

## **PROJECT MANUAL**

Definition: The compilation of Documents listed herein is hereinafter referred to as the Project Manual. The following list of documents comprises the Project Manual entitled:

### **LA CABANA BEACH & RACQUET CLUB E SUITES & INTERNAL CORRIDOR RENOVATIONS**

### **ISSUED FOR BID**

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**Drawings** - Drawings are separately bound. For the List of Drawings, refer to Specification Section 00850, entitled List of Drawings and Specifications, contained in the Project Manual, entitled **La Cabana E Suites & Interior Corridor Renovations**, dated **December 9, 2011**. All drawings listed therein are specifically included in the Project Manual by this reference.

**Specifications** – The specifications are provided on the Contract Drawings and are specifically included in the Project Manual by this reference.

**END OF TABLE OF CONTENTS - PROJECT MANUAL**

## INSTRUCTIONS TO BIDDERS

### **Cooperative Association La Cabana Beach & Racquet Club**

(hereinafter also referred to as “**Owner**”) invites you to submit your Bid to provide and pay for all labor, materials, tools, equipment, and professional and nonprofessional services and perform all other acts and supply all other work necessary as described in the Project Manual to fully and properly perform and complete the following:

**Project Title:** **LaCabana Beach & Racquet Club - E Suites & Internal Corridor Renovations**

**Summary of the Work:** The work will include, the complete renovation of the existing E Suites and Internal Corridors, but is not be limited to: General Requirements and Temporary provisions; Demolition, Reinforcement, Miscellaneous Cast-in-place Concrete, Miscellaneous Metals Fabrications, Rough Carpentry, Finish Carpentry, Interior Millwork, Insulation, Sealants & Caulking, Doors & Frames, Wood & Plastic Doors, Special Doors, Hardware & Specialties, Weather stripping & Seals, Thresholds, Gypsum Wallboard, Tile, Partition Framing, Blocking, Painting, Wall and Ceiling Texture, Toilet & Bath Accessories, Wardrobe Specialties, Appliances, Air Distribution, Air Handling Units, Controls Insulation, Sprinkler Equipment, Plumbing, Plumbing Fixtures & Trim, Fire Sprinklers, Electrical, Raceways, Conduits, Wires & Cables, Wire Connections & Devices, Outlet Boxes, Floor boxes, Panel boards, Interior Lighting fixtures, Communications, Fire Alarm & Detection, Telephone, Telephone Systems, Voice and Data Equipment

To be considered, such Bid must be received by the **Construction Manager** in the Board Room of La Cabana Beach & Racquet Club, J.E. Irausquin Boulevard, 250 Oranjestad **no later than 4:00 p.m.** on the stipulated **bid due date of January 20, 2012.**

### **ARTICLE 1 – BIDDING AND CONTRACT DOCUMENTS**

The Project Manual, including all Bidding Documents and Contract Documents and any Addenda pertaining thereto, will be provided to each prospective Bidder for bid preparation purposes. Bidders requesting that its Project Manual be sent by mail, or other delivery services, shall bear the cost of such printing and delivery. The Bidder shall coordinate all such requests with the **Architect, Bob Coleman (225) 387-4414**. The Bidder’s may download digital copies of the documents.

Complete sets of the Project Manual shall be used by Bidders in preparation of Bids; neither the Owner nor any of its Contractors or Agents assumes any responsibility for Bidder errors or misinterpretations resulting from the use of incomplete sets. Bidders are instructed to refer to the Table of Contents of this Project Manual for a complete listing of the Bidding and Contract Documents.

### **ARTICLE 2 - EXAMINATION OF DOCUMENTS AND SITE**

Prior to submitting a Bid, each Bidder shall examine the Project Manual carefully, visit the site of the proposed Work, and become familiar with the nature and extent of the Work to be performed and local conditions that may affect the Work. The information contained in the Project Manual reflects the condition of the site as it is believed to exist, but it is not intended or to be inferred that the conditions as shown therein constitute a representation by or on behalf of the Owner that such conditions actually exist. The Bidder is not relieved, therefor, of the responsibility for becoming fully informed as to existing conditions at the site. The Bidder shall consider climatic conditions that have historically occurred in the area and examine existing site improvements and conditions, utilities, and streets to determine all conditions, including but not limited to climatic conditions, which will affect the work. The Bidder, in making its Bid, represents that it has taken into consideration in preparing its Bid, the existing conditions at the site and all conditions that will affect the Work.

**ARTICLE 3 - INTERPRETATION OF PROJECT MANUAL**

Bidders shall promptly notify the Architect of any ambiguity, inconsistency or error, which it may discover upon examination of the Project Manual, or of variances between information provided therein and actual site and local conditions. Such notification shall be delivered to the office of the Architect as set forth in the next paragraph.

All questions requiring clarification or interpretation of the Project Manual or requests for approval of proposed substitutions shall be made in writing, mailed or submitted by email or facsimile (fax), and shall be delivered to the office of the Architect, Robert Coleman, Architects, 3377 North Boulevard, Baton Rouge, LA 70806, Attn: Bob Coleman at least seven (7) calendar days prior to the date for receipt of bids.

Any modification, interpretation, or correction of an ambiguity, inconsistency, discrepancy, or error in the Project Manual will be made by Addendum issued to all entities recorded as having received a complete set of the Project Manual. Those portions of such Addendum pertaining to the Bidding and Contract Documents shall constitute an integral part thereof as if first incorporated therein. Interpretations, modifications, or correction of the Project Manual made in any manner other than by Addendum will not be binding and Bidders shall not rely upon such.

The Bidder, prior to submitting its Bid, shall ascertain that it has received all Addenda issued, and shall acknowledge its receipt on the Bid Form.

**ARTICLE 4 - SUBSTITUTIONS**

The materials, products, and equipment described in the Project Manual establish a standard of required function, dimension, appearance and quality to be met by any proposed substitution.

No substitution will be considered prior to receipt of Bids unless written request for approval has been received by the Architect at least ten (10) calendar days prior to the date for receipt of Bids in the manner and at the location identified in Article 4. Each such request shall include the name of the material or equipment for which it is to be substituted and a complete description of the proposed substitute including drawings, catalog cut sheets, performance and test data and any other information necessary for an evaluation. A statement setting forth any changes in other materials, equipment or other Work that incorporation of the substitute would require shall be included. The burden of proof of the merit of the proposed substitute is upon the Bidder. The Owner's decision of approval or disapproval of a proposed substitution shall be final. If the Owner approves any proposed substitution prior to receipt of Bids, such approval will be set forth in an Addendum. Bidders shall not rely upon approvals made in any other manner.

The Contractor, in submitting its Bid, understands and agrees that if it did not elect to obtain approval during the bidding period, as set forth herein, the Architect has no obligation to review or consider such submittals for approval after Contract award, unless, in the sole judgment of the Architect, (1) the item submitted for approval is demonstrably superior in quality or (2) the item submitted for approval is equal in quality and the submission is combined with a credit which provides significant benefit to the Owner. Other substitutions may be considered after the Contract award, at the sole discretion of the Architect.

If approved substitutions require redesign or different quantity or arrangements of any part of the project from that indicated in the Project Manual, all such redesign, additional material, and all new drawings and

detailing required shall be the responsibility of the Contractor making the substitution, at its own expense, including services rendered by Architect.

#### **ARTICLE 5 - INVITATION OF BIDDERS**

The prospective Bidder acknowledges the right of the Owner to refuse receipt of a Bid from any prospective Bidder who HAS NOT BEEN INVITED BY THE Owner to bid which has not provided any other documentation that may be required by the Owner. In such a case, the Bid may be returned unopened.

#### **ARTICLE 6 – NOT USED**

#### **ARTICLE 7 - PERFORMANCE OF WORK BY BIDDER**

The Bidder represents that it is qualified to 1) perform the work undertaken by its forces and 2) supervise the work performed by its subcontractors. Furthermore, that if awarded the Contract, it shall maintain on the site a designated representative to supervise the work of its forces and that of its subcontractors and to serve as the point of communication with the Architect.

#### **ARTICLE 8 - ADDENDA**

Addenda will be mailed or delivered (at the respective addresses furnished for such purposes) to all who are known by the Architect to have received a complete Project Manual. Copies of Addenda will be made available for inspection wherever Project Manuals are on file for that purpose.

Each Bidder shall ascertain prior to submitting its bid that it has received all Addenda issued, and shall acknowledge receipt of each Addendum in its Bid. Failure of any Bidder to receive such Addenda shall not relieve such Bidder from any obligation under its Bid as submitted.

#### **ARTICLE 9 - PRE-BID SITE TOUR & CONFERENCE**

For the dissemination of information clarification of the documents comprising the Project Manual, a **Pre-Bid Conference** will be held at **2:00 p.m. local time, on January 10, 2012 in the Board Room** of La Cabana Beach & Racquet Club.

#### **ARTICLE 10 - BID PREPARATION**

Bidders shall submit one (1) signed original and one (1) copy of its signed original Bid on the Bid Proposal Forms provided by the Owner.

All blanks on the Bid Form must be completed including any blanks for Alternates and Unit Prices, as applicable.

Where so indicated by the Bid Form, bid amounts shall be expressed in both words and figures and in case of a discrepancy between the two, the amount written in words shall govern. Any interlineation, alteration, or erasure must be initialed by the signer of the Bid.

All requested Alternates should be bid; if no change in the Base Bid amount is required as a result of the Alternate, enter "No Change".

Bids must be signed by a person duly authorized to execute the same on behalf of the bidder.

The Bidder shall sign and complete the Bid properly in accordance with the following:

- If the Bidder is an individual, the Bid shall be executed by him/her personally, his/her signature shall be witnessed, his/her business address shall be stated, and any trade name employed in the conduct of his/her business shall be stated.
- If the Bidder is a partnership, the Bid shall be executed by one or more of the partners, the signature or signatures of the partner or partners so executing shall be witnessed, the name of the partnership shall be stated, and the business address of the partnership shall be stated.
- If the Bidder is a corporation, the Bid shall be executed in its name and in its behalf: 1) by the President or a Vice President and attested by the Secretary or an Assistant Secretary and the corporate seal shall be attached, or 2) by a duly authorized agent of the corporation whose authority to act, as of the date of the Bid.

**ARTICLE 11 - BID SUBMISSION**

The Bidder shall submit one (1) signed original and one (1) copy of its signed original Bid, including other documents required to be submitted with the Bid, enclosed in a sealed opaque envelope, addressed as shown on the Bid Form. The envelope shall be further identified with the Project name, the Bidder's name and address, and the words "BID ENCLOSED". If the Bid is sent by mail, the sealed envelope shall be enclosed in a separate mailing envelope with the notation "SEALED BID ENCLOSED" on the face thereof.

The following format for the **envelope** containing the Bid is suggested, but is not mandatory:

(Upper Left Corner)	
Bidder's Name	
Bidder's Address	La Cabana Beach & Racquet Club J.E. Irausquin Boulevard, 250 Oranjestad
(Lower Left Corner)	
BID ENCLOSED	
Date of Bid Opening:	<b>January 20, 2012</b>
Time of Bid Opening:	4:00 p.m. local time
Project:	<b>La Cabana E Suites &amp; Internal Corridor Renovations</b>
Owner:	La Cabana Beach & Racquet Club

The Bidder shall assume full responsibility for timely delivery at the location designated for receipt of Bids.

**ARTICLE 12 - MODIFICATION OR WITHDRAWAL OF BID**

A Bid may not be modified, withdrawn, or canceled by the Bidder for 30 days following the time and date designated for the receipt of Bids, and each Bidder so agrees in submitting its Bid. Prior to the date and time of receipt of Bids, a Bidder may withdraw its Bid and resubmit at any time before the date and time stipulated for receipt of Bids.

**ARTICLE 13 - RECEIPT AND OPENING OF BIDS**

It is the Bidders responsibility to deliver its Bid at the proper time to the proper place. The fact that a Bid was dispatched does not constitute its delivery; the Bid must be actually delivered.

**ARTICLE 14 - REJECTION OF BIDS AND BID TERMINATION**

The Owner may reject all Bids because they are too high, or because the Owner determines it is in its best interest to reject all Bids. In such circumstances, the originally received bids will be deemed rejected. No Bidders shall be entitled to recover any costs from the Owner for bid preparation or submittal.

The Owner may, at any time prior to the time and date of the bid opening, elect to terminate the bid process. In such an event, notice of bid process termination will be issued to all registered plan holders in the form of an addendum. Bidders shall not be entitled to recover any costs from the Owner for bid preparation should the Owner terminate the bid process. Any bids received contrary to the termination shall be returned unopened.

**ARTICLE 15 - AWARD OF CONTRACT**

The Owner may select two Contractors to interview from the bidding process. Based on the bidding and interview process, the Owner will select and seek to negotiate final terms of an agreement with a Contractor.

Selection of a contractor from this bid process will not create a contractual relationship until a complete written contract is executed by all parties. No contract obligations will exist for this Project until the final terms have been negotiated and a final written contract document is executed by Owner and Contractor. The Owner retains the absolute right in its sole discretion to select the Contractor with which it will proceed to negotiate terms regardless of whether the Contractor is the lowest bidder.

The Owner reserves the right to award the Contract for the Work in its entirety (Base Bid in combination with all or selected Alternate Bid Items) or to award only the Base Bid. All Alternate Bid Items ("Alternates") not accepted by the Owner or included in the Agreement at time of Contract execution shall be included in Exhibit 'D' to the Agreement, and all such Alternates shall be preserved therein for future acceptance and incorporation into the Agreement by the Owner, at its sole discretion, via written Change Order thereto, provided that such acceptance shall occur prior to the date set forth in the Agreement upon which Owner's option to accept a given Alternate shall expire.

**ARTICLE 16 - THE CONTRACT AND ITS EXECUTION**

The successful Bidder shall be required to sign a Contract, the form of which is included in the Project Manual as the Lump Sum Agreement. This contract will evidence the agreement between the parties pursuant to the award having been made by the Owner to the successful Bidder. The selected Bidder may make no stipulations, qualifications, or modifications to this Contract.

Following award of the Contract to the selected Bidder, the Owner shall complete the form of Agreement included in the Project Manual and shall submit the Contract to the selected Bidder for execution.

The selected Bidder shall submit to the Owner within fifteen (15) calendar days after receipt of those documents, the following:

- The signed Contract;
- The Certificate of Insurance evidencing insurance coverage as required by the Project Manual

The Contract shall be executed by or on behalf of the selected Bidder, as principal, in the following manner:

- If the selected Bidder is an individual, the Contract shall be executed by the individual personally, the individual's signature shall be witnessed and any trade name employed in the conduct of the individual's business shall be stated.
- If the selected Bidder is a partnership, the Contract shall be executed, in the name of the partnership, by each of the partners and the signature of the partners shall be witnessed.
- If the selected Bidder is a corporation, the Contract shall be executed, in the name of the corporation: 1) by the President or a Vice President and attested by the Secretary or Assistant Secretary and the corporate seal shall be attached; or 2) by a duly authorized agent of the corporation whose authority to act, as of the date of the Agreement, shall be established by proof, satisfactory to the Owner, attached to the Agreement.
- The Contract for a firm or an unincorporated association must state the business name and address and must be executed by at least one (1) member with the member signature witnessed.

#### **ARTICLE 17 BANK GUARANTEE, ACTING AS A PERFORMANCE BOND AND LABOR AND MATERIAL PAYMENT BOND**

If awarded the Contract, the selected Bidder shall furnish and for a Bank Guarantee. The Owner shall be named on the Letter of Credit as its interests may appear.

The Bank Guarantee shall be in the amount of 10% of the Contract amount.

The bank providing the Bank Guarantee is subject to review and approval by the Owner and may be rejected without cause.

#### **ARTICLE 18 - DELAY DAMAGES**

The Owner may incur financial loss if the Work is not substantially complete by the date set forth in the Project Manual. The Contractor shall be liable for damages in accordance with the Project Manual.

#### **ARTICLE 19 - GOVERNING LAWS AND REGULATIONS**

Bidders shall be familiar with all Aruban laws, ordinances, rules, and regulations that may in any way affect the Work.



**ARTICLE 20 - BIDDER'S REPRESENTATIONS**

Each Bidder, by making its Bid, represents that:

- It has read and understands the Project Manual and has received and considered all Addenda thereto and its Bid is made in accordance therewith.
- It has visited the site, has familiarized itself with the local conditions under which the Work is to be performed such as locations, accessibility and general character of the site or building, the character and extent of existing work within or adjacent to the site and any other work being thereon at the time of submission of its Bid, and has correlated its observations with the requirements of the Project Manual.
- Its Bid is based upon the materials, systems, and equipment required by the Project Manual without exception.
- No extra charge will be allowed for ignorance of Contract requirements or site conditions. Bidders must carefully examine the inter-relationship of the site conditions and Project Manual.
- The Bidder shall familiarize itself, to the extent possible, with labor conditions which may affect the performance of the Work.
- The submission of a signed Bid shall constitute conclusive evidence of compliance by such Bidder with above responsibility, and any claims relating to the established Contract Sum, at any future time, for labor, equipment, or material required or for difficulties encountered which would or could have been foreseen, had the Bidder so complied with its responsibility to ascertain all conditions, will not be recognized by the Owner.

<b>End of Instructions to Bidders</b>
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# BID PROPOSAL FORM

Submitted by: a \_\_\_\_\_ (Corporation/Partnership/LLC)

To: **La Cabana Beach and Racquet Club**  
J.E. Irausquin Boulevard, 250 Oranjestad

Bid Date: **January 20, 2012**

Project: **La Cabana Beach & Racquet Club**  
**E Suites & Internal Corridor Renovations**

This will acknowledge receipt of your Invitation to Bid, Instructions to Bidders, and all other Bidding and Contract Documents for the Work identified above. Submission of the Bid Proposal Form will also serve to acknowledge receipt of the following listed Addendum/Addenda, the provisions of which have been included in this bid.

Addendum No. \_\_\_\_\_, dated

Addendum No. \_\_\_\_\_, dated

Addendum No. \_\_\_\_\_, dated

We have examined all bidding documents and the site of the Work and submit the following bid proposal wherein we agree:

1. to hold our Bid Proposal open for thirty (30) days from the date of bid opening per;
2. if awarded the contract on the basis of this Bid Proposal, to enter into a Lump Sum Agreement on the form which will be provided by the Owner in accordance with the Instructions to Bidders;
3. to perform and complete all Work in strict compliance with the Contract Documents as defined in the General Conditions of the Contract for Construction;
4. to commence and complete the Work in strict accordance with the Project Milestone Schedule, Exhibit "A";
5. provide a one-year non-prorated warranty, unless otherwise specified herein, for all labor and materials incorporated into the project. See Specifications Section for specific warranty requirements;
6. To perform and complete all Base Bid Work for:
  - 6.1 a lump sum fixed price of \$ \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) to cover the Contractor's profit and general overhead and all costs and expenses of any nature whatsoever (including, without limitation, labor, equipment, materials, and all taxes);
  - 6.2 For information purposes only, the Owner desires a breakdown of the Base Bid Lump Sum Fixed Price. Each part of the breakdown shall be considered complete and shall include its respective portions of all direct and indirect costs such as trench safety, performance and payment bonds and all other costs as may be applicable, including overhead and profit. The Breakdown is as follows:

## BID PROPOSAL FORM

DIVISION	DESCRIPTION	E Suites	Internal Corridors	Total
Division 2	Demolition	\$	\$	\$
Division 3	Concrete	\$	\$	\$
Division 5	Metals	\$	\$	\$
Division 6	Wood & Composites:	\$	\$	\$
	Rough Carpentry	\$	\$	\$
	Interior Finish Carpentry	\$	\$	\$
	Interior Architectural Millwork including Counter tops	\$	\$	\$
Division 7	Thermal & Moisture Protection	N/A	\$	\$
Division 8	Openings:	\$	\$	\$
	Doors & Door Frames	\$	\$	\$
	Finish Hardware	\$	\$	\$
	Mirrors, Louvers/Vents, Other	\$	N/A	\$
Division 9	Finishes:	\$	\$	\$
	Gypsum Drywall Work, including partition framing	\$	\$	\$
	Tile Work & Base, including underlayment	\$	\$	\$
	Interior Painting & Caulking	\$	\$	\$
Division 10	Specialties	\$	N/A	\$
Division 21	Fire Suppression	\$	\$	\$
Division 22	Plumbing	\$	N/A	\$
Division 23	HVAC	\$	\$	\$
Division 26	Electrical, including light fixtures	\$	\$	\$
Division 27	Miscellaneous/Other	\$	\$	\$
	<b>General Requirements</b>	\$	\$	\$
	<b>Contractor's Overhead &amp; Profit</b>	\$	\$	\$
	<b>TOTAL</b>	\$	\$	\$

### 6.3 Alternates

- 6.3.1 **Alternate No. 1** – If awarded this Contract combined with the Contract for the Exterior Renovations, the Contractor offers a **deduct** to the combined Base Bid of the two projects. The proposed lump sum increase/decrease to the Base Bid Amount for Alternate No. 1 as specified in Specification Section 01100 is: \_\_\_\_\_ Dollars (\$ \_\_\_\_\_).
- 6.3.2 **Alternate No. 2** – The proposed lump sum increase/decrease to the Base Bid Amount for Alternate No. 2 as specified in Specification Section 01100 is: \_\_\_\_\_ Dollars (\$ \_\_\_\_\_).
- 6.3.3 **Alternate No. 3** – The proposed lump sum increase/decrease to the Base Bid Amount for Alternate No. 3 as specified in Specification Section 01100 is: \_\_\_\_\_ Dollars (\$ \_\_\_\_\_).

