



**SPECIAL ADMINISTRATIVE BOARD OF THE TRANSITIONAL SCHOOL
DISTRICT OF THE CITY OF ST. LOUIS**

**RFP TITLE: Roosevelt Replacement Doors leading to Cafeteria
PS102-1213**

DATE OF ISSUANCE: January 25, 2013

**MANDATORY BIDDER'S
CONFERENCE:**

Roosevelt 3230 Hartford St. February 1, 2013 3:30 PM

Meet outside the building and wait for CM representative to direct the walk through.

Do not enter the building until the CM representative arrives.

FINAL QUESTIONS DUE: February 8, 2013, 4:00 P.M.

BID DUE DATE: February 19, 2013, 10:00 A.M.

**SUBMIT TO: Purchasing Office of the St. Louis Public Schools
Second Floor – Cashier's Window
801 North 11th Street
St. Louis, Missouri 63101**

LOCATION OF BIDDER'S CONFERENCE: See above

Number of copies required: five (5) marked "Copies", one (1) marked "Original", and one (1) copy on electronic CD. Each original and copy are to have tabs corresponding to the required sections listed in this RFP, as appropriate. Original and copies are to be submitted in 3-ring binders or binding of some fashion.

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Section 1. INTRODUCTION AND ANNOUNCEMENT FOR SEALED PROPOSALS

INTRODUCTION:

The Special Administrative Board of the Transitional School District of the City of St. Louis (d/b/a St. Louis Public School System) (the “District”) wishes to contract with a firm to provide **Replacement Doors for Roosevelt Cafeteria** for the St. Louis Public Schools as noted in the scope. The project has been scheduled for the installation to be performed in 1st and 2nd shifts to prevent interference with class. A directed design-build approach will be utilized for this project with the successful General Contractor(s) functioning as the Prime Contractor.

NOTICE TO BIDDERS:

Copies of this RFP # PS102-1213 **Replacement Doors for Roosevelt Cafeteria** may be obtained from the District’s website at www.slps.org under “Shortcuts”, “Purchasing / RFPs”, or from the Purchasing Department, St. Louis Public Schools, 801 North 11th Street, St. Louis, MO 63101.

The District reserves the right to accept or reject any or all Proposals (as hereinafter defined) and to waive any irregularities. The District also reserves the right to negotiate with selected firms regarding pricing and fee structures. All information included in a Proposal may be incorporated into the contract to be entered between the District and the successful Bidder (as hereinafter defined). Any contract awarded as a result of this RFP will be awarded without discrimination on the basis of race, color, religion, age, sex, sexual orientation or national origin.

Section 2. Not Used

Section 3. INSTRUCTIONS TO BIDDERS/GENERAL INFORMATION

Form of Submissions. Each person or entity submitting a response to this RFP (each “Bidder”) should prepare and submit their proposal in response to this RFP (“Proposal”) in a sealed envelope or box. **The Proposal shall include one (1) original, five (5) copies and one (1) electronic Proposal on CD.** The upper left hand corner of the package (envelope or box) shall be plainly marked as **RFP # PS102-1213, Replacement Doors for Roosevelt Cafeteria**

3.1 The proposal, along with the firm name and the package shall be addressed to:

**Purchasing Office of the St. Louis Public Schools
Second Floor – Cashier’s Window
801 North 11th Street
St. Louis, MO 63101**

- 3.2 Manner of Submission** – The sealed Proposal must be received at the address listed in Section 3.1 on or before February 19, 2013 at 10:00 A.M.. Each Proposal will be date and time stamped upon receipt at the Cashier's Window. Proposals received after that date and time will not be considered and will remain unopened. Proposals must be filled out as requested including all required signatures and pertinent information. Failure to do so is reason for rejection of the Proposal. If Bidder is a corporate entity, the entity's name must be correctly stated, and the Proposal must include the state of incorporation of such entity, and, if a foreign entity, proof of registration to transact business in the state of Missouri. A person with the authority to act on behalf of the entity (i.e. an authorized agent of the entity) must sign his or her name on the Proposal.
- 3.3 Format of Proposal** - Each Proposal must include the information required in Section 5. Each required response listed in Section 5 shall be included as a required document with Attachment B.
- 3.4 Questions About this RFP** - All questions regarding this RFP shall be made electronically via e-mail in writing and directed to Rick Schaeffer at rick.schaeffer@slps.org. The subject of the e-mail shall be "QUESTION - RFP# PS102-1213". Failure to provide the correct RFP number in the email will deem the question unanswerable and will not be considered as part of any addenda. Any questions submitted after the dates and times listed on the first page above shall not be considered or answered. Questions properly submitted in writing prior to the due date will be addressed at the Bidder's Conference (as hereinafter defined) at the date and time set forth on the first page and will be handled pursuant to Section 4. Answers to all properly submitted written questions will be posted on the District's website at www.SLPS.org as addenda no later than three (3) business days prior to the Proposal Due Date.
- 3.5 Addenda** - The District may revise this RFP by issuing written addenda. Addenda will be posted to the District's website at www.SLPS.org under "Shortcuts", "Purchasing / RFPs". Interested persons or entities are encouraged to check the District's website frequently for addenda to this RFP. Bidders are responsible for viewing and understanding information in addenda to the same extent as the RFP. The District has no obligation or duty to communicate addenda to Bidders beyond the posting of addenda on its website.
- 3.6 Awards** – All Proposal selections must be approved by the Special Administrative Board prior to an award being final. Awards will be made to the lowest responsible bidder complying with the terms of these specifications, except

that the right is reserved by the District to make such selection, as in its judgment, is best suited for the purpose intended. Notwithstanding anything contained herein to the contrary, a contract shall not exist between the District and the selected Bidder until: A) such agreement has been duly authorized and approved by the Special Administrative Board; and B) the agreement has been documented in accordance with Missouri Revised Statutes Section 432.070. After approval by the Special Administrative Board, all awards will be posted on the District website. A contract awarded pursuant to this RFP may not be assigned to any other entity without the express written authorization of an authorized agent of the District.

- 3.7 Rejection of Proposals** – The District reserves the right to accept or reject any Proposal or any part of any Proposal.
- 3.8 Submitted Proposals Considered Final** – All Proposals shall be deemed final, conclusive and irrevocable, and no Proposal shall be subject to correction or amendment for any error or miscalculation.
- 3.9 Form of Contract** – Each successful Bidder shall be required to enter a contract in the form prescribed by the District. Templates of certain form contracts may be examined at the Department of Purchasing, 801 North 11th Street, St. Louis, MO 63101 or may be found on the District’s website at www.SLPS.org under “Shortcuts”, “Purchasing / RFPs”, “Contract Templates”. The District reserves the right to revise such templates or present a contract not contained within the template forms on the District’s website, in its sole and absolute discretion, to fit the unique situation presented by this RFP.
- 3.10 Preference for Missouri Products** – The District prefers to purchase those materials, products and supplies, which are produced, manufactured, compounded, made or grown, within the State of Missouri. When they are found in marketable quantities in the State of Missouri, and are of a quality suited to the purpose intended, and can be secured without additional cost over out-of-state products. Quality and fitness of articles will be considered in making purchases or letting contracts.
- 3.11 Bond** – A Bid Bond or Certified Check made payable to the school district, in the amount of 5% of the Base Bid shall accompany the following Bid Packages as a guarantee that the bidder, if awarded the Contract, will furnish a 100% Performance and Payment Bond; execute the Contract; and proceed with the work. Upon failure to do so, he shall forfeit the deposit or amount of the Bid Bond as liquidated damages, and no

mistakes or errors on the part of the Bidder shall excuse the Bidder or entitle him to a return of the deposit or Bid Bond. The bonds must be written by a Corporate Surety Company that is acceptable to the District and that meets the following minimum standards:

- a. Licensed pursuant to the Missouri Insurance Code
- b. Listed on the United States Department of the Treasury's Listing of Approved Sureties (Dept Circular 570) in the amount of \$5,000,000.
- c. The Bid Bond shall be valid for one hundred twenty (120) days following the deadline for submission of proposals.
- d. The Bid Bond must be accompanied by an original signed and notarized Power-of-Attorney bearing the seal of the issuing surety company and reflecting that the signatory to the bond is a designated Attorney-in-Fact.
- e. All bonds must be written by an insurance company that is rated in the A.M. Best key Rating Guide – Property & Casualty with a policy holder's rating of "A-" or better and a Financial size category of Class VII or larger.

3.12 Taxes – Bidders shall NOT INCLUDE FEDERAL EXCISE TAX, TRANSPORTATION TAX, and/or STATE RETAIL TAX in the Proposal, as these taxes do not apply to the District.

3.13 War Clause – In the event that during the existence of a state of war, the United States Government takes over the plant of any manufacturer with whom the contractor has therefore contracted to furnish the articles required under his contract with the District, or any essential element thereof, and because of such action of the government, the contractor may furnish and deliver the articles required under the contract.

3.14

Purchasing Card ("P Card") – The St. Louis Public School District is now processing vendor payments through a Purchasing Card ("P Card") Program with MasterCard. The "P Card" Program is a more simplified, efficient and cost effective method of remitting payments for approved expenditures. This payment program provides a faster payment to the vendor without the cost of check processing.

For purchases of goods and materials, the "P Card" is the SLPS preferred method of payment and the District reserves the right to make usage of the "P Card" a requirement. Acceptance of the "P Card" is one of the evaluation criteria that will be used in the review of vendor responses to this RFP (See Section 6.1).

- 3.15 Compensation** – Bidders are cautioned that items and/or services must be furnished at the price submitted. No increase in price will be permitted during the term of the contract.
- 3.16 Grievances** - Any complaints or grievances concerning or arising out of this RFP shall be submitted in writing to Purchasing Office of the St. Louis Public Schools, 801 North 11th Street, St. Louis, MO, 63101, with a copy to Office of the General Counsel, c/o the Superintendent of Schools, 801 North 11th Street, St. Louis, MO 63101.

Section 4. BIDDER’S CONFERENCE

- 4.1** Interested persons or entities must attend the **mandatory** pre-submittal bidder’s conference (the “Bidder’s Conference”). Attendance is mandatory for responding to this RFP. At the Bidder’s Conference, a representative from the District will be available to answer **questions properly submitted in writing** pursuant to the process set forth in Section 3.4 above. Meeting minutes will be taken during the question and answer portion of the Bidder’s Conference and posted on the website as an addendum to the RFP pursuant to Section 3.4.
- 4.2** Please RSVP via email Rick Schaeffer at rick.schaeffer@slps.org on or before February 1, 2013 if you plan to attend the bidder’s conference for this RFP. The subject of the e-mail shall be “BIDDER’S CONFERENCE RSVP – RFP# PS102-1213”.
- 4.3** No communication shall be made with any District employee, other than Rick Schaeffer, regarding this RFP. Violation of this provision may result in the rejection of Proposal.

Section 5. THE PROPOSAL

- 5.1** The Scope of Services for this RFP is set forth in Attachment A.
- 5.2 Part I – Qualifications/Certifications/Resume and Operations Plan with Technical Proposal**
The following information should be provided in Part I of the Proposal. The documents should be clearly marked: “Part I – Qualifications”

5.2.1 Bidders should provide detailed information addressing each of the following areas:

5.2.1.1 Licensing and certification in the field of the requested services;

5.2.1.2 Any citation or discipline action taken against the respondent by a licensing board or association related to the field of the requested services which is pending or has been resolved within the past 12 months;

5.2.1.3 Information regarding law suits relevant to the requested services that are pending or have been resolved within the past 12 months.

5.2.1.4 Failure to be forthright in disclosure shall be grounds for disqualification of a vendor. This section shall not be interpreted to require the disclosure of information shielded from disclosure by State or Federal Statutes and/or court order.

5.2.2 Please respond briefly, but completely, to the following:

5.2.2.1 Person/Entity Name

5.2.2.2 Address

5.2.2.3 Name and Title of Authorized Representative

5.2.2.4 Telephone Number

5.2.2.5 Fax Number

5.2.2.6 Email Address

5.2.2.7 Include the above information for each person/entity that is part of the project team for this Proposal

5.2.3 Bid Response Elements

5.2.3.1 Entity Qualifications

5.2.3.2 References (other school districts where possible)

5.2.3.3 Brief description of entity's experience with providing the requested services

5.2.3.4 Copies of Licenses and Certifications (including, but not limited to, license to conduct business in the City of St. Louis, Missouri)

5.2.3.5 Provide a brief summary of the primary role(s) and resumes describing the background and qualifications of each member of the project team for this Proposal.

5.3 Part II – Cost/Pricing Proposal

The following information should be provided in Part II of the Proposal. The Proposal should be clearly marked: "Part II – Cost/Pricing Proposal"

- 5.3.1 Attachment B – Cost/Pricing Proposal must be used as the first page for this Part II.
- 5.3.2 Outline specifically the cost/pricing proposal for the fees and reimbursable expenses proposed. This proposal should include the method of pricing as well as the proposed fees/costs.
- 5.3.3 The Cost/Pricing proposal should be specific, and the detail of the cost/pricing should give the District a clear picture of overall costs as well as pricing criteria.

5.4 Part III –Required Documents

The following information should be provided in Part III of the Proposal. The Proposal should be clearly marked: "Part III – Required Documents"

- 5.4.1 Attachment B – Cost / Pricing Proposal
- 5.4.2 Attachment C - Federal Work Authorization Program Addendum and Affidavit
- 5.4.3 Attachment D - Bidder Affirmation Form
- 5.4.4 Attachment E - Bidder Checklist
- 5.4.5 Attachment G – Non Discrimination Employment Forms
- 5.4.6 Statement of M/WBE Participation
- 5.4.7 Good Faith Efforts Report
- 5.4.8 Good Faith Efforts Statement
- 5.4.9 Bid Bond
- 5.4.10 List of Materials & Equipment Form
- 5.4.11 Construction Schedule generated on either Microsoft Project, Microsoft Visio Technical or Primavera Software
- 5.4.12 Complete listing of all proposed Sub-Contractors and suppliers
- 5.4.13 Listing of proposed Project Team Members and Qualifications (particularly the Design Engineer(s) and Project Manager(s) that will be assigned to the project(s).
- 5.4.14 Technical Proposal; including:
 - a. Detailed description of scope of work

All of the above information will be reviewed and evaluated during the bid evaluation process by the Owner.

Section 6. EVALUATION CRITERIA, PROCESS AND CONTRACT AWARD

- 6.1 Evaluation Criteria** - The following criteria will be used with the weighted values below to evaluate each Proposal received. The District reserves the right to request clarification to the Proposal in order to evaluate all proposals.

Evaluation Criteria	Points
Total Price and Cost Effectiveness of Proposal	40
M/WBE Participation	30
Prior working relationship with the District	10
Use of P Card Included in Pricing	10
Vendor's Experience and Demonstrated Expertise	10
Total Points Possible	100

- 6.2 Bid Opening** – All Proposals received on or before the Proposal Due Date and Time shall be assembled and opened publicly promptly at that time in the District Offices located at 801 North 11th Street, St. Louis, MO 63101 in a conference room to be designated. All interested parties are welcome to attend.
- 6.3 Evaluation** – The District will assemble a review committee to assist in evaluating all Proposals (the “Evaluation Team”). From this evaluation, the District may select a Bidder solely on the basis of submittals, or may additionally identify a short list of Bidders for possible interviews. The District may contact any or all respondents to clarify submitted information.

The Evaluation Team will consist of the following individuals:

Title
Exec. Director of Operations/Building Commissioner
Purchasing Representative
Proposition S Construction Management Team

- 6.4 Contracting** – Upon selection of a Bidder, the District will negotiate a scope of services and other terms and conditions of an agreement with the selected Bidder. If such negotiations are not successful, the District reserves the right to begin negotiations with other respondents.

Section 7. MINORITY PARTICIPATION

(See Attachment G for further information and District forms)

7.1 It is the policy of the District to pursue the goal of at least **40% Minority Business Enterprise (MBE) and 5% Women's Business Enterprise (WBE)** utilization in the provision of goods and services to the District while at the same time maintaining the quality of goods and services provided to the District through the competitive bidding process. It is the purpose of this policy to allow minority and women's business enterprises to expand their opportunities and capacities by participating in all District operated programs. The District also has a goal of **40% M/WBE field participation**. The District has developed a plan for participation in projects by minority business. This plan includes the following elements:

7.1.1 Outreach – A commitment to make every effort to inform contractors of pending contract opportunities through advertisements, workshops, brochures, and availability of plans.

7.1.2 Good Faith Effort – A commitment to verify contractor solicitations to ensure that sufficient time and information are available to make a responsible reply. Two forms in Attachment G must be filled out and submitted with the proposal. They are:

- Contractor's Good Faith Efforts Statement
- Contractor's Good Faith Efforts Report

7.1.3 Identification and Recruitment – A commitment to coordinate efforts with the City of St. Louis, Contract Office, in the development of potential minority contractor interest.

7.1.4 Monitoring and Reporting – A commitment to measure and report anticipated and actual MBE/WBE participation. (Monthly M/WBE Manpower Utilization Report, see attachment G)

7.2 Discrimination In Employment By the Special Administrative Board

7.2.1 During the performance of the contract, the SELECTED BIDDER agrees as follows:

7.2.1.1 The SELECTED BIDDER will not discriminate against any employees or applicants because of race, age, handicap, religion, gender, sexual orientation, national origin or ethnicity. The SELECTED BIDDER will take affirmative action to ensure that all qualified applicants will receive consideration for employment without regard to race age, handicap, religion, gender, sexual orientation, national origin or ethnicity.

7.2.1.2 The SELECTED BIDDER will, in all solicitations or advertisements for employees placed by or on behalf of the SELECTED BIDDER; state that all qualified applications will receive consideration for employment without regard to race age, handicap, religion, gender, sexual orientation, national origin or ethnicity.

7.2.1.3 The SELECTED BIDDER will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice advising that labor unions or workers representative of the Bidder's commitment under contracts with the District.

7.2.1.4 The SELECTED BIDDER will maintain and, upon request make available to the District all records and data necessary or useful to the review and monitoring of compliance with the non-discrimination clauses of this contract. In the event the SELECTED BIDDER fails or refuses to make such records available, this contract may be cancelled, terminated, or suspended in whole or in part by the District, and the SELECTED BIDDER may be declared ineligible for further District contracts or subject to such other sanctions as the District deems appropriate.

7.2.1.5 The SELECTED BIDDER's non-compliance with the non-discrimination clauses of this contract, the contract may be cancelled, terminated, or suspended in whole or in part by the District, and the SELECTED BIDDER may be declared ineligible for further District contracts or subject to such other sanctions as the District deems appropriate.

7.3 Minority and Women Owned Business Enterprise Policies

7.3.1 It is the policy of the District that minority and women-owned businesses shall have the maximum opportunity to participate in the performance of contracts utilizing District funds. MBE/WBE firms included in the respondent's submittal, either as prime consultants or subcontractors, must be certified by

one or more of the following agencies on or before the date of the submission of qualifications:

Missouri Division of Purchasing and Material Management

Online: For MBE's: <http://www.oa.mo.gov/>

For WBE's: <http://www.oa.mo.gov/>

Phone: (573) 715-8130

City of St. Louis: Disadvantaged Business Enterprise Program

Online: <http://www.mwdbe.org/>

Phone: (314) 551-5000

St. Louis Minority Business Council

Online: <http://www.slmbc.org/>

Phone: (314) 241-1143

7.32 See Attachment G for further information and District forms.

Section 8. RESERVATIONS / STIPULATIONS

- 8.1** The District reserves the right, at its sole discretion, to A) reject any or all submittals when, in its opinion, it is determined to be in the public interest to do so; B) waive minor informalities of a submittal; C) cancel, revise, or extend this solicitation; D) request additional information deemed necessary; and E) extract, combine, and delete elements of individual proposals and to negotiate jointly or separately with individual respondents with respect to any or all elements of the proposal.
- 8.2** This RFP does not obligate the District to pay any costs incurred by any respondent in the submission of a proposal or in making necessary studies or design for the preparation thereof, or for procuring or contracting for the services to be furnished under this RFP prior to the issuance of a valid contract under Missouri law. Such exemption from liability applies whether such costs are incurred directly by the Bidder or indirectly through the Bidder's agent, employees, assigns or others, whether related or not to the Bidder.
- 8.3** The District will give preference to firms based in the bi-state St. Louis metropolitan area when other considerations are equal.
- 8.4** Careful consideration should be given before confidential information is submitted to the District as part of this RFP Proposal. Review should include

whether it is critical for evaluating a bid, and whether general, non-confidential information, may be adequate for review purposes. Any and all documents submitted by the respondent may become public if and when they are submitted to any advisory or legislative public body, or pursuant to the Missouri Sunshine Law. The Missouri Sunshine Law provides for public access to information the District possesses. Information submitted to the District that Bidders wish to have treated as proprietary and confidential trade secret information should be identified and labeled “Confidential” or “Proprietary” on each page at the time of disclosure. This information should include a written request to except it from disclosure, including a written statement of the reasons why the information should not be disclosed.

8.5 Bidders acknowledge and agree, by submitting a Proposal, that:

- 8.5.1 Once a Bidder is selected for the engagement, all electronic, written and printed materials developed by such Bidder as a result of this engagement shall become the property of the District, and the District shall be entitled to use any and all such materials in any way desired by the District, in its sole and unfettered discretion.
- 8.5.2 The qualifications of each member of the respondent team are important criteria in the selection process. The selected Bidder will not be allowed to substitute any member of the team listed in the Proposal without prior written approval by the District. The District, in its sole and absolute discretion, reserves the right to accept or reject proposed changes to the team and personnel associated with the team and/or to negotiate the composition of the team.
- 8.5.3 Adherence to the schedule for the work is of critical importance to the District as time is of the essence, and agrees to dedicate the personnel listed in the Proposal to completing the work in accordance with the schedule outlined in this RFP. Bidders further acknowledge that the contract for the engagement may include significant liquidated damages for failure to perform in accordance with such schedule.
- 8.5.4 To having read this RFP in its entirety and agreeing to all terms and conditions set out in this RFP. Bidders also accept the responsibility to review and understand all applicable policies of the District, which may be found on the District’s website www.slps.org under “Shortcuts”, “Board Policies”.

- 8.5.5 The District, and any consultants retained by the District, have the right to make any additional inquiry or investigation they deem appropriate to substantiate or supplement information contained in respondent's submission, and authorize the release to the District and/or the District consultants of any and all information sought in such inquiry or investigation.
- 8.5.6 Under penalty of perjury, that to the best of his/her belief: A) the prices in the Proposal were arrived at independently and without collusion, consultation, communication, or agreement for the purpose of restricting competition as to any matter or agreement for the purpose of restriction competition as to any matter relating to such prices with any other Bidder, or any other competitor; B) unless otherwise required by law, the prices in this Proposal have not been knowingly disclosed by the Bidder, and will not be knowingly disclosed by the Bidder, prior to opening, directly or indirectly, to any other Bidder or competitor; and C) no attempt has been made or will be made by the Bidder to induce any other person, partnership, corporation, or entity to submit or not to submit a proposal in response to this RFP for the purpose of restriction competition.
- 8.5.7 It is not delinquent in any real estate, personal property, or earning taxes assessed against it or which it is obligated to pay to St. Louis, Missouri.
- 8.5.8 No fictitious name of any entity or person has been used in this Proposal, and no unidentified third-party will have an interest in any resulting contract or in the performance of any work under this Proposal.
- 8.5.9 It does not do business as or operate under any fictitious name.
- 8.5.10 It has only presented one Proposal in response to this RFP.
- 8.5.11 The Proposal is made in good faith.
- 8.5.12 It's affiliates, subsidiaries, officers, directors, employees, and all team members listed in the Proposal have not been convicted of a felony within the last five (5) years, which felony is related in any way to providing the services and/or items referenced in this RFP, or to the competency of the service provider to perform under any resulting contract.
- 8.5.13 It's affiliates, subsidiaries, officers, directors, employees, and all team members listed in the Proposal are not currently under investigation by any

governmental agency and have not in the past four (4) years been convicted or found liable for any act prohibited by state or federal law in any jurisdiction, including conspiracy or collusion with respect to responding to any public contract.

- 8.5.14 It's affiliates, subsidiaries, officers, directors, employees, and all team members listed in the Proposal have not been excluded from any procurement or non-procurement programs with the government as identified by the U.S. General Service Administration Office of Acquisition Policy.
- 8.6** Any misrepresentations or false statements contained in a response to this RFP or to any request for additional information related to this RFP, whether intentional or unintentional, shall be sufficient grounds for the District to remove respondents from competition for selection at any time.
- 8.7** Bidders shall ensure that no improper, unethical, or illegal relationships or conflicts of interest exist between the Bidder, any employee, officer, director, or principal of the Bidder or District and any other party. The District reserves the right to determine the materiality of such relationships, when discovered or disclosed, whether intended or not. The District also reserves the right to decide in its sole and absolute discretion whether disqualification of the Bidder and/or cancellation of the award shall result. Such disqualification or cancellation shall be without fault or liability to the District. In the event that the District disqualifies a Bidder based on such an improper communication or relationship, and that Bidder's Proposal would have otherwise been considered the lowest responsible bid complying with the terms of these specifications, the District reserves the right to select as the winning Proposal the next most qualified responsible bidder complying with the terms of these specifications.
- 8.8** Bidders agree that they will comply with all applicable federal, state, and local laws, regulations, ordinances, and other requirements that apply to the scope of work in this RFP, including, but not limited to, all reporting and registration requirements. Bidders further agree that this RFP and any contract awarded pursuant to it will be governed under the laws of the State of Missouri.

Section 9. FEDERAL WORK AUTHORIZATION PROGRAM (“E-VERIFY”)

Pursuant to Missouri Revised Statute 285.530, all Bidders awarded any contract in excess of five thousand dollars (\$5,000) with a Missouri public school district must, as a condition to the award of any such contract, be enrolled and participate in a federal work authorization program with respect to the employees working in connection with the contracted services being provided, or to be provided, to the District (to the extent allowed by E-Verify). In addition, the Bidder must affirm the same through sworn affidavit and provisions of documentation, and sign an affidavit that it does not knowingly employ any person who is an unauthorized alien in connection with the services being provided, or to be provided, to the District. Such agreement and affidavit is included as Attachment C to this RFP.

ATTACHMENT A- SCOPE OF WORK

RFP#102 -1213

SCOPE AND SPECIFICATIONS

Bid Package RFP PS 102 Roosevelt Replacement Doors leading from Cafeteria

1. All work on site is to be performed safely in accordance with all OSHA standards. It is the responsibility of this contractor to enforce its safety program.
2. No contractor will be allowed to operate in an unsafe manner. Any designated Saint Louis Public School District Operation Manager and/or Construction Manager Representative shall stop any work activity by contractor employees that presents a serious safety hazard. Any costs incurred as a result of non-compliance will be borne by the contractor. Repeated non-compliance may result in the removal of employees from the project. Continual non-compliance may result in contract termination.
3. The school district has a ZERO tolerance of sexual harassment of its contractors in any form and requires that all contractors avoid all offensive or inappropriate sexually harassing behavior. The school district prohibits the following towards, students, staff and visitors; unwelcome sexual advances; request for sexual favors, verbal or physical conduct of a sexual nature, unwelcomed verbal or physical conduct that creates an intimidating, hostile or offensive environment for the school districts staff, students and visitors. Any person in violation will be immediately removed from the jobsite.
4. This contractor shall submit pre-construction photos to the Saint Louis Public School District Operation Manager and/or Construction Manager prior to any demolition or construction work. The photos should show existing conditions of adjoining construction that might be misconstrued as damage caused by current construction operation.
5. All contractor employees will be required to provide the School District's Construction Manager, a background check that identifies at a minimum, persons under suspicion of, charged with, or convicted of child abuse, or sex offender relate offenses and fingerprinting. Employees whose background reports indicate such activity shall not be allowed on school premises. The cost of securing criminal background checks shall be borne by each respective contractor or subcontractor affected by this specification. **The contractor must furnish this background report to the Construction Manager prior to being admitted to the school premises.**

6. This contractor will be required to submit drug testing results for all employees and subcontractors working onsite within the past six months. This project prohibits the unlawful possession, use or distribution of controlled substances and alcohol and prohibits employees and employees of subcontractors from being under the influence of such controlled substances or alcohol on the jobsite. This contractor shall provide drug testing of its employees and employees of its subcontractors on a pre-employment, post accident or for cause basis. All drug negative testing results will be required before an employee or an employee of a subcontractor can perform any work onsite. The minimum screenings are as follows; **Drug Description** ; Amphetamines, Barbiturates, Benzodiazepines, Cocaine Metabolite, Marijuana Metabolites, Methadone, Methaqualone, Opiates, Phencyclidine (PCP), Propoxyphene, Alcohol.
7. This contractor must abide by the Saint Louis Public School District's discrimination policy for the duration of this project.
8. This contractor will be allowed to place the following maximum percentages of mark-up for profit and overhead for extra work performed; **Labor (10%), Material (10%), Subcontract (5%) and Equipment (5%). Unit rates and hourly rates, if requested, should include the noted percentages as part of the hourly or unit rate.**
9. This contractor must submit for approval a site logistics plan that outline exit paths from the building in case of an emergency, material storage and laydown area, dumpster location, proposed contractor parking, etc.
10. **ALL WORK WILL GENERALLY BE SCHEDULED AFTER SCHOOL HOURS. CONTRACTORS SHOULD CONFIRM THIS INFORMATION PRIOR TO SUBMITTING THEIR BID.**
11. During construction, each contractor must direct all correspondence to the Construction Manager for distribution to the school district.
12. Each Contractor is responsible for reviewing the Project Schedule for timing of delivery of equipment and materials to the jobsites. This includes accounting for material escalation costs associated with material to be installed as well as potential labor rate increases.
13. Consumption of alcohol on this site will not be permitted. The Construction Manager reserves the right to remove anyone from this site for consumption of alcohol.
14. No smoking or tobacco products will be allowed on school property. The Construction Manager reserves the right to remove anyone from this site for smoking on school property. Reference Attachment K for district policy.
15. Firearms are not permitted on the school district's property.

16. The Contractor shall be represented at the site by a competent full-time superintendent/foreman or other person empowered to act on behalf of the contractor from beginning of the work until acceptance unless otherwise instructed by the Saint Louis Public School District Operation Management Team or the Construction Manager.
17. The Contractor shall submit a Daily Manpower Report in PROLOG to the Construction Manager. This report shall include a brief description of the Contractor's activities for the day and a manpower count for both the Contractor and any Sub-subcontractors which highlights sex and race of all workers.
18. Each Contractor shall submit to the Construction Manager each month a requisition for payment on a pre-approved schedule of values. This requisition shall be incorporated into an AIA document G702 and G703 form and is due on the 25th of each month. The pay request shall also include a certified payroll for all workers onsite. The certified payroll must include the worker name, address, sex and race. Also, partial/final lien waivers must be submitted as required.
19. This contractor shall submit for approval a method for identifying their workers working onsite that have been approved by the school district to work onsite. Approved workers include workers that have submitted a complete and approved background check and a negative drug test.
20. This contractor shall include in its bid price and allowance for \$1,000.00 for the purchase of Prolog Construction Management Software Licenses. Each contractor will be required as part of their contract to implement Prolog to track all construction activities with Prolog. This includes but is not limited to; RFI tracking, meeting minutes, submittals, pay requests, daily reports, etc.
21. This contractor shall provide temporary floor protection of all existing flooring and surrounding surfaces. All dust and debris created by this scope of work shall be cleaned to its original condition by this contractor prior to the school districts acceptance.
22. This contractor shall coordinate all proposed demolition work with the District's environmental consultant 60 days prior to the scheduled activity. The District's environmental consultant is Mr. Jeffrey Faust and his contact information is: 314-581-1024 jeff@environmentalconsultantsllc.com.

Specific Requirements

1. Specifications included but are not limited to the following sections;
 - a. See Below
2. This contractor shall include in its bid all costs for material, labor, and equipment necessary to design, build, and furnish this work to school district specifications and standards. All designs, as

required by the Saint Louis Public School District Operations Managers, Construction Manager and authorities having jurisdiction, must be signed and sealed by a licensed engineer approved for this type of design in the state of Missouri.

3. This contractor is responsible for any and all costs and procurement of permits and city licenses required for this work. This contractor shall coordinate all applicable permit inspections as required for the activities included in this work package.
4. This contractor shall include in its bid all costs for material, labor, and material necessary to provide all layout and field verification for this work.
5. This contractor shall provide final cleaning of all rooms prior to owner acceptance.
6. This contractor shall include in its bid all costs for clean up, dumpsters and/or containers, haul off, and proper disposal of debris created by this scope of work. All areas should be kept clean on a daily basis. If required, this contractor is responsible for any permits required with the city to provide dumpsters on surrounding streets or school property.
7. All painted surfaces in buildings constructed prior to 1980 should be assumed to contain lead within the paint. In areas where children under the age of 7 congregate, SLPS has developed a Lead Program to properly address lead-based paint concerns. Work within these areas will be handled by specialized contractors in strict compliance with regulatory standards designed to limit exposure to lead dust.

In other areas of the buildings, tradesmen are expected to conduct their craft in accordance with applicable standards to include, but not necessarily limited to, The Occupational Safety and Health Administration (29 CFR 1926.62), The United States Environmental Protection Agency Renovation, Repair and Painting (RRP) Rule, and the Missouri Department of Natural Resources.

SLPS will not consider change orders for compliance with these rules.

If contractors encounter a potential jobsite hazard, they immediately will stop work and notify SLPS or the Construction Manager as appropriate.

DETAILED SCOPE OF WORK

PS 102-1213: ROOSEVELT HIGH SCHOOL: REPLACEMENT OF DOORS LEADING FROM CAFETERIA

A. General Overview:

1. This project consists of providing Design-Build Services to replace 5 sets of double-doors, leading from the cafeteria, to north and south corridors.

B. Door Data

1. Plane sliced red oak wood doors are required
2. All doors shall swing near 180 degrees
3. The doors shall be smoke controlled - 20 minutes.

C. Hardware

1. Doors 1 and 5: Two (2) Von Duprin 98 27 LF LBRxUS10.
Two (2) Von Duprin 98 27 DT F LBRxUS10.
992L Lever Trim Set for RHRB Door
2. Doors 2, 3 and 4: Three (3) Von Duprin 98 L F US10.
Three (3) Von Duprin 98 DT F US10.
Three (3) Von Duprin Removable Mullions.
992L Lever Trim Set for RHRB Door
3. Five (5) Best Rim Cylinders x US10
4. Thirty (30) Hinges x US10A (5" x 5")
5. Ten (10) LCN 4041, Non-hold open closers
6. Twenty (20) Kick Plates (16"x28")

D. Field Survey and Submittals:

1. The Design-Builder must visit site to obtain field dimensions of the existing door openings
2. The Owner is not responsible for providing existing drawings to the design-builder.
3. It is the responsibility of the design-builder to survey the project site and generate all necessary drawings for approval.
4. The Design-Builder must submit an approved submittal list for review, inclusive of and not limited to the following:
 - i. Drawings
 - ii. Hardware
 - iii. Doors
 - iv. Frames

E. Project Location

1. The location where the work will take place is **Roosevelt High School**,
3230 Hartford Street, St. Louis MO 63118.

F. Scope of Work

1. Remove existing doors, frames and hardware.
2. Install new wood doors and hollow metal frames.
3. Paint new door frames
4. Install door hardware

These documents serve as a project description and performance requirements for the work. The documents are not exhaustive and include delegated design in order to meet the full intent of the improvements and provide the Owner with complete and functioning facilities.

END OF SPECIFICATION

Note: Work to be completed on 2nd shift when school is in session and 1st shift when school is closed during winter and summer breaks.

FLUSH WOOD DOORS SPECIFICATIONS

PART 1 - GENERAL

1.1 SUMMARY

- A. This Section includes solid core wood doors with wood veneer faces.
- B. Factory finishing of flush wood doors.
- C. Factory machining for hardware.

1.2 SUBMITTALS

- A. Product data for each type of door, including details of core and edge construction, trim for openings and factory-finishing specifications.
- B. Shop drawings indicating location and size of each door, elevation of each kind of door, details of construction, location and extent of hardware blocking, fire ratings, requirements for veneer matching and factory finishing and other pertinent data.
 - 1. For factory-machined doors, indicate dimensions and locations of cutouts for locksets and other cutouts adjacent to light openings.
- C. Samples for initial selection in the form of color charts consisting of actual materials in small sections for the following:
 - 1. Faces of factory-finished doors with transparent finish. Show the full range of colors available for stained finishes.
 - 2. Certification of Veneer to be submitted in writing by Wood Veneer manufacturer that the face veneers are the grade specified. Certification to be submitted accompanied by Door manufacturer statement that doors are faced with specified veneers.
- D. Samples for verification - Provide form and size indicated below:
 - 1. Provide 4 sets of two samples of unfinished veneer mounted on plywood approximately 12 inches (300 mm) square illustrating expected range of veneer color and grain illustrating allowable inclusions, mineral streaks, vinemarks cross bars, birdseye, sugartracks, wormtracks gumpockets barkpockets and other imperfections. Architect shall judge the acceptable variations to be slight or occasional.
 - 2. Provide 4 sets of two samples the Corner sections of doors approximately 12 inches (300 mm) square with door faces depicting door construction and edgings and representing the typical range of door finish color for each species of veneer and solid lumber required. Finish sample with same materials proposed for factory-finished doors.
 - 3. One Approved set of each type of samples shall be retained and serve as range samples for wood veneer grade and finish. Doors delivered to project but not falling within range shall not be acceptable.
 - 4. Frames for light openings, 6 inches (150 mm) long, for each material, type, and finish required.

1.3 QUALITY ASSURANCE

- A. Quality Standard: Comply with the following standard:
 - 1. WDMA; "Window and Door Manufacturing Association" WDMA I.S. 1A-04 for grade of door, core, finish, construction, and other requirements.
- B. Fire-Rated Wood Doors: Provide wood doors that comply with NFPA 252; are identical in materials and construction to units tested in door and frame assemblies per ASTM E 152; and are labeled and listed by UL, Warnock Hersey, or another testing and inspection agency acceptable to authorities having jurisdiction.
- C. Single-Source Responsibility: Obtain flush wood doors from one source and by a single manufacturer.

1.4 DELIVERY, STORAGE, AND HANDLING

- A. Protect doors during transit, storage, and handling to prevent damage, soiling, and deterioration. Comply with requirements of referenced standard and manufacturer's instructions.
- B. Identify each door with individual opening numbers as designated on shop drawings, using temporary, removable, or concealed markings.

1.5 PROJECT CONDITIONS

- A. Conditioning: Do not deliver or install doors until conditions for temperature and relative humidity have been stabilized and will be maintained in storage and installation areas during the remainder of the construction period to comply with the following requirements applicable to Project's geographical location:
 - 1. WDMA I.S. 1A-04: J-1 Job Site Information.

1.6 WARRANTY

- A. General Warranty: Door manufacturer's warranty specified in this Article shall not deprive the Owner of other rights the Owner may have under other provisions of the Contract Documents and shall be in addition to, and run concurrent with, other warranties made by the Contractor under requirements of the Contract Documents.
- B. Door Manufacturer's Warranty: Submit written agreement on door manufacturer's standard form signed by manufacturer, Installer, and Contractor, agreeing to repair or replace defective doors that have warped (bow, cup, or twist) more than 1/4 inch in a 42-by-84-inch section or that show telegraphing of core construction in face veneers exceeding 0.01 inch in a 3-inch span, or do not conform to tolerance limitations of referenced quality standards.
 - 1. Warranty shall also include installation and finishing that may be required due to repair or replacement of defective doors where defect was not apparent prior to hanging.
 - 2. Warranty shall be in effect during the Life of Installation after date of Substantial Completion.

PART 2 - PRODUCTS

2.1 MANUFACTURERS

- A. Acceptable Manufacturer: Subject to compliance with requirements, provide doors by one of the following manufacturers. Products of listed manufacturers which do not meet all specified requirements will not be acceptable.
 - 1. Algoma Hardwoods Inc.
 - 2. Eggers Industries; Architectural Door Div.
 - 3. Graham Wood Doors
 - 4. IPIK Door Company.
 - 5. VT Industries Inc.

2.2 INTERIOR FLUSH WOOD DOORS

- A. Fire-Rated Solid Core Doors: Comply with the following requirements:
 - 1. Faces and Grade: Provide faces and grade to match non-fire-rated doors in same area of building, unless otherwise indicated.
 - 2. Construction: Manufacturer's standard core construction as required to provide fire-resistance rating indicated.
 - 3. Blocking: Provide optional composite blocking designed to maintain fire resistance of door but with improved screw-holding capability of same thickness as core. Locate blocking at all hardware points.
 - 4. Coordinate blocking requirements with hardware locations.
 - 5. Edge Construction: Provide manufacturer's standard laminated-edge construction for improved screw-holding capability and split resistance as compared to edges composed of a single layer of treated lumber.
 - 6. Pairs: Equip fire-rated pairs receiving exit devices with edges which are labeled and listed for kinds of applications indicated without overlapping astragals.

2.3 VENEER MATCHING

- A. Within Door Faces: Provide doors with the following veneer matching:
 - 1. Book matching.
- B. Pairs and Sets: Provide pair matching and set matching for pairs of doors and for doors hung in adjacent sets.

