



# AIA® Document A101™ – 2017

ITEM # 19-0648

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

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

### BETWEEN the Owner:

City of Santa Fe  
P.O. Box 909  
Santa Fe, NM 87504-0909  
(505)955-5937

### and the Contractor:

B&D Industries, Inc.  
9720 Bell Avenue SE  
Albuquerque, New Mexico 87123  
(505)299-4464

### for the following Project:

CIP Project #503A, Salvador Perez Recreation Building  
Structural and Building Envelope Rehabilitation

(Paragraph deleted)

### The Design Professional:

WHPacific, Inc.  
6501 Americas Pkwy NE, STE 400  
Albuquerque, New Mexico 87110  
(505)830-8752

The Owner and Contractor agree as follows.

### ADDITIONS AND DELETIONS:

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

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

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

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### ARTICLE 1 THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary, and other Conditions), Drawings and Specifications: as indicated herein under Article 9, Addenda issued prior to execution of this Agreement, other documents and Exhibits listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. An enumeration of the Contract Documents, other than a Modification, appears in Article 9.

In the event of a conflict between or among the Contract Documents, the following order of priority shall be:

- (1) This Agreement (Exhibit 1)
- (2) AIA Document A201-2007, General Conditions of the Construction Contract (Exhibit 1,B)
- (3) *The City of Santa Fe General Conditions (Exhibit 1,C)*
- (4) The City of Santa Fe Supplementary Conditions (Exhibit 1,D)
- (5) Provisions of the Cooperative Education Services contract #16-01B-R124-ALL (Exhibit 1,E)
- (6) Provisions set forth in the Contract Documents issued by the Design Professional
- (7) Provisions set forth in other exhibited documents

### ARTICLE 2 THE WORK OF THIS CONTRACT

The Contractor shall fully execute the Work described herein and in the Contract Documents. The Scope of Work includes Natatorium roof structure rehabilitation, building entry signage and beam structure replacement and building envelope rehabilitation and shall be carried out in accordance with the Contract Documents indicated under Article 9, Enumeration of Contract Documents, except as specifically indicated in the Contract Documents to be the responsibility of others.

### ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 3.1 The date of commencement of the Work shall be:

*(Paragraphs deleted)*

☒ The date set forth in the Official Notice-to-Proceed issued by the Owner.

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

#### § 3.3 Substantial Completion

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

*(Paragraph deleted)*

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[ X ] Not later than one hundred forty five ( 145 ) calendar days from the date of commencement of the Work, subject to adjustments of this Contract Time as provided in the Contract Documents.

§ 3.3.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work are to be completed after Substantial Completion of the other Work, the Contractor shall achieve Substantial Completion of such portions by the following dates:

Portion of Work	Substantial Completion Date
Exterior insulation and finish system color coat if the Notice to Proceed is issued after September 23, 2019, and, substantiated inclimate and/or freezing weather conditions are incurred, prohibiting responsible completion of the stucco work within the one hundred forty five (145) day contract time. See Allowance #4 below.	May 10, 2020

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

#### ARTICLE 4 CONTRACT SUM

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum shall be one million, two hundred fifty two thousand, nine hundred eighty four dollars and thirty eight cents (\$ 1,252,984.38 ), inclusive of New Mexico Gross Receipts Tax, subject to additions and deductions as provided in the Contract Documents.

#### § 4.2 Alternates

§ 4.2.1 Alternates, if any, included in the Contract Sum and as part of the Construction Contingency Reserve, applied as set forth in Section 4.3.2, and as described in the Contract Documents are hereby accepted by the Owner:

Item	Price
Alternate #1 - Remove and replace VCT tiled floors	\$21,825.10
Alternate #2 - Paint all interior walls other than in the Natatorium (in Base Bid)	\$21,828.46
Alternate #3 - Install rooftop TPO walk path.	\$13,638.07

(Table deleted)

(Paragraphs deleted)

#### § 4.3

(Paragraphs deleted)

#### Allowances

§ 4.3.1 Allowances, if any, included in the Contract Sum and as part of the Construction Contingency Reserve, applied as set forth in Section 4.3.2, and as described in the Contract Documents are hereby accepted by the Owner:

Item	Allotted reserve dollar amount, subject to final pricing and approval per Section 4.3.2
Allowance #1 - Required roof membrane, roof deck and structural repairs and modifications necessitating additional performance of work by the Contractor beyond the base bid scope of work.	\$9,750.39
Allowance #2 - Required finishes, hardware, fittings and equipment removal and/or installation necessitating additional	\$9,000.00

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performance of work by the Contractor beyond the base bid scope of work.  
 Allowance #3 – Reserve for other construction remodeling related unforeseen conditions, testing and mitigation measures. \$5,000.00  
 Allowance #4 – Delayed EFIS color coat installation remobilization, associated finish work and clean up. \$38,000.00

**§ 4.3.2** The Construction Contingency Reserve of one hundred thousand nineteen, forty two dollars and two cents (\$119,042.02), exclusive of New Mexico Gross Receipts Tax, shall be applied toward the Allowance items enumerated under Section 4.3.1 addressing unanticipated conditions including required testing and mitigation measures, modifications to the scope of work required by regulatory agencies, Owner requested changes and design clarifications or required modifications that necessitate additional mobilization and/or performance of work by the Contractor beyond the base bid scope of work. Project Contingency Reserve funds not applied to these circumstances shall be applied toward the completion of the Alternates listed under Section 4.2.1, in the order listed. Construction Contingency Reserve funds not applied to contingency items or alternates shall be deducted from the Contract Sum on the Final Application for Payment and remain unbilled. All items funded by the Construction Contingency Reserve shall be authorized by written pre-approval from the Owner's Representative, with the Design Professional's concurrence, as applicable and shall be clearly documented with line item actual costs (not to exceed the total dollar amount of the allotted Construction Contingency Reserve without approval of a Change Order) on the Schedule of Values accompanying the relevant application for payment.

**§ 4.4 Unit prices, if any:**

Item	Units and Limitations	Price per Unit (\$0.00)
Not applicable	N/A	N/A

**§ 4.5 Liquidated damages, if any:**

*(Paragraph deleted)*

Liquidated damages of two hundred fifty dollars and zero cents (\$250.00) per calendar day will apply for work not completed by the Substantial Completion date(s).

*(Paragraphs deleted)*

**ARTICLE 5 PAYMENTS**

**§ 5.1 Progress Payments**

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

**§ 5.1.2** The period covered by each Application for Payment shall be one calendar month ending on the last day of the month.

**§ 5.1.3** Provided that an Application for Payment is received by the Design Professional not later than the 1st day of a month, the Owner shall make payment of the amount certified to the Contractor not later than the 30th day of the month. If an Application for Payment is received by the Design Professional after the application date fixed above, payment of the amount certified shall be made by the Owner not later than thirty (30) days after the Design Professional receives the Application for Payment.

**§ 5.1.4** Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form, and supported by such data to substantiate its accuracy, as the Design Professional may require. This schedule of values shall be used as a basis for reviewing the Contractor's Applications for Payment.

**§ 5.1.5** Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment. The Contractor shall stipulate a sum as a line item on the schedule

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of values for Completion of Work after issuance of the Certificate of Substantial Completion as listed on the Design Professional's official Punch list and for completion and submission of all Project Close Out documentation, including, but not limited to the documents listed below. The Certificate of Final Completion will be issued after acceptance of these documents by the Owner.

- .1 Certificate of Liability Insurance with an expiration date no earlier than one (1) year after the Substantial Completion date.
- .2 Contractor's Affidavit of Release of Liens (AIA Document G706A)
- .3 Contractor's Affidavit of Payment of Debts and Claims (AIA Document G706)
- .4 Contractor's Warranty
- .5 Manufacturer's Warranties (as applicable)
- .6 Operations and Maintenance Manual covering warranted equipment, materials requiring maintenance and including any reports or procedural documentation generated by third parties or subcontractors as part of, or necessitated by the Work.
- .7 Approved Construction Permit(s) with Construction Document set stamped by Permitting Authorities (as applicable)
- .8 As-Built Construction Document set and documentation of all other Work completed that is not included in the As-Built set
- .9 Final Inspection Report(s) from Permitting Authorities (as applicable)
- .10 Consent of Surety Company to Final Payment.
- .11 Application for Final Payment.
- .12 Lien Bond (as applicable)
- .13 Lien Discharge Fee(s) Refund (as applicable)
- .14 Certificate of Occupancy (as applicable)
- .15 New Mexico Dept. of Workforce Solutions Affidavit of Wages Paid
- .16 New Mexico Dept. of Workforce Solutions Payroll Statement of Compliance

§ 5.1.6 In accordance with AIA Document A201™–2017, General Conditions of the Contract for Construction, and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

§ 5.1.6.1 The amount of each progress payment shall first include:

- .1 That portion of the Contract Sum, including fully executed change orders, properly allocable to completed Work;
- .2 That portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction, or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing.

§ 5.1.6.2 The amount of each progress payment shall then be reduced by:

- .1 The aggregate of any amounts previously paid by the Owner;
- .2 The amount, if any, for Work that remains uncorrected and for which the Design Professional has previously withheld an Application for Payment as provided in Article 9 of AIA Document A201–2017;
- .3 Any amount for which the Contractor does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Contractor intends to pay;

*(Paragraphs deleted)*

§ 5.1.7 If final completion of the Work is materially delayed through no fault of the Contractor, the Owner shall pay the Contractor any additional amounts in accordance with Article 9 of AIA Document A201–2017.

*(Paragraphs deleted)*

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

*(Paragraph deleted)*

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## **§ 5.2 Final Payment**

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

- .1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Article 12 of AIA Document A201-2017, and to satisfy other requirements, if any, which extend beyond final payment; and
- .2 a final approved Application for Payment has been issued by the Design Professional.

**§ 5.2.2** The Owner's final payment to the Contractor shall be made no later than 30 days after the issuance of the Design Professional's final approved Application for Payment, or as follows:

Within fifteen days of the Contractor's request for final payment being submitted to the City, provided the Owner has received from the Contractor the Consent of Surety, Waivers, Releases of Liens and all other items listed in Section 5.1.5.

*(Paragraphs deleted)*

## **ARTICLE 6 DISPUTE RESOLUTION**

### **§ 6.1 Initial Decision Maker**

The Owner will serve as the Initial Decision Maker pursuant to Article 15 of AIA Document A201-2017, unless the parties appoint below another individual, not a party to this Agreement, to serve as the Initial Decision Maker.

### **6.2 Binding Dispute Resolution**

*(Paragraphs deleted)*

For any Claim subject to, but not resolved by, mediation pursuant to Article 15 of AIA Document A201-2017, the method of binding dispute resolution shall be as follows:

☒ *In accordance with New Mexico Public Works Mediation Act 13-4C-1 through 13-4C-11, NMSA 1978.*

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

*(Paragraphs deleted)*

## **ARTICLE 7 TERMINATION OR SUSPENSION**

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

*(Paragraphs deleted)*

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

## **ARTICLE 8 MISCELLANEOUS PROVISIONS**

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

**§ 8.2** The Owner's representative:

Jason M. Kluck or other authorized Public Works Project Administrator or Director  
Project Administrator, Facilities Division  
City of Santa Fe  
2651 Siringo Road, Building E, Santa Fe, New Mexico 87505  
(505) 955-5937

**§ 8.3** The Contractor's representative:

Clinton Beall  
Senior Vice President  
B&D Industries, Inc.  
9720 Bell Avenue SE, Albuquerque, NM 87123  
(505)299-4464

Init.

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

**§ 8.5** Other provisions:

*(Paragraph deleted)*

**§ 8.5.1 Indemnification**

**§ 8.5.1.1** The Contractor shall indemnify, hold harmless and defend the City from all losses, damages, claims or judgments, including payments of all attorneys' fees and costs on account of any suit, judgment, execution, claim, action or demand whatsoever arising from Contractor's performance under this Agreement as well as the performance of Contractor's employees, agents, representatives and subcontractors.

**§ 8.5.2 Appropriations**

**§ 8.5.2.1** The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the City for the performance of this Agreement. If sufficient appropriations and authorization are not made by the City, this Agreement shall terminate upon written notice being given by the City to the Contractor. The City's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final.

**§ 8.5.3 Third Party Beneficiaries**

**§ 8.5.3.1** By entering into this Agreement, the parties do not intend to create any right, title or interest in or for the benefit of any person other than the City and the Contractor. No person shall claim any right, title or interest under this Agreement or seek to enforce this Agreement as a third party beneficiary of this Agreement.

**§ 8.5.4 Status of Contractor; Responsibility for Payment of Employees and Subcontractors**

**§ 8.5.4.1** The Contractor and its agents and employees are independent contractors performing professional services for the City and are not employees of the City. The Contractor, and its agents and employees, shall not accrue leave, retirement, insurance, bonding, use of City vehicles, or any other benefits afforded to employees of the City as a result of this Agreement.

**§ 8.5.4.2** Contractor shall be solely responsible for payment of wages, salaries and benefits to any and all employees or subcontractors retained by Contractor in the performance of the services under this Agreement.

**§ 8.5.4.3** The Contractor shall comply with City of Santa Fe Minimum Wage, Article 28-1-SFCC 1987, as well as any subsequent changes to such article throughout the term of this Agreement.

**§ 8.5.5 Conflict of interest**

**§ 8.5.5.1** The Contractor warrants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under this Agreement. Contractor further agrees that in the performance of this Agreement no persons having any such interests shall be employed.

*(Paragraphs deleted)*

**§ 8.5.6 Assignment: Subcontracting**

*(Paragraphs deleted)*

**§ 8.5.6.1** The Contractor shall not assign or transfer any rights, privileges, obligations or other interest under this Agreement, including any claims for money due, without the prior written consent of the City. The Contractor shall not subcontract any portion of the services to be performed under this Agreement without the prior written approval of the City.

**§ 8.5.7 Release**

**§ 8.5.7.1** The Contractor, upon acceptance of final payment of the amount due under this Agreement, releases the City, its officers and employees from all liabilities, claims and obligations whatsoever arising from or under this Agreement. The Contractor agrees not to purport to bind the City to any obligation not assumed herein by the City unless the Contractor has express written authority to do so, and then only within the strict limits of that authority.

**§ 8.5.8 Insurance**

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**§ 8.5.8.1** The contractor, at its own cost and expense, shall carry and maintain in full force and effect during the term of this Agreement, comprehensive general liability insurance covering bodily injury and property damage liability, in a form and with an insurance company acceptable to the City, with limits of coverage in the maximum amount which the City could be held liable under the New Mexico Tort Claims Act for each person injured and for each accident resulting in damage to property. Such insurance shall provide that the City is named as an additional insured and that the City is notified no less than 30 days in advance of cancellation for any reason. The Contractor shall furnish the City with a copy of a Certificate of Insurance as a condition prior to performing services under this Agreement.

**§ 8.5.8.2** Contractor shall also obtain and maintain Workers' compensation insurance, required by law, to provide coverage for Contractor's employees throughout the term of this Agreement. Contractor shall provide the City with evidence of its compliance with such requirement.

**§ 8.5.9 Records and Audit**

**§ 8.5.9.1** The contractor shall maintain, throughout the term of this Agreement and for a period of three years thereafter, detailed records that indicate the date, time and nature of services rendered. These records shall be subject to inspection by the City, the Department of Finance and Administration, and the State Auditor. The City shall have the right to audit the billing both before and after payment. Payment under this Agreement shall not foreclose the right of the City to recover excessive or illegal payments.

**§ 8.5.10 Applicable Law: Choice of Law: Venue**

**§ 8.5.10.1** Contractor shall abide by all applicable federal and state laws and regulations, and all ordinances, rules and regulations of the City of Santa Fe. In any action, suit or legal dispute arising from this Agreement, the Contractor agrees that the laws of the State of New Mexico shall govern. The parties agree that any action or suit arising from this Agreement shall be commenced in a federal or state court of competent jurisdiction in New Mexico. Any action or suit commenced in the courts of the State of New Mexico shall be brought in the First Judicial District Court.

**§ 8.5.11 Amendment**

**§ 8.5.11.1** This Agreement shall not be altered, changed or modified except by an amendment in writing executed by the parties hereto.

**§ 8.5.12 Non-Discrimination**

**§ 8.5.12.1** During the term of this Agreement, Contractor shall not discriminate against any employee or applicant for an employment position to be used in the performance of services by Contractor hereunder, on the basis of ethnicity, race, age, religion, creed, color, national origin, ancestry, sex, gender, sexual orientation, physical or mental disability, medical condition, or citizenship status.

**§ 8.5.13 Severability**

**§ 8.5.13.1** In case any one or more of the provisions contained in this Agreement or any application thereof shall be invalid, illegal or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions contained herein and any other application thereof shall not in any way be affected or impaired thereby.

**§ 8.5.14 Notices**

**§ 8.5.14.1** Any and all notices provided for hereunder shall be in writing and shall be deemed delivered, given and received when (i) personally delivered, or (ii) five (5) days after the same are deposited in the United States Postal Service mail, postage prepaid, certified mail, return receipt requested, addressed to the applicable party at the address indicated below for each party, or at such other address as may be designated by either party in a written notice to the other party:

OWNER:

City of Santa Fe  
Public Works Department, Facilities Division  
P.O. Box 909  
Santa Fe, New Mexico 87504-0909

CONTRACTOR:

B&D Industries, Inc.  
9720 Bell Avenue SE, Albuquerque, NM 87123  
(505)299-4464



### § 8.5.15 New Mexico Tort Claims Act

§ 8.5.15.1 Any liability incurred by the City of Santa Fe in connection with this agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, Section 41-4-1, et. seq. NMSA 1978, as amended. The City and its "public employees" as defined in the New Mexico Tort Claims Act, do not waive any limitation of liability pursuant to law. No provision in this Agreement modifies or waives any provision of the New Mexico Tort Claims Act.

### § 8.5.16 Term and Effective Date

§ 8.5.16.1 This Agreement shall be effective when signed by the City and the Contractor, whichever occurs last, and terminate on June 30, 2023 unless sooner pursuant to section 8.5.11.

## ARTICLE 9 ENUMERATION OF CONTRACT DOCUMENTS

§ 9.1 This Agreement is comprised of the following documents:

- .1 This, executed, AIA Document A101™-2017, Standard Form of Agreement Between Owner and Contractor (Exhibit 1)
- .2 Contractor's Price Proposal dated 6/18/19 (Exhibit 1,A)
- .3 AIA Document A201™-2017, General Conditions of the Contract for Construction (Exhibit 1,B)
- .4 City of Santa Fe General Conditions (Exhibit 1,C)
- .5 City of Santa Fe Supplementary Conditions (Exhibit 1,D)
- .6 Cooperative Educational Services Contract #16-01B-R124-ALL (Exhibit 1,E)
- .7 Contractor's Certificate of Liability Insurance (Exhibit 1,F)
- .8 Project Schedule (Exhibit 1,G)
- .9 NMDWS Wage documents (Exhibit 1,H)
- .10 Construction Documents referenced below (Exhibit 1,I)

Where there is a conflict or duplication between the General Conditions documents, the AIA General Conditions shall prevail.

#### Drawings

Number	Title	Date
19 sheets: G-001 through S-501	CIP Project #503A, Salvador Perez Recreation Building Structural and Building Envelope Rehabilitation	06/04/2019

#### Specifications

Section	Title	Date	Pages
01 1000 through 12 2113	Design Specifications Salvador Perez Recreation Building Structural and Building Envelope Rehabilitation	06/04/2019	120

#### (Paragraphs deleted)

All Addenda transmitted to the Contractor prior to execution of this Agreement, if any, are included in the Agreement regardless of enumeration herein.

#### Addenda

Number	Date	Pages
001	6/13/19	2

§ 9.2 Indicated here for reference, the following documents are ancillary to the Agreement and are included in the City approval packet:

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User Notes:

(1231696696)

- .1 Contractor's City of Santa Fe Business License (Exhibit 2)
- .2 Cooperative Educational Services Purchasing Agreement with the City, #18-0191 (Exhibit 3)

#### ARTICLE 10 INSURANCE AND BONDS

The Contractor shall purchase and maintain insurance and provide bonds as set forth in Article 11 of AIA Document A201-2017.

Type of insurance or bond	Limit of liability or bond amount (\$0.00)
Performance & Payment Bonds	100% of the Contract amount
Commercial General Liability	\$1,000,000 per occurrence, \$2,000,000 aggregate
Automobile Liability	\$500,000 combined single limit
Workers Compensation	\$100,000 each accident, \$100,000 disease, each employee
Workers	\$500,000 disease, policy limit

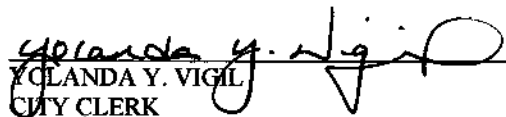
IN WITNESS WHEREOF, the parties have executed this Agreement on the date set forth below.

CITY OF SANTA FE:

  
 ALAN WEBBER, MAYOR

DATE: 8/2/19

ATTEST:

  
 YOLANDA Y. VIGIL  
 CITY CLERK  
 CC Mtg. - 7-31-19  
 APPROVED AS TO FORM:

  
 ERIN MCSHERRY,  
 CITY ATTORNEY

CONTRACTOR:  
 B&D INDUSTRIES, INC.

  
 BY: CLINTON BEALL, SENIOR VICE PRESIDENT

NM LICENSE # 1426  
 CRS # 01-716872-004  
 CITY BUSINESS REGISTRATION # 17-00110523  
 NM RESIDENT PREFERENCE #: L1754397648

APPROVED:

  
 MARY MCCOY, FINANCE DIRECTOR

Business Unit/Line Item  
 32151.572970.0119900: \$1,111,484.38, EXP Salvador Perez Building, WIP Construction (2018 GRT Bond)  
 32125.572970: \$141,500.00, EXP Municipal Facility Repair, WIP Construction

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## NEW MEXICO

9720 Bell Ave SE  
Albuquerque, NM 87123  
**Phone:** (505) 299-4464  
(866) 315-8349  
**Fax:** (505) 298-2114

## BRANCH OFFICES

## NEW MEXICO

101 DP Rd  
Los Alamos, NM 87544  
**Phone:** (505) 661-8336  
**Fax:** (505) 661-8337

5928 N. Lovington Hwy  
Hobbs, NM 88240  
**Phone:** (505) 780-0410

## ARIZONA

3001 South 35th  
Street #C10  
Phoenix, AZ 85034  
**Phone:** (480) 632-4002

## NEW YORK

65 Washington Street  
Rensselaer, NY 12144  
**Phone:** (518) 400-2412

6/18/19

Jason M. Kluck  
Facilities Division Project Administrator  
[jmkluck@santafenm.gov](mailto:jmkluck@santafenm.gov)  
(505) 955-5937 (Office)  
(505) 795-2347 (Cell)

EXHIBIT

tabbles

I, A  
46 PAGES

Re: Salvador Perez Recreation Building Structural and Building Envelope Rehabilitation

Thank you for the opportunity to provide a proposal for the above-mentioned project.

Base Bid Price:	\$ 1,013,791.23
Alternate #1 VCT tile:	\$ 21,825.10
Alternate #2 Int. Paint:	\$ 21,828.46
Alternate #3 Walk path:	\$ 13,638.07
Allowance #1:	\$ 9,750.39
Allowance #2:	\$ 9,000.00
Allowance #3:	\$ 5,000.00
Allowance #4	\$ 38,000.00
<b>Sub-Total:</b>	<b>\$ 1,132,833.25</b>
<b>Bond:</b>	<b>\$ 22,656.67</b>
<b>Tax @8.4375:</b>	<b>\$ 97,494.46</b>
<b>Grand Total:</b>	<b>\$ 1,252,984.38</b>

### \*Pricing Breakdown\*

**General Conditions:** \$ 189,897.89

■ To include:

Full-time on-site Superintendent, project management, temporary fencing, dumpster, temporary restroom, storage connex, on-site office, permits, rental equipment, safety professional visits, and all requirements of job site posting and security.



[www.bandindustries.com](http://www.bandindustries.com)

## NEW MEXICO

9720 Bell Ave SE  
Albuquerque, NM 87123  
**Phone:** (505) 299-4464  
(866) 315-8349  
**Fax:** (505) 298-2114

## BRANCH OFFICES

## NEW MEXICO

101 DP Rd  
Los Alamos, NM 87546  
**Phone:** (505) 661-8336  
**Fax:** (505) 661-8337

5920 N. Lovington Hwy.  
Hobbs, NM 88240  
**Phone:** (505) 780-0410

## ARIZONA

3001 South 35th  
Street #C10  
Phoenix, AZ 85034  
**Phone:** (480) 632-4002

## NEW YORK

65 Washington Street  
Rensselaer, NY 12144  
**Phone:** (518) 400-7412

### Roof Structure Rehab: \$ 263,319.32

- To include:

Interior scaffolding, removal of the handrail not associated with ADA, removal of partial glass partition, removal of handrail posts and concrete to match existing, removal of the catwalk and rehang duct, sandblasting and painting truss system and roof deck, interior wall patches(epoxy and mortar), truss bearing reinforcement, steel column closure, painting all walls within Natatorium, structural through bolt replacement, temporary lighting, protection of fire sprinkler system, removal of CMU infill between steel columns, reframing between steel columns, and door installation between steel columns.

### EIFS: \$ 372,425.92

- To include:

EIFS prep and install, exterior scaffolding, metalwork associated with EIFS, metal coping, relocation of gas line on the north side, pressure testing of gas system, extending electrical, extending signage, extending fire connection, extending vent, exterior painting, roofing repairs associated with the moved gas line, roofing repairs associated with coping, downspout demo and replacement, soldier block repair, and helical wall ties.

### Exterior Windows/ Doors: \$ 120,429.21

- To include:

Demo and replacement of exterior windows and doors, window blinds, the insulation below front window, rotted framing replaced below front window, sheetrock below front window, electrical associated with sheetrock repair below front window, and CMU infill at 3 bottom south windows.

### Beam/ Signage: \$ 21,425.49

- To include:

Demo and replacement of beam at front entryway, signage for beam, and finishing of existing pergola beams.

### Access Ladders: \$ 19,411.47

- To include:

Removal of access ladder in the pool area and fabrication/ installation of access ladders as shown in plans.

### Interior Windows/ Doors: \$ 22,228.55

- To include:

Demo and replacement of windows and doors on the interior of the building.

### Drop Ceiling Repairs: \$ 4,653.38

- To include:

Replace stained ceiling tiles with new tiles.



## NEW MEXICO

9720 Bell Ave SE  
Albuquerque, NM 87123  
Phone: (505) 299-4464  
(866) 315-8349  
Fax: (505) 298-2114

## BRANCH OFFICES

## NEW MEXICO

101 DE Rd  
Los Alamos, NM 87544  
Phone: (505) 661-8336  
Fax: (505) 661-8337

5920 N. Lovington Hwy.  
Hobbs, NM 88240  
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3001 South 35th  
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Phone: (480) 632-4002

## NEW YORK

65 Washington Street  
Rensselaer, NY 12144  
Phone: (518) 400-7412

### ALT#1 VCT Flooring: \$ 21,825.10

- To include:  
Demo and replacement of VCT tile and cove base in areas as designated by the plans

### Alt #2 Interior Paint: \$ 21,828.46

- To include:  
Painting of interior space outside of the Natatorium.

### Alt #3 Walk Paths: \$ 13,638.07

- To include:  
Installation of TPO walk path on the rooftop as designated in the plans. Though, this only includes up to the last HVAC unit and not to the proposed ship's ladder.

### Allowance #1: \$ 9,750.39

- To include:  
Required roof membrane, roof deck and structural repairs and modifications necessitating additional performance of work by the Contractor beyond the base bid scope of work.

### Allowance #2: \$ 9,000.00

- To include:  
Required finishes, hardware, fittings, and equipment removal and/or installation necessitating additional performance of work by the Contractor beyond the base bid scope of work.

### Allowance #3: \$ 5,000.00

- To include:  
Construction Contingency Reserve for other unforeseen conditions, testing, and mitigation measures.

### Allowance #4: \$ 38,000.00

- To include:  
Delayed EFIS color coat installation remobilization, associated finish work and clean up.

### Scope- B&D shall provide the following services:

Perform work per drawings titled "Salvador Perez Recreation Building Structural and Building Envelope Rehabilitation" dated 6/4/2019. This includes sheets "G-001, G-002, AD101(Dated 6/11/19), AD201, A-101(Dated 6/11/19), A-102(Dated 6/11/19), A-201, A-401, A-501, A-502, A-601, A-602, S-001, S-002, S-101, S-102, S-103, S-104, and S-501" and Design Specifications dated 6/7/19.



[www.bandindustries.com](http://www.bandindustries.com)



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## BRANCH OFFICES

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**Phone:** (480) 632-4002

### NEW YORK

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Rensselaer, NY 12141  
**Phone:** (518) 400-7412

#### Inclusions:

1. Roll off dumpster/connex/office/restrooms/fencing/job board
2. Standard working hours
3. Tax and bond
4. Job permitting

#### Exclusions:

1. Existing Code Violations or any unforeseen conditions
2. Any and all cost associated with unforeseen site conditions or delays not caused by B&D Industries
3. Any other major components not identified in the above scope or attached document
4. Temporary HVAC, Plumbing, Power, or UEC Charges/ engineering
5. After hours/night work
6. The proposed ship's ladder
7. Removal and replacement of the bleachers in the pool area
8. Plan review
9. Gas line repairs associated with existing leaks

Please contact me should you have questions or concerns. We look forward to your favorable response.

