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ARTICLE 1 THE CONTRACT DOCUMENTS

~~The Contractor shall complete the Work described in the Contract Documents for the Project. The Contract Documents consist of~~ § 1.1 The Contractor shall faithfully and competently complete the Work described in the Contract Documents, or as reasonably inferable, necessary, or incidental to produce the results intended by the Contract Documents for the Project. The Contract Documents consist of

- .1 this Agreement signed by the Owner and ~~Contractor;~~Contractor, as modified;
- .2 ~~the all~~ drawings and specifications prepared by the ~~Architect, dated~~ Architect for construction of the Project, incorporated herein by this reference, and including but not necessarily limited to the following:

Drawings:

Number	Title	Date

Specifications:

Section	Title	Pages

- .3 addenda prepared by the Architect as follows:

Number	Date	Pages
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- .4 written orders for changes in the Work, pursuant to Article 10, issued after execution of this Agreement; and
- .5 other documents, if any, identified as follows:

[« Project Manual](#)

[Bid specifications and accepted portions of the Contractor's bid response, to the extent not inconsistent with this Agreement.](#)

[If there should be conflict or ambiguity within, between, or among any Contract Document\(s\), the conflict shall be resolved by complying with the provision that is most beneficial to the Owner, as determined in the Owner's sole discretion. »](#)

ARTICLE 2 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 2.1 The Contract Time is the number of calendar days available to the Contractor to substantially complete the Work.

§ 2.2 Date of Commencement:

Unless otherwise set forth below, the date of commencement shall be the date of this Agreement.

(Insert the date of commencement if other than the date of this Agreement.)

[« »](#)

§ 2.3 Substantial Completion:

Subject to adjustments of the Contract Time as provided in the Contract Documents, the Contractor shall achieve Substantial Completion, as defined in Section 12.5, of the entire Work:

(Check the appropriate box and complete the necessary information.)

[« »](#) Not later than [« »](#) ([« »](#)) calendar days from the date of commencement.

[« X »](#) By the following date: [«August 1, 2025»](#)

ARTICLE 3 CONTRACT SUM

§ 3.1 The Contract Sum shall include all items and services necessary for the proper execution and completion of the Work. Subject to additions and deductions in accordance with Article 10, the Contract Sum is:

~~(\$—)~~ [« A lump sum amount of _____, inclusive of all costs, taxes, fees, reimbursable expenses, and/or any other expenses. »](#)

§ 3.2 For purposes of payment, the Contract Sum includes the following values related to portions of the Work: *(Itemize the Contract Sum among the major portions of the Work.)*

Portion of the Work	Value
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§ 3.3 The Contract Sum is based ~~upon~~ [upon, and includes](#), the following alternates, if any, which are described in the Contract Documents and hereby accepted by the Owner:

(Identify the accepted alternates. If the bidding or proposal documents permit the Owner to accept other alternates subsequent to the execution of this Agreement, attach a schedule of such other alternates showing the amount for each and the date when that amount expires.)

[« »](#)

§ 3.4 Allowances, if any, included in the Contract Sum are as follows:

(Identify each allowance.)

Item	Price

§ 3.5 Unit prices, if any, are as follows:
(Identify the item and state the unit price and quantity limitations, if any, to which the unit price will be applicable.)

Item	Units and Limitations	Price per Unit (\$0.00)

ARTICLE 4 PAYMENTS

§ 4.1 Based on Contractor’s Applications for Payment certified by the Architect, the Owner shall pay the Contractor, in accordance with Article 12, as follows:
(Insert below timing for payments and provisions for withholding retainage, if any.)

« Applications for Payment shall be submitted to the Architect, certified, and thereafter forwarded to the Owner. If a certified Application for Payment is received by the Owner by the 15th day of the month, the Owner will pay the certified amount to the Contractor by the last day of the next month, unless and to the extent the Owner reasonably disputes same in good faith. A 10% retention shall be withheld on all payments. »

§ 4.2 Payments due and unpaid under the Contract Documents shall bear interest from the date payment is due at the rate below, or in the absence thereof, at the legal rate prevailing at the place of the Project.
(Insert rate of interest agreed upon, if any.)

~~%~~ «Five percent (5%). See MCL 438.31. »

ARTICLE 5 INSURANCE

§ 5.1 The Contractor shall maintain the following types and limits of insurance until the expiration of the period for correction of Work as set forth in Section 14.2, subject to the terms and conditions set forth in this Section 5.1:

As set forth below and in the "Owner’s Insurance Requirements", attached hereto as Attachment A.