2.4 LIGHT FRAMES

- A. Metal Frames for Light Openings in Fire Doors: Manufacturer's standard frame formed of 0.0478-inch-thick cold-rolled steel sheet, factory primed, and approved for use in doors of fire rating indicated.

2.5 FABRICATION

- A. Fabricate flush wood doors to comply with following requirements:
- B. Factory fit doors to suit frame-opening sizes indicated, with the following uniform clearances and bevels:
 - 1. Comply with clearance requirements of referenced quality standard for fitting. Comply with requirements of NFPA 80 for fire-resistance-rated doors.
- C. Factory machine doors for hardware that is not surface applied. Locate hardware to comply with DHI-WDHS-3. Comply with final hardware schedules, doorframe shop drawings, DHI A115-W series standards, and hardware templates.
 - 1. Coordinate measurements of hardware mortises in metal frames to verify dimensions and alignment before proceeding with factory machining.
- D. Openings: Cut and trim openings through doors to comply with applicable requirements of referenced standards for kind(s) of door(s) required.
 - 1. Light Openings: Trim openings with specified light frames.

2.6 FACTORY FINISHING

- A. General: Comply with referenced quality standard's requirements for factory finishing.
 - 1. Finish wood doors at factory.
- B. Transparent Finish: Comply with requirements indicated for grade, finish system, staining effect, and sheen.
 - 1. Grade: Premium, Grade 'A' face veneer.
 - 2. Finish: System 11 catalyzed polyurethane.
 - 3. Staining: Equal to VT Industries "Savanna Finish SA07".
 - 4. Effect: Open-grain finish.
 - 5. Sheen: Satin, no more than 40

PART 3 - EXECUTION

3.1 EXAMINATION

- A. Examine installed door frames prior to hanging door:
 - 1. Verify that frames comply with indicated requirements for type, size, location, and swing characteristics and have been installed with plumb jambs and level heads.
 - 2. Reject doors with defects.
 - 3. Do not proceed with installation until unsatisfactory conditions have been corrected.

3.2 INSTALLATION

- A. Manufacturer's Instructions: Install wood doors to comply with manufacturer's instructions and referenced quality standard and as indicated.
 - 1. Install fire-rated doors in corresponding fire-rated frames according to requirements of NFPA 80.
- B. Factory-Fitted Doors: Align in frames for uniform clearance at each edge.
- C. Factory-Finished Doors: Restore finish before installation, if fitting or machining is required at the job site.

3.3 ADJUSTING AND PROTECTION

- A. Operation: Re-hang or replace doors that do not swing or operate freely.
- B. Finished Doors: Refinish or replace doors damaged during installation.
- C. Protect doors as recommended by door manufacturer to ensure that wood doors will be without damage or deterioration at the time of Substantial Completion.

END OF SPECIFICATION

HOLLOW METAL DOOR FRAME SPECIFICATIONS

1.1 SUMMARY

- A. Section Includes:
 - 1. Standard hollow metal door frames.

1.2 SUBMITTALS

- A. Product Data: For each type of product indicated.
- B. Shop Drawings: Include frame type elevations, frame profiles, metal thicknesses, preparations for hardware, conditions at each opening, and other details.
- C. Schedule: Prepared by or under the supervision of supplier, using same reference numbers for details and openings as those on Drawings.

1.3 QUALITY ASSURANCE

- A. Smoke-Control Door Assemblies: Comply with NFPA 105 or UL 1784.

1.4 DELIVERY, STORAGE AND HANDLING

- A. Inspect hollow metal work upon delivery for damage. Minor defects may be repaired provided refinished items are equal in all respects to new work and acceptable to the Architect; otherwise, remove and replace damaged items.

PART 2 - PRODUCTS

2.1 MANUFACTURERS

- A. Manufacturers: Subject to compliance with requirements, provide products by one of the following:
 - 1. Amweld Builders
 - 2. Ceco Door Products; an Assa Abloy Group company.
 - 3. Curries Company, an Assa Abloy Group Company.
 - 4. Mesker Door Inc.
 - 5. Pioneer Industries, Inc.
 - 6. Steelcraft; an Ingersoll-Rand company.
 - 7. Windsor Republic Doors.

2.2 MATERIALS

- A. Cold-Rolled Steel Sheet: ASTM A 1008/A 1008M, CS, Type B; suitable for exposed applications.
- B. Hot-Rolled Steel Sheet: ASTM A 1011/A 1011M, CS, Type B.
- C. Metallic-Coated Steel Sheet: ASTM A 653/A 653M, Commercial Steel (CS), Type B; with minimum A60 metallic coating, mill phosphatized.
- D. Frame Anchors: ASTM A 591/A 591M, Commercial Steel (CS), 40Z coating designation; mill phosphatized.
 - 1. For anchors built into walls, steel sheet complying with ASTM A 1008/A 1008M or ASTM A 1011/A 1011M, hot-dip galvanized according to ASTM A 153/A 153M, Class B.
- E. Inserts, Bolts, and Fasteners: Manufacturer's standard, except Hot-dip galvanized for exterior walls according to ASTM A 153/A 153M.
- F. Bituminous Coating: Cold-applied asphalt mastic, SSPC-Paint 12, compounded for 15-mil dry film thickness per coat.
- G. Primer: Rust-inhibitive epoxy primer.

2.3 STANDARD HOLLOW METAL FRAMES

- A. General: Comply with ANSI/SDI A250.8. Fabricate frames to be rigid, neat in appearance, and free from defects, warp or buckle, including installation. Preassemble frames in manufacturer's plant wherever practical.
- B. Interior Frames in dry environments: Fabricated from cold-rolled steel sheet.
 - 1. Fabricate frames with mitered or coped corners.
 - 2. Fabricate frames as full profile welded unless otherwise indicated.
 - 3. Frames for Level 3 Steel Doors: 0.053-inch- thick steel sheet.
 - 4. Frames for Level 4 Steel Doors: 0.067-inch- thick steel sheet.
- C. Hardware Reinforcement: ANSI/SDI A250.6.
- D. Door silencers: Drill stops to receive silencers on strike side of jambs.

2.4 FRAME ANCHORS

- A. Jamb Anchors:
 - 1. Stud – Wall Type: Designed to engage stud, welded to back of frames; not less than 0.042 inch thick.
- B. Floor Anchors: Formed from same material as frames, not less than 0.042 inch thick, and as follows:
 - 1. Monolithic Concrete Slabs: Clip-type anchors, with two holes to receive fasteners.

2.5 STOPS AND MOLDINGS

- A. Fixed Frame Moldings: Formed integral with hollow metal frames, a minimum of 5/8 inch high unless otherwise indicated.

2.6 ACCESSORIES

- A. Mullions and Transom Bars: Join to adjacent members by welding or rigid mechanical anchors.
- B. Grout Guards: Formed from same material as frames, not less than 0.016 inch thick.

2.7 FABRICATION

- A. Tolerances: Fabricate hollow metal work to tolerances indicated in SDI 117.
- B. Hollow Metal Frames: Where frames are fabricated in sections, provide alignment plates or angles at each joint, fabricated of same thickness metal as frames.
 - 1. Welded Frames: Weld flush face joints continuously; grind, fill, dress, and make smooth, flush, and invisible.
 - 2. Provide countersunk, flat- or oval-head exposed screws and bolts for exposed fasteners unless otherwise indicated.
 - 3. Grout Guards: Weld guards to frame at back of hardware mortises in frames to be grouted.
 - 4. Floor Anchors: Weld anchors to bottom of jambs and mullions with at least four spot welds per anchor.
 - 5. Jamb Anchors: Provide number and spacing of anchors as follows:
 - a. Postinstalled Expansion Type: Locate anchors not more than 6 inches from top and bottom of frame. Space anchors not more than 26 inches o.c.
 - 6. Door Silencers: Drill stops to receive door silencers.
 - a. Double-Door Frames: Two door silencers per door along head rail.
- C. Hardware Preparation: Factory prepare hollow metal work to receive templated mortised hardware according to the Door Hardware Schedule and templates furnished as specified in Division 08 Section "Door Hardware."
 - 1. Locate hardware as indicated, or if not indicated, according to ANSI/SDI A250.8.
 - 2. Reinforce doors and frames to receive nontemplated, mortised and surface-mounted door hardware.
 - 3. Comply with applicable requirements in ANSI/SDI A250.6 and ANSI/DHI A115 Series specifications for preparation of hollow metal work for hardware.

4. Coordinate locations of conduit and wiring boxes for electrical connections with Division 26 electrical Sections.

2.8 STEEL FINISHES

- A. Prime Finish: Apply primer immediately after cleaning and pretreating.
 1. Shop Primer: Primer to be compatible with field applied finish coats specified without the need of a barrier coat.

PART 3 - EXECUTION

3.1 INSTALLATION

- A. Hollow Metal Frames: Comply with ANSI/SDI A250.11.
 1. Set frames accurately in position, plumbed, aligned, and braced securely until permanent anchors are set. After wall construction is complete, remove temporary braces, leaving surfaces smooth and undamaged.
 - a. At fire-protection-rated openings, install frames according to NFPA 80.
 - b. Where frames are fabricated in sections because of shipping or handling limitations, field splice at approved locations by welding face joint continuously; grind, fill, dress, and make splice smooth, flush, and invisible on exposed faces.
 - c. Install door silencers in frames before grouting.
 - d. Remove temporary braces necessary for installation only after frames have been properly set and secured.
 - e. Check plumbness, squareness, and twist of frames as walls are constructed. Shim as necessary to comply with installation tolerances.
 - f. Field apply bituminous coating to backs of frames that are filled with grout containing antifreezing agents.
 2. Floor Anchors: Provide floor anchors for each jamb and mullion that extends to floor, and secure with postinstalled expansion anchors.
 - a. Floor anchors may be set with powder-actuated fasteners instead of postinstalled expansion anchors if so indicated and approved on Shop Drawings.
 3. Metal – Stud Partitions: Solidly pack mineral-fiber insulation inside frames.
 4. In-Place Concrete or Masonry Construction: Secure frames in place with postinstalled expansion anchors. Countersink anchors, and fill and make smooth, flush, and invisible on exposed faces.
 5. Installation Tolerances: Adjust hollow metal door frames for squareness, alignment, twist, and plumb to the following tolerances:
 - a. Squareness: Plus or minus 1/16 inch, measured at door rabbet on a line 90 degrees from jamb perpendicular to frame head.
 - b. Alignment: Plus or minus 1/16 inch, measured at jambs on a horizontal line parallel to plane of wall.
 - c. Twist: Plus or minus 1/16 inch, measured at opposite face corners of jambs on parallel lines, and perpendicular to plane of wall.
 - d. Plumbness: Plus or minus 1/16 inch, measured at jambs at floor.

3.2 ADJUSTING AND CLEANING

- A. Final Adjustments: Check and readjust operating hardware items immediately before final inspection. Leave work in complete and proper operating condition. Remove and replace defective work, including hollow metal work that is warped, bowed, or otherwise unacceptable.
- B. Prime-Coat Touchup: Immediately after erection, sand smooth rusted or damaged areas of prime coat and apply touchup of compatible air-drying, rust-inhibitive primer.
- C. Metallic-Coated Surfaces: Clean abraded areas and repair with galvanizing repair paint according to manufacturer's written instructions.

END OF SPECIFICATION

ATTACHMENT B
COST / PRICING PROPOSAL

Purchasing Office of the St. Louis Public Schools,
Second Floor – Cashier’s Window
801 North 11th Street St. Louis, Missouri 63101

Subject: Saint Louis Public Schools
RFP Title – Roosevelt Replacement Doors leading to Cafeteria
RFP PS #102–1213

Design-Build Contractor

Company Name: _____

Contact Person: _____

Address: _____

City, State, Zip: _____

Phone: _____ Fax: _____

In the event electrical load calculations and/or drawings are required to correctly complete these projects, the Design-Build contractor shall have available a licensed Electrical Engineer capable of providing the necessary technical expertise to advise and provide the guidance and construction documents (in necessary) in order to fully

Execute this project. **The cost of this service shall be included in the Design-Builder proposal.**

Proposed Engineer:

Company Name: _____ Discipline: _____

Contact Person: _____

Address: _____

City, State, Zip: _____

Phone: _____ Fax: _____

1. The Undersigned Bidder offers and agrees, if this Proposal is accepted, to enter into an Agreement with the Saint Louis Public School District in the form included in the Contract Documents and to complete all work as specified or indicated in the Contract Documents for the Contract Price and within the Contract Time indicated in this proposal and in accordance with the Contract Documents.

2. BIDDER has examined and is familiarized with the Instructions to Bidders, all of the other Bidding Documents, and all of the Contract Documents; Bidder has examined the actual site and locality where the Work is to be performed; Bidder has familiarized themselves with the legal requirements (federal, state, and local laws, ordinances, rules, and regulations); Bidder has made independent investigations as they deem necessary; and Bidder has satisfied themselves as to all conditions affecting cost, progress, or performance of the scope of work outlined in this RFP.
3. BIDDER accepts all of the terms and conditions as outlined in this RFP.
4. BIDDER agrees to perform the work in the time specified and accepts the provisions of and assessment of liquidated damages as defined in the General Conditions of the Contract for Construction
 - a) Contract Period – The Contractor shall complete all work required as specified in Attachment B.
 - b) If the reason for any delay in the commencement or progress of the Work is not attributed to any of the causes listed in the General Conditions, then the Design-Builder and his Surety shall be liable for and shall pay to the Owner the sum of **\$1,000 for each calendar day** of delay as liquidated damages. The liquidated damages shall be paid for each day of delay until the Contract Work is Substantially Complete as defined herein.
5. BIDDER upon acceptance of this bid will execute the Agreement and will furnish the required Contract security and insurance certificates within 5 days after the award of the Contract.
6. BIDDER agrees to furnish all labor, materials, supplies, equipment, services, and other facilities necessary or proper for, or incidental to, all work as required by, and in accordance with the Contract Documents for this RFP for the lump sum price as noted in the “Base Bid Proposal” section.
7. Bidders should be advised that, prior to award of any contract, the Saint Louis Public School District reserves the right to conduct a pre-award survey for the purpose of determining the bidder's responsibility and capacity to perform the contract. This survey may include review of subcontracting agreements, financial capacity, and quality of work performed on other contracts.
8. Bidder agrees to indemnify the Board of Education, Operations Department, Construction Managers and it's Project Managers from and against all losses, claims, demands, payments, suits, actions, recoveries, and judgments of every nature and description made, brought or recovered against the Board of Education by reason of any act of omission of the Bidder.
9. Bidder agrees that in all required bonds, the bidder shall include such provisions as will guarantee the faithful performance of the prevailing hourly wage clause as provided by contract.
10. Bidder and their subcontractors shall be required to submit weekly payroll sheets with their monthly invoices, showing compliance to the Prevailing Wage Standard, as well as an Affidavit of Compliance with Prevailing Wage Law at the conclusion of the project, prior to final payment.

11. Bidder agrees that accurate records pertaining to wages paid all workers employed on the contract shall be kept within the state by the contractor and each subcontractor, for a period of one (1) year following the issuance of final payment for the subject work.
12. Bidder will forfeit a penalty to the St. Louis Public Schools of \$100 per day (or portion of a day) for each worker that is paid less than the prevailing wage rate for any work done under the contract by the contractor or by any subcontractor.
13. Bidder and all subcontractors to the contract must require all on-site employees to complete the ten-hour safety training program required under Section 292.675, RSMo, (enclosed in the laws section), if they have not previously completed the program and have documentation of having done so.
14. Bidder will forfeit a penalty to the St. Louis Public Schools of \$2,500 plus an additional \$100 for each employee employed by the contractor or subcontractor, for each calendar day, or portion thereof, if such employee is employed without the required training.
15. Bidder agrees that during periods of excessive employment (any month immediately following two consecutive calendar months during which the level of unemployment in the state has exceeded five percent as measured by the United States Bureau of Labor Statistics) only Missouri laborers (persons who have resided in Missouri for at least thirty days and intend to become or remain Missouri residents) and laborers from non-restrictive states (persons who are residences of a state which has not enacted state laws restricting Missouri laborers from working on public works projects in that state, as determined by the Labor and Industrial Relations Commission) (see Excessive Unemployment section), may be employed under the contract, except that other laborers may be used when Missouri laborers or laborers from nonrestrictive states are not available, if so certified by the contractor and approved by the contracting officer.
16. Bidder agrees that every transit employer, as defined in section 285.230 RSMo, enclosed in the laws section, must post in a prominent and easily accessible place at the work site a clearly legible copy of the following: (1) The notice of registration for employer withholding issued to such transient employer by the director of revenue; (2) Proof of coverage for workers' compensation insurance or self-insurance signed by the transient employer and verified by the department of revenue through the records of the division of workers' compensation; and (3) The notice of registration for unemployment insurance issued to such transient employer by the division of employment security. Any transient employer failing to comply with these requirements shall, under section 285.234, RSMo, enclosed in the laws section, be liable for a penalty of five hundred dollars per day until the notices required by this section are posted as required by that statute.
17. PROLOG – Electronic Program Management System - As part of project administration, the contractor is required to utilize an electronic web-based program & document management system known as Prolog to facilitate communications, submittals, reports, RFI's, invoices, schedules, and other relevant information.

18. The contractor shall include an allowance of \$500.00 in this bid to cover the cost of the software license.

ACKNOWLEDGEMENT

In response to the Advertisement for Bidders and in accordance with the accompanying Bidding Documents therein listed, the undersigned, upon written notice of award of contract, acknowledges and agrees to provide all labor, material, equipment, tools, supervision, safety, technical services, taxes, insurance, overhead, profit, bonds and to pay all permit costs and fees necessary or required, and to supply the operations necessary and incidental to perform the Contract work in accordance with the provisions of the above referenced documents in a safe, timely and workmanlike manner for the Lump Sum Price(s) as stated below:

A. ADDENDA

Addenda to the Bidding Documents are included in the above Base Bid Proposal, and receipt thereof is acknowledged as follows:

Addendum No : _____ Date: _____

Addendum No : _____ Date: _____

Addendum No : _____ Date: _____

Addendum No : _____ Date: _____

B. BASE BID PROPOSAL

The following describes our cost/pricing proposal to provide services specified in this RFP for Roosevelt Replacement Doors leading to Cafeteria PS#102-1213 dated January 25, 2013

Dollars and (in words)

Total Design-build Cost \$_____ (_____)

1. Brief Explanation of the Services to be provided under the above cost/pricing proposal.

2. Optional Pricing

Elements of Cost / Pricing

3. Please attach the detail addressing Sections 5.3 as Attachment B

Signature of Authorized Official

Date

Company Name

C. PERFORMANCE BOND

Performance Bonds and Labor and Material Payment Bonds will be required for the proposed Contract work described in the above Bid Category. The amount included in the Base Bid Amount above is: \$ _____

Performance and payment bonds will be required on or before the date of contract execution.

**D. VALUE ENGINEERING
(Recommendations to save time or money)**

Enclose with the Bid Form, at the Bidder's option, recommendations that may assist in evaluation of cost and duration of any bid categories:

1. Submit a Voluntary Alternate proposal describing Bidder's recommending adjustments to the Plans and Specifications, which will reduce the cost or improve the Project Schedule. Attached separate sheet(s) describing the proposal.

E. CONTRACTOR LABOR RATES (attach additional sheets as necessary)

With this bid, contractor shall provide the cost per hour for all labor classifications in its employ. These rates will be used for any extra work ordered by the school district or construction manager and should include all wages, taxes, tools, and any other miscellaneous costs deemed necessary by the contractor. Provide for each work classification. All rates should be costs per hour. Labor rates shall not include any mark-ups as related to Overhead and Profit.

These rates will be a critical part of each bid analysis. **Labor rates shall remain valid for the total duration of the project.**

Craft/Work Classification: _____ Rate: \$ _____ /HR

Craft/Work Classification: _____ Rate: \$ _____ /HR

Craft/Work Classification: _____ Rate: \$ _____ /HR

Craft/Work Classification: _____ Rate: \$ _____ /HR

(Attached information on separate sheet for additional Craft/Work classifications if necessary)

Note: Labor rates shall not include any marks as related to Overhead and Profit. Contractors shall also note that additional breakdown may be required by the School District/Construction Manager prior to acceptance of quoted rates.

F. STATEMENT OF MBE/WBE PARTICIPATION

All contractors submitting a bid must complete and sign the minority contractor's good faith effort form. Failure to do so is cause of rejection of this bid.

MBE/WBE Percentage included in Base Bid: _____ Percent (____%)

Name, Address, & Telephone _____

WBE/MBE _____

Work Covered _____

Dollar Amount of MBE/WBE Firm Participation _____

(List any additional on additional sheets as necessary)

OPPORTUNITY for ADDITIONAL MBE/WBE Participation

List below any additional MBE/WBE opportunities not included in the above bid amounts and the cost change to include these opportunities:

\$_____DOLLARS

(\$_____) Add/Deduct

\$_____DOLLARS

(\$_____) Add/Deduct

\$_____DOLLARS

(\$_____) Add/Deduct

(List any additional on additional sheets as necessary)

G. LISTING OF MAJOR SUBCONTRACTORS & VENDORS

All subcontractors to be utilized in the performance of the scope of work anticipated by this bid must be listed below. The Bidder hereby certifies that the following proposed Subcontractors will be used in the performance of the work. (Additional sheets may be attached)

NAME OF SUBCONTRACTOR
PERFORMED VENDOR
EQUIPMENT

WORK TO BE
MATERIAL OR
SUPPLIED

H. SCHEDULE

The contractor acknowledges that all work must be completed by **April 8, 2013.**

1. Calendar days required after award to prepare shop drawings/submittals for review: _ Days
2. Calendar days required for material delivery to site after receipt of approved shop drawings/submittals:
_____ Days
3. Calendar days required to complete all work in this bid package: _ Days
4. Average crew size by Trade: ____/Day
5. Average MBE/WBE field workforce: ____/Day

PROPOSED EQUIPMENT:

SPECIAL PROVISIONS TO BE PROVIDED BY OTHER CONTRACTORS AND/OR CONSTRUCTION MANAGER:

The Undersigned certifies that it has examined and is fully familiar with all of the provisions of the Bidding Documents and any Addenda thereto; and that it has carefully reviewed all of the words and figures shown in the Bid Documents and the accuracy of all statements in this Bid Proposal; and that he/she has been fully authorized to make such statements and submit this Proposal in his/her companies behalf.

Respectfully
submitted,

Legal Name of Firm:

Address of Business: _____

Telephone Number: _____

Federal Employee No: _____

Contractor acknowledges they are in Registered in Good Standing to Perform Work in the State of Missouri

YES _____ NO _____

Signature: _____

Title: _____

DATE SIGNED: _____

We operate as :(check

accordingly) Individual Owner: _____

Partnership: _____

Corporation: _____

Joint _____

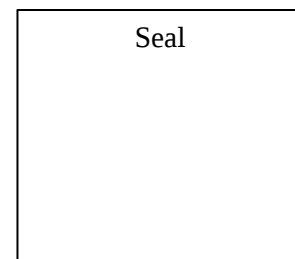
Venture:

Limited Liability Corporation: _____

Other: _____

Located in the state of: _____

(Seal the Original Bid Proposal Form if Bid is by a Corporation)



CONTRACTORS GOOD FAITH EFFORT REPORT

PROJECT: _____ SUBCONTRACTOR: _____

BID PACKAGE NO.: _____ BID PROPOSAL AMOUNT: _____

PART I: (COMPLETE IF BIDDER IS AN MBE SUBCONTRACTOR/SUPPLIER; SIGN BELOW)

1. THIS BID PROPOSAL HAS BEEN SUBMITTED BY (CHECK ONE)

_____ A MINORITY BUSINESS ENTERPRISE

_____ A WOMAN BUSINESS ENTERPRISE

2. BIDDER IS A MBE OR WBE FIRM CERTIFIED BY (CHECK ONE)

_____ Saint Louis Lambert Airport Authority

_____ Saint Louis Minority Business Council

_____ Missouri Department of Transportation

_____ Illinois Department of Transportation

_____ BiState Transit Authority dba METRO

_____ Saint Louis Development Corporation

PART II: (COMPLETE IF BIDDER IS NOT AN M/WBE SUBCONTRACTOR/SUPPLIER; SIGN BELOW)

NAME OF MBE SUBCONTRACTOR	MWBE	TYPE OF WORK	BID AMOUNT	AMOUNT APPLICABLE TO GOAL

TOTAL: _____

MBE Participation: _____ %

WBE Participation: _____ %

Total MBE/WBE Participation _____ %

Anticipated M/WBE Workforce (Labor in Field): _____ %

The Undersigned certifies that it is an M/WBE firm or will enter a formal agreement with MBE contractors for work identified above conditioned upon award of a sub-contract agreement.

CONTRACTOR: _____

BY: _____ DATE: _____

[illegible]

BY: _____

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E-Verify AGREEMENT

[Name of Vendor]:

- a) Agrees to have an authorized person execute the “Federal Work Authorization Program Affidavit” attached hereto and deliver the same to The Special Administrative Board of the Transitional School District of the City of St. Louis (d/b/a St. Louis Public School System) (“District”) prior to or contemporaneously with the execution of a contract with the District;
- b) Affirms it is enrolled in the “E-Verify” (formerly known as “Basic Pilot”) work authorization program of the United States, and are participating in E-Verify with respect to your employees working in connection with the services being provided (to the extent allowed by E-Verify), or to be provided, by your company to the District;
- c) Affirms that it is not knowingly employing any person who is an unauthorized alien in connection with the services being provided, or to be provided, by your company to the District;
- d) Affirms you will notify the District if you cease participation in E-Verify, or if there is any action, claim or complaint made against you alleging any violation of Missouri Revised Statute 285.530, or any regulations issued thereto;
- e) Agrees to provide documentation of your participation in E-Verify to the District prior to or contemporaneously with the execution of its contract with the District (or at any time thereafter upon request by the District), by providing to the District an E-Verify screen print-out (or equivalent documentation) confirming your participation in E-Verify;
- f) Agrees to comply with any state or federal regulations or rules that may be issued subsequent to this addendum that relate to Missouri Revised Statute 285.530; and
- g) Agrees that any failure by your company to abide by the requirements a) through f) above will be considered a material breach of your contract with the District.

By: _____
(Signature) (Date)

Printed Name and Title:

For and on behalf of: _____
(Company Name)

ATTACHMENT C

AGREEMENT

[Name of Vendor]:

a) Agrees to have an authorized person execute the “Federal Work Authorization Program Affidavit” attached hereto and deliver the same to The Special Administrative Board of the Transitional School District of the City of St. Louis (d/b/a St. Louis Public School System) (“District”) prior to or contemporaneously with the execution of a contract with the District;

b) Affirms it is enrolled in the “E-Verify” (formerly known as “Basic Pilot”) work authorization program of the United States, and are participating in E-Verify with respect to your employees working in connection with the services being provided (to the extent allowed by E-Verify), or to be provided, by your company to the District;

c) Affirms that it is not knowingly employing any person who is an unauthorized alien in connection with the services being provided, or to be provided, by your company to the District;

d) Affirms you will notify the District if you cease participation in E-Verify, or if there is any action, claim or complaint made against you alleging any violation of Missouri Revised Statute 285.530, or any regulations issued thereto;

e) Agrees to provide documentation of your participation in E-Verify to the District prior to or contemporaneously with the execution of its contract with the District (or at any time thereafter upon request by the District), by providing to the District an E-Verify screen print-out (or equivalent documentation) confirming your participation in E-Verify;

f) Agrees to comply with any state or federal regulations or rules that may be issued subsequent to this addendum that relate to Missouri Revised Statute 285.530; and

g) Agrees that any failure by your company to abide by the requirements a) through f) above will be considered a material breach of your contract with the District.

By: _____
(Signature)

Printed Name and Title: _____

For and on behalf of: _____
(Company Name)

FEDERAL WORK AUTHORIZATION PROGRAM AFFIDAVIT

I, _____, being of legal age and having been duly sworn upon my oath, state the following facts are true:

1. I am more than twenty-one years of age; and have first-hand knowledge of the matters set forth herein.

2. I am employed by _____ (hereinafter "Company") and have authority to issue this affidavit on its behalf.

3. Company is enrolled in and participating in the United States E-Verify (formerly known as "Basic Pilot") federal work authorization program with respect to Company's employees working in connection with the services Company is providing to, or will provide to, the District, to the extent allowed by E-Verify.

4. Company does not knowingly employ any person who is an unauthorized alien in connection with the services Company is providing to, or will provide to, the District.

FURTHER AFFIANT SAYETH NOT.

By: _____ (individual signature)

For _____ (company name)

Title: _____

STATE OF MISSOURI)

) ss.

COUNTY OF _____)

On this ____ day of _____, 20____, before me, _____, a Notary Public in and for such County and State, personally appeared _____ of _____, known to me to be the person who executed the affidavit on behalf of said _____ and acknowledged to me that he or she executed the same for the purposes therein stated. Subscribed and affirmed before me this ____ day of _____, 20____.

Notary Public

My commission expires on: _____

ATTACHMENT D

BIDDER AFFIRMATION FORM

RFP TITLE: Roosevelt Replacement Doors leading to Cafeteria

RFP #: PS#102-1213

NAME OF BIDDER: _____

After careful consideration of the solicitation document in its entirety, Request for Proposal RFP 100-1213, Project name, and any addendum(s) issued, the undersigned proposes to satisfy all requirements in accordance with said documents.

The Bidder's Checklist in Attachment E of the RFP has been complied with, is completed, and is enclosed with this Proposal.

For consideration of this proposal, the undersigned hereby affirms that (1) he/she is a duly authorized official of the company, (2) that the offer is being submitted on behalf of the bidder in accordance with any terms and conditions set forth in this document and (3) that the company will accept any awards made to it as a result of the offer submitted herein for a minimum of one year following the date of submission.

If notified in writing by mail or delivery of the acceptance of these documents, the undersigned agrees to furnish and deliver to the District within three (3) days, proof of liability insurance.

The District shall provide the Bidder with a contract agreement, which will set forth the terms of this agreement. The contract shall be interpreted, construed and given effect in all respects according to the laws of the State of Missouri.

Nondiscrimination in Employment: We the supplier of goods, materials, equipment or services covered by this proposal or contract have not discriminated in the employment, in any way, against any person or persons, or refused to continue the employment of any person or persons on account of their race, creed, color, or national origin.

Respectfully submitted, Authorized Official: Title _____

Print Name	Signature	Date
Address		
(____) (____) _____		
Business Telephone Number	Facsimile	E-Mail Address

The full names and addresses of persons and organizations interested in the foregoing Request For Proposal as principals of the company are as follows: _____

**ATTACHMENT E
BIDDER CHECKLIST**

RFP TITLE: Roosevelt Replacement Doors leading to Cafeteria

RFP #: PS#102-1213

- ☐ Submitted all information as requested.
- ☐ Received _____ number of addendum(s).
- ☐ Submitted one (1) original, 5 copies and one (1) electronic Proposal on CD.
- ☐ Signed Federal Work Authorization Program Agreement.
- ☐ Signed and notarized Federal Work Authorization Program agreement and affidavit
- ☐ Signed Bidder Affirmation Form (by an authorized official of the company where appropriate).
- ☐ Signed and dated Cost / Pricing Proposal.
- ☐ No conditions or restrictions have been placed by the company on this Proposal that would declare it non-responsive.
- ☐ Prepared to provide the insurance required.
- ☐ Submitted a copy all certificates and license including, but not limited to, the license (to conduct business in the City of St. Louis, Missouri).
- ☐ Submitted state tax identification number. _____
- ☐ Agrees to using the P-Card (See Section 3.14)
- ☐ Bid Bond attached
- ☐ MBE/WBE Check-off Sheet

Signature of Authorized Official

Date

Company Name _____

ATTACHMENT F
NON-SUBMITTAL RESPONSE FORM

RFP TITLE: Roosevelt Replacement Doors leading to Cafeteria

RFP #: PS#102-1213

NOTE TO BIDDER:

If your company's response is a "non-submittal", the District is very interested in the reason for such response since the District desires to ensure that the procurement process is fair, non-restrictive and attracts maximum participation from interested companies. We, therefore, appreciate your response to this non-submittal response form.

Please indicate your reason for responding with a "non-submittal":

- ☐ Unable to meet the requirements for this project.
 - ☐ Unable to meet the time frame established for start and/or completion of the project.
 - ☐ Received too late to reply. Received on _____.
 - ☐ Please remove our company's name from receiving similar type solicitations.
 - ☐ Other: _____
-

Your response will be given careful consideration, and included in the contract file. Your input will assist the District in determining changes necessary to increase participation and competition.

Authorized Signature

Title

Date

Name of Company / Consultant

Company Address

() _____

Business Telephone Number

() _____

Facsimile

E-Mail Address

ATTACHMENT G

Non- Discrimination in Employment by Board of Education Contractors And Subcontractors

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

1. The Contractor will not discriminate against any employee or applicant for employment because of race, age, handicap, religion, sex or national origin. The Contractor will take affirmative action to ensure that all applicants are employed without regard to their race, age, handicap, religion, sex, or national origin.
2. The Contractor will, in all solicitation or advertisement for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, age, handicap, religion, sex, or national origin.
3. The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice advising that labor union or worker's representative of the Contractor's commitments under contracts with the Board of Education.
4. The Contractor will maintain and, upon request, make available to The Board of Education, all records and data necessary or useful to the review and monitoring of compliance with the non-discrimination clauses of this contract. In the event the Contractor fails or refuses to make such records available, this contract may be cancelled, terminated or suspended in whole or in part by the Board of Education and the Contractor may be declared ineligible for further Board of Education contracts or such other sanctions as the Board deems appropriate.
5. In the event of the Contractor's non-compliance with the non-discrimination clauses of this contract, this contract may be cancelled, terminated or suspended in whole or in part by the Board of Education and the Contractor may be declared ineligible for further Board of Education contracts or such other sanctions as the Board deems appropriate.
6. The contractor will include the provision of Paragraph 1 through 5 in every subcontract or purchase order unless specifically exempted by the Board so that such provisions will be binding on each subcontractor or vendor.

UTILIZATION OF MINORITY AND WOMEN BUSINESS ENTERPRISES

The Board of Education of the City of St. Louis is committed to providing minority and women- owned business enterprises (“M/WBE”) with an equal opportunity to do business with the St. Louis Public School System.

The Board of Education has adopted the following goals to address equitable M/WBE involvement in its Capital Improvements Programs:

- 40% of Contracts to Minority Owned Businesses
- 5% of Contracts to Female Owned Businesses
- 40% of Field Employment to Minorities and/or Females

The achievement by bidders of the M/WBE participation goals and/or submission of documentation of efforts to obtain M/WBE participation will be a consideration in the award of a contract.

I. DETERMINATION OF M/WBE PARTICIPATION

- A. The total dollar value of the contract or subcontract awarded or to be awarded to a certified M/WBE is counted toward achieving the goal. In order to qualify for consideration as a M/WBE firm, a firm must be certified by one of the following:

SLDC	- St. Louis Development Corporation
MoDOT	- Missouri Highway Department of Transportation
IDOT	- Illinois Department of Transportation
Metro	- Bi-State Development Agency

The Board of Education then will make its own determination which shall be final as to M/WBE certification of a firm.

- B. ***The portion of the total dollar value of a contract awarded to a joint Venture shall be equal to the percentage of the ownership of the M/WBE in the joint venture is counted toward the goal. However, this percentage will only apply for non-subcontracted work.***

For a joint venture involving an M/WBE firm and a non-M/WBE general contractor, the general contractor may count towards the MBE/WBE goals only the M/WBE percentage of the non-subcontracted work to be directly self-performed by the joint venture.

- C. Twenty percent (20%) of expenditures for materials and supplies obtained from an M/WBE supplier and one hundred percent (100%) of such expenditures from an M/WBE manufacturer or dealer certified as such by SLDC are counted toward the goal.

II. BIDDING PROCEDURE

- A. Bidder shall submit the “Statement of M/WBE Participation” form included in this document as part of the Bid Proposal. If the Bidder is an M/WBE firm, Part I should be completed. This form cannot be changed after the bid opening without approval of the Board of Education. Any firm being considered for removal from this list must submit written confirmation to the Saint Louis Public Schools Purchasing Department requesting such removal. This statement, if accepted by the Board of Education, will become a part of the contract documents.
- B. All Bidders shall submit the “Statement of M/WBE Participation” form included in this document as part of the Bid Proposal. Failure to complete this form in its entirety will be cause for rejection of the bid. This form cannot be changed after the bid opening without approval from the Board of Education. Any firm being considered for removal from the list must submit written confirmation to the Saint Louis Public Schools Purchasing Department requesting such removal.

III. EVALUATION PROCEDURES

- A. After the bid opening, the low bidder and the second bidder shall re- evaluate and confirm M/WBE firms to be used on the project. A confirmed “ Statement of M/WBE Participation” signed by an officer of the company shall be submitted to the Saint Louis Public Schools Purchasing Department, before 10:00 A.M. on the second (2nd), working day after the bid opening. This statement, if accepted by the Board of Education, will become part of the contract documents.
- B. If the utilization goals are not satisfactorily addressed, the efforts related to securing M/WBE participation will be evaluated by the Board of Education, taking into account, among other things, the following:
 - 1. Comparison with M/WBE participation in other bid proposals.
 - 2. Evaluation, including review of pertinent documents, of a bidder’s good faith effort of solicitation and follow-up to obtain M/WBE bids.
 - 3. When the MBE and WBE participation goals cannot be met the bidder shall document and submit justification as to why the goal(s) could not be met and demonstrate the good faith efforts taken to meet the MBE and WBE participation goals, including but not limited to the following recommended efforts:
 - i. Efforts made to break down contracts and portions of work into economically feasible units such that the MBE/WBE utilization goals can be met.
 - ii. Written notification to disadvantage economic development assistance agencies, organization, local, state and federal disadvantage business assistance offices, and other organizations which provides assistance in recruitment and placement of MBE/WBE’s on this project.

iii. Efforts made to negotiate with MBE's and WBE's for specific item(s) of

Work including evidence on:

a. The names, addresses, telephone numbers of the MBE's and WBE's who were contacted, the dates of initial contact and whether solicitations of interest were followed up by contacting the MBE's and WBE's to determine with certainty whether the MBE or WBE is interested. Personal or phone contacts are expected; and

b. A description of the information provided the MBE/WBE's regarding the plans and specifications and the work to be performed; and

c. A statement of why additional agreements with other MBE/WBE's were not reached; and

d. Documentation of each MBE/WBE contacted but rejected and the reason for the rejection.

iv. Examples made to assist the MBE/WBE's that need assistance in obtaining bonding, insurance of lines of credit required by the contractor.

v. Documentation that qualified MBE/WBE's are not available or are not interested.

vi. Examples of actions not acceptable for failure to meet the MBE/WBE goals are:

a. MBE/WBE unable to provide performance and/or payment bond.

b. Union versus non-union status.

c. Contactor would normally perform all or most of the work of the contract, or restricts solicitation only to those general groups of items which may be listed in proposal under such heading as "Items Subcontractable to MBE/WBE Firms."

d. Solicitation by mail only.

vii. The demonstration of good faith efforts must, in the end, prove the contractor had actively and aggressively sought out MBE/WBE's to participate in the project. All the information provided must be accurate in every detail.

The ability to achieve the M/WBE goals and the good faith efforts demonstrated will be used to evaluate each Bidder's responsiveness.

The information provided will be evaluated to determine if the low bidder is responsive.

All information provided must be accurate in every detail. The apparent low bidder's attainment of the MBE/WBE goals or the demonstration of good faith efforts will determine the award of contract.

Documentation of initial good faith efforts is to be submitted before 10:00A.M. on the second (2nd) working day after the bid opening to the Board of Education utilizing the *Contractor's Good Faith Effort Statement, and Contractor's Good Faith Effort Report*.

IV. CONTRACTOR VERIFICATION OF M/WBE PARTICIPATION

- A. The Contractor will be required to submit the "Monthly M/WBE Report" describing amounts paid to M/WBE firms with each payment application.
- B. Prior to the release of the final one percent (1%) of contract retainage, the Contractor shall furnish a final Monthly M/WBE Report with supporting final lien waivers from all M/WBE firms used on the project. It is understood and agreed that in the event the total M/WBE participation on the project is less than that identified in the approved "Statement of M/WBE participation" provided by the Contractor prior to commencement of the project, the Board of Education will suffer a loss which will be difficult or impossible to determine. As a result, a liquidated damage amount equal to the difference between the dollar amount of the proposed and approved M/WBE participation, and the actual dollar amount of M/WBE participation, will be paid by the Contractor. Such amount shall be deduction from the final retainage owed to the Contractor, and will not exceed an amount equal to one percent (1%) of the original contract amount. No such deduction will be made when the proposed and approved M/WBE participation is not met for reasons beyond the control of the Contractor. Such determination is in the sole discretion of the Board of Education. The amount set forth above is agreed upon as liquidated damages, and not as a penalty.
- C. Compliance with the forty percent (40%) field employment goal will be monitored by the Saint Louis Public Schools Project Manager.

V. REPLACEMENT OF M/WBE FIRMS

- A. The Contactor shall make good faith efforts to replace an M/WBE subcontractor, who is unable to perform satisfactorily, with another M/WBE subcontractor. Replacement firms must be approved by the Board of Education.

