



MORONGO BAND OF MISSION INDIANS

MBMI CHP Phase 2 Construction (GMP)

Request for Proposal

Submittal Due Date

October 22nd, 2026

Table of Contents

Table of Contents

1.	Project Objective
2.	Project Information
3.	Project Scope of Work Overview
4.	RFP Schedule
5.	Mandatory Site Walk
6.	Submittal Response
7.	Questions from Proposers/Respondents
8.	RFP Addendum / Clarifications
9.	Submittal Criteria
10.	Owner's Representative
11.	Tax Requirements
12.	Tribal Monitoring
13.	Code of Conduct
14.	Interviews and Selection
15.	Amendment of RFP
16.	Contract Administration
17.	Project Schedule and Time for Completion
18.	Late Proposals
19.	Withdrawal of Proposals
20.	Contract Administration and Project Representation
21.	Site Visit and Examination of Conditions
22.	Contractor Evaluation & Selection Process
23.	Equal Employment Opportunity
24.	Miscellaneous Terms
25.	Disclaimer
26.	Contract Terms and Conditions
27.	Change Orders
28.	Spoils, Import, and Export of Materials
29.	System Integrator
Exhibit A – Notice of Intent	
Exhibit B – Fee	
Exhibit C – Qualifications, Clarifications, Exclusions Form	
Exhibit D – Preliminary Construction Phasing Exhibit	
Exhibit E – Plan Set	
Exhibit F – Receipt of Request for Proposal (RFP) Addenda	
Exhibit G – MBMI Requirement for Tribal Cultural Resource Monitors for Ground Disturbing	
Exhibit H – Code of Conduct for Contractors Working on the Morongo Band of Mission Reservation	
Exhibit I – For Reference, AIA, A102-2017 Owner-Contractor Agreement	
Exhibit J – For Reference, AIA, A102-2017 Exhibit A Insurance and Bonds	
Exhibit K – For Reference, AIA, A201-2017 General Conditions	
Exhibit L – For Reference, AIA, G702 Application and Certificate for Payment and AIA, G703 Continuation Sheet.	
Exhibit M – For Reference, AIA, G701 Change Order	
Exhibit N– Federal Energy Tax Credit Compliance	

Morongo Band of Mission Indians Request for Proposal (RFP)



Title: MBMI Combined Heat and Power (CHP) Phase 2

Introduction

1. Project Objective

The Morongo Band of Mission Indians (“Morongo” or “MBMI”) a federally recognized Indian Tribe, is requesting proposals from qualified General Contractors (“Bidder”) for construction of the MBMI Combined Heat and Power (“CHP”) Phase 2 Project. The Project is designed by ELEN Consulting and will be delivered under a Guaranteed Maximum Price (GMP) contract. This is a federally incentivized project subject to Investment Tax Credit (ITC), Prevailing Wage and Apprenticeship (PWA), and Domestic Content requirements.

This project expands the Tribe’s energy infrastructure to improve resiliency, efficiency, and long-term operational reliability.

All work shall be completed in accordance with the construction plan set attached hereto as **Exhibit E** (the “Plan Set”), which more particularly describes the scope, limits, and requirements of the Project.

The Contractor will be selected based on best overall value to the Morongo Band of Mission Indians (“Morongo”), with consideration given to demonstrated competence, relevant experience, professional qualifications, financial capacity, and the ability to successfully and timely perform the required services.

Prospective Contractors are strongly encouraged to carefully review the Construction Plan Set attached hereto as **Exhibit E** (the “Plan Set”) to ensure a full understanding of the Project requirements prior to submitting a Statement of Qualifications.

This RFP describes the Project, including the required scope of services, provisions of the contract, material procurement related to taxes, the minimum information that must be included in the proposal, and the deadline for submittals.

2. Project Information

- A. Owner: The Project is commissioned by the Morongo Band of Mission Indians.
- B. Project Location: The project site is located on the north side of the Morongo Casino

Resort & Spa. 49500 Seminole Dr. Cabazon, CA 92230

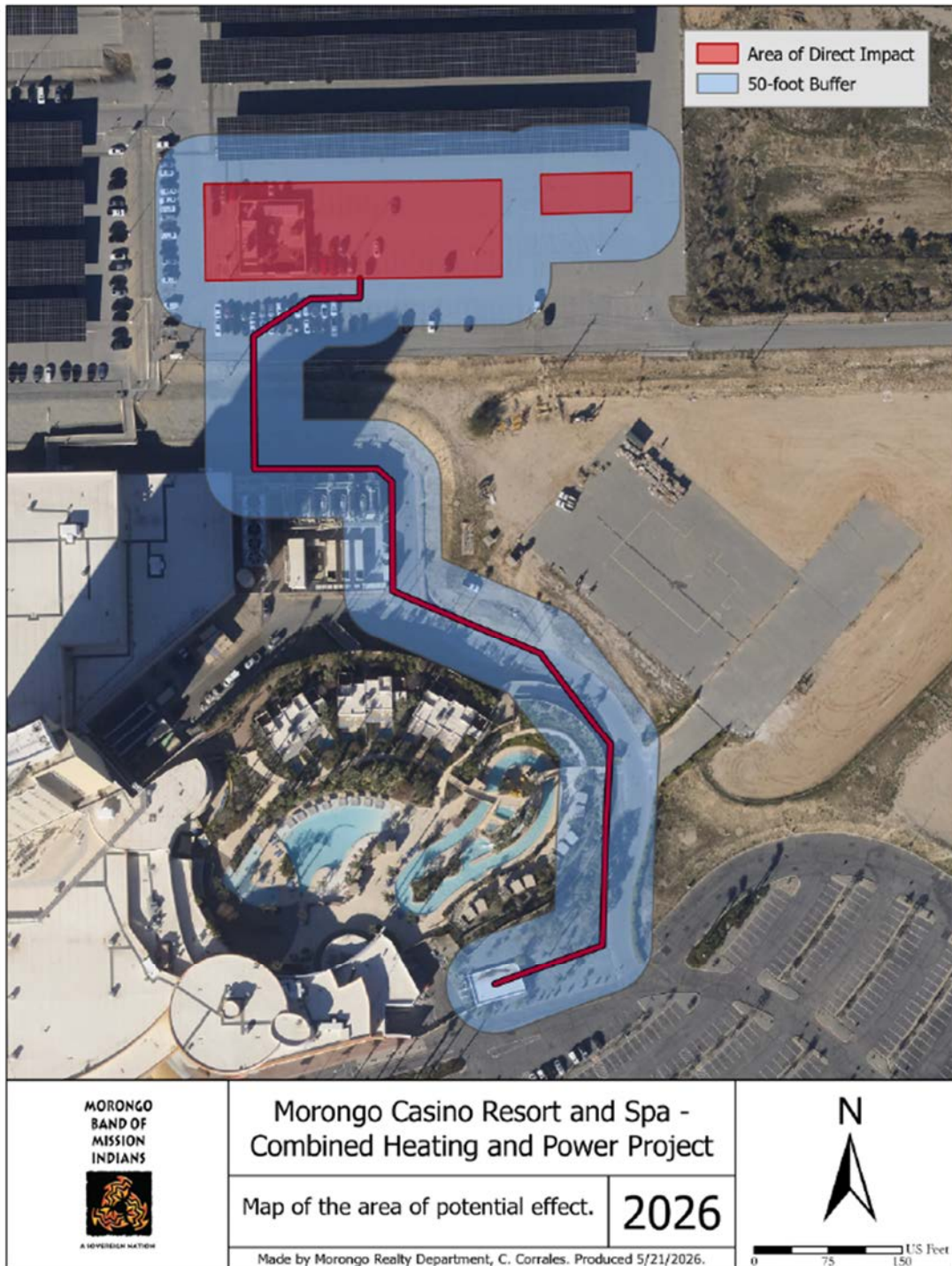
- C. Adjacent Parties affected by work;
- Morongo Casino Resort and Spa
 - Morongo Travel Center
- D. Contractor Licensing Requirements: The General Contractor shall possess and maintain, at the time of proposal submission, contract award, and throughout the duration of the Project, a valid and active Class B – General Building Contractor license issued by the California Contractors State License Board.

All subcontractors performing work under the General Contractor shall possess and maintain the appropriate license required for their respective scopes of work. The General Contractor shall be solely responsible for verifying and ensuring that all subcontractors are properly licensed prior to performing any Work.

Failure to maintain required licensing in good standing may result in disqualification, contract termination, or other remedies available to the Owner.

- E. Insurance: The selected Contractor shall provide insurance in accordance with the requirements set forth in the Owner-Contractor Agreement and General Conditions included in this RFP for reference, including:
- Commercial General Liability
 - Workers' Compensation
 - Automobile Liability
 - Builder's Risk (if required by agreement)
- F. Labor Compliance Requirements: The work to be performed under this Request for Proposals is subject to prevailing wage requirements as defined in ITC. Refer to Exhibit N.
- G. Investment Tax Credit (ITC): The project has strict documentation requirements. Refer to Exhibit N. Contractors are strongly encouraged to hire an ITC Consultant to ensure compliance with the ITC required documentation and reporting.