~~§ 5.1.1 Commercial General Liability insurance for the Project, written on an occurrence form, with policy limits of not less than \$ () each occurrence, \$ () general aggregate, and \$ () aggregate for products-completed operations hazard.~~

~~§ 5.1.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Contractor, with policy limits of not less than \$ () per accident, for bodily injury, death of any person, and property damage arising out of the ownership, maintenance, and use of those motor vehicles along with any other statutorily required automobile coverage.~~

~~§ 5.1.3 The Contractor may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided that such primary and excess or umbrella insurance policies result in the same or greater coverage as those required under Section 5.1.1 and 5.1.2, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require exhaustion of the underlying limits only through the actual payment by the underlying insurers.~~

~~§ 5.1.4 Workers’ Compensation at statutory limits.~~

~~§ 5.1.5 Employers’ Liability with policy limits not less than \$ () each accident, \$ () each employee, and \$ () policy limit. Reserved~~

§ 5.1.6 The Contractor shall provide builder’s risk insurance to cover the total value of the entire Project on a replacement cost basis.

§ 5.1.7 Other Insurance Provided by the Contractor

(List below any other insurance coverage to be provided by the Contractor and any applicable limits.)

Coverage	Limits
<u>Bid Bond</u>	<u>5% of Bid Amount</u>
<u>Performance Bond</u>	<u>100% of Contract Sum</u>
<u>Payment Bond</u>	<u>100% of Contract Sum</u>

The Contractor shall deliver the required performance/payment bonds to the Owner and Architect at least three (3) days before the commencement of any Work at the Project site.

Contractor's insurances shall be obtained (and provided to the Owner's Designated representative) prior to the commencement of Services and shall be maintained either: (a) if occurrence-based, for at least one year following final completion, and/or (b) if claims-made, for at least seven years following final completion. The Owner, its Owner's Representative Consultant, and the Architect shall be identified as additional insureds on all applicable insurances. Contractor's insurance shall be primary and not contributory.

Insurance coverages, shall be either: (a) written on an occurrence basis, and shall be maintained without interruption from the date of commencement of the Work until one (1) year after the date of final payment, or (b) written on a claims-made basis, and shall be maintained without interruption from the date of commencement of the Work until seven (7) years after the date of final payment.

Insurance coverage and surety bond required under the Agreement shall be written with insurance and surety carriers authorized to do business in the State of Michigan. Insurance coverage and surety bonds shall be in a form and provided by an insurer acceptable to the Owner with an A.M. Best rating of A, XII or better and shall name the Owner, its Owner's Representative Consultant, and the Architect as "additional insured" on all applicable policies. The additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies and shall apply to both ongoing and completed operations. using the 2013 version of ISO forms CG 2010 07 04 or its equivalent.

The Contractor shall provide any other type or amount of insurance reasonably required by the Owner in good faith.

The Contractor's insurance shall not be eliminated, reduced or non-renewed without at least thirty (30) days' prior written notice to the Owner.

§ 5.2 The Owner shall be responsible for purchasing and maintaining the Owner's usual liability insurance and shall provide property insurance to cover the value of the Owner's property. ~~The Contractor is entitled to receive an increase in the Contract Sum equal to the insurance proceeds related to a loss for damage to the Work covered by the Owner's property insurance.~~

§ 5.3 The Contractor shall obtain an endorsement to its Commercial General Liability insurance policy to provide coverage for the Contractor's obligations under Section 8.12.

§ 5.4 Prior to commencement of the Work, ~~each party~~ the Contractor shall provide certificates of insurance showing ~~their respective coverages~~ coverages and stating that insurance coverages and limits shall not be reduced or eliminated without at least thirty (30) days prior written notice to the Owner. The Owner may require additional proof of coverage in the form of a true and accurate copy of the policies of insurance themselves. The maintenance of insurance in strict compliance with the requirements of this Agreement shall be a condition precedent to the Owner's obligation to make any payments to Contractor.

§ 5.5 Unless specifically precluded by the Owner's property insurance policy, the Owner and Contractor waive all rights against (1) each other and any of their subcontractors, suppliers, agents, and employees, each of the other; and (2) the Architect, Architect's consultants, and any of their agents and employees, for damages caused by fire or other causes of loss to the extent those losses are covered by property insurance or other insurance applicable to the Project, ~~except such rights as they have to the proceeds of such insurance.~~ Superior to any other term in this Agreement, any reference in this document to waivers of subrogation shall be deemed to be deleted and of no effect.

ARTICLE 6 GENERAL PROVISIONS

§ 6.1 The Contract

The Contract represents the entire and integrated agreement between the parties and supersedes prior negotiations, representations or agreements, either written or oral. The Contract may be amended or modified only by a written modification in accordance with Article 10.