Best Regards,

*Kris Trujillo*  
**Project Manager**  
**505-379-1760 Cell**  
[krist@banddindustries.com](mailto:krist@banddindustries.com)

*This cost proposal is valid for 30 days following the issuance by B&D Industries, Inc. If the proposal is accepted after 30 days, B&D reserves the right to revise the price in accordance with commodity pricing changes including, but not limited to, copper, conduit and steel materials. If awarded, B&D reserves the right to review all contract documents associated with the project.*



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### Estimator: Jim Tapia

### Salvador Perez General Conditions

#### Division Summary (MF04)

01 - General Requirements	\$153,938.75
02 - Existing Conditions	\$20,400.00
03 - Concrete	
04 - Masonry	
05 - Metals	
06 - Wood, Plastics, and Composites	
07 - Thermal and Moisture Protection	
08 - Openings	
09 - Finishes	
10 - Specialties	
11 - Equipment	
12 - Furnishings	
13 - Special Construction	
14 - Conveying Equipment	
21 - Fire Suppression	
22 - Plumbing	
23 - Heating, Ventilating, and Air-Conditioning (HVAC)	
25 - Integrated Automation	

#### Totalling Components

Priced Line Items	\$180,863.75
RSMeans SANTA FE, NM CCI 2019Q1, 91.30%	\$(15,735.15)
2016 NM CES GC B&D R2 State >\$60k Normal (15.0000%)	\$24,769.29

#### Material, Labor, and Equipment Totals (No Totalling Components)

Material:	\$27,834.10
Labor:	\$143,029.65
Equipment:	\$0.00
Other:	\$10,000.00
Laborhours:	49.57
Green Line Items:0	\$0.00

26 - Electrical	
27 - Communications	
28 - Electronic Safety and Security	
31 - Earthwork	
32 - Exterior Improvements	
33 - Utilities	
34 - Transportation	
35 - Waterway and Marine Transportation	
41 - Material Processing and Handling Equipment	
44 - Pollution Control Equipment	
46 - Water and Wastewater Equipment	
48 - Electric Power Generation	
Alternate	\$6,525.00
Trades	
Assemblies	
FMR	
MF04 Total (Without totalling components)	\$180,863.75

#### Nonpriced Line Items

2016 NM CES B&D Alternate OP (15.0000%)	
2016 NM CES B&D Alternate OP CES Discount (-10.0000%)	

#### Priced/Non-Priced

Total Priced Items:	12	\$180,863.75	
Total Non-Priced Items:	0	\$0.00	0.00%
	12	\$180,863.75	

#### Grand Total

**\$189,897.89**

Estimator: Jim Tapia

## Totalling Component Details

Description	Item Count	Applicable Amount	Applied Amount	Applied Result	Balance
<b>Priced Line Items</b> Included in Total: Yes Type: Total, Master Format Type: MF04 Values: Total Includes: Priced Filtering: (none)	12	\$180,863.75		\$180,863.75	\$180,863.75
<b>RSMMeans SANTA FE, NM CCI 2019Q1, 91.30%</b> Included in Total: Yes Type: RSMMeans CCI (Project Level) RSMMeans SANTA FE, NM CCI 2019Q1, 91.30% ZIP: 875 Subtotal based on 1 items: "Priced Line Items"		\$180,863.75	(8.7000)%	\$(15,735.15)	\$165,128.60
<b>2016 NM CES GC B&amp;D R2 State &gt;\$60k Normal</b> Included in Total: Yes Type: Percentage (Project Level) Subtotal based on 2 items: "Priced Line Items", "RSMMeans SANTA FE, NM CCI 2014Q3"		\$165,128.60	15.0000 %	\$24,769.29	\$189,897.89
<b>Nonpriced Line Items</b> Included in Total: Yes Type: Total, Master Format Type: MF04 Values: Total Includes: Non Priced Filtering: (none)					\$189,897.89
<b>2016 NM CES B&amp;D Alternate OP</b> Included in Total: Yes Type: Percentage (Project Level) Subtotal based on 1 items: "Nonpriced Line Items"			15.0000 %		\$189,897.89
<b>2016 NM CES B&amp;D Alternate OP CES Discount</b> Included in Total: Yes Type: Percentage (Project Level) Subtotal based on 1 items: "Nonpriced Line Items"			(10.0000)%		\$189,897.89



# Final Estimate

Estimator: Jim Tapia

Salvador Perez General Conditions

Item	Description	UM	Quantity	Unit Cost	Total	Book
<b>01 - General Requirements</b>						
1 01-31-13-20-0200	Field personnel, project manager, average	Week	17.0000	\$4,000.00	\$68,000.00	RSM19eFAC L, O&P P
2 01-31-13-20-0260	Field personnel, superintendent, average	Week	17.5000	\$3,725.00	\$65,187.50	RSM19eFAC L, O&P P
3 01-41-26-50-0020	Permits, rule of thumb, most cities, minimum	Job	1,250,000.0000	0.5000%	\$6,250.00	RSM19eFAC O&P P
4 01-52-13-20-0250	Office and storage space, office trailer, furnished, no hookups, 20' x 8', rent per month	Ea.	5.0000	\$222.00	\$1,110.00	RSM19eFAC M, O&P P
5 01-52-13-20-1350	Office and storage space, storage boxes, 40' x 8', rent per month	Ea.	10.0000	\$122.00	\$1,220.00	RSM19eFAC M, O&P P
6 01-52-13-40-0160	Field office expense, lights and HVAC	Month	5.0000	\$179.00	\$895.00	RSM19eFAC M, O&P P
7 01-56-26-50-0100	Temporary fencing, chain link, 11 gauge, 6' high	L.F.	800.0000	\$8.70	\$6,960.00	RSM19eFAC M, L, O&P P
8 01-74-13-20-0020	Cleaning up, after job completion, allow, minimum	Job	1,250,000.0000	0.3000%	\$3,750.00	RSM19eFAC O&P P
9 01-93-13-09-0740	Finishes, facilities maintenance, floor maintenance, composition, resilient or wood flooring, damp mop, unobstructed	M.S.F.	15.0000	\$26.50	\$397.50	RSM19eFAC M, L, O&P P
10 01-93-13-09-0890	Finishes, facilities maintenance, floor maintenance, composition, resilient or wood flooring, sweeping, unobstructed	M.S.F.	15.0000	\$11.25	\$168.75	RSM19eFAC L, O&P P
<b>01 - General Requirements Total</b>					<b>\$153,938.75</b>	
<b>02 - Existing Conditions</b>						
11 02-41-19-19-0840	Selective demolition, rubbish handling, the following are to be added to the demolition prices. Dumpster, weekly rental, includes one dump per week, 40 C.Y. capacity, 10 tons	Week	24.0000	\$850.00	\$20,400.00	RSM19eFAC M, O&P P
<b>02 - Existing Conditions Total</b>					<b>\$20,400.00</b>	
<b>Alternate</b>						
12 01-31-13-20-0290	Field personnel, safety professional, average	Week	3.0000	\$2,175.00	\$6,525.00	CUSTOM L, O&P P
<b>Alternate Total</b>					<b>\$6,525.00</b>	
<b>Estimate Grand Total</b>					<b>189,897.89</b>	

Estimator: Jim Tapia

Salvador Perez Pool Deck Blasting & Painting

### Division Summary (MF04)

01 - General Requirements	\$112,832.25
02 - Existing Conditions	
03 - Concrete	\$3,400.00
04 - Masonry	\$11,653.50
05 - Metals	\$34,869.50
06 - Wood, Plastics, and Composites	
07 - Thermal and Moisture Protection	
08 - Openings	\$1,895.00
09 - Finishes	\$38,170.00
10 - Specialties	
11 - Equipment	
12 - Furnishings	
13 - Special Construction	
14 - Conveying Equipment	
21 - Fire Suppression	
22 - Plumbing	\$652.00
23 - Heating, Ventilating, and Air-Conditioning (HVAC)	\$5,370.00
25 - Integrated Automation	

### Totalling Components

Priced Line Items	\$250,792.25
RSMeans SANTA FE, NM CCI 2019Q1, 91.30%	\$(21,818.93)
2016 NM CES GC B&D R2 State >\$60k Normal (15.0000%)	\$34,346.00

### Material, Labor, and Equipment Totals (No Totalling Components)

Material:	\$69,418.02
Labor:	\$176,330.33
Equipment:	\$5,043.90
Other:	\$0.00
Laborhours:	2,773.14
Green Line Items:2	\$417.50

26 - Electrical	
27 - Communications	
28 - Electronic Safety and Security	
31 - Earthwork	\$1,300.00
32 - Exterior Improvements	
33 - Utilities	
34 - Transportation	
35 - Waterway and Marine Transportation	
41 - Material Processing and Handling Equipment	
44 - Pollution Control Equipment	
46 - Water and Wastewater Equipment	
48 - Electric Power Generation	
Alternate	
Trades	\$40,650.00
Assemblies	
FMR	
<b>MF04 Total (Without totalling components)</b>	<b>\$250,792.25</b>

### Nonpriced Line Items

2016 NM CES B&D Alternate OP (15.0000%)
2016 NM CES B&D Alternate OP CES Discount (-10.0000%)

### Priced/Non-Priced

Total Priced Items:	29	\$250,792.25	
Total Non-Priced Items:	0	\$0.00	0.00%
	29	\$250,792.25	

**Grand Total**

**\$263,319.32**

Estimator: Jim Tapia

## Totalling Component Details

Description	Item Count	Applicable Amount	Applied Amount	Applied Result	Balance
<b>Priced Line Items</b> Included in Total: Yes Type: Total, Master Format Type: MF04 Values: Total Includes: Priced Filtering: (none)	29	\$250,792.25		\$250,792.25	\$250,792.25
<b>RSMeans SANTA FE, NM CCI 2019Q1, 91.30%</b> Included in Total: Yes Type: RSMeans CCI (Project Level) RSMeans SANTA FE, NM CCI 2019Q1, 91.30% ZIP: 875 Subtotal based on 1 items: "Priced Line Items"		\$250,792.25	(8.7000)%	\$(21,818.93)	\$228,973.32
<b>2016 NM CES GC B&amp;D R2 State &gt;\$60k Normal</b> Included in Total: Yes Type: Percentage (Project Level) Subtotal based on 2 items: "Priced Line Items", "RSMeans SANTA FE, NM CCI 2014Q3"		\$228,973.32	15.0000 %	\$34,346.00	\$263,319.32
<b>Nonpriced Line Items</b> Included in Total: Yes Type: Total, Master Format Type: MF04 Values: Total Includes: Non Priced Filtering: (none)					\$263,319.32
<b>2016 NM CES B&amp;D Alternate OP</b> Included in Total: Yes Type: Percentage (Project Level) Subtotal based on 1 items: "Nonpriced Line Items"			15.0000 %		\$263,319.32
<b>2016 NM CES B&amp;D Alternate OP CES Discount</b> Included in Total: Yes Type: Percentage (Project Level) Subtotal based on 1 items: "Nonpriced Line Items"			(10.0000)%		\$263,319.32

## Final Estimate

Estimator: Jim Tapia			Salvador Perez Pool Deck Blasting & Painting					
Item	Description	UM	Quantity	Unit Cost	Total	Book		
01 - General Requirements								
1	01-51-13-80-0350	Temporary utilities, lighting, lamps, wiring, outlets, 40,000 S.F. building, 8 strings	CSF Flr	400.0000	\$28.50	\$11,400.00	RSM19eFAC M, L, O&P	P
2	01-54-23-70-0800	Scaffolding, steel tube, regular, no plank, labor only to erect and dismantle, building interior floor area, up to 30' high	C.C.F.	2,400.0000	\$13.35	\$32,040.00	RSM19eFAC L, O&P	P
3	01-54-23-70-0908	Scaffolding, complete system for interior spaces, no plank, material only rent by month	C.C.F.	9,600.0000	\$4.18	\$40,128.00	RSM19eFAC M, O&P	P
4	01-54-23-70-2850	Scaffolding, steel tubular, regular, rent by month, accessories, plank 2" x 10" x 16'-0"	Ea.	125.0000	\$10.85	\$1,356.25	RSM19eFAC M, O&P	P
5	01-54-23-70-5700	Scaffolding, planks, 2" x 10" x 16'-0", labor only to erect and remove, to 50' high	Ea.	125.0000	\$28.00	\$3,500.00	RSM19eFAC L, O&P	P
6	01-54-33-40-0040-4	Rent per month for general equipment rental, without operators, aerial lift, scissor type, electric, over 30' high, 1500 lb. capacity	Ea.	1.0000	\$1,210.00	\$1,210.00	RSM19eFAC E, O&P	P
7	01-56-16-10-0070	Dust barriers, temporary, accessories, caution tape	C.L.F.	200.0000	\$4.34	\$868.00	RSM19eFAC M, L, O&P	P
8	01-56-16-10-0110	Dust barriers, temporary, accessories, polyethylene sheet, 6 mil	Sq.	600.0000	\$18.55	\$11,130.00	RSM19eFAC M, L, O&P	P
9	01-76-13-20-0020	Temporary protection, flooring, 1/8" tempered hardboard, taped seams	S.F.	8,000.0000	\$1.40	\$11,200.00	RSM19eFAC M, L, O&P	P
01 - General Requirements Total						\$112,832.25		
03 - Concrete								
10	03-35-43-10-0110	Polished concrete floors, processing of cured concrete to include grinding, honing and polishing of interior floors with 22" segmented diamond planetary floor grinder (2 passes in different directions per grit), removal of pre-existing coatings, dry, with carbide discs using, dry vacuum pick-up system, final hand sweeping, glue, adhesive or tar	M.S.F.	1.0000	\$1,300.00	\$1,300.00	RSM19eFAC M, L, E, O&P	P
11	03-82-13-10-0300	Core drilling, including bit cost, layout and set-up time, reinforced concrete slab, up to 6" thick, 3" diameter core	Ea.	25.0000	\$84.00	\$2,100.00	RSM19eFAC M, L, E, O&P	P
03 - Concrete Total						\$3,400.00		
04 - Masonry								
12	04-01-20-41-0110	Unit masonry stabilization, structural repointing method, cut and grind mortar joint	L.F.	50.0000	\$2.77	\$138.50	RSM19eFAC L, O&P	P
13	04-01-20-41-0120	Unit masonry stabilization, structural repointing method, clean and mask joint	L.F.	50.0000	\$0.40	\$20.00	RSM19eFAC M, L, O&P	P
14	04-01-20-41-0132	Unit masonry stabilization, structural repointing method, epoxy paste and 3/8" FRP rod	L.F.	50.0000	\$7.50	\$375.00	RSM19eFAC M, L, O&P	P
15	04-01-30-20-1400	Cleaning masonry, excludes scaffolding, sandblast, dry system, light soil	S.F.	8,000.0000	\$1.39	\$11,120.00	RSM19eFAC M, L, E, O&P	P

# Final Estimate

Estimator: Jim Tapia

Salvador Perez Pool Deck Blasting & Painting

## 04 - Masonry

Item	Description	UM	Quantity	Unit Cost	Total	Book
<b>04 - Masonry Total</b>						<b>\$11,653.50</b>

## 05 - Metals

16	05-01-10-51-6245	Cleaning of structural metal framing, commercial blast (SSPC-SP6), existing coat blistered or pitted, 4.0 lb sand per S.F.	S.F.	8,000.0000	\$3.81	\$30,480.00	RSM19eFAC M, L, E, O&P	P
17	05-05-21-90-0020	Welding steel, structural, field welding, 1/8" E6011, cost per welder, excluding operating engineer	Hr.	30.0000	\$115.00	\$3,450.00	RSM19eFAC M, L, E, O&P	P
18	05-05-23-25-0750	High strength bolts, including washer and nut, A325 Type 1, structural steel, bolt-nut-washer set, 1-1/4" diameter x 8" long	Ea.	6.0000	\$32.50	\$195.00	RSM19eFAC Gm, M, L, O&P	P
19	05-05-23-70-0250	Structural blind bolts, 3/8" diameter x 3/4" grip	Ea.	72.0000	\$7.25	\$522.00	RSM19eFAC M, L, O&P	P
20	05-12-23-65-0450	Plates, structural, for connections and stiffener plates, shop fabricated, including shop primer, 3/4" thick (30.6 lbs per S.F.)	S.F.	5.0000	\$44.50	\$222.50	RSM19eFAC Gm, M, O&P	P
<b>05 - Metals Total</b>						<b>\$34,869.50</b>		

## 08 - Openings

21	08-85-20-10-0050	Structural glazing adhesives, structural glazing adhesive, 1/4" x 1/4" joint seal	L.F.	100.0000	\$18.95	\$1,895.00	RSM19eFAC M, L, O&P	P
<b>08 - Openings Total</b>						<b>\$1,895.00</b>		

## 09 - Finishes

22	09-91-23-75-0580	Dry fall painting, structural steel, bar joists or metal deck, two coat, spray	S.F.	8,000.0000	\$0.71	\$5,680.00	RSM19eFAC M, L, O&P	P
23	09-96-56-20-0400	Wall coatings, epoxy coatings, water based	S.F.	9,000.0000	\$3.61	\$32,490.00	RSM19eFAC M, L, O&P	P
<b>09 - Finishes Total</b>						<b>\$38,170.00</b>		

## 22 - Plumbing

24	22-05-29-10-2680	Hangers and supports for plumb'g/HVAC pipe/equip., rods, carbon steel, continuous thread, 3/8" thread size	L.F.	80.0000	\$8.15	\$652.00	RSM19eFAC M, L, O&P	P
<b>22 - Plumbing Total</b>						<b>\$652.00</b>		

## 23 - Heating, Ventilating, and Air-Conditioning (HVAC)

25	23-31-13-16-5520	Round and flat-oval spiral ducts, fabricated round and flat oval spiral, includes hangers, supports and field sketches, spiral preformed, steel, galvanized, straight lengths, maximum 10" static pressure water gauge, 24" diameter, 24 gauge	L.F.	70.0000	\$49.50	\$3,465.00	RSM19eFAC M, L, O&P	P
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# Final Estimate

Estimator: Jim Tapia

Salvador Perez Pool Deck Blasting & Painting

## 23 - Heating, Ventilating, and Air-Conditioning (HVAC)

Item	Description	UM	Quantity	Unit Cost	Total	Book	
26 23-31-13-16-5540	Round and flat-oval spiral ducts, fabricated round and flat oval spiral, includes hangers, supports and field sketches, spiral preformed, steel, galvanized, straight lengths, maximum 10" static pressure water gauge, 30" diameter, 22 gauge	L.F.	30.0000	\$63.50	\$1,905.00	RSM19eFAC M, L, O&P	P

## 23 - Heating, Ventilating, and Air-Conditioning (HVAC) Total

\$5,370.00

## 31 - Earthwork

27 31-23-19-20-1100	Dewatering systems, pumping 8 hours, attended 8 hours per day, including 20 L.F., of suction hose and 100 L.F. discharge hose, 6" centrifugal pump used for 8 hours	Day	1.0000	\$1,300.00	\$1,300.00	RSM19eFAC L, E, O&P	P
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## 31 - Earthwork Total

\$1,300.00

## Trades

28 HELP	Helpers Average (5 trades) - 2018 RSMeans Facilities Bare Rate	Hour	500.0000	\$37.80	\$18,900.00	Trades L, B	P
29 PSST	Painters, Structural Steel - 2018 RSMeans Facilities Bare Rate	Hour	500.0000	\$43.50	\$21,750.00	Trades L, B	P

## Trades Total

\$40,650.00

## Estimate Grand Total

263,319.32

Estimator: Jim Tapia

Salvador Perez EIFS

### Division Summary (MF04)

01 - General Requirements	\$73,936.25
02 - Existing Conditions	
03 - Concrete	
04 - Masonry	\$49,440.00
05 - Metals	\$2,320.00
06 - Wood, Plastics, and Composites	\$2,512.00
07 - Thermal and Moisture Protection	\$199,880.50
08 - Openings	
09 - Finishes	\$1,940.00
10 - Specialties	\$530.00
11 - Equipment	
12 - Furnishings	
13 - Special Construction	
14 - Conveying Equipment	
21 - Fire Suppression	\$520.00
22 - Plumbing	\$15,788.00
23 - Heating, Ventilating, and Air-Conditioning (HVAC)	
25 - Integrated Automation	

### Totalling Components

Priced Line Items	\$354,708.25
RSMeans SANTA FE, NM CCI 2019Q1, 91.30%	\$(30,859.82)
2016 NM CES GC B&D R2 State >\$60k Normal (15.0000%)	\$48,577.29

### Material, Labor, and Equipment Totals (No Totalling Components)

Material:	\$101,596.08
Labor:	\$232,243.67
Equipment:	\$20,868.50
Other:	\$0.00
Laborhours:	3,154.63
Green Line Items:2	\$165,332.50

26 - Electrical	\$4,442.00
27 - Communications	
28 - Electronic Safety and Security	
31 - Earthwork	
32 - Exterior Improvements	\$130.00
33 - Utilities	
34 - Transportation	
35 - Waterway and Marine Transportation	
41 - Material Processing and Handling Equipment	
44 - Pollution Control Equipment	
46 - Water and Wastewater Equipment	
48 - Electric Power Generation	
Alternate	
Trades	\$3,269.50
Assemblies	
FMR	
<b>MF04 Total (Without totalling components)</b>	<b>\$354,708.25</b>

### Nonpriced Line Items

2016 NM CES B&D Alternate OP (15.0000%)
2016 NM CES B&D Alternate OP CES Discount (-10.0000%)

### Priced/Non-Priced

Total Priced Items:	39	\$354,708.25	
Total Non-Priced Items:	0	\$0.00	0.00%
	39	\$354,708.25	

### Grand Total

**\$372,425.92**

Estimator: Jim Tapia

## Totalling Component Details

Description	Item Count	Applicable Amount	Applied Amount	Applied Result	Balance
<b>Priced Line Items</b> Included in Total: Yes Type: Total, Master Format Type: MF04 Values: Total Includes: Priced Filtering: (none)	39	\$354,708.25		\$354,708.25	\$354,708.25
<b>RSMeans SANTA FE, NM CCI 2019Q1, 91.30%</b> Included in Total: Yes Type: RSMeans CCI (Project Level) RSMeans SANTA FE, NM CCI 2019Q1, 91.30% ZIP: 875 Subtotal based on 1 items: "Priced Line Items"		\$354,708.25	(8.7000)%	\$(30,859.62)	\$323,848.63
<b>2016 NM CES GC B&amp;D R2 State &gt;\$60k Normal</b> Included in Total: Yes Type: Percentage (Project Level) Subtotal based on 2 items: "Priced Line Items", "RSMeans SANTA FE, NM CCI 2014Q3"		\$323,848.63	15.0000 %	\$48,577.29	\$372,425.92
<b>Nonpriced Line Items</b> Included in Total: Yes Type: Total, Master Format Type: MF04 Values: Total Includes: Non Priced Filtering: (none)					\$372,425.92
<b>2016 NM CES B&amp;D Alternate OP</b> Included in Total: Yes Type: Percentage (Project Level) Subtotal based on 1 items: "Nonpriced Line Items"			15.0000 %		\$372,425.92
<b>2016 NM CES B&amp;D Alternate OP CES Discount</b> Included in Total: Yes Type: Percentage (Project Level) Subtotal based on 1 items: "Nonpriced Line Items"			(10.0000)%		\$372,425.92



# Final Estimate

Estimator: Jim Tapia

Salvador Perez EIFS

Item	Description	UM	Quantity	Unit Cost	Total	Book
<b>01 - General Requirements</b>						
1 01-54-23-70-0090	Scaffolding, steel tube, regular, no plank, labor only to erect and dismantle, building exterior, wall face, 6'-4" x 5' frames, 1 to 5 stories	C.S.F.	145.0000	\$250.00	\$36,250.00	RSM19eFAC L, O&P P
2 01-54-23-70-0906	Scaffolding, complete system for face of walls, no plank, material only rent by month	C.S.F.	580.0000	\$36.50	\$21,170.00	RSM19eFAC M, O&P P
3 01-54-23-70-2850	Scaffolding, steel tubular, regular, rent by month, accessories, plank 2" x 10" x 16'-0"	Ea.	125.0000	\$10.85	\$1,356.25	RSM19eFAC M, O&P P
4 01-54-23-70-5700	Scaffolding, planks, 2" x 10" x 16'-0", labor only to erect and remove, to 50' high	Ea.	125.0000	\$28.00	\$3,500.00	RSM19eFAC L, O&P P
5 01-54-33-40-0040-4	Rent per month for general equipment rental, without operators, aerial lift, scissor type, electric, over 30' high, 1500 lb. capacity	Ea.	2.0000	\$1,210.00	\$2,420.00	RSM19eFAC E, O&P P
6 01-54-33-40-2065-4	Rent per month for general equipment rental, without operators, forklift, pneumatic tire, all terrain, telescoping boom, diesel, 10,000 lb., 31' reach, 45' lift	Ea.	2.0000	\$4,620.00	\$9,240.00	RSM19eFAC E, O&P P
<b>01 - General Requirements Total</b>					<b>\$73,936.25</b>	
<b>04 - Masonry</b>						
7 04-01-30-20-0400	Cleaning masonry, excludes scaffolding, high pressure wash, water only, light soil	S.F.	16,200.0000	\$1.20	\$19,440.00	RSM19eFAC L, E, O&P P
8 04-72-10-10-0800	Coping, stock units, excludes scaffolding, aluminum, for 12" wall	L.F.	1,200.0000	\$25.00	\$30,000.00	RSM19eFAC M, L, O&P P
<b>04 - Masonry Total</b>					<b>\$49,440.00</b>	
<b>05 - Metals</b>						
9 05-05-19-20-8200	Expansion anchors, anchors for concrete, brick or stone, no layout and drilling, wedge anchors, carbon steel, 3/8" diameter, 5" long	Ea.	400.0000	\$5.80	\$2,320.00	RSM19eFAC Gm, M, L, O&P P
<b>05 - Metals Total</b>					<b>\$2,320.00</b>	
<b>06 - Wood, Plastics, and Composites</b>						
10 06-11-10-24-5120	Miscellaneous framing, nailers, treated, wood construction, 2" x 8"	L.F.	800.0000	\$3.14	\$2,512.00	RSM19eFAC M, L, O&P P
<b>06 - Wood, Plastics, and Composites Total</b>					<b>\$2,512.00</b>	
<b>07 - Thermal and Moisture Protection</b>						
11 07-05-05-10-0120	Selective demolition, thermal and moisture protection, downspouts, including hangers	L.F.	400.0000	\$1.51	\$604.00	RSM19eFAC L, O&P P
12 07-24-13-10-0115	Exterior insulation and finish systems, field applied, 3" expanded polystyrene insulation	S.F.	15,750.0000	\$10.35	\$163,012.50	RSM19eFAC Gm, M, L, E, O&P P

# Final Estimate

Estimator: Jim Tapia

Salvador Perez EIFS

## 07 - Thermal and Moisture Protection

Item	Description	UM	Quantity	Unit Cost	Total	Book
13 07-24-13-10-0210	Exterior insulation and finish systems, field applied, color or texture change, with substrate sealing base coat	S.F.	16,200.0000	\$0.62	\$10,044.00	RSM19eFAC M, L, O&P
14 07-54-23-10-0200	Thermoplastic polyolefin roofing (T.P.O.), 60 mil membrane, heat welded seams, fully adhered	Sq.	100.0000	\$222.00	\$22,200.00	RSM19eFAC M, L, E, O&P
15 07-71-23-10-6100	Downspouts, steel, galvanized, rectangular, plain, 28 gauge, galvanized, 3" x 4"	L.F.	400.0000	\$10.05	\$4,020.00	RSM19eFAC M, L, O&P
<b>07 - Thermal and Moisture Protection Total</b>					<b>\$199,880.50</b>	

## 09 - Finishes

16 09-91-13-42-0190	Miscellaneous, exterior, railing, exterior, wrought iron, 1" rail, 1/2" square verticals, brushwork, zinc chromate, 60" high, bars 6" O.C., primer	L.F.	40.0000	\$5.20	\$208.00	RSM19eFAC M, L, O&P
17 09-91-13-42-0190	Miscellaneous, exterior, railing, exterior, wrought iron, 1" rail, 1/2" square verticals, brushwork, zinc chromate, 60" high, bars 6" O.C., primer	L.F.	120.0000	\$5.20	\$624.00	RSM19eFAC M, L, O&P
18 09-91-13-42-0200	Miscellaneous, exterior, railing, exterior, wrought iron, 1" rail, 1/2" square verticals, brushwork, zinc chromate, 60" high, bars 6" O.C., finish coat	L.F.	40.0000	\$5.50	\$220.00	RSM19eFAC M, L, O&P
19 09-91-13-62-0110	Siding, misc., latex paint, aluminum siding, brushwork, primer	S.F.	800.0000	\$0.56	\$448.00	RSM19eFAC M, L, O&P
20 09-91-13-62-0120	Siding, misc., latex paint, aluminum siding, brushwork, finish coat, exterior latex	S.F.	800.0000	\$0.55	\$440.00	RSM19eFAC M, L, O&P
<b>09 - Finishes Total</b>					<b>\$1,940.00</b>	

## 10 - Specialties

21 10-05-05-10-4300	Selective demolition, specialties, letter, signs or plaques, exterior on wall	Ea.	20.0000	\$26.50	\$530.00	RSM19eFAC L, O&P
<b>10 - Specialties Total</b>					<b>\$530.00</b>	

## 21 - Fire Suppression

22 21-05-53-50-3410	Identification, for fire suppression piping and equipment, plates and escutcheons for identification of fire department service and/or connections, wall mount, cast brass, multiple outlets, rectangular 2 way	Ea.	1.0000	\$520.00	\$520.00	RSM19eFAC M, L, O&P
<b>21 - Fire Suppression Total</b>					<b>\$520.00</b>	

## 22 - Plumbing

23 22-05-29-10-7324	Hangers and supports for plumb'g/HVAC pipe/equip., roof supports, pipe, roller type, up to 2-1/2" diameter pipe, 3-1/2" off roof	Ea.	12.0000	\$83.50	\$1,002.00	RSM19eFAC M, L, O&P
24 22-11-13-44-0580	Pipe, steel, schedule 40, A-53 grade, threaded, including couplings, and clevis hanger assemblies sized for covering, 10' O.C., black, 1" diameter	L.F.	200.0000	\$19.65	\$3,930.00	RSM19eFAC M, L, O&P

# Final Estimate

Estimator: Jim Tapia

Salvador Perez EIFS

## 22 - Plumbing

Item	Description	UM	Quantity	Unit Cost	Total	Book	
25 22-11-13-44-9020	Pipe, steel, threading pipe labor, one end, including all schedules through 80, 1" through 2" pipe size	Ea.	20.0000	\$10.75	\$215.00	RSM19eFAC L, O&P	P
26 22-11-13-44-9128	Pipe, steel, cutting pipe labor, one cut, shop fabrication, machine cut, schedule 40, straight pipe, 2" pipe size or less	Ea.	20.0000	\$12.80	\$256.00	RSM19eFAC L, O&P	P
27 22-11-13-45-5710	Pipe fittings, steel, threaded, malleable iron, 150 lbs., black, coupling, 1"	Ea.	10.0000	\$62.00	\$620.00	RSM19eFAC M, L, O&P	P
28 22-11-13-45-5994	Pipe fittings, steel, threaded, malleable iron, 150 lbs., black, cap, 1"	Ea.	5.0000	\$33.00	\$165.00	RSM19eFAC M, L, O&P	P
29 22-14-26-13-0200	Roof drains, cornice, cast iron, 45° or 90° outlet, 3" and 4" pipe size	Ea.	8.0000	\$535.00	\$4,280.00	RSM19eFAC M, L, O&P	P
30 22-14-26-13-4640	Roof drains, roof, main, all aluminum, 12" low profile dome, 2", 3" and 4" pipe size	Ea.	8.0000	\$665.00	\$5,320.00	RSM19eFAC M, L, O&P	P
<b>22 - Plumbing Total</b>							<b>\$15,788.00</b>

## 26 - Electrical

31 26-05-05-10-0200	Electrical demolition, conduit to 10' high, including fittings and hangers, electric metallic tubing (EMT), 1/2" to 1"	L.F.	200.0000	\$1.88	\$376.00	RSM19eFAC L, O&P	P
32 26-05-05-10-1840	Electrical demolition, wire, THW-THWN-THHN, removed from in place conduit, to 10' high, #12	C.L.F.	10.0000	\$13.45	\$134.50	RSM19eFAC L, O&P	P
33 26-05-05-10-2620	Electrical demolition, exterior fixtures, incandescent, wall mount, 100 watt	Ea.	13.0000	\$29.50	\$383.50	RSM19eFAC L, O&P	P
34 26-05-19-90-0940	Wire, 600 volt, copper type THWN-THHN, solid, #12	C.L.F.	10.0000	\$78.50	\$785.00	RSM19eFAC M, L, O&P	P
35 26-05-33-13-5040	Conduit, to 10' high, includes 2 terminations, 2 elbows, 11 beam clamps, and 11 couplings per 100 L.F., electric metallic tubing (EMT), 1" diameter	L.F.	200.0000	\$8.55	\$1,710.00	RSM19eFAC M, L, O&P	P
36 26-05-33-13-5240	Conduit, to 10' high, electric metallic tubing (EMT), field bends, 45° to 90°, 1" diameter	Ea.	20.0000	\$10.15	\$203.00	RSM19eFAC L, O&P	P
37 26-05-33-16-0150	Boxes for electrical systems, pressed steel, square, 4"	Ea.	20.0000	\$42.50	\$850.00	RSM19eFAC M, L, O&P	P
<b>26 - Electrical Total</b>							<b>\$4,442.00</b>

## 32 - Exterior Improvements

38 32-06-10-10-0850	Sidewalks, driveways and patios, splash block, precast concrete	Ea.	8.0000	\$16.25	\$130.00	RSM19eFAC M, L, O&P	P
<b>32 - Exterior Improvements Total</b>							<b>\$130.00</b>

## Trades

39 BRIC	Bricklayers - 2018 RSMeans Facilities Bare Rate	Hour	65.0000	\$50.30	\$3,269.50	Trades L, B	P
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**Final Estimate****Estimator: Jim Tapia****Salvador Perez EIFS**