# BID PROPOSAL FORM

## 6.4 Unit Prices

The attached Schedule of Unit Prices, Exhibit B to the Bid Proposal, may be used for additions/ deletions to the Contract Work as the Owner may direct.

## 7. List the Categories of Work

The following categories of Work will be provided with the Bidders labor:

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## 8. Proposed Subcontractors

The following Subcontractors are proposed to complete the respective trade work as indicated:

Trade/Work	Subcontractor Name and Address
<hr/>	<hr/>
<hr/>	<hr/>
<hr/>	<hr/>
<hr/>	<hr/>

## BIDDER CHECKLIST:

(To be checked and confirmed by Bidder)

- Bidder has acknowledged receipt of all Addenda by indicating acknowledgement of each separate Addendum on Page 1 of this Bid Proposal Form, and;
- Bidder has made all required entries on and has properly executed this Bid Proposal Form, and;
- Bidder has submitted herewith, the Schedule of Unit Prices, Exhibit B to the Bid Proposal Form.

SIGNED AND DATED THIS \_\_\_\_\_ day of \_\_\_\_\_, 2012\_

Company: \_\_\_\_\_

By: \_\_\_\_\_ (Signature)

Title: \_\_\_\_\_ (Print Name)

Phone: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Email Address: \_\_\_\_\_

**End of Bid Proposal Form**

**BID PROPOSAL FORM**

**EXHIBIT 'A' to the Bid Proposal Form  
PROJECT MILESTONE SCHEDULE**

*La Cabana Beach & Racquet Club  
E Suites & Internal Corridor Renovations*

The Contractor agrees to commence and complete the Work in strict accordance with the Project Milestone Schedule for performance of the work, as provided below:

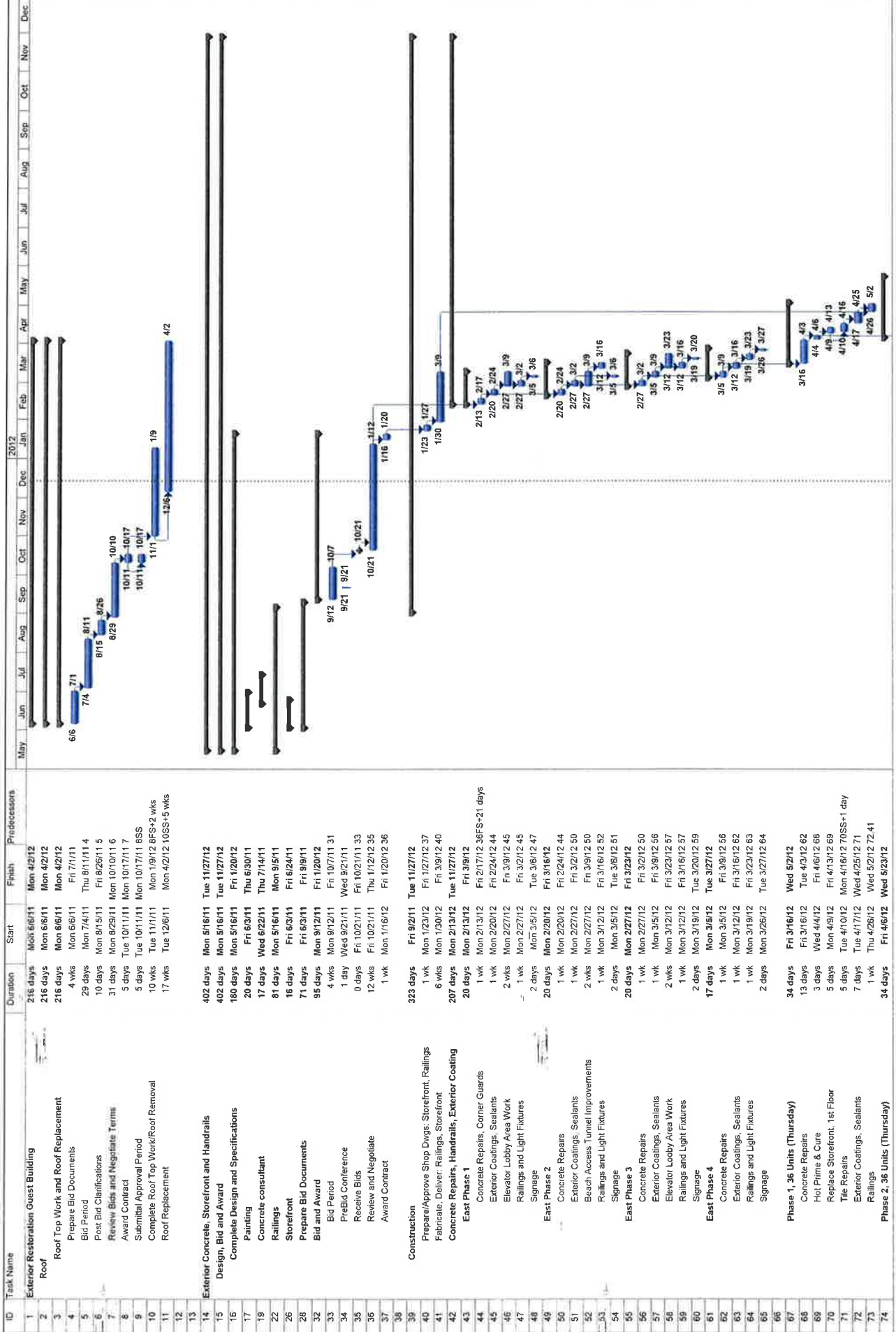
- 1. Award of Contract.....February 2, 2012
- 2. Begin Work on Site .....June 11, 2012
- 3. Project Substantial Completion..... November 23, 2012
- 4. Completion including all Punch-list Items .....December 15, 2012

**END EXHIBIT 'A' to the Bid Proposal Form – PROJECT MILESTONE SCHEDULE**

# ATTACHMENT A

## LA CABANA EXTERIOR RENOVATION PLANNING

La Cabana Beach & Racquet Club  
Exterior and Interior Work  
December 2011 Update



Project: LCBRC, Exterior Renovations  
Date: Wed 12/14/11

Task Progress Summary

Milestone Summary

Roll Up Task Summary

Roll Up Progress Summary

External Tasks Summary

Group By Summary

Deadline

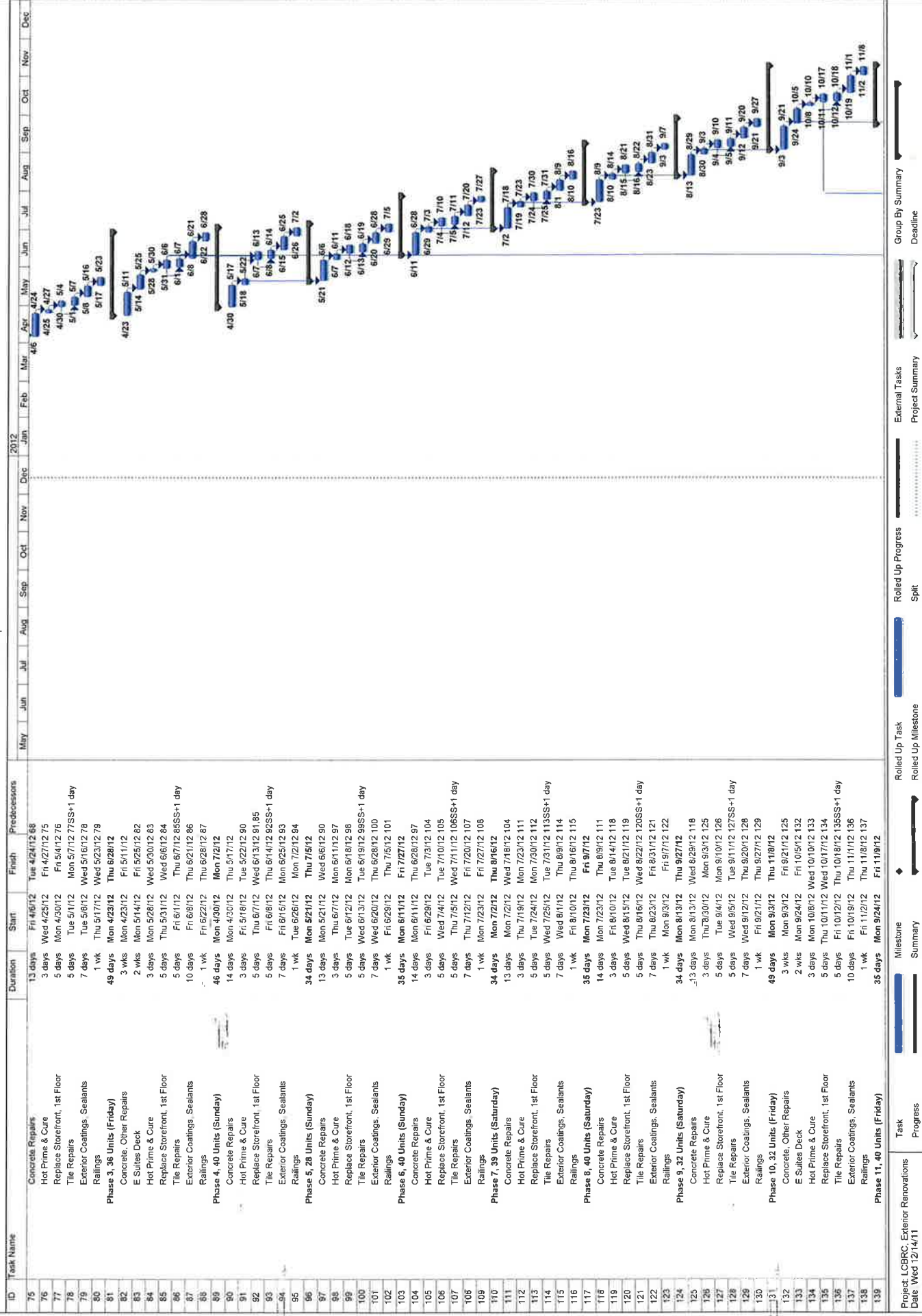
ECN Tekon en Bouwadviesburo  
00 237 730 4455  
ecnuba@yahoo.com

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# ATTACHMENT A

La Cabana Beach & Racquet Club  
 Exterior Renovation  
 December 2011 Update

## LA CABANA EXTERIOR RENOVATION PLANNING



Group By Summary  
 External Tasks  
 Rolled Up Progress  
 Milestone  
 Task  
 Progress  
 Project Summary  
 Summary  
 Rolled Up Milestone  
 Deadline

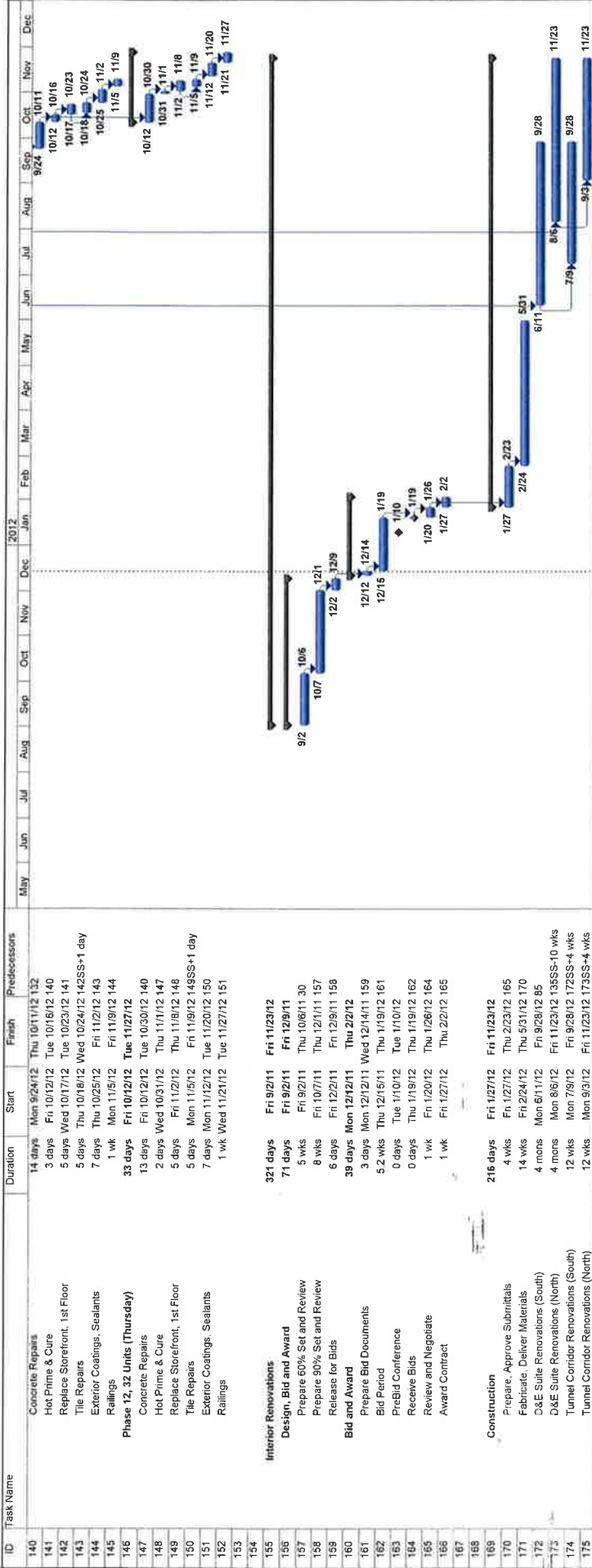
ECN Tekon en Bouwadviesburo 00 297 730 4455  
 ecnaba@yahoo.com

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# ATTACHMENT A

## LA CABANIA EXTERIOR RENOVATION PLANNING

La Cabana Beach & Raquet Club  
 Exterior Work  
 December 2011 Update



Project: LCBRC Exterior Renovations  
 Date: Wed 12/14/11

Task Progress Summary

Milestone Summary

Roll Up Task Summary

Roll Up Progress Summary

External Tasks Summary

Group By Summary

Deadline

ECN Tekon en Bouwadviesburo  
 00 297 730 4455  
 ecnuba@yahoo.com

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# DRAFT AIA® Document A101™ - 1997

## Standard Form of Agreement Between Owner and Contractor where the basis of payment is a STIPULATED SUM

**AGREEMENT** made as of the \_\_\_th day of JANUARY in the year of  
Two Thousand Twelve 2012  
(In words, indicate day, month and year)

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

**Cooperative Association La Cabana Beach & Racquet Club**  
J. E. Yrausquin Blvd 250  
P. O. Box 4273  
Oranjestad, Aruba, Carribean  
Telephone Number: 297-520-1100  
Fax Number: 297-587-0848

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

The Project is:  
(Name and location)

**La Cabana Beach & Racquet Club**  
**E Suites and Internal Corridor Renovations**  
J.E. Yrausquin Blvd. 250  
P. O. Box 4273  
Oranjestad, Aruba, Carribean  
Phone (297)520-1100

The Architect is:  
(Name, address and other information)

**Robert M. Coleman & Partners Architects**  
3377 North Boulevard  
Baton Rouge, LA 70806  
Telephone Number: 225-387-4414  
Fax Number: 225-387-4693

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.

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

AIA Document A201-1997, 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.

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



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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, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement and Modifications issued after execution of this Agreement; these 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 Modifications, appears in Article 8.

**ARTICLE 2 THE WORK OF THIS CONTRACT**

The Contractor shall fully execute the Work described in the Contract Documents, except to the extent 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 the date of this Agreement unless a different date is stated below or provision is made for the date to be fixed in a notice to proceed issued by the Owner.  
*The date of Commencement shall be August 23, 2010 and will be fixed in a Notice to Proceed*

[Redacted]

If, prior to the commencement of the Work, the Owner requires time to file mortgages, mechanic's liens and other security interests, the Owner's time requirement shall be as follows:

[Redacted]

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

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

The Contractor shall achieve Substantial Completion of the Work by December 30, 2011, in accordance with Exhibit B – Project Milestone Schedule.

, subject to adjustments of this Contract Time as provided in the Contract Documents.  
*(Insert provisions, if any, for liquidated damages relating to failure to complete on time or for bonus payments for early completion of the Work.)*

For each consecutive calendar day in which a phase of the work is not complete, beginning with the first day beyond the substantial completion time, the Contractor agrees to pay as liquidated damages the sum of Two Hundred Dollars (\$200.00) for each day the work is not completed and turned over to the Association, unless such delay is due to circumstances for which the Contractor cannot be held responsible (such as, but not limited to, worldwide shortage of materials, earthquake, hurricane, war, hostility, strike or any other event of force majeure and provided that Contractor has made a timely claim for additional time in accordance with paragraph 4.3.7.1 of the General Conditions AIA A201-1997 based on such event of force majeure.

**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 \_\_\_\_\_ (\$ \_\_\_\_\_), subject to additions and deductions as provided in the Contract Documents.

**§ 4.2** The Contract Sum is based upon the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the Owner:

(State the numbers or other identification of accepted alternates. If decisions on other alternates are to be made by the Owner subsequent to the execution of this Agreement, attach a schedule of such other alternates showing the amount for each and the date when that amount expires)

§ 4.3 Unit prices, if any, are as follows: None

Description	Units	Price (\$ 0.00)
-------------	-------	-----------------

## ARTICLE 5 PAYMENTS

### § 5.1 PROGRESS PAYMENTS

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

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

The Contractor may submit Applications for Payment biweekly, for the work of the previous biweekly period.

§ 5.1.3 Provided that an Application for Payment is received by the Architect and Construction Manager not later than the first day of a biweekly period, the Owner shall make payment to the Contractor not later than fifteen days after the receipt of the Application for Payment. If an Application for Payment is received by the Architect and Construction Manager after the application dates fixed above, payment shall be made by the Owner not later than fifteen days after the Architect and Construction Manager receive 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 Architect and Construction Manager may require. This schedule, unless objected to by the Architect and Construction Manager, shall be used as a basis for reviewing the Contractor's Applications for Payment.

§ 5.1.5 Applications for Payment shall indicate the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

§ 5.1.6 Subject to other provisions of the Contract Documents, the amount of each progress payment except the initial mobilization payment, shall be computed as follows:

- .1 Take that portion of the Contract Sum properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the Contract Sum allocated to that portion of the Work in the schedule of values, less retainage of Three and one-half percent (3.50%). Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute shall be included as provided in Section 7.3.8 of AIA Document A201-1997;
- .2 Add that portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction (or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing), less retainage of Three and one-half percent (3.50%);
- .3 Subtract the aggregate of previous payments made by the Owner; and
- .4 Subtract amounts, if any, for which the Architect and Construction Manager have withheld or nullified a Certificate for Payment as provided in Section 9.5 of AIA Document A201-1997.

**§ 5.1.7** The progress payment amount determined in accordance with Section 5.1.6 shall be further modified under the following circumstances:

- .1 Add, upon Substantial Completion of the Work, a sum sufficient to increase the total payments to the full amount of the Contract Sum, less such amounts as the Architect and Construction Manager shall determine for incomplete Work, retainage applicable to such work and unsettled claims; and  
*(Section 9.8.5 of AIA Document A201-1997 requires release of applicable retainage upon Substantial Completion of Work with consent of surety, if any.)*
- .2 Add, if final completion of the Work is thereafter materially delayed through no fault of the Contractor, any additional amounts payable in accordance with Section 9.10.3 of AIA Document A201-1997.

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

*(If it is intended, prior to Substantial Completion of the entire Work, to reduce or limit the retainage resulting from the percentages inserted in Sections 5.1.6.1 and 5.1.6.2 above, and this is not explained elsewhere in the Contract Documents, insert here provisions for such reduction or limitation.)*

For all portions of the work, retainage shall be ten percent (10%) of the completed work. Retainage will be released 30 days after FINAL Completion of the Work, provided an Application for Payment and all required close out documents have been received.

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

## **§ 5.2 FINAL PAYMENT**

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

- .1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Section 12.2.2 of AIA Document A201-1997, and to satisfy other requirements, if any, which extend beyond final payment; and
- .2 a final Certificate for Payment has been issued by the Architect and Construction Manager.

**§ 5.2.2** The Owner's final payment to the Contractor shall be made no later than 30 days after the issuance of the Architect's and Construction Manager's final Certificate for Payment, or as follows:

According to the provisions of paragraph 5.1.8 above

## **ARTICLE 6 TERMINATION OR SUSPENSION**

**§ 6.1** The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A201-1997.

**§ 6.2** The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201-1997.

## **ARTICLE 7 MISCELLANEOUS PROVISIONS**

**§ 7.1** Where reference is made in this Agreement to a provision of AIA Document A201-1997 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

**§ 7.2** Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

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

Six percent (6.00 %) per annum

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

**§ 7.3** The Owner's representative is:  
(Name, address and other information)

William P. Mosconi, President  
Cooperative Association La Cabana Beach & Racquet Club  
J. E. Yrausquin Blvd 250  
P. O. Box 4273  
Oranjestad, Aruba, Carribean

**§ 7.4** The Contractor's representative is:  
(Name, address and other information)

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

**§ 7.6** Other provisions:

**§ 7.6.1** The Contractor and all of his Subcontractors shall be clothed in a uniform manner at any time they are on the project site in such a manner that construction personnel are easily distinguished from resort personnel and resort guests.