§ 6.2 The Work

The term "Work" means the construction and services required by the Contract Documents, and includes all other labor, materials, tools, transportation, equipment, and services provided, or to be provided, by the Contractor to fulfill ~~the Contractor's obligations.~~ the Contractor's obligations: (i) to be incorporated into the Project (or the Contractor's portion of the Project if the Contractor is not responsible for the entire Project), (ii) required of the Contractor under the Contract Documents, or (iii) necessary or appropriate to fully construct, operate and maintain the Project (or the Contractor's portion of the Project if the Contractor is not responsible for the entire Project). The Work shall be performed in accordance with the Contract Documents. Contractor agrees that it (and any individuals it assigns to perform the Work) shall adhere to professional standards and will perform all Work in a manner consistent with generally accepted proficiency and competency for the type and nature of work rendered. Contractor shall at all times comply with all applicable federal, state and local laws and regulations, including the Owner's policies.

The Contractor acknowledges that there may be items of the Work, which the Contractor is responsible to provide under the Agreement that are not drawn or specified, but are necessary for the proper execution and completion of the Work and are consistent with and reasonably inferable from the Drawings and Specifications. All such items shall be provided as part of the Work without delay in its progress and without any increase in the Contract Sum.

§ 6.3 Intent

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.

§ 6.4 Ownership and Use of Architect's Drawings, Specifications and Other Documents

Documents prepared by the Architect are instruments of the Architect's service for use solely with respect to this Project. ~~The~~ Except as provided in the Agreement between the Owner and Architect, the Architect shall retain all common law, statutory, and other reserved rights, including the copyright. The Contractor, subcontractors, sub-subcontractors, and suppliers are authorized to use and reproduce the instruments of service solely and exclusively for execution of the Work. ~~The~~ Except as provided in the Agreement between the Owner and Architect, the instruments of service may not be used by the Contractor or any subcontractor or material or equipment supplier for other Projects or for additions to this Project outside the scope of the Work without the specific written consent of the ~~Architect.~~ Owner.

§ 6.5 Electronic Notice

Written notice under this Agreement may be given by one party to the other by email as set forth below.

(Insert requirements for delivering written notice by email such as name, title, and email address of the recipient, and whether and how the system will be required to generate a read receipt for the transmission.)

ARTICLE 7 OWNER

§ 7.1 Information and Services Required of the Owner

§ 7.1.1 If requested by the Contractor, the Owner shall furnish all necessary surveys and a legal description of the site.

§ 7.1.2 Except for permits and fees ~~under Section 8.7.1~~ that are the responsibility of the ~~Contractor,~~ Contractor (including but not limited to as set forth in Section 8.7), the Owner shall obtain and pay for other necessary approvals, easements, assessments, and charges.

§ 7.1.3 Prior to commencement of the Work, at the written request of the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. The Contractor shall have no obligation to commence the Work until the Owner provides such evidence.

§ 7.2 Owner's Right to Stop the Work

If the Contractor fails to correct Work which is not in accordance with the Contract Documents, the Owner may direct the Contractor in writing to stop the Work until the correction is made. [The rights of the Owner pursuant to this Section 7.2 shall be in addition to, and not in limitation of, the Owner's other rights under any other provision of the Contract Documents.](#)

§ 7.3 Owner's Right to Carry Out the Work

If the Contractor [fails, refuses,](#) defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a seven day period after receipt of written notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies, [including any claim against the Contractor's Performance Bond,](#) correct such deficiencies. In such case, the Architect may withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the cost of [correction, provided the actions of the Owner and amounts charged to the Contractor were approved by the Architect.](#)

§ 7.4 Owner's Right to Perform Construction and to Award Separate Contracts

§ 7.4.1 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.

§ 7.4.2 The Contractor shall coordinate and cooperate with the Owner's own forces and separate contractors employed by the Owner.

ARTICLE 8 CONTRACTOR

§ 8.1 Review of Contract Documents and Field Conditions by Contractor

§ 8.1.1 Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become familiar with local conditions under which the Work is to be performed, and correlated personal observations with requirements of the Contract Documents. [Failure of Contractor to independently investigate and become fully informed will not relieve Contractor of its responsibilities under this Agreement.](#)

§ 8.1.2 The Contractor shall carefully study and compare the Contract Documents with each other and with information furnished by the Owner. Before commencing activities, the Contractor shall (1) take field measurements and verify field conditions; (2) carefully compare this and other information known to the Contractor with the Contract Documents; and (3) promptly report errors, inconsistencies, or omissions discovered to the [Architect.](#) [Architect and Owner. Failure to undertake these steps shall make the Contractor responsible for any additional costs associated with such conditions, errors, inconsistencies and omissions.](#)

§ 8.2 Contractor's Construction Schedule

The Contractor, promptly after being awarded the Contract, shall prepare and submit for the Owner's and Architect's information a Contractor's construction schedule for the [Work.](#) [Work, in accordance with, and as necessary to timely complete the Work as provided in Article 2.](#)

§ 8.3 Supervision and Construction Procedures

§ 8.3.1 The Contractor shall supervise and direct the [Work.](#) [Work,](#) using the Contractor's best skill and [attention.](#) [attention, at all times work is being performed.](#) 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.](#) [The Contractor shall immediately notify the Architect in writing of delays or actions of other entities that could impact the timely coordination and completion](#) of the Work.