Trades						
Item	Description	UM	Quantity	Unit Cost	Total	Book
Trades Total						\$3,269.50
Estimate Grand Total						372,425.92

### Salvador Perez Exterior Windows & Doors

Estimator: Jim Tapia

#### Division Summary (MF04)

01 - General Requirements	\$537.25
02 - Existing Conditions	
03 - Concrete	\$328.00
04 - Masonry	\$2,220.00
05 - Metals	
06 - Wood, Plastics, and Composites	\$1,896.20
07 - Thermal and Moisture Protection	
08 - Openings	\$86,957.50
09 - Finishes	\$880.00
10 - Specialties	
11 - Equipment	
12 - Furnishings	\$3,936.00
13 - Special Construction	
14 - Conveying Equipment	
21 - Fire Suppression	
22 - Plumbing	
23 - Heating, Ventilating, and Air-Conditioning (HVAC)	
25 - Integrated Automation	

#### Totalling Components

Priced Line Items	\$114,699.95
RSMeans SANTA FE, NM CCI 2019Q1, 91.30%	\$(9,978.90)
2016 NM CES GC B&D R2 State <\$60k Normal (15.0000%)	\$15,708.16

#### Material, Labor, and Equipment Totals (No Totalling Components)

Material:	\$65,218.65
Labor:	\$49,481.30
Equipment:	\$0.00
Other:	\$0.00
Laborhours:	747.11
Green Line Items:1	\$328.00

26 - Electrical	
27 - Communications	
28 - Electronic Safety and Security	
31 - Earthwork	
32 - Exterior Improvements	
33 - Utilities	
34 - Transportation	
35 - Waterway and Marine Transportation	
41 - Material Processing and Handling Equipment	
44 - Pollution Control Equipment	
46 - Water and Wastewater Equipment	
48 - Electric Power Generation	
Alternate	
Trades	\$17,945.00
Assemblies	
FMR	
MF04 Total (Without totalling components)	\$114,699.95

#### Nonpriced Line Items

2016 NM CES B&D Alternate OP (15.0000%)
2016 NM CES B&D Alternate OP CES Discount (-10.0000%)

#### Priced/Non-Priced

Total Priced Items:	26	\$114,699.95	
Total Non-Priced Items:	0	\$0.00	0.00%
	26	\$114,699.95	

#### Grand Total

\$120,429.21

Estimator: Jim Tapla

## Totalling Component Details

Description	Item Count	Applicable Amount	Applied Amount	Applied Result	Balance
<b>Priced Line Items</b> Included in Total: Yes Type: Total, Master Format Type: MF04 Values: Total Includes: Priced Filtering: (none)	26	\$114,699.95		\$114,699.95	\$114,699.95
<b>RSMeans SANTA FE, NM CCI 2019Q1, 91.30%</b> Included in Total: Yes Type: RSMeans CCI (Project Level) RSMeans SANTA FE, NM CCI 2019Q1, 91.30% ZIP: 875 Subtotal based on 1 items: "Priced Line Items"		\$114,699.95	(8.7000)%	\$(9,978.90)	\$104,721.05
<b>2016 NM CES GC B&amp;D R2 State &lt;\$50k Normal</b> Included in Total: Yes Type: Percentage (Project Level) Subtotal based on 2 items: "Priced Line Items", "RSMeans SANTA FE, NM CCI 2014Q3"		\$104,721.05	15.0000 %	\$15,708.16	\$120,429.21
<b>Nonpriced Line Items</b> Included in Total: Yes Type: Total, Master Format Type: MF04 Values: Total Includes: Non Priced Filtering: (none)					\$120,429.21
<b>2016 NM CES B&amp;D Alternate OP</b> Included in Total: Yes Type: Percentage (Project Level) Subtotal based on 1 items: "Nonpriced Line Items"			15.0000 %		\$120,429.21
<b>2016 NM CES B&amp;D Alternate OP CES Discount</b> Included in Total: Yes Type: Percentage (Project Level) Subtotal based on 1 items: "Nonpriced Line Items"			(10.0000)%		\$120,429.21

# Final Estimate

Estimator: Jim Tapia

Salvador Perez Exterior Windows & Doors

Item	Description	UM	Quantity	Unit Cost	Total	Book
<b>01 - General Requirements</b>						
1 01-93-13-08-2050	Door & window facilities maintenance, washing windows, at ground level with ladder, sponge and squeegee, both sides, 4' x 6', 16 pane	Ea.	35.0000	\$15.35	\$537.25	RSM19eFAC M, L, O&P P
<b>01 - General Requirements Total</b>					<b>\$537.25</b>	
<b>03 - Concrete</b>						
2 03-21-05-75-0100	Splicing reinforcing bars, including holding bars in place while splicing, standard, self-aligning type, taper threaded, #4 bars	Ea.	16.0000	\$20.50	\$328.00	RSM19eFAC Gm, M, L, O&P P
<b>03 - Concrete Total</b>					<b>\$328.00</b>	
<b>04 - Masonry</b>						
3 04-22-10-14-2200	Concrete block, back-up, C90, 2000 psi, includes mortar, excludes scaffolding, horizontal reinforcing, vertical reinforcing and grout, lightweight, 8" x 16" units, tooled joint one side, not reinforced, 10" thick	S.F.	150.0000	\$12.05	\$1,807.50	RSM19eFAC M, L, O&P P
4 04-22-10-16-2500	Concrete block, bond beam, C90, 2000 PSI, includes mortar, grout and 2 #5 horizontal reinforcing bars, excluding scaffolding, and vertical reinforcing, lightweight block, 8" high, 8" thick	L.F.	25.0000	\$16.50	\$412.50	RSM19eFAC M, L, O&P P
<b>04 - Masonry Total</b>					<b>\$2,220.00</b>	
<b>06 - Wood, Plastics, and Composites</b>						
5 06-05-05-10-2960	Selective demolition wood framing, beams, 2" x 8"	L.F.	200.0000	\$1.28	\$256.00	RSM19eFAC L, O&P P
6 06-05-05-10-3274	Selective demolition wood framing, window buck, studs, header and access, 8' high 2" x 4" wall, 2' wide	Ea.	4.0000	\$22.00	\$88.00	RSM19eFAC L, O&P P
7 06-05-05-10-3800	Selective demolition wood framing, headers over openings, 2 @ 2" x 6"	L.F.	20.0000	\$4.81	\$96.20	RSM19eFAC L, O&P P
8 06-05-05-10-5885	Selective demolition wood framing, ridge board, 1" x 4"	L.F.	200.0000	\$1.18	\$236.00	RSM19eFAC L, O&P P
9 06-11-10-40-0320	Wall framing, window buck, studs, header and accessories, 8' high, 2" x 4" wall, 12' wide	Ea.	10.0000	\$122.00	\$1,220.00	RSM19eFAC M, L, O&P P
<b>06 - Wood, Plastics, and Composites Total</b>					<b>\$1,896.20</b>	
<b>08 - Openings</b>						
10 08-01-11-10-0012	Door & window maintenance, remove weatherstripping from door or window	Ea.	35.0000	\$14.80	\$518.00	RSM19eFAC L, O&P P
11 08-01-11-10-0060	Door & window maintenance, remove lockset	Ea.	35.0000	\$33.50	\$1,172.50	RSM19eFAC L, O&P P
12 08-05-05-10-0210	Selective demolition doors, doors, exterior, 1-3/4" thick, single, 3' x 8' high	Ea.	4.0000	\$53.00	\$212.00	RSM19eFAC L, O&P P

## Final Estimate

Estimator: Jim Tapia

Salvador Perez Exterior Windows & Doors

### 08 - Openings

Item	Description	UM	Quantity	Unit Cost	Total	Book	
13 08-05-05-10-0215	Selective demolition doors, doors, exterior, 1-3/4" thick, double, 3' x 8' high	Ea.	4.0000	\$88.50	\$354.00	RSM19eFAC L, O&P	P
14 08-05-05-10-2000	Selective demolition doors, frames, including trim, metal	Ea.	12.0000	\$83.50	\$1,002.00	RSM19eFAC L, O&P	P
15 08-05-05-10-3900	Selective demolition doors, special doors, storefront swing door	Ea.	2.0000	\$445.00	\$890.00	RSM19eFAC L, O&P	P
16 08-05-05-20-0280	Selective demolition of windows, aluminum, including trim, to 50 S.F.	Ea.	22.0000	\$106.00	\$2,332.00	RSM19eFAC L, O&P	P
17 08-05-05-20-0620	Selective demolition of windows, glass, over 10 S.F. per window	S.F.	500.0000	\$3.53	\$1,765.00	RSM19eFAC L, O&P	P
18 08-05-05-20-9000	Selective demolition of windows, minimum labor/equipment charge	Job	1.0000	\$132.00	\$132.00	RSM19eFAC L, O&P	P
19 08-11-16-10-0020	Entrance doors, and frames, aluminum, narrow stile, including standard hardware, clear finish, excluding glass, top and bottom offset pivots, 1/4" beveled glass stops, threshold, dead bolt lock with inside thumb screw, standard push pull, 3'-0" x 7'-0" opening	Ea.	4.0000	\$1,775.00	\$7,100.00	RSM19eFAC M, L, O&P	P
20 08-11-16-10-0301	Entrance doors, and frames, aluminum, narrow stile, including standard hardware, clear finish, excluding glass, top and bottom offset pivots, 1/4" beveled glass stops, threshold, dead bolt lock with inside thumb screw, standard push pull, 6'-0" x 7'-0" opening	Pr.	2.0000	\$2,400.00	\$4,800.00	RSM19eFAC M, L, O&P	P
21 08-41-26-20-0060	All-glass entrance doors, including hardware and stainless steel trim, tempered glass, 3/4" thick, 3' x 7', pair	Pr.	2.0000	\$14,700.00	\$29,400.00	RSM19eFAC M, L, O&P	P
22 08-43-13-10-0600	Aluminum-framed entrance doors and frames, door frame, 3'-0" x 7'-0", mill finish	Opng.	8.0000	\$760.00	\$6,080.00	RSM19eFAC M, L, O&P	P
23 08-51-13-20-5100	Aluminum windows, including frame and glazing, commercial grade, stock units, sliding aluminum, 9' x 5' opening, insulating glass	Ea.	24.0000	\$1,300.00	\$31,200.00	RSM19eFAC M, L, O&P	P
<b>08 - Openings Total</b>					<b>\$86,957.50</b>		

### 09 - Finishes

24 09-29-10-30-0390	Gypsum board, on walls and ceilings, nailed or screwed to studs, 1/2" thick, on walls, standard, with compound skim coat, level 5 finish	S.F.	400.0000	\$2.20	\$880.00	RSM19eFAC M, L, O&P	P
<b>09 - Finishes Total</b>					<b>\$880.00</b>		

### 12 - Furnishings

25 12-21-13-33-0120	Vinyl horizontal louver blinds, 2" composite, 48" wide, 72" high	Ea.	24.0000	\$164.00	\$3,936.00	RSM19eFAC M, L, O&P	P
<b>12 - Furnishings Total</b>					<b>\$3,936.00</b>		

### Trades



# Final Estimate

Estimator: Jim Tapia

Salvador Perez Exterior Windows & Doors

Trades							
Item	Description	UM	Quantity	Unit Cost	Total	Book	
26 GLAZ	Glaziers - 2018 RSMeans Facilities Bare Rate	Hour	370.0000	\$48.50	\$17,945.00	Trades L B	P
<b>Trades Total</b>						<b>\$17,945.00</b>	
<b>Estimate Grand Total</b>						<b>120,429.21</b>	



# Final Estimate

Jim Tapia

B&D Industries, Inc

16-02DB-R123-ALL - 2016 NM CES Mech B&D - Third Option - 11/20/2018 to

11/19/2019

Salvador Perez Signage & Beam - Div 3-209

Estimator: Jim Tapia

Salvador Perez Signage & Beam

## Division Summary (MF04)

01 - General Requirements	
02 - Existing Conditions	
03 - Concrete	\$1,998.00
04 - Masonry	\$385.00
05 - Metals	\$868.40
06 - Wood, Plastics, and Composites	\$279.50
07 - Thermal and Moisture Protection	
08 - Openings	
09 - Finishes	\$790.50
10 - Specialties	\$8,326.50
11 - Equipment	
12 - Furnishings	
13 - Special Construction	
14 - Conveying Equipment	
21 - Fire Suppression	
22 - Plumbing	
23 - Heating, Ventilating, and Air-Conditioning (HVAC)	
25 - Integrated Automation	

## Totalling Components

Priced Line Items	\$21,931.90
RSMMeans SANTA FE, NM CCI 2019Q1, 91.30%	\$(1,908.08)
2016 NM CES Mech B&D R2 State <\$60k Normal (7.0000%)	\$1,401.67

## Material, Labor, and Equipment Totals (No Totalling Components)

Material:	\$6,612.90
Labor:	\$14,746.25
Equipment:	\$572.75
Other:	\$0.00
Laborhours:	254.13
Green Line Items:3	\$2,866.40

26 - Electrical	
27 - Communications	
28 - Electronic Safety and Security	
31 - Earthwork	
32 - Exterior Improvements	
33 - Utilities	
34 - Transportation	
35 - Waterway and Marine Transportation	
41 - Material Processing and Handling Equipment	
44 - Pollution Control Equipment	
46 - Water and Wastewater Equipment	
48 - Electric Power Generation	
Alternate	
Trades	\$9,284.00
Assemblies	
FMR	
MF04 Total (Without totalling components)	\$21,931.90

## Nonpriced Line Items

2016 NM CES B&D Alternate OP (15.0000%)	
2016 NM CES B&D Alternate OP CES Discount (-10.0000%)	

## Priced/Non-Priced

Total Priced Items:	15	\$21,931.90	
Total Non-Priced Items:	0	\$0.00	0.00%
	15	\$21,931.90	

## Grand Total

\$21,425.49

Estimator: Jim Tapia

## Totalling Component Details

Description	Item Count	Applicable Amount	Applied Amount	Applied Result	Balance
<b>Priced Line Items</b> Included in Total: Yes Type: Total, Master Format Type: MF04 Values: Total Includes: Priced Filtering: (none)	15	\$21,931.90		\$21,931.90	\$21,931.90
<b>RSMeans SANTA FE, NM CCI 2019Q1, 91.30%</b> Included in Total: Yes Type: RSMeans CCI (Project Level) RSMeans SANTA FE, NM CCI 2019Q1, 91.30% ZIP: 875 Subtotal based on 1 items: "Priced Line Items"		\$21,931.90	(8.7000)%	\$(1,908.08)	\$20,023.82
<b>2016 NM CES Mech B&amp;D R2 State &lt;\$60k Normal</b> Included in Total: Yes Type: Percentage (Project Level) Subtotal based on 2 items: "Priced Line Items", "RSMeans SANTA FE, NM CCI 2014Q3"		\$20,023.82	7.0000 %	\$1,401.67	\$21,425.49
<b>Nonpriced Line Items</b> Included in Total: Yes Type: Total, Master Format Type: MF04 Values: Total Includes: Non Priced Filtering: (none)					\$21,425.49
<b>2016 NM CES B&amp;D Alternate OP</b> Included in Total: Yes Type: Percentage (Project Level) Subtotal based on 1 items: "Nonpriced Line Items"			15.0000 %		\$21,425.49
<b>2016 NM CES B&amp;D Alternate OP CES Discount</b> Included in Total: Yes Type: Percentage (Project Level) Subtotal based on 1 items: "Nonpriced Line Items"			(10.0000)%		\$21,425.49

# Final Estimate

Estimator: Jim Tapia

Salvador Perez Signage & Beam

Item	Description	UM	Quantity	Unit Cost	Total	Book
<b>03 - Concrete</b>						
1	03-15-05-70-3600 Shores, #3 post shore, steel, 8'-10" to 16'-1" high, 3,800 lbs. capacity, buy	Ea.	9.0000	\$222.00	\$1,998.00	RSM19eFAC Gm, M, O&P P
<b>03 - Concrete Total</b>					<b>\$1,998.00</b>	
<b>04 - Masonry</b>						
2	04-05-19-16-1550 Masonry anchors, rigid partition anchor wall ties, plain, 8" long, 1" x 1/4"	C	1.0000	\$385.00	\$385.00	RSM19eFAC M, L, O&P P
<b>04 - Masonry Total</b>					<b>\$385.00</b>	
<b>05 - Metals</b>						
3	05-12-23-75-0102 Structural steel members, A992 steel, shop fabricated for 100-ton, 1-2 story project, including bolted connections and shop primer, beam or girder, W 6 x 9	L.F.	25.0000	\$26.00	\$650.00	RSM19eFAC Gm, M, L, E, O&P P
4	05-42-23-70-0130 Framing, soffits & canopies, continuous ledger track and wall studs, galvanized load bearing ledger track on wall, studs at 16" O.C., 18 gauge x 4" wide	L.F.	60.0000	\$3.64	\$218.40	RSM19eFAC Gm, M, L, O&P P
<b>05 - Metals Total</b>					<b>\$868.40</b>	
<b>06 - Wood, Plastics, and Composites</b>						
5	06-05-23-10-0520 Nails, based on 50 lb box purchase, box, 3d to 20d, galvanized	Lb.	50.0000	\$2.63	\$131.50	RSM19eFAC M, O&P P
6	06-16-36-10-0103 Sheathing, plywood on roofs, CDX, 1/2" thick, pneumatic nailed	S.F.	100.0000	\$1.48	\$148.00	RSM19eFAC M, L, O&P P
<b>06 - Wood, Plastics, and Composites Total</b>					<b>\$279.50</b>	
<b>09 - Finishes</b>						
7	09-91-13-62-0110 Siding, misc., latex paint, aluminum siding, brushwork, primer	S.F.	400.0000	\$0.56	\$224.00	RSM19eFAC M, L, O&P P
8	09-91-13-62-0120 Siding, misc., latex paint, aluminum siding, brushwork, finish coat, exterior latex	S.F.	400.0000	\$0.55	\$220.00	RSM19eFAC M, L, O&P P
9	09-91-23-52-9280 Miscellaneous, interior, trusses and wood frames, brushwork, varnish, three coats	S.F.	150.0000	\$2.31	\$346.50	RSM19eFAC M, L, O&P P
<b>09 - Finishes Total</b>					<b>\$790.50</b>	
<b>10 - Specialties</b>						
10	10-05-05-10-4050 Selective demolition, specialties, removal of signs, including supports, 41 S.F. to 100 S.F.	Ea.	1.0000	\$3,600.00	\$3,600.00	RSM19eFAC L, E, O&P P
11	10-05-05-10-4300 Selective demolition, specialties, letter, signs or plaques, exterior on wall	Ea.	17.0000	\$26.50	\$450.50	RSM19eFAC L, O&P P
12	10-14-19-10-0900 Exterior signs, letters, 2" high, 10" high, 1" deep, cast aluminum	Ea.	17.0000	\$103.00	\$1,751.00	RSM19eFAC M, L, O&P P

# Final Estimate

Estimator: Jim Tapia

Salvador Perez Signage & Beam

## 10 - Specialties

Item	Description	UM	Quantity	Unit Cost	Total	Book
13 10-14-26-10-0150	Post and panel signage, aluminum, including 2 posts, 2-sided panel (blank), concrete footings per post, 81" wide x 46" high	Ea.	1.0000	\$2,525.00	\$2,525.00	RSM19eFAC M, L, O&P P
<b>10 - Specialties Total</b>					<b>\$8,326.50</b>	

## Trades

14 CARP	Carpenters - 2018 RSMeans Facilities Bare Rate	Hour	140.0000	\$50.70	\$7,098.00	Trades L, B P
15 SSWK	Structural Steel Workers - 2018 RSMeans Facilities Bare Rate	Hour	40.0000	\$54.65	\$2,186.00	Trades L, B P
<b>Trades Total</b>					<b>\$9,284.00</b>	

**Estimate Grand Total**

**21,425.49**

### Estimator: Jim Tapia

### Salvador Perez Access Ladders

#### Division Summary (MF04)

01 - General Requirements	
02 - Existing Conditions	
03 - Concrete	
04 - Masonry	\$972.00
05 - Metals	\$13,440.00
06 - Wood, Plastics, and Composites	
07 - Thermal and Moisture Protection	
08 - Openings	
09 - Finishes	
10 - Specialties	
11 - Equipment	
12 - Furnishings	
13 - Special Construction	
14 - Conveying Equipment	
21 - Fire Suppression	
22 - Plumbing	
23 - Heating, Ventilating, and Air-Conditioning (HVAC)	
25 - Integrated Automation	

#### Totalling Components

Priced Line Items	\$18,488.00
RSMMeans SANTA FE, NM CCI 2019Q1, 91.30%	\$(1,608.46)
2016 NM CES GC B&D R2 State <\$60k Normal (15.0000%)	\$2,531.93

#### Material, Labor, and Equipment Totals (No Totalling Components)

Material:	\$9,344.40
Labor:	\$8,980.40
Equipment:	\$163.20
Other:	\$0.00
Laborhours:	133.46
Green Line Items:1	\$12,540.00

26 - Electrical	
27 - Communications	
28 - Electronic Safety and Security	
31 - Earthwork	
32 - Exterior Improvements	
33 - Utilities	
34 - Transportation	
35 - Waterway and Marine Transportation	
41 - Material Processing and Handling Equipment	
44 - Pollution Control Equipment	
46 - Water and Wastewater Equipment	
48 - Electric Power Generation	
Alternate	
Trades	\$4,076.00
Assemblies	
FMR	
<b>MF04 Total (Without totalling components)</b>	<b>\$18,488.00</b>

#### Nonpriced Line Items

2016 NM CES B&D Alternate OP (15.0000%)
2016 NM CES B&D Alternate OP CES Discount (-10.0000%)

#### Priced/Non-Priced

Total Priced Items:	4	\$18,488.00	
Total Non-Priced Items:	0	\$0.00	0.00%
	4	\$18,488.00	

#### Grand Total

**\$19,411.47**

Estimator: Jim Tapia

## Totalling Component Details

Description	Item Count	Applicable Amount	Applied Amount	Applied Result	Balance
<b>Priced Line Items</b> Included in Total: Yes Type: Total, Master Format Type: MF04 Values: Total Includes: Priced Filtering: (none)	4	\$18,488.00		\$18,488.00	\$18,488.00
<b>RSMMeans SANTA FE, NM CCI 2019Q1, 91.30%</b> Included in Total: Yes Type: RSMMeans CCI (Project Level) RSMMeans SANTA FE, NM CCI 2019Q1, 91.30% ZIP: 875 Subtotal based on 1 items: "Priced Line Items"		\$18,488.00	(8.7000)%	\$(1,608.46)	\$16,879.54
<b>2016 NM CES GC B&amp;D R2 State &lt;\$50k Normal</b> Included in Total: Yes Type: Percentage (Project Level) Subtotal based on 2 items: "Priced Line Items", "RSMMeans SANTA FE, NM CCI 2014Q3"		\$16,879.54	15.0000 %	\$2,531.93	\$19,411.47
<b>Nonpriced Line Items</b> Included in Total: Yes Type: Total, Master Format Type: MF04 Values: Total Includes: Non Priced Filtering: (none)					\$19,411.47
<b>2016 NM CES B&amp;D Alternate OP</b> Included in Total: Yes Type: Percentage (Project Level) Subtotal based on 1 items: "Nonpriced Line Items"			15.0000 %		\$19,411.47
<b>2016 NM CES B&amp;D Alternate OP CES Discount</b> Included in Total: Yes Type: Percentage (Project Level) Subtotal based on 1 items: "Nonpriced Line Items"			(10.0000)%		\$19,411.47

# Final Estimate

Estimator: Jim Tapia

Salvador Perez Access Ladders

Item	Description	UM	Quantity	Unit Cost	Total	Book
04 - Masonry						
1 04-05-19-05-0060	Anchor bolts, installed in fresh grout in CMU bond beams or filled cores, no templates, hooked, with nut and washer, 3/4" diameter, 8" long	Ea.	90.0000	\$10.80	\$972.00	RSM19eFAC M, L, O&P P
04 - Masonry Total					\$972.00	
05 - Metals						
2 05-05-05-10-2820	Selective demolition, metals, excludes shores, bracing, cutting, loading, hauling, dumping, demolish, ladder without cage	V.L.F.	30.0000	\$30.00	\$900.00	RSM19eFAC L, E, O&P P
3 05-51-33-13-0300	Vertical metal ladders, shop fabricated, aluminum, 20" width, bolted to concrete, including cage	V.L.F.	60.0000	\$209.00	\$12,540.00	RSM19eFAC Gm, M, L, E, O&P P
05 - Metals Total					\$13,440.00	
Trades						
4 STON	Stone Masons - 2018 RSMeans Facilities Bare Rate	Hour	80.0000	\$50.95	\$4,076.00	Trades L, B P
Trades Total					\$4,076.00	
Estimate Grand Total					19,411.47	



Estimator: Jim Tapia

Salvador Perez Interior Windows & Doors

### Division Summary (MF04)

01 - General Requirements	\$199.55
02 - Existing Conditions	
03 - Concrete	
04 - Masonry	
05 - Metals	
06 - Wood, Plastics, and Composites	
07 - Thermal and Moisture Protection	
08 - Openings	\$16,904.00
09 - Finishes	\$430.00
10 - Specialties	
11 - Equipment	
12 - Furnishings	
13 - Special Construction	
14 - Conveying Equipment	
21 - Fire Suppression	
22 - Plumbing	
23 - Heating, Ventilating, and Air-Conditioning (HVAC)	
25 - Integrated Automation	

### Totalling Components

Priced Line Items	\$21,171.05
RSMeans SANTA FE, NM CCI 2019Q1, 91.30%	\$(1,841.88)
2016 NM CES GC B&D R2 State >\$60k Normal (15.0000%)	\$2,899.38

### Material, Labor, and Equipment Totals (No Totalling Components)

Material:	\$11,037.80
Labor:	\$10,133.25
Equipment:	\$0.00
Other:	\$0.00
Laborhours:	152.66
Green Line Items:0	\$0.00

26 - Electrical	
27 - Communications	
28 - Electronic Safety and Security	
31 - Earthwork	
32 - Exterior Improvements	
33 - Utilities	
34 - Transportation	
35 - Waterway and Marine Transportation	
41 - Material Processing and Handling Equipment	
44 - Pollution Control Equipment	
46 - Water and Wastewater Equipment	
48 - Electric Power Generation	
Alternate	
Trades	\$3,637.50
Assemblies	
FMR	
<b>MF04 Total (Without totalling components)</b>	<b>\$21,171.05</b>

### Nonpriced Line Items

2016 NM CES B&D Alternate OP (15.0000%)
2016 NM CES B&D Alternate OP CES Discount (-10.0000%)

### Priced/Non-Priced

Total Priced Items:	17	\$21,171.05	
Total Non-Priced Items:	0	\$0.00	0.00%
	17	\$21,171.05	

**Grand Total**

**\$22,228.55**

Estimator: Jim Tapia

## Totalling Component Details

Description	Item Count	Applicable Amount	Applied Amount	Applied Result	Balance
<b>Priced Line Items</b> Included in Total: Yes Type: Total, Master Format Type: MF04 Values: Total Includes: Priced Filtering: (none)	17	\$21,171.05		\$21,171.05	\$21,171.05
<b>RSMeans SANTA FE, NM CCI 2019Q1, 91.30%</b> Included in Total: Yes Type: RSMeans CCI (Project Level) RSMeans SANTA FE, NM CCI 2019Q1, 91.30% ZIP: 875 Subtotal based on 1 items: "Priced Line Items"		\$21,171.05	(8.7000)%	\$(1,841.88)	\$19,329.17
<b>2016 NM CES GC B&amp;D R2 State &gt;\$60k Normal</b> Included in Total: Yes Type: Percentage (Project Level) Subtotal based on 2 items: "Priced Line Items", "RSMeans SANTA FE, NM CCI 2014Q3"		\$19,329.17	15.0000 %	\$2,899.38	\$22,228.55
<b>Nonpriced Line Items</b> Included in Total: Yes Type: Total, Master Format Type: MF04 Values: Total Includes: Non Priced Filtering: (none)					\$22,228.55
<b>2016 NM CES B&amp;D Alternate OP</b> Included in Total: Yes Type: Percentage (Project Level) Subtotal based on 1 items: "Nonpriced Line Items"			15.0000 %		\$22,228.55
<b>2016 NM CES B&amp;D Alternate OP CES Discount</b> Included in Total: Yes Type: Percentage (Project Level) Subtotal based on 1 items: "Nonpriced Line Items"			(10.0000)%		\$22,228.55

# Final Estimate

Estimator: Jim Tapia

Salvador Perez Interior Windows & Doors

Item	Description	UM	Quantity	Unit Cost	Total	Book
<b>01 - General Requirements</b>						
1 01-93-13-08-2050	Door & window facilities maintenance, washing windows, at ground level with ladder, sponge and squeegee, both sides, 4' x 6', 16 pane	Ea.	7.0000	\$15.35	\$107.45	RSM19eFAC M, L, O&P P
2 01-93-13-08-2050	Door & window facilities maintenance, washing windows, at ground level with ladder, sponge and squeegee, both sides, 4' x 6', 16 pane	Ea.	6.0000	\$15.35	\$92.10	RSM19eFAC M, L, O&P P
<b>01 - General Requirements Total</b>					<b>\$199.55</b>	
<b>08 - Openings</b>						
3 08-01-11-10-0012	Door & window maintenance, remove weatherstripping from door or window	Ea.	6.0000	\$14.80	\$88.80	RSM19eFAC L, O&P P
4 08-01-11-10-0012	Door & window maintenance, remove weatherstripping from door or window	Ea.	7.0000	\$14.80	\$103.60	RSM19eFAC L, O&P P
5 08-01-11-10-0060	Door & window maintenance, remove lockset	Ea.	3.0000	\$33.50	\$100.50	RSM19eFAC L, O&P P
6 08-01-11-10-1150	Door & window maintenance, remove panic bar	Ea.	3.0000	\$86.50	\$259.50	RSM19eFAC L, O&P P
7 08-05-05-10-0980	Selective demolition doors, interior metal door 1-3/4" thick, 3'-0" x 7'-0" high	Ea.	4.0000	\$29.50	\$118.00	RSM19eFAC L, O&P P
8 08-05-05-10-2000	Selective demolition doors, frames, including trim, metal	Ea.	4.0000	\$83.50	\$334.00	RSM19eFAC L, O&P P
9 08-05-05-20-0280	Selective demolition of windows, aluminum, including trim, to 50 S.F.	Ea.	4.0000	\$106.00	\$424.00	RSM19eFAC L, O&P P
10 08-05-05-20-0620	Selective demolition of windows, glass, over 10 S.F. per window	S.F.	20.0000	\$3.53	\$70.60	RSM19eFAC L, O&P P
11 08-11-16-10-0020	Entrance doors, and frames, aluminum, narrow stile, including standard hardware, clear finish, excluding glass, top and bottom offset pivots, 1/4" beveled glass stops, threshold, dead bolt lock with inside thumb screw, standard push pull, 3'-0" x 7'-0" opening	Ea.	2.0000	\$1,775.00	\$3,550.00	RSM19eFAC M, L, O&P P
12 08-11-16-10-0301	Entrance doors, and frames, aluminum, narrow stile, including standard hardware, clear finish, excluding glass, top and bottom offset pivots, 1/4" beveled glass stops, threshold, dead bolt lock with inside thumb screw, standard push pull, 6'-0" x 7'-0" opening	Pr.	1.0000	\$2,400.00	\$2,400.00	RSM19eFAC M, L, O&P P
13 08-51-13-20-5100	Aluminum windows, including frame and glazing, commercial grade, stock units, sliding aluminum, 9' x 5' opening, insulating glass	Ea.	2.0000	\$1,300.00	\$2,600.00	RSM19eFAC M, L, O&P P
14 08-71-20-15-2250	Hardware, average, door hardware, school, single exterior, lever and panic device	Door	3.0000	\$1,950.00	\$5,850.00	RSM19eFAC M, L, O&P P
15 08-71-20-30-0020	Door closers, adjustable backcheck, multiple mounting, standard, regular arm	Ea.	3.0000	\$335.00	\$1,005.00	RSM19eFAC M, L, O&P P
<b>08 - Openings Total</b>					<b>\$16,904.00</b>	

