Title of Bid: Modify the Adult Detention Center to Reduce the Spread of COVID-19   Bid #: 20-076
Dept.: Facilities Management          Contact Person: Christine Ramsdell          Ext.: 7339

Description (product/service, justification and use):

   St Charles County intends to make improvements to the Adult Detention Center to reduce the spread of COVID-19 and other infectious diseases. The project has a very strict time-line and must be completed by December 30, 2020. As such the improvements will focus on creating more separation between inmates and staff and reducing the likelihood of direct interaction/spreading of infections. The primary focus of the project will be to relocate booking, create negative air spaces and additional storage to reduce the quantity and frequency of food and supply deliveries. The purpose of this bid is to procure the general contracting services to work with the selected architecture firm, DLR Group, LLC. to assist with the integrated design methodology, constructibility, construction estimating, and the final implementation of the work modify the facility to meet our requirements.

This integrated design approach allows the general contractor to assist in the creation of the construction documents. As such, the estimated value of the contract price will be amended once the construction documents are completed and the scope of the project has been finalized. The general contractor’s mark-up values and hourly rates are established as part of this agreement and will be applied to the final contract value.

Award to: McCarthy Company          Location: 1341 North Rock Hill Road, St. Louis, MO
Price: $10,000,000.00          Contract term (if applicable):
Bid opening held on: 5/19/2020          Opened by: Kurt Mandernach
Account number to be charged for purchase:

If bid was not awarded to lowest bidder, please explain:

If paying for with grant funds, please indicate (1) grant name, (2) total grant amount, (3) what portion of purchase is being paid for by a grant, and (4) when grant period ends as applicable:
FORMAL BID – REQUEST FOR APPROVAL

Bid #: 20-076

Additional Bids Received

The following additional bids were received:

<table>
<thead>
<tr>
<th>Vendor</th>
<th>Location</th>
<th>Meets all specifications</th>
<th>Price</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>ARCO</td>
<td>900 N Rock Hill Rd, St Louis MO</td>
<td>✓</td>
<td></td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>Tarlton Corporation</td>
<td>5555 West Park Ave, St Louis MO</td>
<td>✓</td>
<td></td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>Interface Construction</td>
<td>8401 Wabash Ave, Berkley MO</td>
<td>✓</td>
<td></td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>Kozney-Wagner</td>
<td>951 West Outer Road, Arnold, MO</td>
<td>✓</td>
<td></td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>Interior Construction Services</td>
<td>2930 Market Street, St Louis MO</td>
<td>✓</td>
<td></td>
<td>Yes</td>
<td>No</td>
</tr>
</tbody>
</table>

For each vendor that doesn't meet specifications, please explain why:

Vendor: 

Vendor: 

☐ Sole source justification memos from (1) dept. and (2) vendor attached.

Department Director/Elected Official must sign the request prior to routing to the Purchasing Manager.

Department Director/Elected Official Signature: ____________________________
Date: 5/22/2020

Approval or Concurrence of Director of Finance: ___________________________
Date: 5/22/20

BELOW ONLY TO BE COMPLETED FOR BIDS AT LEAST $15,000 AND LESS THAN $50,000. See instructions at the top of pg. 1.

Director of Administration Signature: __________________________
Date: __________________________
TO: Members of the County Council  
Steve Ehlmann, County Executive

CC: Donna Vogt, Executive Assistant to the County Council  
Joann Leykam, Director of Administration  
John Greifzu, Assistant Director of Administration  
John Watson, County Counselor

FROM: Christine Ramsdell, Director of Facilities Management

DATE: May 22, 2020

SUBJECT: Modify the Adult Detention Center to Reduce the Spread of COVID-19

During the COVID Pandemic, it was determined that the Correctional staff were at risk of contracting COVID-19 and spreading infection within the building since the booking process and space was confined and did not provide separation of mechanical systems to isolate the airflow. St Charles County intends to make improvements to the Adult Detention Center with a focus to reduce the spread of COVID-19 or other infectious diseases. The project has a very strict timeline and must be completed by December 30, 2020. As such the improvements will focus on increasing separation between inmates and staff and reducing the likelihood of direct interaction/spreading of infections. The primary focus will be to relocate booking, create negative air spaces and additional improvement to support areas if determined to reduce the spread of infectious disease.

A project of this magnitude and complexity would ordinarily take 18-24 months to design, bid and build, however, due to the expedited duration of this project, it is necessary to bring a general contractor on-board to assist with the creation of the construction documents, determine and procure long lead-time items and find ways to expedite the process. This bid outlined the responsibilities for the general contracting services to work with the selected architecture firm, DLR Group, LLC. to assist with the integrated design. This approach allows for evaluation of constructability, procurement and construction cost estimating to be performed during the creation of construction documents. This will also include the final implementation of the work modify the facility to meet our requirements.

The bid results were evaluated based on cost, which consisted of the hourly rates for critical positions, mark-up for subcontractors, materials and equipment, experience and capabilities and the personnel being assigned to the project. We had a good response to our bid and narrowed the selection to two contractors. We then interviewed the two contractors and it was determined that McCarthy Company can best meet the needs of the project and the County.
## Proposed Project Management Staff which include overhead and profit to General Contractor:

<table>
<thead>
<tr>
<th>ITEM</th>
<th>Kzen- Wagner</th>
<th>ICS</th>
<th>Tariton</th>
<th>Interface</th>
<th>McCarthy</th>
<th>Arco</th>
</tr>
</thead>
<tbody>
<tr>
<td>Project Executive</td>
<td>$95.00</td>
<td>$110.00</td>
<td>$89.00</td>
<td>$73.00</td>
<td>$139.00</td>
<td>$133.00</td>
</tr>
<tr>
<td>Project Manager(s)</td>
<td>$95.00</td>
<td>$110.00</td>
<td>$89.00</td>
<td>$73.00</td>
<td>$139.00</td>
<td>$133.00</td>
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<tr>
<td>Field Office Engineer</td>
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<td>$95.00</td>
<td>$72.00</td>
<td>$55.00</td>
<td>$78.00</td>
<td>$59.00</td>
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<tr>
<td>Project Expeditor</td>
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<td>$95.00</td>
<td>$72.00</td>
<td>$55.00</td>
<td>$78.00</td>
<td>$59.00</td>
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<tr>
<td>Safety Manager</td>
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<td>$95.00</td>
<td>$72.00</td>
<td>$55.00</td>
<td>$78.00</td>
<td>$59.00</td>
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<td>CPM Scheduler</td>
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<td>$95.00</td>
<td>$72.00</td>
<td>$55.00</td>
<td>$78.00</td>
<td>$59.00</td>
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<td>Quality Assurance / Quality Control</td>
<td>$80.00</td>
<td>$95.00</td>
<td>$72.00</td>
<td>$55.00</td>
<td>$78.00</td>
<td>$59.00</td>
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<tr>
<td>Field Office Support Staff</td>
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<td>$95.00</td>
<td>$72.00</td>
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<td>$59.00</td>
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<td>$83.00</td>
<td>$79.44</td>
<td>$119.00</td>
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<tr>
<td>Assistant Superintendent(s)</td>
<td>$80.00</td>
<td>$95.00</td>
<td>$72.00</td>
<td>$55.00</td>
<td>$78.00</td>
<td>$59.00</td>
</tr>
</tbody>
</table>

**Additional Information Not Requested on IFP**

| Project Accountant          | $55.00      |           |         |           |          |         |
| Project Manager             | $127.00     |           |         |           |          |         |
| Safety Director             | $88.00      |           |         |           |          |         |
| Preconstruction Director    | $120.00     |           |         |           |          |         |
| Estimating Manager          | $88.00      |           |         |           |          |         |
| Estimator                   | $50.00      | $75.00    |         |           |          |         |

**Construction labor which include overhead and profit to General Contractor:**

| Journeymen Carpenter regular time | $79.99 | $75.32 | $81.07 | $79.31 | $78.00 | $75.00 |
| Journeymen Carpenter overtime   | $165.61 |        | $182.52 |        | $177.00 | $170.00 |
| Journeymen Carpenter double time | $122.00 | $132.00 | $135.34 | $133.00 | $133.00 | $133.00 |
| Apprentice Carpenter regular time | $165.61 |        | $182.52 |        | $177.00 | $170.00 |
| Apprentice Carpenter overtime   | $165.61 |        | $182.52 |        | $177.00 | $170.00 |
| Apprentice Carpenter double time | $122.00 | $132.00 | $135.34 | $133.00 | $133.00 | $133.00 |
| Laborer Regular Time           | $66.11 | $64.38 | $68.83 | $66.00 | $61.00 |
| Laborer Overtime               | $72.49 | $70.59 | $79.00 |         | $74.05 | $70.00 |
| Laborer Double Time            | $125.00 | $135.39 | $135.00 | $135.00 |         |         |
| Other                         | $66.11 | $64.38 |         |         |         |         |
| Flooring                      | $66.11 | $64.38 |         |         |         |         |
| Ceramic                       | $66.11 | $64.38 |         |         |         |         |

*All rates and equipment are to be included in rates above.

**Mark-ups, which include overhead and profit to General Contractor:**

<table>
<thead>
<tr>
<th>Percentage</th>
<th>Percentage</th>
<th>Percentage</th>
<th>Percentage</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Subcontractors</td>
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<td>7.59%</td>
<td>5.00%</td>
<td>5.00%</td>
</tr>
<tr>
<td>Materials</td>
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<td>7.59%</td>
<td>5.00%</td>
<td>5.00%</td>
</tr>
<tr>
<td>Equipment</td>
<td>10.00%</td>
<td>10.00%</td>
<td>5.00%</td>
<td>5.00%</td>
</tr>
</tbody>
</table>

**Bonds and Insurance per $1,000 Contract Value which include overhead and profit to General Contractor:**

| Builder's Risk Insurance     | $0.112 | $0.80 | $54.00 | $0.22 |
| General Liability Insurance  | included |         | $7.50 | $2.49 | $2.50% | 1.50% |
| Other General Project Insurance | included |         | $7.50 | $2.49 | $2.50% | 1.50% |
| Fidelity & Performance Bonds | $6.50 | $2.50% | $5.27 | $15% | $5.27 | $15% |

## Review of Companies

**Kzen- Wagner** - Recommended: Large, local, reputable company with very competitive fee structure. People proposed have all experience from Boone Terce.

**Arco** - Project completed in Johnson County was deemed similar with staff from that project. Fee structure was highest.

**Kzen- Wagner** - Experience not necessarily relevant. Closest project is Jeff Gohor's 12 flmt 3rd story 1006, addition at St. Charles 2006. Wages as to staffing plan, not specific to projects represented in their proposal.

**ICT** - Good people, good company, light on experience. Low fees.

**Tariton** - No relevant corrections experience. Submitted significantly more staff than necessary.

**McCarthy** - Light proposal and light staff experience, technical approach is somewhat boiler plate.

## Pre-Interview Score

<table>
<thead>
<tr>
<th>Status</th>
<th>Company</th>
<th>Experience Score</th>
<th>Personnel Score</th>
<th>Price Score</th>
<th>Total Score</th>
</tr>
</thead>
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<tr>
<td>Interviewed</td>
<td>McCarthy</td>
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<td>54</td>
<td>24</td>
<td>99</td>
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<tr>
<td>Interviewed</td>
<td>Arco</td>
<td>29</td>
<td>54</td>
<td>24</td>
<td>99</td>
</tr>
<tr>
<td>Not Interviewed</td>
<td>DS</td>
<td>29</td>
<td>54</td>
<td>24</td>
<td>99</td>
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<tr>
<td>Not Interviewed</td>
<td>Kzen- Wagner</td>
<td>29</td>
<td>54</td>
<td>24</td>
<td>99</td>
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<tr>
<td>Not Interviewed</td>
<td>Tariton</td>
<td>25</td>
<td>35</td>
<td>35</td>
<td>95</td>
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<tr>
<td>Not Interviewed</td>
<td>Interface</td>
<td>15</td>
<td>29</td>
<td>28</td>
<td>62</td>
</tr>
<tr>
<td>Not Interviewed</td>
<td>Arco</td>
<td>15</td>
<td>29</td>
<td>28</td>
<td>62</td>
</tr>
</tbody>
</table>
LEGAL NOTICE

INVITATION FOR BID
IFB 20-076

For

General Contractor to Modify the Adult Detention Center to Reduce the Spread of COVID-19

ST. CHARLES COUNTY GOVERNMENT
ST. CHARLES, MISSOURI

St. Charles County is seeking bids for General Contracting Services. The County reserves the right to terminate the contract for reasons of violations by the successful proposer of any term or condition of the contract by giving thirty (30) days written notice stating the reasons therefore and giving the party ample time to remedy the deficiencies.
INSTRUCTIONS

One [1] original and two [2] signed copy of the bid must be received in a sealed envelope plainly marked “RFP 20-076 for General Contractor to Modify the Adult Detention Center to Reduce the Spread of COVID-19” with the date and time of the bid opening in the lower left corner of the envelope.

An authorized representative of the company/person submitting the bid must sign the submittal in blue ink.

Bids must be submitted to the St. Charles County Finance Department, 201 North Second Street Room 541 St. Charles MO 63301 prior to the bid opening.

Bid opening will be on Tuesday, May 19, 2020/27/2020 at 10:00AM in Room 115 of the St. Charles County Administration Building, 201 North Second Street, St. Charles, MO 63301.

St. Charles County reserves the right to accept and/or reject any and all bids.

Bid results may be obtained by going to our St Charles County Government website @ http://www.sccmo.org/Bids.aspx click on “show Closed/Awarded/Cancelled bids”, select bid and click on “related documents”. No phone calls please. The time it takes for final bid results to be made public depends on the complexity of the project and the cost of the project.

While due to the Coronavirus St Charles County has closed the Administration Building to the public, the bid will be opened publicly on Tuesday, 5/19/2020 at 10:00 AM in Room 115. It is highly recommended that you mail or have your bid delivered via UPS, Fedex, courier, etc., with plenty of time to arrive prior to the day of the bid opening. If you are delivering your bid the day of the opening and intend to stay, please get in line outside the County’s Administration Building no later than ten minutes prior to the opening. At the designated bid opening time of 10:00 am the County building will be opened by a Sheriff’s deputy to allow entrance. You will be screened for temperature and travel history prior to admittance of the bid opening in room 115. If your bid is dropped off prior to the opening there will be someone in the lobby to receive it.

For any bids being dropped off in person to the Administration building on the day of the opening you must call 636-949-7465 to coordinate receipt of bid. Please call once you are present outside of the building.

BID INQUIRIES

Any questions or clarifications concerning this Request for Bid must be submitted in writing via E-mail (preferred), mail or fax to:

Kurt Mandernach, Purchasing Manager
St. Charles County Government
Finance Department
201 North Second Street
St. Charles, Missouri 63301
kmandernach@sccmo.org
For questions or inquiries concerning the specifications please contact:

Chris Slagle, Sr. Project Manager
Landmark Contract Management, Inc.
1749 Larkin Williams Rd
Fenton, MO 63026
M 314.540.3801
cslagle@lcminc.com

All questions must be received no later than 3:00 PM on 5/15/2020. Any question received after this deadline may not be answered.

Responses to questions/clarifications will be placed on the County’s website http://www.sccmo.org/Bids.aspx. Check this website frequently for updates and any addendum that are issued.

Prohibited Communication

Contact with any representative, other than through the procedure outlined in the section titled “Bid Inquiries”, concerning this request is prohibited PRIOR TO BID OPENING. Representative shall include, but not be limited to, all elected and appointed officials, and employees of St. Charles County and their Agents within St. Charles County.
Any Offeror engaging in such prohibited communications prior to Bid Opening may be disqualified at the sole discretion of St. Charles County.
TERMS AND CONDITIONS

➤ St. Charles County reserves the right to reject any and all bids or parts of a bid and waive technicalities, and to adjust quantities.

➤ All bids will be considered final. No additions, deletions, corrections, or adjustments will be accepted after the time of bid opening.

➤ All delivery costs or charges must be included in the F.O.B. destination bid price.

➤ City, County and State of Missouri Sales Tax and Federal Taxes are not applicable to sales made to St. Charles County and must be excluded.

➤ The contract shall be effective for the approximate twelve (12) month period from the date of the notice of award. The contract template is provided as part of this bid and will be required to execute upon award.

➤ The County, with the consent of the vendor, shall have the option to renew said contract for two (2) additional twelve (12) month periods at the same specifications and terms and conditions of any contract that may be derived from this request for proposal.

➤ The electronic version of this bid/RFP is available upon request. The document was entered into WORD for Microsoft Windows. The Purchasing Office does not guarantee the completeness and accuracy of any information provided on the electronic version. Therefore, respondents are cautioned that the hard copy of this bid/RFP on file in the Purchasing Office governs in the event of a discrepancy between the information contained in or on the electronic version and that which is on the hard copy.

➤ Vendors are required to clearly identify any deviations from the specifications in this document.

➤ An authorized officer of the company submitting the bid must sign all bids, in blue ink.

➤ Vendors must submit two [2] signed copies of their bid; one is to be an original and so marked.

➤ All prices and notations must be in blue ink or typewritten on the attached form. Mistakes must be crossed out, corrections typed adjacent and must be initialed in blue ink by the person signing the bid.

➤ St. Charles County will not award any bid to an individual or business having any outstanding amounts due from a prior Contract or business relationship with the County or who owes any amount(s) for delinquent Federal, State or Local taxes, fees and licenses.

➤ Sealed proposals received after the designated time of the receipt of the sealed proposals will be considered as “No Bid” and “Void” and will not be opened.

➤ The successful bidder is specifically denied the right of using in any form or medium the names of St. Charles County or any other public agency within St. Charles County.
Government for public advertising unless express written permission is granted.

➢ The successful bidder agrees to have all personnel working on site undergo a background check performed by the S. Charles County Corrections Department if deemed necessary. Only personnel who have passed a background will be allowed on site.

➢ All bidders must possess the necessary and appropriate business and/or professional licenses in their field.

➢ Award will be made to the low responsive, responsible bidder, or to the offeror whose proposal is most advantageous to the County, price and other factors considered including geographic location. When payments are to be made to the County, award will be made to the most advantageous offer.

➢ County reserves the right to accept any item or group of items offered, unless the bidder qualifies his bid by specific limitations. The bid can be on an "all or none" basis if wording in the bid so states and if all items solicited are included in the bid.

➢ When applicable, provide unit prices and extension prices. Where there is disagreement in the unit and extension prices, the unit price shall govern.

➢ All persons working on-site must undergo a full background check and fingerprinting prior to being allowed on premises.

➢ MISSOURI PREVAILING HOURLY WAGE RATES

The proposal for this Contract shall be based upon the required payment by the Bidder for wages for each craft or type of workmen required to execute the Contract as determined by the Department of Labor and Industrial Relations of Missouri, pursuant to Sections 290.210 to 290.340, RSMo. For those projects with a total cost of more than $75,000.00, a schedule of such prevailing hourly rate of wages as determined by the Department of Labor and Industrial Relations of Missouri, pursuant to said statutory provisions and made a part of this Contract, Annual Wage Order #26, as of June 26, 2019.

Effective August 28, 2018, the provisions of sections 290.210 to 290.340 shall not apply to the construction of public works for which either the engineer's estimate of the bid accepted by the City for the total project is in the amount of $75,000.00 or less. For any awarded bid in the amount of $75,000.00 or less that becomes subject to a contract amendment that increases the total project cost in excess of $75,000.00, the provisions of 290.210 to 290.340 shall apply only to that portion of the project that is in excess of $75,000.00.

➢ The Contractor must comply with all provisions of the Prevailing Wage Law under Annual Wage Order #26 as amended 06-26-2019 for this project. The contractor will forfeit a penalty to the County of $100 per day (or portion of a day) if a worker is paid less than the prevailing rate for any work done under the contract by the contractor or by any subcontractor (see section 290.250, RSMo). Certified Payroll shall be submitted with request for payment.
INSURANCE:

The successful bidder must agree to provide and maintain during the life of the Contract the insurance(s) listed below, in the minimum amounts specified, with an insurance company licensed to do business in the State of Missouri. All policies must name the County as an additional insured and provide for thirty (30) days written notice prior to any material changes or cancellation. Successful bidder will be awarded contract once a Certificate of Insurance is provided.

Workers Compensation: Statutory limits as required by the statutes of the State of Missouri and Employer’s Liability with limits no less than $500,000.

Comprehensive General Liability (including automobile): Limits of no less than $1,000,000/3,000,000/1,000,000 per occurrence or $3,000,000 CSL.

Professional Liability: A minimum of $1,000,000 per claim, $3,000,000 aggregate for the rendering or failure to render appropriate emergency health care services by licensed physicians, nurses, paramedics, emergency medical technicians and ambulance personnel. If written on a claims made basis, a mutually agreed upon extended reporting period will be negotiated.

BONDS:

Performance Bond- A 100% Performance and Payment Bond in favor of the Owner. The Security Co. representing Contractor must be authorized to do business in the State of Missouri and be approved by Owner. Performance and Payment bond will be required if project is $50,000.00 or greater.

Employment of Unauthorized Aliens Prohibited (Missouri Revised Statutes Section 285.530)

As a condition for the award of any contract or grant in excess of five thousand dollars by St. Charles County to a business entity, the business entity shall, by sworn affidavit and provision of documentation**, affirm its enrollment and participation in a federal work authorization program (E-Verify) with respect to the employees working in connection with the contracted services. Every such business entity shall sign an affidavit affirming that it does not knowingly employ any person who is an unauthorized alien in connection with the contracted services. [RSMO 285.530 (2)]

An employer may enroll and participate in a federal work authorization program (E-Verify) and shall verify the employment eligibility of every employee in the employer’s hire whose employment commences after the employer enrolls in a federal work authorization program. The employer shall retain a copy of the dated verification report received from the federal government. Any business entity that participates in such program shall have an affirmative defense that such business entity has not violated subsection 1 of this section. [RSMO 285.530 (4)]

Any entity contracting with St. Charles County shall only be required to provide the referenced affidavit on an annual basis. A copy of the affidavit in included in this bid request. Vendors may
choose to send the required documentation using one of the following options:

- Send the notarized affidavit and E-Verify MOU signature page to: St. Charles County, Attn: Purchasing Manager, 201 N Second Street, Room 541, St. Charles, MO 63301 prior to responding to any solicitations; OR
- Send the notarized affidavit and E-Verify MOU signature page along with a Qualification solicitation response.

These documents will be kept on file. The notarized affidavit and E-Verify MOU signature page will remain current for one-year from the date of the notarized affidavit.