§ 8.3.2 The Contractor, as soon as practicable after award of the Contract, shall furnish in writing to the Owner, through the Architect, the names of subcontractors or suppliers for each portion of the Work. The Contractor shall not contract with any subcontractor or supplier to whom the Owner or Architect have made a timely and reasonable objection. [The Owner shall have the right to remove any employee of the Contractor or subcontractors immediately, if the Owner reasonably believes that such person may detrimentally reflect on the Owner and/or the Project \(subject to the Contractor's status as independent contractor\).](#)

§ 8.4 Labor and Materials

§ 8.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, utilities, transportation, and other facilities and services necessary for proper execution

and completion of the Work. Such provision of labor and materials shall occur in sufficient time to satisfy the existing Project schedule. The Contractor bears the risk of any failure to timely provide such labor and/or materials.

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

§ 8.4.3 Asbestos-Free Product Installation

1. It is hereby understood and agreed that no product and/or material containing asbestos, including chrysolite, crocidolite, tremolite asbestos, anthophyllite asbestos, actinolite asbestos and any combination of these materials that have been chemically treated and/or altered shall be installed or introduced into the Work by the Contractor or his employees, agents, subcontractors or other individuals or entities over whom the Contractor has control. The Contractor shall be required to sign a certification statement ensuring that all products or materials installed or introduced into the work will be asbestos-free.
2. The Contractor shall also be required to furnish certified statements from the manufacturers of supplied materials used during the construction verifying their products to be asbestos-free in accordance with the requirements of Section 8.4.3.1.
3. The Contractor shall complete and submit to the Owner a certification evidencing asbestos-free product installation prior to issuance of the final Certificate for Payment, in a form acceptable to Owner and Architect.

§ 8.4.4 The Contractor agrees that neither it nor its subcontractors will discriminate against any employee or applicant for employment, to be employed in the performance of this Contract, with respect to hire, tenure, terms, conditions, or privileges of employment, or a matter directly or indirectly related to employment, because of race, color, religion, national origin, age, sex, sexual orientation, gender identity or expression, height, weight, or marital status. Breach of this covenant may be regarded as a material breach of this Contract.

§ 8.5 Warranty

The Contractor warrants to the Owner and Architect that: (1) materials and equipment furnished under the Contract will be new and of good quality unless otherwise required or permitted by the Contract Documents; (2) the Work will be free from defects not inherent in the quality required or permitted; and (3) the Work will conform to the requirements of the Contract Documents. Any material or equipment warranties required by the Contract Documents shall be issued in the name of the Owner, or shall be transferable to the Owner, and shall commence in accordance with Section 12.5.

§ 8.6 Taxes

The Contractor shall pay sales, consumer, use, and similar taxes that are legally required when the Contract is executed. The Contractor shall pay all state and federal taxes levied on its business, income or property and shall make all contributions for social security and other wage or payroll taxes. The Contractor shall be solely responsible for such payments and shall indemnify and hold the Owner harmless from same. All taxes are included in the Contract Sum.

§ 8.7 ~~Permits, Fees and Notices~~ Permits, Fees, Licenses, and Notices

§ 8.7.1 The Contractor shall obtain and pay for the building permit and other permits and governmental fees, licenses, and inspections necessary for proper execution and completion of the Work. The Contractor, and all its Subcontractors of any tier, shall maintain at all times the required licenses and registrations required to perform the Work.

§ 8.7.2 The Contractor shall strictly comply with and give notices required by agencies having jurisdiction over the Work. 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 full responsibility for such Work and shall bear the attributable costs. The Contractor shall promptly notify the Architect and Owner in writing of any known inconsistencies in the Contract Documents with such governmental laws, rules, and regulations.

§ 8.8 Submittals

The Contractor shall promptly review, approve in writing, and submit to the Architect shop drawings, product data, samples, and similar submittals required by the Contract Documents. Shop drawings, product data, samples, and similar submittals are not Contract Documents.

§ 8.9 Use of Site

The Contractor shall confine operations at the site to areas permitted by law, ordinances, permits, the Contract Documents, and the Owner.

§ 8.10 Cutting and Patching

The Contractor shall be responsible for cutting, fitting, or patching required to complete the Work or to make its parts fit together properly.