## ARTICLE 8 ENUMERATION OF CONTRACT DOCUMENTS

**§ 8.1** The Contract Documents, except for Modifications issued after execution of this Agreement, are enumerated as follows:

**§ 8.1.1** The Agreement is this executed 1997 edition of the Standard Form of Agreement Between Owner and Contractor, AIA Document A101-1997.

**§ 8.1.2** The General Conditions are the 1997 edition of the General Conditions of the Contract for Construction, AIA Document A201-1997.

**§ 8.1.3** The Supplementary and other Conditions of the Contract are those contained in the Project Manual dated July 6, 2011, and are as follows: None

Document	Title	Pages

**§ 8.1.4** The Specifications are those contained in the Project Manual dated as in Section 8.1.3, and are as follows:  
(Either list the Specifications here or refer to an exhibit attached to this Agreement.)

As described in Exhibit A

**§ 8.1.5** The Drawings are as follows, and are dated \_\_\_\_\_ unless a different date is shown below:  
(Either list the Drawings here or refer to an exhibit attached to this Agreement.) as described in Exhibit A.

**§ 8.1.6** The Addenda, if any, are as follows:

Number	Date	Pages

Portions of Addenda relating to bidding requirements are not part of the Contract Documents unless the bidding requirements are also enumerated in this Article 8.

**§ 8.1.7** Other documents, if any, forming part of the Contract Documents are as follows:

*(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201-1997 provides that bidding requirements such as advertisement or invitation to bid, Instructions to Bidders, sample forms and the Contractor's bid are not part of the Contract Documents unless enumerated in this Agreement. They should be listed here only if intended to be part of the Contract Documents.)*

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

Cooperative Association La Cabana Beach & Racquet Club

\_\_\_\_\_  
**OWNER** *(Signature)*

William P. Mosconi, Board President  
*(Printed name and title)*

\_\_\_\_\_  
**CONTRACTOR** *(Signature)*

\_\_\_\_\_  
*(Printed name and title)*

**EXHIBIT 'A' – LIST OF CONTRACT DOCUMENTS**

A. **Contract Drawings:** All Drawings listed are specifically incorporated herein by this reference.

**Architectural:**

- A1.0 - Cover/Index/Site
- A2.1 - Overall Plans - Floors 1 and 2
- A2.2 - Overall Plans - Floors 3 and 4
- A2.3 - Roof Plan
- A3.1 - 'E' Unit Plans (Demo/New/Ceiling) - Floor 1
- A3.2 - 'E' Unit Plans (Demo/New/Ceiling) - Floor 2
- A3.3 - 'E' Unit Plans (Demo/New/Ceiling) - Floor 3
- A3.4 - 'E' Unit Plans (Demo/New/Ceiling) - Floor 4
- A4.1 - Corridor/Demolition Plan (Typical Floor)
- A4.2 - Corridor/Floor Plans/Elevations (Typical Floor)
- A4.3 - Corridor/Ceiling Plan (Typical Floor)
- A10.1 - Interior Elevations ('E' Units)
- A10.2 - Interior Elevations ('E' Units)
- A10.3 - Details
- A12.1 - Schedules
- A12.2 - 'E' Unit Finish Plans
- A12.3 - Corridor Finish Plans
- A13.1 - Furniture Plans ('E' Units)

**Mechanical:**

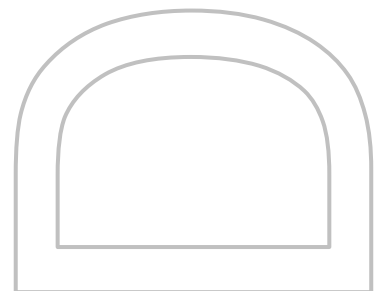
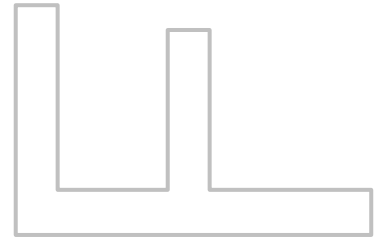
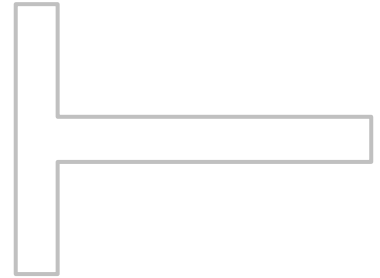
- M0.1 - Mechanical Legends
- M2.1 - Overall Floor Plans Mechanical (Floors 1 and 2)
- M2.2 - Overall Floor Plans Mechanical (Floors 3 and 4)
- M2.3 - Roof Plan Mechanical
- M3.1 - 'E' Unit Mechanical Plans
- M3.2 - Corridor Mechanical Plans
- M8.1 - Mechanical Schedules

**Electrical:**

- E0.1 - Electrical Legends
- E0.2 - Electrical Schedules and Specifications
- E2.1 - Overall Floor Plans Electrical (Floors 1 and 2)
- E2.2 - Overall Floor Plans Electrical (Floors 3 and 4)
- E2.3 - Roof Plan Electrical
- E3.1 - 'E' Unit Electrical Plans
- E3.2 - Corridor Electrical Plans

**Plumbing:**

- P0.1 - Plumbing Legends
- P2.1 - Overall Floor Plans Plumbing (Floors 1 and 2)
- P2.2 - Overall Floor Plans Plumbing (Floors 3 and 4)
- P3.1 - 'E' Unit Plumbing Plans





B. **Contract Specifications:** All specifications provided on the Contract Drawings.

**PROJECT MANUAL**

**DIVISION 1 GENERAL REQUIREMENTS**

01731 Cutting and Patching  
01732 Selective Demolition

**DIVISION 6 – WOOD AND PLASTIC**

06402 Interior Architectural Woodwork

**DIVISION 7 – THERMAL AND MOISTURE PROTECTION**

07900 Joint Sealants

**DIVISION 8 OPENINGS**

08211 Flush Wood Doors  
08320 Sliding Doors (Interior Barn Door)  
08710 Door Hardware

**DIVISION 9 FINISHES**

09250 Gypsum Board Assemblies  
09310 Tiling  
09651 Resilient Wall Base and Accessories  
09900 Painting

**DIVISION 10 SPECIALTIES**

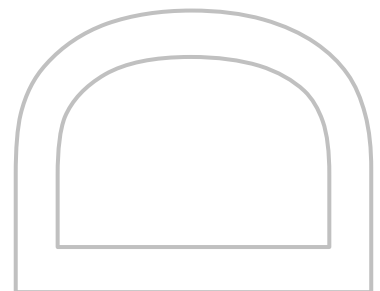
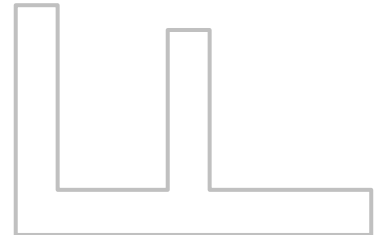
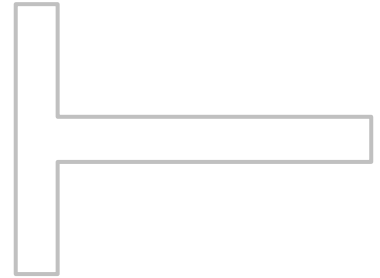
10800 Toilet and Bath Accessories

**DIVISION 11 EQUIPMENT**

11452 Residential Appliances

**DIVISION 12 FURNISHINGS**

12356 Kitchen Casework  
12364 Stone Countertops





**EXHIBIT 'A' – LIST OF CONTRACT DOCUMENTS - Continued**

- C. This, Exhibit 'A', List of Contract Documents,
- D. Exhibit 'B' Project Milestone Schedule
- E. Exhibit 'C' Owner's Insurance Requirements
- F. Exhibit 'D' Recap of Contract Sum
- G. Exhibit 'E' Pending Alternates
- H. Exhibit 'F' Unit Price Schedule: Not Used
- I. Exhibit 'G' - Allowances
- J. General Conditions of the Contract for Construction, AIA Document 201-2007 edition
- K. Partial Waiver of Claim (form), 1 page
- L. Final Waiver of Claim (form)
- M. Certificate of Substantial Completion (form)
- N. Addenda, listed as follows:
  - Addendum Number 1, dated \_\_\_\_\_
  - Addendum Number 2, dated \_\_\_\_\_
  - Addendum Number 3, dated \_\_\_\_\_
  - Addendum Number 4, dated \_\_\_\_\_

**END EXHIBIT 'A' – LIST OF CONTRACT DOCUMENTS**

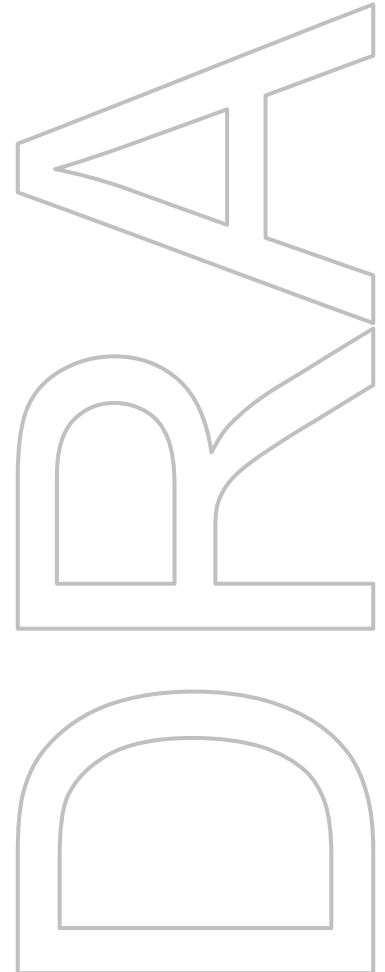
**EXHIBIT 'B'**

**PROJECT MILESTONE SCHEDULE**  
*La Cabana Beach & Racquet Club*  
*E Suites & Internal Corridor Renovations*

The Contractor agrees to commence and complete the Work in strict accordance with the Project Milestone Schedule for performance of the work, as provided below:

1. Award of Contract..... February 2, 2012
2. Begin Work on Site ..... June 11, 2012
3. Project Substantial Completion..... November 23, 2012
4. Completion including all Punch-list Items..... December 15, 2012

**END EXHIBIT 'B' – PROJECT MILESTONE SCHEDULE**



**EXHIBIT 'C'**  
**OWNER'S INSURANCE REQUIREMENTS**

Before starting the Work, Contractor shall furnish a Certificate of Insurance to Owner's home office. All policies are to be written through a company duly authorized to transact that class of insurance in the State where the project is located, and shall be with insurance companies acceptable to Owner with an A. M. Best rating of A- or better.

The Worker's Compensation and Employer's Liability Policies shall contain Waivers of Subrogation in favor of Owner and any other entity as may be required by the Contract Documents.

The Contractor's Certificate shall further provide that insurance will not be canceled or changed prior to the greater of at least thirty (30) days' written notice or the length of time as required by the insurance statute in the state where the project is located, to Owner.

In the event Contractor elects to subcontract any portion of this Subcontract to another subcontractor (herein referred to as Subcontractor), Contractor shall require of such Subcontractor insurance coverage similar to that required of Contractor hereunder and shall furnish to Owner evidence that such insurance coverages are currently in effect. Moreover, Contractor shall require any such Subcontractor to name Owner as additional insureds on Subcontractor's Commercial General Liability insurance and will provide Owner with a waiver of subrogation from such Subcontractor's Worker's Compensation carrier. Contractor shall require its Subcontractor to obtain Form No. A1-1175 or its equivalent from its Commercial General Liability Insurance carrier. The endorsements shall be furnished to Owner as a condition precedent to Contractor's right to be paid for any Work performed by said Subcontractor. Failure of Contractor to require Subcontractor to obtain the coverages required herein and to furnish Owner evidence of such coverage shall be grounds for termination for default hereunder. An Insurance Certificate that does not meet with the Contract requirements or failure on Contractor's part to monitor compliance with the insurance requirements shall not constitute a waiver of the Contractual requirements.

Contractor shall carry and maintain **Commercial General Liability Insurance (CGL)** with limits of insurance of not less than \$1,000,000 each occurrence and \$2,000,000 General Aggregate Limit applying separately to each project.

CGL policy shall provide coverage for liability arising from premises, operations, independent contractors, products-completed operations, and personal and advertising injury.

*La Cabana Beach and Racquet Club, BXG Construction, LLC, Bluegreen Corporation and Bluegreen Vacations Unlimited, Inc.* shall be included as additional insured under form CG 20 10 1185, and shall apply as Primary Insurance before any other insurance or self-insurance, including any deductible.

Contractor shall maintain CGL coverage for itself and all additional insureds for the duration of the project and maintain Completed Operations coverage for itself and each additional insured for at least 3 years after completion of the work.

Contractor shall carry and maintain **Automobile Liability Insurance** with limits of at least \$1,000,000 each accident, including any other automobile coverage's as required by state, naming *La Cabana Beach and Racquet Club, BXG Construction, LLC, Bluegreen Corporation and Bluegreen Vacations Unlimited, Inc.* as additional insured. The coverage must include coverage for liability arising out of all owned, leased, hired and non-owned automobiles.

Contractor shall carry and maintain **Workers Compensation** at Statutory Limits, and **Employers Liability** coverage of at least \$500,000 each accident for bodily injury by accident and \$500,000 each employee for injury by disease.

Contractor shall carry and maintain **Umbrella** limits of at least \$1,000,000 and include *La Cabana Beach and Racquet Club, BXG Construction, LLC, Bluegreen Corporation and Bluegreen Vacations Unlimited, Inc.* as additional insured. Umbrella coverage for additional insureds shall apply as primary before any other insurance or self-insurance, including any deductible, maintained by, or provided to, the additional insured other than the CGL, Auto Liability and Employers Liability coverages maintained by the contractor.

**Evidence of insurance** shall be provided in the form of a certificate of insurance, noting that the contractor's insurance shall apply as primary, listing *La Cabana Beach and Racquet Club, BXG Construction, LLC, Bluegreen Corporation and Bluegreen Vacations Unlimited, Inc.* as additional insureds, and attaching copy of additional insured endorsement.

The Owner shall provide "All Risk" insurance coverage as required by the Contract Documents: Contractor shall be named as an additional insured. Said policy will contain a \$100,000 deductible provision. The Contractor shall be responsible for payment of said deductible for any loss.

**END OF EXHIBIT 'C' – OWNER'S INSURANCE REQUIREMENTS**

**EXHIBIT 'D'**  
**RECAP OF CONTRACT SUM**

The Contract Sum is based on the Contractor's Proposed Lump Sum Fixed Price for the Base Bid – Quotation of

\$ \_\_\_\_\_

**END EXHIBIT 'D' – RECAP OF CONTRACT SUM**



**EXHIBIT 'E' – PENDING ALTERNATES**

THERE ARE NO PENDING ALTERNATES

**END EXHIBIT 'E' – PENDING ALTERNATES**











**EXHIBIT 'G'  
ALLOWANCES**

**END EXHIBIT 'G' - ALLOWANCES**



# DRAFT AIA® Document A201™ – 2007

## General Conditions of the Contract for Construction

### for the following PROJECT:

**La Cabana Beach & Racquet Club  
E Suites & Internal Corridor Renovations**  
J.E. Yrausquin Blvd. 250  
P. O. Box 4273  
Oranjestad, Aruba, Caribbean  
Phone (297)520-1100

### THE OWNER:

Cooperative Association Casa Grande Resort I,  
d.b.a. La Cabana Beach and Racquet Club  
J. E. Yrausquin Blvd 250  
P. O. Box 4273  
Oranjestad, Aruba, Caribbean

### THE ARCHITECT:

Robert M. Coleman & Partners Architects  
3377 North Boulevard  
Baton Rouge, LA 70806

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

### 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.

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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, (3) a Construction Change Directive or (4) a written order for a minor change in the Work issued by the Architect. Unless specifically enumerated in the Agreement, the Contract Documents do not include the advertisement or invitation to bid, Instructions to Bidders, sample forms, other information furnished by the Owner in anticipation of receiving bids or proposals, the Contractor's bid or proposal, or portions of Addenda relating to bidding requirements.

#### **§ 1.1.2 THE CONTRACT**

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

#### **§ 1.1.3 THE WORK**

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

#### **§ 1.1.4 THE PROJECT**

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

#### **§ 1.1.5 THE DRAWINGS**

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

#### **§ 1.1.6 THE SPECIFICATIONS**

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

#### **§ 1.1.7 INSTRUMENTS OF SERVICE**

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

#### **§ 1.1.8 INITIAL DECISION MAKER**

The Initial Decision Maker is the person identified in the Agreement to render initial decisions on Claims in accordance with Section 15.2 and certify termination of the Agreement under Section 14.2.2.

### **§ 1.2 CORRELATION AND INTENT OF THE CONTRACT DOCUMENTS**

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

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

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

### **§ 1.3 CAPITALIZATION**

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

### **§ 1.4 INTERPRETATION**

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

### **§ 1.5 OWNERSHIP AND USE OF DRAWINGS, SPECIFICATIONS AND OTHER INSTRUMENTS OF SERVICE**

**§ 1.5.1** The Architect, Owner and/or the Architect’s consultants shall be deemed the authors and owners of the Instruments of Service, including the Drawings and Specifications, and will retain all common law, statutory and other reserved rights, including copyrights. The Contractor, Subcontractors, Sub-subcontractors, and material or equipment 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 this Project is not to be construed as publication in derogation of the Architect’s or Architect’s consultants’ reserved rights.

**§ 1.5.2** The Contractor, Subcontractors, Sub-subcontractors and material or equipment suppliers are authorized to use and reproduce the Instruments of Service provided to them solely and exclusively for execution of the Work. All copies made under this authorization shall bear the copyright notice, if any, shown on the Instruments of Service. The Contractor, Subcontractors, Sub-subcontractors, and material or equipment suppliers may not use the Instruments of Service on other projects or for additions to this Project outside the scope of the Work without the specific written consent of the Owner, Architect and the Architect’s consultants.

**§ 1.5.3** To the extent Contractor generates any documents (including without limitation shop drawings, schedules, etc.) for the Project (“Contractor Instruments”), such Contractor Instruments will be deemed a “work for hire” product and Owner shall be deemed the owner of such Contractor Instruments and shall have the right to use the Contractor Instruments on the Project, including without limitation completion of the Project if this Contract is terminated for any reason. To the extent it is later determined that any Contractor Instruments are not a “work for hire” product, the parties agree to treat any Contractor Instruments as if they are a “work for hire” product. Contractor agrees to take any action necessary to transfer any and all intellectual property rights it may have with respect to any Contractor Instruments to Owner. Contractor further represents and warrants that the use of any such Contractor Instruments does not infringe upon the intellectual property rights of any third party and Contractor agrees to indemnify, defend and hold harmless the Owner, Architect, Architect’s consultants and their members, officers, agents and employees from any and all liabilities, claims, damages, penalties, demands, judgments, actions, proceedings, losses or costs, including but not limited to reasonable attorneys’ fees and paralegals’ fees, arising out of or resulting from the use of any Contractor Instruments. The terms of this Section 1.5 shall survive the termination of this Contract.

### **§ 1.6 TRANSMISSION OF DATA IN DIGITAL FORM**

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.

## **ARTICLE 2 OWNER**

### **§ 2.1 GENERAL**

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

§ 2.1.2 The Owner shall record a notice of commencement in accordance with applicable laws for the State where the Project is located.

## § 2.2 INFORMATION AND SERVICES REQUIRED OF THE OWNER

§ 2.2.1 Prior to commencement of the Work, the Contractor may request in writing that the Owner provide reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. Thereafter, the Contractor may not request such evidence.

§ 2.2.2 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.

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

§ 2.2.4 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.

§ 2.2.5 The Contractor will be provided one (1) reproducible copy of the Contract Drawings and Specifications for execution of the Work. Contractor shall be responsible for making any copies it requires for its performance of the Work.

## § 2.3 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.

## § 2.4 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 five (5) day period after receipt of written notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such deficiencies. In such case an appropriate Change Order shall be issued deducting from payments then or thereafter due the Contractor the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Architect's additional services made necessary by such default, neglect or failure. If payments then or thereafter due the Contractor are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner.

## ARTICLE 3 CONTRACTOR

### § 3.1 GENERAL

§ 3.1.1 The Contractor is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The 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 obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Architect in the Architect's administration of the Contract, or by tests, inspections or approvals required or performed by persons or entities other than the Contractor.

### **§ 3.2 REVIEW OF CONTRACT DOCUMENTS AND FIELD CONDITIONS BY CONTRACTOR**

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

**§ 3.2.2** Because the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 2.2.3, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating 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 Owner and Architect any errors, inconsistencies or omissions discovered by or made known to the Contractor as a request for information in such form as the Owner and Architect may require. It is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional, unless otherwise specifically provided in the Contract Documents.

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

**§ 3.2.4** If the Contractor believes that additional cost or time is involved because of clarifications or instructions the Owner and Architect issues in response to the Contractor's notices or requests for information pursuant to Sections 3.2.2 or 3.2.3, the Contractor shall make 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 as would have been avoided if the Contractor had performed such obligations. If the Contractor performs those obligations, the Contractor shall not be liable to the Owner or Architect for damages resulting from errors, inconsistencies or omissions in the Contract Documents, for differences between field measurements or conditions and the Contract Documents, or for nonconformities of the Contract Documents to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, unless the Contractor recognized or through the exercise of reasonable care should have recognized such error, inconsistency, omission, difference or nonconformity and knowingly failed to report it to the Owner and Architect.