**PLEASE NOTE:**
Acceptable enrollment and participation documentation consists of a valid copy of the signature page of the E-Verify Memorandum of Understanding, completed and signed by the Firm, and the Department of Homeland Security - Verification Division

The online address to enroll in the E-verify program is:


Open Records
Any and all information contained in or submitted with the bid becomes a public record subject to the Missouri Sunshine Law when the bids are opened. If the bidder believes that any information contained in or submitted with the bid is protected from disclosure by the Missouri Sunshine Law, the bidder must clearly identify what information the bidder believes is so protected and must also clearly identify the legal basis therefor.

Veteran Friendly Employment Policy

"Indicate whether you have developed a veteran friendly employment policy and, if so, attach a copy of such policy to your response as a point of information."

X "YES" our company has a veteran friendly employment policy.

____ "NO" our company does not have a veteran friendly employment policy.

Please include a copy of your veteran friendly employment policy with your submission.
Project Statement of Work

St Charles County intends to make improvements to the Adult Detention Center to needed to reduce the spread of COVID-19. The project has a very strict timeline. The Project must be completed no later than December 30, 2020. Improvements to the jail will be focused on creating more separation between inmates and staff and reducing the likelihood of direct interaction/spreading of infections. The following are proposed improvements, in order of importance.

1. **Relocate booking operations.** Current booking area is undersized and does not provide adequate facilities for current operations. These operations will be relocated from the Third Floor of the jail to the Second Floor. The relocated and expanded Bookings facility will be approximately 14,000 SF.

2. **Replace solid doors with doors containing wickets/pass-through slots.** Current doors must be completely opened to pass through food, medications or other indirect interactions between staff and inmates. Three vendors have been identified for this work and are submitting their proposals under a separate cover.

3. **Create negative air spaces – cellblocks, holding areas.** Currently no spaces were designed with considerations to limit airborne transmittance of potential viruses or infectious diseases. Architect/Engineer is evaluating the feasibility of this improvement.

4. **Additional storage -** There is inadequate space for storage, especially in the kitchen areas. Currently the corrections facility requires more deliveries of foodstuffs, increasing the likelihood of outside introduction of infectious diseases.

For items 3. and 4. above, final scope of work, if any, will be determined based on cost estimates. Only those improvements that fall within the final budget will be completed.

Schedule
This Project must be completed, and all funds for this project must be expended by December 30, 2020. "Completed" is defined as all funds disbursed, all project requirements including final documentation and punch list items have been provided or completed to the County's satisfaction.

Funding
It is anticipated that the budget allowance for the work will be $10 Million. This budget is for all costs of the project, including direct costs, indirect costs, FEES, as well as furniture, fixtures, and equipment. Dollar amount must be determined prior to finalizing the schedule.

Design
DLR, Kansas City MO will be the designer for the Project and will be sole sourced. Sole sourcing is the selection method due to the emergency nature of the project; there is not time to follow the standard procurement process.
DLR has entered into an interim agreement with the County to begin design of improvements.

**Project Management**
Landmark Contract Management Inc. will be the Owner's Representative for the County. Landmark has worked on the Preliminary Scope Documents with DLR for the last year and is very familiar with the items to be accomplished during the next 7 months. Landmark's representative is Chris Slagle and his cell phone number is 314-540-3801. Chris is prepared to answer questions about this solicitation.

**Construction**
The County will enter into a construction agreement with the selected contractor pursuant to this bid. Contractor will be selected through a shortened competitive evaluation.

Once a general contractor has been selected Landmark will negotiate a contract, the form of which will be reviewed and accepted by the County.

**Submittal**
A summary of the contractor's qualifications and experience shall include but not be limited to the following:

- Describe similar construction projects completed for a government owner. Include a contact name and number for each project.
- Describe jail renovation projects. Including a contact name and number for each project.
- Provide examples of projects executed under similar time constraints completed by your firm.
- List of key personnel that would be assigned to this project, and their qualifications.
- Demonstrate your firm's capability and availability to complete the work by December 30, 2020.

**Bid and Evaluation**
This is anticipated to be a DBIA Contract (Form 544: however, considering Form 530). The Proposers shall submit straight-time billing rates for the following personnel:

- Project Executive
- Project Manager
- Project Superintendent
- Project Engineer
- Journeymen Carpenter
- Laborers

Bidders shall submit unit rates for support facilities/equipment, including but not limited to:

- Jobsite Trailer
- Tool Trailer
- Project Vehicles
- Portable Toilets

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Adult Detention Center

Page 9 of 13

20-075 General Contractor – Modification to Proposal Response from (please complete)

[Signature]

Name of Company or individual
Please provide your overhead and markup percentages for materials and subcontractors.

The proposals will be evaluated by giving 25% to experience, 40% to personnel assigned to the project, and 35% to the above cost items.
Exception Sheet

If the item(s) and/or services proposed in the response to this Request for Qualifications is in any way different from that contained in this Request for Qualifications, the Firm is responsible to clearly identify all such differences in the space provided below. Otherwise, it will be assumed that the Firm's offer is in total compliance with all aspects of the proposal or Qualification.

Below are the exceptions or differences to the stated specifications (attach additional sheets as needed):

Date: 5/18/2020
Signature: [Signature]
Title: Vice President
Company: McCarthy Building Companies, Inc.

20-075 General Contractor – Modification to Proposal Response from (please complete)
Name of Company or Individual
THIS FORM MUST BE COMPLETED AND ENCLOSED WITH THE QUALIFICATION

Audit Clause for Contracts

Examination of Records

The Firm's records must include, but not be limited to, accounting records (hard copy, as well as computer readable data), written policies and procedures, sub-consultant files, indirect cost records, overhead allocation records, correspondence, instructions, drawings, receipts, vouchers, memoranda, and any other data relating to this contract shall be open to inspection and subject to audit and/or reproduction by the County Auditor, or a duly authorized representative from the County, at the County's expense. The Firm must preserve all such records for a period of three years, unless permission to destroy them is granted by the County, or for such longer period as may be required by law, after the final payment. Since the Firm is not subject to the Missouri Sunshine Law (Chapter 610, RSMo), information regarding the Firm's operations, obtained during audits, will be kept confidential.

The Firm will require all sub-consultants under this contract to comply with the provisions of this article by including the requirements listed above in written contracts with the sub-consultants.

Firm Information

Company Name: McCarthy Building Companies, Inc.

Business Address: 1341 N. Rock Hill Rd.
St. Louis, MO 63124

Business Hours: 8:00 am - 5:00 pm

Phone: (314) 968-3300 Fax: (314) 968-4642

Email address: rmolen@mccarthy.com

Contact Person: Ryan Molen

Authorized Signature: [Signature]
(Indicates acceptance of all Qualification terms and conditions)

Date: 5/18/2020
AFFIDAVIT OF WORK AUTHORIZATION

The Firm who meets the section 285.525, RSMo definition of a business entity must complete and return the following Affidavit of Work Authorization.

Comes now Ryan Molen, (Name of Business Entity Authorized Representative) as Vice President, (Position/Title) first being duly sworn on my oath, affirm McCarthy Building Companies, Inc., (Business Entity Name) is enrolled and will continue to participate in the E-Verify federal work authorization program with respect to employees hired after enrollment in the program who are proposed to work in connection with the services related to contract(s) with the County for the duration of the contract(s), if awarded in accordance with subsection 2 of section 285.530, RSMo. I also affirm that McCarthy Building Companies, Inc., (Business Entity Name) does not and will not knowingly employ a person who is an unauthorized alien in connection with the contracted services provided to the contract(s) for the duration of the contract(s), if awarded.

In Affirmation thereof, the facts stated above are true and correct. (The undersigned understands that false statements made in this filing are subject to the penalties provided under section 575.040, RSMo.)

Ryan Molen
Printed Name
5/18/2020
Date

Vice President
Title

rmolen@mccarthy.com
E-Mail Address

Subscribed and sworn to before me this 18 of May, 2020, I am commissioned as a notary public within the County of St. Louis, State of Missouri, and my commission expires on 04-01-2022.

Stacey Lee Gabr
Signature of Notary

05-18-2020
Date

Adult Detention Center
Page 13 of 13
May 15, 2020

ADDENDUM #1

RFP 20-076 General Contractor to Modify Adult Detention Facility to Reduce The Spread of COVID-19

Addendum #1 is being issued for the following reason to provide addition information. Please see attached.

Bidders shall sign this Addendum as acknowledgment and return it with the bid.

BID ADDENDUM

Addendum #1  Dated 5/14/2020

We, the undersigned, acknowledge the receipt of the above addendum, as dated.

By:  

Title:  
Vice President

Company:  
McCarthy Building Companies, Inc.

Date:  
5/18/2020
May 18, 2020

ADDENDUM #2

RFP 20-076 General Contractor to Modify Adult Detention Facility to Reduce The Spread of COVID-19

Addendum # 2 is being issued for the following reasons:

To Rescind Addendum #1
To provide addition information

Please see attached Documents:

1. Pre-Proposal Questions 1 – 10
2. AIA A195 Sample
3. AIA A295 Sample
4. AIA B195 Sample
5. Garage Plan 1985 Prints

Bidders shall sign this Addendum as acknowledgment and return it with the bid.

BID ADDENDUM
Addendum #2 Dated 5/18/2020

We, the undersigned, acknowledge the receipt of the above addendum, as dated.

By: Ryan Molen
Title: Vice President
Company: McCarthy Building Companies, Inc.
Date: 5/18/2020
ST. CHARLES COUNTY

MODIFY THE ADULT DETENTION CENTER
TO REDUCE THE SPREAD OF COVID-19

Proposal for General Contracting Services
Submitted By: McCarthy Building Companies, Inc.
May 19, 2020
May 19, 2020

Kurt Mandernach, Purchasing Manager
St. Charles County Government — Finance
201 N. Second St., Suite 541
St. Charles, MO 63301

RE: RFP 20-076 General Contractor to Modify Adult Detention Center to Prevent the Spread of COVID-19

Mr. Mandernach and Selection Committee,

The St. Charles County Adult Detention Center COVID-19 modifications effort calls for a coordinated effort to assure the County responsibly, efficiently and quickly updates the existing facility given the COVID-19 pandemic. It requires a contractor partner with COVID-19 modifications experience, that is both nimble, and resource-deep, to lead the effort with a diversity of resources and expertise to meet this requirement, and offers the County the best opportunity to not only meet the aggressive timeframe but to optimize the scope of modifications achieved with the limited funds available from the CARES Act.

McCarthy Building Companies is the firm that can deliver on all of these fronts for the County. We offer:

- **Local Partner with National Experience** - Our local leadership, as not only the largest contractor in Missouri and the St. Louis Region, but as a national leader in design build and critical facilities means we have the systems, expertise and resources that will work with the County, DLR Group and Landmark to assess the situation, develop and implement the best plan with the available funds and timeframe.

- **Rapid Response** – Time is of the essence; McCarthy has a team of people who have just finished a complex healthcare facility addition and renovation project that is ready to jump into this effort upon award. As the leading healthcare builder in the country, our team partnered with clients across the nation and locally to complete multiple COVID-19 response modifications just as you require. We bring these experiences, lessons learned, and our enhanced safety protocols to the County’s effort.

- **Optimize Your Funds** – Funds are limited and the need is great. McCarthy’s bench of professionals, including our team of MEP estimators, will work with the DLR design team and the County immediately to develop the plan and realistic costs. Understanding this effort will require rapid analysis and decision making, we bring the capabilities and commitment to join your team and give you reliable information and ideas to make rapid and informed decisions throughout these next few months.

We appreciate the opportunity to submit our enclosed response and hope you agree that McCarthy’s approach and team offers the County the highest likelihood of a successful project outcome and makes the decision to award us this important project. Please don’t hesitate to reach out with questions on my cell: (314) 565-1911.

Sincerely,

McCarthy Building Companies, Inc.

Ryan Molen
Vice President
(314) 565-1911
rmolen@mccarthy.com
TABLE OF CONTENTS

Section 1  Firm Capabilities
Section 2  Similar Experience
Section 3  Key Personnel
Section 4  Cost Information
Section 5  Notarized Affidavit of Work Authorization and E-Verify MOU Signature Page
Section 6  Veteran Friendly Employment Policy
YES our company has a veteran friendly employment policy
Section 7  Exception Sheet
Section 8  Audit Clause for Contracts
Section 9  Invitation for Bid and Addendum Acknowledgments
1

FIRM CAPABILITIES
Demonstrate your firm's capability and availability to complete the work by December 30, 2020.

FIRM CAPABILITIES

McCarthy is both capable and available to complete the St. Charles County Detention Center Modifications by December 30, 2020. As a national builder and the top contractor in the region, McCarthy has completed more than $1 billion in justice projects nationwide and countless government facilities. The award-winning design-build renovation of the Robert A. Young Federal Building in downtown St. Louis is one example of our ability to successfully navigate government requirements, secure spaces and aged infrastructure to deliver a refresh to accommodate today's need. You can have confidence in our ability to successfully complete this work on time. With our extensive resume of relevant construction projects, our team members' relevant experience, including emergency response efforts, and our ability to deliver best final cost, we stand ready to partner with the County and help you achieve your project goals.

DLR GROUP EXPERIENCE

DLR Group is a long-standing design partner of McCarthy's. We have more than 40 projects with our mutual credit, including multiple design-build efforts. This experience allows us to partner quickly and effectively to deliver these modifications for the St. Charles County Detention Center.

SELF-PERFORMANCE

McCarthy can self-perform carpentry, concrete, structural steel, piping and earthwork. With more than 300 local McCarthy craft workers, our resources are ready to engage immediately, which will help the team be nimble in developing and implementing the necessary construction modifications.

PROVEN PROJECT TEAM

McCarthy's proposed team is proven and qualified. They are currently completing a complex addition and renovation together at Columbia Orthopaedic Group. Moving an intact, experienced team is immensely beneficial and ensures our ability to effectively partner with the County and DLR Group. This team also brings detention center experience and COVID-19 response efforts.

FINANCIAL STABILITY

As one of the nation's largest general contractors, McCarthy is financially strong. Our bonding capacity exceeds $750M per project, with a total capacity of more than $1B. In these challenging economic times, this means you will not need to worry. McCarthy will complete the work and stand behind it, today and in the future. And we will leverage our local buying power to secure competitive pricing and appropriate trade resources for the construction effort.

SAFETY

Safety and security protocols are paramount. McCarthy's team understands the caution and diligence required to navigate through the occupied facility safely and quickly. We are actively monitoring and complying with the direction of the CDC, in conjunction with federal, state and local health agencies, and relevant government entities. We have developed a COVID-19 Exposure Prevention, Preparedness and Response Plan that has been implemented throughout the company on all of our jobsites. Highlights of our approach include:

✓ Following housekeeping, social distancing, and other best practices.
✓ Implementing a COVID-19 Site Specific Safety Plan that addresses the applicable protective measures applicable.
✓ Performing self-screening prior to coming to work and to reporting to their supervisor if they experience symptoms of COVID-19.
✓ Wearing face coverings on site following the updated CDC recommendations.
✓ Complying with local requirements related to temperature screening. Every project site has “spot-check” temperature screening tools and resources.
✓ Reducing the number of individuals physically in offices by working remotely when possible.
✓ Establishing an information page on our intranet site with updated information in real-time for our employee-owners.
✓ Posting CDC recommendation are posted in all offices and jobsite trailers — in both English and Spanish.

We are working closely with clients, trade contractors and suppliers to analyze ways to mitigate or overcome these challenges as we try to keep jobs moving and maintain employment levels. This is a rapidly evolving situation, with customized response plans depending on regional and jobsite specific situations. Safety is our top priority. We are committed to staying on top of each development and to helping keep our communities healthy.
GOVERNMENT EXPERIENCE

McCarthy is a national builder that has completed or is currently constructing more than $4 billion worth of government projects for clients including the U.S. Army Corps of Engineers, Naval Facilities Engineering Command, Department of Energy, Department of Homeland Security and Department of Veterans Affairs. United behind the company goal to be the “Best Builder in America,” McCarthy has risen to the top of the rankings on challenging projects across the country. McCarthy is the 12th Largest Domestic Builder (ENR 2019) and the 5th largest Federal Government Builder (Building Design + Construction 2019) and leverages the experience behind these rankings to provide St. Charles County with a positive project experience.

NATIONAL GEOSPATIAL-INTELLIGENCE AGENCY - NEXT NGA WEST | St. Louis, MO
Jay Denker, USACE Contracting Officer | (816) 389-3934

NATIONAL BIO AND AGRO-DEFENSE FACILITY ANIMAL DISEASE LABORATORY | Manhattan, KS
Timothy Barr, US Dept. of Homeland Security Project Manager | (785) 320-6811

VETERANS AMBULATORY CARE CENTER | Omaha, NE
Sue Morris, President Heritage Services | (402) 391-3190

GATEWAY ARCH - MUSEUM AND VISITOR CENTER RENOVATION | St. Louis, MO
Ryan McClure, Executive Director Gateway Arch Park Foundation | (314) 881-2016

ROBERT A. YOUNG FEDERAL BUILDING SEISMIC RENOVATION | St. Louis, MO
Matthew Meeks, GSA Project Manager | (816) 823-1348

CITY OF O'FALLON - NEW JUSTICE CENTER AND MUNICIPAL COURT | O'Fallon, MO
Chris Clercx, City of O'Fallon Project Manager | (636) 379-5590
Describe jail renovation projects, including a contact name and number for each project.

**DETENTION CENTER EXPERIENCE**

**CALIFORNIA DEPARTMENT OF CORRECTIONS & REHABILITATION - CALIFORNIA HEALTH CARE FACILITY | Stockton, CA**

Michael Meredith (previously with CDCR, now with City of Sacramento DGS) | (916) 376-1661

The California Health Care Facility is a 1,722-bed correctional medical facility. The complex includes over 1.2 million sf of building space as follows: 23 inmate housing buildings where inmate-patients will stay through various stages of medical and mental health treatment, a state-of-the-art central kitchen that serves over 10,000 meals a day, an administration building, a plant maintenance operation and facility maintenance facility, four family visiting apartment-style units for overnight visitations, and a shared services facility that offers nine medical and mental health care functions including outpatient medical center, dental, mental health treatment, standby emergency services, dialysis, imaging and procedures center, PT/OT, a pharmacy and a laboratory.

**ARIZONA DEPARTMENT OF CORRECTIONS - 4,000 BED EXPANSION | Perryville, Tuscon and Yuma, AZ**

Mike Rank (retired from ADOA) | (602) 228-1433

This unique project consisted of 4,000 additional beds on three separate sites, across Arizona. The facilities include complex kitchens, education and administration buildings.

**DALLAS COUNTY DETENTION CENTER SOUTH TOWER | Dallas, TX**

Dan Savage (retired from Dallas County Commissioners Court) | (214) 507-9139

330,000 sf, 4-level maximum security facility with capacity for 2,376 inmates. The concrete frame, dormitory-style jail connects to the existing detention center.

**SOUTH PLACER ADULT CORRECTIONAL FACILITY | Roseville, CA**

Dennis Sailer (retired from County of Placer) | (530) 886-4981

191,000 sf design-build detention facility including housing units for 390 inmates, food service, administrative offices and a medical suite. A 10,200 sf of the Arraignment Courthouse addition was also included.

**EASTERN RECEPTION DIAGNOSTIC AND CORRECTIONAL CENTER | Bonne Terre, MO**

Ed Bybee, State of MO | (573) 751-2015

Ten building complex, 700,000 sf, contains 10 concrete structures to house 2,300 maximum security inmates.
RAPID RESPONSE EFFORTS

As a leading builder of complex facilities, McCarthy's experience with accelerated time frames in critical environments will be invaluable for the St. Charles County modifications project. In response to the current pandemic, we have helped clients across the nation with COVID-19 response efforts. Our team understands the necessary modifications to treat COVID-19 positive individuals, as well as the heightened protections necessary to maintain public health. A few examples of projects executed under similar time restraints are below.

**PEPHLS HEALTH - COVID-19 RESPONSE | Rolla, MO**

During the COVID-19 pandemic, McCarthy has been on the front lines as an integral part of the Phelps Health response team. Efforts include:

- Converting an ambulance bay storage unit and beauty shop into temporary negative pressure for testing walk-ins.
- Transforming a portion of the emergency room into negative pressure by adding walls, sealing existing walls, installing new ceiling tiles and adding additional exhaust air duct and fans.
- Installing carpors for drive through testing.
- Adding insulation and HVAC to heat and cool prefabricated wooden sheds used to test materials and staff.
- Creating small isolation rooms outside each operating room for medical staff to remove protective gear before returning to any general hospital areas.

Proposed project team members Chris Nisbet and Corey Black were involved in these efforts.

**MERCY HOSPITAL ST. LOUIS - COVID-19 RESPONSE | St. Louis, MO**

At Mercy Hospital St. Louis, our project team worked closely with the hospital staff to prepare for the expected surge in COVID-19 patients by:

- Establishing St. Louis’ first COVID-19 drive through screening center in the parking lot at Mercy Virtual Care in Chesterfield, MO. This collection site screened their first patient on March 14th.
- Reconfiguring Mercy’s main emergency department entry by closing the existing entry, creating a covered walkway, and setting up two 20 x 40 tents for check-in, triage and COVID screening. This helped separate suspected COVID-19 patients from the general hospital population.
- Planning for, then converting the first floor of Conway Garage into a 100-bed hospital.

**MERCY HOSPITAL JOPLIN - EMERGENCY TORNADO RESPONSE | Joplin, MO**

McCarthy completed emergency construction efforts for Mercy after the 2011 F5 tornado hit Joplin, MO. McCarthy’s team arrived on site hours after the tornado hit the hospital and worked with the National Guard and FEMA to set up a 60-bed tent hospital (called a Mobile Medical Unit) in an existing parking lot. The hospital’s medical staff began seeing patients at the tent hospital just a week after the tornado. The tent hospital was later replaced by design-build portable buildings with walls and ceilings made of insulated panels. In September 2011, McCarthy began installation of a third, more secure design-build temporary facility: a 155,000 square foot modular “component” hospital consisting of 224 steel and concrete modules engineered in Southern California. The component hospital opened in April 2012 and served the community while the permanent hospital was being designed and built at a rapid pace, well beyond typical new construction. McCarthy teamed with the owner and designer to build the new hospital. Our experience with expediting projects to a successful outcome was a key to the delivery of this effort and would be fully leveraged to meet the upcoming mission.

"Every time Phelps Health calls McCarthy, daily for request, they have always been willing to help, and we have not heard the word no at any time in this time of need. The small projects that the team has completed, rain or shine, has been just shy of miraculous."

- John Blanton, Administrative Director
- Facilities and Support Services, Phelps Health
3

KEY PERSONNEL
List of key personnel that would be assigned to this project and their qualifications.