2.1 Location Map



3. Project Scope of Work Overview

A. General Overview

The selected Contractor shall provide all labor, supervision, materials, equipment, tools, transportation, and incidentals necessary to complete the Work in accordance with the Contract Documents, approved plans, Tribal standards, and applicable federal and state regulations.

All work shall be performed in strict compliance with Tribal and City codes, ordinances, and permitting requirements.

The Contractor shall be responsible for complying with all applicable labor, procurement, documentation, reporting, and regulatory requirements associated with the Project, including but not limited to prevailing wage requirements, apprenticeship requirements, domestic content requirements, and any requirements necessary to support the Owner's eligibility for available Investment Tax Credits (ITC), energy incentives, grants, rebates, or other funding opportunities. The Contractor shall maintain complete and accurate records throughout the duration of the Project and shall provide all certifications, supporting documentation, and compliance records required by the Owner, regulatory agencies, taxing authorities, and funding entities. For more information refer to Exhibit N

B. Scope of Work

The Work includes, but is not limited to, the following:

Pre-Construction Activities

- Insurance certificates and endorsements
- Permitting and agency approvals
- Utility company coordination and service agreements
- Pre-construction meeting participation
- Preparation and submission of construction schedule (CPM required)
- Submittals and shop drawings
- Traffic Control Plan preparation and approval
- SWPPP preparation and filing
- Site surveying and construction staking
- Underground utility locating (USA/811) and potholing

Owner-Architect-Engineer-Contractor (OAEC) meetings

- Weekly Meetings throughout duration of project

Site Preparation & Temporary Controls

- Mobilization and demobilization
- Site Logistics Plan, showing the location of field offices/trailers, material storage areas, portable restrooms, access routes, fencing, laydown areas, and related temporary facilities
- Temporary fencing and site security
- Temporary construction signage
- Traffic control implementation
- Dust control measures
- Stormwater pollution prevention measures (BMP installation and maintenance)
- Erosion and sediment control
- Tree protection or removal
- Clearing and grubbing
- Removal and disposal of existing pavement or improvements

Earthwork & Trenching

- Excavation for utility trenches
- Over-excavation (if unsuitable soils encountered)
- Shoring, shielding, and trench safety systems (OSHA compliance)
- Import/export of soil
- Backfill and compaction (per specifications)
- Compaction testing and documentation
- Rough grading and fine grading

Water Improvements

- Installation of water mains
- Installation of valves, fittings, and fire hydrants
- Installation of water service laterals
- Construction of thrust restraints
- Pressure testing and hydrostatic testing
- Chlorination and flushing of water systems
- Tie-ins to existing water systems
- Any specialized colored backfill required by Utilities purveyor.
- Install tracer wire ensuring continuous, detectable wiring for future location and maintenance.

Sewer Improvements

- Installation of sanitary sewer mains
- Installation of sewer manholes and cleanouts
- Installation of sewer service laterals

- Connection to existing sewer systems
- Trench backfill and compaction
- Low-pressure air testing and/or mandrel testing
- Closed-circuit television (CCTV) inspection
- Any specialized colored backfill required by Utilities purveyor
- Install tracer wire ensuring continuous, detectable wiring for future location and maintenance.

Dry Utilities

- Installation of underground electrical and communication conduits
- Construction of duct banks
- Installation of pull boxes, vaults, and transformer pads
- Installation of streetlight conduits and foundations, poles and lumens
- Coordination with utility providers for service connections
- Trench backfill and compaction
- Conduit proofing and mandrel testing
- Any specialized colored backfill required by Utilities purveyor
- Install tracer wire ensuring continuous, detectable wiring for future location and maintenance.

Street and Surface Improvements

- Clearing, grubbing, and site preparation
- Earthwork, trenching, and grading
- Subgrade preparation and compaction
- Placement and compaction of aggregate base
- Asphalt paving (base and surface course)
- Portland cement concrete paving
- Installation of curb and gutter
- Construction of drive approaches
- Sidewalk installation
- ADA-compliant curb ramps
- Pavement striping and markings
- Installation of traffic signage
- Installation of traffic calming devices

Restoration & Surface Improvements

- Restoration of disturbed areas
- Replacement of damaged improvements

Tribal Coordination and Compliance

The Contractor shall:

- Coordinate with Morongo Water, Public Works, Planning, Environmental, Fire and other applicable Tribal departments
- Comply with all Morongo construction standards and inspection requirements

- Coordinate with the Morongo Tribal Historic Preservation Office (THPO) for cultural resource monitoring.
- Participate in required pre-construction and progress meetings
- Provide regular schedule updates and monthly progress reports

Environmental Requirements

The Contractor shall:

- Prepare, implement, and maintain a Stormwater Pollution Prevention Plan (SWPPP)
- Install and maintain Best Management Practices (BMPs) for erosion and sediment control
- Dust control compliance
- Noise control compliance
- Hazardous material handling (if encountered)
- Cultural and Tribal monitoring will by Morongo
- Compliance with local, state, federal, and Tribal regulations

Phasing and Scheduling

The Work shall be completed in phases as determined and approved by the Construction and Development Department. The General Contractor shall be responsible for developing and submitting a comprehensive phasing plan as part of its Proposal. The phasing plan shall clearly demonstrate the Contractor's proposed approach for sequencing, coordinating, and executing the Work to achieve completion within the required Contract Time while minimizing disruptions to ongoing operations.

The Contractor shall review all project requirements and site conditions and submit a detailed proposed phasing plan and project approach that addresses construction sequencing, utility coordination, access requirements, and traffic management. Morongo reserves the right to review, modify, or require revisions to the phasing plan throughout the duration of construction as necessary to accommodate operational needs or project requirements.

The Contractor shall:

- Submit a detailed construction schedule identifying all major phases and milestones.
- Develop and coordinate the sequencing of wet utilities, sewer, storm drain, dry utilities, and roadway improvements.
- Maintain safe and continuous access for MCRS, CIE, businesses, emergency services, and project stakeholders throughout construction.
- Develop and implement all required traffic control measures in accordance with applicable standards and agency requirements.
- Coordinate all construction activities to minimize impacts to existing operations and adjacent facilities.

Testing, Inspection, and Closeout

The Contractor shall provide all labor, materials, equipment, supervision, and coordination necessary to complete commissioning and testing activities associated with the Project. This shall include all required startup, functional performance testing, documentation, and coordination with the Owner, design team, Commissioning Agent (CxA), System Integrators and other project stakeholders.

The Contractor shall provide all support necessary for commissioning (Cx) testing of the Combined Heat and Power (CHP) system. The General Contractor shall coordinate and cooperate with the Owner's Commissioning Agent and Dyna Integrators throughout the commissioning process. Responsibilities shall include scheduling and facilitating commissioning activities, providing access to equipment and systems, coordinating subcontractors and vendors, supporting startup and functional performance testing, correcting deficiencies identified during commissioning, and providing all required documentation necessary to achieve successful system acceptance.

The Contractor shall ensure that all CHP system components, controls, interfaces, and associated equipment are fully operational and available for commissioning activities and shall support testing necessary to verify compliance with the Contract Documents, manufacturer's requirements, and project performance criteria.

The Contractor shall provide:

- Compaction testing and material testing shall be provided by Morongo consultant (Wildan)
- Water system pressure testing and disinfection certification
- Sewer testing and CCTV inspection
- Record drawings (as-builts)
- Warranties and required closeout documentation
- Final cleanup and punch list completion

Closeout Requirements

- Final inspections and approvals from all applicable authorities having jurisdiction
- Cx testing, commissioning reports, deficiency resolution, and final system acceptance documentation
- CHP startup, testing, and performance verification reports
- CHP manufacturer certifications and warranty documentation
- CHP controls integration testing reports and final acceptance documentation from Dyna Integrators
- Prevailing wage documentation, including certified payroll records and final compliance certifications
- Apprenticeship documentation, including apprentice utilization records and compliance certifications

- Domestic Content documentation, certifications, and supporting material sourcing records
- Investment Tax Credit (ITC) compliance documentation, including contractor certifications, material procurement records, equipment origin documentation, labor compliance records, and all supporting information required by the Owner to substantiate eligibility for available tax credits and incentives
- Final equipment inventory and asset documentation for all CHP-related equipment and components
- Submission of warranties and warranty contact information
- Submission of operation and maintenance manuals
- Submission of manufacturer startup reports and maintenance requirements
- As-built drawings (record drawings), including all civil, architectural, structural, mechanical, electrical, controls, communications, and utility systems
- Submission of electronic copies of all closeout documents in an Owner-approved format
- Punch list completion and verification of corrective actions
- Owner training and submission of training materials and attendance records
- Delivery of spare parts, special tools, software licenses, passwords, and access credentials required for operation and maintenance of the CHP system and associated controls
- Demobilization
- Final site cleanup

4. RFP Schedule

Submittal Due Date: It is mandatory that proposals be submitted as sealed hard-copy proposals, received no later than October 22, 2026, at 4:00 p.m. (Pacific Time) in accordance with the submission requirements of this RFP. One (1) USB flash drive enclosed within the sealed package containing an electronic copy of the complete proposal. All proposals shall be delivered by mail or courier to the following address:

Morongo Band of Mission Indians
Real Estate & Development
12700 Pumarra Road
Banning, CA 92220
Attn: Mr. Shawn Steves

Submissions received after the deadline will be returned unopened. Please note that only one submission is allowed from each Architecture Firm.