### **§ 3.3 SUPERVISION AND CONSTRUCTION PROCEDURES**

**§ 3.3.1** The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for, and have control over, construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Work under the Contract.

**§ 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 authorized by the Architect in accordance with Sections 3.12.8 or 7.4, the Contractor may make substitutions only with the consent of the Owner, after evaluation by the Architect and in accordance with a Change Order or Construction Change Directive.

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

### **§ 3.5 WARRANTY**

The Contractor warrants to the Owner and Architect that materials and equipment furnished under the Contract will be of good quality and new unless the Contract Documents require or permit otherwise. The Contractor further warrants that the Work will conform to the requirements of the Contract Documents and will be free from defects, except for those inherent in the quality of the Work the Contract Documents require or permit. Work, materials, or equipment not conforming to these requirements may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Owner and Architect, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment. This warranty is in addition to any and all other warranties, expressed or implied, extended by Contractor pursuant to the provisions of the Contract Documents or applicable law.

### **§ 3.6 TAXES**

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

### **§ 3.7 PERMITS, FEES, NOTICES AND COMPLIANCE WITH LAWS**

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

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

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

**§ 3.7.4 Concealed or Unknown Conditions.** If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature, that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner and the Architect before conditions are disturbed and in no event later than 14 days after first observance of the conditions. The Architect will promptly investigate such conditions and, if the Architect determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend an equitable adjustment in the Contract Sum or Contract Time, or both. If the Architect determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall promptly notify the Owner and Contractor in writing, stating the reasons. If either party disputes the Architect's determination or recommendation, that party may proceed as provided in Article 15.

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

**§ 3.7.6** Copies of any and all permits, licenses and certifications shall be delivered to the Architect and Owner as soon as they are obtained. Along with the request for final payment, the Contractor shall deliver the originals of such permits, licenses and certificates to the Architect.

### **§ 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, in writing, but the Contractor shall not be required to employ persons or entities to whom the Contractor has reasonable objection. The Contractor shall not proceed with any allowance work without prior written authorization from Owner or Architect.

**§ 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 furnish in writing to the Owner through the Architect the name and qualifications of a proposed superintendent. The Architect may reply within 14 days to the Contractor in writing stating (1) whether the Owner or the Architect has reasonable objection to the proposed superintendent or (2) that the Architect requires additional time to review. Failure of the Architect to reply within the 14 day period shall constitute notice of no reasonable objection.

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

**§ 3.9.4** Attached hereto as Exhibit "F" is a listing of Contractor's senior staff who will be assigned to the Project, including their position and what percentage of their time will be spent working on the Project. So long as such personnel remain employed by Contractor, none of the senior staff identified in Exhibit "F" shall be removed by Contractor from the Project or their participation percentage decreased without Owner's prior written approval (such approval not to be unreasonably withheld), and if so removed or are no longer employed by Contractor shall be immediately replaced with a person reasonably acceptable to Owner. Contractor further agrees, within fourteen (14) calendar days of receipt of a written request from Owner, to promptly remove and replace any personnel employed or retained by Contractor or any of its Subcontractors, whom Owner shall reasonably request in writing be removed. Contractor shall not increase the staffing level reflected in attached Exhibit "F" without first receiving Owner's written approval, said approval not to be unreasonably withheld.

### **§ 3.10 CONTRACTOR'S CONSTRUCTION SCHEDULES**

**§ 3.10.1** Attached to the Agreement as Exhibit "A" is the Contractor's initial construction schedule for the Work. The schedule shall not exceed time limits current under the Contract Documents, shall be revised at appropriate intervals as required by the conditions of the Work and Project, shall be related to the entire Project to the extent required by the Contract Documents, and shall provide for expeditious and practicable execution of the Work. The Contractor's construction schedule shall be updated at least monthly. A copy of the monthly update must be submitted with each monthly Application for Payment. Receipt by Owner and Architect of the Contractor's monthly schedule update is a condition precedent to Owner's obligation to make any progress payment hereunder.



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

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

### **§ 3.11 DOCUMENTS AND SAMPLES AT THE SITE**

The Contractor shall maintain at the site for the Owner one copy of the Drawings, Specifications, Addenda, Change Orders and other Modifications, in good order and marked currently to indicate field changes and selections made during construction, and one copy of approved Shop Drawings, Product Data, Samples and similar required submittals. These shall be available to the Owner and Architect and shall be delivered to the Architect for submittal to the Owner upon completion of the Work as a record of the Work as constructed.

### **§ 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 the way by which 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 Architect is subject to the limitations of Section 4.2.7. Informational submittals upon which the Architect is not expected to take responsive action may be so identified in the Contract Documents. Submittals that are not required by the Contract Documents may be returned by the Architect without action.

**§ 3.12.5** The Contractor shall review for compliance with the Contract Documents, approve and submit to the Architect Shop Drawings, Product Data, Samples and similar submittals required by the Contract Documents in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Owner or of separate contractors. Submittals which are not marked as reviewed for compliance with the Contract Documents and approved by the Contractor may be returned by the Architect without action.

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

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

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

authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples or similar submittals by the Architect's approval thereof.

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

**§ 3.12.10** The Contractor shall not be required to provide professional services that constitute the practice of architecture or engineering unless such services are specifically required by the Contract Documents for a portion of the Work or unless the Contractor needs to provide such services in order to carry out the Contractor's responsibilities for construction means, methods, techniques, sequences and procedures. The Contractor shall not be required to provide professional services in violation of applicable law. If professional design services or certifications by a design professional related to systems, materials or equipment are specifically required of the Contractor by the Contract Documents, the Owner and the Architect will specify all performance and design criteria that such services must satisfy. The Contractor shall cause such services or certifications to be provided by a properly licensed design professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings and other submittals prepared by such professional. Shop Drawings and other submittals related to the Work designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to the Architect. The Owner and the Architect shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications and approvals performed or provided by such design professionals, provided the Owner and Architect have specified to the Contractor all performance and design criteria that such services must satisfy. Pursuant to this Section 3.12.10, the Architect will review, approve or take other appropriate action on submittals only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Contractor shall not be responsible for the adequacy of the performance and design criteria specified in the Contract Documents.

### **§ 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, and 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 and patching shall be restored to the condition existing prior to the cutting, fitting and 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 such construction by the Owner or a separate contractor except with written consent of the Owner and of such separate contractor; such consent shall not be unreasonably withheld. The Contractor shall not unreasonably withhold from the Owner or a separate contractor the Contractor's consent to cutting or otherwise altering the Work.

### **§ 3.15 CLEANING UP**

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

**§ 3.15.2** If the Contractor fails to clean up as provided in the Contract Documents, the Owner may do so and Owner shall be entitled to offset such amounts against any amounts owed Contractor or if the balance of such amounts owed is insufficient to cover the costs incurred by Owner, Owner shall be entitled to reimbursement from the Contractor for the difference and Contractor agrees to pay such difference to the Owner within 15 days of Owner's written demand.

### **§ 3.16 ACCESS TO WORK**

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

### **§ 3.17 ROYALTIES, PATENTS AND COPYRIGHTS**

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

### **§ 3.18 INDEMNIFICATION**

**§ 3.18.1** To the fullest extent permitted by law the Contractor shall indemnify and hold harmless the Owner, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorneys' fees and paralegals' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described in this Section 3.18.

**§ 3.18.2** In claims against any person or entity indemnified under this Section 3.18 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under Section 3.18.1 shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the Contractor or a Subcontractor under workers' compensation acts, disability benefit acts or other employee benefit acts.

**§ 3.18.3** The duty to defend stated in this Paragraph 3.18 (or elsewhere within the Contract Documents) is independent and separate from the duty to indemnify, and the duty to defend exists regardless of any ultimate liability of Contractor, Owner and any indemnified party. The duty to defend arises immediately upon presentation of a claim by any party and written notice of such claim being provided to Contractor. Contractor's obligation to indemnify and defend under this Paragraph 3.18 will survive the expiration or earlier termination of this Agreement until it is determined by final judgment that an action against the Owner or an indemnified party for the matter indemnified hereunder is fully and finally barred by the applicable statute of limitations.

## **ARTICLE 4 ARCHITECT**

### **§ 4.1 GENERAL**

**§ 4.1.1** The Owner shall retain an architect lawfully licensed to practice architecture or an entity lawfully practicing architecture in the jurisdiction where the Project is located. That person or entity is identified as the Architect in the Agreement and is referred to throughout the Contract Documents as if singular in number.

**§ 4.1.2** As noted in the Agreement, with respect to the construction administration services to be provided under this Contract by Architect, such services may be provided by the Architect, Owner's representative, or some other person or entity designated in writing by the Owner.

### **§ 4.2 ADMINISTRATION OF THE CONTRACT**

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

**§ 4.2.2** The Architect will visit the site at intervals appropriate to the stage of construction, or as otherwise agreed with the Owner, to become generally familiar with the progress and quality of the portion of the Work completed,

and to determine in general if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Architect will not have control over, charge of, or responsibility for, the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents.

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

#### **§ 4.2.4 COMMUNICATIONS FACILITATING CONTRACT ADMINISTRATION**

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

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

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

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

**§ 4.2.8** The Architect will prepare Change Orders and Construction Change Directives, and may authorize minor changes in the Work as provided in Section 7.4. The Architect will investigate and make determinations and recommendations regarding concealed and unknown conditions as provided in Section 3.7.4.

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



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

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

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

**§ 4.2.13** The Architect's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents and approved by Owner in writing.

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

## **ARTICLE 5 SUBCONTRACTORS**

### **§ 5.1 DEFINITIONS**

**§ 5.1.1** A Subcontractor is a person or entity who has a direct contract with the Contractor to perform a portion of the Work at the site. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor. The term "Subcontractor" does not include a separate contractor or 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 or the bidding requirements, the Contractor, as soon as practicable after award of the Contract, shall furnish in writing to the Owner through the Architect the names of persons or entities (including those who are to furnish materials or equipment fabricated to a special design) proposed for each principal portion of the Work. The Architect will promptly reply to the Contractor in writing stating (1) whether the Owner or the Architect has reasonable objection to any such proposed person or entity or (2) that the Architect requires additional time for review. Failure of the Owner or Architect to reply promptly shall constitute notice of no reasonable objection.

**§ 5.2.2** The Contractor shall not contract with a proposed person or entity to whom the Owner or Architect has made reasonable and timely objection. The Owner may designate specific persons from whom, or entities from which, the Contractor shall obtain bids. The Contractor shall obtain bids from Subcontractors and from suppliers of materials or equipment fabricated especially for the Work and shall deliver such bids to the Architect. The Owner shall then determine, with the advice of the Contractor and the Architect, which bids will be accepted. As required by the Owner or Architect, all Subcontractors must be prequalified and reviewed and accepted by the Owner and Architect prior to any such Subcontractor being requested to submit a bid on any portion of the Work. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.

**§ 5.2.3** If the Owner or Architect has reasonable objection to a person or entity proposed by the Contractor and that person or entity has submitted a bid that conforms to the requirements of the Contract Documents without reservations or exceptions, the Contractor shall propose another to whom the Owner or Architect has no reasonable objection. If the proposed but rejected Subcontractor was reasonably capable of performing the Work, the Contract Sum and Contract Time shall be increased or decreased by the difference, if any, occasioned by such change, and an appropriate Change Order shall be issued before commencement of the substitute Subcontractor's Work. However,

no increase in the Contract Sum or Contract Time shall be allowed for such change unless the Contractor has acted promptly and responsively in submitting names as required.

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

**§ 5.2.5** All subcontracts shall (1) provide that Owner will be an additional indemnified party of the subcontract to the same extent Contractor is indemnified by the Subcontractor, (2) provide that Owner will be an additional insured on all insurance policies required to be provided by the Subcontractor except workmans' compensation, (3) require Owner to be identified as an additional obligee on all bonds, if any, provided by the Subcontractor, and (4) identify Owner as an intended third-party beneficiary of the subcontract.

### **§ 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, which the Contractor, by these Documents, assumes toward the Owner and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights. 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. 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 or convenience pursuant to Section 14.4 and only for those subcontract agreements that the Owner accepts by notifying the Subcontractor and Contractor in writing; and
- .2 assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

When the Owner accepts the assignment of a subcontract agreement, the Owner assumes the Contractor's rights and obligations under the subcontract that arise after the date of such assignment and assumption. Further, all subcontracts between the Contractor and Subcontractor shall include specific terms providing that, in case of such assignment, cost and/or liabilities incurred by the Subcontractor prior to said assignment or for additional Work directed by the Contractor without written consent of the Owner, shall remain as issues solely between the Contractor and Subcontractor, with Owner having no liability for such items.

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

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

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

**§ 6.1.1** The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and to award separate contracts in connection with other portions of the Project or other construction or operations on the site. If the Contractor claims that delay or additional cost is involved because of such action by the Owner, the Contractor shall make such Claim as provided in Article 15.

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

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

**§ 6.1.4** **To the extent the Contract Documents address items to be incorporated into or used in performance of the Work by Contractor that are to be furnished by Owner and/or purchase orders that have been or are to be assigned to Contractor, Contractor acknowledges that all costs associated with the incorporation or use of such items by Contractor, including but not limited to, accepting delivery thereof, loading, unloading, storage, insurance, transporting to points of use, and caring for such items until final disposition thereof, are included in the Contract Sum. In addition, after execution of the Agreement, Owner may assign to Contractor contracts and/or purchase orders that Owner has entered into with other vendors for materials and equipment related to the Project, that have not theretofore been identified in the Contract Documents, to the extent Contractor agrees to accept such assignment in writing. In such event, the parties shall enter into a Change Order equitably adjusting the Contract Sum to reflect the unpaid value of those contracts and purchase orders along with a mutually agreed upon mark-up to compensate Contractor consistent with the mark-up for Change Orders set forth in the Agreement. Upon acceptance of such assignment and execution of such Change Order, Contractor shall become solely responsible for the performance of such vendors and the items to be provided under those contracts or purchase orders.**

**§ 6.2 MUTUAL RESPONSIBILITY**

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

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

**§ 6.2.3** The 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. Subject to the other terms of the Contract Documents, 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 the Contractor wrongfully causes to completed or partially completed construction or to property of the Owner or separate contractors as provided in Section 10.2.5.

**§ 6.3 OWNER'S RIGHT TO CLEAN UP**

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

**ARTICLE 7 CHANGES IN THE WORK**

**§ 7.1 GENERAL**

**§ 7.1.1** Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order, Construction Change Directive or order for a minor change in the Work, subject to the limitations stated in this Article 7 and elsewhere in the Contract Documents. Notwithstanding anything in the Contract Documents to the contrary, Contractor shall not perform any change to the Work without first receiving a Change Order, Construction Change Directive or written directive from the Owner or Architect ordering a minor change in the Work. If Contractor proceeds with any change to the Work without this written authorization, unless Contractor has filed a written Claim notice prior to starting such work and strictly complies with the Claim procedures thereafter, Contractor will be deemed to have acknowledged and agreed that such work does not constitute a change and Contractor will be deemed to have waived any Claim it might otherwise have had regarding such work. Further, Contractor acknowledges and agrees that no course of dealings between the parties with respect

to the administration of changes or Claims on this Project shall in any manner or way be deemed to waive or limit the requirements set forth under this subparagraph 7.1.1.

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

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

## **§ 7.2 CHANGE ORDERS**

**§ 7.2.1** A Change Order is a written instrument prepared by the Architect and signed by the Owner, Contractor and Architect stating their agreement upon all of the following:

- .1 The change in the Work;
- .2 The amount of the adjustment, if any, in the Contract Sum; and
- .3 The extent of the adjustment, if any, in the Contract Time.

## **§ 7.3 CONSTRUCTION CHANGE DIRECTIVES**

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

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

**§ 7.3.3** If the Construction Change Directive provides for an adjustment to the Contract Sum, the adjustment shall be based on one of the following methods:

- .1 Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
- .2 Unit prices stated in the Contract Documents or subsequently agreed upon;
- .3 Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
- .4 As provided in Section 7.3.7.

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

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

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

**§ 7.3.7** If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Architect shall determine the method and the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount. In such case, and also under Section 7.3.3.3, the Contractor shall keep and present, in such form



as the Architect may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Section 7.3.7 shall be limited to the following:

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

**§ 7.3.8** The amount of credit to be allowed by the Contractor to the Owner for a deletion or change that results in a net decrease in the Contract Sum shall be actual net cost as confirmed by the Architect. When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change.

**§ 7.3.9** Pending final determination of the total cost of a Construction Change Directive to the Owner, the Contractor may request payment for Work completed under the Construction Change Directive in Applications for Payment. The Architect will make an interim determination for purposes of monthly certification for payment for those costs and certify for payment the amount that the Architect determines, in the Architect's professional judgment, to be reasonably justified. The Architect's interim determination of cost shall adjust the Contract Sum on the same basis as a Change Order, subject to the right of either party to disagree and assert a Claim in accordance with Article 15.

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

#### **§ 7.4 MINOR CHANGES IN THE WORK**

The Architect has authority to order minor changes in the Work not involving adjustment in the Contract Sum or extension of the Contract Time and not inconsistent with the intent of the Contract Documents. Such changes will be effected by written order signed by the Architect and shall be binding on the Owner and Contractor.

### **ARTICLE 8 TIME**

#### **§ 8.1 DEFINITIONS**

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

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

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

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

#### **§ 8.2 PROGRESS AND COMPLETION**

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

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

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

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

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

**§ 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. Provided, however, notwithstanding anything in the Contract Documents to the contrary, Contractor expressly acknowledges and agrees that with respect to those delays for which it is entitled to both an increase to the Contract Time and Contract Sum, the increase to the Contract Sum shall be limited to Contractor's actual and direct out of pocket increased field costs, which costs in no event shall exceed \$\_\_\_\_\_ per calendar day; and in no event shall Contractor be entitled to, and Contractor hereby expressly waives, any and all other delay damages, including any claims based upon increased home office expenses or lost business opportunities.

## **ARTICLE 9 PAYMENTS AND COMPLETION**

### **§ 9.1 CONTRACT SUM**

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

### **§ 9.2 SCHEDULE OF VALUES**

Attached to the Agreement as Exhibit "B" is the initial approved schedule of values. The sum of all such schedule of values shall equal the Contract Sum as evidenced by the Agreement. If requested by Owner or Architect, the Contractor shall submit substantiating data for the schedule of values. The current approved and updated form of schedule of values shall be used as a basis for reviewing the Contractor's Applications for Payment, and will accompany and support the Contractor's periodic Applications for Payment and indicate the value of suitable stored material as well as labor performed and materials incorporated into the Work for each subdivision of the Construction Schedule during the period for which the Application for Payment is prepared.

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

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

**§ 9.3.1.1** As provided in Section 7.3.9, such applications may include requests for payment on account of changes in the Work that have been properly authorized by Construction Change Directives, but not yet included in Change Orders.

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

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

**§ 9.3.3** The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the

Owner shall, to the best of the Contractor's knowledge, information and belief, be free and clear of liens, claims, security interests or encumbrances in favor of the Contractor, Subcontractors, material suppliers, or other persons or entities making a claim by reason of having provided labor, materials and equipment relating to the Work.

**§ 9.3.4** As a condition precedent to Owner's obligation to make payment to Contractor hereunder, Contractor shall provide such documentation as Owner may require in order to confirm the proper release of all construction lien rights by Contractor and any potential lienor under Contractor (including, but not limited to, all Subcontractors, Sub-subcontractors, laborers and material suppliers), with respect to each Application for Payment submitted by Contractor.

#### **§ 9.4 CERTIFICATES FOR PAYMENT**

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

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

#### **§ 9.5 DECISIONS TO WITHHOLD CERTIFICATION**

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

- .1 defective Work not remedied;
- .2 third party claims filed or reasonable evidence indicating probable filing of such claims unless security acceptable to the Owner is provided by the Contractor;
- .3 failure of the Contractor to make payments properly to Subcontractors or for labor, materials or equipment;
- .4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
- .5 damage to the Owner or 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 the above reasons for withholding certification are removed, certification will be made for amounts previously withheld.

**§ 9.5.3** If the Architect withholds certification for payment under Section 9.5.1.3, the Owner may, at its sole option, issue joint checks to the Contractor and to any Subcontractor or material or equipment suppliers to whom the Contractor failed to make payment for Work properly performed or material or equipment suitably delivered. If the Owner makes payments by joint check, the Owner shall notify the Architect and the Architect will reflect such payment on the next Certificate for Payment.

## **§ 9.6 PROGRESS PAYMENTS**

**§ 9.6.1** After the Architect has issued a Certificate for Payment, , to the extent Owner has approved the amount certified by the Architect and subject to the terms and conditions of the Contract Documents, the Owner shall make payment in the manner and within the time provided in the Contract Documents, and shall so notify the Architect.

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

**§ 9.6.3** The Architect will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Contractor and action taken thereon by the Architect and Owner on account of portions of the Work done by such Subcontractor.

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

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

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

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

## **§ 9.7 INTENTIONALLY OMITTED**

## **§ 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. In addition, the following are conditions precedent that must be satisfied before Substantial Completion can be achieved;

1) All governmental approvals and certificates necessary for Owner's occupancy and use of the Work (provided, however, this condition precedent will be waived to the extent Contractor's failure to obtain the required governmental approvals is not in any way caused by the fault or neglect of the Contractor or anyone for whom the Contractor is responsible); and

2) Owner's receipt of all warranties, as-built drawings, operation and maintenance manuals and any other documents or materials required by the Contract Documents to be provided by Contractor upon Substantial Completion.