COUNTING M/WBE PARTICIPATION

The Saint Louis Public Schools (SLPS) district utilizes the following guidelines in determining the percentage of Minority/Women-Owned Business Enterprise (M/WBE) participation that will be counted toward the overall M/WBE goals for a prime contractor:

A. If a firm is not currently certified as an M/WBE at the time of the execution of the contract, the firm's participation towards any M/WBE goal will not be counted.

B. The dollar value of work performed under a contract with a firm after it has ceased to be certified will not be counted toward the overall goal.

C. When an M/WBE participates in a contract, the value of the work actually performed will be counted as follows:

1. The entire amount of that portion of a construction contract that is performed by the M/WBE's own forces. This includes the cost of supplies and materials obtained by the M/WBE for the work of the contract, including supplies purchased or equipment leased by the M/WBE (except supplies, and equipment the M/WBE subcontractor purchases or leases from the prime contractor or its affiliates).

2. The entire amount of fees or commissions charged by an M/WBE firm for providing a bona fide service, such as professional, technical, consultant, or managerial services, or for providing bonds or insurance specifically required for the performance of the work, toward M/WBE goals, provided that SLPS determines the fee to be reasonable and not excessive as compared with fees customarily allowed for similar services.

3. When an M/WBE subcontracts part of the work of its contract to another firm, the value of the subcontractor work may be counted toward M/WBE goals only if the M/WBE's subcontractor is itself an M/WBE firm. Work that an M/WBE subcontracts to a non-M/WBE firm will not count toward M/WBE goals.

D. When an M/WBE performs as a participant in a joint venture, SLPS will count a portion of the total dollar value of the contract equal to the distinct, clearly defined portion of the work of the contract that the M/WBE performs with its own forces toward M/WBE goals.

E. SLPS will count expenditures of an M/WBE contractor toward M/WBE goals only if the M/WBE is performing a commercially useful function on that contract:

1. An M/WBE performs a commercially useful function when it is responsible for the execution of the work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a commercially useful function, the M/WBE must also be responsible with respect to materials and supplies used on the contract, for negotiating price, determining quality and quantity, ordering the material, installing (where applicable) and paying for the material itself. To determine whether an M/WBE is performing a commercially useful function, SLPS will evaluate the amount of work subcontracted, industry practices, whether the amount the firm is to be paid under the contract is commensurate with the work it is actually performing and the M/WBE credit claimed for its performance of the work, and other relevant factors.

2. An M/WBE does not perform a commercially useful function if its role is limited to that of an extra participant in a transaction, contract, or project through which the funds are passed in order to obtain the appearance of M/WBE participation. In determining whether an M/WBE is such an extra participant, SLPS will examine similar transactions, particularly those in which M/WBEs do not participate.
3. If an M/WBE does not perform or exercise responsibility for at least 30 percent of the total cost of its contract with its own work force, or the M/WBE subcontracts a greater portion of the work of a contract than would be expected on the basis of normal industry practice for the type of work involved, SLPS will presume that it is not performing a commercially useful function.
4. When an M/WBE is presumed not be performing a commercially useful function as provided in this program, the M/WBE may present evidence to rebut this presumption. SLPS may determine that the firm is performing a commercially useful function given the type of work involved and normal industry practices.

F. SLPS will count expenditures with M/WBEs for material or supplies towards M/WBE goals as provided in the following:

1. SLPS will count 100% of the cost of the materials or supplies toward M/WBE goals if the materials or supplies are obtained from an M/WBE manufacturer. For purposes of this paragraph, a manufacturer is a firm that operates or maintains a factory or establishment that produces, on the premises, the material, supplies, articles, or equipment required under the contract and of the general character described in the specifications.
2. SLPS will count 20% of the cost of the materials or supplies towards M/WBE goals if the materials or supplies are purchased from an M/WBE regular dealer. For purposes of this section a regular dealer is a firm that owns, operates, or maintains a store, warehouse, or other establishment in which the materials, supplies, articles, or equipment of the general character described by the specifications and required under the contract are brought, kept in stock, and regularly sold to or leased to the public in the usual course of business.

To be a regular dealer, the firm must be an established, regular business that engages, as its principal business and under its own name, in the purchase and sale or lease of the products in question.

A person may be a regular dealer in such bulk items as petroleum products, steel, cement, gravel, stone or asphalt without owning, operating, or maintaining a place of business if the person both owns and operates distribution equipment for the products. Any supplementing of regular dealers' own distribution equipment shall be by a long-term lease and not on an ad hoc or contract-by-contract basis.

Packagers, brokers, manufacturers' representatives, or other persons who arrange or expedite transactions will not be considered regular dealers.

3. With respect to materials or supplies purchased from an M/W/DBE which is neither a manufacturer nor a regular dealer, SLPS will count the entire amount of fees or commissions

charged for assistance in the procurement of the materials and supplies, or fees or transportation charges for delivery of materials or supplies required on a job site, toward M/W/DBE goals, provided that SLPS has determined the fees to be reasonable and not excessive as compared with fees customarily allowed for similar services. SLPS will not count any portion of the cost of the materials and supplies themselves toward M/WBE goals, however.

Note: All M/W/DBE firms must, as of the date bids are due, be certified as an MBE, WBE or DBE by at least one of the following certifying agencies:

MoDOT (Missouri Department of Transportation)
IDOT (Illinois Department of Transportation)
City of St. Louis/ St. Louis Lambert International Airport
BiState Transit Authority dba Metro.

A copy of the firm's certifying letter must accompany the bid. If a company's certification lapses before the closing out of the project, the firm must be recertified before the close of the project for its participant to be counted.

Finding an M/DBE Partner

The following agencies and organization may be of assistance in helping you find an M/WBE firm with the skills and or services you are looking for:

Association of General Contractors of St. Louis

6330 Knox Industrial Drive
Suite 200
St. Louis, MO 63139
(314) 781-2356

City of St. Louis

The city maintains a database of certified firms. That database may be accessed at www.mwdbe.org

Central Contractor Registration

The Federal government maintains a database of minority firms desiring to do business with the government. That list can be accessed at http://dsbs.sba.gov/dsbs/dsp_dsbs.cfm.

IDOT

The Illinois Department of Transportation maintains a database of certified firms. That database is located at <http://www.dot.state.il.us/sbe/dbeprogram.html>.

MoDot

The Missouri Department of Transportation maintains a database of certified firms. The database is located at http://www.modot.mo.gov/business/contractor_resources/External_Civil_Rights/DBE_program.htm.

Mo-Kan CCAC

4114 Lindell
Suite 316
St. Louis, MO 63108
(314) 535- 9200

St. Louis Business Diversity Initiative

This organization maintains a list of some Minority Business Enterprises (MBE) from the City of St.Louis/St.Louis Lambert Airport, State of Missouri, Bi-State Development Agency and the Missouri Department of Transportation. The directory contains some members of the St. Louis Minority Business Council and the St. Louis Regional Chamber and Growth Association (RCGA).

Their directory is accessible at http://www.stlbizdiversity.com/mbe_directory.asp.

St.Louis Minority Business Council

308 N. 21st Street
Suite 700
St. Louis, Mo 63103
(314) 241-1143

State of Missouri

The State of Missouri maintains a database of minority and women owned businesses. That database can be accessed at <http://www.oa.mo.gov/oeo/cp.html>.

St. Louis Board of Education
Monthly M/WBE Manpower Utilization Report _____

Contractor Name _____

Submitted for Month/Year of _____

Subcontractor Name _____

Letting No. _____

School _____

Contract Amt. _____

% Complete _____

Job Categories	Trade Codes	Total Employees		Black		Hispanic		Other		Apprentice		On- the-job-training		Total Manhours		
		M	F	M	F	M	F	M	F	M	F	M	F	Total	Minority	
Acoustical Tilers	1															
Brick Masons	2															
Carpenters	3															
Cement Mason	4															
Ceramic Tile Setters	5															
Custodians	6															
Electricians	7															
Equip. Operators	8															
Fencing Guardrails	9															
Foreman	10															
Glaziers	11															
Insulators	12															
Iron Workers	13															
Laborers	14															
Landscaping	15															
Lather (Metal/Wood)	16															
Mechanics	17															
Metal Deck Roofers	18															
Movers	19															
Painters	20															
Pipefitters	21															
Plasterers	22															
Plumbers	23															
Project Manager	24															
Roofers	25															
Safety Officers	26															
Sandblast/Waterproof	27															
Sheet Metal	28															
Sprinkler Fitter	29															
Superintendent	30															
Tapers	31															
Temperature Control	32															
Test & Balance Tech.	33															
Truck Driver	34															
Well Drilling	35															
Total																

Reported by _____

Title _____

STATEMENT OF M/WBE PARTICIPATION

Project: _____ Prime Contractor: _____

Letting No.: _____ Bid Proposal Amount: \$ _____

PART I: (Complete if Prime Contractor is an M/WBE firm; sign below)

This bid proposal has been submitted by (check one):

_____ A Non-Minority, Non-Women Business Enterprise
_____ A Minority Business Enterprise
_____ A Women Business Enterprise

This M/WBE firm is certified by (check one):

_____ SLA _____ MDOT _____ IDOT _____ Metro

PART II: (Complete if Prime Contractor is not an M/WBE firm; sign below)

NOTE: All applicable columns and blanks must be filled-in with the requested M/WBE information and dollars at the time of bid; the 40% MBE & 5% WBE goal shall be met at the time bids are submitted (Suppliers = 20%, Manufacturers = 100%, M/WBE firms actually doing the work = 100% towards participation goals.)

Name of M/WBE Subcontractors, Suppliers Or Joint Venture Partners	Certified by*		Type of Work	Total Dollars	Dollars Applicable To Goal
	MBE	WBE			
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____

Total: _____

*Insert SLA, MDOT, IDOT, Metro

MBE Participation: _____ %
WBE Participation: _____ %
Total M/WBE Participation: _____ %

This undersigned is an M/WBE firm or will enter a formal agreement with M/WBE contractors for work listed in this schedule conditioned upon execution of a Contract with the Board of Education, City of St. Louis. If the Statement of M/WBE PARTICIPATION DOES NOT APPLY to the Contractor/Company, the Contract/Company must sign and indicate non- applicable.

Contractor's Signature: _____

Title: _____ Date: _____

**ST. LOUIS PUBLIC SCHOOLS
MONTHLY M/WBE REPORT**

Prime Contractor: _____ Project: _____

Street Address: _____ Letting Number: _____

City/State/Zip: _____ Pay Application Date: _____

List all minority and women business enterprises which will be utilized on the project either as subcontractor(s) or supplier(s): **(*Note: only 20% of total "supplier" amount is applicable towards M/WBE goal.)**

Prime Contractor: Original Contract Amount _____ Current Contract Amount _____

MBE Participation

MBE Subcontractor/ Suppliers	Current Contract Amount	*Dollar Amount Applicable to Goal	Total Paid to Date	Amount Requested This Application

Totals:			
Total MBE Participation:	%	%	%

Note: For percentage- divide totals by Prime Contractors Original Contract Amount.

WBE Participation

WBE Subcontractors/ Suppliers	Current Contract Amount	*Dollar Amount Applicable to Goal	Total Paid to Date	Amount Request This Application

Totals:			
Total MBE Participation:	%	%	%

Total M/WBE Participation:	%	%	%
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Note: For percentage- divide totals by Prime Contractors Original Contract Amount.

Report Prepared by: _____

Date: _____

ST. LOUIS BOARD OF EDUCATION
MINORITY/WOMEN-OWNED BUSINESS ENTERPRISE UTILIZATION
CONTRACTOR'S GOOD FAITH EFFORTS REPORT

PROJECT NAME: _____ LETTING NUMBER: _____

NAME OF CONTRACTOR: _____

In addition to the minority or women-owned business enterprises that are listed and proposed for utilization on this contract, the following minority or women-owned business enterprises were also contacted regarding this contract. However, prime contractor is unable to utilize these firms for the reasons listed below:

Firm Name Address, Phone # Contact Person	Bid item(s) of work to be performed and/or material supplied	Bid Amounts	Date and Method of Solicitation	Comments: Reasons Rejected

Prime Contractor's Signature: _____

Date: _____

Project: _____

ATTACHMENT J
Prevailing Wage Requirements and Wage Order

PREVAILING WAGE LAW:

All bidders submitting a proposal for this project must comply with the Department of Labor and Industrial Relations of the State of Missouri, pursuant to Section 290.210 to 340 V.A.M.S., which states that prevailing rates of wages shall be paid to all workers (as defined by Annual Wage Order #18 and associated Incremental Wage Increases).

In all required bonds, the Contractor shall include such provisions as will guarantee the faithful performance of the prevailing hourly wage clause as provided by contract.

Contractor and their subcontractors shall be required to submit weekly payroll sheets with their monthly invoices, showing compliance to the above Prevailing Wage Standard, as well as an Affidavit of Compliance with Prevailing Wage Law at the conclusion of the project, prior to final payment.

Accurate records pertaining to wages paid all workers employed on the contract shall be kept within the state by the contractor and each subcontractor, for a period of one (1) year following the issuance of final payment for the subject work.

The contractor will forfeit a penalty to the St. Louis Public Schools of \$100 per day (or portion of a day) for each worker that is paid less than the prevailing wage rate for any work done under the contract by the contractor or by any subcontractor.

The contractor and all subcontractors to the contract must require all on-site employees to complete the ten-hour safety training program required under Section 292.675, RSMo, (enclosed in the laws section), if they have not previously completed the program and have documentation of having done so.

The contractor will forfeit a penalty to the St. Louis Public Schools of \$2,500 plus an additional \$100 for each employee employed by the contractor or subcontractor, for each calendar day, or portion thereof, if such employee is employed without the required training.

During periods of excessive employment (any month immediate following two consecutive calendar months during which the level of unemployment in the state has exceeded five percent as measured by the United States Bureau of Labor Statistics) only Missouri laborers (persons who have resided in Missouri for at least thirty days and intend to become or remain Missouri residents) and laborers from non-restrictive states (persons who are residences of a state which has not enacted state laws restricting Missouri laborers from working on public works projects in that state, as determined by the Labor and Industrial Relations Commission) (see Excessive Unemployment section), may be employed under the contract, except that other laborers may be used when Missouri laborers or laborers from nonrestrictive states are not available, if so certified by the contractor and approved by the contracting officer.

Every transit employer, as defined in section 285.230 RSMo, enclosed in the laws section, must post in a prominent and easily accessible place at the work site a clearly legible copy of the following: (1) The notice of registration for employer withholding issued to such transient employer by the director of revenue; (2) Proof of coverage for workers' compensation insurance or self-insurance signed by the transient employer and verified by the department of revenue through the records of the division of workers' compensation; and (3) The notice of registration for unemployment insurance issued to such transient employer by the division of employment security. Any transient employer failing to comply with these requirements shall, under section 285.234, RSMo, enclosed in the laws section, be liable for a penalty of five hundred dollars per day until the notices required by this section are posted as required by that statute.

St. Louis Public Schools seeks to ensure that the highest quality workmanship will be performed on the project and requires the Contractor to use a qualified Project Superintendent at all times that work is being performed on the job site.

Missouri

Division of Labor Standards

WAGE AND HOUR SECTION



JEREMIAH W. (JAY) NIXON, Governor

Annual Wage Order No. 19

Section 096

ST. LOUIS CITY

In accordance with Section 290.262 RSMo 2000, within thirty (30) days after a certified copy of this Annual Wage Order has been filed with the Secretary of State as indicated below, any person who may be affected by this Annual Wage Order may object by filing an objection in triplicate with the Labor and Industrial Relations Commission, P.O. Box 599, Jefferson City, MO 65102-0599. Such objections must set forth in writing the specific grounds of objection. Each objection shall certify that a copy has been furnished to the Division of Labor Standards, P.O. Box 449, Jefferson City, MO 65102-0449 pursuant to 8 CSR 20-5.010(1). A certified copy of the Annual Wage Order has been filed with the Secretary of State of Missouri.

Original Signed by

Carla Buschjost, Director
Division of Labor Standards

This Is A True And Accurate Copy Which Was Filed With The Secretary of State: March 9, 2012

Last Date Objections May Be Filed: April 9, 2012

Prepared by Missouri Department of Labor and Industrial Relations

Building Construction Rates for
ST. LOUIS CITY

Section 096

OCCUPATIONAL TITLE	** Date of Increase	*	Basic Hourly Rates	Over-Time Schedule	Holiday Schedule	Total Fringe Benefits
Asbestos Worker (H & F) Insulator			\$36.76	55	60	\$18.81
Boilermaker			\$31.20	57	7	\$27.01
Bricklayer and Stone Mason			\$30.30	72	5	\$18.81
Carpenter			\$33.88	77	41	\$13.25
Cement Mason			\$28.70	80	6	\$14.56
Electrician (Inside Wireman)			\$31.00	82	71	\$9.56 + 37.5%
Electrician (Outside-Line Construction\Lineman)			\$36.36	43	45	\$5.00 + 44.5%
Lineman Operator			\$31.39	43	45	\$5.00 + 44.5%
Groundman			\$24.27	43	45	\$5.00 + 44.5%
Communication Technician			\$28.05	44	47	\$8.93 + 29.75%
Elevator Constructor		a	\$42.195	26	54	\$23.305
Operating Engineer						
Group I			\$29.11	3	66	\$21.36
Group II			\$29.11	3	66	\$21.36
Group III			\$27.21	3	66	\$21.36
Group III-A			\$29.11	3	66	\$21.36
Group IV			\$23.75	3	66	\$21.36
Group V			\$23.75	3	66	\$21.36
Pipe Fitter			\$34.25	91	69	\$23.18
Glazier			\$32.78	87	31	\$21.13 + 13.2%
Laborer (Building):						
General			\$28.87	97	26	\$12.62
First Semi-Skilled			\$29.51	114	27	\$12.62
Second Semi-Skilled			\$28.87	109	3	\$12.62
Lather			USE CARPENTER RATE			
Linoleum Layer and Cutter			\$29.08	92	26	\$12.95
Marble Mason			\$30.15	76	51	\$12.45
Millwright			USE CARPENTER RATE			
Ironworker			\$31.98	11	8	\$19.775
Painter			\$28.75	104	12	\$12.58
Plasterer			\$28.61	67	3	\$15.23
Plumber			\$34.25	91	69	\$23.18
Pile Driver			USE CARPENTER RATE			
Roofer \ Waterproofer			\$28.65	15	73	\$15.02
Sheet Metal Worker			\$35.68	32	25	\$21.23
Sprinkler Fitter - Fire Protection			\$37.73	66	18	\$19.10
Terrazzo Worker			\$30.79	116	5	\$11.09
Tile Setter			\$30.15	76	51	\$12.45
Truck Driver-Teamster						
Group I			\$27.05	35	36	\$9.045
Group II			\$27.25	35	36	\$9.045
Group III			\$27.35	35	36	\$9.045
Group IV			\$27.35	35	36	\$9.045
Traffic Control Service Driver			\$27.35	83	17	\$9.045

Fringe Benefit Percentage is of the Basic Hourly Rate

Attention Workers: If you are not being paid the appropriate wage rate and fringe benefits contact the Division of Labor Standards at (573) 751-3403.

Building Construction Rates for
ST. LOUIS CITY Footnotes

Section 096

OCCUPATIONAL TITLE	** Date of Increase	Basic Hourly Rates	Over-Time Schedule	Holiday Schedule	Total Fringe Benefits

* Welders receive rate prescribed for the occupational title performing operation to which welding is incidental.

Use Building Construction Rates on Building construction in accordance with the classifications of construction work established in 8 CSR 30-3.040(2).

Use Heavy Construction Rates on Highway and Heavy construction in accordance with the classifications of construction work established in 8 CSR 30-3.040(3).

a - Vacation: Employees over 5 years - 8%, under 5 years - 6%

**CITY OF ST. LOUIS CITY
OVERTIME SCHEDULE - BUILDING CONSTRUCTION**

FED: Minimum requirement per Fair Labor Standards Act means time and one-half (1 ½) shall be paid for all work in excess of forty (40) hours per work week.

NO. 3: Means the regular workday shall consist of eight (8) consecutive hours, exclusive of a thirty (30) minute lunch period, with pay at the straight time rate. The regular workday shall begin between the hours of 6:00 a.m. and 9:00 a.m. The Employer may have the option to schedule the work week from Monday through Thursday at ten (10) hours per day at the straight time rate of pay with all hours in excess of ten (10) hours in any one day to be paid at the applicable overtime rate. If the Employer elects to work from Monday through Thursday and is stopped due to inclement weather, holiday or other conditions beyond the control of the Employer, they shall have the option to work Friday at the straight time rate of pay to complete the forty (40) hours for the workweek. All overtime work performed on Monday through Saturday shall be paid at time and one-half (1½) the hourly rate plus an amount equal to one-half (½) of the hourly Total Indicated Fringe Benefits. All work performed on Sundays and recognized holidays shall be paid at double (2) the hourly rate plus an amount equal to the hourly Total Indicated Fringe Benefits. Shifts may be established when considered necessary by the Employer. Shift hours and rates will be as follows. If shifts are established, work on the First Shift will begin between 6:00 a.m. and 9:00 a.m. and consist of eight (8) hours of work plus one-half hour unpaid lunch. Hours worked during the first shift will be paid at the straight time rate of pay. The second shift shall start eight hours after the start of the first shift and consist of eight (8) hours of work plus one-half hour unpaid lunch. Work on the second shift will begin between 2:00 p.m. and 5:00 p.m. and be paid the straight time rate plus \$2.50 per hour. The third shift shall start eight hours after the start of the second shift and consist of eight (8) hours plus one-half hour unpaid lunch. Work on the third shift will begin between 10:00 p.m. and 1:00 a.m. and be paid the straight time rate plus \$3.50 per hour. The additional amounts that are to be paid are only applicable when working shifts. Shifts that begin on Saturday morning through those shifts which end on Sunday morning will be paid at time and one-half these rates. Shifts that begin on Sunday morning through those shifts which end on Monday morning will be paid at double time these rates.

NO. 11: Means eight (8) hours shall constitute a day's work, with the starting time to be established between 6:00 a.m. and 8:00 a.m. from Monday to Friday. Time and one-half (1½) shall be paid for first two (2) hours of overtime Monday through Friday and the first eight (8) hours on Saturday. All other overtime hours Monday through Saturday shall be paid at double (2) time rate. Double (2) time shall be paid for all time on Sunday and recognized holidays or the days observed in lieu of these holidays.

NO. 15: Means the regular working day shall be scheduled to consist of at least eight (8) hours, but no more than ten (10) consecutive hours, exclusive of the lunch period. The regular working day may be scheduled to commence at any time between the hours of 5:00 a.m. and 10:00 a.m. All work performed in excess of forty (40) hours in one work week, or in excess of ten (10) hours in one work day shall be paid at the rate of one and one-half (1½) times the regular hourly wage scale. Any work performed on a Saturday shall be paid for at the rate of one and one-half (1½) times the regular hourly wage scale unless such Saturday work falls under the category of Saturday Make-Up Day. Any work performed by Employees anywhere on Sunday or recognized holidays, shall be paid for at the rate of double (2) time the regular wage scale. If, during the course of a work week, an Employee is unable to work for any reason, and, as a result, that Employee has not accumulated forty (40) hours of compensable time at the straight time rate, the Employer, at his option may offer the Employee the opportunity to work on Saturday at straight time; provided, however, if during the period worked by said Employee on Saturday, the Employee's compensable time at the straight time rate exceeds forty (40) hours, all time worked in excess of the forty (40) hours will be paid at the rate of one and one-half (1½) times the regular hourly wage scale.

NO. 26: Means that the regular working day shall consist of eight (8) hours worked between 6:00 a.m., and 5:00 p.m., five (5) days per week, Monday to Friday, inclusive. Hours of work at each jobsite shall be those established by the general contractor and worked by the majority of trades. (The above working hours may be changed by mutual agreement). Work performed on Construction Work on Saturdays, Sundays and before and after the regular working day on Monday to Friday, inclusive, shall be classified as overtime, and paid for at double (2) the rate of single time. The employer may establish hours worked on a jobsite for a four (4) ten (10) hour day work week at straight time pay for construction work; the regular working day shall consist of ten (10) hours worked consecutively, between 6:00 a.m. and 6:00 p.m., four (4) days per week, Monday to Thursday, inclusive. Any work performed on Friday, Saturday, Sunday and holidays, and before and after the regular working day on Monday to Thursday where a four (4) ten (10) hour day workweek has been established, will be paid at two times (2) the single time rate of pay. The rate of pay for all work performed on holidays shall be at two times (2) the single time rate of pay.

**CITY OF ST. LOUIS CITY
OVERTIME SCHEDULE - BUILDING CONSTRUCTION**

NO. 32: The regular working day shall consist of seven and one-half (7½) hours of labor on the job between eight (8) a.m. and four (4) p.m. and the regular working week shall consist of five (5) consecutive seven and one-half (7½) hour day's of labor on the job beginning with Monday and ending with Friday of each week. The normal work week is 37½ hours. All full-time or part-time labor performed during such hours shall be recognized as regular working hours and paid for at the regular hourly rate. All work performed during regular work hours on Saturdays shall be paid at time and one-half (1-1/2). All work performed outside of regular working hours and performed during the regular work week, shall be at double (2) times the regular rate, except that the first two (2) hours following the regular work day shall be paid at one and one-half (1½) times the regular rate. And, a flexible starting time as early as 7:00 a.m. may be implemented when mutually agreed upon by the interested parties. An early starting time of 6:00 a.m. may be used during summer months to avoid excessive afternoon temperatures. This early starting time to be used when mutually agreed upon by the interested parties. **SHIFT RATE:** Shift work would start after 4:00 p.m. to 6:00 a.m. The first 7½ hours would be at 115% of the basic wage rate. Overtime Monday through Friday would be at 1 ½ of base shift rate. Saturday first 7 ½ hours of work – 1½ of base shift rate. Saturday – work after 7½ hours – 2 times the basic wage rate. Sunday and Holidays – 2 times the basic wage rate. All work performed on recognized holidays and Sundays shall be paid double (2) time. Appropriate overtime rates to be based on fifteen minute increments.

NO. 35: Means a regular work week of forty (40) hours, will start on Monday and end on Friday. The regular work day shall be either eight (8) or ten (10) hours. If a crew is prevented from working forty (40) hours Monday through Friday, or any part thereof by reason of inclement weather, Saturday or any part thereof maybe worked as a make-up day at the straight time rate. Employees who are part of a regular crew on a make-up day, notwithstanding the fact that they may not have been employed the entire week, shall work Saturday at the straight time rate. A work day is to begin between 6:00 a.m. and 9:00 a.m. However, the project starting time maybe advanced or delayed if mutually agreed to by the interested parties. For all time worked on recognized holidays, or days observed as such, double (2) time shall be paid.

NO. 43: Eight (8) hours shall constitute a work day between the hours of 7:00 a.m. and 4:30 p.m. Forty (40) hours within five (5) days, Monday through Friday inclusive, shall constitute the work week. Work performed in the 9th and 10th hour, Monday through Friday, shall be paid at time and one-half (1½) the regular straight time rate of pay. Contractor has the option to pay two (2) hours per day at the time and one-half (1½) the regular straight time rate of pay between the hours of 6:00 a.m. and 5:30 p.m., Monday through Friday. Work performed outside the regularly scheduled working hours and on Saturdays, Sundays and recognized legal holidays, or days celebrated as such, shall be paid for at the rate of double (2) time.

NO. 44: Means forty (40) hours shall constitute a work week, Monday through Friday. Eight (8) hours shall constitute a work day. Hours of work shall be between the hours of 7:00 a.m. and 4:30 p.m. All work performed before 7:00 a.m. and after 4:30 p.m. and all work performed in excess of eight (8) hours in any one work day, over forty (40) hours in any work week and the first eight (8) hours of work on Saturday, shall be paid at the rate of one and one-half (1½) times the regular rate of pay. All hours worked in excess of eight (8) hours on Saturday, all hours worked on Sunday and on holidays, or days that may be celebrated as such, and as designated by the federal government, shall be paid at two (2) times the regular rate of pay. All shifts for work performed between the hours of 4:30 p.m. and 1:00 a.m. shall receive eight (8) hours pay at the regular hourly rate of pay plus two dollars (\$2.00) per clock hour. All work performed between the hours of 12:30 a.m. and 9:00 a.m. on a third shift shall receive eight (8) hours pay at the regular hourly rate plus four dollars (\$4.00) per clock hour. All overtime work required after the completion of a regular shift shall be paid at one and one-half times (1½ x) the "shift" hourly rate.

NO. 55: Means the regular work day shall be eight (8) hours between 6:00 a.m. and 4:30 p.m. The first two (2) hours of work performed in excess of the eight (8) hour work day, Monday through Friday, and the first ten (10) hours of work on Saturday, shall be paid at one & one-half (1½) times the straight time rate. All work performed on Sunday, observed holidays and in excess of ten (10) hours a day, Monday through Saturday, shall be paid at double (2) the straight time rate.

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NO. 57: Means eight (8) hours per day shall constitute a day's work and forty (40) hours per week, Monday through Friday, shall constitute a week's work. The regular starting time shall be 8:00 a.m. If a second or third shift is used, the regular starting time of the second shift shall be 4:30 p.m. and the regular starting period for the third shift shall be 12:30 a.m. These times may be adjusted by the employer. The day shift shall work a regular eight (8) hours shift as outlined above. Employees working a second shift shall receive an additional \$0.25 above the regular hourly rate and perform seven and one-half (7½) hours work for eight (8) hours pay. Third shift employees shall be paid an additional \$0.50 above the regular hourly rate and work seven (7) hours for eight (8) hours pay. When circumstances warrant, the Employer may change the regular workweek to four (4) ten-hour days at the regular time rate of pay. All time worked before and after the established workday of eight (8) hours, Monday through Friday, and all time worked on Saturday shall be paid at the rate of time and one-half (1½) except in cases where work is part of an employee's regular Friday shift. All time worked on Sunday and recognized holidays shall be paid at the double (2) time rate of pay except in cases where work is part of an employee's previous day's shift. For all overtime hours worked \$25.77 of the fringe benefits portion of the prevailing wage shall be paid at the same overtime rate at which the cash portion of the prevailing wage is to be paid. The remaining \$1.24 of the fringe benefit portion of the prevailing wage may be paid at straight time.

NO. 66: Means eight (8) hours shall constitute a day's work beginning at 8:00 a.m. and ending at 4:30 p.m. The work week shall be forty (40) hours beginning Monday at 8:00 a.m. and ending Friday at 4:30 p.m. The Employer at his option may use a flexible starting time between the hours of 7:00 a.m. and 9:00 a.m. All overtime, that is worked outside of the above established working hours of Monday through Friday, shall be paid at double (2) time, including Saturdays, Sundays and Holidays.

NO. 67: Means eight (8) hours shall constitute a day's work, with a flexible starting time to begin between 6:00 a.m. to 8:00 a.m., five (5) days a week, Monday through Friday. Any work over eight (8) hours in any one day shall be at the overtime rate, which is time & one-half (1½). Any work on Saturday shall be at time & one-half (1½), unless a Make-Up Day due to inclement weather is in effect. Any work on Sundays or holidays shall be at double (2) time. Four (4) days, ten (10) hours each day to be worked during Monday through Friday, shall be paid at straight time. A Make-Up Day Due To Inclement Weather Only - Employee(s) will be permitted to work an eight (8) hour make-up day on Saturday only, and the employee will receive the regular straight time wage rate.

NO. 72: Means that except as is otherwise provided herein, the work week shall be determined to begin at 8:00 a.m. Wednesday and end at 4:30 p.m. on the following Tuesday. Except as herein provided, working hours are from 8:00 a.m. to 11:55 a.m. and 12:30 p.m. to 4:25 p.m. and no more than the regular hours shall be worked during the forenoon or afternoon at the regular rate. In the case of days of inclement weather starting time and quitting time may be adjusted so long as the hours worked on such days do not exceed eight (8) and do not extend beyond 4:30 p.m. In circumstances where the Employee or Employees have regularly been working overtime on a particular day or days, no adjustment in the starting time shall operate to deprive Employees of overtime pay, which they would have otherwise received but for the change in the starting time. The parties understand that the application of the provisions of the preceding sentence will result in Employees receiving overtime pay even where they have not worked more than with (8) hours on a particular day. Regardless of the starting time, the forenoon working hours shall end at 11:55 a.m. and the afternoon working hours shall begin at 12:30 p.m. and end 8 hours and 25 minutes after the starting time fixed by the Employer for forenoon hours. Work performed by an employee on a non-holiday Saturday, except as hereinafter provided, or at night or before or after regular working hours on a non-holiday weekday, shall be considered overtime work, for which Employees working during such time shall be paid at the rate of one and one-half (1½) times their regular hourly wage rate for each hour or fraction thereof, worked during such time. Work performed on a Sunday or the recognized holidays shall be considered overtime work for which the Employee shall be paid twice the amount of his or her regular hourly wage rate for each hour or fraction thereof worked on any such day.

NO. 76: Means the standard workday shall consist of eight (8) hours of work between the hours of 8:00 a.m. and 4:30 p.m. with a thirty (30) minute unpaid lunch hour occurring in the middle of the shift. The standard workweek shall consist of five standard workdays commencing on Monday and ending on Friday. The normal starting and quitting times may be changed by mutual consent of interested parties. All time worked before and after the established eight (8) hour workday, Monday through Friday, and all time worked on Saturday, shall be paid for at the rate of time & one-half (1½) the hourly base wage rate in effect. All time worked on Sunday and holidays shall be paid at the rate of double (2) the hourly wage in effect. All work done on Saturday will be done at time & one-half (1½), unless Saturday shall be used as a make-up day. If an employee should lose one or more days in a work week and use Saturday as a make-up day the pay shall be at the regular hourly base wage rate and benefits.

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NO. 77: Means the regular workday shall consist of eight (8) consecutive hours, exclusive of a thirty (30) minute lunch period, with pay at the regular straight time hourly rate. The regular workday shall begin on the job site between the hours of 6:00 a.m. and 8:00 a.m. with the starting time to be determined by the Employer, unless project owner requires different starting time. This adjustable starting time can, at the Employer's option, be staggered to permit starting portions of the work force at various times within the prescribed hours. The Employer may establish a four (4) ten (10) hour shift exclusive of the thirty (30) minute lunch period at the straight time wage rate. Forty (40) hours per week shall constitute a week's work Monday through Thursday. In the event a job is down due to weather conditions, safety or other conditions beyond the control of the Employer, then Friday may, at the option of the employer, be worked as a make-up day at the straight time wage rate. Straight time is not to exceed ten (10) hours a day or forty (40) hours per week. Time and one-half ($1\frac{1}{2}$) shall be paid for all overtime hours worked during the week, Monday through Friday and for all work performed on Saturday. Double (2) time shall be paid for all time worked on Sunday and recognized holidays.

NO. 80: Means eight (8) hours shall constitute the regular work day and forty (40) hours a work week, Monday through Friday. The Employer shall establish the starting time between 6:30 a.m. through 9:00 a.m. An Employer may further adjust the starting time up to 9:30 a.m. throughout the year. Time and one-half ($1\frac{1}{2}$) shall be paid after eight (8) consecutive hours worked after the established starting time and for hours worked before the established starting time. Time and one-half ($1\frac{1}{2}$) shall be paid for work performed on Saturdays. Work performed on Sundays and Holidays shall be paid at the double (2) time rate of pay. The Employer when working on Highway and Road Work may have the option to schedule the work week for his paving crew only from Monday through Thursday at ten (10) hours per day at the straight time rate of pay with all hours in excess of ten (10) hours in any one day to be at the applicable overtime rate of time and one-half ($1\frac{1}{2}$). If the Employer elects to work from Monday through Thursday and is stopped due to inclement weather (rain, snow, sleet falling), the Employer shall have the option to work Friday at the straight time rate of pay to complete the forty (40) hours.

NO. 82: Means the work day shall consist of eight (8) hours worked between 7:00 a.m. and 4:30 p.m. Forty (40) hours will constitute the work week from Monday through Friday, inclusive. Up to four (4) hours of overtime work per day performed before or after the assigned normal work day, (twelve (12) continuous hours, starting no earlier than 6:00 a.m., Monday through Friday), shall be paid at a rate of one and one-half times (1.5x) that employee's hourly rate. Any additional overtime, Monday through Friday, shall be paid at two times (2x) the regular rate of pay. The first eight hours of overtime work on Saturday shall be paid at the rate of one and one-half times (1.5x) the regular rate of pay. Hours worked in excess of eight (8) hours on Saturday shall be paid at two times (2x) the regular rate of pay. Double time shall be paid for work performed on Sundays, recognized legal holidays or days that may be celebrated as such as designated by the federal government. All shifts for work performed between the hours of 4:30 p.m. and 1:00 a.m. shall be paid at the regular hourly rate plus two dollars (\$2.00) per clock hour. All shifts for work performed between the hours of 12:30 a.m. and 9:00 a.m. shall be paid at the regular hour rate plus four dollars (\$4.00) per clock hour. All overtime work required after the completion of a regular shift shall be paid at one and one-half times (1.5x) the "shift" hourly rate.

NO. 83: Means eight (8) hours shall constitute the regular workday except when the Employer elects to work Four, 10-Hour days as explained in this Section with starting time to be between the hours of 6:00 a.m. and 9:00 a.m. as determined by the Employer. This adjustable starting time can, at the Employer's option, be staggered to permit starting portions of the work force at various times within the prescribed hours. Overtime is to be paid after eight (8) hours at the rate of time and one-half ($1\frac{1}{2}$). The Employer may have the option to schedule his workweek from Monday through Thursday at ten (10) hours per day at the straight time rate of pay with all hours in excess of ten (10) hours in any one day to be at the applicable overtime rate of time and one-half ($1\frac{1}{2}$). If the Employer elects to work from Monday through Thursday and is stopped due to inclement weather (rain, snow, sleet falling) he shall have the option to work Friday at the straight time rate of pay to complete his forty (40) hours. However, should a holiday occur, Monday through Thursday, the Employer shall have the option to work Friday at the straight time rate of pay, unless work is halted due to inclement weather (rain, snow, sleet falling). The work week is to begin on Monday. Time and one-half ($1\frac{1}{2}$) shall be paid for Saturday work. Double (2) time shall be paid for all Sunday work and work performed on recognized holidays.

NO. 87: Means eight (8) hours starting between 6:00 a.m. and 8:00 a.m. and ending between 2:30 p.m. and 4:30 p.m. at the Employers discretion shall constitute a day's work. Any work prior to 6:00 a.m. or after eight (8) hours shall be paid at the overtime rate. Five (5) days from Monday through Friday inclusive shall constitute a regular work week. All hours before and after these regular hours shall be considered overtime and shall be paid for at the rate of double (2) time. All work on Saturday and Sunday shall be paid at double (2) the prevailing scale of wages.

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NO. 91: Means eight (8) hours shall constitute a day's work commencing at 7:00 a.m. and ending at 3:30 p.m., allowing one-half (½) hour for lunch. The option exists for the Employer to use a flexible starting time between the hours of 6:00 a.m. and 9:00 a.m. The regular workweek shall consist of forty (40) hours of five (5) workdays, Monday through Friday. The workweek may consist of four (4) ten (10) hour days from Monday through Thursday, with Friday as a make-up day. If the make-up day is a holiday, the employee shall be paid at the double (2) time rate. The employees shall be paid time and one-half (1½) for work performed on Saturdays, before the regular starting time or after the regular quitting time or over eight (8) hours per work day (unless working a 10-hour work day, then time and one-half (1½) is paid for work performed over ten (10) hours a day) or over forty (40) hours per work week. Work performed on Sundays and recognized holidays shall be paid at the double (2) time rate of pay. **SHIFT WORK:** When it is necessary for the project to operate in shifts, there will be three (3) eight (8) hour shifts commencing at 8:00 a.m. Shift work must continue for a period of not less than three (3) consecutive work days, two (2) days which must be regular work days (Monday through Friday). In the event the second or third shift of any regular work day shall fall into a Saturday or a holiday, such extension into a Saturday or holiday shall be considered as part of the previous workday and employees shall be paid at the regular shift rate. The first day shift shall work a regular eight (8) hour day at regular rates. The second shift shall be eight (8) hours regular time pay plus \$2.50 per hour premium for eight (8) hours work. Third shift will be for eight (8) hours regular time pay plus \$3.00 per hour premium for eight (8) hours work.

NO. 92: Means all work performed from 8:00 a.m. to 4:30 p.m., Monday through Friday, will be at straight time pay up to forty (40) hours per week. All work performed Monday through Friday before 8:00 a.m. and after 4:30 p.m. will be done at time and one-half (1½). All work done on Saturday will be done at time and one-half (1½), unless the employer and employee agree that Saturday shall be used as a make-up day. The Employer may use a flexible starting time of 7:00 a.m. to 8:00 a.m., and quitting time of 3:30 p.m. to 4:30 p.m., and any such different work starting time shall determine whether wages are payable at the straight rate or the premium rate. All work performed on Saturday shall be paid for at time and one-half (1½), unless the Saturday has been used as a make-up day. All work performed on Sunday and holidays shall be paid for at the rate of double (2) time.

