NESHAPS 40 CFR 61, Subpart M.

2.02 OTHER PRODUCTS

Other products may be used as long as they comply with NESHAPS 40 CFR 61, Subpart M and 29 CFR 1910.1200.

2.03 SUBSTITUTIONS

The materials, solvents, products and equipment described in this Work Plan establish a standard of required function, performance, and quality. The consultant will be informed of all chemicals planned for use on the site. No substitutions will be accomplished without specific approval of the Asbestos Consultant.

PART 3 - EXECUTION

3.01 PROCEDURES (GENERAL)

1. Perform pre-inspection of the work area with STC’s Representative and discuss the use of any solvents or chemicals planned for use.

2. Install critical barriers appropriate to the area requiring abatement. Regulated areas where asbestos abatement is to be conducted shall be separated from adjacent areas by impermeable barriers such as plastic sheeting attached securely in place. All openings between containment areas and adjacent areas, including but not limited to windows, doorways, elevator openings, corridor entrances, ventilation openings, drains, ducts, grills, grates, diffusers and skylights, shall be sealed. All penetrations that could permit air infiltration or air leaks through the barrier shall be sealed, with exceptions of the make-up
air provisions and the means of entry and exit. All movable objects shall be removed from the containment area. Cleaning of any contaminated items shall be performed if the items are to be salvaged or reused. Otherwise, they shall be properly disposed of as asbestos waste. All non-movable objects that remain in the containment area shall be covered with a minimum of four-mil plastic sheeting and secured in place.

3. The construction of a containment will be required along with the use of negative air machines and a means to measure a differential pressure difference of 0.02 inches of water minimum between the inside of the containment and outside. For floor and wall preparation, the floor sheeting shall completely cover all floor surfaces and consist of a minimum of two layers of sheeting with at least a dart impact of 270 grams and tear resistance of machine direction (M.D.) 512 grams and transverse direction (T.D.) of 2067 grams or at least six-mil true thickness. Floor sheeting shall extend up side walls at least 12 inches and be sized to minimize the number of seams. No seams shall be located at wall-to-floor joints. Sealing of all floor penetrations against water leakage is mandatory. Wall sheeting shall completely cover all wall surfaces and consist of a minimum of two layers of four-mil sheeting. Wall sheeting shall be installed so as to minimize joints and shall extend beyond wall/floor joints at least 12 inches. No seams shall be located at wall-to-wall joints.

Where a fire hazard exists, all plastic sheeting will be certified by the Underwriters Laboratory (UL) as being fire retardant. Where feasible, when containment walls which exceed 260 linear feet must be constructed, a viewing window will be included in the wall for each 260 linear feet or fraction of that distance which will permit the viewing of at least 51% of the abatement work area. The window shall be constructed of plexiglass which measures approximately 18 inches by 18 inches. The bottom of the window will be at a reasonable viewing height from the outside floor. For floor tile and mastic removal only, floors are not required and four (4) foot splash guards may be utilized for walls along with criticals and negative air of at least 0.02 inches of water.

4. Construction of personnel decontamination facilities in accordance with the minimum specified by OSHA Regulation 29 CFR 1926 1101. All persons entering and exiting the work area shall follow the entry and exit procedures required by the applicable regulations and these specifications. This personnel decontamination unit will have as a minimum, a change room (clean room), a shower room and an equipment room (dirty room) and air locks on both sides of the shower room. If a remote decon is utilized, double suits will be required. One suit will be removed in the abatement area prior to exiting for the decon trailer. Poly sheeting will be placed on the ground between the containments and the remote decon.

5. Fit all personnel who will remove the ACM with the proper respiratory protection equipped with HEPA filters and disposable protective suits. Half-face respirators will be allowed for floor tile removal.

6. Wet methods will be utilized during abatement activities. Thoroughly pre-wet ACM to be removed prior to stripping and/or tooling to reduce fiber dispersal into the air. Use a fine spray (mist) of amended water or removal encapsulant. Saturate material sufficiently to wet to the substrate without causing excess dripping. Allow time for the amended water or
removal encapsulant to penetrate the material thoroughly. If amended water is used, spray material repeatedly during the abatement work process to maintain a continuously wet condition. If a removal encapsulant is used, apply in strict accordance with manufacturers' written instructions. For pipe insulation, perforate any outer covering of any installation which has been painted and/or has a jacket in order to allow penetration of amended water or removal encapsulant. If necessary, carefully strip away the outer coating, if penetration is difficult, while simultaneously spraying amended water or removal encapsulant on the asbestos material to minimize dispersal of asbestos fibers into the air. For resilient floor covering, the material will be kept thoroughly wet.