3) The punchlist to be attached to the Certificate of Substantial Completion having a value, as determined by the Owner, of less than \$ \_\_\_\_\_.

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

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

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

**§ 9.8.5** The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in such Certificate. Upon such acceptance and consent of surety, if any, the Owner shall make payment of retainage applying to such Work or designated portion thereof. Such payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Contract Documents. Notwithstanding anything herein to the contrary, Owner shall be entitled to withhold 200% of the value of the 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 as required under Section 11.3.1.5 and authorized by public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When the Contractor considers a portion substantially complete, the Contractor shall prepare and submit a list to the Architect as provided under Section 9.8.2. Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Contractor or, if no agreement is reached, by decision of the Architect.

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

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

### **§ 9.10 FINAL COMPLETION AND FINAL PAYMENT**

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



constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

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

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

**§ 9.10.4** Intentionally omitted.

**§ 9.10.5** Acceptance of final payment by the Contractor, a Subcontractor or material supplier shall constitute a waiver of claims by that payee except those previously made in writing in accordance with the terms of the Contract Documents 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 or the Contractor's Subcontractors or Sub-subcontractors; and
- .3 other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.

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

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

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

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

**§ 10.2.7** The Contractor shall not 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, written notice of such injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding 21 days after discovery. The notice shall provide sufficient detail to enable the other party to investigate the matter.

**§ 10.3 HAZARDOUS MATERIALS**

**§ 10.3.1** The Contractor is responsible for compliance with any requirements included in the Contract Documents regarding hazardous materials. 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 report the condition to the Owner and Architect in writing.

**§ 10.3.2** Upon receipt of the Contractor's written notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to cause it to be rendered harmless. When the material or substance has been rendered harmless by Owner, Work in the affected area shall resume upon written agreement of the Owner and Contractor. By Change Order, the Contract Time shall be extended appropriately and the Contract Sum shall be increased in the amount of the Contractor's reasonable additional costs of shut-down, delay and start-up.

**§ 10.3.3** Intentionally omitted.

**§ 10.3.4** The Owner shall not be responsible under this Section 10.3 for materials or substances the Contractor brings to the site

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

**§ 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 LIABILITY INSURANCE**

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

- .1 Claims under workers' compensation, disability benefit and other similar employee benefit acts that are applicable to the Work to be performed;
- .2 Claims for damages because of bodily injury, occupational sickness or disease, or death of the Contractor's employees;
- .3 Claims for damages because of bodily injury, sickness or disease, or death of any person other than the Contractor's employees;
- .4 Claims for damages insured by usual personal injury liability coverage;
- .5 Claims for damages, other than to the Work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom;
- .6 Claims for damages because of bodily injury, death of a person or property damage arising out of ownership, maintenance or use of a motor vehicle;
- .7 Claims for bodily injury or property damage arising out of completed operations; and
- .8 Claims involving contractual liability insurance applicable to the Contractor's obligations under Section 3.18.

**§ 11.1.2** The insurance required by Section 11.1.1 shall be written for not less than limits of liability specified in the Contract Documents including without limitation attached Exhibit "C" or required by law, whichever coverage is greater. Coverages, whether written on an occurrence or claims-made basis, shall be maintained without interruption from the date of commencement of the Work until the date of final payment and termination of any coverage required to be maintained after final payment, and, with respect to the Contractor's completed operations coverage, until the expiration of the period for correction of Work or for such other period for maintenance of completed operations coverage as specified in the Contract Documents. Owner shall be identified as an additional insured under all insurance required by Subparagraph 11.1.1 except for the workers' compensation insurance required under clause 11.1.1.1.

**§ 11.1.3** Certificates of insurance acceptable to the Owner shall be filed with the Owner prior to commencement of the Work and thereafter upon renewal or replacement of each required policy of insurance. Upon demand by Owner, Contractor shall deliver to Owner certified true and correct copies of any and all insurance policies required to be maintained by Contractor hereunder. Provided, however, if so furnished by Contractor, Owner agrees to keep any such insurance policies confidential. These certificates and the insurance policies required by this Section 11.1 shall contain a provision that coverages afforded under the policies will not be canceled or allowed to expire until at least 30 days' prior written notice has been given to the Owner. An additional certificate evidencing continuation of liability coverage, including coverage for completed operations, shall be submitted with the final Application for Payment as required by Section 9.10.2 and thereafter upon renewal or replacement of such coverage until the expiration of the time required by Section 11.1.2. Information concerning reduction of coverage on account of revised limits or claims paid under the General Aggregate, or both, shall be furnished by the Contractor with reasonable promptness.

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

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

The Owner, at its election, may purchase Owner's liability insurance.

### **§ 11.3 PROPERTY INSURANCE**

**§ 11.3.1** Unless otherwise provided, the Owner shall purchase and maintain, in a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located, property insurance written on a builder's



risk “all-risk” or equivalent policy form in the amount of the initial Contract Sum, plus value of subsequent Contract Modifications and cost of materials supplied or installed by others, comprising total value for the entire Project at the site on a replacement cost basis. Such property insurance shall be maintained, unless otherwise provided in the Contract Documents or otherwise agreed in writing by all persons and entities who are beneficiaries of such insurance, until final payment has been made as provided in Section 9.10 or until no person or entity other than the Owner has an insurable interest in the property required by this Section 11.3 to be covered, whichever is later. This insurance shall include interests of the Owner, the Contractor, Subcontractors and Sub-subcontractors in the Project.

**§ 11.3.1.1** Property insurance shall be on an “all-risk” or equivalent policy form and shall include, without limitation, insurance against the perils of fire (with extended coverage) and physical loss or damage including, without duplication of coverage, theft, vandalism, malicious mischief, collapse, earthquake, flood, windstorm, falsework, testing and startup, temporary buildings and debris removal including demolition occasioned by enforcement of any applicable legal requirements.

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

**§ 11.3.1.3** If the property insurance requires deductibles, Contractor Owner shall pay costs not covered because of such deductibles to the extent the casualty event was caused by the fault or neglect of Contractor or anyone for whom Contractor is responsible, otherwise Owner shall pay such costs.

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

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

### **§ 11.3.2 INTENTIONALLY OMITTED.**

### **§ 11.3.3 LOSS OF USE INSURANCE**

The Owner, at the Owner’s option, may purchase and maintain such insurance as will insure the Owner against loss of use of the Owner’s property due to fire or other hazards, however caused.

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

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

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

### **§ 11.3.7 WAIVERS OF SUBROGATION**

The Owner and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents and employees, each of the other, and (2) the Architect, Architect's consultants, separate contractors described in Article 6, if any, and any of their subcontractors, sub-subcontractors, agents and employees, for damages caused by fire or other causes of loss to the extent covered by property insurance obtained pursuant to this Section 11.3 or other property insurance applicable to the Work, except such rights as they have to proceeds of such insurance held by the Owner as fiduciary. The Owner or Contractor, as appropriate, shall require of the Architect, Architect's consultants, separate contractors described in Article 6, if any, and the subcontractors, sub-subcontractors, agents and employees of any of them, by appropriate agreements, written where legally required for validity, similar waivers each in favor of other parties enumerated herein. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged.

**§ 11.3.8** A loss insured under the Owner's property insurance shall be adjusted by the Owner and made payable to the Owner for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause and of Section 11.3.10. The Contractor shall pay Subcontractors their just shares of insurance proceeds received by the Contractor, and by appropriate agreements, written where legally required for validity, shall require Subcontractors to make payments to their Sub-subcontractors in similar manner.

**§ 11.3.9** If after such loss no other special agreement is made and unless the Owner terminates the Contract for convenience, replacement of damaged property shall be performed by the Contractor after notification of a Change in the Work in accordance with Article 7.

**§ 11.3.10** The Owner shall have power to adjust and settle a loss with insurers.

### **§ 11.4 PERFORMANCE BOND AND PAYMENT BOND**

**§ 11.4.1** The Owner shall have the right to require the Contractor to furnish bonds covering faithful performance of the Contract and payment of obligations arising thereunder as stipulated in bidding requirements or specifically required in the Contract Documents on the date of execution of the Contract.

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

## **ARTICLE 12 UNCOVERING AND CORRECTION OF WORK**

### **§ 12.1 UNCOVERING OF WORK**

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

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

### **§ 12.2 CORRECTION OF WORK**

#### **§ 12.2.1 BEFORE OR AFTER SUBSTANTIAL COMPLETION**

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

## **§ 12.2.2 AFTER SUBSTANTIAL COMPLETION**

**§ 12.2.2.1** In addition to the Contractor's obligations under Section 3.5, if, within one year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.9.1, or by terms of an applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of written notice from the Owner to do so unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner or Architect, the Owner may correct it in accordance with Section 2.4; provided, however, notwithstanding anything in the Contract Documents to the contrary, in the case of an emergency, brought about by defective or nonconforming Work of the Contractor, the Owner may proceed immediately to make the necessary repairs and charge the cost of same to the Contractor without giving any notice to the Contractor.

**§ 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, whether completed or partially completed, of the Owner or separate contractors caused by the Contractor's correction or removal of Work that is not in accordance with the requirements of the Contract Documents.

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

## **§ 12.3 ACCEPTANCE OF NONCONFORMING WORK**

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

## **ARTICLE 13 MISCELLANEOUS PROVISIONS**

### **§ 13.1 GOVERNING LAW**

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

### **§ 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 such an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

**§ 13.2.2** The Owner may, without consent of the Contractor, assign the Contract to 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 such assignment.

### § 13.3 WRITTEN NOTICE

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

### § 13.4 RIGHTS AND REMEDIES

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

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

### § 13.5 TESTS AND INSPECTIONS

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

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

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

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

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

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

### § 13.6 INTENTIONALLY OMITTED

### § 13.7 TIME LIMITS ON CLAIMS

The Owner and Contractor shall commence all claims and causes of action, whether in contract, tort, breach of warranty or otherwise, against the other arising out of or related to the Contract in accordance with the requirements of the final dispute resolution method selected in the Agreement within the time period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Contractor waive all claims and causes of action not commenced in accordance with this Section 13.7.

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

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

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

- .1 Issuance of an order of a court or other public authority having jurisdiction 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; or
- .3 Because the Architect has not issued a Certificate for Payment and has not notified the Contractor of the reason for withholding certification as provided in Section 9.4.1, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Contract Documents;

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

**§ 14.1.3** If one of the reasons described in Section 14.1.1 or 14.1.2 exists, the Contractor may, upon seven days' written notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work executed in accordance with the terms set forth in Paragraph 14.4 of these General Conditions.

**§ 14.1.4** If the Work is stopped for a period of 60 consecutive days through no act or fault of the Contractor or a Subcontractor or their agents or employees or any other persons performing portions of the Work under contract with the Contractor because the Owner has 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' written notice to the Owner and the Architect, terminate the Contract and recover from the Owner as provided in Section 14.1.3.

### **§ 14.2 TERMINATION BY THE OWNER FOR CAUSE**

**§ 14.2.1** The Owner may terminate the Contract if the Contractor

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

**§ 14.2.2** When any of the above reasons exist, the Owner may without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' written notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:

- .1 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.

**§ 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. In rendering its decision as to whether one of the causes under subparagraph 14.2.1 exist which would permit Owner to terminate the Contract, Owner shall be entitled to rely upon the determination of the Initial Decision Maker concerning such matter.

**§ 14.2.4** If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including compensation for the Architect's services and expenses made necessary thereby, and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The amount to be paid to the Contractor or Owner, as the case may be shall survive termination of the Contract.



**§ 14.2.5** In the event Owner terminates Contractor pursuant to this Paragraph 14.2 and it is later determined that such termination was not proper or such termination right was not otherwise available to Owner, such termination shall be deemed a termination for convenience and Contractor's rights and remedies shall be limited to those set forth in Paragraph 14.4 of these General Conditions.

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

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

### **§ 14.4 TERMINATION BY THE OWNER FOR CONVENIENCE**

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

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

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

**§ 14.4.3** In case of such termination for the Owner's convenience, the Contractor shall be entitled to receive payment for Work executed, and reasonable direct increased costs incurred by reason of such termination, but in no event shall Contractor be entitled to payment of overhead and profit on the Work not executed.

## **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, 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.

#### **§ 15.1.2 NOTICE OF CLAIMS**

Claims by Contractor must be initiated by written notice to the Owner and to the Initial Decision Maker with a copy sent to the Architect, if the Architect is not serving as the Initial Decision Maker. Claims by Contractor must be initiated by written notice of such Claim to the Owner and Architect within 14 days after occurrence of the event giving rise to such Claim, unless a shorter period of time is specified by the terms of the Contract Documents.

#### **§ 15.1.3 CONTINUING CONTRACT PERFORMANCE**

Pending final resolution of a Claim, except as otherwise agreed in writing, the Contractor shall proceed diligently with performance of the Contract as directed by Owner and the Owner shall continue to make all undisputed payments in accordance with the Contract Documents. The Architect will prepare Change Orders and issue Certificates for Payment in accordance with the decisions of the Initial Decision Maker.

#### **§ 15.1.4 CLAIMS FOR ADDITIONAL COST**

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

### § 15.1.5 CLAIMS FOR ADDITIONAL TIME

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

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

### § 15.1.6 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 15.1.6 shall be deemed to preclude an award of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.

Notwithstanding anything in this Clause 15.1.6 or any other term of the Contract Documents to the contrary, it is acknowledged and agreed by Contractor that expressly excluded from the above referenced waiver of consequential damages provision are any consequential damages arising out of or relating to this Contract suffered by Owner for which Contractor otherwise would be liable as provided in the following three sentences. Consequential damages are not waived by Owner to the extent such consequential damages are covered by and actually paid for by any applicable insurance. Further, consequential damages are not waived by the Owner to the extent such damages are due to willful misconduct or gross negligence of Contractor or anyone for whom Contractor is liable. Further still, with respect to such consequential damages incurred by Owner that are not actually paid for any applicable insurance, and are not due to the gross negligence or willful misconduct of Contractor, Contractor shall be liable to Owner for such consequential damages up to fifty percent of the Contract Sum. Nothing herein shall be construed as a cap or limitation on any liquidated damages Contractor may owe Owner pursuant to the terms of the Contract Documents.

§ 15.1.7 If the Contractor believes additional cost is involved for reasons including but not limited to (1) a written interpretation from the Architect, (2) an order by the Owner to stop the Work where the Contractor was not at fault, (3) a written order for a minor change in the Work issued by the Architect and approved by Owner, (4) failure of payment by the Owner, (5) termination of the Contract by the Owner, (6) Owner's suspension or (7) other reasonable grounds, Claim shall be filed in accordance with this Article 15. Failure of the Contractor to strictly comply with the Claim procedures herein, including all notice requirements, will be deemed a waiver of any such Claim by Contractor.

### § 15.2 INITIAL DECISION

§ 15.2.1 Claims, excluding those arising under Sections 10.3, 10.4, 11.3.9, and 11.3.10, shall be referred to the Initial Decision Maker for initial decision. The Architect will serve as the Initial Decision Maker, unless otherwise indicated in the Agreement.

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

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

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

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

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

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

**§ 15.2.7** In the event of a Claim against the Contractor, the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

**§ 15.2.8** If a Claim relates to or is the subject of a mechanic's lien, the party asserting such Claim may proceed in accordance with applicable law to comply with the lien notice or filing deadlines.

### **§ 15.3 MEDIATION**

**§ 15.3.1** Claims, disputes, or other matters in controversy arising out of or related to the Contract except those waived as provided for in Sections 9.10.4, 9.10.5, and 15.1.6 shall be subject to mediation as a condition precedent to binding dispute resolution.

**§ 15.3.2** The parties shall endeavor to resolve their Claims by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of binding dispute resolution proceedings but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration is stayed pursuant to this Section 15.3.2, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

**§ 15.3.3** 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.



CONTRACTOR:  
DATE:

**Attachment 'A'**  
**GENERAL RELEASE**

Page 1

FOR AND IN CONSIDERATION OF THE SUM OF \$ \_\_\_\_\_, as FINAL PAYMENT, the receipt and adequacy of which is hereby acknowledged, \_\_\_\_\_, the undersigned, hereby fully and forever releases, acquits and discharges La Cabana Beach and Racquet Club, its parent, related and affiliated companies, their agents, employees, consultants, officers, directors, successors and assigns, all of whom are hereinafter referred to as "Releasee", from all manner of action and causes of action, suits, claims, judgments, damages and rights whatsoever, in law or in equity, now existing or which may hereafter accrue in favor of the undersigned including, without limitation, any and all liability arising out of or in connection with that certain construction Contract dated \_\_\_\_, between La Cabana Beach and Racquet Club and \_\_\_\_\_ and all Work, labor and materials furnished, performed or provided pursuant thereto or otherwise for the project.

The undersigned covenants that except for actions and suits based upon breaches of the terms of this Release, it shall not commence or prosecute any action or suit in law or in equity, against the Releasee on account of any action or cause of action which now exists or which may hereafter accrue in its favor.

In addition to any other liability which shall accrue upon the breach of the covenants contained herein, undersigned shall be liable to pay all reasonable attorneys' fees and costs incurred by the Releasee in the defense of any such action or suit.

WITNESS our hands this \_\_\_\_\_ of \_\_\_\_\_, 20\_\_.

WITNESSES:

1) _____	_____ (Contractor)
2) _____	_____ Signature
	_____ Print Name/Title

The foregoing instrument was acknowledged before me this \_\_\_\_\_ by \_\_\_\_\_ of \_\_\_\_\_, a \_\_\_\_\_ corporation, on behalf of the corporation. He/she is personally known to me or has produced \_\_\_\_\_ as identification and did (did not) take an oath.

\_\_\_\_\_  
Notary Public

Please initial:    \_\_\_\_\_                      \_\_\_\_\_                      \_\_\_\_\_                      \_\_\_\_\_  
                         Owner                      Contractor                      Project Manager                      Architect

CONTRACTOR:  
DATE:

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**Attachment 'B'**  
**CONTRACTOR'S AFFIDAVIT**

Page 1

From:

To:

The undersigned, being duly sworn, upon his/her oath deposes and says:

1. That he/she is over the age of eighteen (18) years, has personal knowledge of the following facts, is authorized to make this Affidavit on behalf of the Contractor named above, and that this Affidavit is, in fact, made on behalf of said Contractor.
2. That this Affidavit is made with respect to the Contract dated \_\_\_\_\_, for \_\_\_\_\_.
3. That all Work performed under the above Contract through the date of this Affidavit has been performed in accordance with the terms of said Contract.
4. That the Contractor covenants and warrants that all labor, materials, equipment, services and other items including, without limitation, all amounts due and owing to all persons, firms, corporations, union welfare or benefit funds (if any), furnished pursuant to the above Contract and any additions or changes thereto, have been paid in full as of the date of this Affidavit, and that waivers of lien through the date of this Affidavit have been obtained from all persons, firms, and corporations who have furnished services, labor, materials, equipment and supplies, except as otherwise indicated in Schedule A attached.

\_\_\_\_\_  
(Contractor)

By:

\_\_\_\_\_  
\_\_\_\_\_  
Print Name/Title

The foregoing instrument was acknowledged before me this \_\_\_\_\_ by \_\_\_\_\_ of \_\_\_\_\_, a \_\_\_\_\_ corporation, on behalf of the corporation. He/she is personally known to me or has produced \_\_\_\_\_ as identification and did (did not) take an oath.

\_\_\_\_\_  
Notary Public

CONTRACTOR:

DATE:

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**CONTRACTOR'S AFFIDAVIT - SCHEDULE A**

Page 2

Date:

From:

To:

Re: Contract dated \_\_\_\_\_, between \_\_\_\_\_ and \_\_\_\_\_.

The following are ALL the amounts due and owing to all persons, firms, corporations and union welfare and benefit funds (if any) who have furnished services, labor, materials, equipment or supplies, with respect to the above referenced Contract. All amounts represent the total amount due and owing as of the date hereof AND any contested, claimed, or unissued credits are specifically noted next to the amounts due and owing.

NAME

AMOUNT DUE AND OWING

OTHER

Please initial: \_\_\_\_\_  
Owner

\_\_\_\_\_  
Contractor

\_\_\_\_\_  
Project Manager

\_\_\_\_\_  
Architect

CONTRACTOR:  
DATE:

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**Attachment 'C'**  
**CONTRACTOR'S RELEASE AND WAIVER - INSURANCE**

Page 1

Project: **La Cabana Beach & Racquet Club – E Suites & Internal Corridor Renovations**

Contractor:

Date of Contract:

In consideration of the final payment under the Contract shown above between La Cabana Beach and Racquet Club, as Owner, and the undersigned, as Contractor, for Work on the above-captioned Project, the undersigned hereby represents that all claims which the undersigned may have against the Owner (as and to the extent provided pursuant to the Contract Documents) for the Project have been reported in writing to the Owner. The undersigned hereby waives and releases La Cabana Beach and Racquet Club, its insurance carriers pursuant to any such Owner-furnished insurance, their respective parent, subsidiary, related and affiliated companies and the officers, directors, agents and employees of each from any and all claims for property damage which have not been timely reported in writing to the La Cabana Beach and Racquet Club and its insurance carriers reserve the right to deny any claim which has not been timely filed.