CHRIS NISBET
PROJECT DIRECTOR

Chris works closely with St. Charles County throughout the project to ensure an exceptional client experience. He holds overall responsibility for McCarthy's general contracting services and has full authority to allocate the resources of the company as needed. He attends team meetings and coordinates estimating, scheduling, value analysis, design review and subcontracting efforts. Chris is present on-site on a regular basis to ensure effective implementation of quality and safety programs, cost control and project close-out.

PROJECT EXPERIENCE

Eastern Reception Diagnostic and Correctional Center; Bonne Terre, MO: $116 million ten-building complex, 700,000 sf, contains ten concrete structures to house 2,300 maximum security inmates.

Columbia Orthopaedic Group - Surgery Center Expansion; Columbia, MO: $9.3 million, two-story expansion of the existing facility. The 17,600 sf addition includes two operating rooms, a procedure room, prep/recovery bays, exam rooms, six guest rooms for overnight stays for discharged patients and support spaces. Associated site improvements are also included in the scope of work.

Missouri University of Science and Technology - Residential Housing; Rolla, MO: $28.2 million, 125,000 sf new 450-bed residence hall.

Ranken Jordan Pediatric Bridge Hospital Addition; Maryland Heights, MO: $27 million, 75,000 sf addition to Ranken Jordan Pediatric Bridge Hospital. Includes public circulation space, 30 patient beds, patient treatment areas, and offices. A new receiving dock, storage space, mechanical systems and area for back-or-house functions are in the basement.

Phelps County Regional Medical Center - Dent County Medical Clinic; Salem, MO: $2.6 million, new free-standing 7,600 sf healthcare clinic.

Parkway School District 2018 Bond Program - Phase 1; Chesterfield, MO: $60 million, renovations, additions and upgrades across the district's 33 campuses.

Mount Vernon Township High School District #201; Mount Vernon, IL: New $61.6 million, 300,000 sf, 2-level full service replacement high school.

Edward Jones - 201 Progress Parkway Renovation; Maryland Heights, MO: $28.8 million renovation of existing 125,000 sf building to class A office space.

School District of University City - Two New School Buildings; University City, MO: $27 million, 130,000 sf demolition and reconstruction of two elementary schools; Barbara L. Jordan and Pershing, including administration area, playgrounds, cafeteria, gymnasium, instructional space and library.

Covidiem - Building 530 Energy Plant; St. Louis, MO: $19 million, new 9,922 sf design-build central energy plant for Covidiem's downtown St. Louis Plant. Installed two 75,000-lb/hr steam boilers to replace existing equipment and two 750-ton chillers with a chilled water distribution loop to centralize chilled water production. Included PEMB to house new equipment.

This entire team just finished working together on the Columbia Orthopaedic Group Surgery Expansion.

Chris assisted with the recent COVID-19 response efforts at Phelps Health.
COREY BLACK
PROJECT MANAGER

Corey is responsible for the management of all project activities with direct report to St. Charles County. As McCarthy's on-site team leader, he is the primary point of interface for the County and the design team throughout construction and project close-out to ensure an exceptional client experience. He oversees effective management of our field staff, exercises control over the budget and schedule, and ensures timely and high-quality work by all contractors.

PROJECT EXPERIENCE

**Eastern Reception Diagnostic and Correctional Center;** Bonne Terre, MO: $116 million ten-building complex, 700,000 sf, contains ten concrete structures to house 2,300 maximum security inmates.

**Columbia Orthopaedic Group - Surgery Center Expansion;** Columbia, MO: $9.3 million, two-story expansion of the existing facility. The 17,600 sf addition includes two operating rooms, a procedure room, prep/recovery bays, exam rooms, six guest rooms for overnight stays for discharged patients and support spaces. Associated site improvements are also included in the scope of work.

**HSHS St. Elizabeth's Hospital - Belleville Health Center;** Belleville, IL: $8 million repairs and modifications at St. Elizabeth's Hospital Belleville Campus to provide an aesthetically pleasing and functional environment. Scope includes infrastructure, life safety and tenant upgrades to the existing Medical Arts Building and Physicians Office Building.

**HSHS St. Anthony's Memorial Hospital - Emergency Department Renovation;** Effingham, IL: $4.9 million phased renovation of the hospital's Emergency Department.

**Saint Louis University - A&S STEM;** St. Louis, MO: $13.1 million renovation of Morrissey Hall & Shannon Hall to accommodate Psychology Department, Family Counseling & Therapy, Sociology and Anthropology, Political Science, Women & Gender Studies and African American Studies.

**Saint Louis University - DuBourg Hall and College Church Restoration;** St. Louis, MO: $2.6 million DuBourg Hall Exterior Restoration consisting of brick tuckpointing with miscellaneous painting and aluminum window cladding. The College Church Restoration project consists of miscellaneous interior and exterior bell tower and steeple brick and stone tuckpointing.

**Edward Jones - 201 Progress Parkway Renovation;** Maryland Heights, MO: $28.8 million renovation of existing 125,000-sf building to class A office space.

**Southern Illinois University, Carbondale - Student Services Building;** Carbondale, IL: $30 million (construction value), owner-agent 1-story below grade and 4-story above grade, 87,212 sf Student Services Building including central admissions, records, registration and financial aid departments and visitor parking lot.

**HSHS St. Anthony's Memorial Hospital - Medical Office Building;** Effingham, IL: $11.1 million, 45,000 sf stand alone new medical office building/ambulatory care center.
LUCAS RUNGE
PROJECT SUPERINTENDENT

As superintendent, Lucas’s primary focus is on safety and quality control. He leads overall coordination, supervision and inspection of field work. He participates in developing and updating the schedule throughout the project. He attends quality control pre-installation meetings for all subcontractors and is directly responsible for safety of all field personnel. Lucas will help ensure your project is delivered on time and that the facility meets St. Charles County’s expectations.

PROJECT EXPERIENCE
Columbia Orthopaedic Group - Surgery Center Expansion; Columbia, MO: $9.3 million, two-story expansion of the existing facility. The 17,600 sf addition includes two operating rooms, a procedure room, prep/recovery bays, exam rooms, six guest rooms for overnight stays for discharged patients and support spaces. Associated site improvements are also included in the scope of work.

Ranken Jordan Pediatric Bridge Hospital Addition; Maryland Heights, MO: $27 million, 75,000 sf addition to Ranken Jordan Pediatric Bridge Hospital. Includes public circulation space, 30 patient beds, patient treatment areas and offices. A new receiving dock, storage space, mechanical systems and area for back-or-house functions are in the basement.

Mercy Hospital St. Louis - 2017 Continuous Work Program; St. Louis, MO: $5.8 million continuous work program including a 4,000 sf behavioral health addition to the Emergency Department; updates to the chapel; renovation of the existing ED including an expanded triage area, waiting room and entrance updates; and fit out of offices in the Radiology Department.

Mercy Hospital St. Louis - Continuous Work Program 2016; St. Louis, MO: $10.5 million, 105,000 sf, Mercy St. Louis Continuous Work Program includes child care/autism center, heart and vascular center, 4th floor matt closet, courtyard water leak, 6th floor birthing rooms, 2nd floor demo, adult psych facility, OR Room, renovations to a new waiting room.

Mercy Hospital St. Louis - Skilled Nursing Facilities Demolition; Chesterfield, MO: $522,500, Skilled Nursing Facilities Demo that includes the removal of a 50,000 sf single-story skilled nursing facility stick built and slab on grade.

Mercy Hospital St. Louis - 2015 Continuous Work Program; Creve Coeur, MO: $5.2 million continuous work program at Mercy Hospital St. Louis for 2015.

Saint Louis University - A&S STEM; St. Louis, MO: $13.1 million renovation of Morrissey Hall & Shannon Hall to accommodate Psychology Department, Family Counseling & Therapy, Sociology and Anthropology, Political Science, Women & Gender Studies and African American Studies.

Mercy Hospital St. Louis - 2014 Continuous Work Program; Creve Coeur, MO: $6 million continuous work program throughout 2014
4 COST INFORMATION
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* McCarthy will not bill St. Charles County for our Project Executive support.
** See Project Manager.

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<td>Subcontractors</td>
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<td>Materials</td>
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<td>Equipment</td>
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<th>Bonds and Insurance Per $1,000 Contract Value</th>
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<td>Builder’s Risk Insurance</td>
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<td>General Liability Insurance</td>
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<td>Other General Project Insurance</td>
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<td>Security, Payment &amp; Performance Bonds</td>
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* Total cost of Builder’s Risk Insurance policy
5

NOTARIZED AFFIDAVIT OF WORK AUTHORIZATION & E-VERIFY MOU SIGNATURE PAGE
AFFIDAVIT OF WORK AUTHORIZATION

The Firm who meets the section 285.525, RSMo definition of a business entity must complete and return the following Affidavit of Work Authorization.

Comes now Ryan Molen (Name of Business Entity Authorized Representative) as Vice President (Position/Title) first being duly sworn on my oath, affirm McCarthy Building Companies, Inc. (Business Entity Name) is enrolled and will continue to participate in the E-Verify federal work authorization program with respect to employees hired after enrollment in the program who are proposed to work in connection with the services related to contract(s) with the County for the duration of the contract(s), if awarded in accordance with subsection 2 of section 285.530, RSMo. I also affirm that McCarthy Building Companies, Inc. (Business Entity Name) does not and will not knowingly employ a person who is an unauthorized alien in connection with the contracted services provided to the contract(s) for the duration of the contract(s), if awarded.

In Affirmation thereof, the facts stated above are true and correct. (The undersigned understands that false statements made in this filing are subject to the penalties provided under section 575.040, RSMo.)

Ryan Molen
Printed Name

Vice President
Title

rmolen@mccarthy.com
E-Mail Address

Subscribed and sworn to before me this 18 of May, 2020. I am commissioned as a notary public within the County of St. Louis, State of Missouri, and my commission expires on 04-01-2022.

Signature of Notary

Date

Adult Detention Center

Page 13 of 13
## Company Information

<table>
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<th>Field</th>
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<td>Doing Business As (DBA)</td>
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<tr>
<td>Name</td>
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<td>Administrator</td>
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<td>Client Company Category</td>
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<td>Federal Contractor Category</td>
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<td>Employees being verified</td>
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[View MOU] [Return to Company List]
MEMORANDUM OF UNDERSTANDING BETWEEN THE
DEPARTMENT OF HOMELAND SECURITY, SOCIAL SECURITY ADMINISTRATION,
EMPLOYER, AND DESIGNATED AGENT
REGARDING E-VERIFY

The individuals whose signatures appear below represent that they are authorized to enter into
this MOU on behalf of the Employer, the Designated Agent and the DHS-USCIS respectively.

APPROVED BY:
Employer McCarthy Building Companies, Inc.

<table>
<thead>
<tr>
<th>Name (Please type or print)</th>
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<td>Signature</td>
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Designated Agent TALX Corporation

<table>
<thead>
<tr>
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Department of Homeland Security- Verification Division

USCIS Verification Division

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Revised: July 18, 2007
VETERAN FRIENDLY EMPLOYMENT POLICY
INVITATION TO SELF-IDENTIFY

McCarthy Building Companies, Inc maintains affirmative action programs to promote the employment opportunities of disabled individuals, disabled veterans, and other covered veterans. If you are a disabled individual; a disabled veteran; a veteran who served on active duty in the Armed Forces during a war or in a campaign or expedition for which a campaign badge has been authorized or participated in a United States military operation for which an Armed Forces service medal was awarded; or a recently separated veteran within three years from release or discharge from active duty, and would like to be considered under these programs, please notify Peggy Lynas, Director, Human Resources, immediately or at any time in the future.

Although giving this information is voluntary, such a disclosure by you will enable the Company to further assist you in an appropriate manner concerning your employment. Be assured that your willingness or refusal to provide such information will in no way result in adverse treatment. Information obtained about your disability will be kept confidential and will be used only in conjunction with federal reporting requirements, except that (1) supervisors and managers may be informed regarding restrictions on the work or duties of individuals with disabilities and disabled veteran employees, and regarding necessary accommodations; (2) first-aid and safety personnel may be informed, when and to the extent appropriate, if a condition might require emergency treatment; and (3) government officials engaged in enforcing the Americans with Disabilities Act and laws regulating government contractors may be informed.

EQUAL EMPLOYMENT OPPORTUNITY POLICY FOR PROTECTED VETERANS AND DISABLED INDIVIDUALS

McCarthy Building Companies, Inc. maintains a continuing policy of non-discrimination in employment. It is our policy to provide equal opportunity to individuals with disabilities and protected veterans in all phases of the employment process and in compliance with applicable federal, state, and local laws and regulations. This policy of non-discrimination shall include, but not be limited to, the following employment decisions and practices: hiring; promotions; demotions or transfers; layoffs; recalls; terminations; rates of pay or other forms of compensation; selection for training, including apprenticeship; and recruitment or recruitment advertising.

Employees and applicants McCarthy Building Companies, Inc. will not be subjected to any form of harassment or discrimination for exercising rights protected by, or because of their participation in an investigation or compliance review related to, the Americans With Disabilities Act, Section 503 of the Rehabilitation Act of 1973, the Vietnam Era Veterans’ Readjustment Assistance Act of 1974, the Veterans Employment Opportunities Act of 1998, or any other federal or state non-discrimination law, rule, or regulation.

If you believe that you have been discriminated against in any manner as described above, you should notify Peggy Lynas, Director, Human Resources. McCarthy Building Companies, Inc. will continue to direct management personnel to take such action as may be required to prevent behavior prohibited by this policy. All matters will be investigated and appropriate disciplinary action will be taken, up to and including termination of employment, if necessary. Retaliation against anyone who complains or witnesses behavior contrary to this policy is also prohibited.

McCarthy Building Companies, Inc. also maintains affirmative action programs to implement our equal employment opportunity policy for disabled individuals and protected veterans. Employees or applicants who wish to review McCarthy Building Companies, Inc. affirmative action program for disabled individuals and protected veterans may schedule an appointment to do so by contacting Peggy Lynas during normal business hours.

Michael Boles
Chief Executive Officer

2020
Exception Sheet

If the item(s) and/or services proposed in the response to this Request for Qualifications is in any way different from that contained in this Request for Qualifications, the Firm is responsible to clearly identify all such differences in the space provided below. Otherwise, it will be assumed that the Firm’s offer is in total compliance with all aspects of the proposal or Qualification.

Below are the exceptions or differences to the stated specifications (attach additional sheets as needed):

McCarthy's proposal anticipates negotiating mutually agreeable contract terms.

Date: 5/18/2020
Signature: [Signature]
Title: Vice President
Company: McCarthy Building Companies, Inc.
8

AUDIT CLAUSE FOR CONTRACTS
Audit Clause for Contracts

Examination of Records

The Firm's records must include, but not be limited to, accounting records (hard copy, as well as computer readable data), written policies and procedures, sub-consultant files, indirect cost records, overhead allocation records, correspondence, instructions, drawings, receipts, vouchers, memoranda, and any other data relating to this contract shall be open to inspection and subject to audit and/or reproduction by the County Auditor, or a duly authorized representative from the County, at the County's expense. The Firm must preserve all such records for a period of three years, unless permission to destroy them is granted by the County, or for such longer period as may be required by law, after the final payment. Since the Firm is not subject to the Missouri Sunshine Law (Chapter 610, RSMo), information regarding the Firm's operations, obtained during audits, will be kept confidential.

The Firm will require all sub-consultants under this contract to comply with the provisions of this article by including the requirements listed above in written contracts with the sub-consultants.

Firm Information

Company Name: McCarthy Building Companies, Inc.

Business Address: 1341 N. Rock Hill Rd.

St. Louis, MO 63124

Business Hours: 8:00 am - 5:00 pm

Phone: (314) 968-3300 Fax: (314) 968-4642

Email address: rmolen@mccarthy.com

Contact Person: Ryan Molen

Authorized Signature: ____________________________
(Indicates acceptance of all Qualification terms and conditions)

Date: 5/18/2020
AGREEMENT made as of the 26th day of May in the year 2020

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

St. Charles County Government
St. Charles County Administrative Building
201 North Second Street
St. Charles, Missouri 63301

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

McCarthy Building Companies, Inc. a Missouri corporation
1341 N. Rock Hill Road
St. Louis, MO 63124

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

IFB 20-076 General Contractor to Modify the Adult Detention Center to Reduce the Spread of COVID-19

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

DLR Group Inc., a Kansas corporation
7290 West 133rd Street
Overland Park, KS 66213-4748
Telephone: 407-648-1331

The Owner and Contractor agree as follows.

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

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

This document is not intended for use in competitive bidding. "AIA Document A201™—2007, General Conditions of the Agreement for Construction" is adopted in this document by reference. Do not use with other general conditions unless this document is modified.
TABLE OF ARTICLES
1. THE WORK OF THIS CONTRACT
2. OWNER'S RESPONSIBILITIES
3. COPYRIGHTS AND LICENSES
4. COMPENSATION
5. PAYMENTS
6. DISPUTE RESOLUTION
7. TERMINATION OR SUSPENSION
8. MISCELLANEOUS PROVISIONS
9. SPECIAL TERMS AND CONDITIONS
10. SCOPE OF THE AGREEMENT

EXHIBIT A GUARANTEED MAXIMUM PRICE AMENDMENT

ARTICLE 1 THE WORK OF THIS CONTRACT
§ 1.1 The Contractor shall fully execute the Work described in the GMP Documents, except as specifically indicated in the GMP Documents to be the responsibility of others. The GMP Documents are defined in Article 1 of AIA Document A295™–2008, General Conditions Document of the Contract for Integrated Project Delivery, as modified, which is incorporated herein by reference.

§ 1.2 The Contractor shall purchase and maintain insurance and provide bonds as set forth in Article 11 of AIA Document A295–2008.

§ 1.3 NOT USED.

(Paragraphs deleted)

ARTICLE 2 OWNER'S RESPONSIBILITIES
The Owner's responsibilities are as set forth in the accompanying A295–2008.

ARTICLE 3 COPYRIGHTS AND LICENSES
§ 3.1 The Contractor and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project. If the Owner and Contractor intend to transmit Instruments of Service or any other information or documentation in digital form, they shall endeavor to establish necessary protocols governing such transmissions.

§ 3.2 The Contractor and the Contractor's Subcontractors shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and shall retain all common law, statutory and other reserved rights, including copyrights. Submission or distribution of Instruments of Service 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 reserved rights of the Contractor and the Contractor's Subcontractors.

§ 3.3 Upon execution of this Agreement, the Contractor grants to the Owner a nonexclusive license to use the Contractor's Instruments of Service solely and exclusively for the Project, provided that the Owner substantially performs its obligations, including prompt payment of all sums when due, under this Agreement. The Contractor shall obtain similar nonexclusive licenses from the Contractor's Subcontractors consistent with this Agreement. The license
granted under this section permits the Owner to authorize the Architect and the Architect’s consultants, as well as the Owner’s consultants and separate contractors, to reproduce applicable portions of the Instruments of Service solely and exclusively for use in performing services for the Project. If the Contractor rightfully terminates this Agreement for cause as provided in Section 7.1.4, the license granted in this Section 3.3 shall terminate.

§ 3.3.1 In the event the Owner uses the Instruments of Service without retaining the author of the Instruments of Service, the Owner releases the Contractor and Subcontractor(s) from all claims and causes of action arising from such uses. The Owner, to the extent permitted by law, further agrees to indemnify and hold harmless the Contractor and its Subcontractors from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner’s use of the Instruments of Service under this Section 3.3.1. The Terms of this Section 3.3.1 shall not apply if the Owner rightfully terminates this Agreement for cause under Article 7.

§ 3.4 Except for the licenses granted in this Article 3, no other license or right shall be deemed granted or implied under this Agreement. The Owner shall not assign, delegate, sublicense, pledge or otherwise transfer any license granted herein to another party without the prior written agreement of the Contractor. Any unauthorized use of the Instruments of Service shall be at the Owner’s sole risk and without liability to the Contractor and Contractor’s Subcontractors and consultants.

ARTICLE 4 COMPENSATION

§ 4.1 NOT USED.

(Table deleted)

(Paragraphs deleted)

§ 4.1.5 COMPENSATION FOR REIMBURSABLE EXPENSES

§ 4.1.5.1 Reimbursable Expenses are in addition to compensation for the Contractor’s Pre-GMP Services and include expenses incurred by the Contractor and the Contractor’s Subcontractors directly related to the Project, as follows:

.1 Transportation and authorized out-of-town travel and subsistence;
.2 Long distance services, dedicated data and communication services, teleconferences, Project Web sites, and extranets;
.3 Fees paid for securing approval of authorities having jurisdiction over the Project;
.4 Printing, reproductions, plots, standard form documents;
.5 Postage, handling and delivery;
.6 Expense of overtime work requiring higher than regular rates;
.7 Renderings, models, mock-ups, professional photography, and presentation materials requested by the Owner;
.8 All taxes levied on professional services and on reimbursable expenses;
.9 Site office expenses; and
.10 Other similar Project-related expenditures incurred in performance of Pre-GMP Services.

§ 4.1.5.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Contractor and the Contractor’s Subcontractors plus an administrative fee of two and one-half percent (2.5%) of the expenses incurred.

§ 4.2 SERVICES PROVIDED AFTER ESTABLISHMENT OF THE GMP

§ 4.2.1 For the Contractor’s performance of the Work after establishment of the Guaranteed Maximum Price, the Owner shall pay to the Contractor the Contract Sum in current funds. The Contract Sum consists of the Contractor’s Fee plus the Cost of the Work as that term is defined in the AIA 195–2008 Guaranteed Maximum Price Amendment to the Standard Form Agreement Between the Owner and Contractor for Integrated Project Delivery (GMP Amendment), the form of which is attached as Exhibit A.

§ 4.2.1.1 Contractor’s Fee shall be determined as follows:

(State a lump sum, percentage of the Cost of the Work or other provision for determining the Contractor’s Fee.)

Two and One-Half percent (2.5%) of the Cost of Work excluding any cost covered by rates included the GMP Amendment.

§ 4.2.2 Following the Owner and Contractor’s acceptance of a Guaranteed Maximum Price pursuant to Section 7.10 of A295–2008, the Owner and Contractor shall execute the GMP Amendment amending this Agreement and setting
forth the agreed upon Guaranteed Maximum Price with the information and assumptions upon which it is based. Upon the execution of the GMP Amendment, the Contractor guarantees that the Contract Sum shall not to exceed the Guaranteed Maximum Price, as it is amended from time to time. To the extent the Cost of the Work exceeds the Guaranteed Maximum Price, the Contractor shall bear such costs in excess of the Guaranteed Maximum Price without reimbursement or additional compensation from the Owner.