NO. 97: Means the regular workday shall consist of eight (8) consecutive hours, exclusive of a thirty minute lunch period with pay at the regular straight time hourly rate. The regular workday shall begin on the job site between the hours of 6:00 a.m. and 9:00 a.m. with the starting time to be determined by the Employer. This adjustable start time can, at the Employer's option, be staggered to permit starting portions of the work force at various times within the prescribed hours. The workweek shall begin Monday at the established starting time. The Employer may establish a four (4) ten (10) hour shift exclusive of a thirty (30) minute unpaid lunch period at the straight time wage rate. Forty (40) hours per week shall constitute a week's work, Monday through Thursday. In the event a job is down due to weather conditions, holiday, or other conditions beyond the control of the Employer, then Friday may, at the option of the Employer, be worked as a make-up day at the straight time wage rate. Straight time is not to exceed ten (10) hours a day or forty (40) hours per week. When an Employer works a project on a four (4) ten (10) hour day work schedule, the Employer will not bring in any other crew for a fifth workday on the project while not calling in the normal crew that had been scheduled for that project. Time and one-half (1½) shall be paid for work performed in excess of eight (8) hours on any regular workday or outside the hours limiting a regular workday, Monday through Friday. Time and one-half (1½) shall be paid for work performed on Saturdays. Double (2) time shall be paid for work performed on Sundays and recognized holidays. Projects that cannot be performed during regular workday: If required by owner, the contractor may perform work outside the normal work hours and employees shall be paid applicable straight time hourly wage rate plus a premium of two dollars and fifty cents (\$2.50) per hour for the first eight (8) hours worked. Any hours worked in excess of eight (8) hours shall be paid at the applicable overtime rate plus the two dollar and fifty cent (\$2.50) per hour premium. Shift Work: Shifts may be established when considered necessary by the Employer. Shifts hours and rates will be as follows: First Shift, Eight (8) hours plus one-half (1/2) hour for lunch. Second Shift, Eight (8) hours plus one-half (1/2) hour for lunch. Third Shift, Eight (8) hours plus one-half (1/2) hour for lunch. Shifts shall be established for a minimum of three (3) consecutive workdays. The first shift will be paid at eight (8) hours straight time for eight (8) hours work. The second shift will be paid eight (8) hours straight time plus a two dollar and fifty cent (\$2.50) per hour premium for eight (8) hours work, and third shift shall be paid eight (8) hours straight time plus a three dollar and fifty cent (\$3.50) per hour premium for eight (8) hours work. Overtime is computed after the premium has been added to the hourly wage rate. Nothing above prohibits the working of two (2) shifts at greater than eight (8) hours with the excess hours to be paid at overtime rate.

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NO. 104: Means eight (8) hours per day shall constitute a standard work day between the hours of 6:00 a.m. and 8:00 p.m. The standard work week shall be forty (40) hours between 6:00 a.m. on Monday and ending 8:00 p.m. on Friday. An overtime rate of time and one-half (1½) the base hourly rate shall be paid on all hours in excess of eight (8) hours in a day Monday through Friday. Saturdays shall be considered overtime and work done on Saturday shall be paid at time and one-half (1½) the prevailing scale. Sundays and holidays shall be considered overtime and work done on these days shall be paid at double (2) the prevailing scale.

NO. 109: Means a workday of eight (8) hours shall constitute the regular day's work beginning at 8:00 a.m. through 4:30 p.m.; five (5) days shall constitute a work week from Monday to Friday inclusive; time and one-half (1½) shall be paid for all work performed before 8:00 a.m. or after 4:30 p.m. of any day Monday through Friday, and all hours worked on Saturday. Double (2) time shall be paid for all work performed on Sunday or any of the recognized holidays. Overtime shall be computed at one-half (1/2) hour intervals. A flexible starting time for eight (8) hours shall constitute the regular workday between the hours of 6:00 a.m. and 5:30 p.m. with starting time determined by the Employer. This adjustable starting time can, at the employer's option, be staggered to permit starting portions of the work force at various times within the prescribed hours. The Employer may have the option to schedule his workweek from Monday through Thursday at ten (10) hours per day at the straight time rate of pay with all hours in excess of ten (10) hours in any one day to be at the applicable overtime rate. If the Employer elects to work from Monday through Thursday and is stopped due to inclement weather (rain, snow, sleet falling), he shall have the option to work Friday at the straight time rate of pay to complete his forty (40) hours. When an Employer works a project of a four (4) ten (10) hour day work schedule, the Employer will not bring in any other crew for a fifth workday on the project while not calling in the normal crew that had been scheduled for that project. Projects that cannot be performed during regular workday: If required by owner, the contractor may perform work outside the normal work hours and employees shall be paid applicable straight time hourly wage rate plus a premium of two dollars and fifty cents (\$2.50) per hour for the first eight (8) hours worked. Any hours worked in excess of eight (8) hours shall be paid at the applicable overtime rate plus the two dollar and fifty cent (\$2.50) per hour premium. Shift work: Shifts may be established when necessary by the Employer. Shifts shall be established for a minimum of three (3) consecutive workdays. The first shift will be paid at eight (8) hours straight time pay for eight (8) hours work. The second shift will be paid at eight (8) hours straight time pay plus a two dollar and fifty cent (\$2.50) per hour premium for eight (8) hours work. The third shift will be paid at eight (8) hours straight time pay plus a three dollar and fifty cent (\$3.50) per hour premium for eight (8) hours work. Payment for shift work shall be determined when an Employer first begins his shift operation, i.e., the shifts which begin on Friday morning and end on Saturday morning will be paid straight time; the shifts which start on Saturday morning and end on Sunday morning will be paid at time and one-half (1½); the shift that start on Sunday morning and end on Monday morning will be paid at two (2) times the regular rate of pay. Employees working during the normal workday shall receive first shift pay; employees working predominantly in the evening hours shall receive second shift pay; employees working predominately during the early morning hours will receive third shift pay. Nothing above prohibits the working of two (2) shifts greater than eight (8) hours with excess hours to be paid at overtime rate.

NO. 114: Means eight (8) hours shall constitute a regular work day between the hours of 7:00 a.m. and 5:30 p.m. with a thirty (30) minute lunch period to start between the hours of 11:00 a.m. and 1:00 p.m. Five (5) days shall constitute a regular work week commencing on Monday and ending on Friday. One and one-half (1½) times the regular hourly rate of pay shall be paid for all overtime work, with the exception of holidays or Sundays. Overtime work shall be deemed to include any work performed in excess of eight (8) hours on any day in the regular work week, or any work performed before 7:00 a.m. or after 5:30 p.m. on any day in the regular work week. If a crew is prevented from working forty (40) hours Monday through Friday by reason of inclement weather, then Saturday may be worked by that crew as a make-up day at the straight time rate. Double (2) time shall be paid for work performed on Sundays and holidays, or days observed as such. Shift Work: In the case of three (3) shifts, workmen shall be paid eight (8) hours for seven and one-half (7½) hours worked.

NO. 116: Means the standard work day shall consist of eight (8) hours of work between the hours of 8:00 a.m. and 4:30 p.m. The standard work week shall consist of five standard work days commencing on Monday and ending on Friday inclusive. All time worked before and after the established eight (8) hour work day, Monday through Friday, and all time worked on Saturdays, shall be paid for at the rate of time & one-half (1½) the hourly base wage rate in effect. All time worked on Sundays and recognized holidays shall be paid for at the rate of double (2) the hourly base wage rate in effect.

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NO. 3: All work done on New Year's Day, Memorial Day, Independence Day, Labor Day, Veteran's Day (November 11), Thanksgiving Day, and Christmas Day shall be compensated at the double (2) time rate of pay. When any of these holidays fall on a Sunday, the following Monday shall be observed. No work shall be performed on the days set forth except in cases of emergencies to protect life or property.

NO. 5: All work that shall be done on New Year's Day, Memorial Day, Fourth of July, Labor Day, Veteran's Day, Thanksgiving Day, and Christmas Day shall be paid at the double (2) time rate of pay.

NO. 6: The following days are recognized as holidays: New Year's Day, Memorial Day, Fourth of July, Labor Day, Veterans Day, Thanksgiving Day, Christmas Day and any additional holidays which may be mutually agreed upon. Whenever any such holiday falls on a Sunday, the following Monday shall be recognized and observed as the holiday. Work performed on Sundays and holidays shall be paid at the double time rate of pay. No work shall be performed on Labor Day.

NO. 7: The following days are assigned days and are recognized as holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Veteran's Day, Thanksgiving Day, and Christmas Day. If a holiday falls on a Sunday, it shall be observed on the following Monday. If a holiday falls on a Saturday, it shall be observed on the preceding Friday. No work shall be performed on Labor Day except in case of jeopardy to work under construction. This is applied to protect Labor Day. When a holiday falls during the normal workweek, Monday through Friday, it shall be counted as eight (8) hours toward the forty (40) hour week. However, no reimbursement for this eight (8) hours is too paid to the workman unless worked. If workman are required to work the above enumerated holidays or days observed as such, or on Sunday, they shall receive double (2) the regular rate of pay for such work.

NO. 8: All work performed on New Year's Day, Memorial Day, Independence Day, Labor Day, Veteran's Day, Thanksgiving Day, and Christmas Day, or the days observed in lieu of these holidays, shall be paid at the double time rate of pay.

NO. 12: All work done on New Year's Day, Decoration Day, Independence Day, Veteran's Day, Thanksgiving Day and Christmas Day shall be paid at the double time rate of pay. Should any of these days fall on Sunday, then the following day shall be observed as the holiday. Under no circumstances shall employees be permitted to work on Labor Day.

NO. 17: All work performed by Employees working on the following legal holidays, namely New Year's Day, Memorial Day, Fourth of July, Labor Day, Veteran's Day, to be celebrated on either its national holiday or on the day after Thanksgiving whichever is agreed upon, Thanksgiving Day and Christmas Day shall be paid at the rate of double (2) time.

NO. 18: All work done on New Year's Day, Memorial Day, July 4th, Labor Day, Veteran's Day, Thanksgiving Day, the Friday following Thanksgiving and Christmas Day shall be paid at the double time rate of pay. When one of the above holidays falls on Sunday, the following Monday shall be considered the holiday, and when one of the above holidays falls on Saturday, the preceding Friday shall be considered the holiday, and all work performed on said day(s) shall be paid at the double time rate.

NO. 25: All work done on New Year's Day, Martin Luther King Day, Memorial Day, Independence Day, Labor Day, Veteran's Day, Thanksgiving Day, the day after Thanksgiving, Christmas Day, Presidential Election Day, or days locally observed as such, and Saturday and Sunday shall be recognized as holidays and shall be paid at the double (2) time rate of pay. If a named holiday falls on a Saturday, the holiday will be observed on the preceding Friday. When a named holiday falls on Sunday, the Monday after will be observed as the holiday. Appropriate overtime rates to be based on fifteen minute increments.

NO. 26: All work done on New Year's Day, Memorial Day, Fourth of July, Labor Day, Veteran's Day, Thanksgiving Day and Christmas Day shall be paid at the double time rate of pay. When a Holiday occurs on Saturday it shall not be observed on either the previous Friday or the following Monday. Such days shall be regular work days. If such a holiday occurs on Sunday it shall be observed on the following Monday.

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NO. 27: All work done on the following holidays or days observed as such shall be paid at the double time rate of pay: New Year's Day, Memorial Day, Independence Day, Labor Day, Veteran's Day, Thanksgiving Day and Christmas Day.

NO. 31: All work done on New Year's Day, Presidents Day, Good Friday, Memorial Day, Fourth of July, Labor Day, Veteran's Day, Thanksgiving Day, Friday after Thanksgiving Day, Christmas Day, and Employee's Birthday shall be paid at the double time rate of pay. If a holiday falls on Sunday, the following Monday will be observed as the recognized holiday. If a holiday falls on Saturday, the preceding Friday will be observed as the recognized holiday.

NO. 36: The following days are recognized as holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day. If a holiday falls on a Sunday, it shall be observed on the following Monday. No work shall be performed on Labor Day except in case of jeopardy to work under construction. This rule is applied to protect Labor Day. When a holiday falls during the normal work week, Monday through Friday, it shall be counted as eight (8) hours toward the forty (40) hour week; however, no reimbursement for this eight (8) hours is to be paid the workman unless worked. An Employer working a four (4) day, ten (10) hour schedule may use Friday as a make-up day when an observed holiday occurs during the work week. Employees have the option to work that make-up day. If workmen are required to work the above enumerated holidays, or days observed as such, they shall receive double (2) the regular rate of pay for such work.

NO. 41: The following days shall be observed as legal holidays: New Year's Day, Memorial Day, Fourth of July, Labor Day, Veteran's Day, Thanksgiving Day and Christmas Day. No work shall be performed on the Fourth of July, Labor Day or Christmas Day. Any work performed on the above holidays shall be paid for at two (2) times the regular straight time rate of pay. When any of the above holidays fall on Sunday, the following Monday shall be observed as such holiday. If a holiday falls on Saturday, it shall not be considered to be observed on the previous Friday or following Monday. Such days shall be regular workdays.

NO. 45: All work performed on New Year's Day, Memorial Day, Fourth of July, Veteran's Day, Thanksgiving Day, Labor Day, Christmas Day, or days celebrated as such, shall be paid at the double time rate of pay. When a National holiday falls on Sunday, Monday shall be observed as the holiday. When a National holiday falls on Saturday, the preceding Friday will be observed as the holiday.

NO. 47: The following holidays are recognized: New Year's Day, Memorial Day, Fourth of July, Labor Day, Veteran's Day, Thanksgiving Day, the day after Thanksgiving and Christmas Day. When a holiday listed above falls on Saturday, it shall be celebrated on the Friday preceding the holiday. When a holiday falls on Sunday, the following Monday shall be observed. Holidays referred to above shall be paid for at the double (2) time rate of pay when worked.

NO. 51: All time worked on Sundays and recognized holidays shall be paid for at the rate of double (2) the hourly base wage rate in effect. The Employer agrees to recognize the following holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Veteran's Day, Thanksgiving Day and Christmas Day. If the holiday falls on Sunday, it shall be recognized on the following Monday. If the holiday falls on a Saturday, it shall be recognized as a Saturday only holiday.

NO. 54: All work performed on New Year's Day, Memorial Day, Independence Day, Labor Day, Veteran's Day, Thanksgiving Day, the Friday after Thanksgiving Day, and Christmas Day shall be paid at the double (2) time rate of pay. When a holiday falls on Saturday, it shall be observed on Friday. When a holiday falls on Sunday, it shall be observed on Monday.

NO. 60: All work performed on New Year's Day, Armistice Day (Veteran's Day), Decoration Day (Memorial Day), Independence Day (Fourth of July), Thanksgiving Day and Christmas Day shall be paid at the double time rate of pay. No work shall be performed on Labor Day except when triple (3) time is paid. When a holiday falls on Saturday, Friday will be observed as the holiday. When a holiday falls on Sunday, the following Monday shall be observed as the holiday.

**CITY OF ST. LOUIS CITY
HOLIDAY SCHEDULE – BUILDING CONSTRUCTION**

NO. 66: All work performed on Sundays and the following recognized holidays, or the days observed as such, of New Year's Day, Decoration Day, Fourth of July, Labor Day, Veteran's Day, Thanksgiving Day and Christmas Day, shall be paid at double (2) the hourly rate plus an amount equal to the hourly Total Indicated Fringe Benefits. Whenever any such holidays fall on a Sunday, the following Monday shall be observed as a holiday.

NO. 69: All work performed on New Year's Day, Memorial Day, July Fourth, Labor Day, Veteran's Day, Thanksgiving Day or Christmas Day shall be compensated at double (2) their straight-time hourly rate of pay. Friday after Thanksgiving and the day before Christmas are also holidays, however, if the employer chooses to work the normal work hours on these days, the employee will be paid at straight -time rate of pay. If a holiday falls on a Saturday, the holiday will be observed on Saturday; if a holiday falls on a Sunday, the holiday will be observed on the following Monday.

NO. 71: All work performed on the following recognized holidays, or days that may be celebrated as such, shall be paid at the double (2) time rate of pay: New Year's Day, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving Day, Day after Thanksgiving and Christmas Day. If a holiday falls on Sunday, it shall be celebrated on Monday. If a holiday falls on Saturday, it shall be celebrated on the Friday proceeding such Saturday.

NO. 73: The following days are recognized as holidays: New Year's Day, Memorial Day, Fourth of July, Labor Day, Veteran's Day (or mutually agreed date of the Friday after Thanksgiving Day may be substituted for Veteran's Day), Thanksgiving Day and Christmas Day, or in the event that any of said Holidays falls on Sunday, then the day or days generally recognized as such. Any work performed anywhere on any of the aforesaid Holidays, or on the day or days recognized and observed as such, shall be paid for at double (2) time the regular hourly rate.

OCCUPATIONAL TITLE	* Date of Increase	Basic Hourly Rates	Over-Time Schedule	Holiday Schedule	Total Fringe Benefits
Carpenter		\$33.23	11	7	\$12.40
Millwright		\$33.23	11	7	\$12.40
Pile Driver		\$33.23	11	7	\$12.40
Electrician (Outside-Line Construction\Lineman)		\$36.36	9	12	\$5.00 + 42.5%
Lineman Operator		\$31.39	9	12	\$5.00 + 42.5%
Lineman - Tree Trimmer		\$23.72	32	31	\$5.00 + 23%
Groundman		\$24.27	9	12	\$5.00 + 42.5%
Groundman - Tree Trimmer		\$18.80	32	31	\$5.00 + 23%
Operating Engineer					
Group I		\$29.11	15	9	\$21.36
Group II		\$29.11	15	9	\$21.36
Group III		\$27.21	15	9	\$21.36
Group IV		\$23.75	15	9	\$21.36
Oiler-Driver		\$23.75	15	9	\$21.36
Cement Mason		\$28.70	17	11	\$14.56
Laborer					
General Laborer		\$28.87	16	10	\$12.62
Truck Driver-Teamster					
Group I		\$27.05	14	8	\$9.045
Group II		\$27.25	14	8	\$9.045
Group III		\$27.35	14	8	\$9.045
Group IV		\$27.35	14	8	\$9.045
Traffic Control Service Driver		\$27.35	26	25	\$9.045

Use Heavy Construction Rates on Highway and Heavy construction in accordance with the classifications of construction work established in 8 CSR 30-3.040(3).

Use Building Construction Rates on Building construction in accordance with the classifications of construction work established in 8 CSR 30-3.040(2).

If a worker is performing work on a heavy construction project within an occupational title that is not listed on the Heavy Construction Rate Sheet, use the rate for that occupational title as shown on the Building Construction Rate sheet.

For additional information regarding the application of the Lineman Tree Trimmer and the Groundman Tree Trimmer subcategories of the occupational title of Electrician (Outside-Line Construction\Lineman), see the Labor and Industrial Relations Commission Order of June 21, 2012, in the Matter of Objection Nos. 122-237.

**REPLACEMENT PAGE
CITY OF ST. LOUIS CITY
OVERTIME SCHEDULE – HEAVY CONSTRUCTION**

FED: Minimum requirement per Fair Labor Standards Act means time and one-half (1 ½) shall be paid for all work in excess of forty (40) hours per work week.

NO. 9: Eight (8) hours shall constitute a work day between the hours of 7:00 a.m. and 4:30 p.m. Forty (40) hours within five (5) days, Monday through Friday inclusive, shall constitute the work week. Work performed in the 9th and 10th hour, Monday through Friday, shall be paid at time and one-half (1½) the regular straight time rate of pay. Contractor has the option to pay two (2) hours per day at the time and one-half (1½) the regular straight time rate of pay between the hours of 6:00 a.m. and 5:30 p.m., Monday through Friday. Work performed in the first eight (8) hours on Saturday shall be paid at the rate of one and eight tenths (1.8) the regular straight time rate. Work performed outside these hours and on Sundays and recognized legal holidays, or days celebrated as such, shall be paid for at the rate of double (2) time.

NO. 11: Means the regular work day shall consist of eight (8) consecutive hours, exclusive of a thirty (30) minute lunch period, with pay at the regular straight time hourly rate. The regular workday shall begin on the jobsite between the hours of 6:00 a.m. and 8:00 a.m. with the starting time to be determined by the Employer, unless project owner requires different starting time. This adjustable starting time can, at the Employer's option, be staggered to permit starting portions of the work force at various times within the prescribed hours. The Employer may establish a four (4) ten (10) hour shift exclusive of the thirty (30) minute lunch period at the straight time wage rate. Forty (40) hours per work week shall constitute a week's work Monday through Thursday. In the event a job is down due to weather conditions, safety or other conditions beyond the control of the Employer, then Friday may, at the option of the Employer, be worked as a make up day at the straight time wage rate. Straight time is not to exceed ten (10) hours a day or forty (40) hours per week. Time and one-half (1½) shall be paid for all overtime hours worked during the week, Monday through Friday, and for all work performed on Saturday. Double time shall be paid for all time worked on Sunday and recognized holidays.

NO. 14: Means eight (8) hours shall constitute the regular workday except when the Employer elects to work Four, 10-Hour days as explained in this Section with starting time to be between the hours of 6:00 a.m. and 9:00 a.m. as determined by the Employer. This adjustable starting time can, at the Employer's option, be staggered to permit starting portions of the work force at various times within the prescribed hours. Overtime is to be paid after eight (8) hours at the rate of time and one-half (1½). The Employer may have the option to schedule his work week from Monday through Thursday at ten (10) hours per day at the straight time rate of pay with all hours in excess of ten (10) hours in any one day to be at the applicable overtime rate of time and one-half (1½). If the Employer elects to work from Monday through Thursday and is stopped due to inclement weather (rain, snow, sleet falling) he shall have the option to work Friday at the straight time rate of pay to complete his forty (40) hours. However, should a holiday occur, Monday through Thursday, the Employer shall have the option to work Friday at the straight time rate of pay, unless work is halted due to inclement weather (rain, snow, sleet falling). The work week is to begin on Monday. Time and one-half (1½) shall be paid for Saturday work. Double (2) time shall be paid for Sunday work and work performed on recognized holidays.

NO. 15: Means the regular workday shall consist of eight (8) consecutive hours, exclusive of thirty (30) minute lunch period, with pay at the straight time rate. The regular workday shall begin between the hours of 6:00 a.m. and 9:00 a.m. The Employer may have the option to schedule the workweek from Monday through Thursday at ten (10) hours per day at the straight time rate of pay with all hours in excess of ten (10) hours in any one day to be paid at the applicable overtime rate. If the Employer elects to work from Monday through Thursday and is stopped due to inclement weather, holiday or other conditions beyond the control of the Employer, he shall have the option to work Friday at the straight time rate of pay to complete the forty (40) hours for the workweek. All overtime work performed on Monday through Saturday shall be paid at time and one-half (1½) the hourly rate plus an amount equal to one-half (½) of the hourly Total Indicated Fringe Benefits. All work performed on Sundays and recognized holidays shall be paid at double (2) the hourly rate plus an amount equal to the hourly Total Indicated Fringe Benefits. Shifts may be established when considered necessary by the Employer. Shift hours and rates will be as follows. If shifts are established, work on the First Shift will begin between 6:00 a.m. and 9:00 a.m. and consist of eight (8) hours of work plus one-half hour unpaid lunch. Hours worked during the first shift will be paid at the straight time rate of pay. The second shift shall start eight hours after the start of the first shift and consist of eight (8) hours of work plus one-half hour unpaid lunch. Work on the second shift will begin between 2:00 p.m. and 5:00 p.m. and be paid the straight time rate plus \$2.50 per hour. The third shift shall eight hours after the start of the second shift and consist of eight (8) hours plus one-half hour unpaid lunch. Work on the third shift will begin between 10:00 p.m. and 1:00 a.m. and be paid the straight time rate plus \$3.50 per hour. The additional amounts that are to be paid are only applicable when working shifts. Shifts that begin on Saturday morning through those shifts which end on Sunday morning will be paid at time and one-half these rates. Shifts that begin on Sunday morning through those shifts which end on Monday morning will be paid at double time these rates.

**REPLACEMENT PAGE
CITY OF ST. LOUIS CITY
OVERTIME SCHEDULE – HEAVY CONSTRUCTION**

NO. 16: Means the regular workday shall consist of eight (8) consecutive hours, exclusive of a thirty (30) minute lunch period with pay at the straight time hourly rate. The regular workday shall begin on the job site between the hours of 6:00 a.m. and 9:00 a.m. with the starting time to be determined by the Employer. This adjustable start time can, at the Employer's option, be staggered to permit starting portions of the work force at various times within the prescribed hours. The workweek shall begin Monday at the established starting time. The Employer may establish a four (4) ten (10) hour shift exclusive of a thirty (30) minute unpaid lunch period at the straight time wage rate. Forty (40) hours per week shall constitute a week's work, Monday through Thursday. In the event a job is down due to weather conditions, holiday, or other conditions beyond the control of the Employer, then Friday may, at the option of the Employer, be worked as a make-up day at the straight time wage rate. Straight time is not to exceed ten (10) hours a day or forty (40) hours per week. When an Employer works a project on a four (4) ten (10) hour day work schedule, the Employer will not bring in any other crew for a fifth workday on the project while not calling in the normal crew that had been scheduled for that project. Time and one-half (1½) shall be paid for work performed in excess of eight (8) hours on any regular workday or outside the hours limiting a regular workday, Monday through Friday. Time and one-half (1½) shall be paid for work performed on Saturdays. Double (2) time shall be paid for work performed on Sundays and recognized holidays. Projects that cannot be performed during regular workday: If required by owner, the contractor may perform work outside the normal work hours and employees shall be paid applicable straight time hourly wage rate plus a premium of two dollars and fifty cents (\$2.50) per hour for the first eight (8) hours worked. Any hours worked in excess of eight (8) hours shall be paid at the applicable overtime rate plus the two dollar and fifty cent (\$2.50) per hour premium. Shift work: Shifts may be established when considered necessary by the Employer. Shifts hours and rates will be as follows: First Shift, Eight (8) hours plus one-half (1/2) hour for lunch. Second Shift, Eight (8) hours plus one-half (1/2) hour for lunch. Third Shift, Eight (8) hours plus one-half (1/2) hour for lunch. Shifts shall be established for a minimum of three (3) consecutive workdays. The first shift will be paid at eight (8) hours straight time for eight (8) hours work. The second shift will be paid eight (8) hours straight time plus a two dollar and fifty cent (\$2.50) per hour premium for eight (8) hours work, and third shift shall be paid eight (8) hours straight time plus a three dollar and fifty cent (\$3.50) per hour premium for eight (8) hours work. Overtime is computed after the premium has been added to the hourly wage rate. Nothing above prohibits the working of two (2) shifts at greater than eight (8) hours with the excess hours to be paid at overtime rate.

NO. 17: Means eight (8) hours shall constitute the regular work day and forty (40) hours a work week, Monday through Friday. The Employer shall establish the starting time between 6:30 a.m. through 9:00 a.m. An Employer may further adjust the starting time up to 9:30 A.M. throughout the year. Time and one-half (1½) shall be paid after eight (8) consecutive hours worked after the established starting time and for hours worked before the established starting time. Time and one-half (1½) shall be paid for work performed on Saturdays. Work performed on Sundays and Holidays shall be paid at the double (2) time rate of pay. The Employer when working on Highway and Road Work may have the option to schedule the work week for his paving crew only from Monday through Thursday at ten (10) hours per day at the straight time rate of pay with all hours in excess of ten (10) hours in any one day to be at the applicable overtime rate of time and one-half (1½). If the Employer elects to work from Monday through Thursday and is stopped due to inclement weather (rain, snow, sleet falling), the Employer shall have the option to work Friday at the straight time rate of pay to complete the forty (40) hours.

NO. 26: Means a regular work week of forty (40) hours will start on Monday and end on Friday. The regular work day shall be either eight (8) or ten (10) hours. If a crew is prevented from working forty (40) hours Monday through Friday, or any part thereof by reason of inclement weather, Saturday or any part thereof may be worked as a make-up day at the straight time rate. Employees who are part of a regular crew on a make-up day, notwithstanding the fact that they may not have been employed the entire week, shall work Saturday at the straight time rate. A workday is to begin between 6:00 a.m. and 9:00 a.m. However, the project starting time may be advanced or delayed if mutually agreed to by the interest parties. For all time worked on recognized holidays, or days observed as such, double (2) time shall be paid.

No. 32: Means the overtime rate shall be time and one-half the regular rate for work over forty (40) hours per week. Sundays and Holidays shall be paid at double the straight time rate.

**REPLACEMENT PAGE
CITY OF ST. LOUIS CITY
HOLIDAY SCHEDULE – HEAVY CONSTRUCTION**

NO. 7: The following days shall be observed as legal holidays: New Year's Day, Memorial Day, Fourth of July, Labor Day, Veteran's Day, Thanksgiving Day and Christmas Day. No work shall be performed on the Fourth of July, Labor Day or Christmas Day. Any work performed on the above holidays shall be paid for at two (2) times the regular straight time rate of pay. When any of the above holidays fall on Sunday, the following Monday shall be observed as such holiday. If a holiday falls on Saturday, it shall not be considered to be observed on the previous Friday or following Monday. Such days shall be regular workdays.

NO. 8: All work performed by Employees working on the following legal holidays, namely New Year's Day, Memorial Day, Fourth of July, Labor Day, Veteran's Day, to be celebrated on either its national holiday or on the day after Thanksgiving whichever is agreed upon, Thanksgiving Day and Christmas Day shall be paid at the rate of double (2) time.

NO. 9: All work performed on Sundays and the following recognized holidays, or the days observed as such, of New Year's Day, Decoration Day, Fourth of July, Labor Day, Veteran's Day, Thanksgiving Day and Christmas Day, shall be paid at double (2) the hourly rate plus an amount equal to the hourly Total Indicated Fringe Benefits. Whenever any such holidays fall on a Sunday, the following Monday shall be observed as a holiday.

NO. 10: All work done on New Year's Day, Memorial Day, Fourth of July, Labor Day, Veteran's Day, Thanksgiving Day and Christmas Day shall be paid at the double time rate of pay. When a holiday occurs on Saturday it shall not be observed on either the previous Friday or the following Monday. Such days shall be regular work days. If such a holiday occurs on Sunday, it shall be observed on the following Monday.

NO. 11: Means all work performed on New Year's Day, Memorial Day, Fourth of July, Labor Day, Veteran's Day, Thanksgiving Day, Christmas Day, and any additional holidays which may be mutually agreed upon shall be paid at the double (2) time rate of pay. Whenever any such holiday falls on a Sunday, the following Monday shall be recognized and observed as the holiday. No work shall be performed on Labor Day.

NO. 12: All work performed on New Year's Day, Memorial Day, Fourth of July, Labor Day, Veteran's Day, Thanksgiving Day, Christmas Day, or days celebrated as such, shall be paid at the double time rate of pay. When one of the foregoing holidays falls on Sunday, it shall be celebrated on the following Monday. When one of the foregoing holidays falls on Saturday, it shall be celebrated on the Friday before the holiday.

NO. 25: The following days are recognized as holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day. If a holiday falls on a Sunday, it shall be observed on the following Monday. No work shall be performed on Labor Day except in case of jeopardy to work under construction. This rule is applied to protect Labor Day. When a holiday falls during the normal work week, Monday through Friday, it shall be counted as eight (8) hours toward the forty (40) hour week; however, no reimbursement for this eight (8) hours is to be paid the workmen unless worked. An Employer working a four (4) day, ten (10) hour schedule may use Friday as a make up day when an observed holiday occurs during the work week. Employees have the option to work that make up day. If workmen are required to work the above enumerated holidays, or days observed as such, they shall receive double (2) the regular rate of pay for such work.

NO. 31: All work performed on New Year's Day, Presidents' Day, Veterans' Day, Good Friday, Decoration Day, Fourth of July, Labor Day, Christmas Eve Day, Christmas Day, Thanksgiving Day and Day after Thanksgiving or days celebrated for the same.

ATTACHMENT K
TOBACCO-FREE WORKPLACE

1. A copy of the school districts tobacco-free workplace is attached.

**SPECIAL ADMINISTRATIVE BOARD OF THE
TRANSITIONAL SCHOOL DISTRICT OF THE CITY OF ST. LOUIS**

EMPLOYMENT POLICY

Tobacco – Free Policy

Policy # 4841

SLPS Tobacco-Free Policy

Introduction

St. Louis Public Schools (SLPS) is committed to providing a safe, healthy, comfortable and productive work and learning environment for all students, faculty and staff. Research shows that tobacco use in general, including smoking and breathing secondhand smoke, constitutes a significant health hazard.

Policy

SLPS strictly prohibits all smoking and other uses of tobacco products and the use of smokeless or vapor cigarettes within all SLPS buildings and on SLPS property, at all times. Smoking is prohibited on buses used solely to transport students to or from any place for educational purposes or any other vehicle approved by the superintendent to transport students.

Scope

This policy applies to all, including students, faculty, staff, temporary staff, contractors and visitors.

For the purpose of this policy, “tobacco” is defined to include, but not limited to, any lit cigarette, cigar, pipe, bidi, clove cigarette, and any other smoking product; and smokeless or spit tobacco, also known as dip, chew, snuff or snus in any form.

- The use, distribution, or sale of tobacco, including any smoking device, or carrying of any lit smoking instrument, on SLPS owned, leased or occupied facilities or at events on SLPS properties, or in SLPS-owned, rented or leased vehicles, is prohibited. This includes:
 - o all campuses;
 - o parking facilities and lots (including in personal vehicles);
 - o SLPS buildings located near city/municipality owned sidewalks, within 20 feet of entryways or exits, near air intakes, or near fire/explosion hazards;
- If individuals within SLPS smoke or use tobacco products off SLPS properties, they are expected to be respectful of businesses neighboring SLPS campuses and properties. They should not loiter in front of homes, businesses or facilities near SLPS campuses or properties, and must discard tobacco products in appropriate receptacles.
- The free distribution of tobacco products on SLPS property is prohibited.
- No tobacco-related advertising or sponsorship shall be permitted on SLPS property, SLPS-sponsored events or in publications produced by the SLPS.
- Violations of this policy may result in disciplinary action.

Posting of Signs

“No-smoking” signs must be posted at the entrances of all buildings under the jurisdiction of the St. Louis Board of Education. The signs should include the international no-smoking symbol and the statement: “Smoking is Prohibited in All Facilities Under the Jurisdiction of the St. Louis Board of Education.”

“No-smoking” signs should be posted within each facility at key locations (e.g., office areas in schools, conferences rooms, staff lounges). Building administrators and supervisory staff shall be responsible for ensuring that these signs are posted. Building and supervisory staff are encouraged to also display information materials designed to discourage the use of tobacco products.

Prevention Efforts

Materials available from external agencies, such as American Lung Association and American Heart Association, which are prepared to inform people about the dangers of tobacco products, should be made available to employees. In addition, the District will provide Smoking Cessation courses through the American Lung Association.

Procedures

It is the intent of the Board of Education that a positive and supportive approach be taken toward enforcement of the Tobacco Free Policy. Any conflict should be brought to the attention of the appropriate supervisor for resolution. In any dispute arising from the policy, the health concerns of non-smokers should be given preference.

Employees who violate this smoking policy will be subject to disciplinary action up to and including immediate discharge.

Our smoking policy is intended to comply with requirements of the City of St. Louis Ordinance.

Tobacco Cessations Programs

SLPS recognizes that quitting tobacco use can be a significant personal challenge. It is the intent of the Board of Education that a positive and supportive approach be taken toward enforcement of the Tobacco Free Policy. To assist those who wish to quit smoking, SLPS shall publish and distribute a list of District sponsored and other sponsored programs designed to promote the cessation of smoking. Said list shall be published on the District website and hard copies and contact information shall be kept available in the Human Resources Department.

Date Adopted: **May 26, 2011**

Legal Refs: St. Louis City Ordinance 68481

ATTACHMENT L

CONTRACTOR'S REPORT OF CONSTRUCTION WAGE RATES

1. A copy of a voluntary wage rate survey is included.

The Division of Labor Standards requests your participation in our Prevailing Wage Survey. Surveys are conducted throughout the year to determine the prevailing wages paid to construction workers in all Missouri counties and the city of St. Louis. Your responses to this survey are your opportunity to participate in establishing the state's prevailing wages.

Please complete the survey form on the other side according to the below instructions. Complete all spaces on the form or indicate "N/A" for not available where appropriate.

- 1) Indicate the dates when the work was performed.
- 2) Indicate the type of construction – BUILDING (sheltered enclosure with walk-in access for the purpose of housing persons, machinery, equipment or supplies) or HEAVY (antenna towers, channels, levees, pipe lines, sewers, etc.) (See 8 CSR 30-3.040). Hours worked on residential construction (single family homes or apartment buildings of less than four stories) and general maintenance should not be included in this survey. Accordingly, wage data for ALL commercial construction SHOULD be reported. Wage data for residential construction and general maintenance work should NOT be reported.
- 3) Provide the location (city and county and/or highway and county) for each project you are reporting. Each project should be reported on a separate form. If you require additional forms, please contact our office at 573-751-3403 or prevailingwage@labor.mo.gov or download the form from our website at www.labor.mo.gov/DLS. You may make additional copies as you require.
- 4) Please report only wages and fringe benefits paid for actual hours worked. We cannot accept wage information that is estimated or is an average.
- 5) Indicate the total number of employees and their hours worked in each occupational title. This must be consistent with the occupational titles identified in 8 CSR 30-3.060 (i.e., carpenter, plumber, laborer, operator, etc.). Multiple hourly rates paid to workers require a separate line for each occupational title and rate. These occupational titles apply to mechanics and laborers. They should not include apprentice, superintendent, supervisor or foreman classifications. Working foremen are considered journeymen and should be reported at the journeyman hourly rate.

Wage rates submitted should only be for journeyman work. Employees should be reported at the journeyman rate. Any employee who receives wages higher than the journeyman rate can be reported at the journeyman rate only if they are a supervisor or foreman working with the tools. Only include hours spent working with tools.

- 6) In the space provided, include the printed name, title and signature of the person preparing this report.

Thank you for participating in this wage survey. We encourage you to continue to participate by periodically submitting additional reports. If you have any questions or suggestions, please contact us at 573-751-3403 or prevailingwage@labor.mo.gov.

ATTACHMENT M

AFFIDAVIT OF PREVAILING WAGE



MISSOURI DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS
DIVISION OF LABOR STANDARDS

**AFFIDAVIT
COMPLIANCE WITH THE PREVAILING WAGE LAW**

I, _____, upon being duly sworn upon my oath state that: (1) I am the
(Name)
_____ of _____; (2) all requirements of
(Title) (Name of Company)
§§ 290.210 to 290.340, RSMo, pertaining to the payment of wages to workers employed on public works projects
have been fully satisfied with regard to this company's work on _____;
(Name of Project)

(3) I have reviewed and am familiar with the prevailing wage rules in 8 CSR 30-3.010 to 8 CSR 30-3.060; (4) based upon my knowledge of these rules, including the occupational titles set out in 8 CSR 30-3.060, I have completed full and accurate records clearly indicating (a) the names, occupations, and crafts of every worker employed by this company in connection with this project together with an accurate record of the number of hours worked by each worker and the actual wages paid for each class or type of work performed, (b) the payroll deductions that have been made for each worker, and (c) the amounts paid to provide fringe benefits, if any, for each worker; (5) the amounts paid to provide fringe benefits, if any, were irrevocably paid to a trustee or to a third party pursuant to a fund, plan, or program on behalf of the workers; (6) these payroll records are kept and have been provided for inspection to the authorized representative of the contracting public body and will be available, as often as may be necessary, to such body and the Missouri Department of Labor and Industrial Relations; (7) such records shall not be destroyed or removed from the state for one year following the completion of this company's work on this project; (8) when in effect, the requirements of §§ 290.550 through 290.580, RSMo, pertaining to excessive unemployment were fully satisfied; and (9) there has been no exception to the full and complete compliance with the provisions and requirements of Annual Wage Order No. _____ Section _____ issued by the Missouri Division of Labor Standards and applicable to this project located in _____ County, Missouri, and completed on the _____ day of _____, _____.

The matters stated herein are true to the best of my information, knowledge, and belief. I acknowledge that the falsification of any information set out above may subject me to criminal prosecution pursuant to §§290.340, 575.050, or 575.060, RSMo.

Signature

Subscribed and sworn to me this _____ day of _____, _____.

My commission expires _____, _____.

Notary Public

Receipt by Authorized Public Representative

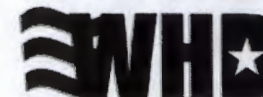
ATTACHMENT N

Certified Payroll Form

U.S. Department of Labor
Wage and Hour Division

PAYROLL

(For Contractor's Optional Use; See Instructions at www.dol.gov/whd/forms/wh347instr.htm)



U.S. Wage and Hour Division

Rev. Dec. 2008

Persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

OMB No.: 1235-0008
Expires: 01/31/2015

NAME OF CONTRACTOR ☐ OR SUBCONTRACTOR ☐ ADDRESS

PAYROLL NO. FOR WEEK ENDING PROJECT AND LOCATION PROJECT OR CONTRACT NO.