§ 8.11 Cleaning Up

The Contractor shall keep the premises and surrounding area free from accumulation of debris and trash related to the Work. At the completion of the Work, the Contractor shall remove its tools, construction equipment, machinery, and surplus material; and shall properly dispose of waste materials. Failure of the Contractor to do any of the foregoing will result in the Owner's cleaning of the same at the expense of the Contractor.

§ 8.12 Indemnification

To the fullest extent permitted by law, the Contractor shall ~~indemnify~~ indemnify, defend, and hold harmless the Owner, Architect, Architect's consultants, and agents and employees of any of them, from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, ~~provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to including, but not limited to, the injury to or destruction of tangible property (other than the Work itself), property,~~ 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.

ARTICLE 9 ARCHITECT

§ 9.1 The Architect will provide administration of the Contract as described in the Contract Documents. The Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract ~~Documents~~ Documents and allowed by law.

§ 9.2 The Architect will visit the site at intervals appropriate to the stage of construction to become generally familiar with the progress and quality of the ~~Work~~ Work and shall provide all services required of it in the applicable Owner/Architect Agreement.

§ 9.3 The Architect will not have control over or charge of, and will not be responsible for, construction means, methods, techniques, sequences, or procedures, or for safety precautions and programs in connection with the Work, since these are solely the Contractor's responsibility. The Architect will not be responsible for the Contractor's failure to carry out the Work in accordance with the Contract Documents.

§ 9.4 Based on the Architect's observations and evaluations of the Contractor's Applications for Payment, the Architect will review and certify the amounts due the Contractor.

§ 9.5 The Architect has authority to reject Work that does not conform to the Contract ~~Documents~~ Documents with the Owner's prior consent.

§ 9.6 The Architect will promptly review and approve or take appropriate action upon Contractor's submittals, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents.

§ 9.7 On written request from ~~either the Owner or Contractor, the Owner,~~ the Architect will promptly interpret ~~and decide~~ matters concerning performance under, and requirements of, the Contract Documents.

§ 9.8 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, interpretations,~~ the Architect will endeavor to secure faithful performance by ~~both Owner and Contractor, will not show partiality to either Contractor~~ and will not be liable for results of interpretations ~~or decisions~~ rendered in good ~~faith~~ faith and without negligence.

§ 9.9 The Architect's duties, responsibilities, and limits of authority as described in the Contract Documents shall not be changed without written consent of the ~~Owner, Contractor, and Architect. Consent shall not be unreasonably withheld.~~ Owner and Architect.

ARTICLE 10 CHANGES IN THE WORK

§ 10.1 ~~After execution of the Contract, changes in the Work may be accomplished only by written Change Order, directed to the Contractor and signed by the Owner and Architect, or by order for a minor change in the Work.~~ The Owner, without invalidating the Contract, may also order changes in the Work within the general scope of the Contract, consisting of additions, deletions or other revisions, and the Contract Sum and Contract Time shall be adjusted accordingly, in writing. If the Owner and Contractor cannot agree to a change in the Contract Sum, and the Owner desires to still use the Contractor for such Work, the Owner shall pay the Contractor its actual cost plus reasonable overhead and profit, and reasonable cost plus reasonable overhead and profit not to exceed ten percent (10%). ~~When directed by a Construction Change Directive signed by the Owner, the Contractor shall proceed with the change in the Work immediately, even in the absence of a formal agreement to change the Contract Sum or Contract Time.~~

§ 10.2 The Architect may authorize or order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. ~~Such authorization or order shall be in writing and shall be binding on the Owner and Contractor.~~ The Contractor shall proceed with such minor changes promptly.

§ 10.3 The requirements of Section 2 of 1998 PA 57, as amended, are hereby incorporated into this Agreement. The Contractor shall be alert to any indication or evidence of existing underground or concealed utilities or structures not shown on the Contract Documents and shall immediately notify the Owner of discovery of such evidence. If the Contractor encounters such utilities or structures, it shall cease operations immediately to minimize damage and shall notify the Owner and Architect. The Contractor shall bear the cost of damage resulting from its failure to exercise reasonable care in its construction activity or from continuing operations without notifying the Owner. If ~~concealed or unknown physical conditions are encountered at the site that differ materially from those indicated in the Contract Documents or from those conditions ordinarily found to exist, the Contract Sum and Contract Time shall be subject to equitable adjustment.~~ reasonable adjustment as permitted by law.

ARTICLE 11 TIME

§ 11.1 Time limits stated in the Contract Documents are of the essence of the Contract. The Contractor shall perform in accordance with the Project schedule, which may be changed from time to time, and also in accordance with the Contractor's provided schedule of performance (if performance is due prior to that set forth in the latest Project schedule).