(Paragraphs deleted)

ARTICLE 5 PAYMENTS

§ 5.1 NOT USED.

(Paragraphs deleted)

§ 5.2 PROGRESS PAYMENTS FOR CONSTRUCTION SERVICES AFTER GUARANTEED MAXIMUM PRICE ESTABLISHED

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

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

§ 5.2.3 Provided that an Application for Payment is received by the Architect not later than the last day of a month, the Owner shall make payment of the certified amount to the Contractor not later than the 30th day of the following month. If an Application for Payment is received by the Architect after the application date fixed above, payment shall be made by the Owner not later than thirty (30) days after the Architect receives the Application for Payment. (Federal, state or local laws may require payment within a certain period of time.)

§ 5.2.4 With each Application for Payment, the Contractor shall submit payrolls, petty cash accounts, receipted invoices or invoices with check vouchers attached, and any other evidence required by the Owner or Architect to demonstrate that cash disbursements already made by the Contractor on account of the Cost of the Work equal or exceed (1) progress payments already received by the Contractor; less (2) that portion of those payments attributable to the Contractor’s Fee; plus (3) payrolls for the period covered by the present Application for Payment.

§ 5.2.5 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor in accordance with the GMP Documents. The schedule of values shall allocate the entire Guaranteed Maximum Price among the various portions of the Work, except that the Contractor’s Fee shall be shown as a single separate item. The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Architect may require. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor’s Applications for Payment.

§ 5.2.6 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment. 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 Contractor on account of that portion of the Work for which the Contractor 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. Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute shall be included as provided in Section 9.21.3.9 of AIA Document A295–2008;

.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 9.21.3.9 of AIA Document A295–2008;

Init.  /  4

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User Notes:
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 Contractor's Fee, less retainage of zero percent (0%). The Contractor's Fee shall be computed upon the Cost of the Work at the rate stated in Section 4.2.1.1 or, if the Contractor'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 bears to a reasonable estimate of the probable Cost of the Work upon its completion;

4 Subtract retainage of five percent (5%) from that portion of the Work that the Contractor self-performs;

5 Subtract the aggregate of previous payments made by the Owner;

6 Subtract the shortfall, if any, indicated by the Contractor in the documentation required by Section 5.2.4 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and

7 Subtract amounts, if any, for which the Architect has withheld or nullified a Certificate for Payment as provided in Section 9.23.5 of AIA Document A295–2008.

§ 5.2.8 The Owner and the Contractor shall agree upon a (1) mutually acceptable procedure for review and approval of payments to Subcontractors and (2) the percentage of retainage held on subcontracts, and the Contractor shall execute subcontracts in accordance with those agreements.

§ 5.2.9 In taking action on the Contractor's Applications for Payment, the Architect shall be entitled to rely on the accuracy and completeness of the information furnished by the Contractor and shall not be deemed to represent that the Architect has made a detailed examination, audit or arithmetic verification of the documentation submitted in accordance with Section 5.2.4 or other supporting data; that the Architect has made exhaustive or continuous on-site inspections; or that the Architect has made examinations to ascertain how or for what purposes the Contractor has used amounts previously paid on account of the Contract. Such examinations, audits and verifications, if required by the Owner, will be performed by the Owner's auditors acting in the sole interest of the Owner.

§ 5.3 FINAL PAYMENT

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

1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Section 9.25.2.2 of AIA Document A295–2008, and to satisfy other requirements, if any, which extend beyond final payment;

2 the Contractor has submitted a final accounting for the Cost of the Work and a final Application for Payment; and

3 a final Certificate for Payment has been issued by the Architect.

§ 5.3.2 The Owner's auditors will review and report in writing on the Contractor's final accounting within 30 days after delivery of the final accounting to the Architect by the Contractor. Based upon such Cost of the Work as the Owner's auditors report to be substantiated by the Contractor's final accounting, and provided the other conditions of Section 5.3.1 have been met, the Architect will, within seven days after receipt of the written report of the Owner's auditors, either issue to the Owner a final Certificate for Payment with a copy to the Contractor, or notify the Contractor and Owner in writing of the Architect's reasons for withholding a certificate as provided in Section 9.23.5.1 of the AIA Document A295–2008. The time periods stated in this Section 5.3.2 supersede those stated in Section 9.23.4.1 of the AIA Document A295–2008. The Architect is not responsible for verifying the accuracy of the Contractor's final accounting.

§ 5.3.3 If the Owner's auditors report the Cost of the Work as substantiated by the Contractor's final accounting to be less than claimed by the Contractor, the Contractor shall be entitled to request mediation of the disputed amount without seeking an initial decision pursuant to Section 13.2 of A295–2008. A request for mediation shall be made by the Contractor within 30 days after the Contractor's receipt of a copy of the Architect's final Certificate for Payment. Failure to request mediation within this 30-day period shall result in the substantiated amount reported by the Owner's auditors becoming binding on the Contractor. Pending a final resolution of the disputed amount, the Owner shall pay the Contractor the amount certified in the Architect's final Certificate for Payment.
§ 5.3.4 The Owner's final payment to the Contractor shall be made no later than 30 days after the issuance of the Architect's final Certificate for Payment, or as follows:

§ 5.3.5 If, subsequent to final payment and at the Owner's request, the Contractor incurs reimbursable costs to correct defective or nonconforming Work, the Owner shall reimburse the Contractor such costs and the Contractor's Fee applicable thereto on the same basis as if such costs had been incurred prior to final payment, but not in excess of the Guaranteed Maximum Price.

ARTICLE 6 DISPUTE RESOLUTION
§ 6.1 NOT USED.

§ 6.2 AFTER ESTABLISHMENT OF THE GUARANTEED MAXIMUM PRICE
§ 6.2.1 Any Claim arising out of or relating to the Project after establishment of the Guaranteed Maximum Price shall be subject to the terms and conditions set forth in Article 13 of the A295-2008 in its entirety.

§ 6.2.2 INITIAL DECISION MAKER
The Architect will serve as Initial Decision Maker pursuant to Section 13.2 of AIA Document A295-2008, unless the parties appoint below another individual, not a party to this Agreement, to serve as Initial Decision Maker. (If the parties mutually agree, insert the name, address and other contact information of the Initial Decision Maker, if other than the Architect.)

ARTICLE 7 TERMINATION OR SUSPENSION
§ 7.1 TERMINATION OR SUSPENSION PRIOR TO ESTABLISHMENT OF THE GUARANTEED MAXIMUM PRICE
§ 7.1.1 If the Owner fails to make payments to the Contractor for Pre-GMP Services in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Contractor's option, cause for suspension of performance of services under this Agreement. If the Contractor elects to suspend services, the Contractor shall give seven days' written notice to the Owner before suspending services. In the event of a suspension of services, the Contractor shall have no liability to the Owner for delay or damage caused by the Owner because of such suspension of services. Before resuming services, the Contractor shall be paid all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Contractor's services. The Contractor's compensation for the remaining Pre-GMP Phase services and the time schedules shall be equitably adjusted.

§ 7.1.2 If the Owner suspends the Project, the Contractor shall be compensated for Pre-GMP Services performed prior to notice of such suspension. When the Project is resumed, the Contractor shall be compensated for expenses incurred in the interruption and resumption of the Contractor's services. The Contractor's compensation for the remaining Pre-GMP Services and the time schedules shall be equitably adjusted.

§ 7.1.3 If the Owner suspends the Project for more than 90 cumulative days for reasons other than the fault of the Contractor, the Contractor may terminate this Agreement by giving not less than seven days' written notice.

§ 7.1.4 Either party may terminate this Agreement upon not less than seven days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

§ 7.1.5 The Owner may terminate this Agreement upon not less than seven days' written notice to the Contractor for the Owner's convenience and without cause.
§ 7.1.6 In the event of termination not the fault of the Contractor, the Contractor shall be compensated for services performed prior to termination, together with Reimbursable Expenses then due and all Termination Expenses as defined in Section 7.1.7.

§ 7.1.7 Termination Expenses are in addition to compensation for the Contractor's Pre-GMP Services and include expenses directly attributable to termination for which the Contractor is not otherwise compensated, plus an amount for the Contractor's anticipated profit on the value of the Pre-GMP Services not performed by the Contractor.

§ 7.1.8 The Owner's rights to use the Contractor's Instruments of Service in the event of a termination of this Agreement are set forth Article 3 and Section 4.3 of this Agreement as well as the A295–2008 General Conditions of the IPD Agreements.

§ 7.2 TERMINATION OR SUSPENSION AFTER ESTABLISHMENT OF THE GUARANTEED MAXIMUM PRICE

§ 7.2.1 TERMINATION BY THE CONTRACTOR

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

1. Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;
2. An act of government, such as a declaration of national emergency that requires all Work to be stopped;
3. Because the Architect has not issued a Certificate for Payment and has not notified the Contractor of the reason for withholding certification as provided in Section 9.23.4.1 of A295–2008, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Contract Documents; or
4. The Owner has failed to furnish to the Contractor promptly, upon the Contractor's request, reasonable evidence as required by Section 2.2.2 of A295–2008.

§ 7.2.1.2 The Contractor may terminate the Contract if, through no act or fault of the Contractor or a Subcontractor, sub-Subcontractor or their agents or employees or any other persons or entities under direct or indirect contract with the Contractor, the Owner causes repeated suspensions, delays or interruptions of the entire Work by the Owner as described in Section 7.2.3 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.

§ 7.2.1.3 If one of the reasons described in Section 7.2.1.1 or 7.2.1.2 exists, the Contractor may, upon seven days' written notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work executed, including reasonable overhead and profit, costs incurred by reason of such termination, and damages.

§ 7.2.1.4 If the Work is stopped for a period of 60 consecutive days through no act or fault of the Contractor or a Subcontractor or their agents or employees or any other persons under contract with the Contractor because the Owner has repeatedly failed to fulfill the Owner's obligations as set forth herein and A295–2008 with respect to matters important to the progress of the Work, the Contractor may, upon seven additional days' written notice to the Owner and the Architect, terminate this Agreement and recover from the Owner as provided in Section 7.2.1.3.

§ 7.2.2 TERMINATION BY THE OWNER FOR CAUSE

§ 7.2.2.1 The Owner may terminate the Contract if the Contractor

1. repeatedly refuses or fails to supply enough properly skilled workers or proper materials;
2. fails to make payment to Subcontractors for materials or labor in accordance with the respective agreements between the Contractor and the Subcontractors;
3. repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or
4. otherwise is guilty of substantial breach of a provision of the GMP Documents.

§ 7.2.2.2 When any of the above reasons exist, the Owner, upon certification by the Initial Decision Maker that sufficient cause exists to justify such action, may without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' written notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:
§ 7.2.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 7.2.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

§ 7.2.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including compensation for the Architect’s services and expenses made necessary thereby, and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The amount to be paid to the Contractor or Owner, as the case may be, shall be certified by the Initial Decision Maker, upon application, and this obligation for payment shall survive termination of the Contract.

§ 7.2.2.4.1 If the Owner terminates the Contract for cause, the amount, if any, to be paid to the Contractor under Section 7.2.2.4 shall not cause the Guaranteed Maximum Price to be exceeded, nor shall it exceed an amount calculated as follows:

1. Take the Cost of the Work incurred by the Contractor to the date of termination;
2. Add the Contractor’s Fee computed upon the Cost of the Work to the date of termination at the rate stated in Section 4.2.1.1 or, if the Contractor’s Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion; and
3. Subtract the aggregate of previous payments made by the Owner.

§ 7.2.3 SUSPENSION BY THE OWNER FOR CONVENIENCE
§ 7.2.3.1 The Owner may, without cause, order the Contractor in writing to suspend, delay or interrupt the Work in whole or in part for such period of time as the Owner may determine.

§ 7.2.3.2 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 7.2.3.1. Adjustment of the Contract Sum shall include profit. No adjustment shall be made to the extent that performance is, was or would have been so suspended, delayed or interrupted by another cause for which the Contractor is responsible; or that an equitable adjustment is made or denied under another provision of the Contract.

§ 7.2.4 TERMINATION BY THE OWNER FOR CONVENIENCE
§ 7.2.4.1 The Owner may, at any time, terminate the Contract for the Owner’s convenience and without cause.

§ 7.2.4.2 Upon receipt of written notice from the Owner of such termination for the Owner’s convenience, the Contractor shall
1. cease operations as directed by the Owner in the notice;
2. take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and
3. except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.

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

§ 7.2.5 In the event of any termination by the Owner, the Owner shall also pay the Contractor fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Contractor that the Owner elects to retain and that is not otherwise included in the Cost of the Work. To the extent that the Owner elects to take legal
assignment of subcontracts and purchase orders (including rental agreements), the Contractor shall, as a condition of receiving the payments referred to in this Article 7, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Contractor, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Contractor under such subcontracts or purchase orders.

ARTICLE 8  MISCELLANEOUS PROVISIONS
§ 8.1 This Agreement shall be governed by the law of the place where the Project is located.

§ 8.2 Terms in this Agreement shall have the same meaning as those in A295–2008.

§ 8.3 The Owner and Contractor, respectively, bind themselves, their agents, successors, assigns and legal representatives to this Agreement. Neither the Owner nor the Contractor shall assign this Agreement without the written consent of the other, except that the Owner may assign this Agreement to a lender providing financing for the Project if the lender agrees to assume the Owner’s rights and obligations under this Agreement.

§ 8.4 Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the Owner or Contractor.

§ 8.5 If the Contractor or Owner receives information specifically designated by the other party as “confidential” or “business proprietary,” the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except to (1) its employees, (2) those who need to know the content of such information in order to perform services or construction solely and exclusively for the Project, or (3) its consultants and contractors whose contracts include similar restrictions on the use of confidential information.

§ 8.6 Contractor is providing construction services as set forth in the Contract ONLY. Contractor’s Work does not include a scientific evaluation of virus protection protocols, epidemiology or immunology considerations, an analysis of prevention protocols, alternatives or any medically related advise. Contractor in no way represents, warrants, or promises that the result of Contractor’s Work will prevent the spread of an infectious disease or death from an infectious disease. Any scientific or medical evaluations of the efficacy of any particular portion of the Work shall not be the responsibility of the Contractor.

ARTICLE 9  SPECIAL TERMS AND CONDITIONS
Special terms and conditions that modify this Agreement are as follows:

ARTICLE 10  SCOPE OF THE AGREEMENT
§ 10.1 This Agreement represents the entire and integrated agreement between the Owner and the Contractor and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Owner and Contractor.

§ 10.2 The following documents comprise the Agreement:
3. Digital Data Protocol Exhibit, if completed, as mutually agreed by the parties
4. Other documents:
(List other documents, if any, forming part of the Agreement.)

Contractor’s Bid submitted in response to Owner’s Invitation for Bids 20-076
This Agreement entered into as of the day and year first written above.

OWNER (Signature)
(Printed name and title)

CONTRACTOR (Signature)
(Printed name and title)

PRESIDENT - CENTRAL REGION
Guaranteed Maximum Price Amendment

This Exhibit is incorporated into the accompanying Agreement dated the 26th day of May in the year 2020.
(In words, indicate day, month and year.)

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

IFB 20-076 General Contractor to Modify the Adult Detention Center to Reduce the Spread of COVID-19

ARTICLE A.1
§ A.1.1 GUARANTEED MAXIMUM PRICE
Pursuant to Section 4.2.2 of the Agreement, the Owner and Contractor hereby amend the Agreement to establish a Guaranteed Maximum Price. As agreed by the Owner and Contractor, the Guaranteed Maximum Price is an amount that the Contract Sum shall not exceed. The Contract Sum consists of the Contractor’s Fee plus the Cost of the Work, as that term is defined in Article A.3 of this Amendment.

§ A.1.1.1 The Contract Sum is guaranteed by the Contractor not to exceed ten-million dollars ($ 10,000,000 ), subject to additions and deductions by Change Order as provided in the GMP Documents.
(Insert specific provisions if the Contractor is to participate in any savings.)

§ A.1.1.2 ITEMIZED STATEMENT OF THE GUARANTEED MAXIMUM PRICE
Provided below is an itemized statement of the Guaranteed Maximum Price organized by trade categories, allowances, contingencies, alternates, the Contractor’s Fee, and other items that comprise the Guaranteed Maximum Price.
(Provide below or reference an attachment.)

Contractor shall work with Owner and Architect to finalized detailed project scope based on the project scope outlined in RFP 20-076 for General Contractor to Modify the Adult Detention Center to Reduce the Spread of COVID-1.

§ A.1.1.3 The Guaranteed Maximum Price is based on the following alternates, if any, which are described in the GMP Documents and are hereby accepted by the Owner.
(State the numbers or other identification of accepted alternates. If the GMP Documents permit the Owner to accept other alternates subsequent to the execution of this Agreement, attach a schedule of such other alternates showing the amount for each and the date when the amount expires.)

§ A.1.1.4 Allowances included in the Guaranteed Maximum Price, if any:
(Identify allowance and state exclusions, if any, from the allowance price.)

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

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

This document is not intended for use in competitive bidding. AIA Document A201® – 2008, General Conditions of the Agreement for Integrated Project Delivery, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.
§ A.1.1.5 Assumptions, if any, on which the Guaranteed Maximum Price is based:

§ A.1.1.6 To the extent that the GMP Documents require further development by the Architect and Contractor, the Contractor has provided in the Guaranteed Maximum Price for such further development consistent with the GMP Documents and reasonably inferable therefrom. Such further development does not include such things as changes in scope, systems, kinds and quality of materials, finishes or equipment, all of which, if required, shall be incorporated by Change Order.

§ A.1.1.7 The Guaranteed Maximum Price is based upon the following Supplementary and other Conditions of the Contract:

<table>
<thead>
<tr>
<th>Document</th>
<th>Title</th>
<th>Date</th>
<th>Pages</th>
</tr>
</thead>
</table>

§ A.1.1.8 The Guaranteed Maximum Price is based upon the following Specifications:
(Either list the Specifications here or refer to an exhibit attached to this Agreement.)

<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
<th>Date</th>
<th>Pages</th>
</tr>
</thead>
</table>

§ A.1.1.9 The Guaranteed Maximum Price is based upon the following Drawings:
(Either list the Drawings here or refer to an exhibit attached to this Agreement.)

<table>
<thead>
<tr>
<th>Number</th>
<th>Title</th>
<th>Date</th>
</tr>
</thead>
</table>

ARTICLE A.2

§ A.2.1 The anticipated date of Substantial Completion established by this Amendment:


§ A.2.2 The issuance dates for the Construction Documents upon which the anticipated Substantial Completion date relies are as follows:

<table>
<thead>
<tr>
<th>Document</th>
<th>Issuance Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Construction Drawings and Specifications</td>
<td>July 3, 2020</td>
</tr>
</tbody>
</table>

ARTICLE A.3

§ A.3.1 COST OF THE WORK

§ A.3.1.1 The term Cost of the Work shall mean costs necessarily incurred by the Contractor in the proper performance of the Work. Such costs shall be at rates not higher than the standard paid at the place of the Project except with prior consent of the Owner. "Cost(s)" shall be defined as Contractor’s rate as set forth in this Agreement. Where no rate is stated, "cost(s)" shall be the actual price paid by Contractor. The Cost of the Work shall include only the items set forth in this Section A.3.1.
§ A.3.1.2 Where any cost is subject to the Owner’s prior approval, the Contractor shall obtain this approval prior to incurring the cost. The parties shall endeavor to identify any such costs prior to executing this Agreement.

§ A.3.1.3 LABOR COSTS
§ A.3.1.3.1 Rates as listed on Exhibit A, attached hereto, for construction workers directly employed by the Contractor to perform the construction of the Work at the site or, with the Owner’s prior approval, at off-site workshops.

§ A.3.1.3.2 Rates as listed on Exhibit A, attached hereto, for salaries of the Contractor’s supervisory and administrative personnel when stationed at the site with the Owner’s prior approval.
(If it is intended that the wages or salaries of certain personnel stationed at the Contractor’s principal or other offices shall be included in the Cost of the Work, set forth below the personnel to be included, whether for all or only part of their time, and the rates at which their time will be charged to the Work.)

Person included | Status (full-time/part-time) | Rate ($0.00) | Rate (unit of time)
--- | --- | --- | ---

§ A.3.1.3.3 Rates as listed on Exhibit A, attached hereto, for salaries of the Contractor’s supervisory or administrative personnel engaged at the main office, factories, workshops or on the road, in expediting the production or transportation of materials or equipment required for the Work, but only for that portion of their time required for the Work.

§ A.3.1.3.4 Costs paid or incurred by the Contractor for taxes, insurance, contributions, assessments and benefits required by law or collective bargaining agreements and, for personnel not covered by such agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, are included in the rates referenced in Sections A.3.1.3.1 through A.3.1.3.3.

(Paragraph deleted)
§ A.3.1.3.5 Not used.

§ A.3.1.4 SUBCONTRACT COSTS
Payments made by the Contractor to Subcontractors in accordance with the requirements of the subcontracts.

§ A.3.1.5 COSTS OF MATERIALS AND EQUIPMENT INCORPORATED IN THE COMPLETED CONSTRUCTION
§ A.3.1.5.1 Costs, including transportation and storage, of materials and equipment incorporated or to be incorporated in the completed construction.

§ A.3.1.5.2 Costs of materials described in the preceding Section A.3.1.5.1 in excess of those actually installed to allow for reasonable waste and spoilage. Unused excess materials, if any, shall become the Owner’s property at the completion of the Work or, at the Owner’s option, shall be sold by the Contractor. Any amounts realized from such sales shall be credited to the Owner as a deduction from the Cost of the Work.

§ A.3.1.6 COSTS OF OTHER MATERIALS AND EQUIPMENT, TEMPORARY FACILITIES AND RELATED ITEMS
§ A.3.1.6.1 Costs of transportation, storage, installation, maintenance, dismantling and removal of materials, supplies, temporary facilities, machinery, equipment and hand tools not customarily owned by construction workers that are provided by the Contractor at the site and fully consumed in the performance of the Work. Costs of materials, supplies, temporary facilities, machinery, equipment and tools that are not fully consumed shall be based on the cost or value of the item at the time it is first used on the Project site less the value of the item when it is no longer used at the Project site. Costs for items not fully consumed by the Contractor shall mean fair market value.

§ A.3.1.6.2 Rental charges for temporary facilities, machinery, equipment and hand tools not customarily owned by construction workers that are provided by the Contractor at the site and costs of transportation, installation, minor repairs, dismantling and removal. The total rental cost of any Contractor-owned item may not exceed the purchase price of any comparable item. Rates of Contractor-owned equipment and quantities of equipment shall be subject to the Owner’s prior approval. Approved rates are as listed on Exhibit A, attached hereto, or the prevailing rental rate if not listed on Exhibit A.