(1) NAME AND INDIVIDUAL IDENTIFYING NUMBER (e.g., LAST FOUR DIGITS OF SOCIAL SECURITY NUMBER) OF WORKER	(2) NO. OF WITHHOLDING EXEMPTIONS	(3) WORK CLASSIFICATION	OT. OR ST.	(4) DAY AND DATE							(5) TOTAL HOURS	(6) RATE OF PAY	(7) GROSS AMOUNT EARNED	(8) DEDUCTIONS					(9) NET WAGES PAID FOR WEEK
				HOURS WORKED EACH DAY										FICA	WITH- HOLDING TAX	OTHER	TOTAL DEDUCTIONS		
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While completion of Form WH-347 is optional, it is mandatory for covered contractors and subcontractors performing work on Federally financed or assisted construction contracts to respond to the information collection contained in 29 C.F.R. §§ 3.3, 5.5(a). The Copeland Act (40 U.S.C. § 3145) contractors and subcontractors performing work on Federally financed or assisted construction contracts to "furnish weekly a statement with respect to the wages paid each employee during the preceding week." U.S. Department of Labor (DOL) regulations at 29 C.F.R. § 5.5(a)(3)(ii) require contractors to submit weekly a copy of all payrolls to the Federal agency contracting for or financing the construction project, accompanied by a signed "Statement of Compliance" indicating that the payrolls are correct and complete and that each laborer or mechanic has been paid not less than the proper Davis-Bacon prevailing wage rate for the work performed. DOL and federal contracting agencies receiving this information review the information to determine that employees have received legally required wages and fringe benefits.

Public Burden Statement

We estimate that it will take an average of 55 minutes to complete this collection, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments regarding these estimates or any other aspect of this collection, including suggestions for reducing this burden, send them to the Administrator, Wage and Hour Division, U.S. Department of Labor, Room S3502, 200 Constitution Avenue, N.W., Washington, D.C. 20210

(over)

Date _____

I, _____
(Name of Signatory Party) (Title)

do hereby state:

(1) That I pay or supervise the payment of the persons employed by

_____ on the
(Contractor or Subcontractor)

_____ ; that during the payroll period commencing on the
(Building or Work)

_____ day of _____, _____, and ending the _____ day of _____, _____,

all persons employed on said project have been paid the full weekly wages earned, that no rebates have been or will be made either directly or indirectly to or on behalf of said

_____ from the full
(Contractor or Subcontractor)

weekly wages earned by any person and that no deductions have been made either directly or indirectly from the full wages earned by any person, other than permissible deductions as defined in Regulations, Part 3 (29 C.F.R. Subtitle A), issued by the Secretary of Labor under the Copeland Act, as amended (48 Stat. 948, 63 Stat. 108, 72 Stat. 967; 76 Stat. 357; 40 U.S.C. § 3145), and described below:

(2) That any payrolls otherwise under this contract required to be submitted for the above period are correct and complete; that the wage rates for laborers or mechanics contained therein are not less than the applicable wage rates contained in any wage determination incorporated into the contract; that the classifications set forth therein for each laborer or mechanic conform with the work he performed.

(3) That any apprentices employed in the above period are duly registered in a bona fide apprenticeship program registered with a State apprenticeship agency recognized by the Bureau of Apprenticeship and Training, United States Department of Labor, or if no such recognized agency exists in a State, are registered with the Bureau of Apprenticeship and Training, United States Department of Labor.

(4) That:

(a) WHERE FRINGE BENEFITS ARE PAID TO APPROVED PLANS, FUNDS, OR PROGRAMS

☐ — in addition to the basic hourly wage rates paid to each laborer or mechanic listed in the above referenced payroll, payments of fringe benefits as listed in the contract have been or will be made to appropriate programs for the benefit of such employees, except as noted in section 4(c) below.

(b) WHERE FRINGE BENEFITS ARE PAID IN CASH

☐ — Each laborer or mechanic listed in the above referenced payroll has been paid, as indicated on the payroll, an amount not less than the sum of the applicable basic hourly wage rate plus the amount of the required fringe benefits as listed in the contract, except as noted in section 4(c) below.

(c) EXCEPTIONS

EXCEPTION (CRAFT)	EXPLANATION

REMARKS:

NAME AND TITLE

SIGNATURE

THE WILLFUL FALSIFICATION OF ANY OF THE ABOVE STATEMENTS MAY SUBJECT THE CONTRACTOR OR SUBCONTRACTOR TO CIVIL OR CRIMINAL PROSECUTION. SEE SECTION 1001 OF TITLE 18 AND SECTION 231 OF TITLE 31 OF THE UNITED STATES CODE.

ATTACHMENT O

SAMPLE CONTRACT

1. A sample of the Contract for Construction for this project will be the “Standard Form of Agreement Between Owner and Design Builder” American Institute of Architects Documents A141 – 2004 is attached. The terms and conditions outlined in the attached sample will be used for this project.
2. A sample of the Terms and Conditions of the Contract for Construction, AIA Document A141 – 2004 Exhibit A is attached. The terms and conditions outlined in the attached sample will be used for this project.
3. A sample of the Amendment and Supplement to Terms and Conditions Exhibit A, AIA Document A141-2004 is attached. The terms and conditions outlined in the attached sample will be used for this project.

DRAFT AIA® Document A141™ – 2004

Standard Form of Agreement Between Owner and Design-Builder

AGREEMENT made as of the « » day of « » in the year « »
(In words, indicate day, month and year.)

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

«ST. LOUIS PUBLIC SCHOOLS SPECIAL ADMINISTRATIVE BOARD OF THE
TRANSITIONAL DISTRICT OF THE CITY OF ST. LOUIS, MISSOURI» « »
801 NORTH 11TH STREET
ST. LOUIS, MO 63101
(314) 345-4669
«801 N. 11TH STREET»
«ST. LOUIS MO»
«63101»

and the Design-Builder:
(Name, legal status, address and other information)

«TBD» « »
« »
« »
« »

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

«Documents»
«TBD NEED DETAILED DESCRIPTION OF PROJECT»
« »

The Construction Manager:
(Name, legal status, address and other information)

«KWAME BUILDING GROUP, INC.» « »
«1204 WASHINGTON AVENUE, STREET» SUITE 200 »
«ST. LOUIS, MO 63103»
«63101 (314) 862-5344»

The Owner and Design-Builder agree as follows.

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

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification. Consultation with an attorney is also encouraged with respect to professional licensing requirements in the jurisdiction where the Project is located.

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

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TABLE OF ARTICLES

- 1 THE DESIGN-BUILD DOCUMENTS/ INITIAL INFORMATION
- 2 WORK OF THIS AGREEMENT
- 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION
- 4 CONTRACT SUM
- 5 PAYMENTS
- 6 DISPUTE RESOLUTION
- 7 MISCELLANEOUS PROVISIONS
- 8 ENUMERATION OF THE DESIGN-BUILD DOCUMENTS

TABLE OF EXHIBITS

- A TERMS AND CONDITIONS
- B DETERMINATION OF THE COST OF THE WORK
- C INSURANCE AND BONDS

ARTICLE 1 THE DESIGN-BUILD DOCUMENTS/ INITIAL INFORMATION

§ 1.1 The Design-Build Documents form the Design-Build Contract. The Design-Build Documents consist of this Agreement between Owner and Design-Builder (hereinafter, the "Agreement") and its attached Exhibits; Supplementary and other Conditions; Addenda issued prior to execution of the Agreement; the Project Criteria, including changes to the Project Criteria proposed by the Design-Builder and accepted by the Owner, if any; the Design-Builder's Proposal and written modifications to the Proposal, accepted by the Owner, if any; other documents listed in this Agreement; and Modifications issued after execution of this Agreement. The Design-Build Documents shall not be construed to create a contractual relationship of any kind (1) between the Architect and Owner, (2) between the Owner and a Contractor or Subcontractor, or (3) between any persons or entities other than the Owner and Design-Builder, including but not limited to any consultant retained by the Owner to prepare or review the Project Criteria. An enumeration of the Design-Build Documents, other than Modifications, appears in Article 8.

§ 1.2 The Design-Build Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral.

§ 1.3 The Design-Build Contract may be amended or modified only by a Modification. A Modification is (1) a written amendment to the Design-Build 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 Owner.

§ 1.4 This Agreement is based on the Initial Information set forth in this Section 1.4. A description of the Work is set forth as follows: Add description of the Work

(Note the disposition for the following items by inserting the requested information or a statement such as "not applicable," "unknown at time of execution" or "to be determined later by mutual agreement.")

§ 1.4.1 The Owner's program for the Project:
(Identify documentation or state the manner in which the program will be developed.)

« »

§ 1.4.2 The Project's physical characteristics:

(Identify or describe, if appropriate, size, location, dimensions, or other pertinent information, such as geotechnical reports; site, boundary and topographic surveys; traffic and utility studies; availability of public and private utilities and services; legal description of the site; etc.)

« »

§ 1.4.3 The Owner's budget for the Cost of the Work, as defined in **Section 6.1 (VERIFY)** herein:

(Provide total and, if known, a line item breakdown.)

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« »

§ 1.4.4 The Owner's anticipated design and construction schedule:

.1 Design phase milestone dates, if any:

« »

.2 Commencement of construction:

« »

.3 Substantial Completion date or milestone dates:

« »

.4 Other:

« »

§ 1.4.5 The Owner intends to retain a Construction Manager adviser and:

(Note that, if Multiple Prime Contractors are used, the term "Contractor" as referred to throughout this Agreement will be as if plural in number.)

[« »] One Contractor

[~~« »~~] Multiple Prime **DESIGN/BUILD** Contractors

[« »] Unknown at time of execution

§ 1.4.6 The Owner's requirements for accelerated or fast-track scheduling, multiple bid packages, or phased construction are set forth below:

(List number and type of bid/procurement packages.)

« »

§ 1.4.7 Other Project information:

(Identify special characteristics or needs of the Project not provided elsewhere, such as environmentally responsible design or historic preservation requirements.)

« »

§ 1.4.8 The Owner identifies the following representative in accordance with Section 5.4:

(List name, address and other information.)

« »
« »
« »
« »
« »
« »

§ 1.4.9 The persons or entities, in addition to the Owner's representative, who are required to review the **DESIGN-BUILDER'S Architect's** submittals to the Owner are as follows:
(List name, address and other information.)
Include the Construction Manager

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§ 1.4.10 The Owner will retain the following consultants:
(List name, legal status, address and other information.)

- .1** Construction Manager: The Construction Manager is identified on the cover page. If a Construction Manager has not been retained as of the date of this Agreement, state the anticipated date of retention:

« »

- .2** Cost Consultant (if in addition to the Construction Manager):
(If a Cost Consultant is retained, appropriate references to the Cost Consultant should be inserted in Sections 3.2.6, 3.2.7, 3.3.2, 3.3.3, 3.4.5, 3.4.6, 5.4, 6.3, 6.3.1, 6.4 and 11.6.)

« »« »

« »

« »

« »

« »

- .3** Land Surveyor:

« »« »

« »

« »

« »

« »

- .4** Geotechnical Engineer:

« »« »

« »

« »

« »

« »

- .5** Civil Engineer:

« »« »

« »

« »

« »

« »

- .6** Other consultants:

(List any other consultants retained by the Owner, such as a Project or Program Manager, or scheduling consultant.)

« »

§ 1.4.11 The ~~DESIGN-BUILDER Architect~~ identifies the following representative in accordance with Section 2.3:
(List name, address and other information.)

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« »
« »
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« »

§ 1.4.12 The ~~DESIGN-BUILDER Architect~~ will retain the consultants identified in Sections ~~1.4.12.1~~ ~~1.4.12.2~~ ~~1.4.12.2~~ (if applicable):
(List name, legal status, address and other information.)

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§ 1.4.12.1 Consultants retained under Basic Services:

.1 Structural Engineer:

« »« »
« »
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« »

.2 Mechanical Engineer:

« »« »
« »
« »
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« »

.3 Electrical Engineer:

« »« »
« »
« »
« »
« »

.4 Architect

§ 1.4.12.2 Consultants retained under Additional Services:

« »

§ 1.4.13 Other Initial Information on which the Agreement is based:

« »

§ 1.5 The Owner and DESIGN-BUILDER Architect may rely on the Initial Information. Both parties, however, recognize that such information may materially change and, in that event, the Owner and the Design-Build Architect shall appropriately adjust the schedule, the Design-Build Architect's services and the Design-Build Architect's compensation, but only to the extent such change to the schedule or compensation is set forth in a Change Order signed by Owner and Design-Build.

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ARTICLE 2 THE WORK OF THE DESIGN-BUILD CONTRACT

§ 2.1 The Design-Build shall fully execute the Work described in the Design-Build Documents, except to the extent specifically indicated in the Design-Build Documents to be the responsibility of others.

ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 3.1 The date of commencement of the Work shall be the date of this Agreement unless a different date is stated below or provision is made for the date to be fixed in a notice issued by the Owner.
(Insert the date of commencement if it differs from the date of this Agreement or, if applicable, state that the date will be fixed in a notice to proceed.)

«Commencement Date: (date) and Completion Date: (date) » The date for commencement shall be fixed in a notice to proceed to Design-Build.

If, prior to the commencement of Work, the Owner requires time to file mortgages, documents related to mechanic's liens and other security interests, the Owner's time requirement shall be as follows:
(Insert Owner's time requirements.)

« »

§ 3.2 The Contract Time shall be measured from the date of commencement, subject to adjustments of this Contract Time as provided in the Design-Build Documents.
(Insert provisions, if any, for liquidated damages relating to failure to complete on time or for bonus payments for early completion of the Work.)

« » See Exhibit A - Terms and Conditions and the Amendment and Supplement to Terms and Conditions for a description of certain late fees for failure to complete on time.

§ 3.3 The Design-Build shall achieve Substantial Completion of the Work not later than « » days from the date of commencement, or as follows:
(Insert number of calendar days. Alternatively, a calendar date may be used when coordinated with the date of commencement. Unless stated elsewhere in the Design-Build Documents, insert any requirements for earlier Substantial Completion of certain portions of the Work.)

«Substantial Completion Date: »

Portion of Work	Substantial Completion Date
-----------------	-----------------------------

ARTICLE 4 CONTRACT SUM

§ 4.1 The Owner shall pay the Design-Build the Contract Sum in current funds for the Design-Build's performance of the Design-Build Contract. The Contract Sum shall be one of the following:
(Check the appropriate box.)

- [☒] Stipulated Sum in accordance with Section 4.2 below;
- [☐] Cost of the Work Plus Design-Build's Fee in accordance with Section 4.3 below;
- [☐] Cost of the Work Plus Design-Build's Fee with a Guaranteed Maximum Price in accordance with Section 4.4 below.

(Based on the selection above, complete either Section 4.2, 4.3 or 4.4 below.)

§ 4.2 STIPULATED SUM

§ 4.2.1 The Stipulated Sum shall be « » (\$ « »), subject to additions and deductions as provided in the Design-Build Documents.

§ 4.2.2 The Stipulated Sum is based upon the following alternates, if any, which are described in the Design-Build Documents and are hereby accepted by the Owner:

« »

§ 4.2.3 Unit prices, if any, are as follows:

Description	Units	Price (\$0.00)

§ 4.2.4 Allowances, if any, are as follows:

(Identify and state the amounts of any allowances, and state whether they include labor, materials, or both)

Allowance	Amount (\$0.00)	Included Items

§ 4.2.5 Assumptions or qualifications, if any, on which the Stipulated Sum is based, are as follows:

« »

§ 4.3 COST OF THE WORK PLUS DESIGN-BUILDER'S FEE

§ 4.3.1 The Cost of the Work is as defined in Exhibit B.

§ 4.3.2 The Design-Builder's Fee is:

(State a lump sum, percentage of Cost of the Work or other provision for determining the Design-Builder's Fee and the method of adjustment to the Fee for changes in the Work.)

« »

§ 4.4 COST OF THE WORK PLUS DESIGN-BUILDER'S FEE WITH A GUARANTEED MAXIMUM PRICE

§ 4.4.1 The Cost of the Work is as defined in Exhibit B, plus the Design-Builder's Fee.

§ 4.4.2 The Design-Builder's Fee is:

(State a lump sum, percentage of Cost of the Work or other provision for determining the Design-Builder's Fee and the method of adjustment to the Fee for changes in the Work.)

« »

§ 4.4.3 GUARANTEED MAXIMUM PRICE

§ 4.4.3.1 The sum of the Cost of the Work and the Design-Builder's Fee is guaranteed by the Design-Builder not to exceed « » (\$ « »), subject to additions and deductions by changes in the Work as provided in the Design-Build Documents. Such maximum sum is referred to in the Design-Build Documents as the Guaranteed Maximum Price. Costs which would cause the Guaranteed Maximum Price to be exceeded shall be paid by the Design-Builder without reimbursement by the Owner.

(Insert specific provisions if the Design-Builder is to participate in any savings.)

« »

§ 4.4.3.2 The Guaranteed Maximum Price is based on the following alternates, if any, which are described in the Design-Build Documents and are hereby accepted by the Owner:

« »

§ 4.4.3.3 Unit Prices, if any, are as follows:

Description	Units	Price (\$0.00)

§ 4.4.3.4 Allowances, if any, are as follows:

(Identify and state the amounts of any allowances, and state whether they include labor, materials, or both.)

Allowance	Amount (\$0.00)	Included Items

§ 4.4.3.5 Assumptions, if any, on which the Guaranteed Maximum Price is based, are as follows:

(Identify the assumptions on which the Guaranteed Maximum Price is based.)

« »

§ 4.5 CHANGES IN THE WORK

§ 4.5.1 Adjustments of the Contract Sum on account of changes in the Work may be determined by any of the methods listed in Article A.7 of Exhibit A, Terms and Conditions.

§ 4.5.2 Where the Contract Sum is the Cost of the Work, with or without a Guaranteed Maximum Price, and no specific provision is made in Sections 4.3.2 or 4.4.2 for adjustment of the Design-Builder's Fee in the case of Changes in the Work, or if the extent of such changes is such, in the aggregate, that application of the adjustment will cause substantial inequity to the Owner or Design-Builder, the Design-Builder's Fee shall be equitably adjusted on the basis of the Fee established for the original Work, and the Contract Sum shall be adjusted accordingly.

ARTICLE 5 PAYMENTS

§ 5.1 PROGRESS PAYMENTS

§ 5.1.1 Based upon Applications for Payment submitted to the Owner and the Construction Manager by the Design-Builder, the Owner shall make progress payments on account of the Contract Sum to the Design-Builder as provided below and elsewhere in the Design-Build Documents.

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

« »

§ 5.1.3 Provided that an Application for Payment is received not later than the «3rd» day of month, the Owner shall make payment to the Design-Builder of amounts that have been approved by Owner not later than the «25th» day of the « » month. If an Application for Payment is received by the Owner after the application date fixed above, payment shall be made by the Owner not later than «forty-five» («45») days after the Owner receives the Application for Payment.

§ 5.1.4 With each Application for Payment where the Contract Sum is based upon the Cost of the Work, or the Cost of the Work with a Guaranteed Maximum Price, the Design-Builder shall submit payrolls, petty cash accounts, receipted invoices or invoices with check vouchers attached, and any other evidence required by the Owner to demonstrate that cash disbursements already made by the Design-Builder on account of the Cost of the Work equal or exceed (1) progress payments already received by the Design-Builder, less (2) that portion of those payments attributable to the Design-Builder's Fee; plus (3) payrolls for the period covered by the present Application for Payment.

§ 5.1.5 With each Application for Payment where the Contract Sum is based upon a Stipulated Sum or Cost of the Work with a Guaranteed Maximum Price, the Design-Builder shall submit the most recent schedule of values in accordance with the Design-Build Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. Compensation for design services shall be shown separately. Where the Contract

Sum is based on the Cost of the Work with a Guaranteed Maximum Price, the Design-Builder's Fee shall be shown separately. The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Owner may require. This schedule of values, unless objected to by the Owner, shall be used as a basis for reviewing the Design-Builder's Applications for Payment.

§ 5.1.6 In taking action on the Design-Builder's Applications for Payment, the Owner shall be entitled to rely on the accuracy and completeness of the information furnished by the Design-Builder and shall not be deemed to have made a detailed examination, audit or arithmetic verification of the documentation submitted in accordance with Sections 5.1.4 or 5.1.5, or other supporting data; to have made exhaustive or continuous on-site inspections; or to have made examinations to ascertain how or for what purposes the Design-Builder has used amounts previously paid on account of the Agreement. Such examinations, audits and verifications, if required by the Owner, will be performed by the Owner's accountants acting in the sole interest of the Owner.

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

§ 5.2 PROGRESS PAYMENTS - STIPULATED SUM

§ 5.2.1 Applications for Payment where the Contract Sum is based upon a Stipulated Sum shall indicate the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

§ 5.2.2 Subject to other provisions of the Design-Build Documents, the amount of each progress payment shall be computed as follows:

- 1 Take that portion of the Contract Sum properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the Contract Sum allocated to that portion of the Work in the schedule of values, less retainage of ~~TEN~~ percent (~~10~~%) on the Work, other than services provided by design professionals and other consultants retained directly by the Design-Builder. Pending final determination of cost to the Owner of Changes in the Work, amounts not in dispute shall be included as provided in Section A.7.3.8 of Exhibit A, Terms and Conditions;
- 2 ~~When approved in advance by Owner, add~~ that portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction (~~or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing~~), less retainage of ~~TEN~~ percent (~~10~~%);
- 3 Subtract the aggregate of previous payments made by the Owner; and
- 4 Subtract amounts, if any, for which the Owner has withheld payment from or nullified an Application for Payment as provided in Section A.9.5 of Exhibit A, Terms and Conditions.

§ 5.2.3 The progress payment amount determined in accordance with Section 5.2.2 shall be further modified under the following circumstances:

- 1 add, upon Substantial Completion of the Work, a sum sufficient to increase the total payments to the full amount of the Contract Sum, less such amounts as the Owner shall determine for incomplete Work, retainage applicable to such work and unsettled claims; and
(Section A.9.8.6 of Exhibit A, Terms and Conditions requires release of applicable retainage upon Substantial Completion of Work with consent of surety, if any.)
- 2 add, if final completion of the Work is thereafter materially delayed through no fault of the Design-Builder, any additional amounts payable in accordance with Section A.9.10.3 of Exhibit A, Terms and Conditions.

§ 5.2.4 Reduction or limitation of retainage, if any, under Section 5.2.2 shall be as follows:

(If it is intended, prior to Substantial Completion of the entire Work, to reduce or limit the retainage resulting from the percentages inserted in Sections 5.2.2.1 and 5.2.2.2 above, and this is not explained elsewhere in the Design-Build Documents, insert here provisions for such reduction or limitation.)

« » All retainage withheld under this Agreement shall be in accordance with, and to the extent permitted by, applicable laws. (See Amendment and Supplement to Terms and Conditions, Exhibit A).

§ 5.3 PROGRESS PAYMENTS - COST OF THE WORK PLUS A FEE

§ 5.3.1 Where the Contract Sum is based upon the Cost of the Work plus a fee without a Guaranteed Maximum Price, Applications for Payment shall show the Cost of the Work actually incurred by the Design-Builder through the end of the period covered by the Application for Payment and for which Design-Builder has made or intends to make actual payment prior to the next Application for Payment.

§ 5.3.2 Subject to other provisions of the Design-Build Documents, the amount of each progress payment shall be computed as follows:

- .1 Take the Cost of the Work as described in Exhibit B;
- .2 Add the Design-Builder's Fee, less retainage of ~~TEN~~ **TEN** percent (~~10~~ **10**%). The Design-Builder's Fee shall be computed upon the Cost of the Work described in the preceding Section 5.3.2.1 at the rate stated in Section 4.3.2; or if the Design-Builder's Fee is stated as a fixed sum in that section, an amount which bears the same ratio to that fixed-sum Fee as the Cost of the Work in the preceding section bears to a reasonable estimate of the probable Cost of the Work upon its completion;
- .3 Subtract the aggregate of previous payments made by the Owner;
- .4 Subtract the shortfall, if any, indicated by the Design-Builder in the documentation required by Section 5.1.4 or resulting from errors subsequently discovered by the Owner's accountants in such documentation; and
- .5 Subtract amounts, if any, for which the Owner has withheld or withdrawn a Certificate for Payment as provided in the Section A.9.5 of Exhibit A, Terms and Conditions.

§ 5.3.3 Retainage in addition to the retainage stated at Section 5.3.2.2, if any, shall be as follows:

« »

§ 5.3.4 Except with the Owner's prior approval, payments for the Work, other than for services provided by design professionals and other consultants retained directly by the Design-Builder, shall be subject to retainage of not less than ~~TEN~~ **TEN** percent (~~10~~ **10**%). The Owner and Design-Builder shall agree on a mutually acceptable procedure for review and approval of payments and retention for Contractors.

§ 5.4 PROGRESS PAYMENTS - COST OF THE WORK PLUS A FEE WITH A GUARANTEED MAXIMUM PRICE

§ 5.4.1 Applications for Payment where the Contract Sum is based upon the Cost of the Work Plus a Fee with a Guaranteed Maximum Price shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment. The percentage of completion shall be the lesser of (1) the percentage of that portion of the Work which has actually been completed; or (2) the percentage obtained by dividing (a) the expense that has actually been incurred by the Design-Builder on account of that portion of the Work for which the Design-Builder has made or intends to make actual payment prior to the next Application for Payment by (b) the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values.

§ 5.4.2 Subject to other provisions of the Design-Build Documents, the amount of each progress payment shall be computed as follows:

- .1 Take that portion of the Guaranteed Maximum Price properly allocable to completed Work as determined by multiplying the percentage of completion of each portion of the Work by the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values. Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute shall be included as provided in Section A.7.3.8 of Exhibit A, Terms and Conditions;
- .2 Add that portion of the Guaranteed Maximum Price properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work, or if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing;
- .3 Add the Design-Builder's Fee, less retainage of ~~TEN~~ **TEN** percent (~~10~~ **10**%). The Design-Builder's Fee shall be computed upon the Cost of the Work described in the two preceding sections at the rate stated in Section 4.4.2 or, if the Design-Builder's Fee is stated as a fixed sum in that section, shall be an amount that bears the same ratio to that fixed-sum fee as the Cost of the Work in the two preceding sections bears to a reasonable estimate of the probable Cost of the Work upon its completion;

- .4 Subtract the aggregate of previous payments made by the Owner;
- .5 Subtract the shortfall, if any, indicated by the Design-Builder in the documentation required by Section 5.1.4 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner's accountants in such documentation; and
- .6 Subtract amounts, if any, for which the Owner has withheld or nullified a Certificate for Payment as provided in Section A.9.5 of Exhibit A, Terms and Conditions.

§ 5.4.3 Except with the Owner's prior approval, payments for the Work, other than for services provided by design professionals and other consultants retained directly by the Design-Builder, shall be subject to retainage of not less than ~~TEN~~ percent (~~10~~%). The Owner and Design-Builder shall agree on a mutually acceptable procedure for review and approval of payments and retention for Contractors.

§ 5.5 FINAL PAYMENT

§ 5.5.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Design-Builder no later than 30 days after the Design-Builder has fully performed the Design-Build Contract, including the requirements in Section A.9.10 of Exhibit A, Terms and Conditions, except for the Design-Builder's responsibility to correct non-conforming Work discovered after final payment or to satisfy other requirements, if any, which extend beyond final payment.

ARTICLE 6 DISPUTE RESOLUTION

§ 6.1 The parties appoint the following individual to serve as a Neutral pursuant to Section A.4.2 of Exhibit A, Terms and Conditions:

(Insert the name, address and other information of the individual to serve as a Neutral. If the parties do not select a Neutral, then the provisions of Section A.4.2.2 of Exhibit A, Terms and Conditions, shall apply.)

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§ 6.2 If the parties do not resolve their dispute through mediation pursuant to Section A.4.3 of Exhibit A, Terms and Conditions, the method of binding dispute resolution shall be the following:

(If the parties do not select a method of binding dispute resolution, then the method of binding dispute resolution shall be by litigation in a court of competent jurisdiction.)

(Check one.)

☐ Arbitration pursuant to Section A.4.4 of Exhibit A, Terms and Conditions

☒ Litigation in a court of competent jurisdiction

☐ Other *(Specify)*

« »

§ 6.3 ARBITRATION

§ 6.3.1 If Arbitration is selected by the parties as the method of binding dispute resolution, then any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to arbitration as provided in Section A.4.4 of Exhibit A, Terms and Conditions.

ARTICLE 7 MISCELLANEOUS PROVISIONS

§ 7.1 The Architect, other design professionals and consultants engaged by the Design-Builder shall be persons or entities duly licensed to practice their professions in the jurisdiction where the Project is located and are listed as follows:

(Insert name, address, license number, relationship to Design-Builder and other information.)

Name and Address	License Number	Relationship to Design-Builder	Other Information

§ 7.2 Consultants, if any, engaged directly by the Owner, their professions and responsibilities are listed below:
(Insert name, address, license number, if applicable, and responsibilities to Owner and other information.)

Name and Address	License Number	Responsibilities to Owner	Other Information

§ 7.3 Separate contractors, if any, engaged directly by the Owner, their trades and responsibilities are listed below:
(Insert name, address, license number, if applicable, responsibilities to Owner and other information.)

Name and Address	License Number	Responsibilities to Owner	Other Information

§ 7.4 The Owner's Designated Representative is:
(Insert name, address and other information.)

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§ 7.4.1 The Owner's Designated Representative identified above shall be authorized to act on the Owner's behalf with respect to the Project.

§ 7.5 The Design-Builder's Designated Representative is:
(Insert name, address and other information.)

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§ 7.5.1 The Design-Builder's Designated Representative identified above shall be authorized to act on the Design-Builder's behalf with respect to the Project.

§ 7.6 Neither the Owner's nor the Design-Builder's Designated Representative shall be changed without ten days written notice to the other party.

§ 7.7 Other provisions:

« »

§ 7.7.1 Where reference is made in this Agreement to a provision of another Design-Build Document, the reference refers to that provision as amended or supplemented by other provisions of the Design-Build Documents.

§ 7.7.2 Payments due which are undisputed by Owner and unpaid under the Design-Build Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

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

~~«N/A»~~ Five percent (~~«N/A»~~ 5%) « »

(Usury laws and requirements under the Federal Truth in Lending Act, similar state and local consumer credit laws and other regulations at the Owner's and Design-Builder's principal places of business, the location of the Project and elsewhere may affect the validity of this provision. Legal advice should be obtained with respect to deletions or modifications, and also regarding requirements such as written disclosures or waivers.)

ARTICLE 8 ENUMERATION OF THE DESIGN-BUILD DOCUMENTS

§ 8.1 The Design-Build Documents, except for Modifications issued after execution of this Agreement, are enumerated as follows:

[Documents](#)

[AIA Document A141](#)

[A141 Exhibit A Terms and Conditions](#)

[Amendment and Supplement to Terms and Conditions](#)

§ 8.1.1 The Agreement is this executed edition of the Standard Form of Agreement Between Owner and Design-Builder, AIA Document A141-2004.

§ 8.1.2 The Supplementary and other Conditions of the Agreement, if any, are as follows:
(Either list applicable documents below or refer to an exhibit attached to this Agreement.)

[Request for Proposal Dated \(Date\)](#)

[This Agreement is binding to the language and intent of the \(Date\) Request for Proposal. «»](#)

Document	Title	Pages

§ 8.1.3 The Project Criteria, including changes to the Project Criteria proposed by the Design-Builder, if any, and accepted by the Owner, consist of the following:
(Either list applicable documents and their dates below or refer to an exhibit attached to this Agreement.)

« »

Title	Date

§ 8.1.4 The Design-Builder's Proposal, dated « », consists of the following:
(Either list applicable documents below or refer to an exhibit attached to this Agreement.)

[See Attached Negotiated Contract Amount. «»«»](#)

§ 8.1.5 Amendments to the Design-Builder's Proposal, if any, are as follows:
(Either list applicable documents below or refer to an exhibit attached to this Agreement.)

« »« »

§ 8.1.6 The Addenda, if any, are as follows:
(Either list applicable documents below or refer to an exhibit attached to this Agreement.)

[Addendum 1 to the Request for Proposal Dated July 11, 2011.«»](#)

Number	Date	Pages

§ 8.1.7 Exhibit A, Terms and Conditions, [as amended and modified by the Amendment and Supplement to Terms and Conditions.](#)

(If the parties agree to substitute terms and conditions other than those contained in AIA Document A141-2004, Exhibit A, Terms and Conditions, then identify such terms and conditions and attach to this Agreement as Exhibit A.)

The Amendment and Supplement to Terms and Conditions is made a part of the Design Build Documents.

« »

§ 8.1.8 Exhibit B, Determination of the Cost of the Work, if applicable.

(If the parties agree to substitute a method to determine the cost of the Work other than that contained in AIA Document A141-2004, Exhibit B, Determination of the Cost of the Work, then identify such other method to determine the cost of the Work and attach to this Agreement as Exhibit B. If the Contract Sum is a Stipulated Sum, then Exhibit B is not applicable.)

N/A

§ 8.1.9 Exhibit C, Insurance and Bonds, if applicable.

(Complete AIA Document A141-2004, Exhibit C, Insurance and Bonds or indicate "not applicable.")

«See Amendment and Supplement to Terms and Conditions, Exhibit A.»

§ 8.1.10 Other documents, if any, forming part of the Design-Build Documents are as follows:
(Either list applicable documents below or refer to an exhibit attached to this Agreement.)

« »« »

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

OWNER (Signature)

«Dr. Kelvin R. Adams, Superintendent»

(Printed name and title)

DESIGN-BUILDER (Signature)

« »« »

(Printed name and title)

DRAFT AIA® Document A141™ – 2004

Exhibit A

Terms and Conditions

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

«SAMPLE»
« »

THE OWNER:
(Name, legal status and address)

ST. LOUIS PUBLIC SCHOOLS » «SPECIAL ADMINISTRATIVE BOARD OF THE
TRANSITIONAL DISTRICT OF THE CITY OF ST. LOUIS, MISSOURI-»
801 NORTH 11TH STREET
ST. LOUIS, MO 63101
(314) 345-4669
«801 N. 11TH STREET
-ST. LOUIS MO 63101 « » « »
« »

THE DESIGN-BUILDER:
(Name, legal status and address)

« TBD » « »
« »

ADDITIONS AND DELETIONS:

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

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

Consultation with an attorney is also encouraged with respect to professional licensing requirements in the jurisdiction where the Project is located.

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ARTICLE A.1 GENERAL PROVISIONS

§ A.1.1 BASIC DEFINITIONS

§ A.1.1.1 THE DESIGN-BUILD DOCUMENTS

The Design-Build Documents are identified in Section 1.1 of the Agreement.

§ A.1.1.2 PROJECT CRITERIA

The Project Criteria are identified in Section 8.1.3 of the Agreement and may describe the character, scope, relationships, forms, size and appearance of the Project, materials and systems and, in general, their quality levels, performance standards, requirements or criteria, and major equipment layouts.

A.1.1.xxx CONSTRUCTION MANAGER ADVISOR

Paragraph defining roles and responsibilities.

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§ A.1.1.3 ARCHITECT

The Architect is the person lawfully licensed to practice architecture or an entity lawfully practicing architecture identified as such in the Agreement and having a direct contract with the Design-Builder to perform design services for all or a portion of the Work, and is referred to throughout the Design-Build Documents as if singular in number. The term "Architect" means the Architect or the Architect's authorized representative.

§ A.1.1.4 CONTRACTOR

A Contractor is a person or entity, other than the Architect, that has a direct contract with the Design-Builder to perform all or a portion of the construction required in connection with the Work. The term "Contractor" is referred to throughout the Design-Build Documents as if singular in number and means a Contractor or an authorized representative of the Contractor. The term "Contractor" does not include a separate contractor, as defined in Section A.6.1.2, or subcontractors of a separate contractor.

§ A.1.1.5 SUBCONTRACTOR

A Subcontractor is a person or entity who has a direct contract with a Contractor to perform a portion of the construction required in connection with the Work at the site. The term "Subcontractor" is referred to throughout the Design-Build Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor.

§ A.1.1.6 THE WORK

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

§ A.1.1.7 THE PROJECT

The Project is the total design and construction of which the Work performed under the Design-Build Documents may be the whole or a part, and which may include design and construction by the Owner or by separate contractors.

§ A.1.1.8 NEUTRAL

The Neutral is the individual appointed by the parties to decide Claims and disputes pursuant to Section A.4.2.1.

§ A.1.2 COMPLIANCE WITH APPLICABLE LAWS

§ A.1.2.1 If the Design-Builder believes that implementation of any instruction received from the Owner would cause a violation of any applicable law, statute, ordinance, building code, rule or regulation, the Design-Builder shall notify the Owner in writing. Neither the Design-Builder nor any Contractor or Architect shall be obligated to perform any act which they believe will violate any applicable law, ordinance, rule or regulation.

§ A.1.2.2 The Design-Builder shall be entitled to rely on the completeness and accuracy of the information contained in the Project Criteria, but not that such information complies with applicable laws, regulations and codes, which shall be the obligation of the Design-Builder to determine. In the event that a specific requirement of the Project Criteria conflicts with applicable laws, regulations and codes, the Design-Builder shall furnish Work which complies with such laws, regulations and codes. In such case, the Owner shall issue a Change Order to the Design-

Builder unless the Design-Builder recognized such non-compliance prior to execution of this Agreement and failed to notify the Owner.

§ A.1.3 CAPITALIZATION

§ A.1.3.1 Terms capitalized in these Terms and Conditions include those which are (1) specifically defined, (2) the titles of numbered articles and identified references to sections in the document, or (3) the titles of other documents published by the American Institute of Architects.

§ A.1.4 INTERPRETATION

§ A.1.4.1 In the interest of brevity, the Design-Build 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.

§ A.1.4.2 Unless otherwise stated in the Design-Build Documents, words which have well-known technical or construction industry meanings are used in the Design-Build Documents in accordance with such recognized meanings.

§ A.1.5 EXECUTION OF THE DESIGN-BUILD DOCUMENTS

§ A.1.5.1 The Design-Build Documents shall be signed by the Owner and Design-Builder.

§ A.1.5.2 Execution of the Design-Build Contract by the Design-Builder is a representation that the Design-Builder 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 Design-Build Documents.

§ A.1.6 OWNERSHIP AND USE OF DOCUMENTS AND ELECTRONIC DATA

§ A.1.6.1 Drawings, specifications, and other documents including those in electronic form, prepared by the Architect and furnished by the Design-Builder are Instruments of Service. The Design-Builder, Design-Builder's Architect and other providers of professional services individually shall retain all common law, statutory and other reserved rights, including copyright in those Instruments of Services furnished by them. Drawings, specifications, and other documents and materials and electronic data are furnished for use solely with respect to this Project.

§ A.1.6.2 Upon execution of the Design-Build Contract, the Design-Builder grants to the Owner a non-exclusive license to reproduce and use the Instruments of Service solely in connection with the Project, including the Project's further development by the Owner and others retained by the Owner for such purposes, provided that the Owner shall comply with all obligations, including prompt payment of sums when due, under the Design-Build Documents. Subject to the Owner's compliance with such obligations, such license shall extend to those parties retained by the Owner for such purposes, including other design professionals. The Design-Builder shall obtain similar non-exclusive licenses from its design professionals, including the Architect. The Owner shall not otherwise assign or transfer any license herein to another party without prior written agreement of the Design-Builder. Any unauthorized reproduction or use of the Instruments of Service by the Owner or others shall be at the Owner's sole risk and expense without liability to the Design-Builder and its design professionals. Except as provided in Section A.1.6.4, termination of this Agreement prior to completion of the Design-Builder's services to be performed under this Agreement shall terminate this license.

§ A.1.6.3 Prior to any electronic exchange by the parties of the Instruments of Service or any other documents or materials to be provided by one party to the other, the Owner and the Design-Builder shall agree in writing on the specific conditions governing the format thereof, including any special limitations or licenses not otherwise provided in the Design-Build Documents.

§ A.1.6.4 If this Agreement is terminated for any reason other than the default of the Owner, each of the Design-Builder's design professionals, including the Architect, shall be contractually required to convey to the Owner a non-exclusive license to use that design professional's Instruments of Service for the completion, use and maintenance of the Project, conditioned upon the Owner's written notice to that design professional of the Owner's assumption of the Design-Builder's contractual duties and obligations to that design professional and payment to that design professional of all amounts due to that design professional and its consultants. If the Owner does not assume the remaining duties and obligations of the Design-Builder to that design professional under this Agreement, then the Owner shall indemnify and hold harmless that design professional from all claims and any expense,

including legal fees, which that design professional shall thereafter incur by reason of the Owner's use of such Instruments of Service. The Design-Builder shall incorporate the requirements of this Section A.1.6.4 in all agreements with its design professionals.

§ A.1.6.5 Submission or distribution of the Design-Builder's documents to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the rights reserved in Section A.1.6.1.

ARTICLE A.2 OWNER

§ A.2.1 GENERAL

§ A.2.1.1 The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Design-Build Documents as if singular in number. The term "Owner" means the Owner or the Owner's authorized representative. The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all Project matters requiring the Owner's approval or authorization. The Owner shall render decisions in a timely manner and in accordance with the Design-Builder's schedule submitted to the Owner.

§ A.2.1.2 The Owner shall furnish to the Design-Builder within 15 days after receipt of a written request information necessary and relevant for the Design-Builder 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.