## 09 - Finishes

**Final Estimate****Estimator: Jim Tapia****Salvador Perez Interior Windows & Doors****09 - Finishes**

Item	Description	UM	Quantity	Unit Cost	Total	Book
16 09-91-03-40-0080	Interior surface preparation, doors, per side, excluding frames and trim, wire brush, metal, flush	S.F.	500.0000	\$0.86	\$430.00	RSM19eFAC L O&P P
<b>09 - Finishes Total</b>					<b>\$430.00</b>	

**Trades**

17 GLAZ	Glaziers - 2018 RSMeans Facilities Bare Rate	Hour	75.0000	\$48.50	\$3,637.50	Trades L B P
<b>Trades Total</b>					<b>\$3,637.50</b>	

<b>Estimate Grand Total</b>	<b>22,228.55</b>
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Estimator: Jim Tapia

Salvador Perez Drop Ceiling

### Division Summary (MF04)

01 - General Requirements	
02 - Existing Conditions	
03 - Concrete	
04 - Masonry	
05 - Metals	
06 - Wood, Plastics, and Composites	
07 - Thermal and Moisture Protection	
08 - Openings	
09 - Finishes	\$2,920.00
10 - Specialties	
11 - Equipment	
12 - Furnishings	
13 - Special Construction	
14 - Conveying Equipment	
21 - Fire Suppression	
22 - Plumbing	
23 - Heating, Ventilating, and Air-Conditioning (HVAC)	
25 - Integrated Automation	

### Totalling Components

Priced Line Items	\$4,432.00
RSMeans SANTA FE, NM CCI 2019Q1, 91.30%	\$(385.58)
2016 NM CES GC B&D R2 State <\$60k Normal (15.0000%)	\$606.96

### Material, Labor, and Equipment Totals (No Totalling Components)

Material:	\$1,408.00
Labor:	\$3,024.00
Equipment:	\$0.00
Other:	\$0.00
Laborhours:	60.00
Green Line Items:0	\$0.00

26 - Electrical	
27 - Communications	
28 - Electronic Safety and Security	
31 - Earthwork	
32 - Exterior Improvements	
33 - Utilities	
34 - Transportation	
35 - Waterway and Marine Transportation	
41 - Material Processing and Handling Equipment	
44 - Pollution Control Equipment	
46 - Water and Wastewater Equipment	
48 - Electric Power Generation	
Alternate	
Trades	\$1,512.00
Assemblies	
FMR	
MF04 Total (Without totalling components)	\$4,432.00

Nonpriced Line Items	
2016 NM CES B&D Alternate OP (15.0000%)	
2016 NM CES B&D Alternate OP CES Discount (-10.0000%)	

### Priced/Non-Priced

Total Priced Items:	4	\$4,432.00	
Total Non-Priced Items:	0	\$0.00	0.00%
	4	\$4,432.00	

**Grand Total \$4,653.38**

Estimator: Jim Tapia

## Totalling Component Details

Description	Item Count	Applicable Amount	Applied Amount	Applied Result	Balance
<b>Priced Line Items</b> Included in Total: Yes Type: Total, Master Format Type: MF04 Values: Total Includes: Priced Filtering: (none)	4	\$4,432.00		\$4,432.00	\$4,432.00
<b>RSMeans SANTA FE, NM CCI 2019Q1, 91.30%</b> Included in Total: Yes Type: RSMeans CCI (Project Level) RSMeans SANTA FE, NM CCI 2019Q1, 91.30% ZIP: 875 Subtotal based on 1 items: "Priced Line Items"		\$4,432.00	(8.7000)%	\$(385.58)	\$4,046.42
<b>2016 NM CES GC B&amp;D R2 State &lt;\$50k Normal</b> Included in Total: Yes Type: Percentage (Project Level) Subtotal based on 2 items: "Priced Line Items", "RSMeans SANTA FE, NM CCI 2014Q3"		\$4,046.42	15.0000 %	\$606.96	\$4,653.38
<b>Nonpriced Line Items</b> Included in Total: Yes Type: Total, Master Format Type: MF04 Values: Total Includes: Non Priced Filtering: (none)					\$4,653.38
<b>2016 NM CES B&amp;D Alternate OP</b> Included in Total: Yes Type: Percentage (Project Level) Subtotal based on 1 items: "Nonpriced Line Items"			15.0000 %		\$4,653.38
<b>2016 NM CES B&amp;D Alternate OP CES Discount</b> Included in Total: Yes Type: Percentage (Project Level) Subtotal based on 1 items: "Nonpriced Line Items"			(10.0000)%		\$4,653.38

# Final Estimate

Estimator: Jim Tapia

Salvador Perez Drop Ceiling

Item	Description	UM	Quantity	Unit Cost	Total	Book
09 - Finishes						
1 09-05-05-10-0240	Selective demolition, ceilings, ceiling, gypsum wall board, on suspension system, including system	S.F.	400.0000	\$1.47	\$588.00	RSM19eFAC L, O&P P
2 09-51-23-10-1175	Suspended acoustic ceiling tiles, excluding suspension system, mineral fiber tile, lay-in, 2' x 2' or 2' x 4', 3/4" thick, fissured	S.F.	400.0000	\$4.12	\$1,648.00	RSM19eFAC M, L, O&P P
3 09-53-23-30-0050	Ceiling suspension systems, for boards and tile, class A suspension system, 15/16" T bar, 2' x 4' grid	S.F.	400.0000	\$1.71	\$684.00	RSM19eFAC M, L, O&P P
09 - Finishes Total					\$2,920.00	
Trades						
4 HELP	Helpers Average (5 trades) - 2018 RSMeans Facilities Bare Rate	Hour	40.0000	\$37.80	\$1,512.00	Trades L, B P
Trades Total					\$1,512.00	
Estimate Grand Total					4,653.38	

Estimator: Jim Tapia

Salvador Perez VCT Tile

### Division Summary (MF04)

01 - General Requirements	
02 - Existing Conditions	
03 - Concrete	
04 - Masonry	
05 - Metals	
06 - Wood, Plastics, and Composites	
07 - Thermal and Moisture Protection	
08 - Openings	
09 - Finishes	\$20,786.80
10 - Specialties	
11 - Equipment	
12 - Furnishings	
13 - Special Construction	
14 - Conveying Equipment	
21 - Fire Suppression	
22 - Plumbing	
23 - Heating, Ventilating, and Air-Conditioning (HVAC)	
25 - Integrated Automation	

### Totalling Components

Priced Line Items	\$20,786.80
RSMeans SANTA FE, NM CCI 2019Q1, 91.30%	\$(1,808.45)
2016 NM CES GC B&D R2 State >\$60k Normal (15.0000%)	\$2,846.75

### Material, Labor, and Equipment Totals (No Totalling Components)

Material:	\$11,317.50
Labor:	\$9,469.30
Equipment:	\$0.00
Other:	\$0.00
Laborhours:	134.48
Green Line Items:0	\$0.00

26 - Electrical	
27 - Communications	
28 - Electronic Safety and Security	
31 - Earthwork	
32 - Exterior Improvements	
33 - Utilities	
34 - Transportation	
35 - Waterway and Marine Transportation	
41 - Material Processing and Handling Equipment	
44 - Pollution Control Equipment	
46 - Water and Wastewater Equipment	
48 - Electric Power Generation	
Alternate	
Trades	
Assemblies	
FMR	
MF04 Total (Without totalling components)	\$20,786.80

### Nonpriced Line Items

2016 NM CES B&D Alternate OP (15.0000%)
2016 NM CES B&D Alternate OP CES Discount (-10.0000%)

### Priced/Non-Priced

Total Priced Items:	5	\$20,786.80	
Total Non-Priced Items:	0	\$0.00	0.00%
	5	\$20,786.80	

### Grand Total

\$21,825.10



Estimator: Jim Tapia

## Totalling Component Details

Description	Item Count	Applicable Amount	Applied Amount	Applied Result	Balance
<b>Priced Line Items</b> Included in Total: Yes Type: Total, Master Format Type: MF04 Values: Total Includes: Priced Filtering: (none)	5	\$20,786.80		\$20,786.80	\$20,786.80
<b>RSMeans SANTA FE, NM CCI 2019Q1, 91.30%</b> Included in Total: Yes Type: RSMeans CCI (Project Level) RSMeans SANTA FE, NM CCI 2019Q1, 91.30% ZIP: 875 Subtotal based on 1 items: "Priced Line Items"		\$20,786.80	(8.7000)%	\$(1,808.45)	\$18,978.35
<b>2016 NM CES GC B&amp;D R2 State &gt;\$60k Normal</b> Included in Total: Yes Type: Percentage (Project Level) Subtotal based on 2 items: "Priced Line Items", "RSMeans SANTA FE, NM CCI 2014Q3"		\$18,978.35	15.0000 %	\$2,846.75	\$21,825.10
<b>Nonpriced Line Items</b> Included in Total: Yes Type: Total, Master Format Type: MF04 Values: Total Includes: Non Priced Filtering: (none)					\$21,825.10
<b>2016 NM CES B&amp;D Alternate OP</b> Included in Total: Yes Type: Percentage (Project Level) Subtotal based on 1 items: "Nonpriced Line Items"			15.0000 %		\$21,825.10
<b>2016 NM CES B&amp;D Alternate OP CES Discount</b> Included in Total: Yes Type: Percentage (Project Level) Subtotal based on 1 items: "Nonpriced Line Items"			(10.0000)%		\$21,825.10

# Final Estimate

Estimator: Jim Tapia

Salvador Perez VCT Tile

Item	Description	UM	Quantity	Unit Cost	Total	Book
<b>09 - Finishes</b>						
1 09-05-05-20-0850	Selective demolition, flooring, vinyl or rubber cove base	L.F.	800.0000	\$0.53	\$424.00	RSM19eFAC L, O&P P
2 09-05-05-20-0860	Selective demolition, flooring, vinyl or rubber cove base, molded corner	Ea.	10.0000	\$0.53	\$5.30	RSM19eFAC L, O&P P
3 09-05-05-20-0900	Selective demolition, flooring, vinyl composition tile, 12" x 12"	S.F.	4,000.0000	\$1.06	\$4,240.00	RSM19eFAC L, O&P P
4 09-65-16-10-8700	Rubber and vinyl sheet flooring, adhesive cement, 1 gallon per 200 to 300 S.F.	Gal.	15.0000	\$34.50	\$517.50	RSM19eFAC M, O&P P
5 09-65-19-19-7350	Vinyl composition tile flooring, vinyl composition tile, 12" x 12", 1/8" thick, marbleized	S.F.	4,000.0000	\$3.90	\$15,600.00	RSM19eFAC M, L, O&P P
<b>09 - Finishes Total</b>						<b>\$20,786.80</b>
<b>Estimate Grand Total</b>						<b>21,825.10</b>

Estimator: Jim Tapia

Salvador Perez Interior Painting

### Division Summary (MF04)

01 - General Requirements	
02 - Existing Conditions	
03 - Concrete	
04 - Masonry	
05 - Metals	
06 - Wood, Plastics, and Composites	
07 - Thermal and Moisture Protection	
08 - Openings	
09 - Finishes	\$20,790.00
10 - Specialties	
11 - Equipment	
12 - Furnishings	
13 - Special Construction	
14 - Conveying Equipment	
21 - Fire Suppression	
22 - Plumbing	
23 - Heating, Ventilating, and Air-Conditioning (HVAC)	
25 - Integrated Automation	

### Totalling Components

Priced Line Items	\$20,790.00
RSMeans SANTA FE, NM CCI 2019Q1, 91.30%	\$(1,808.73)
2016 NM CES GC B&D R2 State >\$60k Normal (15.0000%)	\$2,847.19

### Material, Labor, and Equipment Totals (No Totalling Components)

Material:	\$1,980.00
Labor:	\$18,810.00
Equipment:	\$0.00
Other:	\$0.00
Laborhours:	275.00
Green Line Items:0	\$0.00

26 - Electrical	
27 - Communications	
28 - Electronic Safety and Security	
31 - Earthwork	
32 - Exterior Improvements	
33 - Utilities	
34 - Transportation	
35 - Waterway and Marine Transportation	
41 - Material Processing and Handling Equipment	
44 - Pollution Control Equipment	
46 - Water and Wastewater Equipment	
48 - Electric Power Generation	
Alternate	
Trades	
Assemblies	
FMR	
<b>MF04 Total (Without totalling components)</b>	<b>\$20,790.00</b>

### Nonpriced Line Items

2016 NM CES B&D Alternate OP (15.0000%)
2016 NM CES B&D Alternate OP CES Discount (-10.0000%)

### Priced/Non-Priced

Total Priced Items:	2	\$20,790.00	
Total Non-Priced Items:	0	\$0.00	0.00%
	2	\$20,790.00	

Grand Total

\$21,828.46

Estimator: Jim Tapia

## Totalling Component Details

Description	Item Count	Applicable Amount	Applied Amount	Applied Result	Balance
<b>Priced Line Items</b> Included in Total: Yes Type: Total, Master Format Type: MF04 Values: Total Includes: Priced Filtering: (none)	2	\$20,790.00		\$20,790.00	\$20,790.00
<b>RSMeans SANTA FE, NM CCI 2019Q1, 91.30%</b> Included in Total: Yes Type: RSMeans CCI (Project Level) RSMeans SANTA FE, NM CCI 2019Q1, 91.30% ZIP: 875 Subtotal based on 1 items: "Priced Line Items"		\$20,790.00	(8.7000)%	\$(1,808.73)	\$18,981.27
<b>2016 NM CES GC B&amp;D R2 State &gt;\$60k Normal</b> Included in Total: Yes Type: Percentage (Project Level) Subtotal based on 2 items: "Priced Line Items", "RSMeans SANTA FE, NM CCI 2014Q3"		\$18,981.27	15.0000 %	\$2,847.19	\$21,828.46
<b>Nonpriced Line Items</b> Included in Total: Yes Type: Total, Master Format Type: MF04 Values: Total Includes: Non Priced Filtering: (none)					\$21,828.46
<b>2016 NM CES B&amp;D Alternate OP</b> Included in Total: Yes Type: Percentage (Project Level) Subtotal based on 1 items: "Nonpriced Line Items"			15.0000 %		\$21,828.46
<b>2016 NM CES B&amp;D Alternate OP CES Discount</b> Included in Total: Yes Type: Percentage (Project Level) Subtotal based on 1 items: "Nonpriced Line Items"			(10.0000)%		\$21,828.46

# Final Estimate

Estimator: Jim Tapia

Salvador Perez Interior Painting

Item	Description	UM	Quantity	Unit Cost	Total	Book	
09 - Finishes							
1	09-91-03-40-0730	Interior surface preparation, walls, wash, gypsum board or plaster	S.F.	5,500.0000	\$0.17	\$935.00 RSM19eFAC L, O&P	P
2	09-96-56-20-0400	Wall coatings, epoxy coatings, water based	S.F.	5,500.0000	\$3.61	\$19,855.00 RSM19eFAC M, L, O&P	P
09 - Finishes Total						\$20,790.00	
Estimate Grand Total						21,828.46	

Estimator: Jim Tapia

Salvador Perez Walk Path

### Division Summary (MF04)

01 - General Requirements	
02 - Existing Conditions	
03 - Concrete	
04 - Masonry	
05 - Metals	
06 - Wood, Plastics, and Composites	
07 - Thermal and Moisture Protection	\$6,570.00
08 - Openings	
09 - Finishes	
10 - Specialties	
11 - Equipment	
12 - Furnishings	
13 - Special Construction	
14 - Conveying Equipment	
21 - Fire Suppression	
22 - Plumbing	
23 - Heating, Ventilating, and Air-Conditioning (HVAC)	
25 - Integrated Automation	

### Totalling Components

Priced Line Items	\$12,989.25
RSMeans SANTA FE, NM CCI 2019Q1, 91.30%	\$(1,130.06)
2016 NM CES GC B&D R2 State <\$60k Normal (15.0000%)	\$1,778.88

### Material, Labor, and Equipment Totals (No Totalling Components)

Material:	\$5,610.00
Labor:	\$7,379.25
Equipment:	\$0.00
Other:	\$0.00
Laborhours:	177.00
Green Line Items:	\$6,570.00

26 - Electrical	
27 - Communications	
28 - Electronic Safety and Security	
31 - Earthwork	
32 - Exterior Improvements	
33 - Utilities	
34 - Transportation	
35 - Waterway and Marine Transportation	
41 - Material Processing and Handling Equipment	
44 - Pollution Control Equipment	
46 - Water and Wastewater Equipment	
48 - Electric Power Generation	
Alternate	
Trades	\$6,419.25
Assemblies	
FMR	
MF04 Total (Without totalling components)	\$12,989.25

### Nonpriced Line Items

2016 NM CES B&D Alternate OP (15.0000%)
2016 NM CES B&D Alternate OP CES Discount (-10.0000%)

### Priced/Non-Priced

Total Priced Items:	3	\$12,989.25	
Total Non-Priced Items:	0	\$0.00	0.00%
	3	\$12,989.25	

Grand Total

\$13,638.07

Estimator: Jim Tapia

## Totalling Component Details

Description	Item Count	Applicable Amount	Applied Amount	Applied Result	Balance
<b>Priced Line Items</b> Included in Total: Yes Type: Total, Master Format Type: MF04 Values: Total Includes: Priced Filtering: (none)	3	\$12,989.25		\$12,989.25	\$12,989.25
<b>RSMeans SANTA FE, NM CCI 2019Q1, 91.30%</b> Included in Total: Yes Type: RSMeans CCI (Project Level) RSMeans SANTA FE, NM CCI 2019Q1, 91.30% ZIP: 875 Subtotal based on 1 items: "Priced Line Items"		\$12,989.25	(8.7000)%	\$(1,130.06)	\$11,859.19
<b>2016 NM CES GC B&amp;D R2 State &lt;\$60k Normal</b> Included in Total: Yes Type: Percentage (Project Level) Subtotal based on 2 items: "Priced Line Items", "RSMeans SANTA FE, NM CCI 2014Q3"		\$11,859.19	15.0000 %	\$1,778.88	\$13,638.07
<b>Nonpriced Line Items</b> Included in Total: Yes Type: Total, Master Format Type: MF04 Values: Total Includes: Non Priced Filtering: (none)					\$13,638.07
<b>2016 NM CES B&amp;D Alternate OP</b> Included in Total: Yes Type: Percentage (Project Level) Subtotal based on 1 items: "Nonpriced Line Items"			15.0000 %		\$13,638.07
<b>2016 NM CES B&amp;D Alternate OP CES Discount</b> Included in Total: Yes Type: Percentage (Project Level) Subtotal based on 1 items: "Nonpriced Line Items"			(10.0000)%		\$13,638.07

# Final Estimate

Estimator: Jim Tapia

Salvador Perez Walk Path

Item	Description	UM	Quantity	Unit Cost	Total	Book		
07 - Thermal and Moisture Protection								
1	07-51-13-50-0620	Walkways for built-up roofs, 100% recycled rubber, 3' x 4' x 3/4"	L.F.	600.0000	\$10.95	\$6,570.00	RSM19eFAC Gm, M, L, O&P	P
07 - Thermal and Moisture Protection Total						\$6,570.00		
Trades								
2	ROFC	Roofers, Composition - 2018 RSMeans Facilities Bare Rate	Hour	90.0000	\$43.95	\$3,955.50	Trades L, B	P
3	ROHE	Roofers, Helpers (Composition) - 2018 RSMeans Facilities Bare Rate	Hour	75.0000	\$32.85	\$2,463.75	Trades L, B	P
Trades Total						\$6,419.25		
Estimate Grand Total						13,638.07		



# **AIA® Document A201™ – 2017**

## **General Conditions of the Contract for Construction**

for the following PROJECT:

CIP Project #503A, Salvador Perez Recreation Building  
Structural and Building Envelope Rehabilitation

### **THE OWNER:**

City of Santa Fe  
PO Box 909, 200 Lincoln Avenue  
Santa Fe, New Mexico, 87501  
(505)955-5937

### **THE CONTRACTOR:**

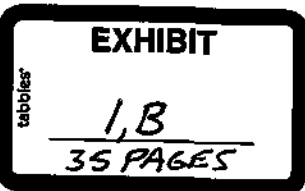
B&D Industries, Inc.  
9720 Bell Avenue SE  
Albuquerque, New Mexico 87123  
(505)299-4464

### **THE DESIGN PROFESSIONAL:**

WHPacific, Inc.  
6501 Americas Pkwy NE, STE 400  
Albuquerque, New Mexico 87110  
(505)830-8752

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### **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.

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

Init.

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- 13 MISCELLANEOUS PROVISIONS
- 14 TERMINATION OR SUSPENSION OF THE CONTRACT
- 15 CLAIMS AND DISPUTES

Init.

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User Notes:

(1331980598)

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## **ARTICLE 1 GENERAL PROVISIONS**

### **§ 1.1 Basic Definitions**

#### **§ 1.1.1 The Contract Documents**

The Contract Documents are enumerated in the Agreement between the Owner and Contractor (hereinafter the Agreement) and consist of the Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of the Contract, other documents listed in the Agreement, and Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, or (3) a written order for a minor change in the Work issued by the Design Professional. Unless specifically enumerated in the Agreement, the Contract Documents do not include the advertisement or invitation to bid, Instructions to Bidders, sample forms, other information furnished by the Owner in anticipation of receiving bids or proposals, the Contractor's bid or proposal, or portions of Addenda relating to bidding or proposal requirements.

#### **§ 1.1.2 The Contract**

The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Contractor and the Design Professional or the Design Professional's consultants, (2) between the Owner and a Subcontractor or a Sub-subcontractor, (3) between the Owner and the Design Professional or the Design Professional's consultants, or (4) between any persons or entities other than the Owner and the Contractor. The Design Professional shall, however, be entitled to performance and enforcement of obligations under the Contract intended to facilitate performance of the Design Professional's duties.

#### **§ 1.1.3 The Work**

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

#### **§ 1.1.4 The Project**

The Project is the total construction of which the Work performed under the Contract Documents may be the whole or a part and which may include construction by the Owner and by Separate Contractors.

#### **§ 1.1.5 The Drawings**

The Drawings are the graphic and pictorial portions of the Contract Documents showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules, and diagrams.

#### **§ 1.1.6 The Specifications**

The Specifications are that portion of the Contract Documents consisting of the written requirements for materials, equipment, systems, standards and workmanship for the Work, and performance of related services.

#### **§ 1.1.7 Instruments of Service**

Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Design Professional and the Design Professional's consultants under their respective professional services agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, and other similar materials.

*(Paragraphs deleted)*

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

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

**§ 1.2.1.1** The invalidity of any provision of the Contract Documents shall not invalidate the Contract or its remaining provisions. If it is determined that any provision of the Contract Documents violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and

enforceable. In such case the Contract Documents shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Contract.

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

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

### **§ 1.3 Capitalization**

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

### **§ 1.4 Interpretation**

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

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

**§ 1.5.1** The Design Professional and the Design Professional's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and retain all common law, statutory, and other reserved rights in their Instruments of Service, including copyrights or other rights or exclusion of rights as indicated in the agreement between Owner and Design Professional. The Contractor, Subcontractors, Sub-subcontractors, and suppliers shall not own or claim a copyright in the Instruments of Service. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the Design Professional's or Design Professional's consultants' reserved rights.

**§ 1.5.2** The Contractor, Subcontractors, Sub-subcontractors, and suppliers are authorized to use and reproduce the Instruments of Service provided to them, subject to any protocols established pursuant to Sections 1.7 and 1.8, solely and exclusively for execution of the Work. The Contractor, Subcontractors, Sub-subcontractors, and suppliers may not use the Instruments of Service on other projects or for additions to the Project outside the scope of the Work without the specific written consent of the Owner, Design Professional, and the Design Professional's consultants.

### **§ 1.6 Notice**

**§ 1.6.1** Except as otherwise provided in Section 1.6.2, where the Contract Documents require one party to notify or give notice to the other party, such notice shall be provided in writing to the designated representative of the party to whom the notice is addressed and shall be deemed to have been duly served if delivered in person, by mail, by courier, or by electronic transmission with written approval of each party prior to such transmission or proof of read receipt.

**§ 1.6.2** Notice of Claims as provided in Section 15.1.3 shall be provided in writing and shall be deemed to have been duly served only if delivered to the designated representative of the party to whom the notice is addressed by certified or registered mail, or by courier providing proof of delivery.

### **§ 1.7 Digital Data Use and Transmission**

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

*(Paragraphs deleted)*

## **ARTICLE 2 OWNER**

### **§ 2.1 General**

**§ 2.1.1** The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all matters requiring the Owner's approval or authorization. Except as

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otherwise provided in Section 4.2.1, the Design Professional does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

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

**§ 2.2 Evidence of the Owner's Financial Arrangements**

**§ 2.2.1** Prior to commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. The Contractor shall have no obligation to commence the Work until the Owner provides such evidence. If commencement of the Work is delayed under this Section 2.2.1, the Contract Time shall be extended appropriately.

**§ 2.2.2** Following commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract only if (1) the Owner fails to make payments to the Contractor as the Contract Documents require; (2) the Contractor identifies in writing a reasonable concern regarding the Owner's ability to make payment when due; or (3) a change in the Work materially changes the Contract Sum. If the Owner fails to provide such evidence, as required, within fourteen days of the Contractor's request, the Contractor may immediately stop the Work and, in that event, shall notify the Owner that the Work has stopped. However, if the request is made because a change in the Work materially changes the Contract Sum under (3) above, the Contractor may immediately stop only that portion of the Work affected by the change until reasonable evidence is provided. If the Work is stopped under this Section 2.2.2, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided in the Contract Documents.

**§ 2.2.3** After the Owner furnishes evidence of financial arrangements under this Section 2.2, the Owner shall not materially vary such financial arrangements without prior notice to the Contractor.

**§ 2.2.4** Where the Owner has designated information furnished under this Section 2.2 as "confidential," the Contractor shall keep the information confidential and shall not disclose it to any other person. However, the Contractor may disclose "confidential" information, after seven (7) days' notice to the Owner, where disclosure is required by law, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or by court or arbitrator(s) order. The Contractor may also disclose "confidential" information to its employees, consultants, sureties, Subcontractors and their employees, Sub-subcontractors, and others who need to know the content of such information solely and exclusively for the Project and who agree to maintain the confidentiality of such information.

**§ 2.3 Information and Services Required of the Owner**

**§ 2.3.1** Except for permits and fees that are the responsibility of the Contractor under the Contract Documents, including those required under Section 3.7.1, the Owner shall secure and pay for necessary approvals, easements, assessments and charges required for construction, use or occupancy of permanent structures or for permanent changes in existing facilities.

**§ 2.3.2** The Owner shall retain a Design Professional lawfully licensed to practice under the provisions set forth in the Handbook for New Mexico Building Officials (most current publication), or an entity lawfully practicing under those provisions, in the jurisdiction where the Project is located. That person or entity is identified as the Design Professional in the Agreement and is referred to throughout the Contract Documents as if singular in number.

**§ 2.3.3** If the employment of the Design Professional terminates, the Owner shall employ a successor to whom the Contractor has no reasonable objection and whose status under the Contract Documents shall be that of the Design Professional.

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

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

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

**§ 2.4 Owner's Right to Stop the Work**

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

**§ 2.5 Owner's Right to Carry Out the Work**

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

**ARTICLE 3 CONTRACTOR**

**§ 3.1 General**

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

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

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

**§ 3.2 Review of Contract Documents and Field Conditions by Contractor**

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

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

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the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional, unless otherwise specifically provided in the Contract Documents.

**§ 3.2.3** The Contractor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Contractor shall promptly report to the Design Professional any nonconformity discovered by or made known to the Contractor as a request for information in such form as the Design Professional may require.

**§ 3.2.4** If the Contractor believes that additional cost or time is involved because of clarifications or instructions the Design Professional issues in response to the Contractor's notices or requests for information pursuant to Sections 3.2.2 or 3.2.3, the Contractor shall submit Claims as provided in Article 15. If the Contractor fails to perform the obligations of Sections 3.2.2 or 3.2.3, the Contractor shall pay such costs and damages to the Owner, subject to Section 15.1.7, as would have been avoided if the Contractor had performed such obligations. If the Contractor performs those obligations, the Contractor shall not be liable to the Owner or Design Professional for damages resulting from errors, inconsistencies or omissions in the Contract Documents, for differences between field measurements or conditions and the Contract Documents, or for nonconformities of the Contract Documents to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities.

### **§ 3.3 Supervision and Construction Procedures**

**§ 3.3.1** The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for, and have control over, construction means, methods, techniques, sequences, and procedures, and for coordinating all portions of the Work under the Contract. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences, or procedures, the Contractor shall evaluate the jobsite safety thereof and shall be solely responsible for the jobsite safety of such means, methods, techniques, sequences, or procedures. If the Contractor determines that such means, methods, techniques, sequences or procedures may not be safe, the Contractor shall give timely notice to the Owner and Design Professional, and shall propose alternative means, methods, techniques, sequences, or procedures. The Design Professional shall evaluate the proposed alternative solely for conformance with the design intent for the completed construction. Unless the Design Professional objects to the Contractor's proposed alternative, the Contractor shall perform the Work using its alternative means, methods, techniques, sequences, or procedures.

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

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

### **§ 3.4 Labor and Materials**

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

**§ 3.4.2** Except in the case of minor changes in the Work approved by the Design Professional in accordance with Section 3.12.8 or ordered by the Design Professional in accordance with Section 7.4, the Contractor may make substitutions only with the consent of the Owner, after evaluation by the Design Professional and in accordance with a Change Order.

**§ 3.4.3** The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Work. The Contractor shall not permit employment of unfit persons or persons not properly skilled in tasks assigned to them.

### **§ 3.5 Warranty**

**§ 3.5.1** The Contractor warrants to the Owner and Design Professional that materials and equipment furnished under the Contract will be of good quality and new unless the Contract Documents require or permit otherwise. The Contractor further warrants that the Work will conform to the requirements of the Contract Documents and will be free

from defects, except for those inherent in the quality of the Work the Contract Documents require or permit. Work, materials, or equipment not conforming to these requirements may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Design Professional, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

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

### **§ 3.6 Taxes**

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

### **§ 3.7 Permits, Fees, Notices and Compliance with Laws**

**§ 3.7.1** Unless otherwise provided in the Contract Documents, the Contractor shall secure and pay for the building permit as well as for other permits, fees, licenses, and inspections by government agencies necessary for proper execution and completion of the Work that are customarily secured after execution of the Contract and legally required at the time bids are received or negotiations concluded.

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

*(Paragraph deleted)*

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

### **§ 3.7.4 Concealed or Unknown Conditions**

If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner and the Design Professional before conditions are disturbed and in no event later than 3 days after first observance of the conditions. The Design Professional will promptly investigate such conditions and, if the Design Professional determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend that an equitable adjustment be made in the Contract Sum or Contract Time, or both. If the Design Professional determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Design Professional shall promptly notify the Owner and Contractor, stating the reasons. If either party disputes the Design Professional's determination or recommendation, that party may submit a Claim as provided in Article 15.

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

### **§ 3.8 Allowances**

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

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**§ 3.8.2** Unless otherwise provided in the Contract Documents,

- .1 allowances shall cover the cost to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;
- .2 Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit, and other expenses contemplated for stated allowance amounts shall be included in the Contract Sum but not in the allowances; and
- .3 whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Section 3.8.2.1 and (2) changes in Contractor's costs under Section 3.8.2.2.