§ A.3.1.6.3 Costs of removal of debris from the site of the Work and its proper and legal disposal.
(Paragraph deleted)
§ A.3.1.6.4 On-site office support items including field office, vehicles, office furnishings, calculators, supplies and similar type items, reproduction costs, costs of facsimile transmissions and long-distance telephone calls, postage and express delivery charges, telephone and mobile phone services, data lines, internet and associated charges at the site, radio/communications systems and equipment reproducible interference background drawings, storage of records and reasonable petty cash expenses in connection with the Project.

§ A.3.1.6.5 Costs of materials and equipment suitably stored off the site at a mutually acceptable location, subject to the Owner’s prior approval.

§ A.3.1.6.6 Contractor’s safety, quality and substance abuse programs.

§ A.3.1.7 MISCELLANEOUS COSTS
§ A.3.1.7.1 Insurance for Contractor and contractor default insurance shall be in accordance with the rates established in Exhibit A attached to the GMP Proposal; applicable deductibles for Builders’ Risk insurance; and performance and payment bond premiums for Contractor, and its subcontractors and suppliers that can be attributed to this Contract.

§ A.3.1.7.2 Sales, use or similar taxes imposed by a governmental authority that are related to the Work and for which the Contractor is liable.

§ A.3.1.7.3 Fees and assessments for the building permit and for other permits, licenses and inspections for which the Contractor is required by the GMP Documents to pay.

§ A.3.1.7.4 Fees of laboratories for tests required by the GMP Documents, except those related to defective or nonconforming Work for which reimbursement is excluded by Section 12.4.3 of AIA Document A295™-2008 or by other provisions of the GMP Documents, and which do not fall within the scope of Section A.3.1.8.3.

§ A.3.1.7.5 Royalties and license fees paid for the use of a particular design, process or product required by the GMP Documents; the cost of defending suits or claims for infringement of patent rights arising from such requirement of the GMP Documents; and payments made in accordance with legal judgments against the Contractor resulting from such suits or claims and payments of settlements made with the Owner’s consent. However, such costs of legal defenses, judgments and settlements shall not be included in the calculation of the Contractor’s Fee or subject to the Guaranteed Maximum Price. If such royalties, fees and costs are excluded by the last sentence of Section 9.17 of A295™-2008 or other provisions of the GMP Documents, then they shall not be included in the Cost of the Work.

§ A.3.1.7.6 Rates as listed on Exhibit A, attached hereto, for electronic equipment and software, and maintenance of same, directly related to the Work with the Owner’s prior approval.

§ A.3.1.7.7 Deposits lost for causes other than the Contractor’s negligence or failure to fulfill a specific responsibility in the GMP Documents.

§ A.3.1.7.8 Legal, mediation and arbitration costs, including attorneys’ fees, other than those arising from disputes between the Owner and Contractor, reasonably incurred by the Contractor after the execution of this Agreement in the performance of the Work and with the Owner’s prior approval, which shall not be unreasonably withheld.

§ A.3.1.7.9 Subject to the Owner’s prior approval, expenses incurred in accordance with the Contractor’s standard written personnel policy for relocation and temporary living allowances of the Contractor’s personnel required for the Work.

§ A.3.1.7.10 That portion of the reasonable expenses of the Contractor’s supervisory or administrative personnel incurred while traveling in discharge of duties connected with the Work.

§ A.3.1.8 OTHER COSTS AND EMERGENCIES
§ A.3.1.8.1 Other costs incurred in the performance of the Work if, and to the extent, approved in advance in writing by the Owner.
§ A.3.1.8.2 Costs incurred in taking action to prevent threatened damage, injury or loss in case of an emergency affecting the safety of persons and property, as provided in Section 9.24.4 of A295–2008.

§ A.3.1.8.3 Costs of repairing or correcting damaged or nonconforming Work executed by the Contractor, Subcontractors or suppliers, provided that such damaged or nonconforming Work was not caused by negligence or failure to fulfill a specific responsibility of the Contractor and only to the extent that the cost of repair or correction is not recovered by the Contractor from insurance, sureties, Subcontractors, suppliers, or others.

§ A.3.1.9 RELATED PARTY TRANSACTIONS
§ A.3.1.9.1 For purposes of this Section A.3.1.9, the term "related party" shall mean a parent, subsidiary, affiliate or other entity having common ownership or management with the Contractor; any entity in which any stockholder in, or management employee of, the Contractor owns any interest in excess of ten percent in the aggregate; or any person or entity which has the right to control the business or affairs of the Contractor. The term "related party" includes any member of the immediate family of any person identified above.

§ A.3.1.9.2 If any of the costs to be reimbursed arise from a transaction between the Contractor and a related party, the Contractor shall notify the Owner of the specific nature of the contemplated transaction, including the identity of the related party and the anticipated cost to be incurred, before any such transaction is consummated or cost incurred. If the Owner, after such notification, authorizes the proposed transaction, then the cost incurred shall be included as a cost to be reimbursed, and the Contractor shall procure the Work, equipment, goods or service from the related party, as a Subcontractor, according to the terms of Section A.3.4. If the Owner fails to authorize the transaction, the Contractor shall procure the Work, equipment, goods or service from some person or entity other than a related party according to the terms of Section A.3.4.

§ A.3.2 COSTS NOT INCLUDED IN THE COST OF THE WORK
§ A.3.2.1 The Cost of the Work shall not include the items listed below:
   .1 Salaries and other compensation of the Contractor’s personnel stationed at the Contractor’s principal office or offices other than the site office, except as specifically provided in Section A.3.1.3. or as may otherwise be provided;
   .2 Expenses of the Contractor’s principal office and offices other than the site office;
   .3 Overhead and general expenses, except as may be expressly included in Section A.3.1;
   .4 The Contractor’s capital expenses, including interest on the Contractor’s capital employed for the Work;
   .5 Except as provided in Section A.3.1.8.3 of this Agreement, costs due to the negligence or failure of the Contractor, Subcontractors and suppliers or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable to fulfill a specific responsibility of the Contract;
   .6 Any cost not specifically and expressly described in Section A.3.1; and
   .7 Costs, other than costs included in Change Orders approved by the Owner, that would cause the Guaranteed Maximum Price to be exceeded.

§ A.3.3 DISCOUNTS, REBATES AND REFUNDS
§ A.3.3.1 Cash discounts obtained on payments made by the Contractor shall accrue to the Owner if (1) before making the payment, the Contractor included them in an Application for Payment and received payment from the Owner, or (2) the Owner has deposited funds with the Contractor with which to make payments; otherwise, cash discounts shall accrue to the Contractor. Trade discounts, rebates, refunds and amounts received from sales of surplus materials and equipment shall accrue to the Owner, and the Contractor shall make provisions so that they can be obtained.

§ A.3.3.2 Amounts that accrue to the Owner in accordance with the provisions of Section A.3.3.1 shall be credited to the Owner as a deduction from the Cost of the Work.

§ A.3.4 SUBCONTRACTS AND OTHER AGREEMENTS
§ A.3.4.1 Those portions of the Work that the Contractor does not customarily perform with the Contractor’s own personnel shall be performed under subcontracts or by other appropriate agreements with the Contractor. The Owner may designate specific persons from whom, or entities from which, the Contractor shall obtain bids. The Contractor shall obtain bids from Subcontractors and from suppliers of materials or equipment fabricated especially for the Work and shall deliver such bids to the other Project Participants. The Project Participants shall then determine which bids
will be accepted. The Contractor shall not be required to contract with anyone to whom the Contractor has reasonable objection.

§ A.3.4.2 When a specific bidder (1) is recommended to the Owner by the Contractor; (2) is qualified to perform that portion of the Work; and (3) has submitted a bid that conforms to the requirements of the GMP Documents without reservations or exceptions, but the Owner requires that another bid be accepted, then the Contractor may require that a Change Order be issued to adjust the Guaranteed Maximum Price by the difference between the bid of the person or entity recommended to the Owner by the Contractor and the amount of the subcontract or other agreement actually signed with the person or entity designated by the Owner.

§ A.3.4.3 Subcontracts or other agreements shall conform to the applicable payment provisions of this Agreement, and shall not be awarded on the basis of cost plus a fee without the prior consent of the Owner. If the Subcontract is awarded on a cost-plus a fee basis, the Contractor shall provide in the Subcontract for the Owner to receive the same audit rights with regard to the Subcontractor as the Owner receives with regard to the Contractor in Section A.3.5, below.

§ A.3.5 ACCOUNTING RECORDS
The Contractor shall keep full and detailed records and accounts related to the cost of the Work and exercise such controls as may be necessary for proper financial management under this Contract and to substantiate all costs incurred. The accounting and control systems shall be satisfactory to the Owner. The Owner and the Owner’s auditors shall, during regular business hours and upon reasonable notice, be afforded access to, and shall be permitted to audit and copy, the Contractor’s records and accounts, including complete documentation supporting accounting entries, books, correspondence, instructions, drawings, receipts, subcontracts, Subcontractor’s proposals, purchase orders, vouchers, memoranda and other data relating to this Contract. The Contractor shall preserve these records for a period of three years after final payment, or for such longer period as may be required by law. The composition of any agreed-upon rates shall not be subject to audit.
§ A.3.6 CONTRACTOR’S INSURANCE AND BONDS

§ A.3.6.1 Contractor’s Required Insurance Coverage

§ A.3.6.1.1 Commercial General Liability
§ A.3.6.1.1.1 Commercial General Liability insurance for the Project written on an occurrence form with policy limits of not less than Two Million Dollars ($2,000,000) each occurrence, Four Million Dollars ($4,000,000) general aggregate, and Four Million Dollars ($4,000,000) aggregate for products-completed operations hazard, providing coverage for claims as set forth in Section 11.1.1.4 - 11.1.1.5 and 11.1.1.7 - 11.1.1.8 of the General Conditions.

§ A.3.6.1.1.2 The Contractor’s Commercial General Liability policy under this Section A.3.6.1.1 shall not contain an exclusion or restriction of coverage for the following:
.1 Claims by one insured against another insured, if the exclusion or restriction is based solely on the fact that the claimant is an insured, and there would otherwise be coverage for the claim.
.2 Claims for property damage to the Contractor’s Work arising out of the products-completed operations hazard where the damaged Work or the Work out of which the damage arises was performed by a Subcontractor.
.3 Claims for bodily injury other than to employees of the insured.
.4 Claims for indemnity under Section 9.18 of the General Conditions arising out of injury to employees of the insured, to the extent available.
.5 Claims or loss excluded under a prior work endorsement or other similar exclusionary language.
.6 Claims or loss due to physical damage under a prior injury endorsement or similar exclusionary language.
.7 Claims related to residential, multi-family, or other habitational projects, if the Work is to be performed on such a project.
.8 Claims related to roofing, if the Work involves roofing.
.9 Claims related to exterior insulation finish systems (EIFS), synthetic stucco or similar exterior coatings or surfaces, if the Work involves such coatings or surfaces.
.10 Claims related to earth subsidence or movement, where the Work involves such hazards.
.11 Claims related to explosion, collapse and underground hazards, where the Work involves such hazards.

§ A.3.6.1.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Contractor, with policy limits of not less than Two Million Dollars ($2,000,000) per accident, for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles along with any other statutorily required automobile coverage.

§ A.3.6.1.3 The Contractor may achieve the required limits and coverage for Commercial General Liability and Automotive Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella insurance policies result in the same or greater coverage as the coverages required under Section A.3.6.1.1 and A.3.6.1.2, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers.

§ A.3.6.1.4 Workers’ Compensation at statutory limits.

§ A.3.6.1.5 Employers’ Liability with policy limits not less than One Million Dollars ($1,000,000) each accident, One Million Dollars ($1,000,000) each employee, and One Million Dollars ($1,000,000) policy limit.

§ A.3.6.1.6 Jones Act, and the Longshore & Harbor Workers’ Compensation Act, as required, if the Work involves hazards arising from work on or near navigable waterways, including vessels and docks

§ A.3.6.1.7 If the Contractor is required to furnish professional services as part of the Work, the Contractor shall procure Professional Liability insurance covering performance of the professional services, with policy limits of not less than One Million Dollars ($1,000,000) per claim and One Million Dollars ($1,000,000) in the aggregate.

§ A.3.6.1.8 If the Work involves the transport, dissemination, use, or release of pollutants, the Contractor shall procure Pollution Liability insurance, with policy limits of not less than One Million Dollars ($1,000,000) per claim and One Million Dollars ($1,000,000) in the aggregate.
§ A.3.6.1.9 Insurance for the use or operation of manned or unmanned aircraft, if the Work requires such activities, with policy limits of not less than Five Million Dollars ($5,000,000) per claim and Five Million Dollars ($5,000,000) in the aggregate.

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

OWNER (Signature)

(Printed name and title)

CONTRACTOR (Signature)

(Printed name and title)

PRESIDENT - CENTRAL REGION
### Exhibit A

#### Rates

**PROJECT MANAGEMENT STAFF**

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**ESTIMATING AND PRECONSTRUCTION**

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**IT RATE PER HR ON PROJECT MANAGEMENT STAFF**

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**CONSTRUCTION LABOR**

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**BUILDER'S RISK INSURANCE**

$4,000 (Based on $10 M Project Value)

**CONTRACTOR DEFAULT INSURANCE**

1.225%

**BONDS AND INSURANCE PER $1,000 CONTRACT VALUE**
GENERAL LIABILITY INSURANCE  $8.89
PAYMENT & PERFORMANCE BONDS  $5.27
General Conditions of the Contract for Integrated Project Delivery

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

IFB 20-076 General Contractor to Modify the Adult Detention Center to Reduce the Spread of COVID-19

THE OWNER:
(Name, legal status and address)

St. Charles County Government
St. Charles County Administrative Building
201 North Second Street
St. Charles, Missouri 63301

THE ARCHITECT:
(Name, legal status and address)

DLR Group Inc., a Kansas corporation
7290 West 133rd Street
Overland Park, KS 66213-4748
Telephone: 407-648-1331

THE CONTRACTOR:
(Name, legal status and address)

McCarthy Building Companies, Inc. a Missouri corporation
1341 N. Rock Hill Road
St. Louis, MO 63124

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

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.
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ARTICLE 1 GENERAL PROVISIONS

§ 1.1 PURPOSE
The Owner, Architect and Contractor have agreed to plan, design, and construct the Project in a collaborative environment following the principles of Integrated Project Delivery to the extent set forth in these General Conditions and to the extent set forth in the Agreement between Owner and Contractor and Agreement between Owner and Architect and to utilize Building Information Modeling to maximize the use of their knowledge, skills, and services for the benefit of the Project. The Architect and Contractor will deliver the Project in the following phases, which may overlap: Conceptualization, Criteria Design, Detailed Design, Construction Documents, Construction and Closout. Notwithstanding the foregoing or anything to the contrary in the Contract, Contractor shall not be required to provide professional services that constitute the practice of architecture or engineering.

§ 1.2 INITIAL INFORMATION
The Owner, Architect and Contractor may rely on the Initial Information. Each, however, recognizes that such information may materially change and, in that event, the parties shall agree upon appropriate adjustments to the Architect's and Contractor's services and compensation, and the schedule. The Initial Information is as follows:
(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.")

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

Contractor to work with Owner and Architect to develop the scope of work outlined in IFB 20-076General Contractor to Modify the Adult Detention Center to Reduce the Spread of COVID-19.

§ 1.2.2 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.)

To be determined later by mutual agreement.

§ 1.2.3 The Owner's Budget for the Work:
(Provide total and, if known, a line item breakdown.)

Ten-Million ($10,000,000)

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

.1 Design phase milestone dates, if any:


.2 Commencement of construction:

Construction mobilization on or Before June 15, 2020

.3 Substantial Completion date or milestone dates:

December 20, 2020

.4 Other:

Final Completion December 30, 2020

§ 1.2.5 The Owner's requirements for accelerated or fast-track scheduling, or phased construction are set forth below:
(List number and type of procurement packages.)

To be determined later by mutual agreement.

§ 1.2.6 Other Project information:
None.

§ 1.2.7 The Owner identifies the following representative in accordance with Section 2.1.1:
(List name, address and other information.)

Chris Slagle
Sr. Project Manager
Landmark Contract Management, Inc.
St. Louis, Missouri 63026
cslagle@lcminc.com
314-540-3801

§ 1.2.8 The persons or entities, in addition to the Owner's representative, who are required to review submittals to the Owner are as follows:
(List name, address and other information.)

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

.1  Geotechnical Engineer:

.2  Other, if any:

Cornerstone Detention Products, Inc.

§ 1.2.10 The Architect identifies the following representative in accordance with Section 3.1.1:
(List name, address and other information.)

Pete Obarowski
Architect
DLR Group
419 7th Street, NW
Washington DC 20004

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

.1  Structural Engineer:

.2  Mechanical Engineer:


.3 Electrical Engineer:

.4 Other, if any:

§ 1.2.12 The Contractor identifies the following representative in accordance with Section 4.1.1:
(List name, address and other information.)

Chris Nisbet
McCarthy Building Companies, Inc.
1341 North Rock Hill Rd.
St. Louis, Missouri 63026

§ 1.2.13 The Contractor will retain the following consultants and Subcontractors to assist the Contractor in its performance of the Pre-GMP Services:
(List name, address and other information.)

§ 1.2.14 Other Initial Information:

§ 1.3 BASIC DEFINITIONS
§ 1.3.1 THE WORK
The term "Work" means the construction and services required of the Contractor by the Guaranteed Maximum Price Documents, whether completed or partially completed, and includes all other labor, materials, equipment and services provided or to be provided by the Contractor to fulfill the Contractor’s obligations.

§ 1.3.2 THE PROJECT
The Project consists of the whole of the Architect’s Services and the Work as that term is defined in Section 1.3.1 above and the professional services related thereto.

§ 1.3.3 THE DRAWINGS
The Drawings are the graphic and pictorial portions of the Guaranteed Maximum Price Documents showing the design, location and dimensions of the Work, generally including Models, plans, elevations, sections, details, schedules and diagrams.

§ 1.3.4 THE SPECIFICATIONS
The Specifications are that portion of the Guaranteed Maximum Price Documents consisting of the written requirements for materials, equipment, systems, standards and workmanship for the Work, and performance of related services.
§ 1.3.5 BUILDING INFORMATION MODEL
The Building Information Model (Model(s)), is a digital representation of the physical and functional characteristics of the Project. The term "Model" may be used to describe a single model or multiple models used in the aggregate. "Building Information Modeling" (BIM) means the process and technology used to create the Model.

§ 1.3.6 INSTRUMENTS OF SERVICE
Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work provided by the Architect, the Architect's consultants, the Contractor, Subcontractors, or Sub-subcontractors under their respective agreements. Instruments of Service may include, without limitation, studies, surveys, Models, sketches, drawings, specifications, and other similar materials.

§ 1.3.7 THE GUARANTEED MAXIMUM PRICE
The Guaranteed Maximum Price represents an amount that the Contract Sum shall not exceed as agreed to by the Owner and Contractor.

§ 1.3.8 THE GUARANTEED MAXIMUM PRICE DOCUMENTS
The Guaranteed Maximum Price Documents (GMP Documents) consist of the agreement between the Owner and Contractor (Owner-Contractor Agreement), General, Supplementary and other Conditions of the Contract (Conditions of the Contract), Drawings, Specifications, and Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive or (4) a written order for a minor change in the Work issued by the Architect.

§ 1.3.9 THE CONTRACT
The GMP Documents comprise the Contract for Integrated Project Delivery. The Contract represents the entire and integrated agreement between the Owner and the Contractor and supersedes prior negotiations, representations or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The GMP Documents shall not be construed to create a contractual relationship of any kind (1) between the Contractor and the Architect or the Architect’s consultants, (2) between the Owner and a Subcontractor or a Sub-subcontractor, (3) between the Owner and the Architect or the Architect’s consultants or (4) between any persons or entities other than the Owner and the Contractor. The Architect shall, however, be entitled to performance and enforcement of obligations under the Contract intended to facilitate performance of the Architect’s duties.

§ 1.3.10 THE CONSTRUCTION DOCUMENTS
The Construction Documents consist of the Architect further development of the GMP Documents as necessary to construct the Project.

§ 1.3.11 OWNER’S BUDGET FOR THE WORK
The Owner’s Budget for the Work is the amount the Owner has budgeted to construct all elements of the Project designed or specified by the Architect and includes contractors’ general conditions costs, overhead and profit. The Owner’s Budget for the Work does not include the compensation of the Architect, the costs of the land, rights-of-way, financing, contingencies for changes in the Work or other costs that are the responsibility of the Owner.

§ 1.3.12 INITIAL DECISION MAKER
The Initial Decision Maker is the person identified in the Owner-Contractor Agreement to render initial decisions on Claims in accordance with Section 13.2 and certify termination of the Owner-Contractor Agreement under Section 7.2.2 of the Owner-Contractor Agreement, A195–2008, Standard Form of Agreement Between Owner and Contractor for Integrated Project Delivery.

§ 1.3.13 INTEGRATED PROJECT DELIVERY
Integrated Project Delivery is a project delivery approach that integrates people, systems, business structures and practices into a process that collaboratively harnesses the talents and insights of all participants to reduce waste and optimize efficiency through all phases of design, fabrication and construction.

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

§ 1.4.2 Neither organization of the Specifications into divisions, sections and articles, arrangement of Drawings, organization of the Model, or the issuance of separate Models shall control the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade.

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

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

§ 1.4.5 INTERPRETATION
In the interest of brevity, words such as "all" and "any" and articles such as "the" and "an" may be omitted, but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement.

§ 1.5 USE OF DRAWINGS, SPECIFICATIONS AND OTHER INSTRUMENTS OF SERVICE
The Architect, Architect’s consultants, Contractor, Subcontractors, Sub-subcontractors and material or equipment suppliers are authorized, solely and exclusively for use in completion of the Project, to use and reproduce the Instruments of Service provided to them. All copies made under this authorization shall bear the copyright notice, if any, shown on the Instruments of Service. The Architect, Architect’s consultants, Contractor, Subcontractors, Sub-subcontractors, and material or equipment suppliers may not use another author’s Instruments of Service on other projects or for additions to this Project without the specific written consent of the Owner and the author of the Instruments of Service.

§ 1.5.1 The Architect and Contractor shall utilize a Model as Instruments of Service to the greatest extent practicable and pursuant to Section 1.5.2. Unless the parties mutually agree otherwise, the Architect shall be responsible for the integration and coordination of the Model throughout the design and construction of the Project.