§ A.2.2 INFORMATION AND SERVICES REQUIRED OF THE OWNER

§ A.2.2.1 Information or services required of the Owner by the Design-Build Documents shall be furnished by the Owner with reasonable promptness. Any other information or services relevant to the Design-Builder's performance of the Work under the Owner's control shall be furnished by the Owner after receipt from the Design-Builder of a written request for such information or services.

§ A.2.2.2 The Owner shall be responsible to provide surveys, if not required by the Design-Build Documents to be provided by the Design-Builder, describing physical characteristics, legal limitations, and utility locations for the site of this Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements, and adjoining property and structures; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restriction, boundaries, and contours of the site; locations, dimensions, and necessary data pertaining to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

§ A.2.2.3 The Owner shall provide, to the extent available to the Owner and if not required by the Design-Build Documents to be provided by the Design-Builder, the results and reports of prior tests, inspections or investigations conducted for the Project involving structural or mechanical systems, chemical, air and water pollution, hazardous materials or environmental and subsurface conditions and information regarding the presence of pollutants at the Project site.

§ A.2.2.4 The Owner may obtain independent review of the Design-Builder's design, construction and other documents by a separate architect, engineer, and contractor or cost estimator under contract to or employed by the Owner. Such independent review shall be undertaken at the Owner's expense in a timely manner and shall not delay the orderly progress of the Work.

§ A.2.2.5 The Owner shall cooperate with the Design-Builder in securing building and other permits, licenses and inspections. The Owner shall not be required to pay the fees for such permits, licenses and inspections unless the cost of such fees is excluded from the responsibility of the Design-Builder under the Design-Build Documents.

§ A.2.2.6 The services, information, surveys and reports required to be provided by the Owner under Section A.2.2, shall be furnished at the Owner's expense, and the Design-Builder shall be entitled to rely upon the accuracy and completeness thereof, except as otherwise specifically provided in the Design-Build Documents or to the extent the Owner advises the Design-Builder to the contrary in writing.

§ A.2.2.7 If the Owner observes or otherwise becomes aware of a fault or defect in the Work or non-conformity with the Design-Build Documents, the Owner shall give prompt written notice thereof to the Design-Builder.

§ A.2.2.8 The Owner shall, at the request of the Design-Builder, prior to execution of the Design-Build Contract and promptly upon request thereafter, furnish to the Design-Builder reasonable evidence that financial arrangements have been made to fulfill the Owner's obligations under the Design-Build Documents.

§ A.2.2.9 The Owner shall communicate through the Design-Builder with persons or entities employed or retained by the Design-Builder, unless otherwise directed by the Design-Builder.

§ A.2.2.10 The Owner shall furnish the services of geotechnical engineers or other consultants, if not required by the Design-Build Documents to be provided by the Design-Builder, for subsoil, air and water conditions when such services are deemed reasonably necessary by the Design-Builder to properly carry out the design services provided by the Design-Builder and the Design-Builder's Architect. Such services may include, but are not limited to, test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, ground corrosion and resistivity tests, and necessary operations for anticipating subsoil conditions. The services of geotechnical engineer(s) or other consultants shall include preparation and submission of all appropriate reports and professional recommendations.

§ A.2.2.11 The Owner shall promptly obtain easements, zoning variances, and legal authorizations regarding site utilization where essential to the execution of the Owner's program.

§ A.2.3 OWNER REVIEW AND INSPECTION

§ A.2.3.1 The Owner shall review and approve or take other appropriate action upon the Design-Builder's submittals, including but not limited to design and construction documents, required by the Design-Build Documents, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Design-Build Documents. The Owner's action shall be taken with such reasonable promptness as to cause no delay in the Work or in the activities of the Design-Builder or separate contractors. 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 Design-Builder as required by the Design-Build Documents.

§ A.2.3.2 Upon review of the design documents, construction documents, or other submittals required by the Design-Build Documents, the Owner shall take one of the following actions:

1. Determine that the documents or submittals are in conformance with the Design-Build Documents and approve them.
2. Determine that the documents or submittals are in conformance with the Design-Build Documents but request changes in the documents or submittals which shall be implemented by a Change in the Work.
3. Determine that the documents or submittals are not in conformity with the Design-Build Documents and reject them.
4. Determine that the documents or submittals are not in conformity with the Design-Build Documents, but accept them by implementing a Change in the Work.
5. Determine that the documents or submittals are not in conformity with the Design-Build Documents, but accept them and request changes in the documents or submittals which shall be implemented by a Change in the Work.

§ A.2.3.3 The Design-Builder shall submit to the Owner for the Owner's approval, pursuant to Section A.2.3.1, any proposed change or deviation to previously approved documents or submittals. The Owner shall review each proposed change or deviation to previously approved documents or submittals which the Design-Builder submits to the Owner for the Owner's approval with reasonable promptness in accordance with Section A.2.3.1 and shall make one of the determinations described in Section A.2.3.2.

§ A.2.3.4 Notwithstanding the Owner's responsibility under Section A.2.3.2, the Owner's review and approval of the Design-Builder's documents or submittals shall not relieve the Design-Builder of responsibility for compliance with the Design-Build Documents unless a) the Design-Builder has notified the Owner in writing of the deviation prior to

approval by the Owner or, b) the Owner has approved a Change in the Work reflecting any deviations from the requirements of the Design-Build Documents.

§ A.2.3.5 The Owner may visit the site to keep informed about the progress and quality of the portion of the Work completed. However, the Owner shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. Visits by the Owner shall not be construed to create an obligation on the part of the Owner to make on-site inspections to check the quantity or quality of the Work. The Owner shall 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 Design-Builder's rights and responsibilities under the Design-Build Documents, except as provided in Section A.3.3.7.

§ A.2.3.6 The Owner shall not be responsible for the Design-Builder's failure to perform the Work in accordance with the requirements of the Design-Build Documents. The Owner shall not have control over or charge of and will not be responsible for acts or omissions of the Design-Builder, Architect, Contractors, or their agents or employees, or any other persons or entities performing portions of the Work for the Design-Builder.

§ A.2.3.7 The Owner may reject Work that does not conform to the Design-Build Documents. Whenever the Owner considers it necessary or advisable, the Owner shall have authority to require inspection or testing of the Work in accordance with Section A.13.5.2, whether or not such Work is fabricated, installed or completed. However, neither this authority of the Owner 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 Owner to the Design-Builder, the Architect, Contractors, material and equipment suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ A.2.3.8 The Owner may appoint an on-site project representative to observe the Work and to have such other responsibilities as the Owner and the Design-Builder agree to in writing.

§ A.2.3.9 The Owner shall conduct inspections to determine the date or dates of Substantial Completion and the date of final completion.

§ A.2.4 OWNER'S RIGHT TO STOP WORK

§ A.2.4.1 If the Design-Builder fails to correct Work which is not in accordance with the requirements of the Design-Build Documents as required by Section A.12.2 or persistently fails to carry out Work in accordance with the Design-Build Documents, the Owner may issue a written order to the Design-Builder 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 Design-Builder or any other person or entity, except to the extent required by Section A.6.1.3.

§ A.2.5 OWNER'S RIGHT TO CARRY OUT THE WORK

§ A.2.5.1 If the Design-Builder defaults or neglects to carry out the Work in accordance with the Design-Build 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 Design-Builder a second written notice to correct such deficiencies within a three-day period. If the Design-Builder 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 Design-Builder the reasonable cost of correcting such deficiencies. If payments due the Design-Builder are not sufficient to cover such amounts, the Design-Builder shall pay the difference to the Owner.

ARTICLE A.3 DESIGN-BUILDER

§ A.3.1 GENERAL

§ A.3.1.1 The Design-Builder is the person or entity identified as such in the Agreement and is referred to throughout the Design-Build Documents as if singular in number. The Design-Builder may be an architect or other design professional, a construction contractor, a real estate developer or any other person or entity legally permitted to do business as a design-builder in the location where the Project is located. The term "Design-Builder" means the Design-Builder or the Design-Builder's authorized representative. The Design-Builder's representative is authorized to act on the Design-Builder's behalf with respect to the Project.

§ A.3.1.2 The Design-Builder shall perform the Work in accordance with the Design-Build Documents.

§ A.3.2 DESIGN SERVICES AND RESPONSIBILITIES

§ A.3.2.1 When applicable law requires that services be performed by licensed professionals, the Design-Builder shall provide those services through the performance of qualified persons or entities duly licensed to practice their professions. The Owner understands and agrees that the services performed by the Design-Builder's Architect and the Design-Builder's other design professionals and consultants are undertaken and performed in the sole interest of and for the exclusive benefit of the Design-Builder.

§ A.3.2.2 The agreements between the Design-Builder and Architect or other design professionals identified in the Agreement, and in any subsequent Modifications, shall be in writing. These agreements, including services and financial arrangements with respect to this Project, shall be promptly and fully disclosed to the Owner upon the Owner's written request.

§ A.3.2.3 The Design-Builder shall be responsible to the Owner for acts and omissions of the Design-Builder's employees, Architect, Contractors, Subcontractors and their agents and employees, and other persons or entities, including the Architect and other design professionals, performing any portion of the Design-Builder's obligations under the Design-Build Documents.

§ A.3.2.4 The Design-Builder shall carefully study and compare the Design-Build Documents, materials and other information provided by the Owner pursuant to Section A.2.2, shall take field measurements of any existing conditions related to the Work, shall observe any conditions at the site affecting the Work, and report promptly to the Owner any errors, inconsistencies or omissions discovered.

§ A.3.2.5 The Design-Builder shall provide to the Owner for Owner's written approval design documents sufficient to establish the size, quality and character of the Project; its architectural, structural, mechanical and electrical systems; and the materials and such other elements of the Project to the extent required by the Design-Build Documents. Deviations, if any, from the Design-Build Documents shall be disclosed in writing.

§ A.3.2.6 Upon the Owner's written approval of the design documents submitted by the Design-Builder, the Design-Builder shall provide construction documents for review and written approval by the Owner. The construction documents shall set forth in detail the requirements for construction of the Project. The construction documents shall include drawings and specifications that establish the quality levels of materials and systems required. Deviations, if any, from the Design-Build Documents shall be disclosed in writing. Construction documents may include drawings, specifications, and other documents and electronic data setting forth in detail the requirements for construction of the Work, and shall:

- .1 be consistent with the approved design documents;
- .2 provide information for the use of those in the building trades; and
- .3 include documents customarily required for regulatory agency approvals.

§ A.3.2.7 The Design-Builder shall meet with the Owner periodically to review progress of the design and construction documents.

§ A.3.2.8 Upon the Owner's written approval of construction documents, the Design-Builder, with the assistance of the Owner, shall prepare and file documents required to obtain necessary approvals of governmental authorities having jurisdiction over the Project.

§ A.3.2.9 The Design-Builder shall obtain from each of the Design-Builder's professionals and furnish to the Owner certifications with respect to the documents and services provided by such professionals (a) that, to the best of their knowledge, information and belief, the documents or services to which such certifications relate (i) are consistent with the Project Criteria set forth in the Design-Build Documents, except to the extent specifically identified in such certificate, (ii) comply with applicable professional practice standards, and (iii) comply with applicable laws, ordinances, codes, rules and regulations governing the design of the Project; and (b) that the Owner and its consultants shall be entitled to rely upon the accuracy of the representations and statements contained in such certifications.

§ A.3.2.10 If the Owner requests the Design-Builder, the Architect or the Design-Builder's other design professionals to execute certificates other than those required by Section A.3.2.9, the proposed language of such certificates shall be submitted to the Design-Builder, or the Architect and such design professionals through the Design-Builder, for review and negotiation at least 14 days prior to the requested dates of execution. Neither the Design-Builder, the Architect nor such other design professionals shall be required to execute certificates that would require knowledge, services or responsibilities beyond the scope of their respective agreements with the Owner or Design-Builder.

§ A.3.3 CONSTRUCTION

§ A.3.3.1 The Design-Builder shall perform no construction Work prior to the Owner's review and approval of the construction documents. The Design-Builder shall perform no portion of the Work for which the Design-Build Documents require the Owner's review of submittals, such as Shop Drawings, Product Data and Samples, until the Owner has approved each submittal.

§ A.3.3.2 The construction Work shall be in accordance with approved submittals, except that the Design-Builder shall not be relieved of responsibility for deviations from requirements of the Design-Build Documents by the Owner's approval of design and construction documents or other submittals such as Shop Drawings, Product Data, Samples or other submittals unless the Design-Builder has specifically informed the Owner in writing of such deviation at the time of submittal and (1) the Owner has given written approval to the specific deviation as a minor change in the Work, or (2) a Change Order or Construction Change Directive has been issued authorizing the deviation. The Design-Builder shall not be relieved of responsibility for errors or omissions in design and construction documents or other submittals such as Shop Drawings, Product Data, Samples or other submittals by the Owner's approval thereof.

§ A.3.3.3 The Design-Builder shall direct specific attention, in writing or on resubmitted design and construction documents or other submittals such as Shop Drawings, Product Data, Samples or similar submittals, to revisions other than those requested by the Owner on previous submittals. In the absence of such written notice, the Owner's approval of a resubmission shall not apply to such revisions.

§ A.3.3.4 When the Design-Build Documents require that a Contractor provide professional design services or certifications related to systems, materials or equipment, or when the Design-Builder in its discretion provides such design services or certifications through a Contractor, the Design-Builder shall cause professional design services or certifications to be provided by a properly licensed design professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings and other submittals prepared by such professional. Shop Drawings and other submittals related to the Work designed or certified by such professionals, if prepared by others, shall bear such design professional's written approval. The Owner shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications or approvals performed by such design professionals.

§ A.3.3.5 The Design-Builder shall be solely responsible for and have control over all construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Work under the Design-Build Documents.

§ A.3.3.6 The Design-Builder shall keep the Owner informed of the progress and quality of the Work.

§ A.3.3.7 The Design-Builder shall be responsible for the supervision and direction of the Work, using the Design-Builder's best skill and attention. If the Design-Build Documents give specific instructions concerning construction means, methods, techniques, sequences or procedures, the Design-Builder 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 Design-Builder determines that such means, methods, techniques, sequences or procedures may not be safe, the Design-Builder shall give timely written notice to the Owner and shall not proceed with that portion of the Work without further written instructions from the Owner. If the Design-Builder is then instructed to proceed with the required means, methods, techniques, sequences or procedures without acceptance of changes proposed by the Design-Builder, the Owner shall be solely responsible for any resulting loss or damage.

§ A.3.3.8 The Design-Builder shall be responsible for inspection of portions of Work already performed to determine that such portions are in proper condition to receive subsequent Work.

§ A.3.4 LABOR AND MATERIALS

§ A.3.4.1 Unless otherwise provided in the Design-Build Documents, the Design-Builder shall provide or cause to be provided and shall pay for design services, 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.

§ A.3.4.2 When a material is specified in the Design-Build Documents, the Design-Builder may make substitutions only with the consent of the Owner and, if appropriate, in accordance with a Change Order.

§ A.3.4.3 The Design-Builder shall enforce strict discipline and good order among the Design-Builder's employees and other persons carrying out the Design-Build Contract. The Design-Builder shall not permit employment of unfit persons or persons not skilled in tasks assigned to them.

§ A.3.5 WARRANTY

§ A.3.5.1 The Design-Builder warrants to the Owner that materials and equipment furnished under the Design-Build Documents will be of good quality and new unless otherwise required or permitted by the Design-Build Documents, that the Work will be free from defects not inherent in the quality required or permitted by law or otherwise, and that the Work will conform to the requirements of the Design-Build Documents. Work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective. The Design-Builder's warranty excludes remedy for damage or defect caused by abuse, modifications not executed by the Design-Builder, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Owner, the Design-Builder shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

§ A.3.6 TAXES

§ A.3.6.1 The Design-Builder shall pay all sales, consumer, use and similar taxes for the Work provided by the Design-Builder which had been legally enacted on the date of the Agreement, whether or not yet effective or merely scheduled to go into effect.

§ A.3.7 PERMITS, FEES AND NOTICES

§ A.3.7.1 The Design-Builder shall secure and pay for building and other permits and governmental fees, licenses and inspections necessary for the proper execution and completion of the Work which are customarily secured after execution of the Design-Build Contract and which were legally required on the date the Owner accepted the Design-Builder's proposal.

§ A.3.7.2 The Design-Builder shall comply with and give notices required by laws, ordinances, rules, regulations and lawful orders of public authorities relating to the Project.

§ A.3.7.3 It is the Design-Builder's responsibility to ascertain that the Work is in accordance with applicable laws, ordinances, codes, rules and regulations.

§ A.3.7.4 If the Design-Builder performs Work contrary to applicable laws, ordinances, codes, rules and regulations, the Design-Builder shall assume responsibility for such Work and shall bear the costs attributable to correction.

§ A.3.8 ALLOWANCES

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

§ A.3.8.2 Unless otherwise provided in the Design-Build Documents:

1. allowances shall cover the cost to the Design-Builder of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;

- 2 Design-Builder's costs for unloading and handling at the site, labor, installation costs, overhead, profit and other expenses contemplated for stated allowance amounts shall be included in the Contract Sum but not in the allowances; and
- 3 whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Section A.3.8.2.1 and (2) changes in Design-Builder's costs under Section A.3.8.2.2.

§ A.3.8.3 Materials and equipment under an allowance shall be selected by the Owner in sufficient time to avoid delay in the Work.

§ A.3.9 DESIGN-BUILDER'S SCHEDULE

§ A.3.9.1 The Design-Builder, promptly after execution of the Design-Build Contract, shall prepare and submit for the Owner's information the Design-Builder's schedule for the Work. The schedule shall not exceed time limits and shall be in such detail as required under the Design-Build 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 Design-Build Documents, shall provide for expeditious and practicable execution of the Work and shall include allowances for periods of time required for the Owner's review and for approval of submissions by authorities having jurisdiction over the Project.

§ A.3.9.2 The Design-Builder shall prepare and keep current a schedule of submittals required by the Design-Build Documents.

§ A.3.9.3 The Design-Builder shall perform the Work in general accordance with the most recent schedules submitted to the Owner.

§ A.3.10 DOCUMENTS AND SAMPLES AT THE SITE

§ A.3.10.1 The Design-Builder 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 delivered to the Owner upon completion of the Work.

§ A.3.11 SHOP DRAWINGS, PRODUCT DATA AND SAMPLES

§ A.3.11.1 Shop Drawings are drawings, diagrams, schedules and other data specially prepared for the Work by the Design-Builder or a Contractor, Subcontractor, manufacturer, supplier or distributor to illustrate some portion of the Work.

§ A.3.11.2 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams and other information furnished by the Design-Builder to illustrate materials or equipment for some portion of the Work.

§ A.3.11.3 Samples are physical examples that illustrate materials, equipment or workmanship and establish standards by which the Work will be judged.

§ A.3.11.4 Shop Drawings, Product Data, Samples and similar submittals are not Design-Build Documents. The purpose of their submittal is to demonstrate for those portions of the Work for which submittals are required by the Design-Build Documents the way by which the Design-Builder proposes to conform to the Design-Build Documents.

§ A.3.11.5 The Design-Builder shall review for compliance with the Design-Build Documents and approve and submit to the Owner only those Shop Drawings, Product Data, Samples and similar submittals required by the Design-Build 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.

§ A.3.11.6 By approving and submitting Shop Drawings, Product Data, Samples and similar submittals, the Design-Builder represents that the Design-Builder 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 Design-Build Documents.

§ A.3.12 USE OF SITE

§ A.3.12.1 The Design-Builder shall confine operations at the site to areas permitted by law, ordinances, permits and the Design-Build Documents, and shall not unreasonably encumber the site with materials or equipment.

§ A.3.13 CUTTING AND PATCHING

§ A.3.13.1 The Design-Builder shall be responsible for cutting, fitting or patching required to complete the Work or to make its parts fit together properly.

§ A.3.13.2 The Design-Builder shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner or separate contractors by cutting, patching or otherwise altering such construction or by excavation. The Design-Builder shall not cut or otherwise alter such construction by the Owner or a separate contractor except with written consent of the Owner and of such separate contractor; such consent shall not be unreasonably withheld. The Design-Builder shall not unreasonably withhold from the Owner or a separate contractor the Design-Builder's consent to cutting or otherwise altering the Work.

§ A.3.14 CLEANING UP

§ A.3.14.1 The Design-Builder shall keep the premises and surrounding area free from accumulation of waste materials or rubbish caused by operations under the Design-Build Contract. At completion of the Work, the Design-Builder shall remove from and about the Project waste materials, rubbish, the Design-Builder's tools, construction equipment, machinery and surplus materials.

§ A.3.14.2 If the Design-Builder fails to clean up as provided in the Design-Build Documents, the Owner may do so and the cost thereof shall be charged to the Design-Builder.

§ A.3.15 ACCESS TO WORK

§ A.3.15.1 The Design-Builder shall provide the Owner access to the Work in preparation and progress wherever located.

§ A.3.16 ROYALTIES, PATENTS AND COPYRIGHTS

§ A.3.16.1 The Design-Builder shall pay all royalties and license fees. The Design-Builder shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner 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 or where the copyright violations are contained in drawings, specifications or other documents prepared by or furnished to the Design-Builder by the Owner. However, if the Design-Builder has reason to believe that the required design, process or product is an infringement of a copyright or a patent, the Design-Builder shall be responsible for such loss unless such information is promptly furnished to the Owner.

§ A.3.17 INDEMNIFICATION

§ A.3.17.1 To the fullest extent permitted by law, the Design-Builder shall indemnify and hold harmless the Owner, Owner'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 Design-Builder, Architect, a Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described in this Section A.3.17.

§ A.3.17.2 In claims against any person or entity indemnified under this Section A.3.17 by an employee of the Design-Builder, the Architect, a Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under Section A.3.17.1 shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the Design-Builder, the

Architect or a Contractor or a Subcontractor under workers' compensation acts, disability benefit acts or other employee benefit acts.

ARTICLE A.4 DISPUTE RESOLUTION

§ A.4.1 CLAIMS AND DISPUTES

§ A.4.1.1 Definition. A Claim is a demand or assertion by one of the parties seeking, as a matter of right, adjustment or interpretation of Design-Build Contract terms, payment of money, extension of time or other relief with respect to the terms of the Design-Build Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Design-Builder arising out of or relating to the Design-Build Contract. Claims must be initiated by written notice. The responsibility to substantiate Claims shall rest with the party making the Claim.

§ A.4.1.2 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 other party.

§ A.4.1.3 Continuing Performance. Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section A.9.7.1 and Article A.14, the Design-Builder shall proceed diligently with performance of the Design-Build Contract and the Owner shall continue to make payments in accordance with the Design-Build Documents.

§ A.4.1.4 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 Design-Build 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 Design-Build Documents, then the observing party shall give notice to the other party promptly before conditions are disturbed and in no event later than 21 days after first observance of the conditions. The Owner shall promptly investigate such conditions and, if they differ materially and cause an increase or decrease in the Design-Builder's cost of, or time required for, performance of any part of the Work, shall negotiate with the Design-Builder an equitable adjustment in the Contract Sum or Contract Time, or both. If the Owner determines that the conditions at the site are not materially different from those indicated in the Design-Build Documents and that no change in the terms of the Design-Build Contract is justified, the Owner shall so notify the Design-Builder in writing, stating the reasons. Claims by the Design-Builder in opposition to such determination must be made within 21 days after the Owner 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 Design-Builder cannot agree on an adjustment in the Contract Sum or Contract Time, the adjustment shall proceed pursuant to Section A.4.2.

§ A.4.1.5 Claims for Additional Cost. If the Design-Builder 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 A.10.6.

§ A.4.1.6 If the Design-Builder believes additional cost is involved for reasons including but not limited to (1) an order by the Owner to stop the Work where the Design-Builder was not at fault, (2) a written order for the Work issued by the Owner, (3) failure of payment by the Owner, (4) termination of the Design-Build Contract by the Owner, (5) Owner's suspension or (6) other reasonable grounds, Claim shall be filed in accordance with this Section A.4.1.

§ A.4.1.7 Claims for Additional Time

§ A.4.1.7.1 If the Design-Builder wishes to make Claim for an increase in the Contract Time, written notice as provided herein shall be given. The Design-Builder's Claim shall include an estimate of the time and its effect on the progress of the Work. In the case of a continuing delay, only one Claim is necessary.

§ A.4.1.7.2 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.

§ A.4.1.8 Injury or Damage to Person or Property. If either party to the Design-Build 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.

§ A.4.1.9 If unit prices are stated in the Design-Build 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 Design-Builder, the applicable unit prices shall be equitably adjusted.

§ A.4.1.10 Claims for Consequential Damages. Design-Builder and Owner waive Claims against each other for consequential damages arising out of or relating to the Design-Build 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 Design-Builder 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 A.14. Nothing contained in this Section A.4.1.10 shall be deemed to preclude an award of liquidated direct damages, when applicable, in accordance with the requirements of the Design-Build Documents.

§ A.4.1.11 If the enactment or revision of codes, laws or regulations or official interpretations which govern the Project cause an increase or decrease of the Design-Builder's cost of, or time required for, performance of the Work, the Design-Builder shall be entitled to an equitable adjustment in Contract Sum or Contract Time. If the Owner and Design-Builder cannot agree upon an adjustment in the Contract Sum or Contract Time, the Design-Builder shall submit a Claim pursuant to Section A.4.1.

§ A.4.2 RESOLUTION OF CLAIMS AND DISPUTES

§ A.4.2.1 Decision by Neutral. If the parties have identified a Neutral in Section 6.1 of the Agreement or elsewhere in the Design-Build Documents, then Claims, excluding those arising under Sections A.10.3 through A.10.5, shall be referred initially to the Neutral for decision. An initial decision by the Neutral shall be required as a condition precedent to mediation of all Claims between the Owner and Design-Builder arising prior to the date final payment is due, unless 30 days have passed after the Claim has been referred to the Neutral with no decision having been rendered by the Neutral. Unless the Neutral and all affected parties agree, the Neutral will not decide disputes between the Design-Builder and persons or entities other than the Owner.

§ A.4.2.2 Decision by Owner. If the parties have not identified a Neutral in Section 6.1 of the Agreement or elsewhere in the Design-Build Documents then, except for those claims arising under Sections A.10.3 and A.10.5, the Owner shall provide an initial decision. An initial decision by the Owner shall be required as a condition precedent to mediation of all Claims between the Owner and Design-Builder arising prior to the date final payment is due, unless 30 days have passed after the Claim has been referred to the Owner with no decision having been rendered by the Owner.

§ A.4.2.3 The initial decision pursuant to Sections A.4.2.1 and A.4.2.2 shall be in writing, shall state the reasons therefore and shall notify the parties of any change in the Contract Sum or Contract Time or both. The initial decision shall be final and binding on the parties but subject first to mediation under Section A.4.3 and thereafter to such other dispute resolution methods as provided in Section 6.2 of the Agreement or elsewhere in the Design-Build Documents.

§ A.4.2.4 In the event of a Claim against the Design-Builder, 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 Design-Builder's default, the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

§ A.4.2.5 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 initial resolution of the Claim.

§ A.4.3 MEDIATION

§ A.4.3.1 Any Claim arising out of or related to the Design-Build Contract, except those waived as provided for in Sections A.4.1.10, A.9.10.4 and A.9.10.5, shall, after initial decision of the Claim or 30 days after submission of the Claim for initial decision, be subject to mediation as a condition precedent to arbitration or the institution of legal or equitable or other binding dispute resolution proceedings by either party.

§ A.4.3.2 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 at the time of the mediation. Request for mediation shall be filed in writing with the other party to the Design-Build Contract and with the American Arbitration Association. The request may be made concurrently with the filing of a demand for arbitration or other binding dispute resolution proceedings but, in such event, mediation shall proceed in advance thereof or of 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.

§ A.4.3.3 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

§ A.4.4 ARBITRATION

§ A.4.4.1 Claims, except those waived as provided for in Sections A.4.1.10, A.9.10.4 and A.9.10.5, for which initial decisions have not become final and binding, and which have not been resolved by mediation but which are subject to arbitration pursuant to Sections 6.2 and 6.3 of the Agreement or elsewhere in the Design-Build Documents, 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 at the time of the arbitration. The demand for arbitration shall be filed in writing with the other party to the Design-Build Contract and with the American Arbitration Association.

§ A.4.4.2 A demand for arbitration may be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when institution of legal or equitable proceedings based on such Claim would be barred by the applicable statute of limitations as determined pursuant to Section A.13.6.

§ A.4.4.3 An arbitration pursuant to this Section A.4.4 may be joined with an arbitration involving common issues of law or fact between the Owner or Design-Builder and any person or entity with whom the Owner or Design-Builder has a contractual obligation to arbitrate disputes which does not prohibit consolidation or joinder. No other arbitration arising out of or relating to the Design-Build Contract shall include, by consolidation, joinder or in any other manner, an additional person or entity not a party to the Design-Build Contract or not a party to an agreement with the Owner or Design-Builder, except by written consent containing a specific reference to the Design-Build Contract signed by the Owner and Design-Builder and any other person or entities sought to be joined. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent or with a person or entity not named or described therein. The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by the parties to the Agreement shall be specifically enforceable in accordance with applicable law in any court having jurisdiction thereof.

§ A.4.4.4 Claims and Timely Assertion of Claims. The party filing a notice of demand for arbitration must assert in the demand all Claims then known to that party on which arbitration is permitted to be demanded.

§ A.4.4.5 Judgment on Final Award. The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

ARTICLE A.5 AWARD OF CONTRACTS

§ A.5.1 Unless otherwise stated in the Design-Build Documents or the bidding or proposal requirements, the Design-Builder, as soon as practicable after award of the Design-Build Contract, shall furnish in writing to the Owner the names of additional persons or entities not originally included in the Design-Builder's proposal or in substitution of a person or entity (including those who are to furnish design services or materials or equipment fabricated to a special design) proposed for each principal portion of the Work. The Owner will promptly reply to the Design-Builder in writing stating whether or not the Owner has reasonable objection to any such proposed additional person or entity. Failure of the Owner to reply promptly shall constitute notice of no reasonable objection.

§ A.5.2 The Design-Builder shall not contract with a proposed person or entity to whom which the Owner has made reasonable and timely objection. The Design-Builder shall not be required to contract with anyone to whom the Design-Builder has made reasonable objection.

§ A.5.3 If the Owner has reasonable objection to a person or entity proposed by the Design-Builder, the Design-Builder shall propose another to whom the Owner has no reasonable objection. If the proposed but rejected additional person or entity was reasonably capable of performing the Work, the Contract Sum and Contract Time shall be increased or decreased by the difference, if any, occasioned by such change, and an appropriate Change Order shall be issued before commencement of the substitute person's or entity's Work. However, no increase in the Contract Sum or Contract Time shall be allowed for such change unless the Design-Builder has acted promptly and responsively in submitting names as required.

§ A.5.4 The Design-Builder shall not change a person or entity previously selected if the Owner makes reasonable objection to such substitute.

§ A.5.5 CONTINGENT ASSIGNMENT OF CONTRACTS

§ A.5.5.1 Each agreement for a portion of the Work is assigned by the Design-Builder to the Owner provided that:

1. assignment is effective only after termination of the Design-Build Contract by the Owner for cause pursuant to Section A.14.2 and only for those agreements which the Owner accepts by notifying the contractor in writing; and
2. assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Design-Build Contract.

§ A.5.5.2 Upon such assignment, if the Work has been suspended for more than 30 days, the Contractor's compensation shall be equitably adjusted for increases in cost resulting from the suspension.

ARTICLE A.6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

§ A.6.1 OWNER'S RIGHT TO PERFORM CONSTRUCTION AND TO AWARD SEPARATE CONTRACTS

§ A.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. The Design-Builder shall cooperate with the Owner and separate contractors whose work might interfere with the Design-Builder's Work. If the Design-Builder claims that delay or additional cost is involved because of such action by the Owner, the Design-Builder shall make such Claim as provided in Section A.4.1.

§ A.6.1.2 The term "separate contractor" shall mean any contractor retained by the Owner pursuant to Section A.6.1.1.

§ A.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 Design-Builder, who shall cooperate with them. The Design-Builder shall participate with other separate contractors and the Owner in reviewing their construction schedules when directed to do so. The Design-Builder 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 Design-Builder, separate contractors and the Owner until subsequently revised.

§ A.6.2 MUTUAL RESPONSIBILITY

§ A.6.2.1 The Design-Builder 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 Design-Builder's construction and operations with theirs as required by the Design-Build Documents.

§ A.6.2.2 If part of the Design-Builder's Work depends for proper execution or results upon design, construction or operations by the Owner or a separate contractor, the Design-Builder shall, prior to proceeding with that portion of the Work, promptly report to the Owner apparent discrepancies or defects in such other construction that would render it unsuitable for such proper execution and results. Failure of the Design-Builder 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 Design-Builder's Work, except as to defects not then reasonably discoverable.

§ A.6.2.3 The Owner shall be reimbursed by the Design-Builder for costs incurred by the Owner which are payable to a separate contractor because of delays, improperly timed activities or defective construction of the Design-Builder. The Owner shall be responsible to the Design-Builder for costs incurred by the Design-Builder because of delays, improperly timed activities, damage to the Work or defective construction of a separate contractor.

§ A.6.2.4 The Design-Builder shall promptly remedy damage wrongfully caused by the Design-Builder to completed or partially completed construction or to property of the Owner or separate contractors.

§ A.6.2.5 The Owner and each separate contractor shall have the same responsibilities for cutting and patching as are described in Section A.3.13.

§ A.6.3 OWNER'S RIGHT TO CLEAN UP

§ A.6.3.1 If a dispute arises among the Design-Builder, 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 Owner shall allocate the cost among those responsible.

ARTICLE A.7 CHANGES IN THE WORK

§ A.7.1 GENERAL

§ A.7.1.1 Changes in the Work may be accomplished after execution of the Design-Build Contract, and without invalidating the Design-Build Contract, by Change Order or Construction Change Directive, subject to the limitations stated in this Article A.7 and elsewhere in the Design-Build Documents.

§ A.7.1.2 A Change Order shall be based upon agreement between the Owner and Design-Builder. A Construction Change Directive may be issued by the Owner with or without agreement by the Design-Builder.

§ A.7.1.3 Changes in the Work shall be performed under applicable provisions of the Design-Build Documents, and the Design-Builder shall proceed promptly, unless otherwise provided in the Change Order or Construction Change Directive.

§ A.7.2 CHANGE ORDERS

§ A.7.2.1 A Change Order is a written instrument signed by the Owner and Design-Builder stating their agreement upon all of the following:

- .1 a 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.

§ A.7.2.2 If the Owner requests a proposal for a change in the Work from the Design-Builder and subsequently elects not to proceed with the change, a Change Order shall be issued to reimburse the Design-Builder for any costs incurred for estimating services, design services or preparation of proposed revisions to the Design-Build Documents.

§ A.7.2.3 Methods used in determining adjustments to the Contract Sum may include those listed in Section A.7.3.3.

§ A.7.3 CONSTRUCTION CHANGE DIRECTIVES

§ A.7.3.1 A Construction Change Directive is a written order signed by the Owner 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 Design-Build Contract, order changes in the Work within the general scope of the Design-Build Documents consisting of additions, deletions or other revisions, the Contract Sum and Contract Time being adjusted accordingly.

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

§ A.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 Design-Build Documents or subsequently agreed upon, or equitably adjusted as provided in Section A.4.1.9;
- .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 A.7.3.6.

§ A.7.3.4 Upon receipt of a Construction Change Directive, the Design-Builder shall promptly proceed with the change in the Work involved and advise the Owner of the Design-Builder'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.

§ A.7.3.5 A Construction Change Directive signed by the Design-Builder indicates the agreement of the Design-Builder 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.

§ A.7.3.6 If the Design-Builder 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 Owner 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 A.7.3.3.3, the Design-Builder shall keep and present, in such form as the Owner may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Design-Build Documents, costs for the purposes of this Section A.7.3.6 shall be limited to the following:

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

§ A.7.3.7 The amount of credit to be allowed by the Design-Builder to the Owner for a deletion or change that results in a net decrease in the Contract Sum shall be actual net cost. 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.

§ A.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 Owner shall make an interim determination for purposes of monthly 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 the Design-Builder to disagree and assert a Claim in accordance with Article A.4.

§ A.7.3.9 When the Owner and Design-Builder reach agreement 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.

§ A.7.4 MINOR CHANGES IN THE WORK

§ A.7.4.1 The Owner shall 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 Design-Build Documents. Such changes shall be effected by written order and shall be binding on the Design-Builder. The Design-Builder shall carry out such written orders promptly.

ARTICLE A.8 TIME

§ A.8.1 DEFINITIONS

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

§ A.8.1.2 The date of commencement of the Work shall be the date stated in the Agreement unless provision is made for the date to be fixed in a notice to proceed issued by the Owner.

§ A.8.1.3 The date of Substantial Completion is the date determined by the Owner in accordance with Section A.9.8.

§ A.8.1.4 The term “day” as used in the Design-Build Documents shall mean calendar day unless otherwise specifically defined.

§ A.8.2 PROGRESS AND COMPLETION

§ A.8.2.1 Time limits stated in the Design-Build Documents are of the essence of the Design-Build Contract. By executing the Design-Build Contract, the Design-Builder confirms that the Contract Time is a reasonable period for performing the Work.

§ A.8.2.2 The Design-Builder shall not knowingly, except by agreement or instruction of the Owner in writing, prematurely commence construction operations on the site or elsewhere prior to the effective date of insurance required by Article A.11 to be furnished by the Design-Builder 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 Design-Build Documents or a notice to proceed given by the Owner, the Design-Builder 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.

§ A.8.2.3 The Design-Builder shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time.

§ A.8.3 DELAYS AND EXTENSIONS OF TIME

§ A.8.3.1 If the Design-Builder is delayed at any time in the commencement or progress of the Work by an act or neglect of the Owner 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 Design-Builder’s control, or by delay authorized by the Owner pending resolution of disputes pursuant to the Design-Build Documents, or by other causes which the Owner determines may justify delay, then the Contract Time shall be extended by Change Order for such reasonable time as the Owner may determine.

§ A.8.3.2 Claims relating to time shall be made in accordance with applicable provisions of Section A.4.1.7.

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

ARTICLE A.9 PAYMENTS AND COMPLETION

§ A.9.1 CONTRACT SUM

§ A.9.1.1 The Contract Sum is stated in the Design-Build Documents and, including authorized adjustments, is the total amount payable by the Owner to the Design-Builder for performance of the Work under the Design-Build Documents.

§ A.9.2 SCHEDULE OF VALUES

§ A.9.2.1 Before the first Application for Payment, where the Contract Sum is based upon a Stipulated Sum or the Cost of the Work plus Contractor's Fee with a Guaranteed Maximum Price, the Design-Builder shall submit to the Owner an initial 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 Owner may require. This schedule, unless objected to by the Owner, shall be used as a basis for reviewing the Design-Builder's Applications for Payment. The schedule of values may be updated periodically to reflect changes in the allocation of the Contract Sum.

§ A.9.3 APPLICATIONS FOR PAYMENT

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

§ A.9.3.1.1 As provided in Section A.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 but are not yet included in Change Orders.

§ A.9.3.1.2 Such applications may not include requests for payment for portions of the Work for which the Design-Builder does not intend to pay to a Contractor or material supplier or other parties providing services for the Design-Builder, unless such Work has been performed by others whom the Design-Builder intends to pay.

§ A.9.3.2 Unless otherwise provided in the Design-Build 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 Design-Builder with procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest and shall include the costs of applicable insurance, storage and transportation to the site for such materials and equipment stored off the site.

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

§ A.9.4 ACKNOWLEDGEMENT OF APPLICATION FOR PAYMENT

§ A.9.4.1 The Owner shall, within seven days after receipt of the Design-Builder's Application for Payment, issue to the Design-Builder a written acknowledgement of receipt of the Design-Builder's Application for Payment indicating the amount the Owner has determined to be properly due and, if applicable, the reasons for withholding payment in whole or in part.

§ A.9.5 DECISIONS TO WITHHOLD PAYMENT

§ A.9.5.1 The Owner may withhold a payment in whole or in part to the extent reasonably necessary to protect the Owner due to the Owner's determination that the Work has not progressed to the point indicated in the Application for Payment or that the quality of Work is not in accordance with the Design-Build Documents. The Owner may also withhold a payment or, because of subsequently discovered evidence, may nullify the whole or a part of an

Application for Payment previously issued to such extent as may be necessary to protect the Owner from loss for which the Design-Builder is responsible, including loss resulting from acts and omissions, because of the following:

- .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 Design-Builder;
- .3 failure of the Design-Builder to make payments properly to Contractors or for design services labor, materials or equipment;
- .4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
- .5 damage to the Owner or a separate contractor;
- .6 reasonable evidence that the Work will not be completed within the Contract Time and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
- .7 persistent failure to carry out the Work in accordance with the Design-Build Documents.

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

§ A.9.6 PROGRESS PAYMENTS

§ A.9.6.1 After the Owner has issued a written acknowledgement of receipt of the Design-Builder's Application for Payment, the Owner shall make payment of the amount, in the manner and within the time provided in the Design-Build Documents.

§ A.9.6.2 The Design-Builder shall promptly pay the Architect, each design professional and other consultants retained directly by the Design-Builder, upon receipt of payment from the Owner, out of the amount paid to the Design-Builder on account of each such party's respective portion of the Work, the amount to which each such party is entitled.