7. Remove ACM intact as much as feasible utilizing methods which minimize breakage and cutting.

8. Wet wipe the area previously covered by the ACM.

9. All ACBM should be adequately wetted prior to removal or other handling. Material to be bagged will be marked per the applicable Occupational Safety and Health Administration (OSHA) and the National Emission Standards for Hazardous Air Pollutants (NESHAP) regulations and doubled bagged with true 6 mil thickness or may be placed in a bag that meets the following criteria: tear resistance of M.D. 300 grams, T.D. 2,068 grams, and dart impact of 216 grams. Documentation from the manufacturer shall be on site. In order to double bag the asbestos waste the inner bag must be no more than half full, excess air must be squeezed out, the top twisted closed, folded over, sealed with duct tape, rinsed off or HEPA vacuumed to remove asbestos contamination, and placed inside another bag (or in a fiberboard drum). If an outer bag is used excess air must be squeezed out and the outer bag twisted closed, the top folded over and sealed with duct tape. If a fiberboard drum is used, the top must be sealed. Any bagging shall not allow leakage nor breakage due to overfilling.

10. Carefully handle the ACM waste material in a manner to preclude breakage or tearing of the containment bags.

11. Store waste ACM and all wiping materials/mops, rags etc. in a secure location where they will not be damaged no scattered until ready for disposal.

12. Apply a lock-back encapsulant to the areas where the asbestos has been removed.

13. Notify the Owner’s Representative when the area is ready for a visual inspection.

14. Dispose of ACM material in accordance with Section 02020.

3.02 GLOVE BAG PROCEDURES

If glove bags are the selected method of abatement removal, the following procedures will be utilized.
1. Barrier warning tape will be placed to designate the boundary limits of the work area.

2. The proper required signage for asbestos abatement activities will be posted in both English and Spanish.

3. Wet methods will be utilized for ACM removal.

4. A minimum of two (2) workers will be required for each glovebag during the actual abatement activities.

5. A portable HEPA vacuum will be utilized inside the glove bag to control fiber release during the actual removal activities. This will suffice as the negative air requirements for glove bag operations.

6. The glovebag will be sealed and pigtailed with a minimum of three (3) wraps of duct tape. The removed ACM will then be either placed in a sealable lined dumpster of double bagged for disposal in accordance with Section 02020.

7. The remaining pipe will be wet wipe and a "lock-back" encapsulant will be applied where the ACM has been removed.

3.03 ASBESTOS ABATEMENT OF CONTAMINATED SOIL

If some of the asbestos containing pipe insulation has fallen on the ground in the crawl space, the areas of soil, where visible asbestos material is present, will be abated. Prior to any removal activities, the areas of visible asbestos material laying on the ground will be outlined by marking paint. Prior to picking up the material, the visible asbestos material will be sprayed with water using an airless sprayer. The asbestos material will then be picked up and double bagged for disposal. Two (2) to three (3) inches of soil will then be removed from the area designated inside the area marked by paint. The soil will be sprayed with water prior to removal. The soil will be placed in a sealed container for disposal in accordance with Section 02020. The entire area will be sprayed with a color added encapsulant using an airless sprayer.

3.04 SPECIFIC PROCEDURES FOR THIS CONTRACT

The materials to be removed may be located in different areas and a number of containments may be required. The number of containments will be determined based on the number of negative air machines available. For areas where only floor tile and/or floor mastic are to be removed, the containment may consist of criticals and four (4) foot splash guards. For areas where other types of materials are to be removed in addition to floor tile and/or mastic, a full containment will be required. Negative air of at least 0.02 inches of water will be required for all containments. A five (5) stage wet decon will be required for each full containment. The decon will consist of three (3) stages separated by two (2) air locks. The location of each decon will be coordinated with STC's on-site representative. However the principal to follow is that the negative air machines will be opposite the decon entrance.
If sheetrock/joint compound is to be removed, a full containment will be required along with negative air of at least 0.02 inches of water. If floor tile is also to be removed, only one (1) floor is required as long as the floor tile is removed last.

3.05 SPECIFIC PROCEDURES FOR EACH PROJECT

A specific Work Plan will be provided for each project as required by Texas regulations.

3.06 AIR MONITORING

For removal of friable asbestos materials, area and clearance air monitoring will be conducted. A final clearance standard of 0.01 f/cc for PCM will be utilized for clearance acceptance of the abated area. Air monitoring will be conducted by the Owner's third party representative.