If not incorporated, sign below:

If Corporation, sign below:

\_\_\_\_\_  
(Signature of Owner, Partner)

\_\_\_\_\_  
(Enter Corporate Name)

Title: \_\_\_\_\_  
(Enter Position of Signatory)

Title: \_\_\_\_\_  
(Signature of Corporate Officer)

d/b/a \_\_\_\_\_

Title: \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_\_\_ by \_\_\_\_\_ of \_\_\_\_\_, a \_\_\_\_\_ corporation, on behalf of the corporation. He/she is personally known to me or has produced \_\_\_\_\_ as identification and did (did not) take an oath.

\_\_\_\_\_  
Notary Public

CONTRACTOR:  
DATE:

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**Attachment 'D'**  
**WAIVER OF LIEN/LITIGATION LIST**

CONTRACTOR:

All of the following have filed one or more of the following Notices:

- (NTC) NOTICE TO CONTRACTOR
- (NTO) NOTICE TO OWNER
- (NONP) NOTICE OF NON-PAYMENT
- (C OF L) CLAIM OF LIEN

Pursuant to the General Conditions, provide such releases, waivers, or satisfactions of lien (or other documentation) in such form as the Owner may require for the following:

TYPE	COMPANY FILING NOTICE	UNDER AN ORDER GIVEN BY:
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Please initial: \_\_\_\_\_  
Owner

\_\_\_\_\_  
Contractor

\_\_\_\_\_  
Project Manager

\_\_\_\_\_  
Architect

CONTRACTOR:

DATE:

**Attachment 'E'**  
**CONTRACTOR'S GUARANTEE TO OWNER**

Page 1

Date:

To: La Cabana Beach and Racquet Club

Project: **La Cabana Beach & Racquet Club – E Suites & Internal Corridor Renovations**

In further consideration of the above-referenced Contract and pursuant to the provisions thereof, the undersigned hereby guarantees to the Owner, its successors and assigns, that all Work, as defined in the Contract Documents, whether performed or caused to be performed by the undersigned, shall be free from any defects in workmanship, materials and/or equipment and shall be in strict compliance with the Contract Documents. If, within a period of one (1) year from the date of acceptance of the Work by the Owner (or such longer period of time as may be prescribed by law or otherwise specified in the Contract Documents), the Work or any portion thereof shall prove to be defective in workmanship, material and/or equipment, or in any way not in strict compliance with the Contract Documents, then the undersigned shall repair and/or, at the option of the Owner, replace at its own cost and expense all such defective or non-complying Work, together with any adjacent structures or facilities which have been displaced or damaged by so doing or which have been damaged as a result of any defect in workmanship, material and/or equipment or the failure of the Work to comply with the Contract Documents. Such repairs and/or replacements shall be performed in accordance with all terms, conditions, covenants and provisions of the Contract Documents pursuant to which the Work was performed in the first instance, except that such repairs and/or replacements shall be without cost to the Owner, its successors or assigns, or to any related company of the Owner.

Should the undersigned fail to perform its said repair and/or replacement obligations promptly after being given notice of its breach of this Guarantee, then the Owner may perform such corrective Work or cause it to be performed by others and charge the undersigned with the cost thereof, at Owner's option; provided, however, that if, in the sole judgment of the Owner, an emergency exists as a result of any such defective or non-complying Work which, in the Owner's opinion, requires more immediate corrective action than the undersigned is able to provide, then the Owner may, without notice to the undersigned, perform such corrective Work or cause it to be performed by others and charge the undersigned with the cost thereof.

\_\_\_\_\_  
(Contractor)

By: \_\_\_\_\_

\_\_\_\_\_  
(Title)

Local Representative to be contacted for service:

Contractor: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone No.: \_\_\_\_\_



CONTRACTOR:  
DATE:

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**Attachment 'G'**  
**CERTIFICATE OF SUBSTANTIAL COMPLETION**

Page 1 of 1

**PROJECT: La Cabana Beach and Racquet Club - E Suites & Internal Corridor Renovations**

CONTRACTOR: \_\_\_\_\_ DATE: \_\_\_\_\_

Pursuant to the provisions of the General Conditions of the Contract for Construction, this is to certify that the Work under the above referenced Contract has been substantially completed on \_\_\_\_\_ (the "date of substantial completion") and a Punch List shall be issued within twenty (20) days.

Commencing on the day following the date of substantial completion, the Owner shall have responsibility for maintenance of the Project, utilities serving the Project and casualty insurance covering the Project; provided, however, that nothing herein contained shall relieve Contractor of its responsibilities under Article 11 of the General Conditions of the Contract for Construction during the period following the date of substantial completion of the Work and final completion (or thereafter with respect to said General Conditions).

As provided in the General Conditions of the Contract for Construction, this Certificate of Substantial Completion shall constitute a demand for an Application for Payment (including all costs and/or fees for any outstanding Change Orders and itemized projections for any incomplete Work), and the Contractor shall conclusively be deemed to have waived the right to payment of any item or fee or cost not billed within thirty (30) days of Contractor's receipt hereof. The issuance of this Certificate of Substantial Completion shall not constitute a waiver of any right of the Owner and/or any related company of Owner hereunder including, without limitation, the right to those retainages permitted by the Contract Documents.

\_\_\_\_\_  
Contractor

\_\_\_\_\_  
Architect

\_\_\_\_\_  
Project Manager

**SECTION 00850**  
**LIST OF DRAWINGS & SPECIFICATIONS**

The following list of drawings, specifications, and the Construction Manual all prepared as noted, shall form a part of the Project Manual:

**Project Manual**

Entitled: **La Cabana Beach & Racquet Club - E Suites & Internal Corridor Renovations**

Dated: December 15, 2011

**DRAWINGS:**

The following list of drawings all dated **December 9, 2011** is applicable to the foregoing.

**Architectural:**

- A1.0 - Cover/Index/Site
- A2.1 - Overall Plans - Floors 1 and 2
- A2.2 - Overall Plans - Floors 3 and 4
- A2.3 - Roof Plan
- A3.1 - 'E' Unit Plans (Demo/New/Ceiling) - Floor 1
- A3.2 - 'E' Unit Plans (Demo/New/Ceiling) - Floor 2
- A3.3 - 'E' Unit Plans (Demo/New/Ceiling) - Floor 3
- A3.4 - 'E' Unit Plans (Demo/New/Ceiling) - Floor 4
- A4.1 - Corridor Demolition Plan (Typical Floor)
- A4.2 - Corridor Floor Plans/Elevations (Typical Floor)
- A4.3 - Corridor Ceiling Plan (Typical Floor)
- A10.1 - Interior Elevations ('E' Units)
- A10.2 - Interior Elevations ('E' Units)
- A10.3 - Details
- A12.1 - Schedules
- A12.2 - 'E' Unit Finish Plans
- A12.3 - Corridor Finish Plans
- A13.1 - Furniture Plans ('E' Units)

**Mechanical:**

- M0.1 - Mechanical Legends
- M2.1 - Overall Floor Plans Mechanical (Floors 1 and 2)
- M2.2 - Overall Floor Plans Mechanical (Floors 3 and 4)
- M2.3 - Roof Plan Mechanical
- M3.1 - 'E' Unit Mechanical Plans
- M3.2 - Corridor Mechanical Plans
- M8.1 - Mechanical Schedules

**Electric:**

- E0.1 - Electrical Legends
- E0.2 - Electrical Schedules and Specifications
- E2.1 - Overall Floor Plans Electrical (Floors 1 and 2)
- E2.2 - Overall Floor Plans Electrical (Floors 3 and 4)
- E2.3 - Roof Plan Electrical
- E3.1 - 'E' Unit Electrical Plans
- E3.2 - Corridor Electrical Plans

**Plumbing:**

- P0.1 - Plumbing Legends
- P2.1 - Overall Floor Plans Plumbing (Floors 1 and 2)
- P2.2 - Overall Floor Plans Plumbing (Floors 3 and 4)
- P3.1 - 'E' Unit Plumbing Plans

**SPECIFICATIONS:**

The following list of specifications is applicable to the work.

**PROJECT MANUAL**

**DIVISION 1 GENERAL REQUIREMENTS**

- 01731 Cutting and Patching
- 01732 Selective Demolition

**DIVISION 6 - WOOD AND PLASTIC**

- 06402 Interior Architectural Woodwork

**DIVISION 7 - THERMAL AND MOISTURE PROTECTION**

- 07900 Joint Sealants

**DIVISION 8 OPENINGS**

- 08211 Flush Wood Doors
- 08320 Sliding Doors (Interior Barn Door)
- 08710 Door Hardware

**DIVISION 9 FINISHES**

- 09250 Gypsum Board Assemblies
- 09310 Tiling
- 09651 Resilient Wall Base and Accessories
- 09900 Painting

**DIVISION 10 SPECIALTIES**

- 10800 Toilet and Bath Accessories

**DIVISION 11 EQUIPMENT**

- 11452 Residential Appliances

**DIVISION 12 FURNISHINGS**

- 12356 Kitchen Casework
- 12364 Stone Countertops

**SECTION 01010  
SUMMARY OF WORK**

**PART 1 - WORK COVERED BY CONTRACT DOCUMENTS**

**1.1 The Summary of Work**

- 1.1.1 The Scope of Work for the La Cabana Beach and Racquet Club is described by the Project Manual entitled **La Cabana Beach and Racquet Club-E Suites & Internal Corridor Renovations**. Specific elements of the Scope of Work are generally summarized below but this Summary of the Work is not intended to be a complete description of the Work.

**1.2 General Summary**

- 1.2.1 The work will include, the complete renovation of the existing E Suites and Internal Corridors, but is not be limited to: General Requirements and Temporary provisions; Demolition, Reinforcement, Miscellaneous Cast-in-place Concrete, Miscellaneous Metals Fabrications, Rough Carpentry, Finish Carpentry, Interior Millwork, Insulation, Sealants & Caulking, Doors & Frames, Wood & Plastic Doors, Special Doors, Hardware & Specialties, Weather stripping & Seals, Thresholds, Gypsum Wallboard, Tile, Partition Framing, Blocking, Painting, Wall and Ceiling Texture, Toilet & Bath Accessories, Wardrobe Specialties, Appliances, Air Distribution, Air Handling Units, Controls Insulation, Sprinkler Equipment, Plumbing, Plumbing Fixtures & Trim, Fire Sprinklers, Electrical, Raceways, Conduits, Wires & Cables, Wire Connections & Devices, Outlet Boxes, Floor boxes, Panel boards, Interior Lighting fixtures, Communications, Fire Alarm & Detection, Telephone, Telephone Systems, Voice and Data Equipment

**PART 2 - GENERAL INSTRUCTIONS**

**2.1 General Requirements:**

The Contractor shall provide all services and necessary items of expense, including but not limited to labor, material, trucking, transportation, equipment, hoisting, scaffolding, power, supervision, appliances, layout and all other services and items of expense required for the complete performance of all Work in accordance with the Contract Documents.

**2.2 Job Site Access / Use of Job Site**

- 2.2.1 Vehicular traffic to the Job Site is limited to vehicles required to deliver labor and materials. On-site parking for vehicles is available but shall be limited to those areas designated by the Project Manual. Vehicles not actively supporting Job Site operations are not permitted to remain on site.
- 2.2.2 Lunch and break areas are confined to the immediate job site area.
- 2.2.3 The Contractor shall confine its use of the job site to those activities directly relating to the performance of the Work. No other use of the job site will be permitted without the express written approval of the Owner.

**2.3 Coordination**

2.3.1 When soils or materials testing are required by the Contract Documents, the Contractor shall provide and pay for such soils and materials testing. The Contractor shall be liable for costs associated with retesting as a result of initial test failure due to deficiencies in the Contractor's work efforts.

2.3.2 The Contractor shall coordinate its work with the Owner and with that of the work of the Owner's separate contractors. The Contractor shall sequence its Work, as required by the Owner, with the work of the Owner's separate contractors at no additional cost to the Owner.

## **2.4 Worker Conduct and Clothing**

2.4.1 The Contractor is responsible at all times for the proper conduct of its personnel and that of its subcontractors and suppliers. The Contractor shall restrict its personnel to the job site and immediate vicinity thereof and shall endeavor to prevent discordant relationships between its personnel and that of any adjacent property owner or guest.

2.4.2 The Contractor shall ensure its personnel are properly dressed with approved clothing and safety gear, including but not limited to hard hats, work shoes, shirts and long pants, as appropriate for the performance of the Work. Shorts, sleeveless shirts (tank tops) or clothing bearing offensive marks or wording are not permitted to be worn on the job site. The Owner shall solely determine whether any such clothing is or is not permissible.

## **2.5 Surveying**

2.5.1 Refer to Specification Section 01050 – Field Engineering, contained in the Project Manual, for specifications governing field engineering and surveying.

## **2.6 Testing and Inspection**

2.6.1 Refer to Specification Section 01410 – Testing Laboratory Services, contained in the Project Manual, for specifications governing soils and materials testing and inspection.

## **2.7 Surface Water Management and Environmental Controls**

2.7.1 NOT USED

## **2.8 Temporary Fencing**

2.8.1 Temporary Perimeter Fencing

2.8.1.1 Where required by the Contract Documents, or where required by the Contractor for its purposes, chain link fencing shall be provided and maintained.

2.8.1.2 The Contractor shall inspect all fences daily and shall immediately make necessary repairs to any damaged or improperly functioning fences.

## **2.9 Permits and Permit Fees**

2.9.1 All Permits required for any part of the Contractor's Work shall be procured and paid for by the Contractor. This shall apply also to those permits required to be

obtained by the Contractor in the name of the Owner if any. The costs for the required permits are included in the Contract Sum.

## **2.10 Job Site Cleanliness**

2.10.1 Refer to Specification Section 01710 – Cleaning, contained in the Project Manual, for specifications governing cleaning and job site cleanliness.

## **2.11 Existing Services and Utilities**

2.11.1 Any work that must be performed which may result in delays or re-routing of resort traffic must be coordinated with the Construction Manager.

2.11.2 Wherever possible, the Contractor shall arrange work so there will be no service interruptions of any existing systems. Whenever service interruptions are necessary, the Contractor shall secure the advance approval of the Construction Manager and jurisdictional agencies as to the time and date such interruptions will be permitted. The Contractor shall return all services back into operation as soon as possible, including working on an overtime basis, if deemed necessary by the Construction Manager, at no additional cost to the Owner.

## **2.11 Temporary Facilities**

2.11.1 Refer to Specification Section 01500 – Temporary Construction Facilities, contained in the Project Manual, for the specifications governing temporary construction facilities.

## **PART 3 - SPECIAL INSTRUCTIONS**

### **3.1 Work Hours**

3.1.1 The Contractor may work between the hours of 7:00 a.m. and 7:00 p.m. Monday through Friday. Should the Contractor wish to work outside those hours, such is subject to approval by the Owner.

### **3.2 Restrictions Governing Certain Construction or Demolition Activities**

3.2.1 The Contractor shall comply with all restriction or regulations governing construction or demolition.

3.2.2 The Contractor shall only remove the quality of existing roof that that can be replaced in one day or shall temporarily dry in the roof each day. Should water enter the units as a result of the work or incomplete work of the contractor, the contractor shall be responsible for the cost of all repairs or replacements.

### **3.3 Material and Equipment Storage Limitations**

3.3.1 Storage space will be available at the job site and on-site storage will be subject to approval of the Owner. The staging area for the delivery and storage of materials and equipment will be within the job site.



- 3.3.2 The Contractor shall supply materials to the Job Site on an as-needed basis during the installation. Should job site conditions require installation of materials directly from the delivery vehicle, cost for same shall be included in the Contract Sum.
- 3.3.3 The Contractor shall relocate stored materials or equipment which interferes with operations, at no additional cost to the Owner.
- 3.3.4 The Contractor shall cooperate and coordinate with the Owner and all other separate Contractors regarding the placement and storage of materials and equipment in order not to encumber the areas prior to and during the performance of the Work.
- 3.3.5 The Contractor shall be solely responsible for the securing and safe keeping of all of its on-site materials, tools and equipment.
- 3.3.6 Noise levels shall be within those levels acceptable, in the Owner's sole discretion.
- 3.3.7 Material deliveries shall be made during normal working hours unless otherwise arranged with the Owner. Where special deliveries must be made at other times, the Contractor shall arrange for labor forces to receive and unload as promptly as possible.

**END OF SECTION**

**SECTION 01021  
 ALLOWANCES**

1.01 SPECIFIC CASH ALLOWANCES

- A. Allowances include only the costs described below. All overhead, profit, general conditions, tools, miscellaneous metals, and all things necessary to complete the Work shall be included by the Contractor in its Bid.
- B. The cost of each “furnish and install” allowance, unless specifically described otherwise, shall include:
  - 1. The cost of the product to the Contractor, less any applicable trade discounts.
  - 2. Delivery to the site.
  - 3. Applicable taxes.
  - 4. Installation labor, including worker’s compensation, social security, paid benefits, and other applicable labor taxes.
- C. In addition to the amount of each “material only” allowance, Contractor shall include in the Bid:
  - 1. The cost of the product to the Contractor, less any applicable trade discounts.
  - 2. Delivery to the site.
  - 3. Applicable taxes.
- D. List of Allowances:

ALLOWANCE DESCRIPTION	ALLOWANCE AMOUNT
<i>Allowance No. 1: (Describe)</i>	\$
<i>Allowance No. 2: (Describe)</i>	\$
<i>Allowance No. 3: (Describe)</i>	\$

1.02 SUBMITTALS

- A. Comply with pertinent provisions of Section 01340.

1.03 ADJUSTMENT OF COSTS

- A. If the aggregate costs of the allowance items exceed the allowance aggregate total, the Contractor shall receive an additive change order for the difference plus a percentage mark-up per the terms of the Contract. If the aggregate costs of the allowance items are less than the allowance aggregate total, the Contractor shall receive a deductive change order for the difference.
- B. Submit all requests for anticipated additional costs at the site, or other expenses caused by selection under the Allowance, prior to purchase and execution of the Work of the selected item.

1.04 CONTRACTOR'S RESPONSIBILITIES

- A. Identify the selection dates required to meet the Construction Schedule.
- B. Assist Architect in determining qualified suppliers or subcontractors.
- C. Obtain competitive Bids from suppliers or subcontractors. Notify Architect of any reasonable objections Contractor may have against any party under consideration prior to solicitation of Bids.
- D. Make appropriate recommendations for the consideration of the Architect.
- E. Upon notification by the Architect, execute purchase agreement or subcontract with selected party.
- F. Administer the Work in accordance with the provisions of the Contract Documents.

<b>END OF SECTION – 01021 Allowances</b>
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**SECTION 01041  
PROJECT COORDINATION**

**PART 1 - GENERAL**

**1.01 DESCRIPTION**

- A. The Contractor is responsible for all project coordination.

**1.02 DUTIES OF CONTRACTOR**

- A. The following requirements are not to be construed as setting limits on the Contractor's responsibilities, but intend to guide the Contractor in the administration of its responsibilities.
- B. Coordinate work of all subcontractors.
- C. Establish on-site lines of authority and communication. Schedule and conduct progress meetings among Owner's designated representatives and subcontractors.
- D. Construction schedules:
1. Prepare detailed schedule of contractor's operations and for all subcontractor's on project.
  2. Monitor schedules as Work progresses.
    - a. Identify potential variances between scheduled and probable completion date.
    - b. Recommend in writing to Architect any adjustments in schedule to meet required completion date.
    - c. Provide written summary reports of each monitoring.
    - d. Document all changes in the schedule to the Construction Manager in writing.
  3. Observe Work to monitor compliance with schedule.
    - a. Verify that labor and equipment are adequate to meet and maintain the schedule for the Work.
    - b. Verify that product deliveries are adequate to meet and maintain the schedule for the Work.
    - c. Report any noncompliance to Architect, with recommendations for remedy.
    - d. Verify that adequate services are provided to comply with requirements for Work and climatic conditions.
    - e. Verify proper maintenance and operation of temporary facilities.
    - f. Administer traffic and parking controls for construction workers.

4. Changes:
  - a. Recommend necessary or desirable changes to the Architect.
  - b. Review subcontractors requests for changes and substitutions. Submit recommendations to the Architect.
  - c. Process Change Orders.
5. Permits and fees: Verify that all subcontractors have obtained all required permits.
6. Inspections and testing:
  - a. Inspect Work to assure that it is performed in accord with requirements of the Contract Documents.
  - b. Arrange with Architect for special inspections or testing when required.
  - c. Reject work which does not conform to the requirements of the Contract Documents.
7. Coordinate testing laboratory services:
  - a. Notify Architect of test schedule.
  - b. Verify that required personnel are present during test.
  - c. Verify that specified tests are made as scheduled.
  - d. Verify compliance of test results with specified criteria.
- E. Interpretations of Contract Documents:
  1. Consult with Architect to obtain interpretation or clarifications for any portions of Contract Documents, which may be unclear or ambiguous.
  2. Assist in answering of questions which may arise.
  3. Transmit written interpretations to interested parties.
- F. Administer processing of shop drawings, product data and samples.
- G. Owner-Furnished products: Accept delivery, arrange storage, protection, and security.
- H. Maintain reports and records:
  1. Daily log of progress of work and other pertinent data.
  2. Records:
    - a. Contracts.
    - b. Purchase Orders.