Important Dates: The following schedule shall govern this RFP. All times referred to in this RFP are Pacific Daylight Time (PDT).

IMPORTANT DATES

EVENT	DATE, TIME
Release of RFP	September 9, 2026
Intention to Respond returned by	September 21, 2026
Mandatory Site Walk	September 30, 2026
RFP Questions deadline	October 9, 2026
RFP Questions MBMI responses	October 16, 2026
RFP Close	October 22, 2026
Participants notified of outcome	December 2, 2026
Contract Execution	January 13, 2027
Notice to Proceed	January 27, 2027
Project Completion	December 15, 2028

Note: The above dates and times are subject to change at the discretion of Morongo

5. Mandatory Site Walk

Site Walk will be held on Wednesday September 30, 2026 at 10:00am. Please meet at the upper parking lot North side of the Morongo Resort Spa and Casino (MCRS) next to SCE yard. Located at 49500 Seminole Dr. Cabazon, CA 92230



6. Submittal Response

The Proposers shall submit one (1) sealed hard-copy proposal, delivered by mail or courier, and one (1) USB flash drive enclosed within the sealed package containing an electronic copy of the complete proposal.

Proposals must be received by MBMI no later than **October 22, 2026, at 4:00 p.m.** (Pacific Time). Proposals received after the deadline will be rejected and returned unopened.

The electronic copy provided on the USB flash drive shall be identical in content to the hard-copy submission and shall be provided in PDF format unless otherwise specified in this RFP.

MBMI will not be responsible for, not accept as a valid excuse for late response delivery, any delay in submission, mail service, or other method of delivery used by proposer/respondent.

7. Questions from Proposers/Respondents

All questions regarding the RFP must be submitted by email to ssteves@morongo-nsn.gov by **October 9, 2026, 5:00 p.m.** Pacific Time. Do not contact Morongo by any other means regarding this RFP

8. RFP Addenda/Clarifications

If necessary, MBMI may revise any portion of this RFP to provide clarification or additional information after the RFP has been released. Any such revisions will be issued by written addendum and distributed only to firms that have completed and submitted an Intent to Respond (ITR). MBMI also reserves the right to investigate and rely upon information from other available sources in addition to the documents or information submitted in response to this RFP. Recipients of record are those firms that have completed and submitted an ITR via electronic mail.

Any addenda will be sent by e-mail only to recipients of record. It shall be the responsibility of the respondents to inquire of the MBMI as to if any addenda have been issued. This may be done by emailing ssteves@morongo-nsn.gov prior to the RFP submittal deadline. All addenda issued shall become part of the RFP. In addition, responses to written questions received will be incorporated in an RFP addendum. MBMI responses to questions will be distributed at least 72 hours prior to the deadline for RFP submission.

Proposer shall not contact any other employee or representative of Morongo regarding this RFP other than as allowed herein. Morongo shall not be held liable for oral representations made by its employees or agents.

9. Submittal Criteria

9.1 Executive Summary

The executive summary should introduce the firm or individual, must be signed by an authorized officer of the firm or organization or by the individual that binds the terms of the response and shall be addressed to Mr. Shawn Steves, Morongo Construction and Development Director. The executive summary must contain the following:

- Legal name of firm.
- Address.
- Telephone and fax.
- State whether the firm is local, national, or international.
- Website URL (if applicable).
- Type of firm (individual, corporation, etc.).
- Provide a brief description of your firm and number of years in business.
- Number of employees located in Southern California counties (Riverside, San Diego, Orange, Los Angeles, San Bernardino, etc.).
- Number of employees
- Date firm was established.
- State of California business license number.
- Tax Identification number.
- Current license information, including number and expiration date (if applicable). All licenses must be issued from California.
- Number of current projects and current workload.
- Address, telephone, and email address of the person and office that will be primarily responsible for providing for this proposal.

9.2 Table of Contents

- Table of contents is to be included in the response and is to be no more than one page.
- Each section of the table of contents shall be properly labeled by section name and number.

9.3 Proposed Staff and Project Organization

- Project Executive
- Preconstruction Manager
- Superintendent
- Project Manager

- Project QSP

Describe your proposed team for this project, clearly identify:

- Their role on this project
- Their specific responsibilities
- The number of years employed with your firm
- Specifically discuss for each individual their background, relevant experience, and training in executing projects of similar size, scope, complexity as described in this RFP. Include examples of comparable work that demonstrate your team's ability to successfully manage and deliver the required scope of work.

Resumes for all proposed key personnel shall be included in the Appendix section of the submission.

9.4 Subcontractor Staffing and Qualifications

Identify all key subcontractors proposed for this project and provide detailed information regarding their assigned personnel.

For each subcontractor include:

- Company name and scope of work
- Key staff assigned to the Project
- Each individual's role and specific responsibilities
- Number of years employed with the subcontracting firm
- Relevant project experience demonstrating successful completion of work of similar size, scope and complexity

Describe the subcontractor's team's background, qualifications, and any specialized training, certifications, or licenses applicable to the scope of work specified in this RFP.

Resumes for all key subcontractor personnel shall be included in the Appendix section of the submission.

The owner reserves the right to review and approve or reject proposed subcontractors and key personnel based on demonstrated qualifications and experience.

9.5 Project Experience

Prospective Contractors must demonstrate substantial experience performing projects of similar scope, size, and complexity. Respondents shall submit a minimum of three (3) representative examples of successfully completed civil infrastructure projects with municipalities within the Southern California region. Each project submission shall include a detailed description of the work performed, total contract value, project schedule (including original and final completion dates), and client references.

9.6 Proposed Construction Schedule, Phasing Plan, Cash Flow and Construction Approach Narrative

Proposer shall submit a detailed Construction Schedule and Construction Plan Narrative that clearly defines the overall sequencing, phasing strategy, and approach to completing the Work within the required contract duration. The schedule shall identify all major milestones, critical path activities, long-lead procurement items, inspection points, and project closeout activities.

Important Information: The CHP is required to be fully commissioned and operational by 4th quarter of 2028 in order to comply with ITC project requirements.

The Construction Plan Narrative shall include:

Work Tasks, Activities, and Execution Approach

- Proposed construction sequencing and logical breakdown of work elements
- Defined construction phasing plan, including phase limits, duration of each phase, transition points, and coordination between phases.
- Methods and concepts for performing the work efficiently and safely.
- Site logistics plan, including access, material staging, laydown areas, equipment movement, and workforce management.
- Coordination with utilities, stakeholders, adjacent operations, and regulatory requirements.
- Identification of critical path work and risk mitigation strategies.
- Schedule acceleration methods, if required, including but not limited to extended work hours, additional crews, prefabrication, overtime, resequencing of activities, or alternative construction methodologies.

Cash Flow: Contractor shall include a project cash flow forecast with its proposal, identifying anticipated monthly expenditures and billing projections throughout the duration of the project.

The Proposer shall clearly demonstrate how the proposed phasing and sequencing of the Work will minimize disruption, maintain required operations (if applicable), ensure quality control, and support timely completion of the Project. The selected Contractor will be required to provide an updated schedule reflecting any changes to the Work and to submit three-week look-ahead schedules for review at all Owner-Architect-Engineer-Contractor (OAEC) meetings.

9.7 Scope of Services

The Proposer shall provide a comprehensive description of its proposed work program. This section shall clearly describe the technical approach, methodology, sequencing, and

specific tasks and activities that will be performed to address the issues, requirements, and work items identified in this RFP.

The work program narrative shall demonstrate the Proposer's understanding of the Project and include:

- A detailed explanation of how the Work will be executed to meet the Project objectives.
- Identification of anticipated constraints, challenges, and risks associated with the Project.
- Discussion of site, operational, regulatory, scheduling, or coordination issues that may impact performance.
- Proposed strategies, mitigation measures, and solutions to effectively address and resolve such constraints or challenges.

The Proposer shall clearly identify and describe any deviations, exceptions, or modifications to the Scope of Work as presented by Morongo. For each deviation, the Proposer shall provide a detailed explanation of the nature of the deviation and the justification for the proposed change.

Failure to clearly identify deviations may be interpreted as the Proposer's full acceptance of the Scope of Work as issued.

9.8 Preconstruction Service Requirements

The selected Contractor shall provide comprehensive pre-construction services to support effective planning, coordination, and preparation prior to the start of construction. These services shall include, but are not limited to, the following:

A. Scheduling

- Develop a detailed pre-construction schedule and overall Project schedule that identifies key activities, milestones, and dependencies.
- Update the schedule regularly to reflect changes, adjustments, or delays and provide updated schedules as requested by Morongo.