§ 1.5.2 SOFTWARE AND DATA EXCHANGE PROTOCOLS
The Owner, Architect and Contractor shall, at the earliest practical moment, meet and delineate the types of software to be used on the Project and establish protocols, standards and tolerances as may be required for the proper execution of the Work. The Owner, Architect and Contractor shall work together to establish the permitted uses for all digital information, including the Model, to be exchanged on the Project. Such determinations shall be set forth in a mutually agreed document, that shall be incorporated by reference into all agreements for services or construction for the Project.

§ 1.6 COORDINATION
The Owner, Architect and Contractor shall coordinate the services provided by one another’s consultants, subconsultants, contractors and Subcontractors. Upon request, the Owner, Architect and Contractor shall furnish copies of the scopes of services in the services contracts they hold. The Owner shall require that its consultants and contractors maintain professional liability insurance and other liability insurance, as appropriate to the services provided.

ARTICLE 2 OWNER
§ 2.1 GENERAL
§ 2.1.1 The Owner is the person or entity identified as such in this document and is referred to as if singular in number. The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all matters requiring the Owner’s approval or authorization. The term “Owner” means the Owner or the Owner’s authorized representative.

§ 2.1.2 The Owner shall furnish information or services required of the Owner by the GMP Documents in a timely manner. The Owner shall also furnish any other information or services under the Owner’s control and relevant to the
Architect and Contractor's performance with reasonable promptness after receiving the written request for such information or services.

§ 2.1.3 The Architect and Contractor shall be entitled to rely on the accuracy and completeness of information furnished by the Owner.

§ 2.1.4 The Owner shall provide prompt written notice to the Architect and Contractor if the Owner becomes aware of any fault or defect in the Project, including errors, omissions or inconsistencies in the Instruments of Service.

§ 2.1.5 NOT USED.

§ 2.2 INFORMATION AND SERVICES REQUIRED OF THE OWNER
§ 2.2.1 The Owner shall provide information regarding requirements for and limitations on the Project, including a written program which shall set forth the Owner’s objectives, constraints, and criteria, including schedule, space requirements and relationships, flexibility, expandability, special equipment, systems and site requirements.

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

§ 2.2.3 The Owner shall establish and periodically update the Owner’s budget for the Project, including (1) the Budget for the Work; (2) the Owner’s other costs; and, (3) reasonable contingencies related to all of these costs. If the Owner significantly increases or decreases the Owner’s Budget for the Work, the Owner shall notify the Architect and Contractor. The Owner and the Architect and Contractor shall thereafter agree to a corresponding change in the Owner’s Budget for the Work or in the Project’s scope and quality.

§ 2.2.4 Except for permits and fees that are the responsibility of the Contractor under the GMP Documents, including those required under Section 9.7.1, the Owner shall secure and pay for necessary approvals, easements, assessments and charges required for construction, use or occupancy of permanent structures or for permanent changes in existing facilities.

§ 2.2.5 The Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions and necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including invert and depths. All the information on the survey shall be referenced to a Project benchmark.

§ 2.2.6 The Owner shall furnish services of geotechnical engineers, which may include but are not limited to test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

§ 2.2.7 The Owner shall furnish tests, inspections and reports required by law and as otherwise agreed to by the parties, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

§ 2.2.8 The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests.
ARTICLE 3 ARCHITECT

§ 3.1 GENERAL
§ 3.1.1 The Architect is the person or entity identified as such in this document and is referred to as if singular in number. The Architect shall be lawfully licensed to practice architecture or an entity lawfully practicing architecture in the jurisdiction where the Project is located. The Architect shall designate in writing a representative who shall have express authority to bind the Architect with respect to all matters related to the Project. The term "Architect" means the Architect and the authorized representative.

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

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

§ 3.2 ARCHITECT'S GENERAL SERVICES
§ 3.2.1 The Architect shall assist the Owner in establishing a list of prospective contractors for the Project.

§ 3.2.2 The Architect shall manage the Architect's services, consult with the Owner and Contractor, research applicable design criteria, attend Project meetings, and report Project progress to the Owner.

§ 3.2.3 The Architect shall be entitled to rely on the accuracy and completeness of the Contractor's Estimates, as that term is defined in Section 4.2.3, as the Architect progresses with the preparation of the Criteria Design, Detailed Design and Construction Documents. The Architect shall review, as an Additional Service, revisions required due to inaccuracies or incompleteness in the Contractor's Estimates. The Architect shall review the Contractor's Estimates solely for the Architect's guidance in completion of its services, however, the Architect shall report to the Owner any material inaccuracies and inconsistencies noted during any such review.

§ 3.2.4 The Architect shall, at appropriate times, contact the governmental authorities required to approve the GMP Documents and the entities providing utility services to the Project. In designing the Project, the Architect shall respond to applicable design requirements imposed by such governmental authorities and by such entities providing utility services.

§ 3.2.5 The Architect shall assist the Owner in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project. The Architect shall generate documents suitable for submission to the necessary governmental authorities.

ARTICLE 4 CONTRACTOR

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

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

§ 4.2 GENERAL CONSULTATION RESPONSIBILITIES
§ 4.2.1 Throughout the development of the GMP Documents, the Contractor shall advise the Owner and the Architect on proposed site use and improvements, selection of materials, and building systems and equipment. The Contractor shall also provide recommendations on constructability; availability of materials and labor; time requirements for procurement, installation and construction; and factors related to construction cost including, but not limited to, costs of alternative designs or materials, the Owner’s Budget for the Work, and possible cost reductions. In providing the foregoing services or in providing its Work under this Contract, including its review of the drawings and specifications and in making any recommendations regarding the Project, Contractor does not assume any responsibility for design errors, omissions or inconsistencies.
§ 4.2.2 The Contractor shall assist the Owner in connection with the Owner’s responsibility for obtaining approval for the Work from governmental authorities having jurisdiction over the Project.

§ 4.2.3 The Contractor shall provide estimating services throughout the design of the Project as specifically required in Articles 5, 6 and 7, and at other various times agreed to by the Owner, Architect and Contractor. The Contractor shall provide estimates of the total cost to the Owner to construct all elements of the Project designed or specified by the Architect and shall include contractors’ general conditions costs, overhead and profit (Contractor’s Estimate). The Contractor’s Estimate shall not include the compensation of the Architect, the costs of the land, rights-of-way, financing, contingencies for changes in the Work, or other costs that are the responsibility of the Owner. The Contractor’s Estimates shall increase in detail and refinement as the Architect progresses with the preparation of the Criteria Design, Detailed Design and Construction Documents.

§ 4.2.3.1 In preparing the Contractor’s Estimates, the Contractor shall include contingencies for design, procurement, and reasonable price escalation. The Contractor’s Estimate shall be based on current area, volume or similar conceptual estimating techniques.

§ 4.2.4 For each of the Contractor’s Estimates, provided pursuant to Section 4.2.3, the Contractor shall provide adequate detail to support the estimate. The Contractor shall submit its estimates for the Architect’s review and the Owner’s acceptance. The Contractor shall advise the Owner and Architect if it appears that any of Contractor’s Estimates may exceed the Owner’s most recent Budget for the Work and, in consultation with the Architect, make recommendations for corrective action.

§ 4.2.5 The Contractor does not warrant or guarantee estimates and schedules except as may be included as part of the Guaranteed Maximum Price.

§ 4.2.6 The Contractor shall not be required to provide professional services that constitute the practice of architecture or engineering unless such services are specifically required by the GMP Documents for a portion of the Work, i.e. Work to be performed on a design-build basis, or unless the Contractor needs to provide such services in order to carry out the Contractor’s responsibilities for construction means, methods, techniques, sequences and procedures. The Contractor shall not be required to provide professional services in violation of applicable law. If professional design services or certifications by a design professional related to systems, materials or equipment are specifically required of the Contractor by the GMP Documents, the Owner and the Architect will specify all performance and design criteria that such services must satisfy. The Contractor shall cause such services or certifications to be provided by a properly licensed design professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings and other submittals prepared by such professional. Shop Drawings and other submittals related to the Work designed or certified by such professional, if prepared by others, shall bear such professional’s written approval when submitted to the Architect. The Owner and the Architect shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications and approvals performed or provided by such design professionals, provided the Owner and Architect have specified to the Contractor all performance and design criteria that such services must satisfy. Pursuant to this Section 4.2.6, the Architect will review, approve or take other appropriate action on submittals only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents.

ARTICLE 5 CONCEPTUALIZATION PHASE

§ 5.1 The Owner, Architect and Contractor shall review the program furnished by the Owner to ascertain the requirements of the Project and shall arrive at a mutual understanding of those requirements. The Architect shall present its preliminary evaluation to the Owner and Contractor and discuss possible alternative approaches to design and construction of the Project, including the feasibility of incorporating environmentally responsible design approaches. The Architect shall reach an understanding with the Owner and Contractor regarding the requirements of the Project.

§ 5.2 As soon as practicable, the Architect shall submit to the Owner and Contractor a schedule of the Architect’s services for inclusion in the Project schedule. The schedule of the Architect’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 performance of the Owner’s consultants, and (3) for approval of submissions by authorities having jurisdiction over the Project.
§ 5.3 The Contractor shall prepare and periodically update a Project schedule in collaboration with the Architect. The Project schedule shall coordinate and integrate the Contractor’s services, the Architect’s services, and the Owner’s responsibilities, and highlight items that could affect the Project’s timely completion.

§ 5.4 Once the Owner, Architect and Contractor agree to the time limits established by the Project schedule, the Owner, Architect and Contractor shall not exceed them, except for reasonable cause.

§ 5.5 The Architect and Contractor shall provide a preliminary evaluation of the Owner’s program and Budget for the Work, each in terms of the other as well as recommendations, if any, with regard to accelerated or fast-track scheduling, procurement, or phased construction. The preliminary evaluation shall take into consideration cost information, constructability, and procurement and construction scheduling issues. To the extent possible, the information shall be integrated into the Model.

ARTICLE 6 CRITERIA DESIGN PHASE
§ 6.1 The Architect shall prepare and present for the Owner’s approval a preliminary design illustrating the scale and relationship of the Project components.

§ 6.2 Based on the Owner’s approval of the preliminary design, the Architect shall prepare Criteria Design Documents for the Owner’s approval. The Criteria Design Documents shall consist of drawings and other documents including a site plan, if appropriate, and preliminary building plans, sections and elevations; and may include some combination of study models, perspective sketches, and Models. Preliminary selections of major building systems and construction materials shall be noted on the drawings or described in writing.

§ 6.2.1 The Architect shall 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 Work. The Owner may obtain other environmentally responsible design services as an Additional Service.

§ 6.2.2 The Architect shall consider 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 Work.

§ 6.3 During the Criteria Design Phase, the Architect shall meet with the Owner and Contractor as appropriate to the progress of the design to review the Criteria Design Documents as necessary.

§ 6.4 The Contractor shall obtain information from Subcontractors and material suppliers regarding proposed systems or products, including material procurement scheduling, product data sheets, life cycle and energy efficiency data, cost data necessary to validate estimates and schedules for their scopes of work, tolerances, and prefabrication opportunities.

§ 6.5 The Contractor, for the Architect’s review and the Owner’s acceptance, shall prepare a procurement schedule for items that must be ordered well in advance of construction. If the Owner agrees to procure any items prior to the establishment of the Guaranteed Maximum Price, the Owner shall procure the items on terms and conditions acceptable to the Contractor. Upon the establishment of the Guaranteed Maximum Price, the Owner shall assign all contracts for these items to the Contractor and the Contractor shall thereafter accept responsibility for them.

§ 6.6 At the conclusion of the Criteria Design Phase, the Owner, Architect and Contractor shall meet to review the Criteria Design Documents.

§ 6.7 Based upon the Criteria Design Documents, the Contractor shall update the Contractor’s Estimate and Project schedule.

§ 6.7.1 If revisions to the Criteria Design Documents are required to comply with the Owner’s Budget for the Work at the conclusion of the Criteria Design Phase, the Architect shall consult with the Owner and Contractor to determine appropriate solutions. The Architect shall then incorporate any agreed-upon revisions during the Detailed Design Phase.
ARTICLE 7  DETAILED DESIGN PHASE
§ 7.1  Based on the Owner's approval of the Criteria Design Documents, as well as the Owner's authorization of any adjustments in the Project requirements and the Owner's Budget for the Work pursuant to Section 2.2.3, the Architect, in consultation with the Owner, shall prepare Detailed Design Documents for the Owner's approval. The Detailed Design Documents shall illustrate and describe the development of the approved Criteria Design Documents and shall consist of drawings, other documents and the Model.

§ 7.2  During the Detailed Design Phase, the Architect shall meet with the Owner and Contractor as appropriate and necessary to the progress of the design to review the Detailed Design Documents.

§ 7.3  Prior to the conclusion of the Detailed Design Phase, the Contractor shall furnish to the Owner and Architect a list of possible Subcontractors and material suppliers.

§ 7.4  The Contractor shall provide updates to the Contractor's Estimate and the Project schedule to ensure consistency with the Detailed Design Documents and to incorporate information received from Subcontractors and material suppliers pursuant to Section 6.4. The Contractor shall require any such Subcontractors and material suppliers to provide additional information as needed to coordinate systems, including mechanical, electrical, plumbing and structural, and to verify tolerances.

§ 7.4.1  If the Contractor's Estimate at the conclusion of the Detailed Design Phase exceeds the Owner's Budget for the Work, the Owner shall
  .1  give written approval of an increase in the Owner's Budget for the Work;
  .2  in consultation with the Architect and Contractor, revise the Project program, scope, or quality as required to bring the Contractor's Estimate within the Owner's Budget for the Work; or
  .3  implement any other mutually acceptable alternative.

§ 7.4.2  If the Owner chooses to proceed under Section 7.4.1.2, the Architect, without additional compensation, shall incorporate the agreed upon modifications as necessary to comply with the Owner's Budget for the Work, or the Owner's Budget for the Work as adjusted under Section 7.4.1.1. After incorporation of such modifications to comply with this Section 7.4.2, the Architect shall, as an Additional Service, make any required revisions to the Drawings, Specifications or other documents necessitated by subsequent cost estimates that exceed the Owner's Budget for the Work, except when the excess is due to changes initiated by the Architect in scope, basic systems, or the kinds and quality of materials, finishes or equipment.

§ 7.5  At the conclusion of the Detailed Design Phase, the Architect shall submit Detailed Design Documents consistent with the Owner's Budget for the Work to the Owner. The Owner, Architect and Contractor shall meet to review the Detailed Design Documents.

§ 7.6  Upon the Owner's acceptance of the Detailed Design Documents, the Contractor shall amend the Guaranteed Maximum Price proposal for the Owner's review and acceptance.

§ 7.7  To the extent that the GMP Documents are anticipated to require further development in the Construction Documents Phase, the Contractor shall provide in the Guaranteed Maximum Price proposal for such further development consistent with the GMP Documents and reasonably inferable therefrom. Such further development does not include such things as changes in scope, systems, kinds and quality of materials, finishes or equipment, all of which, if required, shall be incorporated by Change Order.

§ 7.8  The Contractor shall include with the Guaranteed Maximum Price proposal a written statement of its basis, which shall include the following:
  .1  A complete list of the documents and information used in preparation of the Guaranteed Maximum Price proposal.
  .2  A list of allowances and a statement of their basis.
  .3  A list of the Contractor's clarifications and assumptions, if any, with regard to the GMP Documents and information relied upon in preparation of the Guaranteed Maximum Price proposal.
.4 The proposed Guaranteed Maximum Price, including a statement of the estimated cost organized by trade categories, allowances, contingencies, the Contractor’s Fee, and other items that comprise the Guaranteed Maximum Price.

.5 The anticipated date of Substantial Completion upon which the Guaranteed Maximum Price proposal is based, and a schedule for the issuance dates of the Construction Documents upon which the anticipated Substantial Completion date relies.

§ 7.9 The Contractor shall meet with the Owner and Architect to review the Guaranteed Maximum Price proposal. If the event that the Owner and Architect discover any inconsistencies or inaccuracies in the information presented, they shall promptly notify the Contractor, who shall make appropriate adjustments to the Guaranteed Maximum Price proposal, its basis, or both.

§ 7.10 Once accepted by the Owner, the Guaranteed Maximum Price, including the written statement required under Section 7.8 as appropriate, shall be set forth in an amendment to the Owner-Contractor Agreement, a copy of which amendment the Owner shall provide to the Architect. Upon the Owner’s acceptance of the Guaranteed Maximum Price proposal, the Detailed Design Documents upon which the approved Guaranteed Maximum Price is based shall become part of the GMP Documents.

§ 7.10.1 Adjustments to the Guaranteed Maximum Price on account of changes in the Work may be determined by any of the methods listed in Section 9.21.3.3.

§ 7.10.2 If no specific provision is made in the Contractor’s Guaranteed Maximum Price for adjustment of the Contractor’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 provisions will cause substantial inequity to the Owner or Contractor, the Contractor’s Fee shall be equitably adjusted on the same basis that was used to establish the Fee for the original Work, and the Guaranteed Maximum Price shall be adjusted accordingly.

(Article 8 NOT USED)

ARTICLE 9 CONSTRUCTION PHASE

§ 9.1 GENERAL PROVISIONS

§ 9.1.1 The Contractor shall perform the Work in accordance with the GMP Documents.

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

§ 9.1.3 The Contractor accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to cooperate with the Architect and exercise the Contractor’s skill and judgment in furthering the interests of the Owner; to furnish efficient business administration and supervision; to furnish at all times an adequate supply of workers and materials; and to perform its services in an expeditious and economical manner consistent with the Owner’s interests.

§ 9.2 REVIEW OF GMP DOCUMENTS AND FIELD CONDITIONS BY CONTRACTOR

§ 9.2.1 The Contractor shall visit the site and become generally familiar with local conditions under which the Work is to be performed and correlate personal observations with requirements of the GMP Documents.

§ 9.2.2 Because the GMP Documents are complementary, the Contractor shall, before starting construction of each portion of the Work, carefully study and compare the various GMP Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 2.2.5, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating coordination and construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, the Contractor shall promptly report to the Architect and Owner any errors, inconsistencies or omissions discovered by or made known to the Contractor as a request for information in such form as the Architect may require.
§ 9.2.3 The Contractor is not required to ascertain that the GMP Documents are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Contractor shall promptly report to the Architect and Owner any nonconformity discovered by or made known to the Contractor as a request for information in such form as the Architect may require.

(Paragraph deleted)

§ 9.2.4 If the Contractor believes that additional cost or time is involved because of clarifications or instructions the Architect issues in response to the Contractor’s requests for information pursuant to Section 9.2.3, the Contractor shall make Claims as provided in Article 13. If the Contractor fails to perform the obligations of either Sections 9.2.2 or 9.2.3, the Contractor shall pay such costs and damages to the Owner as would have been avoided if the Contractor had performed such obligations. If the Contractor performs those obligations, the Contractor shall not be liable to the Owner or Architect for damages resulting from errors, inconsistencies or omissions in the GMP Documents, for differences between field measurements or conditions and the GMP Documents, or for nonconformities of the GMP Documents to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities.

§ 9.3 SUPERVISION AND CONSTRUCTION PROCEDURES

§ 9.3.1 The Contractor shall supervise and direct the Work, using the Contractor’s best skill and attention. The Contractor shall be solely responsible for, and have control over, construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Work under the Contract. The Contractor shall evaluate the jobsite safety thereof and shall be fully and solely responsible for the jobsite safety of such means, methods, techniques, sequences or procedures.

§ 9.3.2 The Contractor shall provide monthly written reports to the Owner and Architect on the progress of the entire Work. The Contractor shall maintain a daily log containing a record of weather, Subcontractors working on the site, number of workers, Work accomplished, problems encountered and other similar relevant data as the Owner may reasonably require. The log shall be available to the Owner and Architect.

§ 9.3.3 The Contractor shall develop a system of cost control for the Work, including regular monitoring of actual costs for activities in progress and estimates for uncompleted tasks and proposed changes. The Contractor shall identify variances between actual and estimated costs and report the variances to the Owner and Architect at regular intervals.

§ 9.3.4 The Contractor shall be responsible to the Owner for acts and omissions of the Contractor’s employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the Work for, or on behalf of, the Contractor or any of its Subcontractors.

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

§ 9.4 LABOR AND MATERIALS

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

§ 9.4.2 Except in the case of minor changes in the Work authorized by the Architect in accordance with Sections 9.21.4, the Contractor may make substitutions only with the consent of the Owner, after evaluation by the Architect and in accordance with a Change Order or Construction Change Directive.

§ 9.4.3 The Contractor shall enforce strict discipline and good order among the Contractor’s employees and other persons carrying out the Work. The Contractor shall not permit employment of unfit persons or persons not properly skilled in tasks assigned to them.
§ 9.5 WARRANTY
The Contractor warrants to the Owner and Architect that materials and equipment furnished under the Contract will be of good quality and new unless the GMP Documents require or permit otherwise. The Contractor further warrants that the Work will conform to the requirements of the GMP Documents and will be free from defects, except for those inherent in the quality of the Work the GMP Documents require or permit. Work, materials, or equipment not conforming to these requirements may be considered defective. The Contractor’s warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Architect, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment. All material, equipment or other special warranties required by the GMP Documents shall be issued in the name of the Owner, or shall be transferable to the Owner, and shall commence in accordance with Section 10.1.6.

§ 9.6 TAXES
(Paragraph deleted)
City, County and State of Missouri Sales Tax and Federal Taxes are not applicable to sales made to Owner St. Charles County and must be excluded. Owner will furnish its tax exemption certificate to Contractor for this project.

§ 9.7 PERMITS, FEES, NOTICES, AND COMPLIANCE WITH LAWS
§ 9.7.1 Unless otherwise provided in the GMP Documents, the Contractor shall secure and pay for the building permit as well as for other permits, fees, licenses, and inspections by government agencies necessary for proper execution and completion of the Work that are customarily secured and legally required at the time the Guaranteed Maximum Price is established.

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

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

§ 9.7.4 CONCEALED OR UNKNOWN CONDITIONS
If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those upon which the parties relied in the development of the GMP Documents, the Contractor shall promptly provide notice to the Owner and the Architect before conditions are disturbed and in no event later than 21 days after first observance of the conditions. The Architect will promptly investigate such conditions and, if the Architect determines that they differ materially and cause an increase or decrease in the Contractor’s cost of, or time required for, performance of any part of the Work, will recommend an equitable adjustment in the Contract Sum or Contract Time, or both. If the Architect determines that the conditions at the site are not materially different from those indicated in the GMP Documents and that no change in the terms of the Contract is justified, the Architect shall promptly notify the Owner and Contractor in writing, stating the reasons. If either party disputes the Architect’s determination or recommendation, that party may proceed as provided in Article 13.