3.07 DEVIATIONS

Any deviations from the above procedures must be approved by the Consultant.

3.08 EMERGENCY PROCEDURES

All emergencies involving fire, medical, and asbestos releases must have an associated response phone number posted in the control area outside containment. Also, the Contractor's Supervisor should be informed as to the location and route to the nearest hospital. The Consultant will be notified in all emergencies as soon as feasible.

A. Fire Emergencies

Fire evacuation routes shall be marked for containment workers. The Supervisor shall brief his workers on these routes prior to any work in a new area. Evacuation routes inside containment shall be clearly identified by painted arrows/markers on the plastic sheeting, showing the most expeditious route. All personnel shall exit containment when so notified. A common meeting location shall previously been appointed so a roster of abatement personnel can be checked. If an individual or individuals is/are not present at the common meeting location, the supervisor shall be informed so search and rescue operations may be initiated.

B. Medical Emergencies

All entries and departures from containment shall be managed in accordance with standard practices unless a life-threatening situation should occur. In the later case, an effort should be made to do whatever it takes to respond to the situation with as little disturbance of standard procedures as possible.
C. **Asbestos Release Emergencies**

An asbestos release emergency includes the following:

- Major breach of containment
- Loss of negative pressure/loss of negative air unit
- Elevated fiber counts outside the containment/work area (>0.01 fiber/cc)
- Spill of ACM waste

A major breach of containment shall be responded to by immediately notifying all nonprotected personnel to leave the area. HVAC/AHUs for the area/floor shall be shut off. The area shall be secured, and critical barrier shall be constructed over and/or around the breach and a negative air unit used to exhaust the new critical barrier area. The area shall be cleaned and visible ACM removed. Air samples shall be taken immediately outside the breach in order to determine the extent of contamination and appropriate action to be taken. The same general procedure shall be taken for a spill of ACM waste.

Loss of negative pressure and/or air handling units shall immediately require sealing of the containment and a determination of the cause be made. If loss is due to a power outage, portable generators shall be provided for power. If loss of an air handler is the cause, it shall be replaced immediately.

Elevated fiber counts outside containment requires immediate containment inspection and work stoppage (generally issued by the Project Supervisor). A new negative air unit shall be moved to the area outside containment and exhausted outside the building. Additional negative air units shall be available for this purpose. All HVAC/AHUs shall be shut off to the area. Repair and/or modify as appropriate. New samples should be started immediately.

No abatement operations shall be conducted during any emergency events other than that required to secure the area. No unprotected personnel other than medical/fire/rescue shall be allowed into the area after operations resume. Personal protective equipment (PPE) shall be available for emergency response teams.

### 3.09 HOUSEKEEPING

Housekeeping is an important part of safety. The Contractor will strive, at all times, to maintain a clean environment as follows:

- Employees will keep their work area(s) clean and in an orderly manner.
- Employees will pick up all trash, towels, and debris in the decon and around the job site even if it was not generated by one of the workers.

### 3.10 DECONTAMINATION PROCEDURES

Upon job completion, all equipment and unused supplies shall be wet wiped, cleaned, and visually
inspected. Worker and equipment decontamination shall be performed in accordance with the general work practice procedures for asbestos. Surface will be wet wiped upon completion of the job and visually inspected by the Consultant's Representative. Upon passage of the visual, all abated and exposed surfaces in the containment area shall be sprayed with an encapsulant. Upon completion and passage of clearance air tests, all remaining poly will be containerized and labeled as asbestos-containing material.

- END OF SECTION -
SECTION 02020
DISPOSAL OF ASBESTOS WASTE MATERIAL

PART 1 - GENERAL

This section provides the specification for disposal of the abated asbestos waste materials.

1.01 RELATED DOCUMENTS

The contents of the preceding Division and sections of these specifications along with the general provisions of the Contract, including General and Supplementary Conditions, apply to the work indicated in this section.

1.02 RELATED WORK SPECIFIED ELSEWHERE

Removal of the asbestos containing material is specified in Section 02010 and/or Section 02030. Asbestos waste material will be generated from procedures utilized in either of these Sections.

PART 2 - PRODUCTS (NON-APPLICABLE)

PART 3 - EXECUTION

3.01 GENERAL

Disposal of ACM waste materials will only be accomplished at approved for and licensed asbestos landfill facilities. Completed waste manifests are required to be included in the Contractor's final report and evidence of documentation.