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

**§ 3.9 Superintendent**

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

**§ 3.9.2** The Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Design Professional of the name and qualifications of a proposed superintendent. Within 14 days of receipt of the information, the Design Professional may notify the Contractor, stating whether the Owner or the Design Professional (1) has reasonable objection to the proposed superintendent or (2) requires additional time for review. Failure of the Design Professional to provide notice within the 14-day period shall constitute notice of no reasonable objection.

**§ 3.9.3** The Contractor shall not employ a proposed superintendent to whom the Owner or Design Professional has made reasonable and timely objection. The Contractor shall not change the superintendent without the Owner's consent, which shall not unreasonably be withheld or delayed.

**§ 3.10 Contractor's Construction and Submittal Schedules**

**§ 3.10.1** The Contractor, promptly after being awarded the Contract, shall submit for the Owner's and Design Professional's information a Contractor's construction schedule for the Work. The schedule shall contain detail appropriate for the Project, including (1) the date of commencement of the Work, interim schedule milestone dates, and the date of Substantial Completion; (2) an apportionment of the Work by construction activity; and (3) the time required for completion of each portion of the Work. The schedule shall provide for the orderly progression of the Work to completion and shall not exceed time limits current under the Contract Documents. The schedule shall be revised at appropriate intervals as required by the conditions of the Work and Project.

**§ 3.10.2** The Contractor, promptly after being awarded the Contract and thereafter as necessary to maintain a current submittal schedule, shall submit a submittal schedule for the Design Professional's approval. The Design Professional's approval shall not be unreasonably delayed or withheld. The submittal schedule shall (1) be coordinated with the Contractor's construction schedule, and (2) allow the Design Professional reasonable time to review submittals. If the Contractor fails to submit a submittal schedule, or fails to provide submittals in accordance with the approved submittal schedule, the Contractor shall not be entitled to any increase in Contract Sum or extension of Contract Time based on the time required for review of submittals.

**§ 3.10.3** The Contractor shall perform the Work in general accordance with the most recent schedules submitted to the Owner and Design Professional.

**§ 3.11 Documents and Samples at the Site**

The Contractor shall make available, at the Project site, the Contract Documents, including Change Orders and other Modifications, in good order and marked currently to indicate field changes and selections made during construction, and the approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be in electronic form or paper copy, available to the Design Professional and Owner, and delivered to the Design Professional with reasonable promptness for submittal to the Owner upon completion of the Work as a record of the Work as constructed. As reasonably applicable, Submittals shall be delivered via email, bona fide online file sharing platform, Universal Serial Bus drive or compact disk in a standard digital softcopy format, or otherwise, delivered as hitherto mutually agreed in hardcopy or original format delivered by hand or standard mail.

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### **§ 3.12 Shop Drawings, Product Data and Samples**

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

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

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

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

**§ 3.12.5** The Contractor shall review for compliance with the Contract Documents, approve, and submit to the Design Professional, Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents, in accordance with the submittal schedule approved by the Design Professional or, in the absence of an approved submittal schedule, with reasonable promptness. As reasonably applicable, Submittals shall be delivered via email, bona fide online file sharing platform, Universal Serial Bus drive or compact disk in a standard digital softcopy format, or otherwise, delivered as hitherto mutually agreed in hardcopy or original format delivered by hand or standard mail and in such sequence as to cause no delay in the Work or in the activities of the Owner or of Separate Contractors.

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

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

**§ 3.12.8** The Work shall be in accordance with approved submittals except that the Contractor shall not be relieved of responsibility for deviations from the requirements of the Contract Documents by the Design Professional's approval of Shop Drawings, Product Data, Samples, or similar submittals, unless the Contractor has specifically notified the Design Professional of such deviation at the time of submittal and (1) the Design Professional has given written approval to the specific deviation as a minor change in the Work, or (2) a Change Order has been issued authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples, or similar submittals, by the Design Professional's approval thereof.

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

**§ 3.12.10** The Contractor shall not be required to provide professional services that constitute the practice of architecture or engineering unless such services are specifically required by the Contract Documents for a portion of the Work or unless the Contractor needs to provide such services in order to carry out the Contractor's responsibilities for construction means, methods, techniques, sequences, and procedures. The Contractor shall not be required to provide professional services in violation of applicable law.

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**§ 3.12.10.1** If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of the Contractor by the Contract Documents, the Owner and the Design Professional will specify all performance and design criteria that such services must satisfy. The Contractor shall be entitled to rely upon the adequacy and accuracy of the performance and design criteria provided in the Contract Documents. The Contractor shall cause such services or certifications to be provided by an appropriately licensed design professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings, and other submittals prepared by such professional. Shop Drawings, and other submittals related to the Work, designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to the Design Professional. The Owner and the Design Professional shall be entitled to rely upon the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals, provided the Owner and Design Professional have specified to the Contractor the performance and design criteria that such services must satisfy. Pursuant to this Section 3.12.10, the Design Professional will review and approve or take other appropriate action on submittals only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents.

**§ 3.12.10.2** If the Contract Documents require the Contractor's design professional to certify that the Work has been performed in accordance with the design criteria, the Contractor shall furnish such certifications to the Design Professional at the time and in the form specified by the Design Professional.

### **§ 3.13 Use of Site**

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

### **§ 3.14 Cutting and Patching**

**§ 3.14.1** The Contractor shall be responsible for cutting, fitting, or patching required to complete the Work or to make its parts fit together properly. All areas requiring cutting, fitting, or patching shall be restored to the condition existing prior to the cutting, fitting, or patching, unless otherwise required by the Contract Documents.

**§ 3.14.2** The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner or Separate Contractors by cutting, patching, or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter construction by the Owner or a Separate Contractor except with written consent of the Owner and of the Separate Contractor. Consent shall not be unreasonably withheld. The Contractor shall not unreasonably withhold, from the Owner or a Separate Contractor, its consent to cutting or otherwise altering the Work.

### **§ 3.15 Cleaning Up**

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

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

### **§ 3.16 Access to Work**

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

### **§ 3.17 Royalties, Patents and Copyrights**

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

infringement of a copyright or patent is discovered by, or made known to, the Contractor, the Contractor shall be responsible for the loss unless the information is promptly furnished to the Design Professional and the Owner.

*(Paragraphs deleted)*

#### **ARTICLE 4 DESIGN PROFESSIONAL**

##### **§ 4.1 General**

**§ 4.1.1** The Design Professional is the person or entity retained by the Owner pursuant to Section 2.3.2 and identified as such in the Agreement.

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

##### **§ 4.2 Administration of the Contract**

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

**§ 4.2.2** The Design Professional will visit the site at intervals appropriate to the stage of construction, or as otherwise agreed with the Owner, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine in general if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Design Professional will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Design Professional will not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents.

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

##### **§ 4.2.4 Communications**

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

**§ 4.2.5** Based on the Design Professional's evaluations of the Contractor's Applications for Payment, the Design Professional will review and approve the amounts due the Contractor and will sign the Application for Payment.

**§ 4.2.6** The Design Professional has authority to reject Work that does not conform to the Contract Documents. Whenever the Design Professional considers it necessary or advisable, the Design Professional will have authority to require inspection or testing of the Work in accordance with Sections 13.4.2 and 13.4.3, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Design Professional 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 Design Professional to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

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**§ 4.2.7** The Design Professional will review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data, and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Design Professional's action will be taken in accordance with the submittal schedule approved by the Design Professional or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Design Professional's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Design Professional's review of the Contractor's submittals shall not relieve the Contractor of the obligations under Sections 3.3, 3.5, and 3.12. The Design Professional's review shall not constitute approval of safety precautions or of any construction means, methods, techniques, sequences, or procedures. The Design Professional's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

**§ 4.2.8** The Design Professional and/or the Owner's Representative will prepare Change Orders, and may order minor changes in the Work as provided in Section 7.4. The Design Professional will investigate and make determinations and recommendations regarding concealed and unknown conditions as provided in Section 3.7.4.

**§ 4.2.9** The Design Professional will conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion pursuant to Section 9.8; receive and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract and assembled by the Contractor pursuant to Section 9.10; and sign the final Application for Payment pursuant to Section 9.10.

**§ 4.2.10** If the Owner and Design Professional agree, the Design Professional will provide one or more Project representatives to assist in carrying out the Design Professional's responsibilities at the site. The Owner shall notify the Contractor of any change in the duties, responsibilities and limitations of authority of the Project representatives.

**§ 4.2.11** The Design Professional will interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Design Professional's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

**§ 4.2.12** Interpretations and decisions of the Design Professional will be consistent with the intent of, and reasonably inferable from, the Contract Documents and will be in writing or in the form of drawings. When making such interpretations and decisions, the Design Professional will endeavor to secure faithful performance by both Owner and Contractor, will not show partiality to either, and will not be liable for results of interpretations or decisions rendered in good faith.

**§ 4.2.13** The Design Professional's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.

**§ 4.2.14** The Design Professional will review and respond to requests for information about the Contract Documents. The Design Professional's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If appropriate, the Design Professional will prepare and issue supplemental Drawings and Specifications in response to the requests for information.

## **ARTICLE 5 SUBCONTRACTORS**

### **§ 5.1 Definitions**

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

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

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

**§ 5.2.1** Unless otherwise stated in the Contract Documents, the Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Design Professional of the persons or entities proposed for each principal portion of the Work, including those who are to furnish materials or equipment fabricated to a special design. Within 14 days of receipt of the information, the Design Professional may notify the Contractor whether the Owner or the Design Professional (1) has reasonable objection to any such proposed person or entity or (2) requires additional time for review. Failure of the Design Professional to provide notice within the 14-day period shall constitute notice of no reasonable objection.

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

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

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

## **§ 5.3 Subcontractual Relations**

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

## **§ 5.4 Contingent Assignment of Subcontracts**

**§ 5.4.1** Each subcontract agreement for a portion of the Work is assigned by the Contractor to the Owner, provided that

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

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

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

**§ 5.4.3** Upon assignment to the Owner under this Section 5.4, the Owner may further assign the subcontract to a successor contractor or other entity. If the Owner assigns the subcontract to a successor contractor or other entity, the

Owner shall nevertheless remain legally responsible for all of the successor contractor's obligations under the subcontract.

## **ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS**

### **§ 6.1 Owner's Right to Perform Construction and to Award Separate Contracts**

**§ 6.1.1** The term "Separate Contractor(s)" shall mean other contractors retained by the Owner under separate agreements. The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and with Separate Contractors retained under Conditions of the Contract substantially similar to those of this Contract, including those provisions of the Conditions of the Contract related to insurance and waiver of subrogation.

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

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

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

### **§ 6.2 Mutual Responsibility**

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

**§ 6.2.2** If part of the Contractor's Work depends for proper execution or results upon construction or operations by the Owner or a Separate Contractor, the Contractor shall, prior to proceeding with that portion of the Work, promptly notify the Design Professional of apparent discrepancies or defects in the construction or operations by the Owner or Separate Contractor that would render it unsuitable for proper execution and results of the Contractor's Work. Failure of the Contractor to notify the Design Professional of apparent discrepancies or defects prior to proceeding with the Work shall constitute an acknowledgment that the Owner's or Separate Contractor's completed or partially completed construction is fit and proper to receive the Contractor's Work. The Contractor shall not be responsible for discrepancies or defects in the construction or operations by the Owner or Separate Contractor that are not apparent.

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

**§ 6.2.4** The Contractor shall promptly remedy damage that the Contractor wrongfully causes to completed or partially completed construction or to property of the Owner or Separate Contractor as provided in Section 10.2.5.

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

### **§ 6.3 Owner's Right to Clean Up**

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

## ARTICLE 7 CHANGES IN THE WORK

### § 7.1 General

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

§ 7.1.2 A Change Order shall be based upon agreement among the Owner, Contractor, and Design Professional. An order for a minor change in the Work may be issued by the Design Professional alone.

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

### § 7.2 Change Orders

§ 7.2.1 A Change Order is a written instrument prepared by the Design Professional and/or the Owner's Representative and signed by the Owner, Contractor, and Design Professional 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.
  
- .5 Costs of supervision and field office personnel directly attributable to the change.

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

§ 7.2.3 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 Design Professional. When both additions and credits covering related Work or substitutions are involved in a change, the percentage for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change.

§ 7.2.4 When the Owner and Contractor agree with a determination made by the Design Professional 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 Design Professional will prepare a Change Order.

### § 7.3 Minor Changes in the Work

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

*(Paragraphs deleted)*

## ARTICLE 8 TIME

### § 8.1 Definitions

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

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

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

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

## **§ 8.2 Progress and Completion**

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

§ 8.2.2 The Contractor shall not knowingly, except by agreement or instruction of the Owner in writing, commence the Work prior to the effective date of insurance required to be furnished by the Contractor and Owner.

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

## **§ 8.3 Delays and Extensions of Time**

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

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

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

## **ARTICLE 9 PAYMENTS AND COMPLETION**

### **§ 9.1 Contract Sum**

§ 9.1.1 The Contract Sum is stated in the Agreement and, including authorized adjustments, is the total amount payable by the Owner to the Contractor for performance of the Work under the Contract Documents.

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

### **§ 9.2 Schedule of Values**

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

### **§ 9.3 Applications for Payment**

§ 9.3.1 At least five days before the date established for each progress payment, the Contractor shall submit to the Design Professional an itemized Application for Payment prepared in accordance with the schedule of values, if required under Section 9.2, for completed portions of the Work. The Application shall be notarized, if required, and supported by all data substantiating the Contractor's right to payment that the Owner or Design Professional require, such as copies of requisitions, and releases and waivers of liens from Subcontractors and suppliers, and shall reflect retainage if provided for in the Contract Documents.



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

*(Paragraph deleted)*

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

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

#### **§ 9.4 Applications for Payment**

**§ 9.4.1** The Design Professional will, within three days after receipt of the Contractor's Application for Payment, either (1) sign the Application for Payment in the full amount of the Application for Payment, with a copy to the Contractor; or (2) issue to the Owner a Application for Payment for such amount as the Design Professional determines is properly due, and notify the Contractor and Owner of the Design Professional's reasons for withholding certification in part as provided in Section 9.5.1; or (3) withhold certification of the entire Application for Payment, and notify the Contractor and Owner of the Design Professional's reason for withholding certification in whole as provided in Section 9.5.1.

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

#### **§ 9.5 Decisions to Withhold Certification**

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

- .1 defective Work not remedied;
- .2 third party claims filed or reasonable evidence indicating probable filing of such claims, unless security acceptable to the Owner is provided by the Contractor;

- .3 failure of the Contractor to make payments properly to Subcontractors or suppliers for labor, materials or equipment;
- .4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
- .5 damage to the Owner or a Separate Contractor;
- .6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
- .7 repeated failure to carry out the Work in accordance with the Contract Documents.

**§ 9.5.2** When either party disputes the Design Professional's decision regarding an Application for Payment under Section 9.5.1, in whole or in part, that party may submit a Claim in accordance with Article 15.

**§ 9.5.3** When the reasons for withholding approval are removed, approval will be made for amounts previously withheld.

**§ 9.5.4** If the Design Professional withholds approving a payment under Section 9.5.1.3, the Owner may, at its sole option, issue joint checks to the Contractor and to any Subcontractor or supplier to whom the Contractor failed to make payment for Work properly performed or material or equipment suitably delivered. If the Owner makes payments by joint check, the Owner shall notify the Design Professional and the Contractor shall reflect such payment on its next Application for Payment.

## **§ 9.6 Progress Payments**

**§ 9.6.1** After the Design Professional has signed the Application for Payment, the Owner shall make payment in the manner and within the time provided in the Contract Documents, and shall so notify the Design Professional.

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

**§ 9.6.3** The Design Professional 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 Design Professional and Owner on account of portions of the Work done by such Subcontractor.

**§ 9.6.4** The Owner has the right to request written evidence from the Contractor that the Contractor has properly paid Subcontractors and suppliers amounts paid by the Owner to the Contractor for subcontracted Work. If the Contractor fails to furnish such evidence within seven days, the Owner shall have the right to contact Subcontractors and suppliers to ascertain whether they have been properly paid. Neither the Owner nor Design Professional shall have an obligation to pay, or to see to the payment of money to, a Subcontractor or supplier, except as may otherwise be required by law.

**§ 9.6.5** The Contractor's payments to suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.

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

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

**§ 9.6.8** Provided the Owner has fulfilled its payment obligations under the Contract Documents, the Contractor shall defend and indemnify the Owner from all loss, liability, damage or expense, including reasonable attorney's fees and litigation expenses, arising out of any lien claim or other claim for payment by any Subcontractor or supplier of any

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tier. Upon receipt of notice of a lien claim or other claim for payment, the Owner shall notify the Contractor. If approved by the applicable court, when required, the Contractor may substitute a surety bond for the property against which the lien or other claim for payment has been asserted.

#### **§ 9.7 Failure of Payment**

If the Design Professional does not sign an Application 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 the timeframe established in the Contract Documents, the amount certified by the Design Professional or awarded by binding dispute resolution, then the Contractor may, upon seven additional days' notice to the Owner and Design Professional, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided for in the Contract Documents.

#### **§ 9.8 Substantial Completion**

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

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

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

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

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

#### **§ 9.9 Partial Occupancy or Use**

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

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

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

#### **§ 9.10 Final Completion and Final Payment**

**§ 9.10.1** Upon receipt of the Contractor's notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Design Professional and Owner will promptly make such inspection. When the Design Professional and Owner find the Work acceptable under the Contract Documents and the Contract fully performed, the Design Professional will promptly sign and issue a Final Completion Certificate stating that the Work has been completed in accordance with the Contract Documents. The Design Professional's final Application for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

**§ 9.10.2** Final payment shall not become due until the Contractor submits to the Owner (1) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect, (2) a written statement that the Contractor knows of no reason that the insurance will not be renewable to cover the period required by the Contract Documents, (3) consent of surety, if any, to final payment, (4) documentation of any special warranties, such as manufacturers' warranties or specific Subcontractor warranties, other items listed in Section 5.1.5 of the accompanying AIA A101 agreement and (5) if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts and releases and waivers of liens, claims, security interests, or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien, claim, security interest, or encumbrance. If a lien, claim, security interest, or encumbrance remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging the lien, claim, security interest, or encumbrance, including all costs and reasonable attorneys' fees.

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

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

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

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

#### **ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY**

##### **§ 10.1 Safety Precautions and Programs**

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

## **§ 10.2 Safety of Persons and Property**

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

- .1 employees on the Work and other persons who may be affected thereby;
- .2 the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody, or control of the Contractor, a Subcontractor, or a Sub-subcontractor; and
- .3 other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures, and utilities not designated for removal, relocation, or replacement in the course of construction.

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

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

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

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

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

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

### **§ 10.2.8 Injury or Damage to Person or Property**

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

## **§ 10.3 Hazardous Materials and Substances**

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

**§ 10.3.2** Upon receipt of the Contractor's notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Contract

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Documents, the Owner shall furnish in writing to the Contractor and Design Professional the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of the material or substance or who are to perform the task of removal or safe containment of the material or substance. The Contractor and the Design Professional 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 Design Professional has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Contractor and the Design Professional have no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Contractor. By Change Order, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable additional costs of shutdown, delay, and start-up.

**§ 10.3.3** The Owner shall not be responsible under this Section 10.3 for hazardous materials or substances the Contractor brings to the site unless such materials or substances are required by the Contract Documents. The Owner shall be responsible for hazardous materials or substances required by the Contract Documents, except to the extent of the Contractor's fault or negligence in the use and handling of such materials or substances.

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

*(Paragraphs deleted)*

#### **§ 10.4 Emergencies**

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

### **ARTICLE 11 INSURANCE AND BONDS**

#### **§ 11.1 Contractor's Insurance and Bonds**

**§ 11.1.1** The Contractor shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Contractor shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Owner, Design Professional, and Design Professional's consultants shall be named as additional insureds under the Contractor's commercial general liability policy or as otherwise described in the Contract Documents.

**§ 11.1.2** The Contractor shall provide surety bonds of the types, for such penal sums, and subject to such terms and conditions as required by the Contract Documents. The Contractor shall purchase and maintain the required bonds from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located.

**§ 11.1.3** Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished.

**§ 11.1.4 Notice of Cancellation or Expiration of Contractor's Required Insurance.** Within three (3) business days of the date the Contractor becomes aware of an impending or actual cancellation or expiration of any insurance required by the Contract Documents, the Contractor shall provide notice to the Owner of such impending or actual cancellation or expiration. Upon receipt of notice from the Contractor, the Owner shall, unless the lapse in coverage arises from an act or omission of the Owner, have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by the Contractor. The furnishing of notice by the Contractor shall not relieve the Contractor of any contractual obligation to provide any required coverage.

*(Paragraphs deleted)*

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## ARTICLE 12 UNCOVERING AND CORRECTION OF WORK

### § 12.1 Uncovering of Work

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

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

### § 12.2 Correction of Work

#### § 12.2.1 Before Substantial Completion

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

#### § 12.2.2 After Substantial Completion

§ 12.2.2.1 In addition to the Contractor's obligations under Section 3.5, if, within one year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.9.1, or by terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of notice from the Owner to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the one-year period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor and to make a claim for breach of warranty. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner or Design Professional, the Owner may correct it in accordance with Section 2.5.

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

§ 12.2.2.3 The one-year period for correction of Work shall not be extended by corrective Work performed by the Contractor pursuant to this Section 12.2.

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

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

§ 12.2.5 Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

### **§ 12.3 Acceptance of Nonconforming Work**

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

## **ARTICLE 13 MISCELLANEOUS PROVISIONS**

### **§ 13.1 Governing Law**

The Contract shall be governed by New Mexico law.

### **§ 13.2 Successors and Assigns**

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

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

### **§ 13.3 Rights and Remedies**

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

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

### **§ 13.4 Tests and Inspections**

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

**§ 13.4.2** If the Design Professional, Owner, or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection, or approval not included under Section 13.4.1, the Design Professional 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 Design Professional of when and where tests and inspections are to be made so that the Design Professional may be present for such procedures. Such costs, except as provided in Section 13.4.3, shall be at the Owner's expense.

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

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

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

Init.



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

*(Paragraphs deleted)*

## **ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT**

### **§ 14.1 Termination by the Contractor**

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

- .1 Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;
- .2 An act of government, such as a declaration of national emergency, that requires all Work to be stopped;
- .3 Because the Design Professional has not approved an Application for Payment and has not notified the Contractor of the reason for withholding approval as provided in Section 9.4.1, or because the Owner has not made payment on an Application for Payment within the time stated in the Contract Documents; or
- .4 The Owner has failed to furnish to the Contractor reasonable evidence as required by Section 2.2.

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

§ 14.1.3 If one of the reasons described in Section 14.1.1 or 14.1.2 exists, the Contractor may, upon seven days' notice to the Owner and Design Professional, terminate the Contract and recover from the Owner payment for Work executed, as well as reasonable overhead and profit on Work not executed, and costs incurred by reason of such termination.

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

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

§ 14.2.1 The Owner may terminate the Contract if the Contractor

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

§ 14.2.2 When any of the reasons described in Section 14.2.1 exist, and upon certification by the Design Professional that sufficient cause exists to justify such action, the Owner may, without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:

- .1 Exclude the Contractor from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;
- .2 Accept assignment of subcontracts pursuant to Section 5.4; and
- .3 Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.

§ 14.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 14.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

(Paragraph deleted)

#### § 14.3 Suspension by the Owner for Convenience

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

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

- .1 that performance is, was, or would have been, so suspended, delayed, or interrupted, by another cause for which the Contractor is responsible; or
- .2 that an equitable adjustment is made or denied under another provision of the Contract.

#### § 14.4 Termination by the Owner for Convenience

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

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

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

(Paragraph deleted)

### ARTICLE 15 CLAIMS AND DISPUTES

#### § 15.1 Claims

##### § 15.1.1 Definition

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

##### § 15.1.2 Time Limits on Claims

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

##### § 15.1.3 Notice of Claims

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

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

Init.

#### **§ 15.1.4 Continuing Contract Performance**

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

**§ 15.1.4.2** The Contract Sum and Contract Time shall be adjusted in accordance with the City's decision, subject to the right of either party to proceed in accordance with this Article 15. The Design Professional will approve Applications for Payment in accordance with the decision of the City.

#### **§ 15.1.5 Claims for Additional Cost**

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

#### **§ 15.1.6 Claims for Additional Time**

**§ 15.1.6.1** If the Contractor wishes to make a Claim for an increase in the Contract Time, notice as provided in Section 15.1.3 shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay, only one Claim is necessary.

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

#### **§ 15.1.7 Waiver of Claims for Consequential Damages**

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

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

This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 14. Nothing contained in this Section 15.1.7 shall be deemed to preclude assessment of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.

*(Paragraphs deleted)*

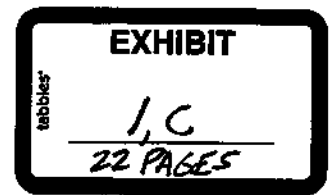
#### **§ 15.3 Mediation—Under § 13-4C-3.NMSA 1978**

**§ 15.3.1** Claims, disputes, or other matters in controversy arising out of or related to the Contract, except those waived as provided for in Sections 9.10.4, 9.10.5, and 15.1.7, shall be subject to mediation as a condition precedent to litigation.

**§ 15.3.2** 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.

*(Paragraphs deleted)*

**GENERAL CONDITIONS OF THE CONTRACT  
(00 7200)**



*In the case of conflicting requirements between the AIA General Conditions and these General Conditions, the most stringent requirement shall apply. These Conditions are subject to interpretation and modification for accordance with all applicable laws, statutes, ordinances, rules and procedures adopted by and to which the City of Santa Fe is subject.*

**GENERAL CONDITIONS (00 7213)**

**NOTICE**

This document has been prepared by the Capital Improvements Program (CIP) and Contract Compliance Staff of the City of Santa Fe for use in construction projects.

DOCUMENT - DIVISION 00 7213

**GENERAL CONDITIONS OF THE CONTRACT FOR CONSTRUCTION**

(THIS DOCUMENT HAS IMPORTANT LEGAL CONSEQUENCES;  
CONSULTATION WITH AN ATTORNEY IS ENCOURAGED WITH  
RESPECT TO ITS COMPLETION OR MODIFICATION.)

**TABLE OF ARTICLES**

1. CONTRACT DOCUMENTS
2. OWNER
3. OWNER'S REPRESENTATIVE & OWNER'S AGENT
4. CONTRACTOR
5. SUBCONTRACTORS
6. WORK BY OWNER OR BY SEPARATE CONTRACTORS
7. MISCELLANEOUS PROVISIONS
8. TIME
9. PAYMENTS AND COMPLETION
10. PROTECTION OF PERSONS AND PROPERTY
11. INSURANCE
12. CHANGES IN THE WORK
13. UNCOVERING AND CORRECTION OF WORK
14. TERMINATION OF THE CONTRACT
15. EQUAL OPPORTUNITY
16. MINIMUM WAGE RATES

## **ARTICLE 1**

### **CONTRACT DOCUMENTS**

#### **1.1 DEFINITIONS**

##### **1.1.1 THE CONTRACT DOCUMENTS**

The Contract Documents consist of the Agreement Between the Owner and Contractor (aka the "Contract" or "Agreement"), the Conditions of the Contract (General, Supplementary, and Other Conditions), the Drawings, the Specifications, and all Addenda issued prior to and all 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 *written interpretation* issued by the Owner's Representative pursuant to Subparagraph 2.2.6, or (4) a written order for a minor change in the work issued by the Owner's Representative pursuant to Paragraph 12.3.1. The Contract Documents do not include Bidding Documents such as the Advertisement or Invitation to Bid, the Instructions to Bidders, sample forms, the Contractor's Bid, or portions of Addenda relating to any of these, or any other documents, unless specifically enumerated in the Owner-Contractor Agreement.

##### **1.1.2 THE CONTRACT**

The Contract Documents form the Contract for Construction. This Contract represents the entire and integrated agreement between the parties hereto and supersedes all prior negotiations, representations, or agreements, either written or oral. The Contract may be amended or modified only by a Modification as defined in Subparagraph 1.1.1. The Contract Documents shall not be construed to create any contractual relationship of any kind between the Owner, Owner's Representative or Owner's Agent and the Contractor, but the Owner, Owner's Representative and Owner's Agent shall be entitled to performance of obligations intended for the Owner's benefit, and to enforcement thereof. Nothing contained in the Contract Documents shall create any contractual relationship between the Owner, Owner's Representative or Owner's Agent and any Subcontractor.

##### **1.1.3 THE WORK**

The work comprises the design and completed construction required by the Contract Documents, and includes design specifications, all labor necessary to produce such construction, and all materials and equipment incorporated or to be incorporated in such construction.

##### **1.1.4 THE PROJECT**

The Project is the total design and construction of which the work performed under the Contract Documents may be the whole or a part.

#### **1.2 EXECUTION, CORRELATION AND INTENT**

- 1.2.1 One (1) original Contract shall be signed by the Owner and the Contractor and shall become effective upon Recording by the City Clerk's Office, and a digital copy of which, shall be forwarded to the Contractor in a timely manner. The Contract shall include by Exhibit, all Conditions of the Contract, Construction Documents, Drawings, Specifications, any other Contract Documents included by reference and as indicated in the Contract.
- 1.2.2 By executing the Contract, the Contractor represents that a site visit(s) has been conducted, to become familiar with the local conditions under which the work is to be performed, and observations from the site visit have been correlated with the requirements of the Contract Documents.
- 1.2.3 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the work. The Contract Documents are complementary, and requirements indicated by individual Contract Documents shall be binding as if required by all other Contract Documents. Work not covered in the Contract Documents will not be required unless it is consistent therewith and is reasonably inferable therefrom as being necessary to produce the intended results. Words and abbreviations which have well-known technical or trade meanings are used in the Contract Documents in accordance with such recognized meanings. In the event of a conflict between the Contract Documents, the more stringent requirements shall govern.
- 1.2.4 The organization of the Specifications into divisions, sections and articles and the arrangement of Drawings shall not control the Contractor in dividing the work among Subcontractors or in establishing the extent of work to be performed by any trade.

#### **1.3 OWNERSHIP AND USE OF DOCUMENTS**

- 1.3.1 All designs, drawings, specifications, notes, and other work developed in the performance of this Contract shall be and remain the sole property of the Owner and may be used on any other work without additional compensation to the Contractor. With

respect thereto, the Contractor agrees not to assert any rights and not to establish any claims under the design patent or copyright laws.

## **ARTICLE 2**

### **OWNER**

#### **2.1 DEFINITION**

- 2.1.1 The Owner is the person or entity identified as such in the Contract and is referred to throughout the Contract Documents as if singular in number. The term "Owner" means the City of Santa Fe, aka the "City". The Owner will be the interpreter of the requirements of the Contract Documents and the initial decision maker regarding the performance thereunder by the Contractor.

#### **2.2 OWNER'S RESPONSIBILITIES AND REQUIRED INFORMATION AND SERVICES**

- 2.2.1 The Owner shall, at the request of the Contractor, at the time of execution of the Contract, furnish to the Contractor reasonable evidence that financial arrangements have been made to fulfill the Owner's obligations under the Contract. Unless such reasonable evidence is furnished, the Contractor is not required to execute the Contract or to commence the work.
- 2.2.2 Except as provided in Subparagraph 4.7.1, the Owner shall secure and pay for necessary approvals, easements, assessments, and charges required for the construction, use or occupancy of permanent structures or for permanent changes in existing facilities.
- 2.2.3 Information or services under the Owner's control shall be furnished by the Owner with reasonable promptness to avoid delay in the orderly progress of the work.
- 2.2.4 Unless otherwise provided in the Contract Documents, the Contractor may be furnished, free of charge, all copies of Drawings and Specifications reasonably necessary for the execution of the work.
- 2.2.5 The Owner shall forward all instructions to the Contractor through the Owner's Agent or with their concurrence.
- 2.2.6 The Owner, including all City Staff shall abide by all appropriate jobsite safety measures and shall not unduly interfere with or obstruct the progress of the Work. The Owner's employees shall defer to Owner's Representative or other authorized proxy, as the Contract Administrator and shall refer all concerns, requests and critical communications with the Contractor to the Owner's Representative for review, consideration and appropriate action.
- 2.2.7 The foregoing are in addition to other duties and responsibilities of the Owner enumerated herein and especially those in respect to work by Owner or by Separate Contractors, Payments and Completion, and Insurance in Articles 6, 9 and 11 respectively.