§ 9.7.5 If, in the course of the Work, the Contractor encounters human remains or recognizes the existence of burial markers, archaeological sites or wetlands not indicated in the GMP Documents, the Contractor shall immediately suspend any operations that would affect them and shall notify the Owner and Architect. Upon receipt of such notice, the Owner shall promptly take any action necessary to obtain governmental authorization required to resume the operations. The Contractor shall continue to suspend such operations until otherwise instructed by the Owner but shall continue with all other operations that do not affect those remains or features. Requests for adjustments in the Contract Sum and Contract Time arising from the existence of such remains or features may be made as provided in Article 13.

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

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

.3 whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Section 9.8.2.1 and (2) changes in Contractor’s costs under Section 9.8.2.2.

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

§ 9.9 SUPERINTENDENT

§ 9.9.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the Work. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor.

§ 9.9.2 The Contractor, as soon as practicable after award of the Contract, shall furnish in writing to the Owner through the Architect the name and qualifications of a proposed superintendent.

§ 9.9.3 The Contractor shall not employ a proposed superintendent to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not change the superintendent without the Owner’s consent, which shall not unreasonably be withheld or delayed.

§ 9.10 CONTRACTOR’S CONSTRUCTION SCHEDULES

§ 9.10.1 The Contractor shall submit for the Owner’s and Architect’s information a Contractor’s construction schedule for the Work. The schedule shall not exceed time limits current under the GMP 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 GMP Documents, and shall provide for expeditious and practicable execution of the Work.

§ 9.10.2 If the GMP Documents require submittals during the Construction Phase, the Contractor shall prepare a submittal schedule, promptly after the Owner’s acceptance of the Guaranteed Maximum Price and thereafter as necessary to maintain a current submittal schedule, and shall submit the schedule(s) for the Architect’s approval. The Architect’s approval shall not unreasonably be delayed or withheld. The submittal schedule shall (1) be coordinated with the Contractor’s construction schedule, and (2) allow the Architect reasonable time to review submittals. If the GMP Documents require that the Contractor provide a submittal schedule and the Contractor fails to submit a submittal schedule, the Contractor shall not be entitled to any increase in Contract Sum or extension of Contract Time based on the time required for review of submittals. Shop Drawings, Product Data, Samples and similar submittals required during the Construction Phase are not GMP Documents.

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

§ 9.11 DOCUMENTS AND SAMPLES AT THE SITE

The Contractor shall maintain at the site for the Owner one copy of the GMP Documents, in good order and marked currently to indicate field changes and selections made during construction, and one copy of approved submittals provided during construction. These shall be available to the Architect and shall be delivered to the Architect for submittal to the Owner upon completion of the Work as a record of the Work as constructed.

§ 9.12 SHOP DRAWINGS, PRODUCT DATA AND SAMPLES

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

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

§ 9.12.3 Samples are physical examples that illustrate materials, equipment or workmanship and establish standards by which the Work will be judged.
§ 9.12.4 The purpose of Shop Drawings, Product Data, Samples and similar submittals is to demonstrate the way by which the Contractor proposes to conform to the information given and the design concept expressed in the GMP Documents for those portions of the Work for which the GMP Documents require submittals. Review by the Architect is subject to the limitations of Section 9.26.5.2. Informational submittals upon which the Architect is not expected to take responsive action may be so identified in the GMP Documents. Submittals that are not required by the GMP Documents may be returned by the Architect without action.

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

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

§ 9.12.7 The Contractor shall perform no portion of the Work that requires submittal and review of Shop Drawings, Product Data, Samples or similar submittals until the respective submittal has been approved by the Architect.

§ 9.12.8 The Work shall be in accordance with approved submittals.

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

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

§ 9.14 CUTTING AND PATCHING
§ 9.14.1 The Contractor shall be responsible for cutting, fitting or patching required to complete the Work or to make its parts fit together properly. All areas requiring cutting, fitting and patching shall be restored to the condition existing prior to the cutting, fitting and patching, unless otherwise required by the GMP Documents.

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

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

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

§ 9.16 ACCESS TO WORK
The Contractor shall provide the Owner and Architect access to the Work in preparation and progress wherever located.
§ 9.17 ROYALTIES, PATENTS AND COPYRIGHTS
The Contractor shall pay all royalties and license fees. The Contractor shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner and Architect harmless from loss on account thereof, but shall not be responsible for such defense or loss when a particular design, process or product of a particular manufacturer or manufacturers is required by the GMP Documents, or where the copyright violations are contained in Drawings, Specifications or other documents prepared by the Owner or Architect. However, if the Contractor has reason to believe that the required design, process or product is an infringement of a copyright or a patent, the Contractor shall be responsible for such loss unless such information is promptly furnished to the Architect.

§ 9.18 INDEMNIFICATION
§ 9.18.1 To the fullest extent permitted by law the Contractor shall indemnify and hold harmless the Owner, Architect, Architect’s consultants, and agents and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorneys’ fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described in this Section 9.18.

§ 9.18.2 In claims against any person or entity indemnified under this Section 9.18 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under Section 9.18.1 shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the Contractor or a Subcontractor under workers’ compensation acts, disability benefit acts or other employee benefit acts.

§ 9.19 SUBCONTRACTORS
§ 9.19.1 DEFINITIONS
§ 9.19.1.1 A Subcontractor is a person or entity who has a direct contract with the Contractor to perform a portion of the Work at the site. The term "Subcontractor" is referred to throughout the GMP Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor. The term "Subcontractor" does not include a separate contractor or Subcontractors of a separate contractor.

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

§ 9.19.2 AWARD OF SUBCONTRACTS AND OTHER CONTRACTS FOR PORTIONS OF THE WORK
§ 9.19.2.1 Unless otherwise stated in the GMP Documents the Contractor, as soon as practicable after execution of the Contract, shall furnish in writing to the Owner and Architect the names of persons or entities (including those who are to furnish materials or equipment fabricated to a special design) proposed for each principal portion of the Work. The Owner and Architect may reply within 14 days to the Contractor in writing stating (1) whether the Owner or the Architect has reasonable objection to any such proposed person or entity or (2) that additional time is required for review. Failure of the Owner or Architect to reply within the 14-day period shall constitute notice of no reasonable objection.

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

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

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

§ 9.19.3 SUBCONTRACTUAL RELATIONS
By appropriate agreement, written where legally required for validity, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the GMP Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor’s Work, which the Contractor, by these Documents, assumes toward the Owner and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner and Architect under the GMP Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies and redress against the Contractor that the Contractor, by the GMP Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the GMP Documents and other documents to which the Subcontractor will be bound.

§ 9.19.3.1 Contractor shall require its subcontractors to provide security for the full amount of the subcontract either through payment and performance bonds or be enrolled in the Contractor’s Default Insurance Program (CDI). The Owner agrees to reimburse the Contractor for CDI enrolled subcontractors at the agreed upon rate listed on Exhibit A of the GMP Amendment and reimburse the Contractor for subcontractor payment and performance bonds as included in the Project Cost.

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

.1 assignment is effective only after termination of the Contract by the Owner for cause pursuant to Section 7.2.2 of the Owner-Contractor Agreement and only for those subcontract agreements that the Owner accepts by notifying the Subcontractor and Contractor in writing; and

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

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

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

§ 9.19.4.3 Upon such assignment to the Owner under this Section 9.19.4, the Owner may further assign the subcontract to a successor contractor or other entity. If the Owner assigns the subcontract to a successor contractor or other entity, the Owner shall nevertheless remain legally responsible for all of the successor contractor’s obligations under the subcontract.

§ 9.20 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS
§ 9.20.1 OWNER’S RIGHT TO PERFORM CONSTRUCTION AND TO AWARD SEPARATE CONTRACTS
§ 9.20.1.1 The Owner reserves the right to perform construction or operations related to the Project with the Owner’s own forces, and to award separate contracts in connection with other portions of the Project or other construction or operations on the site under Conditions of the Contract identical or substantially similar to these including those portions related to insurance and waiver of subrogation. If the Contractor claims that delay or additional cost is involved because of such action by the Owner, the Contractor shall make such Claim as provided in Article 13.
§ 9.20.1.2 When separate contracts are awarded for different portions of the Project or other construction or operations on the site, the term "Contractor" in the GMP Documents in each case shall mean the Contractor who executes each separate contract.

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

§ 9.20.1.4 Unless otherwise provided in the GMP Documents, when the Owner performs construction or operations related to the Project with the Owner’s own forces, the Owner shall be deemed to be subject to the same obligations and to have the same rights that apply to the Contractor under the Contract.

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

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

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

§ 9.20.2.4 The Contractor shall promptly remedy damage the Contractor wrongfully causes to completed or partially completed construction or to property of the Owner, separate contractors as provided in Section 9.25.2.5.

§ 9.20.2.5 The Owner and each separate contractor shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 9.14.

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

§ 9.21 CHANGES IN THE WORK
§ 9.21.1 GENERAL
§ 9.21.1.1 Changes in the Work may be accomplished after execution of the Contract without invalidating the Contract, by Change Order, Construction Change Directive or order for a minor change in the Work, subject to the limitations stated in this Section 9.21 and elsewhere in the GMP Documents.

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

§ 9.21.1.3 Changes in the Work shall be performed under applicable provisions of the GMP Documents, and the Contractor shall proceed promptly, unless otherwise provided in the Change Order, Construction Change Directive or order for a minor change in the Work.
§ 9.21.2 CHANGE ORDERS
§ 9.21.2.1 A Change Order is a written instrument prepared by the Architect and signed by the Owner, Contractor and Architect stating their agreement upon all of the following:
.1 The change in the Work;
.2 The amount of the adjustment, if any, in the Contract Sum; and
.3 The extent of the adjustment, if any, in the Contract Time.

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

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

§ 9.21.3.3 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 GMP Documents or subsequently agreed upon;
.3 Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
.4 As provided in Section 9.21.3.7.

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

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

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

§ 9.21.3.7 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Architect shall determine the method and the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, an amount for overhead and profit as set forth in the Owner-Contractor Agreement, or if no such amount is set forth in the Owner-Contractor Agreement, a reasonable amount. In such case, and also under Section 9.21.3.3, the Contractor shall keep and present, in such form as the Architect may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the GMP Documents, costs for the purposes of this Section 9.21.3.7 shall be limited to the following:
.1 Costs of labor, including social security, old age and unemployment insurance, fringe benefits required by agreement or custom, and workers’ compensation insurance;
.2 Costs of materials, supplies and equipment, including cost of transportation, whether incorporated or consumed;
.3 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others;
.4 Costs of premiums for all bonds and insurance, permit fees, and sales, use or similar taxes related to the Work; and
.5 Additional costs of supervision and field office personnel directly attributable to the change.
§ 9.21.3.8 The amount of credit to be allowed by the Contractor to the Owner for a deletion or change that results in a net decrease in the Contract Sum shall be actual net cost as confirmed by the Architect. When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change.

§ 9.21.3.9 Pending final determination of the total cost of a Construction Change Directive to the Owner, the Contractor may request payment for Work completed under the Construction Change Directive in Applications for Payment. The Architect will make an interim determination for purposes of monthly certification for payment for those costs and certify for payment the amount that the Architect determines, in the Architect's professional judgment, to be reasonably justified. The Architect's interim determination of cost shall adjust the Contract Sum on the same basis as a Change Order, subject to the right of either party to disagree and assert a Claim in accordance with Article 13.

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

§ 9.21.4 MINOR CHANGES IN THE WORK
The Architect has authority to order minor changes in the Work not involving adjustment in the Contract Sum or extension of the Contract Time and not inconsistent with the intent of the GMP Documents. Prior to issuing a Minor Change, the Architect shall notify the Contractor of the nature, extent and anticipated time of issuance of the proposed directive. The Architect and Contractor shall make adjustments to the GMP Documents to reflect the proposed directive for the review of the Owner, Architect and Contractor. The Contractor should determine the effect of the proposed directive on the cost and time of completion of the Work and on the Contractor's ability to construct the work in accordance with the revised GMP Documents and provide appropriate recommendations to the Owner and Architect. Such changes will be effected by written order signed by the Architect and shall be binding on the Owner and Contractor.

§ 9.22 TIME
§ 9.22.1 DEFINITIONS
§ 9.22.1.1 Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, allotted in the GMP Documents for Substantial Completion of the Work after commencement of Construction.

§ 9.22.1.2 The date of Substantial Completion is the date certified by the Architect in accordance with Section 10.1.

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

§ 9.22.2 PROGRESS AND COMPLETION
§ 9.22.2.1 Time limits stated in the GMP Documents for the Substantial Completion of the Work are of the essence of the Contract. By executing the GMP Amendment the Contractor confirms that the Contract Time is a reasonable period for performing the Work.

§ 9.22.2.2 The Contractor shall not knowingly, except by agreement or instruction of the Owner in writing, prematurely commence operations on the site or elsewhere prior to the effective date of insurance required by Article 11 to be furnished by the Contractor and Owner. The date of commencement of the Work shall not be changed by the effective date of such insurance.

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

§ 9.22.3 DELAYS AND EXTENSIONS OF TIME
§ 9.22.3.1 If the Contractor is delayed at any time in the commencement or progress of the Work by an act or neglect of the Owner or Architect, or of an employee of either, or of a separate contractor employed by the Owner; or by changes ordered in the Work; or by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, pandemics
(including COVID-19) or other causes beyond the Contractor’s control; or by delay authorized by the Owner pending dispute resolution; or by other causes that the Architect determines may justify delay, then the Contract Time shall be extended by Change Order for such reasonable time as the Architect may determine.

§ 9.22.3.2 Claims relating to time shall be made in accordance with applicable provisions of Article 13.

§ 9.22.3.3 This Section 9.22.3 does not preclude recovery of damages for delay by either party under other provisions of the GMP Documents.

§ 9.23 PAYMENTS

§ 9.23.1 CONTRACT SUM
The Contract Sum is the total amount payable by the Owner to the Contractor for performance of the Work under the GMP Documents, subject to the Guaranteed Maximum Price.

§ 9.23.2 SCHEDULE OF VALUES
The Contractor shall submit to the Architect, before the first Application for Payment submitted for construction of the Work, a schedule of values allocating the entire Contract Sum to the various portions of the Work and prepared in such form and supported by such data to substantiate its accuracy as the Architect may require. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor’s Applications for Payment.

§ 9.23.3 APPLICATIONS FOR PAYMENT

§ 9.23.3.1 At least ten days before the date established for each progress payment, the Contractor shall submit to the Architect an itemized Application for Payment prepared in accordance with the schedule of values, if required under Section 9.23.2, for completed portions of the Work. Such application shall be notarized, if required, and supported by such data substantiating the Contractor’s right to payment as the Owner or Architect may require, such as copies of requisitions from Subcontractors and material suppliers, and shall reflect retainage if provided for in the GMP Documents.

§ 9.23.3.1.1 As provided in Section 9.21.3.9, such applications may include requests for payment on account of changes in the Work that have been properly authorized by Construction Change Directives, or by interim determinations of the Architect, but not yet included in Change Orders.

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

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

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

§ 9.23.4 CERTIFICATES FOR PAYMENT

§ 9.23.4.1 The Architect will, within seven days after receipt of the Contractor’s Application for Payment, for either issue to the Owner a Certificate for Payment, with a copy to the Contractor, for such amount as the Architect determines is properly due, or notify the Contractor and Owner in writing of the Architect’s reasons for withholding certification in whole or in part as provided in Section 9.23.5.1.
§ 9.23.4.2 The issuance of a Certificate for Payment will constitute a representation by the Architect to the Owner, based on the Architect’s evaluation of the Work and the data comprising the Application for Payment, that, to the best of the Architect’s knowledge, information and belief, the Work has progressed to the point indicated and that the quality of the Work is in accordance with the GMP Documents. The foregoing representations are subject to an evaluation of the Work for conformance with the GMP Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the GMP Documents prior to completion and to specific qualifications expressed by the Architect. The issuance of a Certificate for Payment will further constitute a representation that the Contractor is entitled to payment in the amount certified. However, the issuance of a Certificate for Payment will not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and material suppliers and other data requested by the Owner to substantiate the Contractor’s right to payment, or (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 9.23.4.3 The Architect shall maintain a record of the Applications and Certificates for Payment.

§ 9.23.5 DECISIONS TO WITHHOLD CERTIFICATION
§ 9.23.5.1 The Architect may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Architect’s opinion the representations to the Owner required by Section 9.23.4.2 cannot be made. If the Architect is unable to certify payment in the amount of the Application, the Architect will notify the Contractor and Owner as provided in Section 9.23.4.1. If the Contractor and Architect cannot agree on a revised amount, the Architect will promptly issue a Certificate for Payment for the amount for which the Architect is able to make such representations to the Owner. The Architect may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued, to such extent as may be necessary in the Architect’s opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from acts and omissions described in Section 9.3.2, because of

.1 defective Work not remedied;
.2 third party claims filed or reasonable evidence indicating probable filing of such claims unless security acceptable to the Owner is provided by the Contractor;
.3 failure of the Contractor to make payments properly to Subcontractors or for labor, materials or equipment;
.4 damage to the Owner or a separate contractor;
.5 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
.6 repeated failure to carry out the Work in accordance with the GMP Documents.

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

§ 9.23.5.3 If the Architect withholds certification for payment under Section 9.23.5.1.3, the Owner may, after ten days’ written notice to Contractor, issue joint checks to the Contractor and to any Subcontractor or material or equipment suppliers to whom the Contractor failed to make payment for Work properly performed or material or equipment suitably delivered. If the Owner makes payments by joint check, the Owner shall notify the Architect and the Architect will reflect such payment on the next Certificate for Payment.

§ 9.23.6 PROGRESS PAYMENTS
§ 9.23.6.1 After the Architect has issued a Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the GMP Documents, and shall so notify the Architect.

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

§ 9.23.6.3 The Architect will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Contractor and action taken thereon by the Architect and Owner on account of portions of the Work done by such Subcontractor.
§ 9.23.6.4 The Owner has the right to request written evidence from the Contractor that the Contractor has properly paid Subcontractors and material and equipment suppliers amounts paid by the Owner to the Contractor for subcontracted Work. If the Contractor fails to furnish such evidence within seven days, the Owner shall have the right to contact Subcontractors to ascertain whether they have been properly paid. Neither the Owner nor Architect shall have an obligation to pay or to see to the payment of money to a Subcontractor, except as may otherwise be required by law.

§ 9.23.6.5 Contractor payments to material and equipment suppliers shall be treated in a manner similar to that provided in Sections 9.23.6.2, 9.23.6.3 and 9.23.6.4.

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

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

§ 9.23.7 FAILURE OF PAYMENT
If the Architect does not issue a Certificate for Payment, through no fault of the Contractor, within seven days after receipt of the Contractor’s Application for Payment, or if the Owner does not pay the Contractor within seven days after the date established in the GMP Documents the amount certified by the Architect or awarded by binding dispute resolution, then the Contractor may, upon seven additional days’ written notice to the Owner and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor’s reasonable costs of shut-down, delay and start-up, plus interest as provided for in the GMP Documents.

§ 9.23.8 PARTIAL OCCUPANCY OR USE
§ 9.23.8.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Contractor, provided such occupancy or use is consented to by the insurer as required under Section 11.3.1.5 and authorized by public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the GMP Documents. When the Contractor considers a portion substantially complete, the Contractor shall prepare and submit a list to the Architect as provided under Section 10.1.4. Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Contractor or, if no agreement is reached, by decision of the Architect.

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

§ 9.23.8.3 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 GMP Documents.

§ 9.24 PROTECTION OF PERSONS AND PROPERTY
§ 9.24.1 SAFETY PRECAUTIONS AND PROGRAMS
The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of the Contract.
§ 9.24.2 SAFETY OF PERSONS AND PROPERTY
§ 9.24.2.1 The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury or loss to
1. employees on the Work and other persons who may be affected thereby;
2. the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody or control of the Contractor or the Contractor's Subcontractors or Sub-subcontractors; and
3. other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.

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

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

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

§ 9.24.2.5 The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the GMP Documents) to property referred to in Sections 9.24.2.1.2 and 9.24.2.1.3 to the extent caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Sections 9.24.2.1.2 and 9.24.2.1.3, except damage or loss attributable to acts or omissions of the Owner or Architect or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Section 9.18.

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

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

§ 9.24.2.8 INJURY OR DAMAGE TO PERSON OR PROPERTY
If Owner or Contractor suffers injury or damage to person or property because of an act or omission of the other, 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 within a reasonable time not exceeding 21 days after discovery. The notice shall provide sufficient detail to enable the other to investigate the matter.

§ 9.24.3 HAZARDOUS MATERIALS
§ 9.24.3.1 The Contractor is responsible for compliance with any requirements included in the GMP Documents regarding hazardous materials brought to the site by Contractor. If the Contractor encounters a hazardous material or substance not addressed in the GMP Documents and if a hazardous material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), is encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and report the condition to the Owner and Architect in writing.

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

§ 9.24.3.3 To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Subcontractors, Architect, Architect’s consultants and agents and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorneys’ fees, arising out of or resulting from performance of the Work in the affected area, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), except to the extent that such damage, loss or expense is due to the fault or negligence of the party seeking indemnity.

§ 9.24.3.4 The Owner shall not be responsible under this Section 9.24.3 for materials or substances the Contractor brings to the site unless such materials or substances are required by the GMP Documents. The Owner shall be responsible for materials or substances required by the GMP Documents, except to the extent of the Contractor’s fault or negligence in the use and handling of such materials or substances. Unless required by the GMP Documents, Contractor shall not be required to perform without its consent any Work relating to hazardous materials or substances.

§ 9.24.3.5 The Contractor shall indemnify the Owner for the cost and expense the Owner incurs (1) for remediation of a material or substance the Contractor brings to the site and negligently handles, or (2) where the Contractor fails to perform its obligations under Section 9.24.3.1, except to the extent that the cost and expense are due to the Owner’s fault or negligence.

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

§ 9.24.4 emergencies
In an emergency affecting safety of persons or property, the Contractor shall act, at the Contractor’s discretion, to prevent threatened damage, injury or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Article 13 and Section 9.21.

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

§ 9.25.1.2 If a portion of the Work has been covered that the Architect has not specifically requested to examine prior to its being covered, the Architect may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the GMP 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 GMP Documents, such costs and the cost of correction shall be at the Contractor’s expense unless the condition was caused by the Owner or a separate contractor in which event the Owner shall be responsible for payment of such costs.

§ 9.25.2 correction of work
§ 9.25.2.1 before substantial completion
The Contractor shall promptly correct Work rejected by the Architect or failing to conform to the requirements of the GMP Documents discovered before Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and

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replacement, and compensation for the Architect's services and expenses made necessary thereby, shall be at the Contractor's expense.