- c. Materials and equipment records, including record of Owner-furnished products.
    - d. Applicable handbooks, codes and standards.
  - 3. Obtain information from subcontractors and maintain record documents.
  - 4. At completion of project, deliver all records to Architect for turnover to Owner.
  - 5. Assemble documentation for handling of any claims or disputes which may arise.
- I. Ensure that specified daily cleaning is done during progress of Work and at completion of Contract.
- J. Partial Owner Occupancy: Schedule early completion of any areas which may be designated by Architect for Owner's use prior to Substantial Completion of entire Project.
- K. Substantial Completion:
  - 1. Upon determination of Substantial Completion of Work or portion thereof, prepare for Construction Manager a list of incomplete or unsatisfactory items.
  - 2. Upon Owner's certification of date of Substantial Completion, supervise correction and completion of the Work.
- L. Final Completion:
  - 1. Upon determination that Work is finally complete:
    - a. Submit written notice to Architect that Work is ready for final inspection.
    - b. Secure and transmit to Architect required closeout submittals.

### **1.03 WORK OF OTHER CONTRACTORS**

- A. Access
  - 1. During the course of the Work, the Contractor will make available to other contractors certain parts of the public building, for various elements of other work such as the Casino, Sculpture, telecommunications and other items.

### **1.04 STORAGE AND DISPOSAL OF MATERIALS**

- A. The materials from demolition and those used in the construction of the Work shall be deposited in such a manner that they will not endanger the work and that free access may be had at any time to all hydrants, valves and gates in the vicinity of the Work. The suitable material shall be stockpiled where and as approved to provide a minimum of obstruction and the stockpiles shall be kept trimmed up in such a manner as to be of as little inconvenience as possible. Any unsuitable material including trash, debris, or excavated material shall be removed and disposed of by the Contractor off property within 24 hours.

<b>END OF SECTION – 01041 Project Coordination</b>
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**SECTION 01050  
FIELD ENGINEERING**

**PART 1 - GENERAL**

**1.01 LINES AND LEVELS**

- A. Contractor shall be responsible for the accuracy of the construction lines and levels.
- B. Contractor shall verify layout on the drawings with existing layout, and notify the Architect of any discrepancies before proceeding with the Work.

**1.02 OWNER'S RESPONSIBILITIES**

- A. Not Used.

**1.03 CONTRACTOR'S RESPONSIBILITIES**

- A. All surveying, engineering and layout required for the work.
- B. All layout, offsets, engineering, grades, etc., required to perform all work related to his installation.

**END OF SECTION - 01050**

**SECTION 01100  
ALTERNATES**

**PART 1 - GENERAL**

**1.01 DESCRIPTION**

- A. The Contractor shall furnish all labor, materials, tools, equipment, and perform all work and services necessary for all Alternates as shown on drawings and as specified, in accordance with the provisions of the Contract Documents, and completely coordinated with Work of all other trades.
- B. Although such Work is not specifically indicated, furnish and install all supplementary or miscellaneous items, appurtenances and devices incidental to or necessary for a sound, secure, and complete installation.
- C. Use of Alternates:
  - 1. The Owner wishes to learn the construction costs involved for various alternative methods or materials other than specified or detailed for the Base Bid. These items are defined as Alternates and are specifically described in the Schedule of Alternates that follows.
  - 2. The amounts for Alternates shall be listed in the Bid Form in such a manner that the Owner will be able to clearly determine what sums are to be added to or deducted from the Base Bid for the Alternate involved.
    - a. The amount stated by the Price Proposer shall include all changes in its work made necessary by the acceptance of the Alternates, including profit, insurance, overhead, contingencies and any other cost incidental to the performance of the Alternate.
    - b. Warranties and bonds to be furnished in connection with Alternates shall conform in every way to those required for the Base Bid.

**1.02 REQUIREMENTS**

- A. This Section identifies each Alternate by number, and describes the basic changes to be incorporated into the Work, only when that Alternate is made a part of the Work by specific provisions in the Lump Sum Agreement.
- B. Bidder, in submitting its Bid, shall include in addition to its Base Bid, the following Alternate(s). The numerical order of listing these Alternates does not necessarily imply their priority. The Owner may decide to use any one or more of all the items.

**1.03 RELATED REQUIREMENTS**

- A. Coordinate pertinent related work and modify surrounding work as required to properly integrate the work under each Alternate, and to provide the complete construction required by the Contract Documents.

**PART 2 - ALTERNATES**

- A. State in proposal the amount to be added to or deducted from the Base Bid for each of the Alternates described below. Upon execution of the Agreement, implement work and modify work as established under various Alternates as accepted or rejected by the Owner.

(Note: Except as noted, compute each Alternate in turn as a separate change from the Base Bid condition. If any Alternate is taken in combination with other Alternates, any costing overlaps will be adjusted in the contract sum.)

**PART 3 - DESCRIPTION OF ALTERNATES**

- A. Alternate No. 1: If awarded this Contract combined with the Contract for the Exterior Renovations, the Contractor offers a deduct to the total combined Base Bids of the two projects.
- B. Alternate No. 2:
- C. Alternate No. 3:

<b>END OF SECTION – 01100 Alternates</b>
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**SECTION 01202  
PROGRESS MEETINGS**

**PART 1 - GENERAL**

**1.01 DESCRIPTION**

- A. The Architect will schedule and administer Project meetings during the progress of the Work.
- B. Meetings required will include:
  - 1. Pre-Construction meeting
  - 2. Weekly Progress meetings
- C. Construction Manager's duties:
  - 1. Notify participants at least 48 hours in advance of meeting date.
  - 2. Preside at meeting, record minutes and distribute copies to participants and all others affected by the decisions.
- D. Attendance is required by:
  - 1. Construction Manager.
  - 2. Contractor's job superintendent and Project Manager.
  - 3. Others affected by the Work and decisions involved.
- E. Agenda items may include:
  - 1. Review of work progress.
  - 2. Status of progress schedule and required adjustments.
  - 3. Schedules for deliveries.
  - 4. Status of submittals.
  - 5. Adherence to quality standards.
  - 6. Pending changes and substitutions.
  - 7. All other items affecting Work progress.
  - 8. Review of Contractor's Record Drawings.
  - 9. Safety concerns.

**END OF SECTION - 01202**

**SECTION 01310  
CONSTRUCTION SCHEDULE**

**1. PART 1 - GENERAL**

**A. DESCRIPTION**

B. Prepare and provide projected construction schedules for entire work in a logic bar graph or Critical Path Method (CPM) in a format which will be acceptable to the Construction Manager. Revise periodically as directed by the Construction Manager.

C. Coordination:

1. It will be the responsibility of the Contractor to coordinate schedules of its own and its subcontractor's schedules.
2. Final schedules are subject to concurrence by the Construction Manager as regards to activity description, logic, sequence, duration and resources required.

**1.02 FORM OF SCHEDULES**

A. Contractor shall prepare and provide the following construction schedule in a format and system acceptable to the Construction Manager.

1. Summary Milestone Schedule: Submit a bar chart schedule broken down by the major project areas. Required milestones will be subject to Construction Manager's acceptance.
2. Horizontal Bar Chart:
  - a. Provide separate Horizontal Bar Column for each trade or operation.
  - b. Order shall be the chronological order of beginning of each item of work.
  - c. Horizontal Time Scale: Identify first work day of each week, length of work week.

**1.03 CONTENT OF SCHEDULES**

A. Provide complete sequence of construction by activity.

1. Shop Drawings, product data and samples, submittal dates and dates approved copies will be required, etc., should be indicated if requested by the Construction Manager
2. Product procurement, fabrication duration, shipping dates and on-site availability should be indicated if requested by the Construction Manager.
3. Dates for beginning and completion of each element of construction.
4. Decision dates for selection products may be required by the Construction Manager.
5. Restraints reflecting impact of related work.
6. Activities as directed by the Construction Manager when required to interface activities

performed by the Owner or other Contractors.

7. Detailed sub-schedule and special area schedules as directed by the Construction Manager to define critical areas of work.
8. The Construction Manager shall receive and review updates from the Contractor on the 1st of each month indicating the ACTUAL work status through the 25th day of the month.
  - a. Schedule submission shall be made as part of the monthly Application for Payment.

#### **1.04 CONTRACTOR'S RESPONSIBILITIES**

- A. Coordinate the scheduled work of all its subcontractors.
- B. Incorporate the work of all subcontractors into the construction schedules.
- C. Provide schedule update information of all subcontractors.
- D. Maintain a management organization to fulfill the requirements of this Section.
- E. Attend and participate in scheduling meetings as may be requested by the Construction Manager.

#### **1.05 SCHEDULE MAINTENANCE PROCEDURES**

- A. Milestone Schedule: Within 10 calendar days of Award of this Contract, the Contractor shall provide the following:
  1. A Summarized Milestone Schedule identifying the major areas of the Project. Milestone Schedule shall identify all established milestones specified in the Contract Documents, to constitute one complete program for the entire work.
  2. The Summarized Milestone Schedule shall be used for the life of the Contract to delineate the interdependence and order of construction of the project Work areas. Also, it shall be employed as a framework for developing the Detailed Network Schedule described below.
  3. The Owner reserves the right to reject any submitted schedule by the Contractor, if, in the view of the Owner, said schedule reflects unreasonable assumptions on the part of the Contractor, its subcontractors or Owner's other Contractors. The Contractor shall be responsible for resubmitting within five (5) working days the actual reflection of current and projected status.
- B. Updating:
  1. Show all changes which have occurred since the previous update and submittal. Provide the following update information:
    - a. Progress of each activity.
    - b. Completion dates.
    - c. Activities modified.
    - d. Revision of schedule restraints.

- e. Revision in duration to any activities.
- f. With each schedule update, provide a brief NARRATIVE REPORT, including: current and anticipated delay factors and their impact on the schedule.
- g. Corrective action taken or proposed and its effect or intended effect on schedule.

**1.06 SUBMITTALS**

- A. Submit to the Construction Manager, one copy of the Summary Milestone Schedules and Horizontal Bar Chart Schedule within 10 days after Award of Contract.
- B. On the 25th of each month (along with the monthly Application for Payment), submit two copies of the updated Horizontal Bar Chart Schedule with annotations showing status and changes as required.

**END OF SECTION - 01310**

**SECTION 01315  
CONTRACT TIME, SEQUENCING AND TIMING OF WORK**

**PART 1 - GENERAL**

**1.01 GENERAL REQUIREMENTS**

- A. Refer to **GENERAL CONDITIONS OF THE CONTRACT FOR CONSTRUCTION** and **SPECIAL CONTRACT CONDITIONS** for general requirements; relating to contract time, commencement of work, progress and completion.

**1.02 PROGRESS**

- A. The work shall be prosecuted at such rate of progress as will insure meeting the specified milestone dates, as well as Substantial and Final Completion within the Contract Time. By execution of the Contract, the Contractor represents it has analyzed the Work, the materials and methods involved, the systems involved, availability of qualified mechanics and unskilled labor, restrictions of the site, constraints imposed, his own work load and capacity to perform the Work and agrees that the specified times are reasonable, considering the existing conditions at the site, usual working conditions, climatic conditions prevailing in the locality of the Work, and other factors, with reasonable allowance for variations from average, typical or ideal conditions.

**1.03 DEPARTURES**

- A. From time to time as Work progresses, departure from the schedule may occur to changes in the Work or delays or acceleration of one or more activities. The Contractor shall receive no compensation for those departures, other than a time extension, if applicable.

**1.04 COMMENCEMENT OF WORK**

- A. Work at Site: The Contractor shall commence the work promptly following its receipt of a Notice to Proceed unless otherwise directed by the Construction Manager.
- B. Insurance: No work shall commence at the site until proper insurance certificates have been submitted by the Contractor and approved by the Construction Manager.

**1.05 MILESTONE COMPLETION DATES**

- A. Assumption: Milestone completion dates are predicated on issuing the Notice to Proceed on or before **January 26, 2012**.
- B. Milestone Dates: Milestone Completion Dates are as described within Exhibit "A" - Project Milestone Schedule dated.

**1.06 PROJECT CONSTRUCTION CONSTRAINTS**

- A. SPECIFIC CONSTRAINTS: Other than those constraints noted elsewhere within the Contract Documents, the following specific construction schedule constraints are a part of this Work and have been incorporated into the Project Milestone Schedule:
1. The **E Suites Renovations** will require the affected units be vacated during that renovation; the start and finish of each phase must occur in accordance with the Project Schedule.



- B. GENERAL CONSTRAINTS: Other than those noted elsewhere within the Contract Documents, the following general construction schedule constraints are a part of this Work:
1. From time to time special events may be scheduled at the Resort. During such events, the Contractor may be requested to restrict its operation and construction to avoid impacts to guests and visitors.
  2. The contractor must relocate its staging area one time during the course of construction: the timing and specific location will be established by the Owner and Construction Manager, but must occur before Substantial Completion.

**1.07 PROJECT SCHEDULE**

- A. The Contractor agrees to start and complete the work as phased and in accordance with the Master Project Schedule. The **Master Project Schedule** is attached as **Attachment 'A'**.

<b>END OF SECTION - 01315</b>
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**SECTION 01340  
SHOP DRAWINGS, PRODUCT DATA AND SAMPLES**

**PART 1 - GENERAL**

**1.01 DESCRIPTION OF REQUIREMENTS**

- A. Submit shop drawings, product data, samples and other items as required by respective Specification Sections.
- B. Compile and submit warranty manual data.

**1.02 SCHEDULE OF VALUES**

- A. Submit a trade payment breakdown for all Work. List each category of work for the total value of each trade and work, element and sum total of which shall be equal to the Contract Price.
- B. Refer to Section 01370 for additional requirements.

**1.03 SHOP DRAWINGS**

- A. Submit original drawings prepared by Contractor, subcontractor, supplier or distributor, which illustrates portions of the work, including but not limited to fabrication, layout, setting or erection details to Architect for review and approval.
- B. Cross reference shop drawings to Contract Drawings and Specifications and detail all work included. Indicated dimensions, materials, fastening, anchorages, joining, sealing, backing, utility requirements, rough-in, and adjacent related conditions. Coordinate submittals of related items.
- C. Identify the "Project Name" on each shop drawing.

**1.04 PRODUCT OR CATALOG DATA**

- A. Submit manufacturer's standard drawings modified to delete non-applicable data or include applicable data.
- B. Submit manufacturer's catalog sheets, brochures, diagrams, schedules, charts, illustrations and other standard descriptive data.
  - 1. Mark each copy to identify pertinent materials, products or models.
  - 2. Show dimensions and clearances required, performance characteristics and capacities, wiring diagrams and controls.
  - 3. For each item to be furnished, indicate on each catalog sheet, brochure, diagram chart, or other descriptive data the applicable referenced Specification Section number and Paragraph.

### 1.05 SAMPLES AND MOCK-UP

- A. Submit physical samples to illustrate materials, equipment or workmanship, and to establish standards by which completed work will be judged.
  - 1. Office samples of sufficient size and quantity to clearly illustrate:
    - a) Functional characteristics of product or material, with integral related parts and attachment devices.
    - b) Full range of color samples.
  - 2. Field samples and mock-ups:
    - a) Erect at job site at location acceptable to the Architect.
    - b) Construct each sample or mock-up complete, including work of all trades required in finished work.

### 1.06 MANUFACTURER'S CERTIFICATES

- A. Submit three (3) copies of certificates in accordance with requirements of individual Specification Sections.

### 1.07 SUBMITTAL REQUIREMENTS/PROCEDURES

- A. Within five (5) calendar days after execution of Contract, submit a list of shop drawings by Specification Section, and include a list of dates submittals are expected to be made.  
  
Within sixty (60) calendar days after execution of Contract, the Contractor shall submit ALL submittals to the Architect for approval.
- B. Deliver submittals at established times before the dates that approved submittals will be needed.
- C. Contractor must have reviewed and stamped submittals that are furnished to them by their subcontractors or materials suppliers **PRIOR TO** submitting them to the Architect.
- D. Accompany submittals with a cover letter in duplicate, containing:
  - 1. Date.
  - 2. Project title and number.
  - 3. Contractor's name and address.
  - 4. Description of data contained in submittals.
  - 5. Listing of any letters containing description of deviations from Contract Documents.
  - 6. Other pertinent data.
- E. Submittals shall include:
  - 1. Date and revision dates.
  - 2. Project title and number.

3. The names of: Owner, Architect, Contractor, subcontractor, supplier, manufacturer, and separate detailer, when appropriate or pertinent.
4. Identification of product or materials.
5. Relationship of product to adjacent structure or materials.
6. Clearly identified field dimension, when known.
7. Specification Section number or numbers.
8. Applicable standard, such as ASTM or other.
9. A blank space, 4 inches x 2 inches, for the Architect's (or consultant's) stamp.
10. Identification and description of deviations from Contract Documents.
11. Request for selection of colors, patterns, textures for materials contained in submittals.

NOTE: Provide each and every item of finish, including color, pattern and texture as selected or approved by the Architect.

12. Contractor's stamp, initialed or signed, certifying to review of submittal, compliance with Contract Documents, and verification of field measurements when applicable.

F. Number of copies of submittals

1. Contractor will submit three (3) copies of each submittal to the Architect for review. Two (2) copies will be returned to the Contractor for his use.

G. Number of samples

1. Three (3) samples of each sample will be submitted to the Architect for review. The actual samples will not be returned to the Contractor, but the results of the review will be transmitted.

**1.08 RESUBMITTAL REQUIREMENTS**

A. Shop drawings:

1. Review drawings, indicate revision date as required, and resubmit as specified for initial submittal.
2. Indicate changes on drawings which have been made other than those requested by the Architect.

B. Product data and samples: Submit new data and samples as required for first submittals.

### 1.09 DISTRIBUTION OF SUBMITTALS AFTER REVIEW

- A. Distribute copies of shop drawings and product data which carry the Architect's stamp to:
  - 1. Contractor's file, job site file, and product record documents file.
  - 2. Contractor's subcontractors, suppliers, and fabricators as appropriate.
  - 3. Other contractors as may be required.
- B. Distribute samples as directed.

### 1.10 CONTRACTOR'S RESPONSIBILITIES

- A. Review shop drawings, product data and samples prior to submission to Architect.
- B. Verify field measurements, field construction criteria, catalog numbers, and similar data.
- C. Coordinate each submittal with work of the project and Contract Documents.
- D. Contractor's responsibility for errors and omissions in submittals or deviations from Contract Documents is not relieved by the Architect's review of submittals.
- E. Contractor's responsibility for deviations in submittals from Contract Document requirements is not relieved by the Architect's review of submittals, unless the Architect gives written approval of specific deviations.
- F. Notify the Architect, **in writing**, of deviations from requirements of Contract Documents at time submittals are made.
  - 1. A 'deviation' shall be construed to mean a minor change to the items or sequence indicated on the Drawings or in the Specifications.
    - a) A 'deviation' is not intended to allow substitutions or product options.
  - 2. In addition to notifying Architect in writing of deviations, circle deviations on shop drawings.
  - 3. The failure of the Contractor to clearly denote deviations within a submittal **IN WRITING ON COMPANY STATIONARY (NOT A TRANSMITTAL)**, and subsequently is not addressed in the Architect's review of the submittal, and thereby installed by the Contractor, may constitute the removal of the applicable work item(s) and replacement in accordance with the Contract Documents at **NO ADDITIONAL COST TO THE OWNER**.
- G. Do not begin any work which requires submittals until submittals have been returned with the Architect's (or consultant's) stamp and initials or signature indicating review and approval.
- H. After Architect's review, distribute copies.

### 1.11 ARCHITECT'S RESPONSIBILITIES

- A. Review submittals with reasonable promptness on basis of design of project and information contained in Contract Documents.

1. Omission in shop drawings of any materials described in the Contract Documents or required for proper execution and completion of Work, does not relieve the Contractor from responsibility for providing such materials as indicated in Contract Documents.
  2. Approval of a separate or specified item does not necessarily constitute approval of an assembly in which item functions.
- B. Furnish materials selections, and selection or approval of each and every item of color, pattern and texture of materials contained in the project.
- C. Affix stamp and initials or signature acknowledging review of submittal as follows:
1. Approved as drawn.
  2. Approved as noted.
  3. Approved as corrected. Resubmit.
  4. Not approved or Rejected. Resubmit.
- D. Return submittals to Contractor for distribution.

**END OF SECTION - 01340**

**SECTION 01370  
SCHEDULE OF VALUES**

**PART 1 - GENERAL**

**1.01 DESCRIPTION OF REQUIREMENTS**

- A. Submit to the Architect a Schedule of Values indicating each major and minor element of work, wherein all schedule of value components will total the Contract Sum.
- B. Payment requests will not be approved until the Schedule of Values is found acceptable to the Architect.
- C. Upon request by the Architect, support values in schedule with data that will substantiate their correctness.
- D. Schedule of Values is intended to be used only as basis for Contractor's application for payment.
- E. Include with Schedule of Values a listing of quantities of designated materials.
- F. The Contractor's monthly schedule is to be submitted with the application for payment. The Application for Payment **will not** be processed until the schedule update is received.

**1.02 FORM OF SUBMITTAL**

- A. Except as directed otherwise by the Architect, use the General Scope Base bid Items as basis for format for listing cost for work.

**1.03 PREPARING SCHEDULE**

- A. Itemize separate line cost for Contractor's General Requirements, Mobilization / Demolition and for work required by each Section of Specification broken down as required by the Architect for segments of the Project.

**1.04 STORED MATERIALS**

- A. To assure that certain critical materials will be available for incorporation into the Work when needed, Contractor may request approval for payment of those certain materials suitably stored at job site before they are installed. Proof of Ownership and certificates of insurance will also be required for stored material prior to payment being considered.
- B. If approved by the Owner off-site stored materials will be considered for payment prior to installation.