3.02 PROCEDURES

The following procedures will be utilized:

A. Do not store asbestos waste bagged material outside of the work area. Take bags from the work area directly to a sealed truck, trailer or dumpster.

B. Label each bag with the name of the facility that the waste has been removed from.

C. Carefully load the containerized waste in sealed trucks or other appropriate vehicles for transport to the landfill facility. Exercise care before and during transport that only authorized persons have access to the material.

D. Do not transport disposal bagged materials in open trucks. Double bagged material may be transported in open trucks if they are first loaded in sealed drums. Label drums with the same warning labels as the bags. Uncontaminated drums may be reused. Treat any drums that become contaminated as asbestos containing waste
and dispose of in accordance with this specification. A broken bag is deemed to cause contamination of the drum.

E. Advise the sanitary landfill operator at least twenty-four (24) hours in advance of transport and the expected quantity of waste material to be delivered.

F. At the landfill burial site, the sealed plastic bags will be carefully removed from the truck. If bags are broken or damaged in transit, leave bags in the truck and accomplish decontamination of the entire truck and contents. After cleaning, then properly dispose of all wastes.

G. Retain all completed manifests and receipts from the landfill for all materials disposed. Included completed manifests in final report.

- END OF SECTION -
SECTION 02030
REMOVAL OF NON-FRIABLE ASBESTOS CONTAINING MATERIALS

PART 1 - GENERAL

This section provides specifications for removal of non-friable asbestos materials and applies to the portion of the project during which non-friable asbestos materials are being removed. If at any time the non-friable asbestos becomes friable then the procedures specified in Section 02030 of these documents will apply.

1.01 RELATED DOCUMENTS

The contents of the preceding Division of these specifications along with the general provisions of the Contract, including General and Supplementary Conditions, apply to the work of this section.

1.02 RELATED WORK SPECIFIED ELSEWHERE

Disposal of the asbestos containing waste is specified in Section 02020. If the non-friable asbestos materials results in friable asbestos materials, follow the specifications contained in Section 02030. Section 02040 contains drawings and figures for this work.

1.03 ON-SITE REQUIRED DOCUMENTATION

The Contractor will keep on site the following documentation in a loose leaf folder. This folder will be available for inspection at all times work is in progress.

A. Copies of all Notifications.
B. Worker Sign In/Out Log.
C. Current licensing, medical and training certifications.
D. Respiratory Protection training and work acknowledgement forms.
E. Contractor Standard Operating Procedures for removal of all types of asbestos containing materials.
F. Site Specific Security Health and Safety Plan.
G. Contingency Plans and Arrangements to be able to convert from non-friable to friable asbestos conditions.
H. Copies of MSDS of all regulated materials being utilized. (No hazardous or flammable chemicals/solvents will be authorized for use on site.)
PART 2 - PRODUCTS

2.01 GENERAL

The following products may be utilized for this project.

A. Wetting Materials: Wet methods for asbestos removal will be utilized. For wetting prior to disturbance of asbestos containing materials use either amended water or a removal encapsulant.

1. Amended Water: If amended water is utilized provide water to which a surfactant has been added. Use a mixture of surfactant and water which results in the wetting of the asbestos containing material and retardation of the material equal to or greater than that provided by the use of one ounce of a surfactant consisting of 50% polyoxyethylene ester and 50% polyoxyethylene ether mixed with five (5) gallons of water.

2. Removal Encapsulant: If a removal encapsulant material is utilized, use a penetrating type encapsulant designed specifically for removal of asbestos containing material. Use a material which results in the wetting of the asbestos containing material and retardation of fiber release during disturbance of the material equal to or greater than that provided by water amended with a surfactant consisting of 50% polyoxyethylene ester and 50% polyoxyethylene ether mixed with five (5) gallons of water.

3. Removal Solvents: No removal solvents that are classified as hazardous or flammable will be utilized on site. If removal solvents are utilized, only those solvents that are specifically designed for removal of asbestos containing material will be authorized. IN NO CASE WILL SOLVENTS OR ANY OTHER CHEMICALS WITH A FLASH POINT OF LESS THAN 140°F BE USED.

B. Polyethylene Sheet: If required, use single polyethylene film sheet in the largest sheet size possible to minimize seams, which is 6.0 mils in thickness and is either clear, frosted or black/opaque in color.

C. Duct Tape: Provide duct tape in 2” or 3” widths as indicated with an adhesive which is formulated to aggressively stick to sheet polyethylene.