B. Cost Management

- Prepare a detailed cost breakdown for the Project, including labor, materials, permits, equipment, and any other anticipated expenses.
- Assist Morongo in evaluating and tracking costs to support budget management and informed decision-making

C. Coordination and Collaboration

- Work closely with Morongo staff from relevant departments, including Construction and Development, Environmental, THPO - Tribal Cultural

Resource Monitors, Public Works, Water and Sewer, Realty, City of Banning and Public Utilities having jurisdiction, to ensure proper planning and compliance.

- Preconstruction coordination shall include, but is not limited to:
 - o Inspections and plan reviews
 - o Stormwater Pollution Prevention (SWPP) planning
 - o Monitoring during ground disturbance
 - o Utility planning and connections
 - o Water requirements for grading
 - o Planning and management of staging areas, construction spoils, and dumpsters

The Contractor shall demonstrate in their Proposal how these pre-construction services will be executed efficiently to support a safe, well-coordinated, and timely construction phase.

9.9 Quality Assurance Plan

The Proposer shall submit a comprehensive Quality Assurance Plan (QAP) describing the systems, processes, and commitments that will be implemented to ensure the Work complies with all Contract requirements. The QAP shall, at a minimum, address the following components:

D. Quality Commitment

1. **On-Time Delivery**
A commitment to deliver all materials, equipment, and services on or before the scheduled or contractually required dates.
2. **Timely Response**
A commitment to provide consistent and prompt responses to service requests, submittals, Requests for Information (RFIs), corrective actions, and other project-related communications.
3. **Conformance to Specifications**
A commitment to furnish products and perform services that meet or exceed the requirements and specifications set forth in the Contract Documents at the proposed price.
4. **Quality Control Practices**
A commitment to implement defined methods, procedures, inspections, and verification processes to ensure quality control of workmanship, materials, deliverables, and invoicing accuracy.
5. **Issue Resolution**
A commitment to work collaboratively with Morongo to promptly investigate and resolve any concerns regarding the quality of materials,

workmanship, or services provided.

E. Quality Management System (QMS)

The Proposer shall describe how it will establish, implement, and maintain an effective Quality Management System (QMS) throughout the Project lifecycle. The QMS description shall include, at a minimum:

- Document control procedures
- Change management processes
- Non-conformance identification and tracking
- Corrective and preventive action procedures
- Continuous improvement practices
- Internal auditing and compliance monitoring processes

F. Roles and Responsibilities

The Proposer shall clearly define the roles and responsibilities of personnel responsible for quality assurance and quality control activities. This section shall:

- Identify key quality personnel (e.g., Quality Manager, Quality Control Manager, Quality Control Inspectors).
- Describe reporting relationships and lines of authority.
- Define responsibilities for inspections, testing, documentation, and corrective actions.
- Clarify coordination responsibilities between the Contractor, subcontractors, suppliers, and Morongo.

G. Quality Control Procedures

The Proposer shall provide a detailed description of its Quality Control (QC) procedures, including:

- Project-specific Control Plans
- Inspection and testing protocols
- Hold points and witness points
- Acceptance criteria
- Verification and validation processes
- Procedures for addressing deficiencies and rework

H. Subcontractor Management

The Proposer shall describe how it will manage and ensure subcontractor compliance with project quality standards. This section shall include:

- Criteria and qualification standards for subcontractor selection
- Prequalification procedures

- Methods for monitoring subcontractor performance
- Inspection and oversight processes
- Performance evaluation and corrective action procedures

I. Documentation and Reporting

The Proposer shall specify all documentation and reporting requirements related to Quality Assurance and Quality Control, including:

- Inspection and testing reports
- Photo documentation including drone aeriels
- Non-conformance reports (NCRs)
- Corrective action reports
- Submittal logs and tracking
- Quality audit reports
- Closeout documentation

The QAP shall demonstrate the Proposer's ability to deliver consistent, compliant, and high-quality performance throughout the duration of the Contract.

9.10 Safety Plan

Proposers shall provide a Safety Plan describing their approach to protecting workers, subcontractors, and the public. At a minimum, the plan should address:

- **Hazard Identification & Mitigation** –Methods to identify risks and implement controls.
- **Training & Education** – Safety training programs for employees and subcontractors.
- **Emergency Preparedness** – Procedures for medical incidents, fire, spills, and other emergencies, including evacuation plans and reporting protocols.
- **Regulatory Compliance** – Commitment to federal, state, and local safety regulations and industry standards (e.g., OSHA).
- **Safety Performance Evaluation** – Tracking incidents, implementing corrective actions, and continuous improvement processes.
- **Subcontractor Safety Management** – Procedures for prequalification, oversight, and ensuring subcontractors meet project safety requirements.

Proposers should demonstrate how their Safety Plan will be implemented and maintained throughout the project to ensure a safe and compliant work environment.

9.11 Warranty Coverage

Proposers shall provide a Warranty Plan that addresses all warranty requirements for the Project. At a minimum, the plan should include:

- **Definition of Warranted Work** – Describe the work, materials, equipment, and services covered by the warranty.
- **Duration of Warranty** – Specify warranty periods for all applicable items, including Contractor and manufacturer warranties.
- **Coverage** – Detail the extent of the warranty coverage, including repairs, replacements, or corrective actions for defective materials, equipment, or workmanship.
- **Exclusions** – Identify any items, conditions, or circumstances not covered by the warranty.
- **Closeout Documentation** – Describe the procedures and documentation provided upon project completion, including:
 - o Details of all warranties (materials, equipment, workmanship)
 - o As-built drawings.
 - o Final inspection and testing results.
 - o Procedures for initiating warranty claims
 - o Contact information for warranty service providers
 - o Maintenance requirements to maintain warranty validity
 - o Submission of warranty certificates, manuals, and related documentation

9.12 Contract Price and Fees

- A. The contract will be awarded as a Guaranteed Maximum Price (GMP) Contract
- B. Cost and Fees. The cost and fee structure will be broken down by per **Exhibit B**
 - a. Contractors are to fill out Exhibit B as part of their RFP response.
 - b. Contractors should also provide a more detailed cost proposal broken down into sub divisions of the CSI master format.
- C. Subconsultant and trade costs.
- D. Allowances. In order to provide an all-inclusive cost, Contractor may propose allowances for scope that are not fully defined at delivery execution of contract. Allowance amounts will need to be thoughtfully developed.
- E. Escalation Contingency. The Contractor may propose an escalation contingency, if necessary. Any proposed escalation must be clearly identified in the Proposal, including the associated cost, and must be accompanied by a detailed justification with supporting documentation. The justification should explain the basis for the escalation, such as anticipated increases in labor, materials, equipment, or other project-related costs. The Owner will review any proposed escalation contingency to determine its reasonableness and applicability to the Project.
- F. Contractor Contingencies. Three percent (3%)

9.13 Fiscal Stability

The Contractor should provide evidence of the firm's corporate stability including:

- A. A current report from any commercial credit rating service like Dunn and Bradstreet or Experian.

- B. A letter from a financial institution stating a current line of credit.
- C. The latest audited financial statement and/or an annual report that has been certified by a Certified Public Accountant (CPA).

9.14 Litigation Disclosure

The Proposer shall disclose any pending litigation, arbitration, administrative proceeding, investigation, or material claim involving the Proposer (including parent company, affiliates, or key personnel) that may affect its ability to perform the Work.

The Proposer shall also disclose any such matters resolved within the past **three (3) years** that relate to construction contracts, professional services, safety violations, fraud, misrepresentation, or contract default.

For each matter disclosed, provide a brief description, the forum, current status or outcome, and any judgment or settlement amount.

Failure to disclose required information may result in rejection of the Proposal or termination of any resulting contract.

9.15 Insurance Requirements

The Contractor shall obtain and maintain, at its own expense, the following insurance coverage for the duration of the Project:

A. Commercial General Liability

The Contractor shall maintain Commercial General Liability insurance with a total coverage limit of not less than ten million dollars (\$10,000,000) per occurrence for damages arising from bodily injury, death, or property damage.

B. Workers' Compensation

Contractor will maintain Workers Compensation insurance coverage on any owners, officers, partners and/or employees of Contractor who are present for any purpose on Morongo or the Project premises, in no less than California statutory amounts. Contractor will ensure that all subcontractors likewise maintain Workers Compensation insurance on any persons who are present for any purpose Morongo or the Project premises, in no less than California statutory amounts.

Contractor will fully indemnify Morongo from any failure to observe or enforce these Workers Compensation insurance requirements.

C. Vehicle Insurance

The Contractor shall maintain adequate insurance for any vehicles used in connection with the Project, in no less than California statutory amounts.

D. Professional Liability

Contractor shall maintain professional liability insurance with coverage for wrongful acts, errors, or omissions committed by consultant in the course of work performed for Morongo under this agreement. This insurance shall include coverage for liability assumed under this agreement when consultant's wrongful acts, errors, or omissions cause such liability. The limit for this insurance shall be not less than one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) annual aggregate.