#### **2.3 OWNER'S RIGHT TO STOP THE WORK**

- 2.3.1 If the Contractor fails to correct defective work as required by Paragraph 13.2 or persistently fails to carry out the work in accordance with the Contract Documents, the Owner, by a written order signed personally or by an agent specifically so empowered by the Owner in writing, may order the Contractor to stop the work, or any portion thereof, until the cause of such order has been eliminated; however, this right of the Owner to stop the work shall not give rise to any 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 Subparagraph 6.1.3.

#### **2.4 OWNER'S RIGHT TO CARRY OUT THE WORK**

- 2.4.1 If the Contractor defaults or neglects to carry out the work in accordance with the Contract Documents and fails within seven days after receipt of written notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, after seven days following receipt by the Contractor of an additional written notice and without prejudice to any other remedy the Contractor may have, make good such deficiencies. In such case, an appropriate Change Order shall be issued deducting from the payments then or thereafter due the Contractor the cost of correcting such deficiencies, including compensation for the Owner's Agent's additional services made necessary by such default, neglect or failure. Such action by the Owner and the amount charged to the Contractor are both subject to the prior approval of the Owner's Agent. If the payments then or thereafter due to the Contractor are not sufficient to cover such amount, the Contractor shall pay the difference to the Owner.

## ARTICLE 3

### **OWNER'S REPRESENTATIVE & OWNER'S AGENT**

#### **3.1 DEFINITIONS**

- 3.1.1 The Owner's Representative is the person or persons designated by the City of Santa Fe as the administrator responsible for overseeing the project, identified as such in the Contract, and is referred to throughout the Contract Documents as if singular in number. The term "Owner's Representative" means the Owner's Representative or another authorized representative.
- 3.1.2 The Owner's Agent is the person or persons designated by the City as the Design Professional responsible for all aspects of the Construction Documents and Construction Administration, including Owner's Agent Staff Project Representatives designated by the Owner's Agent with the concurrence of the Owner's Representative, and as otherwise indicated in the Contract Documents.

#### **3.2 ADMINISTRATION OF THE CONTRACT – OWNER'S REPRESENTATIVE**

- 3.2.1 The Owner's Representative will provide administration of the Contract as the Project Administrator for the City and as described herein.
- 3.2.2 The Owner's Representative will act as the sole point of contact representing the Owner (See Subparagraph 4.16.2) and will attend all critical progress meetings and will help facilitate and oversee all formal interactions with the Contractor and as limited by Subparagraph 3.3.3 below.
- 3.2.3 The Owner's Representative or authorized proxy shall be provided by the Contractor at all times with unrestricted safe access to the Project Site(s) and work and essential amenities thereon required for the purpose of monitoring and reviewing work, carrying out the administration of the Contract, coordinating or implementing the needs, rights and duties of the Owner, Owner's Agent, Stakeholders and Public, and at other times as the Owner's Representative or Owner's Agent deems appropriate and in the best interest of the City. The Owner's Representative shall abide by all appropriate jobsite safety measures and shall not unduly interfere with or obstruct the progress of the Work.
- 3.2.4 After approval by the Owner's Agent, the Owner's Representative will verify the accuracy of the Contractor's Applications for Payment, and process them for payment or request modifications and re-approval, as stipulated in the Contract.
- 3.2.5 The Owner's Representative will review the Contractor's submittals such as Shop Drawings, Product Data and samples, but only for concurrence with the Owner's Agent's initial review.
- 3.2.6 The Owner's Representative will prepare and process all Change Orders resulting from an authorized Change Request, in accordance with Article 12 and will have authority to order minor changes in the work as provided in Subparagraph 12.4.1.
- 3.2.7 After issuance of the Certificate of Substantial Completion, completion of the official Punch List and submittal by the Contractor of all required Close-out documents, and approval of the final Application for Payment by the Owner's Agent, the Owner's Representative will process the final Application for Payment and issue Certificate of Final Completion.
- 3.2.8 In case of the termination of the employment of the Owner's Representative, the Owner shall appoint an Owner's Representative whose status under the Contract Documents shall be that of the former Owner's Representative.

#### **3.3 ADMINISTRATION OF THE CONTRACT – OWNER'S AGENT**

- 3.3.1 The Owner's Agent will provide administration of the Contract as the Design Professional and as described herein.
- 3.3.2 The Owner's Agent will advise and consult with the Owner and Owner's Representative. The Owner's instructions to the Contractor shall be forwarded, by way of the Owner's Representative, through the Owner's Agent or with their concurrence. The Owner's Agent shall have the authority to act on behalf of the Owner only to the extent provided in the Contract Documents, unless otherwise modified by written instrument in accordance with Subparagraph 3.3.15.
- 3.3.3 The Owner's Agent shall organize and facilitate all progress meetings and associated activities and duties as contractually required and as deemed necessary by the Owner's Agent for timely progress and completion of the work.
- 3.3.4 The Owner's Agent shall submit for approval of the Owner's Representative, a list of critical inspection points based upon the construction schedule furnished by the Contractor. The Owner's Agent and Staff shall be provided access to and make visits to the Project site(s) at those critical points and at other times as the Owner's Agent deems appropriate during the progress of the work. Additionally, the Owner's Agent shall remain familiar with the progress and quality of the work and determine if the work

is proceeding in accordance with the Contract Documents. On the basis of on-site observations, as the Owner's Agent, shall guard the Owner against defects and deficiencies in the construction. Should the Owner's Agent determine that any portion of the work varies from the intent of the Contract Documents, the Contractor and the Owner's Representative shall be immediately notified of the non-compliance and the nature of the work required for correction. The Owner's Agent shall recommend to the Owner's Representative, in writing, to issue a "stop work order" for any portion of the work that does not substantially comply with the intent of the Contract Documents, except as stipulated below.

- 3.3.5 The Owner's Agent shall not be responsible for construction means, methods, techniques, sequences, or procedures, or for safety precautions and programs in connection with the work. Additionally, the Owner's Agent shall not be responsible for the Contractor's failure to carry out the work in accordance with the Contract Documents. The Owner's Agent shall reject work which does not meet or exceed the standards established by the Contract Documents. The Owner's Agent will have authority to require special inspection or testing of any work, in accordance with the provisions of the Contract Documents, whether or not such work is then fabricated, installed or completed, whenever deemed reasonable, appropriate and considered necessary or advisable to ensure the proper implementation of the intent of the Contract Documents.
- 3.3.6 The Owner's Agent shall at all times have access to the Project Site(s) and work wherever it is in preparation and progress. The Contractor shall provide for such access and essential amenities thereon to insure the Owner's Agent's ability to properly perform of the functions required by their Contract with the Owner and as stipulated in the Contract Documents.
- 3.3.7 Based on the observations of the Owner's Agent and an evaluation of the Contractor's Application for Payment, the Owner's Agent will determine the amounts owing to the Contractor and will approve Certificates for Payment in such amounts, as provided in Paragraph 9.4.
- 3.3.8 The Owner's Agent will conduct inspections to determine the dates of Substantial Completion and Final Completion, will issue the Certificate of Substantial Completion, compile an official Punch list, receive written warranties and Close-Out related documents and forward them to the Owner's Representative for review as required by the Contract and assembled by the Contractor, will recommend issuance of the Certificate of Final Completion by the Owner's Representative and, approve the final Application for Payment upon compliance with the requirements of Paragraph 9.9.
- 3.3.9 The Owner's Agent will render interpretations necessary for the proper execution or progress of the work, with reasonable promptness and in accordance with any time limit agreed upon. The Contractor may make a written request to the Owner's Agent for such interpretations.
- 3.3.10 All interpretations and decisions of the Owner's Agent shall be consistent with the intent of and reasonably inferable from the Contract Documents and will be in writing or in the form of drawings. In the capacity as interpreter, the Owner's Agent will endeavor to secure faithful performance by the Contractor, will not show partiality, and will not be liable for the result of any interpretation or decision rendered in good faith in such capacity.
- 3.3.11 The Owner's Agent's decisions in matters relating to aesthetic effect will be final if consistent with the intent of the Contract Documents.
- 3.3.12 The Owner's Agent will have authority to reject work which does not conform to the Contract Documents. However, neither the Owner's Agent's authority to act under their Contract with the Owner, nor any decision made by The Owner's Agent in good faith either to exercise or not to exercise such authority, shall give rise to any duty or responsibility of the Owner's Agent to the Contractor, any Subcontractor, any of their agents or employees, or any other person performing any of the work.
- 3.3.13 The Owner's Agent will review and approve or take other appropriate action upon Contractor's submittals such as Shop Drawings, Product Data and samples, but only for conformance with the design concept of the work and with the information given in the Contract Documents. Such action shall be taken with reasonable promptness so as to cause no delay. The Owner's Agent's approval of a specific item shall not indicate approval of an assembly of which the item is a component.
- 3.3.14 The Owner's Agent will review all Change Requests in accordance with Article 12 and will have authority to order minor changes in the work as provided in Subparagraph 12.4.1.
- 3.3.15 The duties, responsibilities and limitations of authority of the Owner's Agent during construction as set for in the Contract Documents will not be modified or extended without written consent of the Owner, the Contractor and the Owner's Agent.
- 3.3.16 In case of the termination of the employment of the Owner's Agent, the Owner shall appoint an Owner's Agent whose status under the Contract Documents shall be that of the former Owner's Agent.



## ARTICLE 4

### **CONTRACTOR**

#### **4.1 DEFINITION**

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

#### **4.1 REVIEW OF CONTRACT DOCUMENTS**

- 4.2.1 The Contractor shall carefully study and compare the Contract Documents and shall at once report to the Owner's Representative and the Owner any error, inconsistency or omission discovered. The Contractor shall not be liable to the Owner or the Owner's Representative for any damage resulting from any such errors, inconsistencies or omissions in the Contract Documents. The Contractor shall perform no portion of the work at any time without the Contract Documents or, where required, approved Shop Drawings, Product Data or Samples for such portion of the work.

#### **4.3 SUPERVISION AND CONSTRUCTION PROCEDURES**

- 4.3.1 The Contractor shall supervise and direct the work, using best practices, professional skills and attention. The Contractor shall be solely responsible for all construction means, methods, techniques, sequences and procedures and for coordinating all portions of the work under the contract.
- 4.3.2 The Contractor shall be responsible to the Owner for the acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and any other persons performing any of the work under a contract with the Contractor.
- 4.3.3 The Contractor shall not be relieved from the obligation to perform the work in accordance with the Contract Documents either by the activities or duties of the Owner's Representative or Owner's Agent in the administration of the Contract, or by inspections, tests or approvals required or performed under Paragraph 7.6 by persons other than the Contractor.

#### **4.4 LABOR AND MATERIALS**

- 4.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for all labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for the proper execution and completion of the work, whether or not incorporated or to be incorporated in the work.
- 4.4.2 The Contractor shall at all times enforce strict discipline and good order among employees and shall not utilize any employee unfit or not appropriately skilled to perform work on the task assigned.

#### **4.5 WARRANTY**

- 4.5.1 The Contractor warrants to the Owner and Owner's Agent that all materials and equipment furnished under this Contract will be new unless otherwise specified, and that all work will be of good quality, free from faults and conforming to the requirements of the Construction Documents. Substitutions not properly approved and authorized, may be rejected. If required by the Owner's Representative or the Owner's Agent, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment. This warranty is not limited by the provisions in Paragraph 13.2.
- 4.5.2 The Contractor shall and hereby does warrant and guarantee all workmanship, labor, and materials performed and supplied by the Contractor and Subcontractors for a period of one (1) year from the date of completion as evidenced by the date of the Owner's Certificate of Final Completion of this Contract. This also includes all labor required for replacing materials or equipment found to be defective with the one (1) year period. All guarantees for a longer period of time required by the work sections of these Specifications shall be secured by the Contractor from Subcontractors and delivered to the Owner's Representative and are hereby warranted by the Contractor as much as if countersigned by the Contractor.

#### **4.6 TAXES**

- 4.6.1 The Contractor shall pay all sales, consumer gross receipts tax, use and other similar taxes for the work or portions thereof provided by the Contractor which are legally enacted at the time Bids are received, whether or not yet effective.

#### **4.7 PERMITS, FEES AND NOTICES**

- 4.7.1 Unless otherwise provided in the Contract Documents, the Contractor shall secure and pay for the construction permit and for all other permits and governmental fees, licenses and inspections necessary for the proper execution

and completion of the work which are customarily secured after execution of the Contract and which are legally required at the time the Bids are received.

- 4.7.2 The Contractor shall give all notices and comply with all laws, ordinances, rules, regulations and lawful orders of any public authority bearing on the performance of the work.
- 4.7.3 It is not the responsibility of the Contractor to make certain that the Contract Documents are in accordance with applicable laws, statutes, building codes and regulations. If the Contractor observes that any of the Contract Documents are at variance therewith in any respect, the Contractor shall promptly notify the Owner's Agent and Owner's Representative in writing, and any necessary changes shall be accomplished by appropriate Modification.
- 4.7.4 If the Contractor performs any work knowing it to be contrary to such laws, ordinances, rules and regulations, and without such notice to the Owner's Agent and Owner's Representative, the Contractor shall assume full responsibility therefore and shall in turn notify the Owner's Agent and Owner's Representative of such action.

#### **4.8 ALLOWANCES**

- 4.8.1 The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by these allowances shall be supplied for such amounts and by such persons agreed to by the Owner's Agent and Owner's Representative, but the Contractor shall not and will not be required to hire Subcontractors or employ persons against whom a reasonable objection is made by the Contractor, Owner's Agent or Owner's Representative.
- 4.8.2 Unless otherwise provided in the Contract Documents:
  - A. These allowances shall cover the cost to the Contractor, less any applicable trade, discount of the materials and equipment required by the allowance delivered at the site, and all applicable taxes.
  - B. The Contractor's costs for unloading and handling on the site, labor, installations costs, overhead, profit and other expenses contemplated for the original allowance shall be included in the Contract Sum and not in this allowance;
  - C. Whenever the cost of the work is less than the allowance, the Schedule of Values and Application for Payment shall be adjusted accordingly. Whenever the cost of the work is more than the allowance, the City may opt to direct the Contractor to not proceed with the work or to execute a Change Order to increase the Contract Sum to cover the allowed work. The amount of such cost adjustments will recognize changes, if any, in handling costs on the site, labor, installation costs, overhead, profit and other expenses.

#### **4.9 SUPERINTENDENT**

- 4.9.1 The Contractor shall employ a competent Superintendent and necessary foremen and assistants who shall be in attendance at the project site during the progress of the work. The Superintendent shall represent the Contractor, and all communications given to the Superintendent shall be as binding as if given to the Contractor. Important communications shall be confirmed in writing. Other communications shall be so confirmed on written request in each case.

#### **4.10 PROGRESS SCHEDULES**

- 4.10.1 The Contractor shall, within ten (10) days after the effective date of Notice to Proceed, furnish digital copies to the Owner's Agent and Owner's Representative of a preliminary progress schedule covering operations for the first thirty (30) days. The preliminary progress schedule shall be a bar graph or an arrow diagram showing the items the Contractor intends to commence and complete the various work stages, operations, and contract means planned to be started during the first thirty (30) days.
- 4.10.2 Unless otherwise specified in the Special Provisions, the Contractor shall submit for approval by the Owner's Agent and Owner's Representative, within thirty (30) days after the effective date of Notice to Proceed, digital copies of a critical-path-type analysis. The critical-path-type analysis shall include as a minimum; a graphic network diagram; a computer printout or list of activities; and a brief written explanation of the proposed schedule.
- 4.10.3 The graphic network diagram shall consist of an arrow diagram or a geometric figure and connector diagram which clearly depicts the major subdivisions of the work, the order and interdependencies of activities planned by the Contractor, as well as activities by others which affect the Contractor's planning. The intended time for starting and completing each activity, the associated float time and the quantity and kinds of major equipment to be used shall be shown for each construction operation. For those activities lasting more than 30 days, either the estimated time for 25-50 and 75 percent completion or other significant milestones in the course of the activity, shall be shown. In addition to the actual construction operations, the network diagram shall show such items as submittal of samples and Shop Drawings, delivery of materials and equipment, construction in the area

by other forces, traffic detour controls, and other significant items related to the progress of construction. The graphic network diagram shall be produced from an industry standard software application.

- 4.10.4 Activities shown shall be coordinated insofar as possible with the Contract Bid items, types of work and maximum number of activities of each type.
- 4.10.5 The network diagram or list of activities shall show the estimated duration for each activity, the earliest starting and finishing dates, the latest starting and finishing dates, and float or slack time. Activities which constitute the critical path sequence shall be identified, showing a total job duration equal to the Contract Time.
- 4.10.6 The written explanation shall contain sufficient information to describe the construction methods to be used and to enable the Owner's Representative to evaluate the schedule and supporting analysis for validity and practicability. If the schedule or written explanation is not accepted by the Owner's Agent or Owner's Representative, the Contractor shall resubmit the rejected items within ten (10) days after rejection.
- 4.10.7 The analysis shall employ the use of digital methods to study the number of activities required. The adequacy of the system selected shall be acceptable to the Owner's Agent and Owner's Representative.
- 4.10.8 The Contractor shall submit to the Owner's Agent and Owner's Representative monthly progress status reports on dates agreed to by all parties at the Project Kick-off meeting. Such reports shall list those uncompleted activities which have less than 30 days float and which are either in progress or scheduled to be started within the next reporting period. For each of the listed activities, the following shall be shown:
  - A. Starting date scheduled in last critical-path-analysis.
  - B. Actual or intended starting date.
  - C. Revised activity duration, if any.

If the noted starting dates or duration delay the scheduled project completion date, the delay shall be named. Reasons for the delay shall be given with an explanation of the Contractor's proposed corrective action. The Contract shall also note each activity completed during the report period.

- 4.10.9 A revised critical-path-type analysis shall be submitted when one or more of the following conditions occur:
  - A. When an approved Change Order significantly affects the contract completion date, or the sequence of activities.
  - B. When progress of any critical activity falls significantly behind the scheduled progress.
  - C. When delay on a non-critical activity is of such magnitude as to change the course of the critical path.
  - D. At any time the Contractor elects to change any sequence of activities affecting the critical path.

The revised analysis shall be made in the same form and detail as the original submittal and shall be accompanied by an explanation of the reasons for the revisions.

- 4.10.10 The Contractor shall proceed with the work in accordance with the latest critical path type analysis. Deviations therefrom shall be submitted to the Owner's Agent and Owner's Representative for review. In the event that the progress of items along the critical path is delayed, the Contractor shall revise the plan for execution of work to include additional forces, equipment, shifts or hours necessary to meet the contract completion date. All additional cost resulting therefrom will not be borne by the Owner.

#### **4.11 DOCUMENTS AND SAMPLES AT THE SITE**

- 4.11.1 The Contractor shall maintain at the site, for the Owner's Agent, Owner's Representative, Inspectors and other authorized users, one record copy of all Drawings, Specifications, Addenda, Change Orders and other Modifications, in good order and marked currently to record all changes made during construction, and approved Shop Drawings, Product Data and Samples. These shall be available to the authorized parties at all times and upon completion of the work, shall be delivered to the Owner's Agent for Record As-Built coordination and forwarding to the Owner's Representative.

#### **4.12 SHOP DRAWINGS, PRODUCT DATA AND SAMPLES**

- 4.12.1 Shop Drawings are drawings, diagrams, schedules and other data specially prepared for the work by the Contractor or any Subcontractor, manufacturer, supplier or distributor to illustrate some portion of the work.
- 4.12.2 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams and other information furnished by the Contractor to illustrate a material, product or system for some portion of the work.

- 4.12.3 Samples are physical examples which illustrate materials, equipment or workmanship and establish standards by which the work will be judged.
- 4.12.4 The Contractor shall review, approve and submit, with reasonable promptness and in such sequence as to cause no delay in the work or in the work of the Owner of any separate Contractor, all Shop Drawings, Product Data and Sample required by the Contract Documents.
- 4.12.5 By approving and submitting Shop Drawings, Product Data and Samples, the Contractor represents that all materials, field measurements, and field construction criteria related thereto have been verified, or will be verified, and that the submittal information has been checked for accuracy and coordinated the information contained within other applicable submittals and with the requirements of the work and of the Contract Documents.
- 4.12.6 The Contractor shall not be relieved of responsibility for any deviation from the requirements of the Contract Documents by the Owner's Agent's approval of Shop Drawings, Product Data or Samples unless the Contractor has specifically informed the Owner's Agent in writing of such deviation at the time of submission and the Owner's Agent has given written approval to the specific deviation. The Contractor shall not be relieved from responsibility for errors or omissions in the Shop Drawings, Product Data or Samples by the Owner's Agent's approval thereof.
- 4.12.7 The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data or Samples, to revisions other than those requested by the Owner's Agent on previous submittals.
- 4.12.8 No portion of the work requiring submission of a Shop Drawing, Product Data or Sample shall be commenced until the submittal has been approved by the Owner's Agent. All such portions of the work shall be in accordance with approved submittals.

#### **4.13 USE OF SITE**

- 4.13.1 The Contractor shall confine operations at the site to areas permitted by law, ordinances, easements, permits and the Contract Documents and shall not unreasonably encumber, or store materials and/or equipment in an unsecured manner, on the Project Site.
- 4.13.2 The Contractor shall hold and save the Owner free and harmless from liability of any nature or kind arising from use, trespass or damage occasioned by third persons.

#### **4.14 CUTTING AND PATCHING OF WORK**

- 4.14.1 The Contractor shall be responsible for all cutting, fitting or patching that may be required to complete the work or to make parts of the work fit together properly.
- 4.14.2 The Contractor shall not damage or endanger any portion of the work or the work of the Owner or any separate contracts by cutting, patching or otherwise altering any work, or by excavation. The Contractor shall not cut or otherwise alter the work of the Owner or any separate Contractor except with the written consent of the Owner and of such separate Contractor. The Contractor shall not unreasonably withhold from the Owner any separate Contractor, consent to cutting or otherwise altering the work.

#### **4.15 CLEANING UP**

- 4.15.1 The Contractor shall keep the premises free from accumulation of waste materials or rubbish caused by construction operations at all times. At the completion of the work, the Contractor shall remove all waste materials and rubbish from and about the Project Sites as well as all tools, construction equipment, machinery and surplus materials.
- 4.15.2 If the Contractor fails to clean up at the completion of the work, the Owner may do so, and the cost thereof shall be charged to the Contractor or deducted from the final payment.
- 4.15.3 The Contractor shall be solely responsible for performance of the following clean up:
1. **Debris:** Regardless of the nature of the debris, it shall be immediately cleared from the work area. Each trade shall cooperate with other trades in the removal of debris and in keeping a clean job throughout.
  2. **Cleaning of All Glazing:** The Contractor shall remove sealant and caulking stains and paint from all glass and glazing and shall wash and polish same. Care shall be taken not to scratch, mar or damage glass, glazing coatings and the like.
  3. **Cleaning of All Painted, Decorated, and Stained Work:** The Contractor shall remove all marks, stains, finger prints, and other soil or dirt from all painted, decorated, and stained work.

4. Removal of all Temporary Protections: The Contractor shall remove all temporary protections and shall clean all floors at completion.
5. Cleaning and Polishing of all Hardware: The Contractor shall clean and polish all hardware for all trades. This shall include removal of all stains, dust dirt, paint, etc., upon completion, without scratching or otherwise marring or damaging the hardware.
6. Removal of all Spot, Soil, and Paint from all Tile Work: The Contractor shall remove all spots, soil and paint from all tile work and shall wash the same upon completion.
7. Cleaning of all Fixtures and Equipment: The Contractor shall clean all fixtures and equipment, removing all stains, paint, dirt, and dust.

#### **4.16 COMMUNICATIONS**

- 4.16.1 The Contractor shall communicate directly with the Owner's Agent for design clarifications. Any fabrication or installation issues that may result in a change order or may result in a delay to the project schedule shall be communicated to both the Owner's Agent and the Owner's Representative, and documented in writing within two business days. All oral directives from the Owner's Agent to the Contractor shall be documented in writing to the Contractor and the Owner's Representative within one business day.
- 4.16.2 The Contractor shall communicate with the Owner strictly by way of the Owner's Representative. Any unauthorized critical communications between the Contractor and City Staff or the Owner's Agent without the knowledge and concurrence of the Owner's Representative, especially involving explicit or implied direction to the Contractor shall be considered by the Owner as contractually non-binding. If acted upon by the Contractor, such communications and directives may signify a breach of contract, and may be considered and judged as such by the Owner.

#### **4.17 ROYALTIES AND PATENTS**

- 4.17.1 The Contractor shall pay all royalties and license fees. The Contractor shall defend all suits or claims for infringement of any patent rights and shall save the Owner harmless from loss on account thereof, except that the Owner shall be responsible for all such loss when a particular design, process or the product of a particular manufacturer or manufacturers is specified; but if the Contractor has reason to believe that the design, process or product specified is an infringement of a patent, the Contractor shall be responsible for such loss unless such information is promptly provided to the Owner's Representative.

#### **4.18 INDEMNIFICATION**

- 4.18.1 To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Owner and the Owner's Representative, the Owner's Agent and their agents and employees from and against all claims, damages, losses and expenses, including but not limited to attorneys' fees arising out of or resulting from the performance of the work, provided that any such claim, damage, loss or expense (1) is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the work itself), including the loss of use resulting therefrom, and (2) is caused in whole or in part by any negligent act or omission on the Contractor, any Subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts an of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder. Such negligence shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described herein.
- 4.18.2 In any and all claims against the Owner, Owner's Representative or the Owner's Agent or any of their agents or employees, by an employee of the Contractor, any Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation herein shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Contractor or any Subcontractor under workers' or workmen's compensation acts, disability benefit acts or other employee benefit acts.
- 4.18.3 The obligation of the Contractor herein shall not extend to the liability of the Owner's Agent or agents or employees of the Owner's Agent, arising out of (1) the preparation or approval of maps, drawings, opinions, reports, surveys, change orders, designs, or specifications, or (2) the giving of or the failure to give directions by the Owner's Agent, or any of their agents or employees, provided such giving or failure to give is the primary cause of the injury or damage.

## ARTICLE 5

### **SUBCONTRACTOR**

#### **5.1 DEFINITION**

- 5.1.1 A Subcontractor is a person or entity who has a direct contract with the Contractor to perform any of the work at the site. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or the Subcontractor's authorized representative. The term "Subcontractor" does not include any separate Contractor or Subcontractors.
- 5.1.2 A Sub-subcontractor is a person or entity who has a direct or indirect contract with a Subcontractor to perform any of the work at the Site.

#### **5.2 AWARD OF SUBCONTRACTS AND OTHER CONTRACTS FOR PORTIONS OF THE WORK**

- 5.2.1 Unless otherwise required by the Contract Documents of the Bidding Documents, the Contractor, as soon as practicable after the award of the Contract, shall furnish to the Owner's Agent and the Owner's Representative in writing the names of the persons or entities (including those who are to furnish materials or equipment fabricated to a special design) proposed for each of the principal portions of the work. The Owner's Agent will promptly reply to the Contractor in writing stating whether or not the Owner, the Owner's Representative, or the Owner's Agent, after due investigation, has reasonable objection to any such proposed person or entity. Failure of these parties to reply promptly shall constitute notice of no reasonable objection.
- 5.2.2 The Contractor shall not contract with any such proposed person or entity to whom the Owner, the Owner's Representative or the Owner's Agent has made reasonable objection under the provisions of Subparagraph 5.2.1. The Contractor shall not be required to contract with anyone to whom they have a reasonable objection.

#### **5.3 SUBCONTRACTUAL RELATION**

- 5.3.1 By an appropriate written agreement, the Contractor shall require each Subcontractor, to the extent of the work to be performed by the Subcontractor, to be bound to the Contractor by the terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities which the Contractor, by these Documents, assumes toward the Owner and the Owner's Representative. Said agreement shall preserve and protect the rights of the Owner and the Owner's Representative under the Contract Documents with respect to the work to be performed by the Subcontractor so that the subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the Contractor-Subcontractor agreement, the benefit of all rights, remedies and redress against the Contractor that the Contractor, by these Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with their Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the Subcontract, copies of the Contract Documents to which the Subcontractor will be bound by this Paragraph 5.3, and identify the Subcontractor any terms and conditions of the proposed Subcontract which may be at variance with the Contract Documents. Each Subcontractor shall similarly make copies of such Documents available to their Subcontractors.

## ARTICLE 6

### **WORK BY OWNER OR BY SEPARATE CONTRACTORS**

#### **6.1 OWNER'S RIGHT TO PERFORM WORK AND TO AWARD SEPARATE CONTRACTS**

- 6.1.1 The Owner reserves the right to and will, in most cases, perform work related to the Project with City forces, and may award separate contracts in connection with other portions of the Project or other work on the site under these or similar Conditions of the Contract. This work may require coordination between the City, its contractors and the Contractor. In this is the case, the work will be indicated as such in the Contract Documents and/or in the Construction Documents and no claims of delay or additional cost involved because of such action by the Owner, shall be made by the Contractor.
- 6.1.2 When separate contracts are awarded for different portions of the Project or other work on the site, the term "Contractor" in the Contract Documents in each case shall mean the Contractor who executes each separate Contract.
- 6.1.3 The Owner will provide for the coordination of any work by City forces and by each separate contractor, as required, with the work of the Contractor.

#### **6.2 MUTUAL RESPONSIBILITY**

- 6.2.1 The Contractor shall afford the Owner and the Separate contractors reasonable opportunity for the introduction and storage of their materials and equipment and the execution of their work, and shall connect and coordinate the Contractors work with theirs as required by the Contract Documents.
- 6.2.2 If any part of the Contractor's work depends for proper execution or results upon the work of the Owner or any separate Contractor, the Contractor shall, prior to proceeding with the work, promptly report to the Owner's Representative any apparent discrepancies or defects in such other work that render it unsuitable for such proper execution and results. Failure of the Contractor so to report shall constitute an acceptance of the Owner's or the separate contractor's work as fit and proper to receive the Contractor's work, except as to defects which may subsequently become apparent in such work by others.
- 6.2.3 Any costs caused by defective or ill-timed work shall be borne by the party responsible thereof.
- 6.2.4 Should the Contractor wrongfully cause damage to the work or property of the Owner, or to other work on the promptly remedy such damage as provided in Subparagraph 10.2.5.
- 6.2.5 Should the Contractor wrongfully cause damage to the work or property of any separate Contractor, the Contractor shall upon due notice promptly attempt to settle with such other Contractor by agreement, or otherwise to resolve the dispute. If such separate Contractor sues or initiates a mediation proceeding against the Owner on account of any damage alleged to have been cause by the Contractor, the Owner shall notify the Contractor, who shall defend such proceedings at the Owner's expense, and if any judgment or award against the Owner arises therefrom, the Contractor shall pay or satisfy it and shall reimburse the Owner for all attorneys' fees and court or arbitration costs which the Owner has incurred.

### **6.3 OWNER'S RIGHT TO CLEAN UP**

- 6.3.1 If a dispute arises between the Contractor and separate contractors as to their responsibility for cleaning up as required by Paragraph 4.15, the Owner may clean up and charge the cost thereof to the Contractors responsible therefor as the Owner's Representative shall determine to be just.

## **ARTICLE 7**

### **MISCELLANEOUS PROVISIONS**

#### **7.1 GOVERNING LAW**

- 7.1.1 The Contract shall be governed by the law of the State of New Mexico.
- 7.1.2 The Owner and the Contractor each binds themselves, their partners, successors, assignees and legal representatives to the other party hereto and to the partners, successors, assignees and legal representatives of such other party in respect to all covenants, agreements, and obligations contained in the Contract Documents. Neither party to the Contract shall assign the Contract or sublet it as a whole without the written consent of the other, nor shall the Contractor assign any moneys due or to become due to the Contractor thereunder, without the previous written consent of the Owner.