§ A.9.6.3 The Design-Builder shall promptly pay each Contractor, upon receipt of payment from the Owner, out of the amount paid to the Design-Builder on account of such Contractor's portion of the Work, the amount to which said Contractor is entitled, reflecting percentages actually retained from payments to the Design-Builder on account of the Contractor's portion of the Work. The Design-Builder shall, by appropriate agreement with each Contractor, require each Contractor to make payments to Subcontractors in a similar manner.

§ A.9.6.4 The Owner shall have no obligation to pay or to see to the payment of money to a Contractor except as may otherwise be required by law.

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

§ A.9.6.6 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 Design-Build Documents.

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

§ A.9.7 FAILURE OF PAYMENT

§ A.9.7.1 If for reasons other than those enumerated in Section A.9.5.1, the Owner does not issue a payment within the time period required by Section 5.1.3 of the Agreement, then the Design-Builder may, upon seven additional days' written notice to the Owner, 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

Design-Builder's reasonable costs of shutdown, delay and start-up, plus interest as provided for in the Design-Build Documents.

§ A.9.8 SUBSTANTIAL COMPLETION

§ A.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 Design-Build Documents so that the Owner can occupy or use the Work or a portion thereof for its intended use.

§ A.9.8.2 When the Design-Builder considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Design-Builder shall prepare and submit to the Owner 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 Design-Builder to complete all Work in accordance with the Design-Build Documents.

§ A.9.8.3 Upon receipt of the Design-Builder's list, the Owner shall make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Owner's inspection discloses any item, whether or not included on the Design-Builder's list, which is not substantially complete, the Design-Builder shall complete or correct such item. In such case, the Design-Builder shall then submit a request for another inspection by the Owner to determine whether the Design-Builder's Work is substantially complete.

§ A.9.8.4 In the event of a dispute regarding whether the Design-Builder's Work is substantially complete, the dispute shall be resolved pursuant to Article A.4.

§ A.9.8.5 When the Work or designated portion thereof is substantially complete, the Design-Builder shall prepare for the Owner's signature an Acknowledgement of Substantial Completion which, when signed by the Owner, shall establish (1) the date of Substantial Completion of the Work, (2) responsibilities between the Owner and Design-Builder for security, maintenance, heat, utilities, damage to the Work and insurance, and (3) the time within which the Design-Builder shall finish all items on the list accompanying the Acknowledgement. When the Owner's inspection discloses that the Work or a designated portion thereof is substantially complete, the Owner shall sign the Acknowledgement of Substantial Completion. Warranties required by the Design-Build Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Acknowledgement of Substantial Completion.

§ A.9.8.6 Upon execution of the Acknowledgement of Substantial Completion and consent of surety, if any, the Owner shall make payment of retainage applying to such Work or designated portion thereof. Such payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Design-Build Documents.

§ A.9.9 PARTIAL OCCUPANCY OR USE

§ A.9.9.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Design-Builder, provided such occupancy or use is consented to by the insurer, if so required by the insurer, and authorized by public authorities having jurisdiction over the Work. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Design-Builder have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for completion or correction of the Work and commencement of warranties required by the Design-Build Documents. When the Design-Builder considers a portion substantially complete, the Design-Builder shall prepare and submit a list to the Owner as provided under Section A.9.8.2. Consent of the Design-Builder to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Design-Builder.

§ A.9.9.2 Immediately prior to such partial occupancy or use, the Owner and Design-Builder shall jointly inspect the area to be occupied or portion of the Work to be used to determine and record the condition of the Work.

§ A.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 Design-Build Documents.

§ A.9.10 FINAL COMPLETION AND FINAL PAYMENT

§ A.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 Owner shall promptly make such inspection and, when the Owner finds the Work acceptable under the Design-Build Documents and fully performed, the Owner shall, subject to Section A.9.10.2, promptly make final payment to the Design-Builder.

§ A.9.10.2 Neither final payment nor any remaining retained percentage will become due until the Design-Builder submits to the Owner (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 Design-Build Documents to remain in force after final payment is currently in effect and will not be cancelled or allowed to expire until at least 30 days' prior written notice has been given to the Owner, (3) a written statement that the Design-Builder knows of no substantial reason that the insurance will not be renewable to cover the period required by the Design-Build 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 Design-Build Contract, to the extent and in such form as may be designated by the Owner. If a Contractor refuses to furnish a release or waiver required by the Owner, the Design-Builder 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 Design-Builder shall refund to the Owner all money that the Owner may be liable to pay in connection with the discharge of such lien, including all costs and reasonable attorneys' fees.

§ A.9.10.3 If, after the Owner determines that the Design-Builder's Work or designated portion thereof is substantially completed, final completion thereof is materially delayed through no fault of the Design-Builder or by issuance of a Change Order or a Construction Change Directive affecting final completion, the Owner shall, upon application by the Design-Builder, 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 Design-Build 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 Design-Builder. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of claims.

§ A.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 Design-Build Documents and unsettled;
- .2 failure of the Work to comply with the requirements of the Design-Build Documents; or
- .3 terms of special warranties required by the Design-Build Documents.

§ A.9.10.5 Acceptance of final payment by the Design-Builder, a Contractor 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 A.10 PROTECTION OF PERSONS AND PROPERTY

§ A.10.1 SAFETY PRECAUTIONS AND PROGRAMS

§ A.10.1.1 The Design-Builder shall be responsible for initiating and maintaining all safety precautions and programs in connection with the performance of the Design-Build Contract.

§ A.10.2 SAFETY OF PERSONS AND PROPERTY

§ A.10.2.1 The Design-Builder 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 or under the care, custody or control of the Design-Builder or the Design-Builder's Contractors or 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.

§ A.10.2.2 The Design-Builder 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.

§ A.10.2.3 The Design-Builder shall erect and maintain, as required by existing conditions and performance of the Design-Build Documents, 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.

§ A.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 Design-Builder shall exercise utmost care and carry on such activities under supervision of properly qualified personnel.

§ A.10.2.5 The Design-Builder shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Design-Build Documents) to property referred to in Sections A.10.2.1.2 and A.10.2.1.3 caused in whole or in part by the Design-Builder, the Architect, a Contractor, a 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 Design-Builder is responsible under Sections A.10.2.1.2 and A.10.2.1.3, except damage or loss attributable to acts or omissions of the Owner or anyone directly or indirectly employed by the Owner, or by anyone for whose acts the Owner may be liable, and not attributable to the fault or negligence of the Design-Builder. The foregoing obligations of the Design-Builder are in addition to the Design-Builder's obligations under Section A.3.17.

§ A.10.2.6 The Design-Builder shall designate in writing to the Owner a responsible individual whose duty shall be the prevention of accidents.

§ A.10.2.7 The Design-Builder shall not load or permit any part of the construction or site to be loaded so as to endanger its safety.

§ A.10.3 HAZARDOUS MATERIALS

§ A.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 Design-Builder, the Design-Builder shall, upon recognizing the condition, immediately stop Work in the affected area and report the condition to the Owner.

§ A.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 Design-Builder 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 Design-Build Documents, the Owner shall furnish in writing to the Design-Builder 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 Design-Builder shall promptly reply to the Owner in writing stating whether or not the Design-Builder has reasonable objection to the persons or entities proposed by the Owner. If the Design-Builder has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Design-Builder has 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 Design-Builder. The Contract Time shall be extended appropriately, and the Contract Sum shall be increased in the amount of the Design-Builder's reasonable additional costs of shutdown, delay and start-up, which adjustments shall be accomplished as provided in Article A.7.

§ A.10.3.3 To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Design-Builder, Contractors, Subcontractors, Architect, Architect's consultants and the 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 exists on site as of the date of the Agreement, is not disclosed in the Design-Build Documents and presents the risk of bodily injury or death as described in Section A.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) to the extent that such damage, loss or expense is not due to the negligence of

the Design-Builder, Contractors, Subcontractors, Architect, Architect's consultants and the agents and employees of any of them.

§ A.10.4 The Owner shall not be responsible under Section A.10.3 for materials and substances brought to the site by the Design-Builder unless such materials or substances were required by the Design-Build Documents.

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

§ A.10.6 EMERGENCIES

§ A.10.6.1 In an emergency affecting safety of persons or property, the Design-Builder shall act, at the Design-Builder's discretion, to prevent threatened damage, injury or loss. Additional compensation or extension of time claimed by the Design-Builder on account of an emergency shall be determined as provided in Section A.4.1.7 and Article A.7.

ARTICLE A.11 INSURANCE AND BONDS

§ A.11.1 Except as may otherwise be set forth in the Agreement or elsewhere in the Design-Build Documents, the Owner and Design-Builder shall purchase and maintain the following types of insurance with limits of liability and deductible amounts and subject to such terms and conditions, as set forth in this Article A.11.

§ A.11.2 DESIGN-BUILDER'S LIABILITY INSURANCE

§ A.11.2.1 The Design-Builder 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 Design-Builder from claims set forth below that may arise out of or result from the Design-Builder's operations under the Design-Build Contract and for which the Design-Builder may be legally liable, whether such operations be by the Design-Builder, by a Contractor 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 Design-Builder's employees;
- .3 claims for damages because of bodily injury, sickness or disease, or death of any person other than the Design-Builder's employees;
- .4 claims for damages insured by usual personal injury liability coverage;
- .5 claims for damages, other than to the Work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom;
- .6 claims for damages because of bodily injury, death of a person or property damage arising out of ownership, maintenance or use of a motor vehicle;
- .7 claims for bodily injury or property damage arising out of completed operations; and
- .8 claims involving contractual liability insurance applicable to the Design-Builder's obligations under Section A.3.17.

§ A.11.2.2 The insurance required by Section A.11.2.1 shall be written for not less than limits of liability specified in the Design-Build 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.

§ A.11.2.3 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 A.11.2 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 A.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 Design-Builder with reasonable promptness in accordance with the Design-Builder's information and belief.

§ A.11.3 OWNER'S LIABILITY INSURANCE

§ A.11.3.1 The Owner shall be responsible for purchasing and maintaining the Owner's usual liability insurance.

§ A.11.4 PROPERTY INSURANCE

§ A.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 the value of subsequent Design-Build 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 Design-Build 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 A.9.10 or until no person or entity other than the Owner has an insurable interest in the property required by this Section A.11.4 to be covered, whichever is later. This insurance shall include interests of the Owner, Design-Builder, Contractors and Subcontractors in the Project.

§ A.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 Design-Builder's services and expenses required as a result of such insured loss.

§ A.11.4.1.2 If the Owner does not intend to purchase such property insurance required by the Design-Build Contract and with all of the coverages in the amount described above, the Owner shall so inform the Design-Builder in writing prior to commencement of the Work. The Design-Builder may then effect insurance that will protect the interests of the Design-Builder, Contractors and Subcontractors in the Work, and, by appropriate Change Order, the cost thereof shall be charged to the Owner. If the Design-Builder is damaged by the failure or neglect of the Owner to purchase or maintain insurance as described above without so notifying the Design-Builder in writing, then the Owner shall bear all reasonable costs properly attributable thereto.

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

§ A.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.

§ A.11.4.1.5 Partial occupancy or use in accordance with Section A.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 Design-Builder 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.

§ A.11.4.2 **Boiler and Machinery Insurance.** The Owner shall purchase and maintain boiler and machinery insurance required by the Design-Build 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, Design-Builder, Contractors and Subcontractors in the Work, and the Owner and Design-Builder shall be named insureds.

§ A.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 Design-Builder, Architect, the Design-Builder's other design professionals, if any, Contractors and Subcontractors for loss of use of the Owner's property, including consequential losses due to fire or other hazards, however caused.

§ A.11.4.4 If the Design-Builder 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 Design-Builder by appropriate Change Order.

§ A.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 A.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.

§ A.11.4.6 Before an exposure to loss may occur, the Owner shall file with the Design-Builder a copy of each policy that includes insurance coverages required by this Section A.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 Design-Builder.

§ A.11.4.7 Waivers of Subrogation. The Owner and Design-Builder waive all rights against each other and any of their consultants, separate contractors described in Section A.6.1, if any, Contractors, Subcontractors, agents and employees, each of the other, and any of their contractors, 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 A.11.4 or other property insurance applicable to the Work, except such rights as they have to proceeds of such insurance held by the Owner as fiduciary. The Owner or Design-Builder, as appropriate, shall require of the separate contractors described in Section A.6.1, if any, and the Contractors, Subcontractors, agents and employees of any of them, by appropriate agreements, written where legally required for validity, similar waivers each in favor of other parties enumerated herein. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, even though the person or entity did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged.

§ A.11.4.8 A loss insured under Owner's property insurance shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause and of Section A.11.4.10. The Design-Builder shall pay Contractors their just shares of insurance proceeds received by the Design-Builder, and, by appropriate agreements, written where legally required for validity, shall require Contractors to make payments to their Subcontractors in similar manner.

§ A.11.4.9 If required in writing by a party in interest, the Owner as fiduciary shall, upon occurrence of an insured loss, give bond for proper performance of the Owner's duties. The cost of required bonds shall be charged against proceeds received as fiduciary. The Owner shall deposit in a separate account proceeds so received, which the Owner shall distribute in accordance with such agreement as the parties in interest may reach. If after such loss no other special agreement is made and unless the Owner terminates the Design-Build Contract for convenience, replacement of damaged property shall be performed by the Design-Builder after notification of a Change in the Work in accordance with Article A.7.

§ A.11.4.10 The Owner as fiduciary shall have power to adjust and settle a loss with insurers unless one of the parties in interest shall object in writing within five days after occurrence of loss to the Owner's exercise of this power.; The Owner as fiduciary shall, in the case of a decision or award, make settlement with insurers in accordance with directions of a decision or award. If distribution of insurance proceeds by arbitration is required, the arbitrators will direct such distribution.

§ A.11.5 PERFORMANCE BOND AND PAYMENT BOND

§ A.11.5.1 The Owner shall have the right to require the Design-Builder to furnish bonds covering faithful performance of the Design-Build Contract and payment of obligations arising thereunder, including payment to design professionals engaged by or on behalf of the Design-Builder, as stipulated in bidding requirements or specifically required in the Agreement or elsewhere in the Design-Build Documents on the date of execution of the Design-Build Contract.

ARTICLE A.12 UNCOVERING AND CORRECTION OF WORK

§ A.12.1 UNCOVERING OF WORK

§ A.12.1.1 If a portion of the Work is covered contrary to requirements specifically expressed in the Design-Build Documents, it must be uncovered for the Owner's examination and be replaced at the Design-Builder's expense without change in the Contract Time.

§ A.12.1.2 If a portion of the Work has been covered which the Owner has not specifically requested to examine prior to its being covered, the Owner may request to see such Work and it shall be uncovered by the Design-Builder. If such Work is in accordance with the Design-Build 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 Design-Build Documents, correction shall be at the Design-Builder'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.

§ A.12.2 CORRECTION OF WORK

§ A.12.2.1 BEFORE OR AFTER SUBSTANTIAL COMPLETION.

§ A.12.2.1.1 The Design-Builder shall promptly correct Work rejected by the Owner or failing to conform to the requirements of the Design-Build 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, shall be at the Design-Builder's expense.

§ A.12.2.2 AFTER SUBSTANTIAL COMPLETION

§ A.12.2.2.1 In addition to the Design-Builder's obligations under Section A.3.5, if, within one year after the date of Substantial Completion or after the date for commencement of warranties established under Section A.9.8.5 or by terms of an applicable special warranty required by the Design-Build Documents, any of the Work is found to be not in accordance with the requirements of the Design-Build Documents, the Design-Builder shall correct it promptly after receipt of written notice from the Owner to do so unless the Owner has previously given the Design-Builder 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 Design-Builder and give the Design-Builder an opportunity to make the correction, the Owner waives the rights to require correction by the Design-Builder and to make a claim for breach of warranty. If the Design-Builder fails to correct non-conforming Work within a reasonable time during that period after receipt of notice from the Owner, the Owner may correct it in accordance with Section A.2.5.

§ A.12.2.2.2 The one-year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual performance of the Work.

§ A.12.2.2.3 The one-year period for correction of Work shall not be extended by corrective Work performed by the Design-Builder pursuant to this Section A.12.2.

§ A.12.2.3 The Design-Builder shall remove from the site portions of the Work which are not in accordance with the requirements of the Design-Build Documents and are neither corrected by the Design-Builder nor accepted by the Owner.

§ A.12.2.4 The Design-Builder shall bear the cost of correcting destroyed or damaged construction, whether completed or partially completed, of the Owner or separate contractors caused by the Design-Builder's correction or removal of Work which is not in accordance with the requirements of the Design-Build Documents.

§ A.12.2.5 Nothing contained in this Section A.12.2 shall be construed to establish a period of limitation with respect to other obligations the Design-Builder might have under the Design-Build Documents. Establishment of the one-year period for correction of Work as described in Section A.12.2.2 relates only to the specific obligation of the Design-Builder to correct the Work, and has no relationship to the time within which the obligation to comply with the Design-Build Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Design-Builder's liability with respect to the Design-Builder's obligations other than specifically to correct the Work.

§ A.12.3 ACCEPTANCE OF NONCONFORMING WORK

§ A.12.3.1 If the Owner prefers to accept Work not in accordance with the requirements of the Design-Build Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be equitably adjusted by Change Order. Such adjustment shall be effected whether or not final payment has been made.

ARTICLE A.13 MISCELLANEOUS PROVISIONS

§ A.13.1 GOVERNING LAW

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

§ A.13.2 SUCCESSORS AND ASSIGNS

§ A.13.2.1 The Owner and Design-Builder 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 Design-Build Documents. Except as provided in Section A.13.2.2, neither party to the Design-Build Contract shall assign the Design-Build 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 Design-Build Contract.

§ A.13.2.2 The Owner may, without consent of the Design-Builder, assign the Design-Build 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 Design-Build Documents. The Design-Builder shall execute all consents reasonably required to facilitate such assignment.

§ A.13.3 WRITTEN NOTICE

§ A.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 sent by registered or certified mail to the last business address known to the party giving notice.

§ A.13.4 RIGHTS AND REMEDIES

§ A.13.4.1 Duties and obligations imposed by the Design-Build 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.

§ A.13.4.2 No action or failure to act by the Owner or Design-Builder shall constitute a waiver of a right or duty afforded them under the Design-Build Documents, 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.

§ A.13.5 TESTS AND INSPECTIONS

§ A.13.5.1 Tests, inspections and approvals of portions of the Work required by the Design-Build 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 Design-Builder 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 Design-Builder shall give timely notice of when and where tests and inspections are to be made so that the Owner may be present for such procedures.

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

§ A.13.5.3 If such procedures for testing, inspection or approval under Sections A.13.5.1 and A.13.5.2 reveal failure of the portions of the Work to comply with requirements established by the Design-Build Documents, all costs made necessary by such failure, including those of repeated procedures, shall be at the Design-Builder's expense.

§ A.13.5.4 Required certificates of testing, inspection or approval shall, unless otherwise required by the Design-Build Documents, be secured by the Design-Builder and promptly delivered to the Owner.

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

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

§ A.13.6 COMMENCEMENT OF STATUTORY LIMITATION PERIOD

§ A.13.6.1 As between the Owner and Design-Builder:

- .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 Application 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 Application 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 Application for Payment; and
- .3 **After Final Application for Payment.** As to acts or failures to act occurring after the relevant date of issuance of the final Application 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 Design-Builder pursuant to any Warranty provided under Section A.3.5, the date of any correction of the Work or failure to correct the Work by the Design-Builder under Section A.12.2, or the date of actual commission of any other act or failure to perform any duty or obligation by the Design-Builder or Owner, whichever occurs last.

ARTICLE A.14 TERMINATION OR SUSPENSION OF THE DESIGN/BUILD CONTRACT

§ A.14.1 TERMINATION BY THE DESIGN-BUILDER

§ A.14.1.1 The Design-Builder may terminate the Design-Build Contract if the Work is stopped for a period of 30 consecutive days through no act or fault of the Design-Builder or a Contractor, Subcontractor or their agents or employees or any other persons or entities performing portions of the Work under direct or indirect contract with the Design-Builder, 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 the Owner has failed to make payment to the Design-Builder in accordance with the Design-Build Documents; or
- .4 the Owner has failed to furnish to the Design-Builder promptly, upon the Design-Builder's request, reasonable evidence as required by Section A.2.2.8.

§ A.14.1.2 The Design-Builder may terminate the Design-Build Contract if, through no act or fault of the Design-Builder or a Contractor, Subcontractor or their agents or employees or any other persons or entities performing portions of the Work under direct or indirect contract with the Design-Builder, repeated suspensions, delays or interruptions of the entire Work by the Owner, as described in Section A.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.

§ A.14.1.3 If one of the reasons described in Sections A.14.1.1 or A.14.1.2 exists, the Design-Builder may, upon seven days' written notice to the Owner, terminate the Design-Build 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.

§ A.14.1.4 If the Work is stopped for a period of 60 consecutive days through no act or fault of the Design-Builder or a Contractor or their agents or employees or any other persons performing portions of the Work under a direct or

indirect contract with the Design-Builder because the Owner has persistently failed to fulfill the Owner's obligations under the Design-Build Documents with respect to matters important to the progress of the Work, the Design-Builder may, upon seven additional days' written notice to the Owner, terminate the Design-Build Contract and recover from the Owner as provided in Section A.14.1.3.

§ A.14.2 TERMINATION BY THE OWNER FOR CAUSE

§ A.14.2.1 The Owner may terminate the Design-Build Contract if the Design-Builder:

- .1 persistently or repeatedly refuses or fails to supply enough properly skilled workers or proper materials;
- .2 fails to make payment to Contractors for services, materials or labor in accordance with the respective agreements between the Design-Builder and the Architect and Contractors;
- .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 Design-Build Documents.

§ A.14.2.2 When any of the above reasons exist, the Owner may without prejudice to any other rights or remedies of the Owner and after giving the Design-Builder and the Design-Builder's surety, if any, seven days' written notice, terminate employment of the Design-Builder 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 Design-Builder;
- .2 accept assignment of contracts pursuant to Section A.5.5.1; and
- .3 finish the Work by whatever reasonable method the Owner may deem expedient. Upon request of the Design-Builder, the Owner shall furnish to the Design-Builder a detailed accounting of the costs incurred by the Owner in finishing the Work.

§ A.14.2.3 When the Owner terminates the Design-Build Contract for one of the reasons stated in Section A.14.2.1, the Design-Builder shall not be entitled to receive further payment until the Work is finished.

§ A.14.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Design-Builder. If such costs and damages exceed the unpaid balance, the Design-Builder shall pay the difference to the Owner.

§ A.14.3 SUSPENSION BY THE OWNER FOR CONVENIENCE

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

§ A.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 A.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 Design-Builder is responsible; or
- .2 that an equitable adjustment is made or denied under another provision of the Design-Build Contract.

§ A.14.4 TERMINATION BY THE OWNER FOR CONVENIENCE

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

§ A.14.4.2 Upon receipt of written notice from the Owner of such termination for the Owner's convenience, the Design-Builder 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 contracts and purchase orders and enter into no further contracts and purchase orders.

§ A.14.4.3 In the event of termination for the Owner's convenience prior to commencement of construction, the Design-Builder shall be entitled to receive payment for design services performed, costs incurred by reason of such termination and reasonable overhead and profit on design services not completed. In case of termination for the Owner's convenience after commencement of construction, the Design-Builder 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.



**AMENDMENT AND SUPPLEMENT TO
TERMS AND CONDITIONS,
EXHIBIT A, AIA DOCUMENT A141 - 2004
PS XX-**

The following provisions amend, supplement or modify provisions in Exhibit A, AIA Document A141-2004, Terms and Conditions, and are fully incorporated into and made a part of such Exhibit A. Provisions in Exhibit A which are not amended, supplemented or modified as set forth herein remain as provided in Exhibit A.

ARTICLE A.1 GENERAL PROVISIONS

A.1.1 BASIC DEFINITIONS

A.1.1.2 Project Criteria:

Add the following paragraph: "When existing conditions drawings are available, the drawing dimensions shall have precedence over scaled measurements and details over general drawings. The Project description in the Request for Proposal, dated xxxx shall have precedence."

Add the following paragraph: "Figured dimensions on the drawings are reasonably accurate and should govern in setting out the Work. However, should the Design-Builder discover discrepancies or inaccuracies, it shall be the Design-Builder's responsibility to bring them to the attention of the Owner and Construction Manager before making any changes. Changes shall be made only with the approval of the Owner and Construction Manager.

A.1.1.9 Add Definitions:

Wherever used in these Terms and Conditions or in other Contract Documents, the following terms have the meaning indicated which are applicable to both the singular and plural thereof:

Owner means: The Special Administrative Board of the Transitional School District of the City of St. Louis.

A.1.5 EXECUTION OF THE DESIGN-BUILD DOCUMENTS

A.1.5.1 Add the following: "All plans, specifications and other Instruments of Service furnished by Design-Builder through its consultants and prepared by Architect, engineer or other design professional engaged by Design-Builder shall be sealed by the applicable design professional.

A.1.5.3 Insert paragraphs: "The Design-Builder shall make a thorough examination of the site and study all documents and project criteria and all conditions relating to the execution and performance or furnishing of the Work and whether any materials or labor evidently necessary for the proper and complete execution of the Work, which are not specifically mentioned although reasonably inferred therefrom, shall be included in the Work. Based on Design Builder's due diligence, the Design Builder shall not be entitled to any increase in

compensation above the Contract Sum as a result of any condition at the Project site which should have been detected by the Design Builder for which Design Builder did not notify the Owner and Construction Manager, and the Design Builder shall perform or cause to be performed or furnished all corrective Work required as a result of such condition at Design Builder's own cost and expense.

A.1.5.4 Anything called for in the project criteria and not shown on the drawings or shown on the drawings and not called for in the project criteria, shall be included in the Design-Builder's Work, the same as if included in both. In the event of a doubt arising as to the true intent and meaning of the project manual or design or project criteria, the Design-Builder shall report it at once to the Owner and Construction Manager. The Owner and Construction Manager shall furnish with reasonable promptness, additional instructions, by means necessary for the proper execution of the Work, and such instructions shall be consistent with the Design-Build Documents. The Work shall be executed in conformity therewith and the Design-Builder shall do no Work without proper drawings and instructions. If the Design-Builder proceeds contrary to the above instructions, all such labor and material costs and other costs incurred by Owner and Construction Manager shall be furnished at the Design-Builder's expense."

A.1.5.5 If any provision in the Design Build Documents conflicts with or is inconsistent with any other provision, the documents shall govern in the order determined by Owner.

A.1.6 OWNERSHIP AND USE OF DOCUMENTS AND ELECTRONIC DATA

A.1.6.4 Revise last two sentences to state: If the Owner does not assume the remaining duties and obligations of the Design-Builder to that design professional under this Agreement, then to the extent permitted by law the Owner shall indemnify and hold harmless that design professional from all claims and any expense, including legal fees, which that design professional shall thereafter incur by reason of the Owner's use of such Instruments of Service. The Design-Builder shall incorporate the requirements of this Section A.1.6.4 in all agreements with its design professionals.

A.1.6.5 Add to Section A.1.6.5: Notwithstanding anything to the contrary in Section A.1.6, Owner shall have a non-exclusive license to reproduce and use the Instruments of Services in connection with exercising any rights of Owner under the Design Build Documents. In the event of a dispute as to payments to the Design Builder or any design professionals of the Design Builder, Owner's failure to pay such disputed amounts will not release Design Builder of its obligations to cause to be furnished the license described in Section A.1.6 for the benefit of Owner.

ARTICLE A.2 OWNER

A.2.2 INFORMATION AND SERVICES REQUIRED OF THE OWNER

Delete Section A.2.2.2

A.2.2.3 Add the following at the beginning of 2.2.3: "If requested by Design-Builder,..."

A.2.2.10. Delete Section A.2.2.10.

A.2.2.11 Delete Section A.2.2.11.

A.2.3.1. Add the word “sole” before “responsibility” in the last line of A.2.3.1.

A.2.3.5 Add the words “any or” before “exhaustive” in line 2 of A.2.3.5.

A.2.4 OWNER’S RIGHT TO STOP THE WORK

A.2.4.1 Delete the word “persistently” in the second line of such paragraph.

Add the following paragraph: “All notices (relating to any part of this Agreement) to Design-Builder from the Owner shall be in writing and considered delivered and the service thereof completed, when the notice is posted, by registered mail, to the Design-Builder or when the notice is delivered in person to the Design-Builder or Design-Builder’s authorized representative on the Work.”

A.2.4.2 Add the following paragraph: “All notices (relating to any part of this Agreement) to the Owner from the Design-Builder shall be in writing and considered delivered and the service thereof completed, when the notice is delivered in person or when the notice is posted, by registered mail, to the Owner and directed to the St. Louis Public Schools, Operations Department at 801 North 11th Street, St. Louis, Missouri 63101, Legal Notice Enclosed.”

ARTICLE A.3 DESIGN-BUILDER

A.3.1 GENERAL

A.3.1.1.2 Add the following: “The Design Builder shall cause to be furnished the services set forth in this Agreement and the Design-Build Documents.”

A.3.2 DESIGN SERVICES AND RESPONSIBILITIES

A.3.2.2 Add the following at the end of the paragraph: “Design-Builder shall be fully liable and responsible for all Instruments of Service.”

A.3.2.4 Add the following paragraphs: “The Design-Builder and each subcontractor shall be responsible for verification of all measurements at the site before ordering any materials or doing any Work. No extra charge or compensation shall be allowed due to difference between actual dimensions and dimensions indicated on the drawings. Any such discrepancy in dimension which may be found shall be submitted to the Owner and Construction Manager for Owner and Construction Manager’s consideration before the Design- Builder proceeds with the Work in the affected areas.”

The Design-Builder shall perform or furnish, as applicable, the services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project.

The Design-Builder acknowledges Owner has engaged the services of the Construction Manager as described in AIA B801CMa - 1992, Standard Form of Agreement Between Owner and Construction Manager (as amended and supplemented therein). The Design-Builder shall not be responsible for actions taken by the Construction Manager.

The Design-Builder shall identify a representative authorized to act on behalf of the Design-Builder with respect to the Project.

Except with the Owner's knowledge and consent, the Design-Builder shall not engage in any activity, or accept any employment, interest or contribution that would reasonably appear to compromise the Design Builder's professional judgment with respect to this Project.

A.3.2.5 Add the following: "Design-Builder is fully responsible that all drawings, plans, specifications and other documents prepared by consultants or contractors of Design-Building, including the Architect, another design professional or consultant engaged by Design-Builder or otherwise furnished by Design-Builder under the Design-Build Contract shall comply with and be in strict accordance with all applicable federal, state, county, and local laws, ordinances, regulations, codes, statutes, and other governmental requirements (the "Governmental Requirements") including without limitation the Americans with Disabilities Act and regulations thereunder, and with all requirements of the Owner. Any failure of any of the drawings, plans, specifications and other documents to comply shall be a breach by Design-Builder of the Design-Build Contract. Design-Builder further warrants and represents the Work shall be performed and furnished in accordance with and shall comply with all Governmental Requirements. Without limiting the foregoing, the Design-Builder shall engage such design professional as consultants and subcontractors to satisfy Governmental Requirements regarding services to be performed by licensed design professionals."

A.3.2.6 The review by the Owner or Construction Manager of any drawings, documents or submittals from Design Builder or any approval by the Owner or Construction Manager of any drawing, document or submittal shall not constitute, nor be deemed evidence of, any approval or acceptance of any drawing, document or other submittal which is not in accordance with the requirements of the Design Build Documents, nor shall any failure of Owner and Construction Manager to reject or object to any drawing, document or submittal waive or release Design Builder from its obligations to design, construct and complete the Work and the Project in accordance with the Design Build Documents.

A.3.2.9 Add the following to subsection 3.2.9(a): "...and (iv) the documents and services fulfill all requirements of the Project Criteria and create a fully integrated, functioning Project and delineate all drawings needed for the Work;..."

A.3.2.11 Add the following new subparagraphs:

A.3.2.11: Design-Builder shall use and shall insure that the Contractor, each subcontractor and any other parties supplying labor for the Project, use only Missouri laborers and laborers from nonrestrictive states, as those terms are

defined in Section 290.550, Missouri Revised Statutes, and consistent with the requirements of Sections 290.550 to 290.580, Missouri Revised Statutes”.

A.3.2.12 The Design-Builder’s services include those described in Article 3 and elsewhere in the Design Build Contract and include having the Design-Builder furnish, through its consultants and contractors or subcontractors that are design professionals structural, mechanical, and electrical engineering services.

A.3.2.13 The Design-Builder shall manage the Design-Builder’s services, consult with the Owner and the Construction Manager, research applicable design criteria, attend Project meetings, communicate with members of the Project team and report progress to the Owner and Construction Manager.

A.3.2.14 The Design-Builder shall coordinate its services with those services provided by the Owner, the Construction Manager and the Owner’s other consultants. The Design-Builder shall be entitled to rely on the accuracy and completeness of services and information furnished by the Owner, the Construction Manager, and the Owner’s other consultants. The Design-Builder shall provide prompt written notice to the Owner if the Design-Builder becomes aware of any error, omission or inconsistency in such services or information.

A.3.2.15 As soon as practicable after the date of this Agreement as required by Owner (or before the date of this Agreement, if required by the Owner), the Design-Builder shall submit to the Owner and the Construction Manager a schedule of the Design-Builder’s services for inclusion in the Project schedule prepared by the Construction Manager. The schedule of the Design-Builder’s services shall include design milestone dates, anticipated dates when cost estimates or design reviews may occur, and allowances for periods of time required (1) for the Owner’s review, (2) for the Construction Manager’s review, (3) for the performance of the Owner’s consultants, and (4) for approval of submissions by authorities having jurisdiction over the Project.

A.3.2.16 The Design-Builder shall submit information to the Construction Manager and participate in developing and revising the Project schedule as it relates to the Design-Builder’s services.

A.3.2.17 When the Owner and the Design-Builder agree to the time limits established by the Project schedule, the Design-Builder shall not exceed them, except for reasonable cause approved by Owner in writing.

A.3.2.18 The Design-Builder shall not be responsible for an Owner’s directive or substitution made without the Design-Builder’s approval.

A.3.2.19 The Design-Builder shall, at appropriate times, in coordination with the Construction Manager, contact the governmental authorities required to approve the Construction Documents and the entities providing utility services to the Project. In designing the Project, the Design-Builder shall respond to applicable design requirements imposed by such governmental authorities and by such entities providing utility services.

A.3.2.20 The Design-Builder shall assist the Construction Manager in connection with filing documents required for the approval of governmental authorities having jurisdiction over the Project.

A.3.2.21 The Design-Builder shall review and comply with laws, codes, and regulations applicable to the Design-Builder's services.

A.3.2.22 The Design-Builder shall present its preliminary evaluation to the Owner and Construction Manager and shall discuss with the Owner and Construction Manager alternative approaches to design and construction of the Project, including the feasibility of incorporating environmentally responsible design approaches. The Design-Builder shall reach an understanding with the Owner regarding the requirements of the Project.

A.3.2.23 The Design-Builder shall require its design professionals to consider environmentally responsible design alternatives, such as material choices and building orientation, together with other considerations based on program and aesthetics, in developing a design that is consistent with the Owner's program, schedule and budget for the Cost of the Work.

A.3.2.24 The Design-Builder shall require its design professionals to consider with the Owner and the Construction Manager the value of alternative materials, building systems and equipment, together with other considerations based on program and aesthetics in developing a design for the Project that is consistent with the Owner's schedule and budget for the Cost of the Work.

A.3.2.25 The Design-Builder shall meet with the Construction Manager to review the Schematic Design Documents.

A.3.2.26 Upon receipt of the Construction Manager's review comments and cost estimate, the Design-Builder shall take action as required to identify agreed upon adjustments to the Project's size, quality or budget, and request the Owner's approval of the design documents. If revisions to the design documents are required to comply with the Owner's budget for the Cost of the Work, the Design-Builder will cause its design professional to have them incorporated in the required revisions in the documents.

A.3.2.27 Based on the Owner's approval of the design documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work pursuant to Section ____, the Design-Builder shall furnish from the Design-Builder's consultants who are design professionals and cause to be prepared for the Owner's approval and the Construction Manager's review the drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, and such other elements as may be appropriate. The documents shall also include outline specifications that identify major materials and systems and establish in general their quality levels. The Design-Builder shall meet with the Construction Manager to review the design documents.

A.3.2.28 Based on the Owner's approval of the documents submitted by the Design-Builder, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Design-Builder shall cause to be prepared by its professionals the construction documents for the Owner's approval and the Construction Manager's review. The Construction Documents shall illustrate and describe the further development of the approved design documents and shall consist of Drawings and Specifications setting forth in detail the quality levels of materials and systems and other requirements for the construction of the Work.

A.3.2.29 The Design-Builder shall require that its design professionals incorporate into the construction documents the design requirements of governmental authorities having jurisdiction over the Project.

A.3.3 CONSTRUCTION

A.3.3.1.2 Add the following paragraphs: A preconstruction conference and organizational meeting shall be scheduled at the project site or other convenient location no later than five (5) days after execution of the Agreement and prior to commencement of construction activities. Conduct the meeting to review responsibilities and personnel assignments.

Attendees: The Owner, Construction Manager and their consultants, the Design-Builder and its superintendent, major Subcontractors, manufacturers, suppliers and other concerned parties shall each be represented at the conference by persons familiar with and authorized to conclude matters relating to the Work.

Agenda: Discuss items of significance that could affect progress including such topics as:

- .1 Tentative construction schedule
- .2 Critical Work sequencing.
- .3 Designation of responsible personnel
- .4 Procedures for processing field decisions and change orders.
- .5 Procedures for processing applications for payment.
- .6 Distribution of contract documents
- .7 Submittal of shop drawings, product data and samples.
- .8 Preparation of record documents.
- .9 M/WBE requirements.
- .10 Safety and security of students, educators, Owner's personnel and others on the site.

A.3.3.2.1 Add the following paragraph: During construction, any requests for information (RFI) shall be transmitted by the Design-Builder to the Owner and Construction Manager in a format acceptable to the Owner and Construction Manager. Each RFI shall be numbered sequentially by the Design-Builder, and shall leave sufficient room at the bottom of the form for the Architect to write a response. The Design-Builder shall make special note of any RFIs that are urgent and require expedited response. The Design Builder shall review the Construction Manager's Project submittal schedule and shall not unreasonably delay or withhold approval. The Design-Builder's action in reviewing submittals transmitted by the Construction Manager shall be taken

in accordance with the approved submittal schedule or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Design-Builder's Architect's professional judgment to permit adequate review. In accordance with the Design Builder's approved Project submittal schedule, and after the Construction Manager reviews, approves and transmits the submittals, the Design Builder shall review and approve or take other appropriate action upon the submittals such as Shop Drawings, Product Data and Samples.

A.3.3.6.1 Add the following paragraph: Design-Builder shall prepare a daily construction report, recording the following information concerning events at the site; and submit duplicate copies to the Construction Manager and Owner daily:

- a) List of Contractors at the site.
- b) Approximate count of personnel at the site (noting minority and women, city residents).
- c) High and low temperatures, general weather conditions.
- d) Significant Work completed or in progress.
- e) Accidents and unusual events.
- f) Meetings and significant decisions.
- g) Stoppages, delays, shortages, losses.
- h) Meter readings and similar recordings.
- i) Emergency procedures.
- j) Orders and requests of governing authorities.
- k) Change orders received, implemented.
- l) Services connected, disconnected.
- m) Equipment or system tests and start-ups.
- n) Partial completions, occupancies.
- o) Substantial completions authorized.

A.3.3.7 Add the following sentence at the end of Section A.3.3.7: "Any instructions provided by Owner and Construction Manager to Design-Builder in the previous sentence shall be in writing."

Add the following paragraphs to A.3.3.7: "The Workmanship shall be of the highest quality, in every respect, as usually recognized in the building industry. Poor or inferior Workmanship (as determined by the Owner, Construction Manager, or inspecting authorities) is to be removed and replaced to conform to the highest quality standards of the trades concerned, or otherwise corrected.

The Design-Builder will be required to provide a full time superintendent to coordinate all jobsite activities. The superintendent shall be satisfactory to the Owner and shall not be changed except with the consent of the Owner, unless the Superintendent proves to be unsatisfactory to the Design-Builder and ceases to be in Design-Builder's employ. The Design-Builder shall be solely responsible for assigning the Work among its subcontractors and consultants as necessary to accomplish the proper and timely completion of the Work."

A.3.3.8 Add the following paragraphs: "The Design-Builder shall layout the Work and be responsible for all lines, levels and measurements of all Work executed under the Design-Build Contract; the Design-Builder shall verify the figures.

The Design-Builder and all subcontractors and other on-site Design-Builder shall cooperate and coordinate their Work to expedite the progress of the project. All subcontractors shall review and refer to the drawings and project criteria of other trades involved with their particular Work before proceeding. Any Work involved which conflicts with another trade and had not been brought to the attention of the Owner and Construction Manager prior to installation shall be removed at no additional cost to the Owner.”