- i. Contractor will maintain all required insurance during the duration of the Project. Prior to commencing any work on the Project, Contractor shall submit to Morongo a declaration or endorsement page from the Contractor's policy(ies) demonstrating the following: (i) Contractor maintains insurance coverage of the types and in amounts not less than those set forth above,
- ii. that Morongo Band of Mission Indians is named as an additional insured, and (iii) that Contractor's insurance policy shall be primary, not excess, or contributory, as to any insurance carried by Morongo or any third party. Morongo will maintain its usual and customary insurance on the property; however, all Parties acknowledge that any insurance maintained by Morongo is solely for the benefit of Morongo, and Contractor will not be entitled to look to or rely on any insurance coverage maintained by Morongo for any purpose. Each Party waives all rights or claims of subrogation.

10. Owner's Representative

Shawn Steves has been appointed by Morongo as the point of contact for the Project. All information, documentation and directions will be communicated in writing to/from Shawn Steves

11. Tax Requirements

In recognition that Morongo is a tax-exempt entity, Contractor shall, upon receipt of Morongo's tax-exempt certificate or similar documentation, take commercially reasonable steps, including strict compliance with the California Department of Tax and Fee Administration Publication 146 regulations, to avoid the imposition of sales, use, or other taxes in connection with this Project. Contractor shall be financially responsible for taxes incurred by either party that could have been avoided through Contractor's reasonable efforts.

12. Tribal Monitoring

The MBMI Tribal Historic Preservation Office (THPO) mandates the presence of Tribal Cultural Resource Monitors (TCRMs) for any ground-disturbing activities throughout the project's duration. Scheduling TCRMs should be coordinated through MBMI Construction and Development at least 5 days in advance of the ground-disturbing activity, and compliance with this requirement is non-negotiable. The selected General Contracting firm is expected to commit to adhering to MBMI Tribal Cultural Resource protection measures,

showcasing a dedication to ethical and responsible development throughout the project's life. See **Exhibit G: MBMI Requirement for Tribal Cultural Resource Monitors for Ground Disturbing Activities** for more details on this requirement.

13. Code of Conduct

General Contractors and their Subcontractors will be expected to follow the Code of Conduct while on the MBMI Reservation. General Contractors are required to provide the Code of Conduct to their subs and vendors. See **Exhibit H: Code of Conduct for Contractors Working on the Morongo Band of Mission Indians Reservation**.

14. Interviews and Selection

Morongo may at its sole discretion elect to interview a short list of qualified Contractors or to interview only the top-rated Contractors based on the proposals submitted for the Project.

15. Amendments to RFP

Morongo retains the right to amend or cancel this RFP at any time and at its sole discretion. Amendments will be provided in writing to those Contractors who have submitted Intent to Bid notification.

16. Contract Administration

Morongo shall maintain contract administration systems to ensure vendors and Contractors providing services perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders. A Vendor's/Contractor's performance may be a factor that is considered in subsequent contract negotiations and awards. Whenever it has been determined that a Vendor/Contractor has not performed, remedial action by Morongo through its legal processes shall be considered in instances of identified significant nonperformance, collusion, or suspected fraud of any kind.

Morongo may in its sole discretion, by notice to bidders or otherwise and without the need to give reasons:

- re-advertise this RFP
- change any date in the process for this RFP (i.e. extend or shorten timeframes) whether that date has passed
- apply or change any criteria relating to participation in the process for the RFP, or for the evaluation of bidders
- suspend or cancel all or any part of the process for this RFP, in such a case bidders will not be entitled to any reimbursement or compensation from the Department
- withdraw or cancel this RFP at any time, in such a case bidders will not be entitled to any reimbursement or compensation from the Department

- seek clarification of any bidders
- adjust any bid following clarification and confirmation of that adjustment with the bidder
- waive any irregularities or informalities in a proposal or in the evaluation of bidder or in the process for this RFP
- change any part of, or rule in the process for this RFP
- interview, negotiate with, or hold discussions with any bidder to the exclusion of any other bidder after the RFP closing date
- undertake any required due diligence on any bidder.

Morongo is not obliged to award the contract to any bidder.

Morongo is not obliged to award the contract to the lowest priced bidder.

Morongo reserves the right to invite other potential organizations to submit a bid for the works required under this RFP. Any such invited party will be required to submit their bid by the RFP closing date and comply with the conditions of this RFP

Without limiting Morongo's rights under this RFP, Morongo reserves the right to enter negotiations with one or more bidders to obtain a satisfactory solution if, in the opinion of Morongo, none of the bids submitted are acceptable. This will be at Morongo's sole discretion.

17. Project Schedule and Time for Completion

The Project completion schedule shall be based on commencement of Work upon the Contractor's receipt of a written Notice to Proceed. The proposed time for completion of each Task will be considered as part of the evaluation of proposals. Proposers may, therefore, identify an alternate number of calendar days for completion of the Work, if applicable.

The proposed schedule shall account for all anticipated durations necessary to complete the Work, including time required for shop drawing preparation and review, if applicable.

18. Late Proposals

It is Contractor's sole responsibility to ensure that its proposal is received at the Morongo Real Estate and Development office prior to the scheduled closing time for receipt of proposals. Proposals received after the closing time specified in the RFP will not be considered and will be returned.

19. Withdrawal of Proposals

Proposals may be withdrawn if written notification of withdrawal of the proposal is signed by an authorized representative of the vendor and received at the Morongo Real Estate and Development office prior to the closing time for receipt of proposals. Proposals cannot be changed to withdrawn after the time designated for receipt.

20. Contract Administration and Project Representation

Morongo will designate an authorized representative to administer the Contract and serve as the primary point of contact for the Contractor.

The Contractor shall designate a qualified representative (Project Manager), to be identified in the proposal, who will have full authority and responsibility for the performance of the Work from issuance of the Notice to Proceed through final completion of the Project.

Any proposed substitution of the Contractor's designated representative or identified subconsultants shall require prior written approval from Morongo's authorized representative. Morongo reserves the right to review and approve or reject any proposed changes to key personnel or subconsultants. Unauthorized substitutions or removals may be deemed a breach of Contract.

21. Site Visit and Examination of Conditions

Proposers are strongly encouraged to visit the Project site and conduct such examinations and investigations as necessary to become fully informed regarding all conditions that may affect the preparation of their proposal and performance of the Work. Failure to perform such due diligence shall not relieve the Contractor of responsibility for complying with all requirements of this RFP, nor shall it serve as a basis for additional compensation, claims, or extensions of time under the Contract.

22. Contractor Evaluation & Selection Process

The evaluation and selection of the Contractor will be based on the criteria set forth below. These criteria will be applied in the review and comparative analysis of all responsive proposals.

1. Understanding of the project requirements, including identification of critical elements and key issues.
2. Technical approach and work plan for the project.
3. Qualifications and experience of the project executive, project manager, superintendents, other key staff, and sub consultants.
4. Reference checks will be conducted only for firms included on the shortlist or for the highest-ranked firm, at the discretion of the Owner.
5. Clarity of the proposal, the proposal shall demonstrate clear, concise, and well-organized responses that effectively address all requirements of the RFP.
6. Compliance with proposal requirements, the proposal shall fully comply with all instructions, requirements, and submission criteria set forth in this RFP. Failure to

adhere to the specified requirements may result in disqualification.

7. Fees and Schedule, the proposal shall include a detailed fee structure and a proposed project schedule, clearly identifying all costs, assumptions, and key milestones necessary to complete the scope of work. Please refer to **Exhibit B**

23. Equal Employment Opportunity

Morongo is an equal opportunity employer and requires the Contractor to comply with policies and regulations concerning equal employment opportunity. Morongo hereby notifies all respondents that it will affirmatively ensure that any contract entered pursuant to this advertisement will be awarded without discrimination on the grounds of any protected status.

All qualified applicants will receive consideration for employment without regard to race, color, religion, sex, age, handicap, or national origin. Bidders on this work will be required to comply with the President's Executive Order No. 11246, as amended by Executive Order 11375, and as supplemented in Department of Labor regulations 41 CFR Part 60.

24. Miscellaneous Terms

1. All documents prepared by the Contractor related to the project on behalf of Morongo shall become the sole property of the Morongo Band of Mission Indians.
2. The Contractor will adhere to all Federal and Tribal environmental regulations including applying for coverage under the EPA NPDES 2022 Construction General Permit and implementing a previously prepared SWPPP.

25. Disclaimer

This RFP does not commit Morongo to award a contract, or to pay any costs incurred in the preparation of the proposal. The Morongo reserves the right to extend the due date for the proposal, to accept or reject any or all proposals received as a result of this request, to negotiate with any qualified Contractor, or to cancel this RFP in part or in its entirety. Morongo may require the selected Contractor to participate in negotiations and to submit such technical, fee, or other revisions of their proposals as may result from negotiations.