§ 9.25.2.2 AFTER SUBSTANTIAL COMPLETION

§ 9.25.2.2.1 In addition to the Contractor's obligations under Section 9.5, if, within one year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.23.8.1, or by terms of an applicable special warranty required by the GMP Documents, any of the Work is found to be not in accordance with the requirements of the GMP Documents, the Contractor shall correct it promptly after receipt of written notice from the Owner to do so unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the one-year period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor and to make a claim for breach of warranty. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner or Architect, the Owner may correct it in accordance with Section 9.25.2.7.

§ 9.25.2.2.2 The one-year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual completion of that portion of the Work.

§ 9.25.2.2.3 The one-year period for correction of Work shall not be extended by corrective Work performed by the Contractor pursuant to this Section 9.25.2.

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

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

§ 9.25.2.5 Nothing contained in this Section 9.25.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the GMP Documents. Establishment of the one-year period for correction of Work as described in Section 9.25.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the GMP Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

§ 9.25.2.6 OWNER'S RIGHT TO STOP THE WORK
Upon commencement of the Work, if the Contractor fails to correct Work that is not in accordance with the requirements of the GMP Documents as required by Section 9.25.2 or repeatedly fails to carry out Work in accordance with the GMP Documents, the Owner may, after Contractor's receipt of seven days' written notice and failure of Contractor to commence and continue correction of such deficiencies with diligence and promptness, issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity, except to the extent required by Section 9.20.1.3.

§ 9.25.2.7 OWNER'S RIGHT TO CARRY OUT THE WORK
Upon commencement of the Work, if the Contractor defaults or neglects to carry out the Work in accordance with the GMP Documents and fails within a ten-day period after receipt of written notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such deficiencies. In such case an appropriate Change Order shall be issued deducting from payments then or thereafter due the Contractor the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Architect's additional services made necessary by such default, neglect or failure. Such action by the Owner and amounts charged to the Contractor are both subject to prior approval of the Architect. If payments then or thereafter due the Contractor are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner.
§ 9.25.3 ACCEPTANCE OF NONCONFORMING WORK
If the Owner prefers to accept Work that is not in accordance with the requirements of the GMP Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

§ 9.26 ARCHITECT’S ADMINISTRATION OF THE CONTRACT
§ 9.26.1 The Architect shall provide administration of the Contract as set forth below.

§ 9.26.2 The Architect shall advise and consult with the Owner during the Construction Phase. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The Architect shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, nor shall the Architect be responsible for the Contractor’s failure to perform the Work in accordance with the requirements of the GMP Documents. The Architect shall be responsible for the Architect’s negligent acts or omissions, but shall not have control over or charge of, and shall not be responsible for, acts or omissions of the Contractor or of any other persons or entities performing portions of the Work.

§ 9.26.3 The architect responsibility to administer the Contract terminates on the date the Architect issues the final Certificate for Payment.

§ 9.26.4 EVALUATIONS OF THE WORK
§ 9.26.4.1 The Architect shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 1.5.4 in the Agreement between the Owner and Architect, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine, in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the GMP Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and report to the Owner (1) known deviations from the GMP Documents and from the most recent construction schedule, and (2) defects and deficiencies observed in the Work.

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

§ 9.26.4.3 The Architect, in consultation with the other Project participants, shall interpret and decide matters concerning performance under, and requirements of, the GMP Documents on written request of either the Owner or Contractor. The Architect’s response to such requests shall be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

§ 9.26.4.4 Interpretations and decisions of the Architect shall be consistent with the intent of and reasonably inferable from the GMP Documents and shall be in writing or in the form of drawings. When making such interpretations and decisions, the Architect shall not show partiality to either, and shall not be liable for results of interpretations or decisions rendered in good faith. The Architect’s decisions on matters relating to aesthetic effect shall be final if consistent with the intent expressed in the GMP Documents.

§ 9.26.5 SUBMITTALS
§ 9.26.5.1 The Architect shall review the Contractor’s submittal schedule, if any, and shall not unreasonably delay or withhold approval. The Architect’s action in reviewing submittals 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 Architect’s professional judgment to permit adequate review.
§ 9.26.5.2 In accordance with the Architect-approved submittal schedule, the Architect shall review and approve or take other appropriate action upon the Contractor’s submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the GMP Documents. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the Contractor’s responsibility. The Architect’s review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Architect, of any construction means, methods, techniques, sequences or procedures. The Architect’s approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 9.26.5.3 If the GMP Documents specifically require the Contractor to provide professional design services or certifications by a design professional related to systems, materials or equipment, the Architect shall specify the appropriate performance and design criteria that such services must satisfy. The Architect shall review shop drawings and other submittals related to the Work designed or certified by the design professional retained by the Contractor that bear such professional’s seal and signature when submitted to the Architect. The Architect shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications and approvals performed or provided by such design professionals.

§ 9.26.5.4 The Architect shall review and respond to requests for information about the GMP Documents. The Architect shall set forth in the GMP Documents the requirements for requests for information. Requests for information shall include, at a minimum, a detailed written statement that indicates the specific Drawings or Specifications in need of clarification and the nature of the clarification requested. The Architect’s response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness. If appropriate, the Architect shall prepare and issue supplemental Drawings and Specifications in response to requests for information.

§ 9.26.5.5 The Architect shall maintain a record of submittals and copies of submittals supplied by the Contractor in accordance with the requirements of the GMP Documents.

ARTICLE 10 CLOSEOUT PHASE

§ 10.1 PROJECT COMPLETION

§ 10.1.1 The Architect shall conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion; receive from the Contractor and forward to the Owner, for the Owner’s review and records, written warranties and related documents required by the GMP Documents and assembled by the Contractor; and issue a final Certificate for Payment based upon a final inspection indicating the Work complies with the requirements of the GMP Documents.

§ 10.1.2 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 GMP Documents so that the Owner can occupy or utilize the Work for its intended use.

§ 10.1.3 The Architect’s inspections shall be conducted with the Owner to check conformance of the Work with the requirements of the GMP Documents and to verify the accuracy and completeness of the list submitted by the Contractor of Work to be completed or corrected.

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

§ 10.1.5 Upon receipt of the Contractor’s list, the Architect will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect’s inspection discloses any item, whether or not included on the Contractor’s list, which is not sufficiently complete in accordance with the GMP Documents so that the Owner can occupy or utilize the Work or designated portion thereof for its intended use, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Architect. In such case, the Contractor shall then submit a request for another inspection by the Architect to determine Substantial Completion.
§ 10.1.6 When the Work or designated portion thereof is substantially complete, the Architect will prepare a Certificate of Substantial Completion that shall establish the date of Substantial Completion. As of the date of Substantial Completion, the Owner shall be responsible for security, maintenance, heat, utilities, damage to the Work and insurance. The Certificate of Substantial Completion shall inform the Owner about the balance of the Contract Sum remaining to be paid the Contractor, including the amount to be retained from the Contract Sum, if any, for final completion or correction of the Work, and shall fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the GMP Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 10.1.7 The Architect shall forward to the Owner the following information received from the Contractor: (1) consent of surety or sureties, if any, to reduction in or partial release of retainage or the making of final payment; (2) affidavits, receipts, releases and waivers of liens or bonds indemnifying the Owner against liens; and (3) any other documentation required of the Contractor under the GMP Documents.

§ 10.1.8 Upon request of the Owner, and prior to the expiration of one year from the date of Substantial Completion, the Architect shall, without additional compensation, conduct a meeting with the Owner to review the facility operations and performance.

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

§ 10.2 FINAL COMPLETION AND FINAL PAYMENT

§ 10.2.1 Upon receipt of the Contractor's written notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Architect will promptly make such inspection and, when the Architect finds the Work acceptable under the GMP Documents and the Contract fully performed, the Architect will promptly issue a final Certificate for Payment stating that to the best of the Architect's knowledge, information and belief, and on the basis of the Architect's on-site visits and inspections, the Work has been completed in accordance with terms and conditions of the GMP Documents and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Architect's final Certificate for Payment will constitute a further representation that conditions listed in Section 10.2.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

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

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

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

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

ARTICLE 11 INSURANCE AND BONDS
§ 11.1 CONTRACTOR'S LIABILITY INSURANCE
§ 11.1.1 The Contractor shall purchase from and maintain in a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located such insurance as will protect the Contractor from claims set forth below which may arise out of or result from the Contractor's operations and completed operations under the Contract and for which the Contractor may be legally liable, whether such operations be by the Contractor or by a Subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:
   .1 Claims under workers' compensation, disability benefit and other similar employee benefit acts that are applicable to the Work to be performed;
   .2 Claims for damages because of bodily injury, occupational sickness or disease, or death of the Contractor's employees;
   .3 Claims for damages because of bodily injury, sickness or disease, or death of any person other than the Contractor's employees;
   .4 Claims for damages insured by usual personal injury liability coverage;
   .5 Claims for damages, other than to the Work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom;
   .6 Claims for damages because of bodily injury, death of a person or property damage arising out of ownership, maintenance or use of a motor vehicle;
   .7 Claims for bodily injury or property damage arising out of completed operations; and
   .8 Claims involving contractual liability insurance applicable to the Contractor's obligations under Section 9.18.

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

§ 11.1.3 Certificates of insurance acceptable to the Owner shall be filed with the Owner prior to commencement of the Work and thereafter upon renewal or replacement of each required policy of insurance. These certificates and the insurance policies required by this Section 11.1 shall contain a provision that coverages afforded under the policies will not be canceled or allowed to expire until at least 30 days' prior written notice has been given to the Owner. An additional certificate evidencing continuation of liability coverage, including coverage for completed operations, shall be submitted with the final Application for Payment as required by Section 10.2 and thereafter upon renewal or replacement of such coverage until the expiration of the time required by Section 11.1.2. Information concerning reduction of coverage on account of revised limits or claims paid under the General Aggregate, or both, shall be furnished by the Contractor with reasonable promptness.

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

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

§ 11.3 PROPERTY INSURANCE
§ 11.3.1 Unless otherwise provided, the Contractor shall purchase and maintain, in a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located, property insurance written on a builder’s risk "all-risk" or equivalent policy form in the amount of the initial Contract Sum, plus value of subsequent Contract Modifications and cost of materials supplied or installed by others, comprising total value for the entire Project at the site on a replacement cost basis without optional deductibles. Such property insurance shall be maintained, unless otherwise provided in the GMP Documents or otherwise agreed in writing by all persons and entities who are beneficiaries of such insurance, until Substantial Completion has been reached as provided in Section 10. This insurance shall include interests of the Owner, the Contractor, Subcontractors and Sub-subcontractors in the Project.

§ 11.3.1.1 Property insurance shall be on an "all-risk" or equivalent policy form and shall include, without limitation, insurance against the perils of fire (with extended coverage) and physical loss or damage including, without duplication of coverage, theft, vandalism, malicious mischief, collapse, earthquake, flood, windstorm, falsework, testing and startup, temporary buildings and debris removal including demolition occasioned by enforcement of any applicable legal requirements, and shall cover reasonable compensation for Architect’s and Contractor’s services and expenses required as a result of such insured loss. Such property insurance to include ordinance or Law Insurance, for the reasonable and necessary costs to satisfy the minimum requirements of the enforcement of any law or ordinance regulating the demolition, construction, repair, replacement or use of the Project; Expediting Cost Insurance, for the reasonable and necessary costs for the temporary repair of damaged property; Extra Expense Insurance, to provide reimbursement of the reasonable and necessary excess costs incurred during the period of restoration or repair of the damaged property that are over and above the total costs that would normally have been incurred during the same period of time had no loss or damage occurred; and Civil Authority Insurance, for losses or costs arising from an order of a civil authority prohibiting access to the Project, provided such order is the direct result of physical damage covered under the required property insurance.

§ 11.3.1.2 Not Used.

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

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

§ 11.3.1.5 Partial occupancy or use in accordance with Section 9.23.8 shall not commence until the insurance company or companies providing property insurance have consented to such partial occupancy or use by endorsement or otherwise. The Owner and the Contractor shall take reasonable steps to obtain consent of the insurance company or companies and shall, without mutual written consent, take no action with respect to partial occupancy or use that would cause cancellation, lapse or reduction of insurance.

§ 11.3.2 BOILER AND MACHINERY INSURANCE
The Contractor shall purchase and maintain boiler and machinery insurance required by the GMP Documents or by law, which shall specifically cover such insured objects during installation and until Substantial Completion; this insurance shall include interests of the Owner, Contractor, Subcontractors and Sub-subcontractors in the Work, and the Contractor shall be the named insured and the Owner additional insured.

§ 11.3.3 LOSS OF USE INSURANCE
The Owner, at the Owner’s option, may purchase and maintain such insurance as will insure the Owner against loss of use of the Owner’s property due to fire or other hazards, however caused. The Owner waives all rights of action against the Contractor and Subcontractors of every tier for loss of use of the Owner’s property, including consequential losses due to fire or other hazards however caused.
§ 11.3.4 Not Used.

§ 11.3.5 If during the Project construction period the Owner insures properties, real or personal or both, at or adjacent to the site by property insurance under policies separate from those insuring the Project, or if after final payment property insurance is to be provided on the completed Project through a policy or policies other than those insuring the Project during the construction period, the Owner shall waive all rights in accordance with the terms of Section 11.3.7 for damages caused by fire or other causes of loss covered by this separate property insurance. All separate policies shall provide this waiver of subrogation by endorsement or otherwise.

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

§ 11.3.7 WAIVERS OF SUBROGATION
The Owner and Contractor waive all rights against (1) each other and any of their Subcontractors, Sub-subcontractors, agents and employees, each of the other, and separate contractors described in Section 9.20, if any, and any of their Subcontractors, Sub-subcontractors, agents and employees, for damages caused by fire or other causes of loss to the extent covered by builder's risk or property insurance obtained pursuant to this Section 11.3 or other property insurance applicable to the Work, except such rights as they have to proceed of such insurance held by the Owner as fiduciary. The Owner or Contractor, as appropriate, shall require of separate contractors described in Section 9.20, if any, and the Subcontractors, Sub-subcontractors, agents and employees of any of them, by appropriate agreements, written where legally required for validity, similar waivers each in favor of other parties enumerated herein. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged.

§ 11.3.8 A loss insured under the Owner's property insurance shall be adjusted by the party procuring such insurance as fiduciary and made payable to the same party as fiduciary for the insureds, subject to requirements of any applicable mortgagee clause and of Section 11.3.10. The procuring party shall pay the other parties with an insurable interest their just shares of insurance proceeds received by the procuring party, and by appropriate agreements, written where legally required for validity, shall require other parties to make payments to their Sub-subcontractors in similar manner.

§ 11.3.9 If required in writing by a party in interest, the procuring party as fiduciary shall, upon occurrence of an insured loss, give bond for proper performance of the procuring party's duties. The cost of required bonds shall be charged against proceeds received as fiduciary. The procuring party shall deposit in a separate account proceeds so received, which the procuring party shall distribute in accordance with such agreement as the parties in interest may reach, or as determined in accordance with the method of binding dispute resolution selected in the Agreement between the Owner and Contractor. If after such loss no other special agreement is made and unless the Owner terminates the Contract for convenience, replacement of damaged property shall be performed by the Contractor after notification of a Change in the Work in accordance with Section 9.21.

§ 11.3.10 The procuring party 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 procuring party's exercise of this power, in which case the dispute shall be resolved by litigation in accordance with Article 13. The procuring party as fiduciary shall make settlement with insurers or, in the case of a dispute over distribution of insurance proceeds, in accordance with the directions of the court.

§ 11.4 PERFORMANCE BOND AND PAYMENT BOND
§ 11.4.1 The Owner shall have the right to require the Contractor to furnish bonds covering faithful performance of the Contract and payment of obligations arising thereunder as stipulated in bidding requirements or specifically required in the GMP Documents on the date of execution of the Contract.
§ 11.4.2 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished.

ARTICLE 12 MISCELLANEOUS PROVISIONS
§ 12.1 SUCCESSORS AND ASSIGNS
§ 12.1.1 The Owner and Contractor respectively bind themselves, their partners, successors, assigns and legal representatives to covenants, agreements and obligations contained in the GMP Documents. Except as provided in Section 12.1.2, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make such an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

§ 12.1.2 The Owner may, without consent of the Contractor, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner’s rights and obligations under the GMP Documents. The Contractor shall execute all consents reasonably required to facilitate such assignment.

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

§ 12.3 RIGHTS AND REMEDIES
§ 12.3.1 Duties and obligations imposed by the GMP 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.

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

§ 12.4 TESTS AND INSPECTIONS
§ 12.4.1 Tests, inspections and approvals of portions of the Work shall be made as required by the GMP Documents and by applicable laws, statutes, ordinances, codes, rules and regulations or lawful orders of public authorities. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections and approvals. The Contractor shall give the Architect timely notice of when and where tests and inspections are to be made so that the Architect may be present for such procedures. The Owner shall bear costs of (1) tests, inspections or approvals that do not become requirements until after bids are received or negotiations concluded, and (2) tests, inspections or approvals where building codes or applicable laws or regulations prohibit the Owner from delegating their cost to the Contractor.

§ 12.4.2 If the Architect, Owner or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection or approval not included under Section 12.4.1, the Architect will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection or approval by an entity acceptable to the Owner, and the Contractor shall give timely notice to the Architect of when and where tests and inspections are to be made so that the Architect may be present for such procedures. Such costs, except as provided in Section 12.4.3, shall be at the Owner’s expense.

§ 12.4.3 If such procedures for testing, inspection or approval under Sections 12.4.1 and 12.4.2 reveal failure of the portions of the Work to comply with requirements established by the GMP Documents, all costs made necessary by such failure including those of repeated procedures and compensation for the Architect’s services and expenses shall be at the Contractor’s expense.

§ 12.4.4 Required certificates of testing, inspection or approval shall, unless otherwise required by the GMP Documents, be secured by the Contractor and promptly delivered to the Architect.
§ 12.4.5 If the Architect is to observe tests, inspections or approvals required by the GMP Documents, the Architect will do so promptly and, where practicable, at the normal place of testing.

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

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

§ 12.6 TIME LIMITS ON CLAIMS
The Owner and Contractor shall commence all claims and causes of action, whether in contract, tort, breach of warranty or otherwise, against the other arising out of or related to the Contract in accordance with Article 13 within the time period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Contractor waive all claims and causes of action not commenced in accordance with this Section 12.6.

ARTICLE 13 CLAIMS AND DISPUTES
§ 13.1 CLAIMS
§ 13.1.1 DEFINITION
A Claim is a demand or assertion by the Owner, or Contractor seeking, as a matter of right, payment of money, or other relief with respect to disputes and matters in question between arising out of or relating to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Contractor arising out of or relating to the Contract. The responsibility to substantiate Claims shall rest with the party making the Claim.

§ 13.1.2 NOTICE OF CLAIMS
Claims by either the Owner or Contractor must be initiated by written notice to the other party and to the Initial Decision Maker within a copy sent to the Architect, if the Architect is not serving as the Initial Decision Maker. Claims by either party must be initiated within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later.

§ 13.1.3 CONTINUING CONTRACT PERFORMANCE
Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.23.7 and Article 7 of the Owner-Contractor Agreement, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the GMP Documents. The Architect will prepare Change Orders and issue Certificates for Payment in accordance with the decisions of the Initial Decision Maker.

§ 13.1.4 CLAIMS FOR ADDITIONAL COST
If the Contractor wishes to make a Claim for an increase in the Contract Sum, written notice as provided herein shall be given before proceeding to execute the Work. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 9.24.4.

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

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

§ 13.1.6 CLAIMS FOR CONSEQUENTIAL DAMAGES
The Contractor and Owner waive Claims against each other for consequential damages arising out of or relating to the Contract. This mutual waiver includes

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damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and

2 damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit except anticipated profit arising directly from the Work.

This mutual waiver is applicable, without limitation, to all consequential damages due to the termination of the Owner-Contractor Agreement. Nothing contained in this Section 13.1.6 shall be deemed to preclude an award of liquidated damages, when applicable, in accordance with the requirements of the GMP Documents.

§ 13.2 INITIAL DECISION
§ 13.2.1 Claims arising after the commencement date of the Work, excluding those arising under Sections 9.24.3, 9.24.4, 11.3.9, and 11.3.10, shall be referred to the Initial Decision Maker for initial decision. The Architect will serve as the Initial Decision Maker, unless otherwise indicated in the Owner-Contractor Agreement. Except for those Claims excluded by this Section 13.2.1, an initial decision shall be required as a condition precedent to mediation of any such Claim arising prior to the date final payment is due, unless 30 days have passed after the Claim has been referred to the Initial Decision Maker with no decision having been rendered. Unless the Initial Decision Maker and all affected parties agree, the Initial Decision Maker will not decide disputes between the Contractor and persons or entities other than the Owner.

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

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

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

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

§ 13.2.6 Either party may file for mediation of an initial decision at any time, subject to the terms of Section 13.2.6.1.

§ 13.2.6.1 Either party may, within 30 days of the date of an initial decision, demand in writing that the other party file for mediation within 60 days of the initial decision. If such a demand is made and the party receiving the demand fails to file for mediation within the time required, then both parties waive their rights to mediate or pursue binding dispute resolution proceedings with respect to the initial decision.

§ 13.2.7 In the event of a Claim against the Contractor, the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor’s default, the Owner may, but is not obligated to, notify the surety and request the surety’s assistance in resolving the controversy.
§ 13.2.8 If a Claim relates to or is the subject of a mechanic’s lien, the party asserting such Claim may proceed in accordance with applicable law to comply with the lien notice or filing deadlines.

§ 13.3 MEDIATION
§ 13.3.1 Claims, disputes, or other matters in controversy arising out of or related to the Project except those waived as provided for in Sections 10.2.4, 10.2.5, and 13.1.6 shall be subject to mediation as a condition precedent to binding dispute resolution.

§ 13.3.2 The parties shall endeavor to resolve their Claims by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Owner-Contractor Agreement. A request for mediation shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of binding dispute resolution proceedings but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order.

§ 13.3.3 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.

§ 13.4 DISPUTE RESOLUTION BY LITIGATION
§ 13.4.1 Any Claim subject to, but not resolved by, mediation shall be subject to litigation in a court of competent jurisdiction located in the state of Missouri.

(Paragraphs deleted)
§ 13.4.1.1 Not used.

§ 13.4.2 Not used.

§ 13.4.3 Not used.

§ 13.4.4 CONSOLIDATION OR JOINDER
(Paragraphs deleted)
§ 13.4.4.1 Not used.

§ 13.4.4.2 Not used.

§ 13.4.4.3 Not used.