§ 11.2 If the Contractor is delayed at any time in progress of the Work 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, the ~~Contract Time shall be subject to equitable adjustment, sole remedy of such an occurrence shall be the extension of the Contract Time for a reasonable amount of time agreed to by the Owner and Contractor and, if mutual agreement cannot be reached as reasonably determined by the Architect. The Contractor shall not be entitled to monetary damages for such an occurrence.~~

§ 11.3 ~~Costs~~ Except as otherwise stated in this Agreement, costs caused by delays or by improperly timed activities or defective construction shall be borne by the responsible party.

§ 11.4 The Contractor shall provide notice in writing to the Owner of a potential claim for a delay related adjustment to the Contract Time within five (5) days of start of any delay and shall request in writing all changes to the Contract Time within twenty-one (21) days after cessation of the delay. The Contractor's failure to strictly comply with this Section 11.4 shall constitute a waiver of and shall forever bar any recover for additional time for the delay.

§ 11.5 No Damage for Delay. In no event shall the Contractor be entitled to any compensation or recovery of any damages in connection with any delay. In no event shall the Contractor be entitled to recover special, incidental, or consequential damages including without limitation, loss of anticipated profits, revenue, or use of capital.

ARTICLE 12 PAYMENTS AND COMPLETION

§ 12.1 Contract Sum

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

§ 12.2 Applications for Payment

~~§ 12.2.1 At least ten days before the date established for each progress payment, the~~ The Contractor shall submit to the Architect an itemized Application for Payment for Work completed in accordance with the values stated in this ~~Agreement. Agreement and in accordance with Section 4.1.~~ The Application shall be supported by data substantiating the Contractor's right to payment as the Owner or Architect may reasonably require, such as evidence of payments made to, and waivers of liens from, subcontractors and ~~suppliers. suppliers, and reflecting retainage.~~ 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, in writing, payment may similarly be made for materials and equipment stored, and protected from damage, off the site at a location agreed upon in writing.

§ 12.2.2 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 other encumbrances adverse to the Owner's ~~interests. interests, and that such Work is in full compliance with the~~ Contract Documents.

§ 12.3 Certificates for Payment

The Architect will, within seven days after receipt of the Contractor's Application for Payment, either (1) issue to the Owner a Certificate for Payment in the full amount of the Application for Payment, with a copy to the Contractor; (2) issue to the Owner a Certificate for Payment for such amount as the Architect determines is properly due, and notify the Contractor and Owner in writing of the Architect's reasons for withholding certification in part; or (3) withhold certification of the entire Application for Payment, and notify the Contractor and Owner of the Architect's reason for withholding certification in whole. If certification or notification is not made within ~~such seven day period, thirty (30)~~ days after receipt by the Architect, the Contractor may, upon seven (7) additional days' written notice to the Owner and Architect, stop the Work until ~~payment of the amount owing has been received. certification or notice is provided.~~ The Contract Time and the Contract Sum shall be equitably reasonably adjusted due to the ~~delay. delay in accordance with Section 11.4.~~

§ 12.4 Progress Payments

§ 12.4.1 After the Architect has issued a Certificate for Payment, the Owner shall make payment for all undisputed sums in the manner provided in the Contract Documents.

§ 12.4.2 The Contractor shall promptly pay each subcontractor and supplier, upon receipt of payment from the Owner, an amount determined in accordance with the terms of the applicable subcontracts and purchase orders.

§ 12.4.3 Neither the Owner nor the Architect shall have responsibility for payments to a subcontractor or supplier.

§ 12.4.4 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 requirements of the Contract Documents.

§ 12.5 Substantial Completion

§ 12.5.1 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 and where all required occupancy permits, if any, have been issued so the Owner can occupy or utilize the Work for its intended use.

§ 12.5.2 When the Contractor believes that the Work or designated portion thereof is substantially complete, it will notify the Architect and the Architect will make an inspection to determine whether the Work is substantially complete. When the Architect determines that the Work is substantially complete, the Architect shall prepare a Certificate of Substantial Completion that shall establish the date of Substantial Completion, establish the responsibilities of the Owner and Contractor, and fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of

Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 12.6 Final Completion and Final Payment

§ 12.6.1 Upon receipt of a final Application for Payment, the Architect will inspect the Work. When the Architect finds the Work acceptable and the Contract fully performed, the Architect will promptly issue a final Certificate for Payment. In the event the Architect finds the Work unacceptable, the Architect shall issue a list of unsatisfactory items to the Contractor and the Owner, which the Contractor must complete prior to further payment on the Contract.

§ 12.6.2 Final payment shall not become due until the Contractor submits to the Architect releases and waivers of liens, consent of surety (if required), warranties, and any other data establishing payment or satisfaction of obligations, obligations or otherwise reasonably requested by Owner and/or Architect. such as receipts, claims, security interests, or encumbrances arising out of the Contract.