#### **7.2 WRITTEN NOTICE**

- 7.2.1 Written notice shall be deemed to have dully served if delivered in person to the individual or member of the firm or entity or to an officer of the corporation for whom it was intended, or if delivered at or sent by registered or certified mail to the last business address known to the party who gives the notice.

#### **7.3 CLAIMS FOR DAMAGES**

- 7.3.1 Should either party to the Contract suffer injury or damage to person or property because of any act or omission of the other party or of any of the party's employees, agents or others for whose acts the party is legally liable, claim shall be made in writing to such other party within a reasonable time after the first observance of such injury or damage.

#### **7.4 PERFORMANCE BOND AND LABOR AND MATERIAL PAYMENT BOND**

- 7.4.1 The Contractor to whom the Contract is awarded shall furnish and pay for reputable and approved Performance and Labor and Material Payment Bonds, each for the full amount of the Contract Sum. Bonds shall be executed on standard AIA forms.

## **7.5 RIGHTS AND REMEDIES**

- 7.5.1 The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law.
- 7.5.2 No action or failure to act by the Owner, the Owner's Agent, Owner's Representative, or the Contractor shall constitute a waiver of any right or duty afforded any of them under the Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

## **7.6 TESTS**

- 7.6.1 If the Contract Document, laws, ordinances, rules, regulations or orders of any public authority having jurisdiction require any portion of the work to be inspected, tested or approved, the Contractor shall give the Owner's Agent timely notice of its readiness so the Owner's Agent may observe such inspection, testing or approval. The Contractor shall bear all costs of such inspections, tests or approvals. Tests specifically called for by specifications shall be made by an independent, certified, professional testing laboratory acceptable to the Owner's Representative, and the Contractor shall employ same and pay all charges in connection therewith. Records of tests shall be delivered to the Owner's Representative in duplicate on acceptable forms.
- 7.6.2 If the Owner's Agent determines that any work requires special inspection, testing, or approval which Subparagraph 7.6.1 does not include, the Owner's Agent will, upon written authorization from the Owner, instruct the Contractor to order such special inspection, testing or approval, and the Contractor shall give notice as provided in Subparagraph 7.6.1. If such special inspection or testing reveals a failure of the work to comply with the requirements of the Contract Documents, the Contractor shall bear all costs thereof, including compensation for the Owner's Representative's additional services made necessary by such failure; otherwise the Owner shall bear such costs, and an appropriate Change Order shall be issued.

## **7.7 INTEREST**

- 7.7.1 The Owner will not pay interest on payments due and unpaid under the Contract Document.

# **ARTICLE 8**

## **TIME**

### **8.1 DEFINITIONS**

- 8.1.1 Unless otherwise provided, the Contract Time is the period of time allotted in the Contract Documents for Substantial Completion of the work as defined in Subparagraph 8.1.3, including authorized adjustments thereto.
- 8.1.2 The date of commencement of the work is the date established in a Notice to Proceed. If there is no Notice to Proceed, it shall be the date of the Contract or such other date as may be established therein.
- 8.1.3 The Date of Substantial Completion of the work or designated portion thereof is the Date certified by the Contractor, Owner's Agent and the Owner's Representative when construction work is completed in accordance with the Contract Documents, and is deemed operational so as to allow the Owner occupancy of the facility or to utilize the work or designated portion thereof for the use in which it is intended. A Certificate(s) of Occupancy from permitting agencies and authorities may also be applicable to the establishment of Substantial Completion.
- 8.1.4 The Certificate of Substantial Completion may be issued with a Punch List of items requiring completion or rectification prior to Final Completion. Final Completion of the work is the date certified by the Owner's Agent and Owner's Representative when all Punch List items and Close-out requirements have been completed and the Application for final payment is approved.
- 8.1.5 The term "day" as used in the Contract Document shall mean calendar day unless otherwise specifically designated.

### **8.2 PROGRESS AND COMPLETION**

- 8.2.1 All time limits stated in the Contract Documents are the essence of the Contract.
- 8.2.2 The Contractor shall begin the work on the date of commencement as defined in Subparagraph 8.1.2. The Contractor carry the work forward expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time.



### **8.3 DELAYS AND EXTENSIONS OF TIME**

- 8.3.1 If the Contractor is delayed at any time in the progress of the work by any act or neglect of the Owner or the Owner's Agent or by any employees of either, or by any separate contractor employed by the Owner or by changes ordered in the work, or by labor disputes, fire, unusual delay in unavoidable casualties, or any causes beyond the Contractor's control or by delay authorized by the Owner pending arbitration, or by any other cause which the Owner's Agent determines may justify the delay, then the Contract Time shall be extended by Change Order for such reasonable time as the Owner's Agent may determine.
- 8.3.2 Any claim for extension of time shall be made in writing to the Owner's Agent not more than twenty days after the commencement of the delay; otherwise it shall be waived. In the case of a continuing delay, only one claim is necessary. The Contractor shall provide an estimate of the probable effect of such delay on the progress of the work.
- 8.3.3 If a written agreement is made stating the dates upon which interpretations shall be furnished, then no claim for delay shall be allowed on account of failure to furnish such interpretations until fifteen days after written request is made for them, and not then unless such claim is reasonable.
- 8.3.4 This Paragraph 8.3 does not exclude the recovery of damages for delay by either party under other provisions of the Contract Documents.

## **ARTICLE 9**

### **PAYMENTS AND COMPLETION**

#### **9.1 CONTRACT SUM**

- 9.1.1 The Contract Sum is stated in the Contract and including authorized adjustments thereto, is the total amount payable by the Owner to the Contractor for the performance of the work under the Contract Documents.

#### **9.2 SCHEDULE OF VALUES**

- 9.2.1 Before the first Application for Payment, the Contractor shall submit to the Owner and Owner's Representative a Schedule of Values allocated to the various portion of the work, prepared in such form and supported by such data to substantiate its accuracy as the Owner's Agent and/or Owner's Representative may require. This schedule, unless objected to by the Owner's Agent or Owner's Representative, shall be used only as a basis for the Contractor's Applications for payment.

#### **9.3 APPLICATIONS FOR PAYMENT**

- 9.3.1 At least ten days before the date for each progress payment established in the Contract, the Contractor shall submit to the Owner's Agent an itemized Application for Payment, notarized if required, supported by such data substantiating the Contractor's right to payment as the Owner's Agent or the Owner's Representative may require, as provided elsewhere in the Contract Documents.
- 9.3.2 Unless otherwise provided in the Contract Documents, payments may be made on account of materials and/or payments may be made for materials or equipment suitably stored at some other location agreed upon in writing. Payments for materials or equipment stored on or off the site shall be conditioned upon submission by the Contractor of bills of sale or such other procedures satisfactory to the Owner to establish the Owner's title to such materials or equipment or otherwise protect the Owner's interest, including applicable insurance and transportation to the site for those materials and equipment stored off the site.
- 9.3.3 The Contractor warrants that title to all work, materials and equipment covered by an Application for Payment will pass to the Owner either by incorporation in the construction or upon the receipt of payment by the Contractor, whichever occurs first, free and clear of all liens, claims, security interest or encumbrances hereinafter referred to in this Article 9 as "liens"; and that no work, materials or equipment covered by an Application for Payment will have been acquired by the Contractor, or by any other person performing work at the site or furnishing materials or equipment for the Project, subject to an agreement under which an interest therein or an encumbrance thereon is retained by the seller or otherwise imposed by the Contractor or such other person.

#### **9.4 CERTIFYING PAYMENTS**

- 9.4.1 The Owner's Agent will within three days after the receipt of the Contract's Application for Payment, approve the Application for Payment to the Owner's Representative with a copy to the Contractor for such amount as the Owner's Agent determines is properly due, or notify the Contractor in writing of substantial reasons for withholding the approval as provided in Subparagraph 9.6.1.

- 9.4.2 The issuance of an approval of the Application for Payment will constitute a representation by the Owner's Agent to the Owner's Representative, based on observations at the site and the data comprising the Application for Payment, that the work has progressed to the point indicated; that the quality of the work is in accordance with the Contract Documents (subject to an evaluation of the work for conformance with the Contract Documents upon Substantial Completion, to the results of any subsequent tests required by or performed under the Contract Documents correctable prior to completion, and that the Contractor is entitled to payment in the amount certified). However, by issuing an approval of the Application for Payment, the Owner's Agent shall not thereby be deemed to represent that the Owner's Agent has made exhaustive or continuous on-site inspections to check the quality or quantity of the work or that the construction means, methods, techniques, sequences procedures have been reviewed, or that any examination has been made to ascertain how or for what purpose the Contractor has used the moneys previously paid on account of the Contract Sum.

## **9.5 PROGRESS PAYMENTS**

- 9.5.1 After the Owner's Agent has issued an approval of the Application for Payment, and barring any discrepancies found by the Owner's Representative, the Owner's Representative shall make payment in the manner and within the time provided in the Contract Documents.
- 9.5.2 The Contractor shall promptly pay each Subcontractor upon receipt of payment from the Owner, out of the amount paid to the Contractor on account of such Subcontractor's work, the amount to which said Subcontractor is entitled, reflecting the percentage actually retained, if any, from payments to the Contractor on account of such Subcontractor's work. The Contractor shall, by an appropriate agreement with each Subcontractor, require each Subcontractor to make payment to Sub-subcontractors in similar manner.
- 9.5.3 The Owner's Agent may, on request at their discretion, furnish to any Subcontractor, if practicable, information regarding the percentages of completion or the amounts applied for by the Contractor and the action taken thereon by the Owner's Agent on account of work done by such Subcontractor.
- 9.5.4 Neither the Owner's Agent nor the Owner's Representative shall have any obligation to pay or to see to the payment of any moneys to any Subcontractor except as may otherwise be required by law.
- 9.5.5 No certification of progress payments, no progress payment, nor any partial or entire use of occupancy of the Project by the Owner shall constitute an acceptance of any work not in accordance with the Contract Documents.

## **9.6 PAYMENT WITHHELD**

- 9.6.1 The Owner's Agent may decline to certify payment and may withhold the certification in whole or in part, to the extent necessary to reasonably protect the Owner, if the Owner's Agent is unable to make representations to the Owner as provided in Subparagraph 9.4.2.
- 9.6.2 If the Owner's Agent is unable to make representations to the Owner, as provided in Subparagraph 9.4.2 and to certify payment in the amount of the Application, The Owner's Agent will notify the Contractor as provided in Subparagraph 9.4.1. If the Contractor and Owner's Agent cannot agree on a revised amount, the Owner's Agent will promptly certify payment for the amount that is supported by such representations to the Owner. The Owner's Agent may also decline to certify payment because of subsequently discovered evidence or subsequent observations. The Owner's Agent may nullify the whole or any part of any certification for payment previously issued, to such extent as may be necessary to protect the Owner from loss because of:
- A) Defective work not remedied;
  - B) Third party claims filed or reasonable evidence indicating probable filing of such claims;
  - C) Failure of the Contractor or make payments properly to Subcontractors or for labor, materials or equipment;
  - D) Reasonable evidence that the work cannot be completed for the unpaid balance of the Contract Sum.
  - E) Damage to the work of another Contractor;
  - F) Reasonable evidence that the work will not be completed within the Contract Time; or,
  - G) Failure to carry out the work in accordance with the Contract Documents.
- 9.6.2 When the above grounds in Subparagraph 9.6.1 are removed, payment shall be made for amounts withheld because of them.

## **9.7 FAILURE OF PAYMENT**

- 9.7.1 If the Owner's Agent does not certify payment, through no fault of the Contractor, within three days after receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor within seven days after the date established in the Contract Documents any amount certified by the Owner's Agent, then the Contractor may, upon seven additional days' written notice to the Owner's Agent and the Owner's Representative, stop the work until payment of the amount owing has been received. The Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shut-down, delay and start-up, which shall be effected by appropriate Change Order.

## **9.8 SUBSTANTIAL COMPLETION**

- 9.8.1 When the Contractor considers that the work, or a designated portion thereof which is acceptable to the Owner, is substantially complete as defined in Subparagraph 8.1.3, the Contractor shall prepare for submission to the Owner's Agent a list of items to be completed or corrected, aka a Punch List. The failure to include any items on such list does not alter the responsibility of the Contractor to complete all work in accordance with the Contract Documents. When the Owner's Agent, with the Owner's Representative, on the basis of an inspection determines that the work or designated portion thereof is substantially complete, The Owner's Agent will then prepare a Certificate of Substantial Completion, current AIA Document G704, which shall establish the Date of Substantial Completion, shall state the responsibilities of the Owner and the Contractor for security, maintenance within which the Contractor shall complete the items listed therein. Warranties required by the Contract Document shall commence on the date of Final Completion of the work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion. The Certificate of Substantial Completion shall be submitted to the Contractor and the Owner for their written acceptance of the responsibilities assigned to them in such Certificate.
- 9.8.2 Upon Substantial Completion of the work or designated portion thereof and upon application by the Contractor and certification by the Owner's Agent, the Owner shall make payment, reflecting adjustment in retainage, if any, for such work or portion thereof, as provided in the Contract Documents.

## **9.9 FINAL COMPLETION AND FINAL PAYMENT**

- 9.9.1 Upon receipt of written notice that the work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Owner's Agent will promptly make such inspection and, if it is found that the work acceptable under the Contract Documents and the Contract fully performed, the Owner's Agent will promptly issue final Certificate for Payment stating that the work has been completed in accordance with the terms and conditions of the Contract Documents and that the entire balance found to be due the Contractor and noted in said Final Certificate, is due and payable. The Owner's Representative's Final Certificate of payment will constitute a further representation that the conditions precedent to the Contractor's being entitled to final payment as set forth in Subparagraph 9.9.2 have been fulfilled.
- 9.9.2 Neither the final payment nor the remaining retained percentage shall become due until the Contractor submits to the Owner's Agent and Owner's Representative (1) an affidavit that all payrolls, bills for materials and equipment, and other indebtedness connected with the work for which the Owner or the Owner's property might in any way be responsible have been paid or otherwise satisfied, (2) consent of surety, if any, to final payment, and (3) if required by the Owner, other data establishing payment or satisfaction of all such obligations, such as receipts, releases and waivers of liens arising out of the Contract, to the extent and in such form as may be designed by the Owner. If any 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 Contractor against any such lien. If any such lien remains unsatisfied after all payments are made, the Contractor shall refund to the Owner all moneys that the latter may be compelled to pay in discharging such lien, including all costs and reasonable attorneys' fees.
- 9.9.3 If, after Substantial Completion of the work, final completion thereof is materially delayed through no fault of the Contractor or by the issuance of Change Orders affecting final completion, and the Owner's Agent so confirms, the Owner's Representative shall, upon application by the Contractor and certification by the Owner's Agent and without terminating the Contract, make payment of the balance for that portion of the work fully completed and accepted. If the remaining balance for work not fully completed or corrected is less than the retainage stipulated in the Contract Document, and if bonds have been furnished, the written consent of the surety to the payment of the balance due for that portion of the work fully completed and accepted shall be submitted by the Contractor to the Owner's Agent prior to certification of such payment. Such payment shall be made under the terms and conditions governing final payment, except that it shall not constitute a waiver of claims.
- 9.9.4 The making of final payment shall constitute a waiver of all claims by the Owner except those arising from:
- A) Unsettled liens;
  - B) Faulty or defective work appearing after Substantial Completion;
  - C) Failure of the work to comply with the requirements of the Contract Documents; and

- D) Terms of any special warranties required by the Contract Documents.
- 9.9.5 The acceptance of final payment shall constitute a waiver of all claims by the Contractor except those previously made in writing and identified by the Contractor as unsettled at the time of the final Application for Payment.

## **ARTICLE 10**

### **PROTECTION OF PERSONS AND PROPERTY**

#### **10.1 SAFETY PRECAUTIONS AND PROGRAMS**

- 10.1.1 The Contractor shall be responsible in initiating, maintaining and supervising all safety precautions and programs in connection with the work.

#### **10.2 SAFETY OF PERSONS AND PROPERTY**

- 10.2.1 The Contractor shall take all reasonable precautions for the safety of, and shall provide all reasonable protection to prevent damage, injury or loss to:
- A) All employees on the work and all other persons who may be affected thereby;
  - B) All the work and all materials and equipment to be incorporated therein, whether in storage on or off the site, under the care, custody or control of the Contractor or any Subcontractors or Sub-subcontractors; and
  - C) Other property at the site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.
- 10.2.2 The Contractor shall give all notices and comply with all applicable laws, ordinances, rules, regulations, and lawful orders of any public authority bearing on the safety of persons or property or their protection from damage, injury or loss.
- 10.2.3 The Contractor shall erect and maintain, as required by existing conditions and progress of the work, all 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 utilities.
- 10.2.4 When the use of storage of explosives or other hazardous materials or equipment is necessary for the execution of the work, the Contractor shall exercise the utmost care and shall carry on such activities under the supervision of properly qualified personnel.
- 10.2.5 The Contractor shall promptly remedy all damage or loss (other than damage of loss insured under paragraph 11.3) to any property referred to in Clauses 10.2.1.2 and 10.2.1.3 caused in whole or in part by the Contractor, any Subcontractor or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable and for which the Contractor is responsible under clauses 10.2.1.2 and 10.2.1.3, except damage or loss attributable to the acts or omissions of the Owner or the Owner's Agent or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and no attributable to the fault or negligence of the Contractor.
- 10.2.6 The Contractor shall designate a responsible member of the Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's Superintendent unless otherwise designated by the Contractor in writing to the Owner and the Owner's Agent.
- 10.2.7 The Contractor shall not load or permit any part of the work to be loaded so as to endanger its safety.

#### **10.3 EMERGENCIES**

- 10.3.1 In any emergency affecting the safety of persons or property, the Contractor shall act, with reasonable discretion, to prevent threatened damage, injury or loss. Any additional compensation or extension of time claimed by the Contractor on account of emergency work shall be determined as provided in Article 12 for Changes in the work.

## **ARTICLE 11**

### **INSURANCE**

#### **11.1 CONTRACTOR'S LIABILITY INSURANCE**

- 11.1.1 The Contractor shall maintain in effect, and shall require all Subcontractors and others performing any portion of this Contract to maintain in effect, insurance of the types and respective minimum limits required. Such insurance shall cover all operations under this Contract. Maintenance of such insurance in at least the specified minimum amounts shall not relieve the Contractor or liability for loss in excess of the limits of liability specified herein or otherwise not covered by the coverage's required herein. The Contractor shall bear the cost of such insurance and include its costs in the Bid. The limits of insurance to be maintained are specified in the Agreement Between Owner and Contractor.
- 11.1.2 Certificates of Insurance acceptable to the Owner shall be filed with the Owner prior to commencement of the work. These Certificates shall contain a provision that coverage afforded under the policies will not be canceled until at least thirty days; prior written notice has been given to the Owner.

#### **11.2 OWNER'S LIABILITY INSURANCE**

- 11.2.1 The Owner shall be responsible for purchasing and maintaining liability insurance and, optionally, may purchase and maintain such insurance as will protect the Owner against all claims which may arise from operations under the Contract.

#### **11.3 PROPERTY INSURANCE**

- 11.3.1 The Contractor shall maintain builder's risk property insurance or self-insurance, or a combination of insurance and self-insurance, upon the work at the site for at least the actual cash value thereof. The builder's risk insurance shall cover the interests of the Owner, the Contractor, Subcontractors, and Sub-subcontractors in the work. The insurance shall insure against, at least the following perils: fire extended coverage, vandalism, and malicious mischief. The Contractor shall bear the cost of such insurance and include its cost in the Bid.
- 11.3.2 Any loss insured or self-insured under Subparagraph 11.3.1 is to be adjusted with the Owner and made payable to the Owner as trustee for the insured, as their interests may appear subject to the requirements of any applicable mortgage clause. The Owner shall deposit the proceeds in a separate account and shall distribute them in accordance with such agreement as the parties in interest, including the Owner, may reach. The Contractor shall pay each Subcontractor a just share of any insurance proceeds which the Contractor receives and shall require by written agreement signed by the Subcontractor that the Subcontractor will make payments to their Sub-subcontractors in a similar manner. If after such loss no other special agreement is made, replacement of damaged work shall be covered by an appropriate order.
- 11.3.3 To the extent permitted under their respective property insurance policies, the Owner and the Contractor hereby waive all rights, each against the other, for damages caused by fire or other perils to the extent covered by Insurance obtained pursuant to this Article 11 or any other property insurance applicable to the work, except such rights as they may have to the proceeds of such Insurance held by the Owner as trustee. The Owner or the Contractor, as appropriate, shall require the Owner's Representative, other Contractors, Subcontractors, and Sub-subcontractors to similarly waive rights of subrogation or property insurers.
- 11.3.4 If the Owner finds it necessary to occupy use of any portion of the work prior to Substantial Completion, such occupancy or use shall not commence prior to the time mutually agreed to by the Owner and the Contractor and, if required by the applicable insurance or self-insurance coverage not prior to the time the builder's risk property insurer has consented to such occupancy or use. The Contractor's consent to such occupancy or use shall not be unreasonably withheld.

#### **11.4 LOSS OF USE INSURANCE**

- 11.4.1 The Owner may optionally purchase and maintain such insurance as will insure the Owner against loss of use of the property due to fire or other hazards, however caused.

## **ARTICLE 12**

### **CHANGES IN THE WORK**

#### **12.1 CHANGE ORDERS**

- 12.1.1 A Change Order is a written order to the Contractor changing terms and/or scope, schedule and cost in original Contract Documents and is signed by the Owner's Agent, the Contractor and Owner. A Change Order may be issued only after the execution of the Contract and shall be the only means used to order changes in the work for which the Contractor requires

additional compensation, changes to the Contract Time, or changes to the Contract Sum. Minor changes in the work for which the Contractor requires no additional compensation or time shall be executed in accordance with the provision of Subparagraph 12.3.1.

- 12.1.2 The Owner, without invalidating the Contract, may order changes in the work within the general scope of the Contractor consisting of additions, deletions or other revisions, the Contract Sum and the Contract Time being adjusted accordingly. All such changes in the work shall be authorized by Change Order and shall be performed under the applicable conditions of the Contract Documents.
- 12.1.3 The cost or credit to the Owner resulting from a change in the work shall be determined in one or more of the following ways:
- A) By mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
  - B) By unit prices stated in the Contract Documents or subsequently agreed upon;
  - C) By cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
  - D) By the method provided in Subparagraph 12.1.4.
- 12.1.4 If none of the methods set forth in Clauses 12.1.2 or 12.1.3 is agreed upon, the Contractor, provided a signed written order is received from the Owner's Representative, shall promptly proceed with the work involved. The cost of such work shall be determined by the Owner's Agent on the basis of the reasonable expenditures and savings of those performing the work attributable to the change, including, in the case of an increase in the Contract Sum, a reasonable allowance for overhead and profit. In such case, the Contractor shall keep and present, in such form as the Owner's Agent may prescribe, an itemized accounting together with appropriate supporting data for inclusion in a subsequent Change Order. Unless otherwise provided in the Contract Documents, cost shall be limited to the following: cost of materials, including sales tax and cost of delivery; cost of labor, including social security, old age and unemployment insurance, and fringe benefits, required by agreement or custom, workers' or workmen's compensation insurance; bond premiums; rental value of equipment and machinery; and the additional costs of supervision and field office personnel directly attributable to the change. Pending final determination of cost to the Owner, payments on account shall be made on the Owner's Agent's certification for payment. The amount of credit to be allowed by the Contractor to the Owner for any deletion or change which results in a net decrease in the Contract Sum will be the amount of the actual net cost as confirmed by the Owner's Agent. When both additions and credits covering related work or substitutions are involved in any one change, the allowance for overhead and profit shall be figured on the basis of the net increase, if any, with respect to that change.
- 12.1.5 If unit prices are stated in the Contract Documents or subsequently agreed upon, and if the quantities originally contemplated are so changed in a proposed Change Order whereby the application of the agreed unit prices to the quantities of work proposed will cause substantial inequity to the Owner or the Contractor, the applicable unit prices shall be equitably adjusted.
- 12.1.6 By submission of a Bid, the Contractor agrees and is bound to the following method of calculating Change Order costs. The Owner also agrees to the following method of calculating the cost of any changes to the Contract. With each proposal for a change in the amount of the Contract, the Contractor shall submit an itemized breakdown of all increases or decreases in the cost of the Contractor's and all Subcontractor's and Sub-subcontractor's work to include at least the following detail in the general order listed:
- A) Material quantities and unit costs;
  - B) Labor amounts and hourly rates (identified with specific items of material to be placed or operation to be performed);
  - C) Costs inherent in use of Contractor/Subcontractor owned equipment;
  - D) Equipment rental, if any;
  - E) Workmen's compensation and public liability insurance;
  - F) General administration, overhead, supervision, project insurance and profit, based on the following schedule:

Subtotal before Applying the Percentage Shown	<u>\$500 &amp; Less</u>	<u>Over \$500</u>
Contractor for work performed by their own forces	22%	19%
Contractor for work performed by Subcontractor	10%	8%

- 14.2.1 If the Contractor is adjudged bankrupt, or if the Contractor makes a general assignment for the benefit of the Contractor's creditors, or if a receiver is appointed on account of the Contractor's insolvency, or if the Contractor persistently or repeatedly refuses or fails, except in cases for which extension of time is provided, to supply enough properly skilled workmen or proper materials, or if the Contractor fails to make prompt payment to Subcontractors for material of labor, or persistently disregards laws, ordinances, rules, regulations, or orders of any public authority having jurisdiction, or otherwise is guilty of a substantial violation of a provision of the Contract Documents, then the Owner, upon certification by the Owner's Agent that sufficient cause exists to justify such action, may without prejudice to any right or remedy and after giving the Contractor and the Contractor's surety, if any, seven days written notice, terminate the employment of the Contractor and take possession of the site and of all material, tools, construction equipment and machinery thereon owned by the Contractor and may finish the work by whatever method deemed most appropriate. In such case, the Contractor shall not be entitled to receive any further payment until the work is completed.
- 14.2.2 If the unpaid balance of the Contract Sum exceeds the costs of finishing the work, including compensation for the Owner's Agent's additional services made necessary thereby, and any damages sustained by the Owner as a result of the Contractor's breach, such excess shall be paid to the Contractor. If such costs exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The amount to be paid to the Contractor or to the Owner, as the case may be, shall be certified by the Owner's Agent upon application, in the manner provided in paragraph 9.4 and this obligation or to the Owner, as the case may be, shall be certified by the Owner's Agent upon application, in the manner provided in Paragraph 9.4 and this obligation for payment shall survive the termination of the Contract.
- 14.2.3 In the event that the Project is abandoned by the Owner, the Owner may terminate this contract at any time by giving at least seven (7) day notice to the Contractor. In the event of termination, all work completed shall become the property of the Owner. The Contractor shall be entitled to receive compensation for actual work satisfactorily completed hereunder, including reimbursable expenses authorized by the Owner which are then due.
- 14.2.4 In the event the Contractor fails to perform the work in accordance with the Contract Documents, the Owner may terminate the Contract after giving the Contractor five (5) working days notice.

## **ARTICLE 15**

### **EQUAL OPPORTUNITY**

- 15.1 The Contractor shall maintain policies of employment as follows:
- 15.1.1 The Contractor, all Subcontractors, and all Sub-subcontractors shall not discriminate against any employee or applicant for employment because of race, religion, color, sex or national origin. The Contractor shall take affirmative action to ensure that applicants are employed and that employees are treated during employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous place, available to employees and applicants for employment, notices setting forth the policies of non-discrimination.
- 15.1.2 The Contractor, all Subcontractors, and all Sub-subcontractors shall, in all solicitation or advertisements for employees placed by them or on their behalf, state that all qualified applicant will receive consideration for employment without regard to race, religion, color, sex, or national origin.

## **ARTICLE 16**

### **MINIMUM WAGE RATES**

- 16.1 The Contractor warrants and agrees that the Contractor and all Subcontractors and Sub-subcontractors shall comply with all applicable provisions of the New Mexico Public Works Minimum Wage Act as outlined in the Contract Documents. Wage rates are not applicable to projects costing less than \$60,000.00. Both the State of New Mexico Wage Rate Decision and the applicable Federal wage rates are included in this document.

- 13.2.1 The Contractor shall promptly correct all work rejected by the Owner's Agent as defective or as failing to conform to the Contract Documents whether observed before or after Substantial Completion and whether or not fabricated, installed or completed. The Contractor shall bear all costs of correcting such rejected work, including compensation for the Owner's Agent's additional services made necessary thereby.
- 13.2.2 If, within one year after the date of Substantial Completion of the work or designated portion thereof or within one year after acceptance by the Owner of designated equipment or within such longer period of time as may be prescribed by law or by the terms of any applicable special warranty required by the Contract Documents, any of the work is found to be defective or not in accordance with the Contract Documents, the Contractor shall correct it promptly after receipt of a written notice from the Owner to do so unless the Owner has previously given the Contractor a specific written acceptance of such condition. This obligation shall survive termination of the Contract. The Owner shall give such notice promptly after discovery of the condition.
- 13.2.3 The Contractor shall remove from the site all portions of the work which are defective or non-conforming and which have not been corrected under Subparagraphs 4.5, 13.2.1 and 13.2.2, unless removal is specifically waived in writing by the Owner.
- 13.2.4 If the Contractor fails to correct defective or non-conforming work as provided in Subparagraph 4.5.1, 13.2.1 and 13.2.2, the Owner may correct it as stipulated herein.
- 13.2.5 If the Contractor does not proceed with the correction of such defective or non-conforming work within a reasonable time fixed by written notice from the Owner's Representative, the Owner may remove it and may store the materials or equipment at the expense of the Contractor. If the Contractor does not pay the cost of such removal and storage within ten days thereafter, the Owner may upon ten additional days' written notice sell such work at auction or at private sale and shall account for the net proceeds thereof, after deducting all the costs that should have been borne by the Contractor including compensation for the Owner's Agent's additional services made necessary thereby. If such proceeds of sale do not cover all costs which the Contractor should have borne, the difference shall be charged to the Contractor and an appropriate Change Order shall be issued. If the payments then or thereafter due the Contractor are not sufficient to cover such amount, the Contractor shall pay the difference to the Owner.
- 13.2.6 The Contractor shall bear the cost of making good all work of the Owner or separate contractors destroyed or damaged by such correction or removal.
- 13.2.7 Nothing contained in this Paragraph 13.2 shall be construed to establish a period of limitation with respect to any other obligation which the Contractor might have under the Contract Documents, including Paragraph 4.5 hereof. The establishment of the time period of one year after the date of Substantial Completion or such longer period of time as may be prescribed by law or by the terms of any warranty required by the Contract Documents relates only to the Contractor to correct the work and has no relationship to the time within which the Contractor's to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the work.

### **13.3 ACCEPTANCE OF DEFECTIVE OR NON-CONFORMING WORK**

- 13.3.1 If the Owner prefers to accept defective or non-conforming work, the Owner may do so instead of requiring its removal and correction, in which case a Change Order will be issued to reflect a reduction in the Contract Sum where appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

## **ARTICLE 14**

### **TERMINATION OF THE CONTRACT**

#### **14.1 TERMINATION BY THE CONTRACTOR**

- 14.1.1 If the work is stopped for a period of thirty days under an order of court or other public authority having jurisdiction, or as a result of an act of government, such as a declaration of a national emergency making materials unavailable, through no act or fault of the Contractor or a Sub-contractor or their agents or employees or any other persons performing any of the work under a contract with the Contractor because the Owner's Representative has not issued a Certificate for payment as provided in Paragraph 9.7 or because the Owner has not made payment thereon as provided in paragraph 9.7, then the Contractor may, upon seven additional days' written notice to the Owner and the Owner's Representative, terminate the Contract and recover from the Owner payment for all work executed and for any proven loss sustained upon any materials, equipment, tools, construction equipment and machinery, including reasonable profit and damages.