26. Contract terms and Conditions

- A. The awarded Contractor will be the sole point of contract responsibility. Morongo will look solely to the awarded Contractor for the performance of all contractual obligations which may result from an award based on this RFP, and the awarded Contractor shall not be relieved for the non-performance of any or all sub-contractors.

- B. All work performed in connection with construction shall be performed in compliance with all applicable laws, ordinances, rules, and regulations of federal, state, county or municipal governments or agencies (including, without limitation, all applicable federal and state labor standards).
- C. Morongo will negotiate a contract with the best qualified Contractor for the desired construction services as compensation which Morongo determines are fair and reasonable to Morongo. Should Morongo be unable to negotiate a satisfactory contract with the Contractor considered to be the most qualified, negotiations with that firm shall be formally terminated. Negotiations will then be undertaken with the next most qualified Contractor. Failing to reach an accord with the second most qualified firm, Morongo will terminate negotiations and continue the negotiation process with the next most qualified firms in order of their evaluation ranking until an agreement is reached and a firm is selected, and an agreement is executed.
- D. This Request for Proposals (RFP), including all attachments, exhibits, addenda, clarifications, responses to questions, and the successful Proposer's submitted proposal, shall be incorporated into and made a part of the Contract Documents. The Contractor shall comply with all requirements, obligations, representations, certifications, and commitments contained therein. The Contractor shall further ensure that all applicable provisions of this RFP are incorporated into its agreements with subcontractors, suppliers, consultants, and lower-tier subcontractors engaged in the performance of the Work. In the event of a conflict between the Contract and this RFP, the more stringent requirement shall govern unless otherwise directed in writing by the Morongo Band of Mission Indians.

27. Change Orders

Because this Project will be delivered under a Guaranteed Maximum Price (GMP) contract, Change Orders are not anticipated and shall be considered only in limited circumstances involving unforeseen conditions, Owner-directed scope changes, regulatory requirements arising after Contract execution, or other circumstances expressly determined by the Owner to warrant a contract modification.

The Contractor shall promptly notify the MBMI Project Manager in writing upon discovery of any condition that may impact the Contract Sum, Contract Time, or Project scope. The Contractor shall submit a detailed Proposed Change Order (PCO) to the Project Manager within seven (7) calendar days of discovery of the condition. The PCO shall include a complete description of the condition, justification for the change, schedule impacts, itemized cost breakdown, supporting documentation, subcontractor quotations, and any other information requested by the Owner.

Submission of a Proposed Change Order does not constitute approval of the requested adjustment. No change in the Work, Contract Sum, or Contract Time

shall be valid unless authorized through a written Change Order executed by all required parties.

A Change Order shall not be effective unless signed by:

1. The Architect/Engineer of Record;
2. The MBMI Project Manager
3. The MBMI Construction and Development Director
4. The MBMI Executive Administrator of Real Estate and Development.

The Contractor shall not proceed with any work associated with a Proposed Change Order until a fully executed Change Order has been issued. Any work performed prior to execution of a Change Order shall be performed solely at the Contractor's risk and expense. The Owner shall have no obligation to compensate the Contractor for costs incurred, materials ordered, labor expended, delays encountered, or work performed prior to formal written approval.

Verbal directives, field discussions, meeting minutes, requests for information (RFIs), sketches, emails, or other informal communications shall not constitute authorization to proceed with additional work or entitlement to additional compensation or time extensions.

Failure by the Contractor to comply with the requirements of this section shall constitute a waiver of any claim for additional compensation or extension of time related to the subject condition.

28. Spoils, Import, and Export of Materials

The Contractor shall be solely responsible for all excavation, spoil management, import, export, hauling, stockpiling, disposal, transportation, handling, placement, processing, and final disposition of all earthwork materials necessary to complete the Project in accordance with the Contract Documents.

The Contractor acknowledges that site soil generally consists of sand, rock, and related native materials common to the Morongo Reservation. The Contractor shall review and rely upon its own investigations, observations, quantity takeoffs, and means and methods, in addition to the information provided within the Geotechnical/Soils Report. The Geotechnical/Soils Report is provided for reference and shall be carefully reviewed by the Contractor prior to submission of its Proposal.

The Contractor's Guaranteed Maximum Price (GMP) shall include all costs associated with balancing the site and completing the required earthwork, including but not limited to excavation, over-excavation, recompact, rock excavation, trench excavation, structural fill, imported fill, exported material,

disposal fees, trucking, equipment, labor, testing coordination, moisture conditioning, and all related activities required to achieve the grades and compaction requirements indicated in the Contract Documents.

The Contractor shall be responsible for determining the quantity of materials to be imported to or exported from the Project site. No adjustment to the Contract Sum shall be made for differences between estimated and actual earthwork quantities, import quantities, export quantities, spoil quantities, shrinkage, swell factors, subsurface conditions reasonably identifiable through review of the Geotechnical/Soils Report, or other conditions that could have been anticipated through a reasonable site investigation.

The Owner makes no representation or warranty regarding the suitability of excavated materials for reuse, the quantity of export materials, the quantity of import materials required, or the accuracy of estimated earthwork quantities. The Contractor shall include all necessary allowances within its GMP to complete the Work.

Except for materially differing subsurface conditions that could not reasonably have been identified through review of the Geotechnical/Soils Report, site observations, and industry-standard preconstruction investigations, all risks associated with earthwork, spoils, import, export, over-excavation, and related activities shall remain the sole responsibility of the Contractor.

29. System Integrator

Dyna Electric has been designated by the Owner as the System Integrator for this project. The selected General Contractor shall incorporate Dyna Electric into its project team and execute a subcontract agreement with Dyna Electric for all required system integration services during the construction, startup, testing, commissioning, and closeout phases of the Project.

The General Contractor shall be responsible for coordinating all activities, scheduling, access, and work sequencing necessary to facilitate Dyna Electric's services. The cost associated with Dyna Electric's system integration scope shall be included in the General Contractor's proposal as identified in the Contract Documents. The General Contractor shall cooperate fully with Dyna Electric and all project stakeholders to ensure proper system functionality, successful commissioning, and achievement of the Project performance requirements.

DYNA CONTACTS:

Ted Donald, Vice President, 619-921-9302

Chris Engberg, Project Manager, 858-864-3617

Bo Fitzsimmons, Principal Engineer, 858-864-2018

Thor Lunde (Strata), 858-750-8080

Tom Lamar (PID), 858-518-3532

Exhibit A

Intention to Respond

Please use the below format for the intentions to respond.

INTENTION TO RESPOND

I/We hereby confirm our intention to submit a bid to the Morongo Band of Mission Indians in response to the Request for Proposal (RFP) for Construction Services related to the MBMI CHP

Phase 2 Construction (GMP)

by the RFP closing date of October 22, 2026.

Organization name: _____

Contact name: _____

Contact telephone number: _____

Email address: _____

Signature: _____

Date: _____

Proposers are to complete and return this Intention to Respond form by September 21, 2026.

by email:

To: ssteves@morongo-nsn.gov

Subject: **MBMI CHP Phase 2**

Attention: Mr. Shawn Steves

Exhibit B

Form of Response – Refer to Attachment

Please ensure that as part of the Cost Submission that the formats below are used for Proposal Fee Schedule:

MBMI CHP PHASE 2 CONSTRUCTION FEE PROPOSAL MATRIX (BY CONSTRUCTION DIVISION)					
General Contractor: _____					
Fees by CSI Format					
CONSTRUCTION DIVISIONS	Area 1 CHP	Area 2 (BESS)	Area 3 Site Work	Project Totals	NOTES
DIVISION 00 - PROCUREMENT &				\$0	
DIVISION 01 - GENERAL REQUIREMENTS & PROJECT SPECIFICS:				\$0	
DIVISION 02 - EXISTING				\$0	
DIVISION 03 - CONCRETE:				\$0	
DIVISION 04 - MASONRY:				\$0	
DIVISION 05 - METALS:				\$0	
DIVISION 07 - THERMAL & MOISTURE PROTECTION:				\$0	
DIVISION 08 - OPENINGS:				\$0	
DIVISION 09 - FINISHES:				\$0	
DIVISION 10 - SPECIALTIES:				\$0	
DIVISION 21 - FIRE				\$0	
DIVISION 22 - PLUMBING:				\$0	
DIVISION 23 - HVAC:				\$0	
DIVISION 25 - INTEGRATED AUTOMATION:				\$0	
DIVISION 26 - ELECTRICAL:				\$0	
DIVISION 27 -				\$0	
DIVISION 28 - ELECTRONIC SAFETY & SECURITY:				\$0	
DIVISION 31 - EARTHWORK:				\$0	
DIVISION 32 - EXTERIOR IMPROVEMENTS:				\$0	
DIVISION 33 - UTILITIES:				\$0	
DIVISION 44 - POLLUTION CONTROL EQUIPMENT:				\$0	
COST OF WORK SUBTOTALS	\$0.00	\$0.00	\$0.00	0	
GENERAL LIABILITY				0	
SUBCONTRACTOR DEFAULT INS. / SUBGUARD:				0	
DESIGN CONTINGENCY:				0	
CONSTRUCTION				0	
GENERAL CONTRACTOR				0	
SUBTOTALS	\$0.00	\$0.00	\$0.00	\$0.00	
OWNER ALLOWANCES				0	
TOTALS	\$0.00	\$0.00	\$0.00	0	GMP Total Project Cost
Initials:		Date:			