D. Spray Cement: Provide spray adhesive in aerosol cans which is specifically formulated to
E. **Disposal Bags**: Provide 6 mil thick leak-tight polyethylene bags labeled with one of the two labels with text as follows:

**FIRST LABEL:**

CAUTION
CONTAINS ASBESTOS FIBERS
AVOID OPENING OF BREAKING CONTAINER
BREATHING ASBESTOS IS HAZARDOUS TO YOUR HEALTH

**SECOND LABEL:**

DANGER
CONTAINS ASBESTOS FIBERS
AVOID CREATING DUST
CANCER AND LUNG DISEASE HAZARD
BREATHING AIRBORNE ASBESTOS, TREMOLITE, ANTHOPHYLITE OR ACTINOLITE FIBERS IS HAZARDOUS TO YOUR HEALTH

F. **Lock-back Encapsulant**: Use a Lock-Back Encapsulant that satisfies NESHAPS 40 CFR 61, Subpart M.

**2.02 OTHER PRODUCTS**

Other products may be used as long as they comply with NESHAPS 40 CFR 61, Subpart M and 29 CFR 1910.1200.

**2.03 SUBSTITUTIONS**

The materials, solvents, products and equipment described in this Work Plan establish a standard of required function, performance, and quality. The Consultant will be informed of all chemicals planned for use on the site. No substitutions will be accomplished without specific approval of the Asbestos Consultant.

**PART 3 - EXECUTION**

**3.01 PROCEDURES (GENERAL)**

1. Perform pre-inspection of the work area with STC's Representative and discuss the use of any solvents for chemicals planned for use.

2. Install required barriers appropriate to site location and traffic volume. Outdoor work for removal of non-friable asbestos materials does not require complete isolation with critical barrier construction. Asbestos caution tape barriers to mark the work site, along with the required warning posters will be sufficient unless the non-friable asbestos becomes friable. Inside work requires the use of critical barriers on all windows, doors, HVAC ducts and any other openings as specified in Section 02010. For floor tile and mastic removal, as a minimum four (4) foot splash
guards may be utilized. A containment consisting of criticals and splash guards with decon and negative air is required. However, non-friable asbestos-containing resilient floor covering may be removed by any of the methods described in the document titled, "Recommended Work Practices For The Removal Of Resilient Floor Coverings", published by the Resilient Floor Covering Institute (RFCI) (1992). If any other method is used for removal other than the approved RFCI methods, or if the floor material is friable, or if the floor material becomes friable during the removal process, then compliance with all regulations that address the abatement of friable asbestos-containing materials and RACM is required. This will include the establishment of containment, the use of negative air, air monitoring and, in public buildings, licensed persons. However, RFCI methods are not recommended for areas larger than 200 ft².

3. Fit personnel who will remove the ACM with proper respiratory protection equipped with HEPA filters and disposal protective suits.

4. Wet methods will be utilized during all abatement activities. For wetting prior to disturbances of asbestos containing materials use either amended water or a removal encapsulant. Thoroughly wet the areas where fasteners (nails, screws, etc.) penetrate the ACM if present, for transite panel removal.

5. Remove ACM intact as much as feasible, utilizing methods which minimizes breakage and cutting. Component removal is always recommended.

6. Wet wipe the area previously covered by the ACM.

7. The removed ACM will be double bagged while wet, with the tops of bags pig-tailed, folded over and sealed with a minimum of three (3) wraps of duct tape. The bags will also be labeled as to Owner and location of asbestos removal. Or wrap the components in at least two (2) layers of 6 mil poly and seal with duct tape.

8. Carefully handle the ACM waste material in a manner to preclude breaking or tearing of the containment bags or poly wrap.

9. Store waste ACM and all wiping materials/swipe rags etc. in a secure location where bags will not be damaged nor scattered until ready for disposal.

10. Use a "lock-back" encapsulant on the areas where the asbestos has been removed.

11. Notify the Owner's Representative when the abated area is ready for a visual inspection.

12. Dispose of ACM material in accordance with Section 02020.

13. Complete manifests will be provided along with the Contractors report of activities to the Owner's Representative for final report preparation.
14. Turn off all lights before leaving any facility for the night.

3.02 FLOOR TILE/MASTIC

If mechanical methods are utilized for abatement, then follow the procedures specified for "friable" material removal in Section 02010. If RFCI methods are approved for small areas, removal will be in accordance with published RFCI procedures. If ARC 22 procedures are utilized, follow these procedures.

3.03 DEVIATIONS

Any deviations from the above procedures must be approved by the Consultant.

-END OF SECTION-