§ 12.6.3 Acceptance of final payment by the Contractor, a subcontractor or supplier in a written certification accompanying the final Application for Payment shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment. The making of final payment shall not be deemed a waiver of claims by the Owner.

§ 12.6.4 Amounts withheld from the final payment to cover any incomplete work are not considered retainage and shall not be paid to the Contractor until the Work is actually completed and accepted by the Owner. Such withholdings shall not be less than 150% of the estimated cost to the complete the Work.

ARTICLE 13 PROTECTION OF PERSONS AND PROPERTY

The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs, including all those required by law in connection with performance of the Contract. The Contractor shall take reasonable precautions to prevent damage, injury, or loss to employees on the Work and other persons who may be affected thereby, the Work and materials and equipment to be incorporated therein, and other property at the site or adjacent thereto. The Contractor shall promptly remedy damage and loss to property caused in whole or in part by the Contractor, or by anyone for whose acts the Contractor may be liable.

ARTICLE 14 CORRECTION OF WORK

§ 14.1 The Contractor shall promptly correct Work ~~rejected by the Architect as~~ failing to conform to the requirements of the Contract Documents. The Contractor shall bear the cost of correcting such rejected Work, including the costs of uncovering, replacement, and additional testing.

§ 14.2 In addition to the Contractor's other obligations including warranties under the Contract, the Contractor shall, for a period of one year two (2) years after Substantial Completion, correct work not conforming to the requirements of the Contract Documents.

§ 14.3 If the Contractor fails to correct nonconforming Work within a reasonable time, the Owner may correct it in accordance with Section 7.3. The Contractor shall reimburse the Owner for the cost of correction and any related costs and fees, including, but not limited to attorney fees, incurred by the Owner in the pursuit of such correction or recovery of payment for such correction.

§ 14.4 If the Contractor or any subcontractor chooses to use any systems, equipment, facilities, or services which have been incorporated into the Project as a permanent part thereof, the Contractor shall assume full responsibility for damages caused to said systems, equipment, facilities or services, and have damages repaired as required, so that in no case will the performance of the used systems, equipment facilities or services be diminished from the specified criteria as a result of such use.

ARTICLE 15 MISCELLANEOUS PROVISIONS

§ 15.1 Assignment of Contract

Neither party to the Contract shall assign the Contract as a whole without written consent of the other.

§ 15.2 Tests and Inspections

§ 15.2.1 At the appropriate times, the Contractor shall arrange and bear cost of tests, inspections, and approvals of portions of the Work required by the Contract Documents or by laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities.

§ 15.2.2 If the Architect requires additional testing, the Contractor shall perform those tests.

§ 15.2.3 The Owner shall bear cost of tests, inspections, or approvals that do not become requirements until after the Contract is ~~executed~~. executed and are required through no fault or delay of the Contractor or others. The Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations so require.

§ 15.3 Governing Law

The Contract shall be governed by the law of the ~~place where the Project is located, excluding that jurisdiction's choice of law rules.~~ State of Michigan, except that no claim of the Owner shall be barred as untimely if filed within six (6) years of final completion of the Project.

ARTICLE 16 TERMINATION OF THE CONTRACT

§ 16.1 Termination by the Contractor

If the Work is ~~stopped~~ stopped, unscheduled, under Section 12.3 for a period of ~~14 days~~ ninety (90) days for reasons within the Owner's control and through no fault of the Contractor, the Contractor may, upon seven additional days' written notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work ~~executed including reasonable overhead and profit, and costs incurred by reason of such properly executed including reasonable overhead and profit on the portion of the Work completed to the date of~~ termination.

§ 16.2 Termination by the Owner for Cause

§ 16.2.1 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 ~~is otherwise guilty of substantial~~ otherwise commits a breach of a provision of the Contract ~~Documents.~~ Documents; or
- .5 fails to prosecute the Work or any part thereof with promptness and diligence, fails to perform any provisions of this Agreement, goes into bankruptcy or liquidation, makes an assignment for the benefit of creditors, enters into a composition with its creditors or becomes insolvent.

§ 16.2.2 When any of the above reasons exist, the ~~Owner, after consultation with the Architect,~~ 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

- .1 take possession of the site and of all materials thereon owned by the Contractor, and
- .2 finish the Work by whatever reasonable method the Owner may deem expedient.

§ 16.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 16.2.1, the Contractor shall not be entitled to receive further payment until the Work is ~~finished~~. finished and until sums due under Section 16.2.4 have been determined.

§ 16.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, such excess shall be paid to the Contractor. If such costs exceed the unpaid balance, the Contractor shall pay the difference to the Owner. This obligation for payment shall survive termination of the Contract.

§ 16.2.5 If the Owner erroneously or improperly terminates the Contractor for cause, then the Owner's action shall be deemed to be a termination for convenience, subject to the provisions of Section 16.3.