**1.05 REVIEW AND RESUBMITTAL**

- A. After review by Architect, revise and resubmit schedule (and stored materials) as required.

**END OF SECTION - 01370**

**SECTION 01500**  
**TEMPORARY CONSTRUCTION FACILITIES**

**PART 1 - GENERAL**

**1.01 DESCRIPTION OF REQUIREMENTS**

- A. Provide all construction facilities and temporary controls required for the Work of the project and maintain supervision of same.
- B. Provide as required, the following items without additional cost to the Owner:
  - 1. Temporary lighting required that would be in addition to that existing.
  - 2. Power extension cords for tools and equipment.
  - 3. Temporary field offices and storage sheds.
  - 4. Temporary barriers and fences.
  - 5. Temporary controls for noise, dust, water and erosion.
  - 6. Temporary construction aids.
  - 7. Security, protection and safety signage.
  - 8. Temporary sanitary facilities.
  - 9. Temporary telephone service.
  - 10. All additional construction facilities and temporary controls required by, and in accord with, legal requirements.
- C. Provide all work and facilities in full accord with all authorities having jurisdiction.
  - 1. The location of any temporary facilities and the extent of the facilities and services to be provided shall be subject to the requirements of the Contractor and the approval of, and to such conditions as, the Owner may prescribe.
- D. With regard to required construction facilities and temporary controls, provide for the following:
  - 1. Responsibility for initiating all safety measures including, but not limited to, all barriers, fences and gates, concrete encasement, signs, and all other personnel warning and safety devices of every kind required by Code, local utility company, or Owner.
  - 2. Disconnecting and removal of all construction controls that are not part of permanent construction when and as directed by the Owner, or at completion of Work.
  - 3. Filing of all permits for construction with local authorities.
  - 4. Payment of all fees as well as all inspection and supervision costs as may be levied by the utilities.
  - 5. Payment of all usage, service and energy charges for temporary utilities for construction purposes.
  - 6. Maintenance of all of this Contractor's temporary work and facilities.



7. Required rework and return to existing for this Contractor's construction facilities.
8. All barriers, fences and gates, concrete encasement, signs, and all other personnel warning and safety measures and devices of every kind required by Code, local utility company, or Owner.
9. Disconnecting and removing of all of this Contractor's temporary work not part of permanent construction when and as directed by the Owner.

#### **1.02 TEMPORARY SANITARY FACILITIES FOR CONSTRUCTION PERSONNEL**

- A. Provide, maintain and remove when directed, portable chemical toilets for this Contractor's construction and office personnel.
- B. Provide quantity and location of temporary toilets as required by authorities having jurisdiction and subject to approval of the Owner.
- C. Maintain temporary toilets in a sanitary condition at all times, subject to approval of the Owner.

#### **1.03 TEMPORARY POWER AND LIGHTING**

- A. The Contractor shall obtain temporary electric service from local utility company, complete with meter, for temporary service to new construction areas, construction trailers and field office.
- B. The contractor shall provide: temporary electric service for construction, temporary power distribution from service to new construction, construction trailers and field offices; temporary lighting for site and construction areas; temporary outlets for construction tools and equipment.
- C. The Contractor shall bear the cost of, and responsibility for, all material, installation, maintenance, relocation, inspections and permits, and removal of the temporary power and light systems.  
  
The Owner will pay electrical energy costs for service provided by the existing building distribution system.
- D. Contractor may obtain electricity from outlets in the existing building for temporary power and lighting.
- E. Contractor shall supply extension lines, etc. as required to complete the work.
- F. If the Contractor requires temporary power in excess of the existing type and capacity of service, it will provide the same at its expense.
- G. The Contractor will provide for site security lighting as it may require.
- H. The Contractor may connect temporary feeders to designated protectives in existing panels to extend power circuits to locations where, and as required, by the various trades requiring same. The Contractor shall bear cost associated with the circuit.

#### **1.04 NOT USED.**

#### **1.05 TEMPORARY FIRE PROTECTION**

- A. Maintain Existing Requirements:
  1. The existing resort will be occupied during the work.
  2. All existing exits, fire alarm, and fire protection systems shall be continuously maintained, or:

3. Other measures may be taken which in the opinion of the local Fire Department provide equal safety.
- B. Construction Requirements;
1. Comply with all applicable codes and regulations. As required by Local, State and Federal regulations, the Contractor will provide fire protection during construction.

**1.06 GENERAL ITEMS**

- A. In general, make materials deliveries during normal working hours. Where special deliveries must be made at other times, request the Architect's approval. After approval, arrange for proper labor force to receive and unload. If this procedure is not complied with, delivery will not be permitted.
- B. Staging areas for delivery of materials and equipment will be at locations designated by the Architect's.
- C. Contractor understands that other contractors will be working on the site for the duration of this Contract. Sequence operations to accommodate and coincide with the operations of the other contractors, and as approved by the Construction Manager. Areas will be made available in accord with the Owner's requirements.
- D. Utility mains and utility services to buildings or other facilities of the Owner or another contractor shall not be cut off or otherwise interrupted without permission from the Owner or the Construction Manager.
1. After authorization, prior to interrupting any utility service, the Contractor shall ascertain that it has the proper materials, together with adequate workmen and equipment, to complete the work in a minimum amount of time.
  2. Where possible, interruption in service shall be scheduled during the hours when the facilities are not in use.
  3. Cost of delays and inconvenience to the Owner, when normal services are not resumed as scheduled, shall be chargeable to the Contractor.

**END OF SECTION - 01500**

**SECTION 01630  
SUBSTITUTIONS AND PRODUCT OPTIONS**

**PART 1 - GENERAL**

**1.01 INTENT OF CONTRACT DOCUMENTS**

- A. Throughout the Contract Documents, products are referred to or identified by trade name or number, manufacturer's name or number, or in some like manner. When so identified, it is intended that the named product be provided. Any other product will be classified as a substitution.
- B. The term "product" includes materials, systems and equipment.
- C. It is the further intent of the Contract Documents that products be:
  - 1. New and best of their respective kinds.
  - 2. Furnished in ample quantities to facilitate proper and timely execution of the Work.
  - 3. Of one manufacturer for each specific purpose, insofar as is practical.

**1.02 CONTRACTOR'S PRODUCT OPTIONS**

- A. For products specified only by reference standards or performance characteristics, select any product meeting requirements, by any manufacturer. The Architect reserves the right, however, to exercise its prerogative in determining what is acceptable and what is not acceptable.
- B. For products specified by naming several manufacturers, select product from list of manufacturers named.
- C. For products specified by naming several manufacturers, but indicating the option of selecting equivalent products by stating "equivalent to" before specified product, submit request, as required for substitution, for any product not specifically named.
- D. For products specified by naming only one product and manufacturer, there is no option, and no substitution will be allowed.

**1.03 SUBSTITUTIONS**

- A. Requests received for substitution will not be considered, except for the following conditions:
  - 1. Product discontinued and no longer being manufactured.
  - 2. Insufficient quantity, except the following shall not establish cause for substitutions.
    - a. Failure to award a subcontract in sufficient time, or failure to place orders for products so as to insure delivery without delaying work.
- B. Delays beyond control, such as strikes, lockouts, fires, storms, or other acts of God, which may delay the procurement and delivery of products may constitute sufficient grounds for other Contract changes, but will not necessarily be sufficient cause for allowing substitutions.
- C. The Architect reserves the right to consider substitutions at any time during the progress of the Work when it would be in the Owner's best interests to do so.

- D. Submit written request for substitution and include:
1. Complete data substantiating compliance of proposed substitution with Contract Documents.
  2. For products, submit:
    - a. Product identification: include manufacturer's name and address.
    - b. Manufacturer's literature: Product description, performance and test data and reference standards.
    - c. Samples, when appropriate.
    - d. Name and address of similar projects on which product was used, and date of installation.
- E. In making request for substitution, Contractor represents:
1. It has personally investigated proposed product or method, and determined that product is equal or superior in all respects to that specified.
  2. It will provide the same Warranty for substitution as for product or method specified.
  3. It will coordinate installation of accepted substitution into Work, making such changes as may be required for Work to be complete in all respects.
  4. It waives all claims for additional costs related to substitution which consequently becomes apparent.
    - a. It will assume all additional cost of construction performed by other separate contractors to accommodate the accepted substitution.
  5. Cost data is complete and includes all related costs under its Contract, including redesign by a State of Florida Registered Architect.
- F. Substitutions will not be considered if:
1. They are indicated or implied on shop drawings or product data submittals without formal request submitted in accord with Article 1.03 - Substitutions.
  2. Acceptance will require substantial revision of Contract Documents.

**END OF SECTION - 01630**

**SECTION 01640  
PRODUCT HANDLING AND PROTECTION**

**PART 1 - GENERAL**

**1. DESCRIPTION OF REQUIREMENTS**

- A. Transport, deliver, handle, and store materials and equipment at the job site in such manner as to prevent damage, including damage which might result from the intrusions of foreign matter or moisture from any source.
  - 1. In all cases, comply with:
    - a. Material and equipment manufacturer's instructions regarding temperature limitations.
    - b. Other environmental conditions which are required to maintain the original quality of the materials and equipment.
- B. Maintain packaged materials in manufacturer's original containers with seals unbroken and labels intact until they are incorporated into the work.
  - 1. Packaged material shall bear the name of the manufacturer, the product, including brand name, color, stock number and all other complete identifying information.
  - 2. Packages showing indications of damage that may affect conditions of contents are not acceptable.
- C. Remove all damaged or otherwise unsuitable materials and equipment promptly from the job site.
- D. Locate storage piles, stacks or bins so as to avoid being disturbed. Provide barricades as required to protect storage from damage.
- E. Protect all finished surfaces, through or over which materials and equipment are handled.
  - 1. Maintain all finished surfaces clean, unmarred and suitably protected until occupied by Owner.

**END OF SECTION - 01640**

**SECTION 01700  
PROJECT CLOSEOUT**

**PART 1 - GENERAL**

**1.01 SUBSTANTIAL COMPLETION**

- A. Contractor:
  - 1. Submit written certification to Architect that project, or designated portion of project, is substantially complete.
  - 2. Submit list of items to be corrected.
- B. The Architect and Construction Manager will make a review of the work within 7 days after receipt of certification.
- C. Should the Architect or Project Manager consider that Work is substantially complete:
  - 1. Prepare, and submit to Owner, a list of items to be completed or corrected, as determined by the review.
  - 2. The Architect will prepare and issue a certificate of substantial completion, complete with signatures of Architect and Contractor, accompanied by Contractor's list of items to be completed or corrected, as verified and amended by the Construction Manager.
  - 3. Owner occupancy of project or designated portion of project:
    - a. Contractor shall:
      - (1) Obtain certificate of occupancy.
      - (2) Perform final cleaning in accord with Section 01710.
    - b. Owner shall occupy project or designated portion of project, under provisions stated in certificate of substantial completion.
  - 4. Contractor: Complete work listed or completion or correction, within designated time.
- D. Should the Architect consider that Work is not substantially complete:
  - 1. The Architect will notify Contractor, in writing, stating reasons.
  - 2. Contractor: Complete Work and send second written notice to Architect, certifying that project, or designated portion of project, is substantially complete.
  - 3. The Architect will make a review of the Work within 7 days after receipt of certification.

## **1.02 FINAL REVIEW**

- A. Contractor shall submit written certification that:
  - 1. Contract Documents have been reviewed.
  - 2. Project has been inspected for compliance with Contract Documents.
  - 3. Work has been completed in accord with Contract Documents.
  - 4. Equipment and systems have been tested in Owner's presence and are operational.
  - 5. Project is completed, and ready for final review.
- B. The Architect will make final review of the Work within 7 days after receipt of certification.
- C. Should the Architect consider that Work is finally complete in accord with requirements of the Contract Documents, it will request Contractor to make project closeout submittals.
- D. Should the Architect consider that Work is not finally complete:
  - 1. The Architect will notify Contractor, in writing, stating reasons.
  - 2. Contractor shall take immediate steps to remedy the stated deficiencies and send second written notice to the Architect certifying that Work is complete.
  - 3. The Architect will make a review of the Work within 7 days after receipt of certification.

## **1.03 CLOSEOUT SUBMITTALS**

- A. In addition to the requirements noted within the General Conditions of the Contract for Construction, the following supplements the requirements.
  - 1. Delivery of the project Record Documents to requirements of Section 01720.
  - 2. Delivery of operating and maintenance data:
    - a. to requirements of Section 01340.
    - b. to requirements of applicable Specification Sections.
  - 3. Delivery of warranties and bonds to requirements of Contract Documents.
  - 4. Delivery of Attic Stock or spare parts and maintenance materials to requirements of Specifications Sections.
  - 5. Delivery of evidence of compliance with requirements of governing authorities.
  - 6. Evidence of payments, and release of liens.
    - a. Contractor's Affidavit of Payment of Debts and Claims and Release of Liens.
- B. Duly execute all submittals before delivery to the Architect.

**1.04 INSTRUCTION**

- A. NOT USED.

**1.05 MANUALS FOR EQUIPMENT AND SYSTEMS**

- A. Prior to closeout of the Contract, the Contractor shall furnish to the Architect not less than three (3) bound copies of Operation and Maintenance (O&M) Manuals describing the proper operation and maintenance of all equipment and systems provided or installed by the Contractor as part of the Work. Information contained in the manual shall include, but shall not be limited to, the following information to each piece of equipment or system furnished:

1. Manufacturer's specification
2. Manufacturer's maintenance instructions
3. Name and telephone number of source for equipment/system replacement parts.
4. Complete wiring and diagrams (as applicable).
5. Manufacturer's written warranty
6. Name and telephone number(s) of local, qualified service representative.

**END OF SECTION - 01700**



**SECTION 01710  
CLEANING**

**PART 1 - GENERAL**

**1.01 DESCRIPTION**

- A. Maintain job site, surrounding areas, and public properties free from improperly stored materials, accumulations of waste, debris, and rubbish caused by operations.
- B. At completion of Work, remove waste materials, rubbish, tools, equipment, machinery, surplus materials, and clean all sight-exposed surfaces. Leave job site clean and ready for occupancy.

**PART 2 - PRODUCTS**

**2.01 MATERIALS**

- A. Use only cleaning materials recommended by manufacturer of materials of surface to be cleaned.
- B. Use cleaning materials only on surfaces recommended by cleaning material manufacturer.

**PART 3 - EXECUTION**

**3.01 CLEANING - GENERAL**

- A. Cleaning and disposal:
  - 1. Conduct cleaning and disposal operations in accord with legal requirements.
  - 2. Do not burn or bury rubbish and waste materials on job site. Do not dispose of volatile wastes such as mineral spirits, oil, or paint thinner in storm or sanitary drains.
- B. Hazards control:
  - 1. Store volatile wastes in covered metal containers, and remove from premises daily.
  - 2. Prevent accumulation of wastes which create hazardous conditions.
  - 3. Provide adequate ventilation during use of volatile or noxious substances.

**3.02 CLEAN-UP DURING CONSTRUCTION**

- A. Execute cleaning to ensure job site, premises, adjacent and public properties are maintained free from accumulations of waste materials and rubbish.
- B. Wet down dry materials and rubbish to lay dust.
- C. At reasonable intervals during progress of Work, clean job site and public properties, and dispose of waste materials, debris and rubbish.

- D. Provide dump containers on job site for collection of waste materials, debris and rubbish.
- E. Remove waste materials, debris and rubbish from job site, premises, adjacent and public properties and legally dispose of at public or private dumping areas.
- F. Handle materials in a controlled manner with as few handlings as possible. Do not drop or throw materials from height.
- G. Schedule cleaning operations so that dust and other contaminants resulting from cleaning process will not fall on wet, newly painted surfaces.

**3.03 FINAL CLEANING**

- A. Remove grease, dirt, and other foreign materials, from exterior finished surfaces.
- B. Repair, patch and touch-up marred surfaces to specified finish, and to match adjacent surfaces as appropriate.
- C. Broom clean roof surfaces.
- D. Owner will assume responsibility for cleaning as of time designated on Certificate of Substantial Completion for Owner's acceptance of project or portion thereof.

**3.04 GENERAL REQUIREMENTS**

- A. If the Contractor fails to comply with the requirements of this Article, in the opinion of the Construction Manager or Owner may direct a separate party to perform the necessary clean-up and deduct the cost of work from the monies due or to become due to said Contractor.

**END OF SECTION - 01710**

**SECTION 01720  
PROJECT RECORD DOCUMENTS**

**PART 1 - GENERAL**

**1.01 MAINTENANCE OF DOCUMENTS**

- A. Maintain at the job site (or at the Contractor's offices from which the Project is administered), one copy of each of the following as record documents:
  - 1. Contract drawings. (Blueline prints).
  - 2. Project Manual including Addenda/Bulletins.
  - 3. Approved shop drawings and samples.
  - 4. Modifications: Change Orders, Directives, and other written amendments to the Contract.
  - 5. Field Test records.
- B. NOT USED.
- C. General Requirements
  - 1. Progress Record Drawings:
    - a. During construction, Contractor shall keep a marked up-to-date set of record Document blueline drawings on the site as an accurate record of all deviations between work as shown and as installed. These drawings shall be available to the Architect for inspection at any time.
    - b. The Contractor will be provided, by the Architect, one (1) blueline set of Contract Drawings for the sole purpose of Progress Record Drawings.
  - 2. Final Record Drawings:
    - a. Upon completion of Work, Contractor shall furnish the Architect with a complete set of marked-up Record Document.

**END OF SECTION - 01720**

CONTRACTOR:

PROJECT: **La Cabana Beach & Racquet Club-E Suites & Internal Corridors Renovations**

**CLOSE-OUT CHANGE ORDER**

THIS CLOSEOUT CHANGE ORDER is made effective as of \_\_\_\_\_, by and between the Owner and the Contractor.

WHEREAS, the parties desire to closeout the above referenced Contract based upon the Contract Documents as, and to the extent, modified below.

NOW THEREFORE, in consideration of the covenants hereinafter set forth, the parties agree as follows:

1. The current status of the Contract is as follows:

Original Contract Sum	\$ _____
Total net change by previous Change Orders	\$ _____
Contract Sum prior to this Change Order	\$ _____
Contract Sum will be increased with this Change Order	\$ _____
Final Contract Sum including this Change Order	\$ _____

2. The Contractor certifies that all Work covered by the Contract and Change Order No. \_ through \_ has been completed in accordance with the terms of the Contract, including all punch list items.

3. The attached Contract Close-out Documents relate to all Work performed under the Contract and all Change Orders thereto, and, along with the other terms of this Close-out Change Order, constitute material consideration and representations to the Owner to induce the Owner into execution of this Close-out Change Order.

CONTRACT CLOSE-OUT DOCUMENTS

Attachment "A"	General Release
Attachment "B"	Contractor's Affidavit
Attachment "C"	Contractor's Release and Waiver - Insurance
Attachment "D"	Waiver of Claim/Litigation List
Attachment "E"	Contractor's Guarantee to Owner
Attachment "F"	Not Used
Attachment "G"	Certificate of Substantial Completion

4. RETAINAGE Within thirty (30) days after approval by Owner of the Contract Close-out Documents submitted by Contractor hereunder and satisfaction by Owner that Contractor shall have complied with all provisions of the Contract Documents, final payment, constituting the entire unpaid balance of the Contract Sum shall be paid by the Owner to the Contractor.

Please initial: \_\_\_\_\_  
Owner

\_\_\_\_\_  
Contractor

\_\_\_\_\_  
Project Manager

\_\_\_\_\_  
Architect

CONTRACTOR:

DATE:

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5. The Contractor represents to the Owner that:
    - a. There are no outstanding claims which the Contractor has against the Owner or Separate Contractors, their Subcontractors or Sub-subcontractors, on the Project, and to the best of its knowledge, there are no outstanding claims against Contractor, its Subcontractors or Sub-subcontractors, by Separate Contractors or their Subcontractors or Sub-subcontractors on the Project.
    - b. Without limitation upon the indemnity provisions contained in the Contract, the Contractor shall remain responsible for and shall indemnify the Owner, pursuant to the General Conditions, from any and all manner of action and causes of actions, claims, suits, losses, damages, demands and rights whatsoever made by Subcontractors, Sub-subcontractors, Separate Contractors, or any other third parties, arising out of or related to the Project, to the maximum extent permitted by law.
    - c. If requested by the Owner, the Contractor shall cooperate with the Owner in gathering and providing information to the Owner regarding any claims by or against Separate Contractors.
  6. The Contractor hereby certifies and warrants that all charges for labor, materials, supplies, equipment, lands, licenses, and other expenses under the Contract incurred up to and including the date hereof, for which the Owner might be sued or for which a lien might be filed, have been fully satisfied, paid in full and released, except for those names listed on the attached Contractor's Affidavit and that those listed on the Contractor's Affidavit shall be fully satisfied, paid in full and released prior to final payment as provided herein.
  7. All other obligations of the Contractor under the Contract Documents remain unchanged and shall survive the disbursement of final payment and the closing hereon.
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CONTRACTOR:  
DATE:  
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OWNER: La Cabana Beach and Racquet Club

Authorized  
Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

CONTRACTOR:

Authorized  
Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

REVIEW AND RECOMMEND FOR APPROVAL:

PROJECT MANAGER:

Authorized  
Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

ARCHITECT:

Authorized  
Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_