Exhibit C

Spreadsheet for Qualifications/Clarification/Exclusions

[illegible]

Exhibit D

~~Preliminary Phasing Plan~~

~~Refer to Attachment~~

Exhibit E

Plan Set

Refer to Attachment

2026-0610_Morongo Cogen Phase 1 & 2 - IFC Project Manual

2026-0901 Morongo CHP - Phase 2 IFC Rev#2

2026-0902-Morongo Phase II Str Calculation -BM

CHP_Phase 2_Fee_Proposal_Matrix

Commissioning Plan Morongo CoGen Rev.1 6.9.26

MASTER Contractor_Sales and Use Tax Exemption Procedures Exhibit – FINAL

BESS Documents File Folder

EXHIBIT F

Receipt of Request for Proposal (RFP) and Addenda

Upon return of the completed RFP, the Architecture Firm shall acknowledge receipt of the RFP, all supporting documents, and all addenda. Failure to acknowledge all issued documentation may be grounds for deeming the proposer non-responsive.

Please list each document received and initial where indicated.

1	RFP dated _____	
2	Addendum 1 (if applicable)	
3	Addendum 2 (if applicable)	

I, the undersigned, on behalf of the (Architecture Firm), certify that I have received all documents listed above.

Signature

Date

Title

EXHIBIT G

MBMI Requirement for Tribal Cultural Resource Monitors for Ground Disturbing Activities

Purpose:

- 1.1. The purpose of this requirement is to ensure the preservation and protection of tribal cultural resources during ground disturbing activities by implementing Tribal Cultural Resource Monitors (TCRMs) as an integral part of the project. This requirement seeks to uphold the principles of cultural heritage preservation and foster meaningful engagement with tribal communities in the management of ground disturbing activities.

Scope:

- 1.2. This requirement applies to all ground disturbing activities within areas identified as possessing potential tribal cultural resources, as determined through consultation with MBMI tribal authorities or agencies.

Definitions:

- 1.3. Tribal Cultural Resource Monitors (TCRMs): MBMI-THPO designated individuals from relevant tribal communities tasked with overseeing ground disturbing activities to identify, protect, and mitigate impacts on tribal cultural resources.
- 1.4. Ground Disturbing Activities: Any activities that involve excavation, construction, development, or other actions that may disturb the soil or sub-surface within areas of cultural significance to tribal communities.

Requirement:

- 1.5. Prior Consultation: The Contractor and all subconsultants involved with ground disturbing activities must consult with relevant tribal authorities or agencies to identify areas of potential cultural significance and determine the need for TCRMs.
- 1.6. Appointment of TCRMs: MBMI-THPO shall appoint TCRMs in consultation with tribal authorities or agencies. TCRMs will possess appropriate cultural knowledge, training, and expertise.
- 1.7. The Contractor and all subconsultants involved in ground disturbing activities shall use Native American monitor(s) (TCRMs) for MBMI's EV Bus Charging Station Infrastructure Project located at 47350 Foothill Road, Banning, CA 92220. The Native American monitor will accompany the project's archaeological team in the field and be present to assist in identifying Traditional Cultural Properties and specific areas of concern to the tribe. The Native American monitor will be present on site during all ground-disturbing activities as agreed upon or required as part of the cultural resources' mitigation and monitoring plan, one Native American monitor will be required per piece of construction equipment or ground-disturbing activity.

Responsibilities of TCRMs:

- 1.8. Monitor Activities: TCRMs shall monitor ground disturbing activities to identify any potential impacts on tribal cultural resources.
- 1.9. Report Findings: TCRMs shall promptly report any findings or concerns regarding potential impacts on tribal cultural resources to project proponents and relevant MBMI tribal authorities or agencies.
- 1.10. Recommend Mitigation Measures: TCRMs under the authority of THPO may recommend mitigation measures to minimize or avoid impacts on tribal cultural resources.

Integration into Project Plans:

TCRMs shall be integrated into project plans and schedules to ensure their presence during critical phases of ground disturbing activities. The Contractor and all subconsultants shall schedule TCRMs through the MBMI Construction Services Department. Scheduling TCRMs shall be coordinated through MBMI Construction Services at least 5 days in advance of the ground-disturbing activity, and compliance with this requirement is non-negotiable. In the event scheduled ground disturbing activities are canceled or rescheduled, the Contractor and all subconsultants involved with ground disturbing activities are required to give 48 hours' notice before canceling the TCRM. Failure of the Contractor and all subconsultants, involved with ground disturbing activities, to notify MBMI Construction Services within this timeframe will result in the automatic billing of 4 hours of "show up" time as a back charge to the Contractor and all subconsultants engaged in ground disturbing activities.

Compliance Monitoring:

The Contractor and all subconsultants involved with ground disturbing activities shall ensure compliance with the requirements outlined in this document and any additional measures agreed upon through consultation with MBMI tribal authorities or agencies. The Contractor and all subconsultants shall comply with any Cultural Resources Monitoring and Mitigation Plan (CRMMP) that is applicable to this Agreement.

Record-Keeping:

MBMI - THPO shall maintain records of TCRM reports, recommendations, and actions taken to address concerns related to tribal cultural resources.

Training and Support:

Contractor and all subconsultants shall provide a detailed plan with marked up locations of where the ground disturbing activities are going to occur 5 days in advance of the scheduled ground disturbing activities.

Compliance with Laws:

The Parties involved in ground disturbing activities shall mutually comply with applicable federal, state, tribal and local rules, regulations, laws, ordinances, and rulings including those of governmental agencies having jurisdiction over the Services.

Discovery of Human Remains:

California state law may apply, and the Parties involved in ground disturbing activities will take appropriate action under California Public Resources Code Section 5097.98 or successor statutes. Federal law may apply, and the Parties will take appropriate action under the Native American Graves Protection and Repatriation Act (NAGPRA) or successor statutes. Consistent with California Government Code Section 6254(r), unless mandated by law, the location of any reburial of Native American human remains must remain confidential and cannot be disclosed through any means, including social media.

Cultural Items:

The release of any cultural items and artifacts encountered during ground disturbing activities will be negotiated on an item-by-item basis.

Enforcement:

Non-compliance with this Requirement Exhibit D may result in project suspension, fines, or other penalties as determined by relevant regulatory authorities.

Sovereign Immunity:

Nothing in this Requirement shall be deemed a waiver of the Tribe's sovereign immunity.

EXHIBIT H

Code of Conduct for Contractors Working on the Morongo Band of Mission Indians Reservation

- 1. Respect for MBMI Tribal Sovereignty and Culture:**
 - a. Contractors must recognize and respect the sovereignty of the MBMI Tribal government while working on the MBMI reservation.
 - b. Contractors must also respect the cultural heritage, traditions, and customs of the MBMI Tribe and its Members.
- 2. Compliance with MBMI Tribal Laws and Regulations:**
 - a. Contractors must adhere to all applicable Tribal laws, regulations, ordinances, and policies governing their activities on the Reservation.
 - b. While on the Reservation all contractors and their subcontractors must obey all traffic laws. I.E. Stop signs and speed limits.
 - c. Contractors must obtain all necessary permits, licenses, and insurance before commencing any work.
- 3. Employment Practices:**
 - a. Contractors must comply with all Tribal employment laws, including those related to wages, hours, and working conditions.
 - b. Contractors are expected to prioritize employing Native American Tribal members, Native American Subcontractors, and Native American Suppliers whenever possible.
- 4. Environmental Stewardship:**
 - a. Contractors must minimize environmental impact and protect natural resources while carrying out their work on the reservation.
 - b. Contractors must obtain all necessary environmental clearances and permits and implement best practices for waste management and pollution prevention.
 - c. Coordination of environmental requirements is with MBMI Construction Services and MBMI Environmental Services.
- 5. Community Engagement and Consultation:**
 - a. Contractors are to remain respectful and professional in conduct with any engagement with Tribal Members or MBMI Representatives.
 - b. Contractors must consider the concerns and input of the Tribal Community and work collaboratively with MBMI representatives to address any issues or challenges that may arise.
- 6. Respect for MBMI Tribal Lands and Property:**
 - a. Contractors are to respect Tribal Land rights and boundaries and refrain from trespassing on or damaging Tribal Lands.
 - b. Contractors are to refrain from exploring areas of the Reservation that do not have a connection to the job site.
 - c. Contractors must obtain permission from the MBMI Tribal Government or Representative before accessing or using any tribal property or resources.
- 7. Safety and Security:**
 - a. Contractors must prioritize the safety and security of their workers, Tribal members, and the community at large.