§ 16.3 Termination by the Owner for Convenience

The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause. The Contractor shall be entitled to receive payment for Work ~~executed, and costs incurred by reason of such termination, along with reasonable overhead and profit on the Work not properly~~ executed.

ARTICLE 17 OTHER TERMS AND CONDITIONS

(Insert any other terms or conditions below.)

«§ 17.1 The Contractor shall inspect the Work on the Project as it is being performed until final completion and acceptance of the Project by the Owner to assure that the Work performed and the materials furnished are in accordance with the Contract Documents and that Work on the Project is progressing on schedule. In the event that the quality control testing should indicate that the Work, as installed, does not meet the requirements of this Project, the Contractor shall notify the Owner and Architect, the Owner and Architect shall determine the extent of the Work that does not meet the requirements, and the Contractor shall take appropriate corrective action, and advise the Owner of the corrective action.

§ 17.2 The Contractor shall provide daily full-time, on-site field supervision during the entire construction phase. The Contractor agrees to assign the following listed project team members, as listed in their respective capacities to the Project:

<u>Staff Name</u>	<u>Assignment</u>	<u>Contact Information – Mobile Phone & Email</u>
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Contractor shall promptly notify the Owner if services of any one of the listed team members become unavailable due to circumstances beyond the Contractor's control, e.g., extended illness or disability, death, termination of employment, etc. No substitution of any of the above listed project team members shall be made without the prior written consent of the Owner; and before any such substitution the Contractor shall submit to the Owner a detailed justification supported by the qualification of any proposed replacement. Contractor is not entitled to additional compensation for any such substitution(s) of the project team members. The Owner reserves the right to require the replacement of any or all of the above listed team members for cause; and the Contractor shall provide suitable replacement or replacements upon two (2) weeks' notice.

This Section 17.2 shall not be interpreted to eliminate or reduce the Architect's responsibilities under MCL 388.851, et seq. or MCL 339.2011, as applicable, or the Owner/Architect Agreement.

§ 17.3 The Owner, being a public body, shall render required decisions within a reasonable time after being requested to do so by the Contractor, taking into consideration its obligations under the Open Meetings Act and others. The Contractor, assisted by the Architect, shall prepare and submit all recommendations for which approval is required by Owner as soon as reasonably possible unless another schedule is agreed to by the Owner, in writing. The Contractor shall not cause unreasonable delays in the orderly progress of work.

§ 17.4 NOTICE OF CLAIMS

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, including, but not limited to, additional sums, additional time for performance, or damages. 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. The Contractor shall not knowingly (as "knowingly" is defined in the Federal False Claims Act, 31 USC 3729, et seq.) present or cause to be presented a false or fraudulent Claim. As a condition precedent to making a Claim by the Contractor, the Claim shall be accompanied by an affidavit sworn to before a notary public or other person authorized to administer oaths in the State of Michigan and executed by an authorized representative of the Contractor, which states that: "The Claim which is submitted herewith complies with subparagraph 17.5 of the Owner/Contractor Agreement, as amended, which provides that the Contractor shall not knowingly present or cause to be presented a false or fraudulent claim."

Claims by the Contractor must be initiated by written notice to the Owner and to the Architect. Claims by the Contractor must be initiated within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the Contractor first recognizes, or should have recognized, the condition giving rise to the Claim, whichever is

later. Failure to timely and properly initiate a claim shall be an irrevocable waiver of such claim. Claims by the Owner shall be governed by the applicable statute of limitations period.

Pending final resolution of a Claim, including mediation and/or litigation, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make undisputed payments in accordance with the Contract Documents.

§ 17.5 If any provision of this Agreement shall be held to be illegal, invalid or otherwise unenforceable by law, the remainder of this Agreement shall not be affected thereby and each provision, term, covenant or condition of this Agreement shall be enforced to the fullest extent permitted.

§ 17.6 Dispute Resolution

The parties shall endeavor to resolve their disputes by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with their Construction Industry Mediation Procedures in effect on the date of this Agreement. A request for mediation shall be made, in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the mediation. For any claim not resolved by mediation required herein, the parties shall pursue litigation as their method of binding dispute resolution.

§ 17.7 Nothing herein shall be deemed to eliminate or reduce the Owner's defense of governmental immunity. »

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

(If required by law, insert cancellation period, disclosures or other warning statements above the signatures.)

« »

GRAND RAPIDS PUBLIC SCHOOL DISTRICT,

OWNER (Signature)

«Alex Smart,
Executive Director of Facilities and Operations»

(Printed name and title)

CONTRACTOR (Signature)

« » « »

(Printed name and title)

LICENSE NO.:

JURISDICTION:

Modified: 12/21/21; 8:43am