A.3.4.3 Add the following at the end of the paragraph A.3.4.3: “If requested by Owner, the Design Builder and its Contractor shall comply with all provisions of the current Drug-free Work Policy, St. Louis Council on Construction Consumers (or other program designated by Owner), together with all safety requirements required thereunder and of Owner and Construction Manager, and Design Builder shall provide a monthly report of such compliance to Owner and Construction Manager.

Section A.3.5.1 Add the following: All manufactured articles, materials, and equipment shall be stored, installed, tested, connected and conditioned by the Design-Builder as directed by the manufacturer unless otherwise specified. In addition to the warranties provided for in Section A.3.5.1 of this Exhibit A, the Design-Builder represents and warrants to Owner that all Work, materials and equipment furnished under Design-Build Documents shall conform to the Design-Build Documents and will be free from faults and defects in workmanship or materials for a period of at least 2 years from the date of acceptance by Owner. All Work not conforming to these standards shall be considered defective. Further, the Design-Builder agrees that all guarantees or warranties of equipment or materials furnished to the Design-Builder or subcontractors by any manufacturer or supplier shall be deemed to run to the benefit of, and are hereby assigned to, the Owner. As a condition to final payment for the Work, the Design-Builder shall deliver to the Owner and Construction Manager complete and readable copies of all guarantees and warranties on equipment and materials furnished by all manufacturers and suppliers, together with executed instruments properly assigning the guarantees and warranties to the Owner, and shall also deliver to the Owner and Construction Manager 4 complete copies of all related manufacturer’s instructions, related maintenance manuals, replacement list, detailed drawings and any technical requirements necessary to operate and maintain such equipment and materials or needed to maintain the effectiveness of any such warranties.

Prior to the Owner’s initial use of the Project, the Design-Builder shall demonstrate to Owner and Owner’s maintenance personnel all equipment and systems installed by the Design-Builder on the Project. Prior to this demonstration and Owner’s notice to Design-Builder, the Design-Builder shall be responsible for the maintenance and operation of the systems, and the Owner shall not be deemed to have accepted the Work for the purposes of the warranties prior to such demonstration. At no cost to the Owner, the Design-Builder shall make all adjustments or correction in order to make all equipment and systems perform as required by the Design-Build Documents.

All warranties provided in the Design-Build Documents and all provisions for correction of Work shall include the Work of the Contractor, subcontractors, design-build consultants, materialmen and suppliers. Failure of manufacturers to guarantee products will not relieve the Design-Builder of its obligations under the Design-Build Contract.

In addition to all of Design-Builder’s warranties and obligations to correct defective Work

provided by law or as set forth in any of the Design Build Documents, the Design-Builder agrees, upon notice from the Owner and to the fullest extent of law, to pay for any damage or injury, whenever the same shall occur, resulting from any defects, omissions or failure in workmanship or material, and indemnify, hold harmless and defend Owner against any and all claims, losses, costs, damages and expenses, including reasonable attorney's fees, suffered by the Owner as a result of such damage or injury, whenever such damage or injury shall occur, subject to applicable statutes of limitation.

A.3.6 TAXES

Delete subparagraph A.3.6.1 and substitute the following subparagraphs:

A.3.6.1 The Owner, intends to use the tax exempt purchase procedure authorized by Section 144.062, Missouri Revised Statutes. This procedure includes, among other requirements, the issuance of project exemption certificates to all Design-Builder and Subcontractors, who use those certificates to effect tax exempt purchases.

A.3.6.2 In the event sales taxes are assessed, whether by reasons of the Design-Builder, any Subcontractor, and/or any material supplier failing to properly follow or implement the tax exempt procedure, or otherwise, Design-Builder shall be responsible for the payment of any such taxes.

A.3.7 PERMITS, FEES AND NOTICES

Delete subparagraph A.3.7.1 and substitute the following:

Design-Builder shall give to the proper authorities all notices as required by law relative to the Work in Design-Builder's charge; obtain all necessary official permits, licenses, approvals and authorizations, and pay such proper and legal fees to public officers and others as may be necessary to the due and faithful performance of the Work and which may arise incident to the fulfilling of the Contract Documents.

Any required fees to utility companies for tapping into existing services shall be paid for by the Design-Builder and included in Design-Builder's bid proposal including upgrades to existing services such as electrical.

After obtaining building permits and licenses for the Work, the Design-Builder shall make copies of these documents and shall submit the documents to the Owner and Construction Manager BEFORE PROCEEDING WITH THE WORK. For Work requiring no building permits, (painting, tuckpointing, floor surfacing, etc.) the Design-Builder shall submit a statement that the Work does not require a permit. IN ADDITION, should the Owner or the City of St. Louis make any changes in the drawings or make any notations on the plans or in the project criteria, the Design-Builder shall submit these changes and notations or certified copies of them to the Owner BEFORE PROCEEDING WITH THE WORK. Failure to comply with these requirements will automatically hold up all payments until the requirements are met.

A.3.9 DESIGN-BUILDER'S SCHEDULE

Delete subparagraphs A.3.9.1 through A.3.9.3 and substitute the following subparagraphs:

A.3.9.1 The Design-Builder shall develop a critical path schedule plan which integrates all the activities of the Owner, Design-Builder (including its design professionals), Subcontractors, and suppliers, and which meets the time requirements of Article 8. Progress schedule must be approved prior to the first application for payment. Progress schedule shall be a critical path schedule with the minimum activities to be no less than the items listed in the schedule of values. It is intended that there are sufficient activities to depict clearly the project phases including specific milestone dates necessary to be completed. If requested by the Owner and Construction Manager, the Design-Builder must submit required data to confirm the durations stated in the critical path schedule including but not limited to written verification from the subcontractors that they agree to the durations and/or labor man- day projections for each activity. The sequence of all such Work activities and the Progress schedule shall be approved by the Owner and Construction Manager.

A.3.9.2 The resulting Progress Schedule shall constitute a representation by Design-Builder to the Owner, and for the benefit of the Construction Manager, Owner, other design-builders (if any), that the Design-Builder has the labor personnel, consultants it will engage, materials, resources, equipment and capacity to perform or furnish, as applicable, the Work in accordance with the agreed Progress Schedule. The Progress Schedule shall become a Contract Document and be binding upon the Design-Builder.

A.3.9.3 Weekly progress meetings shall be held at the jobsite. Field supervisors from each contractor working "on site" shall attend all such meetings. The weekly progress meeting agenda shall include but not limited to a four (4) week look ahead schedule. The look ahead schedule shall include those items that will be under construction during the four (4) week period and shall be consistent with the overall Progress Schedule. Any changes from the approved Progress Schedule shall be specifically stated.

A.3.9.4 A computer disk of the updated schedule and one gant chart will be submitted for record. Any changes, deletions, additions, or changes in duration or logic shall be submitted as a narrative to the updated schedule.

A.3.9.5 In addition to Section A.3.9.3, monthly progress meetings shall be held. An updated Progress Schedule shall be submitted at this meeting indicating the percent complete for each Work activity. If there is a change in the milestone dates greater than one (1) week, a recovery schedule will be required showing the steps that will be taken to overcome the lost time. The Owner or Construction Manager shall provide the services of qualified main office personnel at each such meeting. The Design-Builder shall provide the services of qualified main office personnel and Design-Builder's field supervisor at each progress meeting until completion of this Agreement.

A.3.9.6 Upon request, the Design-Builder shall furnish copies of Design-Builder's equipment and material purchase orders complete with scheduled shipping and receiving dates to the Owner and Construction Manager.

A.3.9.7 No lost time delays will be considered unless the delay can be justified showing how the delay changed the critical path. Project float belongs to the project.

A.3.9.8 If it becomes apparent that any activity completion date may not be met, the Design-Builder shall take some or all of the following actions at no additional cost to the Owner:

- .1 Increase construction manpower in such quantities as will eliminate the backlog of Work and put the Project back on schedule.
- .2 Increase the number of Working hours per shift, shifts per working day, working days per week, or the amount of construction equipment, or any combination of the foregoing as will substantially eliminate the backlog of Work and put the project back on schedule.

If the Design-Builder fails to take any of the above actions within twenty-four (24) hours after receiving written notice, the Owner may, at its election, take action to attempt to put the Project back on schedule, and deduct the cost of such actions from the monies due or to become due the Design-Builder.

A.3.10 DOCUMENTS AND SAMPLES AT THE SITE

Add the following to subparagraph A.3.10.1:

At the completion of the Work, the Design-Builder shall submit "Record Drawings" to the Owner and Construction Manager. Design-Builder shall cause to be submitted to Owner a complete set of as-built drawings on compact disc in the latest format of Auto-CAD and in a PDF format for Owner's use.

A.3.11 SHOP DRAWINGS, PRODUCT DATA AND SAMPLES

Add the following subparagraphs:

A.3.11.7 The Design-Builder shall prepare and submit a complete schedule of submittal dates and estimated fabrication times. This shall be submitted to the Owner and Construction Manager within the date required by the Owner and Construction Manager, but in no event more than fourteen (14) days from the Notice to Proceed.

A.3.11.8 The Design-Builder shall submit to the Owner and Construction Manager; shop drawings, product data and samples sufficient for their requirements. The Design-Builder will retain the following quantities:

Shop Drawings - 3 copies
Product Data - 3 copies

A.3.12 USE OF SITE

Add the following subparagraphs:

A.3.12.2 During the performance of the Work required by the Design-Build Contract, the Design-Builder, each Subcontractor, employees and suppliers, will use such entrances to the construction site that may be designated from time to time by the Owner and Construction Manager. Further, each Design-Builder and Subcontractor agrees to perform or furnish the Work included in this Design-Build Contract at such times of the day, and days of the week, as may be designated by the Owner and Construction Manager from time to time. The Design-Builder will not interfere with any activities in the building during the performance of the Work.

A.3.12.3 Design-Builder shall provide a designated contact for all alarms of fire or security. It is the responsibility of the Design-Builder to secure the building at all times and to grant access as required to install the Work.

A.3.12.4 Design-Builder warrants and represents that it will not communicate or disclose at any time to any person or entity that is not associated with or providing services for the Project any information in connection with the Work or the Project, except: (i) with the prior written consent of the Owner, (ii) information that was in the public domain prior to the date of the Agreement, (iii) information which becomes part of the public domain by publication or otherwise not due to any unauthorized act or omission of the Contractor, or (iv) as may be required by any applicable law.

A.3.13 CUTTING AND PATCHING

A.3.13.3 Add the following paragraph: "The Design-Builder shall repair and/or replace, at no expense to the Owner, any sections of existing roads, drives, streets, sidewalks, curbs, utilities, buildings, improvements and other structures and/or improvements damaged by reason of Work performed under this Agreement or incidental thereto, whether by Design-Builder's own forces or by Design-Builder's subcontractors, material suppliers or consultants."

A.3.13.4 Add the following paragraph: "Utility services to existing facilities shall not be interrupted unless absolutely necessary. Interruptions shall be of minimum duration and shall be scheduled to cause the least possible inconvenience. In all cases, the Owner and Construction Manager shall be notified well in advance of anticipated interruption of utilities."

A.3.13.5 Add the following paragraph: "Except for any of the following which are required to be repaired or replaced as part of the Work, all improvements and fixtures that are removed and which the Work requires be returned shall be reinstalled to their original state prior to commencement of construction."

A.3.17 INDEMNIFICATION

A.3.17.1 Add the following: To the fullest extent permitted by law, Design-Builder shall further indemnify, defend and hold harmless Owner, and the other Indemnitees

from all claims, damages, losses and expenses, including but not limited to attorneys' fees (collectively, "Losses"), arising out of or resulting from the Work or any performance or furnishing of, or failure to perform or furnish, required Work, including any defects in the Work due to design or engineering elements, or any breach or default of the Design-Build Documents. The obligations set forth in Section A.3.17 shall survive the termination of the Design-Build Documents. "Losses" as used in Section A.3.17 include, but are not limited to, injury or damage of any and all kinds, reasonable attorneys' fees and costs incurred by Owner or any indemnitee in defending itself against Losses.

ARTICLE A.4 DISPUTE RESOLUTION

A.4.1.2 Change "either party" in this Section to "Design-Builder" and change "claimant" in the second line to "Design-Builder."

A.4.1.8 Add the following to the end of Section 4.1.8: "Notwithstanding the foregoing, the period for Owner to provide written notice of such injury or damage under this Section shall be extended from 21 days to 60 days after discovery."

A.4.1.10 Section A.4.1.10 is hereby deleted and the following substituted in lieu thereof: Claims for Consequential Damages. Design-Builder waives Claims against Owner for consequential damages arising out of or relating to the Design-Build Contract. This waiver includes damages incurred by the Design-Builder 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 as set forth in the Design-Build Documents. This waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article A.14. Nothing contained in this Section A.4.1.10 shall be deemed to preclude an award of liquidated direct damages, when applicable, in accordance with the requirements of the Design-Build Documents. Owner does not waive Claims against Design-Builder for consequential damages arising out of or relating to the Design-Build Contract.

A.4.2 RESOLUTION OF CLAIMS AND DISPUTES

Delete references to "arbitration" and include "mediation".

A.4.2.2 Delete the first "shall" in the third line of subparagraph A.4.2.2, and in lieu thereof insert the words "may, but shall not be required to".

A.4.2.6 Add the following paragraph: "Design-Builder is hereby put on notice that it is Design-Builder's contractual obligation to adjust all differences between Design-Builder's several subcontractors. Attempts to have the Owner settle disputes between Prime Design-Builder and Design-Builder's subcontractors, or between subcontractors, will not be given consideration. After all mediation is exhausted parties are free to pursue alternative remedies."

A.4.3.2 Add the following clause to the end of subparagraph A.4.3.2: "unless such 60 day stay would prevent or cause prejudice to the exercise of a remedy available to either party". Add the following to the end of subparagraph A.4.3.2:

“Notwithstanding Sections A.4.3.1, A.4.3.2 and A.4.3.3, Owner, by written notice to Design-Builder, may elect to proceed with institution of legal or equitable remedies or other binding dispute resolution proceedings for any Claim without submitting such Claim to mediation, in which case, mediation for such Claim shall not be utilized or a condition precedent to Owner instituting such remedies or proceedings.

A.4.4 ARBITRATION

A.4.4.1 through A.4.4.5; Delete in its entirety.

ARTICLE A.5 AWARD OF CONTRACTS

A.5.4.1 Add subparagraph: The following subparagraphs only apply to those subcontractors not listed in the Contract’s bid proposal (Statement of M/WBE Participation and/or Major subcontractors list). Subcontractors listed in the Design-Builder’s bid proposal can only be changed with the approvals of the Owner.

A.5.4.2 Add subparagraph: The provisions of this paragraph shall be complimentary to the requirements incorporated in the “Utilization of Minority and Women Business Enterprises.” If any conflict exists, the provisions of the “Utilization of Minority and Women Business Enterprises” shall govern.

A.5.5.2 Add following sentence: However, in no event shall the Contract Sum be increased nor shall Owner be liable for any increase to compensation and any such increase due to the Contractor will be paid by the Design-Builder.

ARTICLE A.7 CHANGES IN THE WORK

A.7.1.4 Insert paragraphs: “The Owner, without invalidating the Agreement, may as the need arises, order changes in the Work by deletion or modification. All such changes to the Work shall be authorized by change order and be executed under the conditions of the original contract. Contract Sum and time of completion shall be adjusted at the time of ordering such change and shall be specified in the change order. The value of any such change in Work shall be determined in one or more of the following methods:

- A. By mutual acceptance of a lump sum;
- B. By unit prices named in the Agreement or subsequently agreed upon.

If neither of the above methods are mutually agreed upon the Owner may direct the Design-Builder to proceed with the change in Work, for which the Design-Builder shall be paid the net cost of said Work, plus fifteen percent, (15%) of such cost.

The Design-Builder shall keep and present in such form as the Owner may direct, a correct amount of all items comprising the net cost of all Work, together with vouchers, including the cost of the Design-Builder of all materials used, of all labor, common and

skilled, foreman and the fair rental of all machinery together with responsible transportation cost of machinery not on site.

The Design-Build shall not include in the net cost of the change order of Work, any cost for rental of small tools, or any portion of time of the Design-Build, or Design-Build's superintendent or any allowance for the use of capital, insurance or bond premium, or any actual or anticipated profit, or job or office overhead, not previously mentioned, these items being considered as being covered by the added fifteen percent (15%). Pending final determination of value, partial payments on accounts of changes of Work may be made on recommendation of the Owner.

The Owner may authorized minor changes in the Work, not involving extra cost, and time extensions, and not inconsistent with the purpose of the Work.

If the Design-Build claims that any instructions by the Owner involves additional cost, the Design-Build shall give the owner written notice thereof within a reasonable time, after the receipt of such instructions and before proceeding to execute the changes in Work.

ARTICLE A.8 TIME

A.8.2 PROGRESS AND COMPLETION

A.8.3.5 Add subparagraphs:

A.8.2.3.1 "The Design-Build shall begin the Work as specified in the Design-Build Contract for the Project. The Design-Build shall carry the Work forward expeditiously with adequate forces and management processes for achieving completion of the Work within the contract time. All time stated in the Design-Build Documents are of the essence of the contract. The time for beginning Work as set forth in this section A8.2.3.1 takes priority over any conflicting provisions of Exhibit A and the Standard Agreement."

A.8.2.3.2 "The contract time, unless otherwise provided, is the period of time specified in the Design-Build Documents for substantial completion, as defined hereinbelow, including authorized adjustments thereto."

A.8.3 DELAYS AND EXTENSIONS, OF TIME

A.8.3.4 Add paragraphs: "It is agreed that time is of the essence for each and every portion of this Design-Build Contract, and where under the Design-Build Contract an additional time is allowed for the completion of any Work, the new time limit fixed by such extension shall be of the essence of the Agreement. Provided that the Design-Build shall not be charged with liquidated damages or any excess cost when the delay in completion of the Work is due solely:

- a. To any preference, priority or allocation order duly issued by the government; or

- b. To unforeseeable cause beyond the control and without the fault or negligence of the Design-Builder, including, but not restricted to, acts of God, or of the public enemy, acts of the Owner, acts of another design-builder in the performance of a contract with the Owner, fires, floods, epidemics, quarantine restrictions, strikes, and freight embargoes which prohibits Design-Builder from performing any portion of the Work.

Provided further that the Design-Builder shall, within fifteen (15) days of the occurrence of any of the foregoing events, notify the Owner and Construction Manager in writing, and no delay in the construction schedule shall be allowed if the Design-Builder fails to deliver such notice. Notice of the extent of the claim with supporting data shall be delivered within forty-five (45) days of such occurrence. Any change in the contract time resulting from any such claim shall be incorporated in a change order. In no event shall any delays or extensions of time be construed as cause of justification for payment of extra compensation to the Design-Builder.”

A.8.3.5 Liquidated Damages are applicable as specified on the Bid Proposal Form and herein.

A.8.3.5.1 As actual damages for delay in completion are impossible to determine, the Design-Builder and Design-Builder’s Surety shall be liable for and shall pay to the Owner the sum of \$1,000.00, not as a penalty, but as fixed, agreed, and liquidated damages for the delay in Substantially Completing the Work by the date set forth on the schedule for Substantial Completion, for each calendar day of delay until the Contract Work is Substantially Complete as defined herein.

A.8.3.5.2 The Owner shall have the right to deduct liquidated damages from money in its hands otherwise due, or to become due, to Design-Builder, or to sue and recover compensation for damages for non-performance of the Contract at the time stipulated herein.

A.8.3.5.3 The liquidated damages set forth above for the failure of the Design-Builder to achieve Substantial Completion as required in the Design-Build Documents are in addition to, and not a limitation of, other damages or losses incurred by the Owner due to a delay by Design-Builder or a default by Design-Builder under the Design-Build Documents, for which Design-Builder remains fully liable and which Owner is entitled to recover.

ARTICLE A.9 PAYMENTS AND COMPLETION

A.9.8 PROGRESS PAYMENTS

Insert the following paragraphs:

A.9.6.8“Payment to the Design-Builder

The Owner will make payment to the Design-Builder by either one payment upon completion of the Project and acceptance by the Owner, or the Design-Builder may apply for partial payments less ten percent (10%) retainage (to the extent

consistent with applicable law) on the amount of Work furnished or performed or materials furnished for the Work in accordance with the conditions and the following procedures:

- A. Schedules - Prior to submitting the first payment application, the Design-Builder shall submit a schedule of values of the Work and a progress schedule in form and substance satisfactory to Owner and Construction Manager for approval. The schedule of values shall include quantities and prices aggregating the Contract Price and shall subdivide the Work into component parts. An approved copy of the Schedules will be provided to the Design-Builder which will be the basis for progress payments during construction. The schedule of progress shall indicate the starting and completion dates of the various stages of the Work.
- B. Application for Progress Payment -
 - (1) Not more often than once a month, the Design-Builder shall submit to the Owner and Construction Manager a signed application for payment for the Work completed as of the date of the application and accompanied by such data and schedules as the Owner and Construction Manager may reasonably require. If payment is requested on the basis of materials and equipment not incorporated in the Work, but delivered and suitably stored at the site or at another location agreed to in writing, the application for payment shall also be accompanied by such data, satisfactory to the Owner and Construction Manager, as will establish Owner's title to the material and equipment and protect the Owner's interest therein, including applicable insurance. Each subsequent application for payment shall include an affidavit from the Design-Builder stating that all previous progress payments received on account of the Work have been applied to discharge, in full, all of the Design-Builder's obligations reflected in prior applications for payment. The date for payments shall comply with all applicable laws.
 - (2) Upon certification of Substantial Completion of the Work, the Design-Builder may make application for the balance of the contract funds less a five percent (5%) retainage. Upon completion of all punch list items, the Design-Builder may make application for the remaining five percent (5%) retainage.
 - (3) Each signed application for payment by the Design-Builder must be accompanied by lien waivers required in the Attachment No. 1 to the Agreement. Each lien waiver shall be in form requested and acceptable to Owner.
- C. Design-Builder's Warranty of Title - The Design-Builder warrants and guarantees that title to all work, materials, and equipment covered by any application for payment, whether incorporated in the Project or not, will pass to the Owner at the time of payment free and clear of all encumbrance.

- D. The acceptance of final payment by the Design-Builder shall constitute a waiver of all claims by Design-Builder, except those claims previously made in writing and identified by the Design-Builder as unsettled at the time of final application for payment.
- E. Design-Builder's Payment to Subcontractor - The Design-Builder shall promptly pay each Subcontractor, upon receipt of payment from the Owner, the amount to which said Subcontractor is entitled, reflecting the percentage actually retained, if any, from payments to the Design-Builder on account of such Subcontractor's Work. The Design-Builder shall, by an appropriate agreement with each subcontractor or consultant, require each subcontractor or consultant to make payments to Design-Builder's sub-subcontractors in similar manner."

Section A.9.7.1 Add the word "undisputed" before "payment" in the first line of Section 9.7.1.

A.9.8 SUBSTANTIAL COMPLETION

A.9.8.3 Add the following: The Design-Builder, assisted by the Construction Manager, shall conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; obtain Certificates of Substantial Completion and submit to the Construction Manager; submit to the Construction Manager written warranties and related documents required by the Contract Documents. The Design Builder's inspections shall be conducted with the Owner and Construction Manager to check conformance of the Work with the requirements of the Contract Documents and to verify the accuracy and completeness of the list submitted by the Construction Manager and Contractor of Work to be completed or corrected.

A.9.8.4 Add the following:

- A. "The date of Substantial Completion shall be that date approved by the Owner and Construction Manager, in accordance with the following procedures, that the Work is sufficiently complete to occupy or utilize in the manner for which it is intended and as defined below:
 - (1) During construction, when the Design-Builder considers the Work is Substantially Complete, as hereinbefore defined, the Design-Builder shall submit a written declaration of consideration to the Owner and Construction Manager and a request for an inspection. The declaration and request shall be accompanied by a Design-Builder prepared list of those items of Work still to be completed or corrected. The failure of the Design-Builder to include any item or items on such a list shall not alter the responsibility of the Design-Builder to complete all Work in accordance with the Design-Build Documents.
 - (2) The Owner and Construction Manager shall, within a reasonable time after receipt of notification from the Design-Builder of

declaration of Substantial Completion and request for inspection, make such inspection.

- (3) If, after making inspection, the Owner or Construction Manager does not consider the Work Substantially Complete, the Owner or Construction Manager will notify the Design-Builder, in writing, giving the reasons.
- (4) If the Owner and Construction Manager considers the Work Substantially Complete, the Design-Builder will complete "Final Approval and Payment Application."

- B. Substantial Completion of the Work shall mean when the Work is sufficiently complete, so that the Owner may occupy or utilize the Work for the use for which it is intended. The ability to occupy and utilize shall require the written approval of the Owner, Project Manager, Construction Manager and Maintenance and Grounds, as well as, an occupancy permit by the Department of Building Safety, City Mechanical Inspector, and any other agencies, if required, which have statutory authority and approval requirements.

Section A.9.10.4 Delete the Section.

ARTICLE A.10 PROTECTION OF PERSONS AND PROPERTY

A.10.3 HAZARDOUS MATERIALS

A.10.3.3 Delete Section A.10.3.3.

A.10.3.4 Add the following paragraph: Neither the Design-Builder nor any of its agents, employees, subcontractors, design consultants or anyone else for whom Design-Builder is liable shall contaminate the building with hazardous materials. Design-Builder shall be responsible for the supervision of all persons, equipment, plants and animals entering the building during construction. Design-Builder shall not allow any contamination of the building for any reason.

A.10.3.5 Add the following paragraph: The Design-Builder may encounter surfaces that are covered with paint containing lead. Demolition of building materials that are covered with paint that contains lead shall be accomplished with caution and safety. OSHA Standard 1926.62 and 1910.1025 provides guidelines for the protection of Workers exposed to lead. The Design-Builder shall provide a demolition program that produces a negative exposure hazard or provide approved methods to protect persons and property, and Design-Builder assumes all responsibility for ensuring its own safety and the safety and protection of everyone working under Design-Builder. Owner will not abate or remove lead based paint from equipment or other building materials that are scheduled for demolition.

ARTICLE A.11 INSURANCE AND BONDS

Article A.11 of the AIA document A141 Exhibit A Terms and Conditions is hereby deleted in its entirety and replaced with the following:

A11.1 The Owner and Design-Builder shall purchase and maintain the following types of insurance with limits of liability and deductible amounts and subject to such terms and conditions as set forth in this Article A.11.

A.11.2 Design-Builder's Insurance

A.11.2.1 The following insurance shall be written for not less than the following limits, or greater if required by law:

1. Worker's Compensation:
 - a. State Statutory
 - b. Applicable Federal (e.g. Longshoreman's) Statutory
 - c. Employer's Liability \$100,000
2. Comprehensive or Commercial General Liability (including Premises-Operations; Independent Design-Builder's Protection; Product Liability and Completed Operations; Broad Form Property Damage):
 - a. General Aggregate
(Except Products Liability -Completed Operations) \$1,000,000
 - b. Products Liability and Completed Operations \$1,000,000
 - c. Personal/Advertising Liability \$1,000,000
(per person/organization)
 - d. Bodily Injury and Property Damage
Each Occurrence \$1,000,000
 - e. Limit per Person Medical Expense
 - f. Exclusions of Property in Design-Builder's Care, Custody or Control will be eliminated
 - g. Property Damage Liability Insurance will provide Coverage for Explosion, Collapse, and Underground Damage.
3. Contractual Liability (including contractual indemnity):
 - a. Each Occurrence (Bodily Injury and Property Damage)
\$1,000,000
 - b. General Aggregate \$1,000,000
4. Automobile Liability:
 - a. Bodily Injury \$500,000 Each Person
\$1,000,000 Each Accident
 - b. Property Damage \$500,000 Each Accident,
 - c. Combined single limit of \$1,000,000 Each Accident.

5. Liability coverage for the Owner, the Construction Manager, the Construction Manager's Consultants and others listed in the Supplementary Conditions will be provided (subject to customary exclusions for professional liability), by endorsement as additional insureds on the Design-Builder's Liability Policy.
6. Excess Liability (Umbrella Form):
 - a. General Aggregate \$5,000,000
 - b. Each Occurrence \$5,000,000
7. Errors and Omission Insurance. Each Architect and design professional engaged by Design-Builder shall maintain errors and omission insurance in an amount of not less than \$1,000,000.
8. Products/Completed Operations Coverage will be maintained for two years after completion of the contract.

A11.2.2 Property Insurance

Design-Builder shall maintain all-risk property insurance on the portions of the Work stored off the site, the portions of the Work in transit, and the portions of the Work on site, but not yet permanently affixed to the building as part of this contract. Design-Builder shall also maintain all-risk property insurance on such tools and equipment that are on site and shall cause its subcontractors to do likewise. The cost of all-risk property insurance must be included in the proposal and cannot be added as an Addendum to the contract. Coverage shall include, without limitation, insurance against the perils of fire (with extended coverage) and physical loss or damage including theft, vandalism, malicious mischief, collapse, earthquake, flood and windstorm.

A11.2.3 Evidence of Insurance

The Design-Builder shall not commence work under this contract until obtaining all insurance required under the conditions of the contract, nor shall the Design-Builder allow any Subcontractor to commence work on his subcontract until all similar insurance required of the subcontractor has been so obtained. The Design-Builder shall furnish the Owner with satisfactory evidence that he has secured the insurance and will maintain the required insurance coverage until beneficial occupancy by the Owner or final acceptance of the Project. The certificate of insurance 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 Owner.

A11.3 Owner's Insurance

A11.3.1 Owner is self-insured for liability insurance and self funds its liability exposure to the extent required by Sovereign Immunity.

A11.3.2 The Owner shall maintain All-Risk Property Coverage on a replacement cost

basis. The coverage will protect against damage to the building, any other property of Owner, and damage to goods permanently affixed to the building as part of this contract. Coverage shall include, without limitations, insurance against the perils of fire (with extended coverage) and physical loss or damage including theft, vandalism, malicious mischief, collapse, earthquake, flood, and windstorm.

A11.3.3 The All-Risk Property Coverage does have a deductible for which the Owner will be responsible, in the event of damage to the building, any other property of Owner, and damage to goods permanently affixed to the building as part of this contract.

A11.3.4 If requested, the Owner will provide a certificate of insurance that 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 Design-Builder.

A11.4 Waiver of Subrogation

The Owner and Design-Builder waive all rights against each other and each of their subcontractors, sub-subcontractors, officers, directors, agents and employees for recovery for damages caused by fire and other perils to the extent covered by property insurance purchased pursuant to the requirements of this Paragraph 11, or any other property insurance applicable to the Work.

A11.5 Performance and Payment Bond

The Owner shall have the right to require the Design-Builder to furnish bonds covering faithful performance of the Design-Build Contract and payment of obligations arising thereunder, including payment to design professionals engaged by or on behalf of the Design-Builder, as stipulated in bidding requirements or specifically required in the Agreement or elsewhere in the Design-Build Documents on the date of execution of the Design-Build Contract.

ARTICLE A.12 UNCOVERING AND CORRECTION OF WORK

A.12.1.3 Add the following: "Concealed Conditions

Should concealed conditions be encountered in the performance of the Work below the surface of the ground, or should concealed or unknown conditions in an existing structure be at variance with the conditions indicated by the Design-Build Documents, or should unknown physical conditions below the surface of the ground, or should concealed or unknown conditions in an existing structure of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in Work of the character provided for in this Agreement be encountered, the contract sum shall be equitably adjusted by change order upon claim by either party made within twenty days after the first observance of the condition."

ARTICLE A.13 MISCELLANEOUS PROVISIONS

A.13.1 GOVERNING LAW

A.13.1.1 Delete subparagraph A.13.1.1 In its entirety, and in lieu thereof, include the following provision: "The Design-Build Contract shall be governed, construed and interpreted under Missouri law, and shall be deemed to be executed and performed in the City of St. Louis, Missouri. Any legal action arising out of, or relating to the Design-Build Contract shall be governed by the laws of the State of Missouri, and the parties agree to the exclusive exercise of jurisdiction and venue over them by a court of competent jurisdiction located in the City of St. Louis, Missouri".

A.13.2.2 Add the following at the end of Section A.13.2.2: "Owner may further assign, collaterally or otherwise, the Agreement to any trustee or lender in accordance with applicable laws."

A.13.4.2 Add the following sentences to subparagraph:

Claims against the Owner shall be brought within twenty (20) calendar days after the date of the discovery of the injury or damage but prior to closeout of the Design-Build Contract. Written claims made against the Owner shall be in the form of a notice containing the name and address of the claimant, and the name and address of Design-Builder's attorney, if any; a concise statement of the basis of the claim, including the date, time, place and circumstances of the act, omission, or event complained of; the name and address of any public employee involved, if known; a concise statement of the nature and extent of the injury claimed to have been suffered, a statement of the amount of monetary damages that is being requested. For the purpose of presenting a claim against the Owner, the notice prescribed herein shall be presented to the Owner.

ARTICLE A.14 TERMINATION OR SUSPENSION OF THE DESIGN-BUILD CONTRACT

A.14.4 TERMINATION BY THE OWNER FOR CONVENIENCE

A.14.4.1 Add the following to such paragraph:

If Owner terminates the Design-Build Contract without cause, the Design-Builder shall be entitled to compensation only for the Work performed by the Design-Builder and accepted by Owner pursuant to the provisions of the Design-Build Contract, up the date of termination, as determined by the schedule of values then applicable to the Work and percentage of completion achieved by the Design-Builder. Owner also agrees to pay for materials and supplies ordered prior to the date of termination for use in the Project and necessary for the Design-Builder's responsibilities, or if cancellation charges are applied, the cost of such cancellation charges. No compensation shall be allowed to Design-Builder, or any of its Architect, Sub-consultants or Contractor, for anticipated profits, unperformed services or intangibles, and Design-Builder's sole remedy shall be as set forth in this Section. If a termination by Owner pursuant to other Sections of this Agreement is determined to be unjustified or without cause, the termination of

the Design-Build Contract shall be treated as a termination without cause and Design-Builder's remedies for termination will be limited as set forth in this Section.

ATTACHMENT P

GENERAL SAFETY EXPECTATIONS

Contractor Project Management

To support the implementation of the project safety program that successfully promotes the project safety goals and encourages the active participation of the crafts workers in the project safety program. Additional responsibilities include:

1. Encourage a positive and proactive environment for all relationships and compliance issues.
2. Communicate with Contractors to make sure safety maintained.
3. Review Contractor Project Specific Safety Plans prior to their start on the project.
4. Make safety an agenda item at project meetings.
5. Support and assist the Superintendent or Project Foreman in implementing disciplinary procedures for Contractor safety violations.
6. Conduct safety walks with the Owner Safety Manager and Project Superintendent. Stop work if an immediately dangerous condition exists.
7. Review all incidents with the Project Superintendent and, in particular, all lost-time injuries within 8 hours of the incident. Lead incident review meetings for area of responsibility, participate in injury/illness/incident investigations to establish contributing factors, develop a lessons learned document and confer with supervision regarding corrective measures.
8. Ensure that proper safety funding is not compromised by budget constraints.
9. Engage in the development of the Project Health, Safety and Environmental Plan.
10. Support this Plan's implementation through leading HSE discussions at all project meetings, discussions with contractors and by participating in site safety evaluations.
11. Enforce, when necessary, the project Contractor HSE adherence policy.
12. Leads HSE discussion at pre-job meetings with contractors, emphasizing the Project Goal of managing to achieve Zero Incidents for each day's activities and stressing the Project Vision of creating an environment where in each employee, each day, participates in the planning of the daily work assignment including identifying the HSE measures necessary to achieve Zero Incidents.
13. Participates in injury/illness/incident investigations to determine contributing factors and, where appropriate, issues a "Lessons Learned" report
14. Assure adequate resources to meet HSE Plan objectives.

Contractor Superintendent/Foreman

As the front line supervisor to provide the leadership necessary to implement a first class safety program that successfully promotes the project safety goals and encourages the active participation of the crafts worker in the project safety program. Additional responsibilities include:

1. Practice safety by setting a good example for your crew.
2. Participate in Pre-Construction safety meetings and review their Project Specific Safety Plans prior to their start on the project.

3. Identify who shall serve as the designated competent person. Each superintendent shall possess an OSHA 30-Hour Construction Training Certification (within the previous 48 months) and a valid first aid/CPR certification.
4. Ensure the employees have the training necessary to safely complete their work tasks. Examples of documented training include: hazard communication, OSHA 30 Hour, Competent Person Training and foreman safety training.
5. Ensure that each Contractor is completing the daily safe plan of action form (provided in Superintendent/Foreman Forms Packet).
6. Strictly enforce the Owner safety requirements.
7. Conduct daily/weekly inspections of jobsite relating to safety.
8. Promptly correct all safety deficiencies brought to your personal attention and provide a documented response to each safety observation report. Stop work if an immediately dangerous condition exists.
9. Review the safety records of your crew and counsel employees that require remedial safety awareness.
10. Review jobsite safety issues at all project and Foreman meetings.
11. Enforce the project disciplinary policy. Terminate employees & foreman who consistently show a disregard for working safely or implementing safety policies.
12. Enforce safety rules with Contractors. Enlist the support of the Project Manager, Owner and Contractor Management to help ensure Contractor safety compliance.
13. Ensure Toolbox Talks are held weekly for personnel.
14. Ensure that the proper quantity of safety materials, equipment and protective devices are available at the jobsite for employee use and that all equipment is in safe and working order.
15. Immediately inform the Owner Safety Managers of all personal injury, property damage, or near miss incidents.
16. See that prompt First Aid is administered to an injured employee, and medical treatment is provided as needed.
17. Ensure the Medical Recommendations and Modified Work Program is followed.
18. Assist with incident investigations to ensure proper reporting and documentation. Follow-up on incidents with prompt corrections to eliminate recurrences.
19. Attend incident review meetings.

Contractor Project Safety Representative

To “team” with their project management and the Owner’s Team to implement the project safety program that successfully promotes the project safety goals and encourages the active participation of the crafts workers in the project safety program.

Additional responsibilities include:

1. Encourage a positive and proactive environment for all relationships and compliance issues.
2. Communicate with Contractors to make sure the Owner vision of safety excellence through positive reinforcement is maintained.
3. Monitor the on-site Contractors to ensure compliance with Federal, State, and Owner guidelines. Identify and document safety violations. Inform the responsible party and Project Superintendent.
4. Conduct safety audits/inspections of the project, document findings, and provide a weekly summary report to the Owner Project Safety Manager.
5. Complete the tasks necessary to support the construction process and assist the Contractors in their completion of a safe project.
6. Respond to all project safety related issues including recommendations, questions, and documentation issues.

7. Observe jobsite work activities and promote positive interaction with craftworkers.
8. Stop work if an immediately dangerous situation exists.
9. Participate in prime and Contractor Project Specific Safety Plan development and review. Assist as necessary with Contractor craftswokers review of Project Specific Safety Plans.
10. Support training of Project personnel regarding the Contractor safety process and site orientation.
11. The Owner Project Safety Manager will play an active role and providing an overview of the contractor and Contractor safety plans during preconstruction safety meetings.
12. Support the safety section of meetings as requested by the Owner.
13. Assist with the investigation of all incidents and provide immediate communication to the Owner Project Safety Manager following a reported incident.

Crafts worker – All Contractors

Employees shall work in a safe and healthy manner toward our project safety goals and actively participate in the project safety program. Additional responsibilities include:

1. Perform daily tasks in a safe manner in compliance with Owner safety requirements employer safety requirements and OSHA regulations.
2. Participate in the daily Safe Plan of Action preparation.
3. Participate in Toolbox Talks and other site safety training.
4. Protect your coworkers and equipment from safety hazards.
5. Recognize safety hazards, stop work on your own volition and report unsafe acts and conditions immediately to your Foreman or Superintendent.
6. Ask your Foreman or Superintendent if you are not certain about safety and work procedures.
7. Utilize personal protective equipment in accordance with their company, and Owner safety requirements and OSHA standards.
8. Report all near misses, incidents and/or injuries immediately to your Foreman or Superintendent.
9. Working safely and following the Project HSE requirements is a condition of continued employment on the project.

Contractor Safety Obligations

Each Contractor working on the Project is contractually obligated to comply with all statutory (OSHA), Owner requirements, and Contractor Project Specific Safety Plans. These combined safety requirements constitute the minimum safety performance acceptable from them.

Safety Meeting Requirements

The Contractor Safety Managers will schedule and coordinate Safety Meetings before the start of construction and during the course of all construction related activities.

- Weekly Safety Planning Meeting & Attendees: All on-site safety professional will be required to meet with the HSE Safety Team to review safety planning, scopes of work, upcoming construction processes and safety performance on a weekly basis.
- Monthly Safety Meeting and Attendees: On a monthly basis the Owner, HSE Managers and Contractor Supervision shall attend.

1. Project Health, Safety and Environmental Plan.
2. Support this Plan's implementation through leading HSE discussions at all project meetings, discussions with contractors and by participating in site safety evaluations.
3. Leads HSE discussion at pre-job meetings with contractors, emphasizing the Project Goal of managing to achieve Zero Incidents for each day's activities and stressing the Project Vision of creating an environment where in each employee, each day, participates in the planning of the daily work assignment including identifying the HSE measures necessary to achieve Zero Incidents.
4. Participates in injury/illness/incident investigations to determine contributing factors and, where appropriate, issues a "Lessons Learned" report
5. Assure adequate resources to meet HSE Plan objectives.