#### **14.2 TERMINATION BY THE OWNER**



- 14.2.1 If the Contractor is adjudged bankrupt, or if the Contractor makes a general assignment for the benefit of the Contractor's creditors, or if a receiver is appointed on account of the Contractor's insolvency, or if the Contractor persistently or repeatedly refuses or fails, except in cases for which extension of time is provided, to supply enough properly skilled workmen or proper materials, or if the Contractor fails to make prompt payment to Subcontractors for material of labor, or persistently disregards laws, ordinances, rules, regulations, or orders of any public authority having jurisdiction, or otherwise is guilty of a substantial violation of a provision of the Contract Documents, then the Owner, upon certification by the Owner's Agent that sufficient cause exists to justify such action, may without prejudice to any right or remedy and after giving the Contractor and the Contractor's surety, if any, seven days written notice, terminate the employment of the Contractor and take possession of the site and of all material, tools, construction equipment and machinery thereon owned by the Contractor and may finish the work by whatever method deemed most appropriate. In such case, the Contractor shall not be entitled to receive any further payment until the work is completed.
- 14.2.2 If the unpaid balance of the Contract Sum exceeds the costs of finishing the work, including compensation for the Owner's Agent's additional services made necessary thereby, and any damages sustained by the Owner as a result of the Contractor's breach, such excess shall be paid to the Contractor. If such costs exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The amount to be paid to the Contractor or to the Owner, as the case may be, shall be certified by the Owner's Agent upon application, in the manner provided in paragraph 9.4 and this obligation or to the Owner, as the case may be, shall be certified by the Owner's Agent upon application, in the manner provided in Paragraph 9.4 and this obligation for payment shall survive the termination of the Contract.
- 14.2.3 In the event that the Project is abandoned by the Owner, the Owner may terminate this contract at any time by giving at least seven (7) day notice to the Contractor. In the event of termination, all work completed shall become the property of the Owner. The Contractor shall be entitled to receive compensation for actual work satisfactorily completed hereunder, including reimbursable expenses authorized by the Owner which are then due.
- 14.2.4 In the event the Contractor fails to perform the work in accordance with the Contract Documents, the Owner may terminate the Contract after giving the Contractor five (5) working days notice.

## **ARTICLE 15**

### **EQUAL OPPORTUNITY**

- 15.1 The Contractor shall maintain policies of employment as follows:
- 15.1.1 The Contractor, all Subcontractors, and all Sub-subcontractors shall not discriminate against any employee or applicant for employment because of race, religion, color, sex or national origin. The Contractor shall take affirmative action to ensure that applicants are employed and that employees are treated during employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous place, available to employees and applicants for employment, notices setting forth the policies of non-discrimination.
- 15.1.2 The Contract, all Subcontractors, and all Sub-subcontractors shall, in all solicitation or advertisements for employees placed by them or on their behalf, state that all qualified applicant will receive consideration for employment without regard to race, religion, color, sex, or national origin.

## **ARTICLE 16**

### **MINIMUM WAGE RATES**

- 16.1 The Contractor warrants and agrees that the Contractor and all Subcontractors and Sub-subcontractors shall comply with all applicable provisions of the New Mexico Public Works Minimum Wage Act as outlined in the Contract Documents. Wage rates are not applicable to projects costing less than \$60,000.00. Both the State of New Mexico Wage Rate Decision and the applicable Federal wage rates are included in this document.

# **SUPPLEMENTARY CONDITIONS**

## **(00 7300)**



### **(00 7301) CITY OF SANTA FE REQUIREMENTS**

Document is intended to be used in conjunction with the General Conditions of the Contract.

#### **ADDITIONAL CONDITIONS**

- 1.0 **DEFINITIONS** - The following definitions shall apply through the Bidding Documents or Contract Documents unless otherwise specified.
- 1.1 **ADDENDUM:** Written or graphic instrument issued prior to the execution of the Contract which modifies or interpret the Bidding Documents, including Drawings and Specifications, by additions, deletions, clarifications, or corrections. Addenda will become part of the Contract Documents when the Construction Contract is executed. Plural: **ADDENDA**
- 1.2 **ADDITIVE OR DEDUCTIVE ALTERNATE BID:** Amount stated in the Bid to be added or deducted from the amount of the Base Bid if the corresponding change in project scope or alternate materials and/or methods of construction is accepted.
- 1.3 **BASE BID:** Amount of money stated in the Bid as the sum for which the Bidder offers to perform the work, not including that work for which Alternate Bids are also submitted.
- 1.4 **BID:** A complete and properly signed proposal to do the work or designated portion thereof for the sums stipulated therein, supported by data called for by the Bidding Documents.
- 1.5 **BID LOT:** A major item of work for which a separate quotation or proposal is requested.
- 1.6 **BIDDER:** One who submits a Bid for a Prime contract with the Owner, as distinct from a Subcontractor, who submits a Bid to a Bidder. Technically, a Bidder is not a Contractor on a specific project until a contract exists between the Contractor and the Owner.
- 1.7 **BIDDING DOCUMENT:** Documents that include the Invitation for Bid, Instructions to Bidders, the Bid Form, other sample bidding and contract forms, and the proposed Contract Documents, including any Addenda issued prior to receipt of Bids. The Contract Documents proposed for the work consist of the Owner-Contractor Agreement, the Conditions of the Construction Contract (General, Supplementary, and Other Conditions), the Drawings, the Specifications, and all Addenda issued prior to and all Modifications issued after execution of the Contract.
- 1.8 **DAY:** Calendar day, which is every day shown on the calendar, beginning and ending at midnight.
- 1.9 **CENTRAL PURCHASING OFFICE:** The Central Purchasing Office is the City of Santa Fe Purchasing Department.
- 1.10 **GOVERNING AUTHORITY:** The Governing Authority of the City of Santa Fe for the execution of construction contracts is the Mayor and City Manager.
- 1.11 **INVITATION FOR BID:** The Bidding Documents utilized for soliciting sealed Bids. "Invitation to Bid" shall have the same meaning as "Invitation for Bid".
- 1.12 **OWNER:** The City of Santa Fe, New Mexico, aka "City", "the City", "Owner", or "the Owner."
- 1.13 **CHIEF PROCUREMENT OFFICER:** The Director of the Purchasing Division, or a designee authorized to enter into or administer contracts and make written determination with respect thereto.
- 1.14 **RESPONSIBLE BIDDER:** A Bidder who submits a responsive Bid and who has furnished, when required, information and data to prove that the Bidder's financial resources, production or service facilities, personnel, service reputation, and experience are adequate to make satisfactory delivery of the services, construction, or items of tangible personal property described in the Bidding Documents (13-1-82, NMSA 1978).
- 1.15 **SUCCESSFUL BIDDER:** The lowest qualified and responsible Bidder to whom the Owner, on the basis of the Owner's evaluation, makes an award.

- 1.16 UNIT PRICES: Amounts stated in the Contract as prices per unit of measurement for materials or services as described in the Contract Documents.
- 1.17 USER: The City of Santa Fe or agencies or designated entity for whose use the Project is being constructed.

## **2.0 CONTRACT AUDIT**

The Owner shall be entitled to audit the books and records of a Contractor or any Subcontractor under any negotiated contract or subcontract other than a firm fixed-price contract to the extent that such books and records relate to the performance of such contract or subcontract. Such books and records shall be maintained by the Contractor for a period of three years from the date of final payment under the prime contract and by the Subcontractor for a period of three years from the date of final payment under the subcontract unless a shorter period is otherwise authorized in writing (13-1-161, NMSA 1978).

## **3.0 DEBARRED OR SUSPENDED CONTRACTORS**

A business (Contractor, Subcontractor, or Supplier) that has either been debarred or suspended pursuant to the requirements of Sections 13-1-177 through 13-1-180, and 13-4-11 through 13-4-17, NMSA 1978, shall not be permitted to do business with the State and shall not be considered for award of contract during the period for which it is debarred or suspended.

## **4.0 BRIBES, GRATUITIES, AND KICK-BACKS**

- 4.1 It is illegal in the State of New Mexico for any public employee to solicit or accept anything of value in connection with award of this Bid and for any person to offer or pay anything of value to any such public employee (30-24-1 through 30-24-2, NMSA 1978).
- 4.2 Pursuant to Section 13-1-191, NMSA 1978, reference is hereby made to the Criminal Laws of New Mexico (including 30-24-1, 30-23-2, and 30-41-1 through 3-41-3, NMSA 1978), which prohibit bribes, kick-backs, and gratuities and violation of which constitutes a felon. Further, the Procurement Code (13-1-28 through 13-1-199, NMSA 1978), imposes civil and criminal penalties for its violation.

## **5.0 PROTESTS**

- 5.1 Any Contractor who is aggrieved in connection with a procurement may protest to the City Purchasing Agent and the Owner. The protest should be made in writing within twenty-four (24) hours after the facts or occurrences giving rise thereto, but in no case, less than within fifteen (15) calendar days after the facts or occurrences giving rise thereto (13-1-173, NMSA 1978).
- 5.2 In the event of a timely protest under Section 5.1 (13-1-172 of the Procurement Code, NMSA 1978), the City Purchasing Agent and the Owner shall not proceed further with the procurement unless the State Purchasing Agent or the Owner makes a determination that the award of contract is necessary to protect substantial interests of the Owner (13-1-173, NMSA 1978).
- 5.3 The City Purchasing Agent or authorized designee shall have the authority to take any action reasonably necessary to resolve a protest of an aggrieved Contractor concerning a procurement.
- 5.4 This authority shall be exercised in accordance with adopted regulations, but shall not include the authority to award money damages or attorneys' fees (13-1-174, NMSA 1978).
- 5.5 The City Purchasing Agent or authorized designee shall promptly issue a determination relating to the protest. The determination shall:
- A) State the reasons for the action taken; and,
  - B) Inform the protestant of the right to judicial review of the determination pursuant to Section 13-1-183, NMSA 1978 (13-1-175, NMSA 1978).
- 5.6 A copy of the determination issued under Section 13-1-175, NMSA 1978, shall be mailed immediately to the protestant (13-1-176, NMSA 1978).

## **6.0 CONTRACT BOND REQUIREMENTS**

- 6.1 The Successful Bidder, where the Contract Price exceeds twenty five thousand dollars (\$25,000), shall post a one hundred percent (100%) Performance Bond and a one hundred percent (100%) Labor and Material Payment Bond. Bonds shall be executed on Performance Bond and Labor and Material Payment Bond forms attached hereto, with amount payable conforming to the terms of the contract. Surety shall be a company licensed to do business in the State of New Mexico and acceptable to the Owner.

- 6.2 Personal sureties may be accepted if the Owner so determines in advance, but in such case the amount of the Bond shall be the full Contract Price, and the sureties shall justify under oath in amounts above liabilities and exemptions aggregating double the amount of the Bond.
- 6.3 Special attention of Bidders is called to the requirements of Section 13-4-18 through 13-4-20, NMSA 1978 regarding a Contractor who does not have a principal place of business in the State of New Mexico for all taxes due arising out of construction services rendered under the Contract.
- 6.3.1 The right to sue on this Bond accrues only to the Owner and the parties to whom Sections 13-4-18 through 13-4-20, NMSA 1978 grant such right; and any such right shall be exercised only in accordance with the provisions and limitations of said statutes.

## **7.0 NON-RESIDENT CONTRACTOR'S REQUIREMENTS REGARDING GROSS RECEIPTS TAX SURETY BOND**

- 7.1 Section 7-1-55A, NMSA 1978 provides that any person (as defined in Section 7-1-3, NMSA 1978) engaged in the construction business who does not have a principal place of business in New Mexico and enters into a prime construction contract to be performed in this State shall, at the time such contract is entered into, furnish the Director of the Revenue Division, Taxation and Revenue Department, or authorized delegate with a surety bond or other acceptable security in a sum equivalent to the gross receipts to be paid under the contract multiplied by the applicable rate of the gross receipts tax imposed by Section 7-9-4, NMSA 1978 to secure payment of the tax imposed on the gross receipts from the contract, and shall obtain a certificate from the Director of the Revenue Division, Taxation and Revenue Department, or authorized delegate that the requirements of this paragraph have been met.
- 7.2 If the total sum to be paid under the contract is changed by ten percent or more after the date the surety bond or other acceptable security is furnished, to the Director or authorized delegate, such person shall increase or decrease, as the case may be, the amount of the bond or security within fourteen days after the change (7-1-55B, NMSA 1978).
- 7.3 In addition to the above requirements, the Contractor will be subject to all the requirements of the State Procurement Code and City of Santa Fe Code and procurement rules and procedures.

## **8.0 CONTRACTOR'S GROSS RECEIPTS TAX REGISTRATION**

- 8.1 Section 7-10-4, NMSA 1978 provides that any person (as defined in Section 7-10-3, NMSA 1978) performing services for the City of Santa Fe, as those terms are used in the Gross Receipts and Compensating Tax Act (Section 7-10-1 to 7-10-5, NMSA 1978), must be registered and be issued an identification number with the Revenue Division of the Taxation and Revenue Department to pay the gross receipts tax.
- 8.2 The identification number is needed to properly complete the approval process of the contract; therefore, so as to cause no delay in the processing, the Contractor must register with the State of New Mexico, Taxation and Revenue Department. For information contact:
- Revenue Division  
Taxation and Revenue Department  
1100 South St. Francis Drive  
Santa Fe, New Mexico 87504  
(505)827-0700
- 8.3 If any person who performs services for the City of Santa Fe is not registered to pay the gross receipts tax, the City shall withhold payment of the amount due until the person has presented evidence of registration with the Revenue Department to pay the gross receipts tax.

## **9.0 CONTRACT WITH NONRESIDENT PERSON OR PARTNERSHIPS OR UNADMITTED FOREIGN CORPORATIONS; AGENT FOR SERVICE OF PROCESS**

- 9.1 Special attention of Bidders is called to requirements of Sections 13-4-21 through 13-4-24, NMSA 1978, whereby a public works contract with a nonresident person or partnership or foreign corporation not authorized to do business in the State shall contain a specific provision designating an agent resident within the State, and their address, upon whom process and writs in any action or proceeding against such business may be served in any action arising out of such contract.

## **11.0 STATE ALLOWANCES**

- 11.1 The Contractor shall purchase the "Allowed Materials" as directed by the Owner through the Owner's Agent on the basis of the lowest and the best Bid of at least three competitive Bids. If the actual price for purchasing the "Allowed materials" is more or less than the "Cash Allowance", the Contract Price shall be adjusted accordingly. The adjustment in Contract Price made on the basis of the purchase price without additional charges for overhead, profit, insurance, or any other incidental expenses. The cost of installation of the "Allowed Materials" shall be included in the applicable section of the Specifications covering the work.

## **12.0 MINIMUM WAGE RATES**

- 12.1 The Minimum Wage Rate Determinations for this Project are shown in this section. This project is subject to a New Mexico State Wage Rate Decision if the amount of the base bid is equal to or greater than sixty thousand dollars and zero cents, (\$60,000).

## **13.0 FORM OF CHANGE ORDER AND CHANGE ORDER NOTICE TO PROCEED**

- 13.1 The forms issued by the Owner are to be utilized by the Contractor, Owner's Agent, and the Owner pursuant to the requirements herein and in the Contract Documents.

## **14.0 STATE OF NEW MEXICO STATE INDUSTRIES DIVISION**

- 14.1 The Contractor, at their own expense, shall secure the required building permits from the State NMRLD, CID as required for this Project. Contractor shall adhere to the requirements established for inspections.

## **15.0 CITY OF SANTA FE REQUIREMENTS**

- 15.1 The General Contractor shall include in the Bid the cost of all landfill dumping fees; additionally, the General Contractor shall be responsible that all rubble, excess materials, etc., are disposed of at an approved, legal dumping site.
- 15.1 The Contractor shall account for existing conditions affecting the work and the schedule and shall consult and coordinate with the Owner as applicable and make advance and timely provisions for these accordingly.
- 15.2 The Contractor shall coordinate with the Owner and provide for any temporary on-site facilities, staging or storage areas required for performance of the work.
- 15.3 The Contractor shall make advance and timely provisions for Large vehicle, crane, lift and special access, etc. to and on the site and conduct any necessary special coordination to facilitate this work and limit its impact, to the extent possible, on existing conditions and facility operations.
- 15.4 The Contractor shall take all reasonable precautions and make any provisions necessary to protect existing building features and conditions for the duration of the work and shall coordinate with the Owner's Agent, Owner's Representative and other authorized City Staff as necessary to determine these measures as appropriate.
- 15.5 The Contractor shall make reasonable provisions to insure that the environments in areas of the facility that are in active use, remain free from excessive noise, dust, fumes and the like during periods of work.
- 15.6 The Contractor shall make reasonable efforts to contain the impact of work performance on daily facility operations and to prevent unnecessary contact of the Contractor's laborers, representatives and the like with the Public.
- 15.7 The Contractor shall coordinate with the Owner's Agent, the Owner's Representative and other authorized City Staff to determine provisions for temporary power, other temporary utilities or services that may be required to complete the work. The Contractor shall provide temporary on-site amenities as necessary to complete the project scope of work as required.
- 15.8 The Contractor shall provide and maintain portable chemical toilet(s) on site for the duration of the work for use by the Contractor, sub-contractors, vendors, suppliers, inspectors, Owner's Agent, Owner's Representative and other authorized City Staff. These toilet facilities shall be secured during non-work hours and shall be located as approved by the Owner's Representative. The Contractor shall not utilize existing facility amenities for personal use during performance of the work.
- 15.9 Work areas shall remain entirely free of debris and tools during non-work hours. Any rust or other stains induced by sitting tools, equipment or debris are of particular concern. Materials, tools and equipment shall not be stored in the area of work other than as specifically approved by the Owner and with necessary precautions in place.
- 15.10 The Contractor shall provide reasonable access to the Owner's Agent, Owner's Representative and other authorized City Staff and authorized vendors for any necessary inspections and review and monitoring of the work.
- 15.11 The Contractor shall coordinate with the Owner's Agent, the Owner's Representative and other authorized City Staff to determine access locations and parameters required for the work. These shall be maintained for the duration of the work unless otherwise authorized by the Owner.
- 15.12 The Contractor shall coordinate with the Owner in a timely manner in advance of any work requiring temporary closure or obstruction to normal function of adjacent buildings, facilities, roads, or utilities and systems.



## COOPERATIVE EDUCATIONAL SERVICES

EXHIBIT

tabbies

I, E  
7 PAGES

December 08, 2015

### Contract Award Letter

Nikki Parson  
B&D INDUSTRIES, INC.  
9720 Bell Ave SE  
Albuquerque, NM 87123

Re: ACCEPTANCE OF OFFER and CONTRACT AWARD

18-01B-R124-ALL RSMears JOC Regions 1 through 8

Dear Ms. Parson,

On behalf of Cooperative Educational Services (CES), I thank you for responding to our 2015-001 solicitation. The responses have been reviewed and it is my pleasure to inform you that you have been selected to provide the products and services indicated in your response.

The enclosed Acceptance of Offer and Contract Award is from the cover sheet that you submitted in your bid. I suggest that you take this award and place it with your copy of the bid that you submitted. Please read carefully the paragraph above the authorized signature. It outlines the agreement and specifies the term of the award.

We would like to include information concerning your company in our procurement directory called the Blue Book. Each of our members and participating entities receives a copy of this Blue Book. It enables their staff to look up important information concerning each vendor before placing an order. Although space is limited, the description below is intended as a quick reference of your company. If you would like to revise the description, please provide any changes in writing to CES' procurement office.

B&D is a full service contractor offering general contracting, electrical, mechanical, HVAC services and low voltage services in the areas of fire and security, network and cabling, voice, video, intercom and data collection. They are highly qualified to assist CES Members and Participating Entities in obtaining and completing Job Order Contracting projects in a timely and cost effective manner. They are also able to provide energy-efficient, cost-effective and long-lasting heating, cooling, ventilation, lighting systems, doors/windows, building interior and external envelope systems, and other

On CES' website ([www.ces.org](http://www.ces.org)), you can download contact information for all of CES' members and participating entities. You are invited to send marketing materials directly to these institutions.

We look forward to working with you. Please let us know if you have questions or if we can be of any further assistance.

Sincerely yours,

Cooperative Educational Services

David Chavez,  
Executive Director  
Ofc: 505.344.5470  
Fax: 505.344.9343

*•Your New Mexico Purchasing Cooperative Since 1979•*

Form B

**ACCEPTANCE OF OFFER  
and CONTRACT AWARD**

**RFP NUMBER** 2016-001

*See attached cover letter for specific awarded contract number(s).*

**OFFER TO BE COMPLETED BY VENDOR**

In compliance with the Request for Proposal, the undersigned warrants that I/we have examined the instruction to Offerors, and, being familiar with all of the conditions surrounding the proposed projects, hereby offer and agree to furnish all labor, materials, and supplies incurred in compliance with all terms, conditions, specifications and amendments in this Request for Proposal and any written exceptions in the offer. Signature also certifies understanding and compliance with the certification requirements of the Categorical Terms and Conditions. The under-signed understands that his/her competence and responsibility and that of his/her proposed subcontractors, time of completion, as well as other factors of interest to CES as stated in the evaluation section, will be a consideration in making the award.

Company Name B&D Industries, Inc.

Address 9720 Bell Avenue SE City S Albuquerque State NM Zip 87123

Contract Contact Person Nicole Parsons, Secretary

Authorized Signature Nicole Parsons Printed Name Nicole Parsons, Secretary

**OFFER EXTENDED TO TEXAS SERVICE AGENCIES**



If you are willing to enter into a contract with TexBuy (ESC16) Texas Educational Service Center Region 16 under the same terms and conditions as in this RFP, place initials in the box.

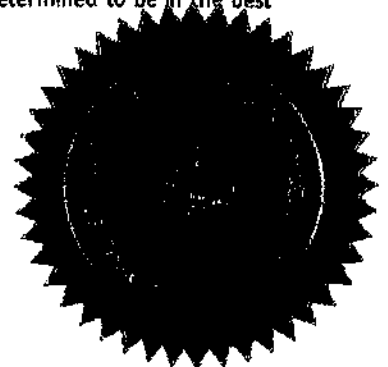
**ACCEPTANCE OF OFFER AND CONTRACT AWARD TO BE COMPLETED ONLY BY CES**

Contract period: It is CES' intent to award a multi-term contract for the specified materials, equipment and services. The Initial contract term shall be for one (1) calendar year from the date of contract award. By mutual written agreement between CES and contractor, the contract may be extended for up to three (3) consecutive additional 12-month periods, beginning immediately after expiration of the prior term. However, no contract extension exists unless and until contractor is so notified by CES.

Month-to-month extensions: CES reserves the right to offer month-to-month extensions if that is determined to be in the best interests of Members/Participating Entities.

Daniel C. [Signature]  
CES Authorized Signature

Awarded this 8th day of November 2015





## COOPERATIVE EDUCATIONAL SERVICES

### EXTENSION OF CONTRACT

made by and between  
**B&D INDUSTRIES, INC.**  
and  
**Cooperative Educational Services**

Said Contract(s) being numbered:

16-01B-R124-ALL RSMMeans JOC Regions 1 through 8

The existing Contract initially commenced on November 24, 2015 and will expire on November 23, 2016. The Term of Contract and Extension in 2016-001 RFP C provides the Contract may be extended annually for up to three (3) additional one (1) year terms by mutual written agreement through November 23, 2019. Cooperative Educational Services desires to extend the Contract for an additional term of one (1) year until November 23, 2017. Upon the signature of an authorized officer of the above named company or corporation, the Contract is hereby extended.

This extension shall be subject to the same Terms and Conditions contained in the original Bid Document and in Contract Number 2016-001 RFP C

#### PRICE ADJUSTMENTS

A written request to CES for a price adjustment to this contract must in be accordance with the stated RFP terms, conditions and stipulations agreed upon at contract award. The request to adjust pricing shall include all documentation for consideration of approval. Upon CES approval, the documents shall be placed in the procurement file for audit purposes. Your request must be submitted prior to the yearly renewal date of the contract or at contract renewal. The price adjustments shall apply to all CES Members and Participating Entities. CES reserves the right to approve or disapprove such requests.

#### COOPERATIVE EDUCATIONAL SERVICES

Authorized Signature *[Signature]* Date September 16, 2016

Contractor agrees to provide complete information of any deleted and new products or price adjustments as allowed under headings (Discontinued Products) and (New Technology and Price Reduction) of the RFP.

Authorized Signature *Nikki Parsons* Date 11/1/16

Printed Name Nikki Parsons Title Director of Contracts

NOTE: This Contract Extension should be received by 4:00 p.m. at the offices of CES on 11/15/16

*If you do not want to extend this Contract, please sign below and return this agreement.*

**Discontinue: We desire to discontinue the contract effective 11/23/2016**

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

*"Your New Mexico Procurement Partner Since 1979"*





## COOPERATIVE EDUCATIONAL SERVICES

### EXTENSION OF CONTRACT

made by and between

**B&D INDUSTRIES, INC.**

and

**Cooperative Educational Services**

Said Contract(s) being numbered:

16-01B- R124-ALL RSM means JOC Regions 1 through 8

The existing Contract initially commenced on November 24, 2015 and will expire on November 23, 2017. The Term of Contract and Extension in 2016-001 RFP C provides the Contract may be extended annually for up to three (3) additional one (1) year terms by mutual written agreement through November 23, 2019. Cooperative Educational Services desires to extend the Contract for the final term of one (1) year until November 23, 2018. Upon the signature of an authorized officer of the above named company or corporation, the Contract is hereby extended.

This extension shall be subject to the same Terms and Conditions contained in the original Bid Document and in Contract Number 2016-001 RFP C

#### PRICE ADJUSTMENTS

A written request to CES for a price adjustment to this contract must be in accordance with the stated RFP terms, conditions and stipulations agreed upon at contract award. The request to adjust pricing shall include all documentation for consideration of approval. Upon CES approval, the documents shall be placed in the procurement file for audit purposes. Your request must be submitted prior to the yearly renewal date of the contract or at contract renewal. The price adjustments shall apply to all CES Members and Participating Entities. CES reserves the right to approve or disapprove such requests.

#### COOPERATIVE EDUCATIONAL SERVICES

Authorized Signature *Daniel Chae* Date October 02, 2017

Contractor agrees to provide complete information of any deleted and new products or price adjustments as allowed under headings (Discontinued Products) and (New Technology and Price Reduction) of the RFP.

Authorized Signature *Nikki Parsons* Date 11/14/2017

Printed Name Nikki Parsons Title Corporate Secretary

NOTE: This Contract Extension should be received by 4:00 p.m. at the offices of CES on 11-23-2017

*If you do not want to extend this Contract, please sign below and return this agreement.*

**Discontinue: We desire to discontinue the contract effective 11/23/2017**

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

*"Your New Mexico Procurement Partner Since 1979"*



## COOPERATIVE EDUCATIONAL SERVICES

### EXTENSION OF CONTRACT

made by and between

**B&D INDUSTRIES, INC.**

and

**Cooperative Educational Services**

Said Contract(s) being numbered:

16-01B- R124-ALL RSMans JOC Regions 1 through 8

The existing Contract initially commenced on November 24, 2015 and will expire on November 23, 2018. The Term of Contract and Extension in 2016-001 RFP C provides the Contract may be extended annually for up to three (3) additional one (1) year terms by mutual written agreement through November 23, 2019. Cooperative Educational Services desires to extend the Contract for the final term of one (1) year until November 23, 2019. Upon the signature of an authorized officer of the above named company or corporation, the Contract is hereby extended.

This extension shall be subject to the same Terms and Conditions contained in the original Bid Document and in Contract Number 2016-001 RFP C

#### PRICE ADJUSTMENTS

A written request to CES for a price adjustment to this contract must be in accordance with the stated RFP terms, conditions and stipulations agreed upon at contract award. The request to adjust pricing shall include all documentation for consideration of approval. Upon CES approval, the documents shall be placed in the procurement file for audit purposes. Your request must be submitted prior to the yearly renewal date of the contract or at contract renewal. The price adjustments shall apply to all CES Members and Participating Entities. CES reserves the right to approve or disapprove such requests.

#### COOPERATIVE EDUCATIONAL SERVICES

Authorized Signature *Daniel Chae* Date November 26, 2018

Contractor agrees to provide complete information of any deleted and new products or price adjustments as allowed under headings (Discontinued Products) and (New Technology and Price Reduction) of the RFP.

Authorized Signature *Nikki Parsons* Date 11/29/2018

Printed Name Nikki Parsons Title Director of Contracts

NOTE: This Contract Extension should be received by 4:00 p.m. at the offices of CES on 11/23/19

*If you do not want to extend this Contract, please sign below and return this agreement.*

**Discontinue: We desire to discontinue the contract effective 11/23/2018**

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

*"Your New Mexico Procurement Partner Since 1979"*



Your New Mexico Purchasing Cooperative

Since 1979

December 27, 2018

Nikki Parsons  
B&D INDUSTRIES, INC.

Dear CES Procurement Partner,

This letter serves as notification to our CES contract-holders that effective January 1, 2019, CES' Administrative Fee will increase from 1.0% to 1.25%. The 1.25% administrative fee was approved by CES' Executive Committee and shall remain in effect until further written notice.

You will have the opportunity to revise and update your pricing to factor in the 0.25% increase in CES' Administrative Fee. All pricing changes will be directed to the CES Purchasing Manager, at [pricingupdate@ces.org](mailto:pricingupdate@ces.org), for review and consideration. In your email's Subject Line, include your company name, contract number, "Price Increase", and attach your pricing documents to your email.

Complete the following page to acknowledge that you either a) agree to the increase in administrative fee with no changes in contract(s) pricing; b) agree to the increase in administrative fee with changes in contract(s) pricing; or c) wish to terminate the contract(s). Please complete and return to CES, either by email or mail, by December 14, 2018. If not returned by December 14, 2018, CES will assume that you agree to the increase in the administrative fee with no pricing changes.

For any inquiries, and concerns regarding the change in the CES Administrative Fee, do not hesitate to call the Procurement Department at 505-344-5470 or email at [bids@ces.org](mailto:bids@ces.org). Thank you for being a valued procurement partner for CES and for your continued interest in public education in New Mexico.



Your New Mexico Purchasing Cooperative

Since 1979

Cooperative Educational Services - Contract Amendment for Increase in CES Administrative Fee

It is mutually agreed between the parties that the Contract Amendment to increase the CES Administrative Fee from 1.0% to 1.25% for all purchase orders received January 1, 2019 and after, regardless of the date of the quote, for the following Contract Holder and Contract Number(s).

**B&D INDUSTRIES, INC.**

15-088B-C201-ALL	15-028B-R113-ALL	15-02BP-R213-ALL	16-058B-C203-4
16-05CB-C304-4	15-019B-C1012-ALL	15-020B-C1010-ALL	15-022B-C104-ALL
16-02EB-R122-ALL	16-01B-R124-ALL	16-02DB-G113-ALL	16-02DB-R123-ALL
18-03B-G1019-ALL	18-03B-R2013-ALL	18-08B-G1011-ALL	18-08B-R209-ALL

Must check one of the options below:

☐ Increase administrative fee with no changes in contract(s) pricing;

☒ Increase administrative fee with changes in contract(s) pricing;

☐ Terminate the contract(s).

IN WITNESS WHEREOF, the parties have executed this Amendment as of the date of signature by CES below, or a specified date, whichever is later.

B&D INDUSTRIES, INC.

Company Name

*Nikki Parsons*

Authorized Signature

Nikki Parsons

Print Name

12/27/18

Date Signed

CES

Cooperative Educational Services

*David Chavez*

Authorized Signature

David Chavez

Print Name

12/27/2018

Date Signed