- b. Contractors and their workers must have situational awareness of what is going on around them while on the Reservation. They need to be aware of children and youth being on the roadways as pedestrians and as operators of off-road vehicles and dirt bikes.
 - c. Contractors must comply with all applicable safety regulations and protocols and take proactive measures to prevent accidents, injuries, and incidents of violence or harassment.
- 8. Accountability and Transparency:**
 - a. Contractors must maintain accurate records of their activities, expenditures, and interactions with Tribal Officials and Tribal Members.
 - b. Contractors must be transparent in their dealings and promptly report any issues or concerns to the appropriate Tribal Authorities.
- 9. Conflict Resolution and Dispute Resolution:**
 - a. Contractors must make good faith efforts to resolve any disputes or conflicts that may arise with the Tribal Government or Tribal Members.
 - b. Contractors must utilize mediation, arbitration, or other alternative dispute mechanisms as appropriate and in accordance with MBMI Tribal Law.
- 10. Ethical Conduct and Integrity:**
 - a. Contractors are to conduct themselves with honesty, integrity, and professionalism at all times.
 - b. Contractors must adhere to high ethical standards and refrain from engaging in any activities that could harm the reputation or interests of the MBMI Tribal Community.
- 11. Compliance Monitoring and Enforcement:**
 - a. The MBMI Tribal Government and its Representatives reserves the right to monitor the activities of contractors to ensure compliance with this code of conduct.
 - b. Non-compliance may result in penalties, termination of contracts, or other appropriate enforcement actions as determined by the MBMI Tribal Government and its representatives.
- 12. Amendments and Updates:**
 - a. This Code of Conduct may be amended or updated by the MBMI Tribal Government as necessary to reflect changes in Tribal Laws, regulations, or Tribal Community priorities.
 - b. Contractors will be notified of any amendments or updates and are expected to comply with the revised provisions accordingly.
- 13. Acknowledgement:**
 - a. By entering into a contract with the MBMI Tribal Government, contractors agree to abide by the terms and conditions set forth in this code of conduct. Failure to comply may result in contractual penalties or termination of the agreement.

EXHIBIT I

Exhibit I – For Reference, AIA, A102-2017 Owner-Contractor Agreement

AIA Document A102® – 2017

Standard Form of Agreement Between Owner and Contractor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price

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

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

Morongo Band of Mission Indians, a federally recognized sovereign Indian Tribe
12700 Pumarra Road
Morongo Indian Reservation
Banning, California 92220

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

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

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

The Owner and Contractor agree as follows.

ADDITIONS AND DELETIONS:

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

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

The parties should complete A102™–2017, Exhibit A, Insurance and Bonds, contemporaneously with this Agreement.

AIA Document A201™–2017, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.



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

TABLE OF ARTICLES

- 1 THE CONTRACT DOCUMENTS
- 2 THE WORK OF THIS CONTRACT
- 3 RELATIONSHIP OF THE PARTIES
- 4 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION
- 5 CONTRACT SUM
- 6 CHANGES IN THE WORK
- 7 COSTS TO BE REIMBURSED
- 8 COSTS NOT TO BE REIMBURSED
- 9 DISCOUNTS, REBATES AND REFUNDS
- 10 SUBCONTRACTS AND OTHER AGREEMENTS
- 11 ACCOUNTING RECORDS
- 12 PAYMENTS
- 13 DISPUTE RESOLUTION
- 14 TERMINATION OR SUSPENSION
- 15 MISCELLANEOUS PROVISIONS
- 16 ENUMERATION OF CONTRACT DOCUMENTS

EXHIBIT A INSURANCE AND BONDS

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, all of which form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. If anything in the other Contract Documents, other than a Modification, is inconsistent with this Agreement, this Agreement shall govern. An enumeration of the Contract Documents, other than a Modification, appears in Article 16.

ARTICLE 2 THE WORK OF THIS CONTRACT

The Contractor shall fully execute the Work described in the Contract Documents, except as specifically indicated in the Contract Documents to be the responsibility of others.

ARTICLE 3 RELATIONSHIP OF THE PARTIES

The Contractor accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to cooperate with the Architect and exercise the Contractor's skill and judgment in furthering the interests of the Owner; to furnish efficient business administration and supervision; to furnish at all times an adequate supply of workers and materials; and to perform the Work in an expeditious and economical manner consistent with the Owner's interests. The Owner agrees to furnish and approve, in a timely manner, information required by the Contractor and to

AIA Document A102 – 2017. Copyright © 1920, 1925, 1951, 1958, 1981, 1963, 1967, 1974, 1978, 1987, 1997, 2007 and 2017. All rights reserved. "The American Institute of Architects," "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are trademarks of The American Institute of Architects.

make payments to the Contractor in accordance with the requirements of the Contract Documents.

ARTICLE 4 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

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

(Check one of the following boxes.)

- ☐ The date of this Agreement.
- ☐ A date set forth in a notice to proceed issued by the Owner.
- ☐ Established as follows:
(Insert a date or a means to determine the date of commencement of the Work.)

If a date of commencement of the Work is not selected, then the date of commencement shall be the date of this Agreement.

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

§ 4.3 Substantial Completion

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

(Check one of the following boxes and complete the necessary information.)

- ☐ Not later than () calendar days from the date of commencement of the Work.
- ☐ By the following date:

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

Portion of Work	Substantial Completion Date

§ 4.3.3 If the Contractor fails to achieve Substantial Completion as provided in this Section 4.3, liquidated damages, if any, shall be assessed as set forth in Section 5.1.6.

ARTICLE 5 CONTRACT SUM

§ 5.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum is the Cost of the Work as defined in Article 7 plus the Contractor's Fee. The use of contingency will be at the sole discretion of the Owner and applied for through a Change Order. Contingency is not included in the Contract Sum.

§ 5.1.1 The Contractor's Fee:

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

§ 5.1.2 The method of adjustment of the Contractor's Fee for changes in the Work:

§ 5.1.3 Limitations, if any, on a Subcontractor's overhead and profit for increases in the cost of its portion of the Work:

AIA Document A102 – 2017. Copyright © 1920, 1925, 1951, 1958, 1961, 1963, 1967, 1974, 1978, 1987, 1997, 2007 and 2017. All rights reserved. "The American Institute of Architects," "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are trademarks of The American Institute of Architects.

§ 5.1.4 Rental rates for Contractor-owned equipment shall not exceed _____ percent (_____ %) of the standard rental rate paid at the place of the Project.

§ 5.1.5 Unit prices, if any:

(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)

§ 5.1.6 Liquidated damages, if any:

(Insert terms and conditions for liquidated damages, if any.)

§ 5.1.7 Other:

(Insert provisions for bonus, cost savings or other incentives, if any, that might result in a change to the Contract Sum.)

§ 5.2 Guaranteed Maximum Price

§ 5.2.1 The Contract Sum is guaranteed by the Contractor not to exceed _____ (\$ _____), subject to additions and deductions by Change Order as provided in the Contract Documents. This maximum sum is referred to in the Contract Documents as the Guaranteed Maximum Price. Costs which would cause the Guaranteed Maximum Price to be exceeded shall be paid by the Contractor without reimbursement by the Owner.

§ 5.2.2 Alternates

§ 5.2.2.1 Alternates, if any, included in the Guaranteed Maximum Price:

Item	Price

§ 5.2.2.2 Subject to the conditions noted below, the following alternates may be accepted by the Owner following execution of this Agreement. Upon acceptance, the Owner shall issue a Modification to this Agreement.
(Insert below each alternate and the conditions that must be met for the Owner to accept the alternate.)

Item	Price	Conditions for Acceptance

§ 5.2.3 Allowances, if any, included in the Guaranteed Maximum Price:

(Identify each allowance.)

Item	Price

§ 5.2.4 Assumptions, if any, upon which the Guaranteed Maximum Price is based:

(Identify each assumption.)

§ 5.2.5 To the extent that the Contract Documents are anticipated to require further development, the Guaranteed Maximum Price includes the costs attributable to such further development consistent with the Contract Documents and reasonably inferable therefrom. Such further development does not include changes in scope, systems, kinds and quality of materials, finishes or equipment, all of which, if required, shall be incorporated by Change Order.

§ 5.2.6 The Owner shall authorize preparation of revisions to the Contract Documents that incorporate the agreed-upon assumptions contained in Section 5.2.4. The Owner shall promptly furnish such revised Contract Documents to the Contractor. The Contractor shall notify the Owner and Architect of any inconsistencies between the agreed-upon assumptions contained in Section 5.2.4 and the revised Contract Documents.

§ 5.3 Two Agreements

§ 5.3.1 **Sale of Materials.** Notwithstanding anything to the contrary contained herein, this Agreement is intended to constitute, and shall be construed and interpreted as if it constitutes, two separate agreements with regard to materials exempt from sales and use tax under 18 CCR 1616(d)(4)(C), as follows: (i) one for the retail sale of such materials from the Contractor (or Subcontractor or Sub-subcontractor, as the case may be) to the Owner, with delivery to the Owner on the Reservation and transfer of title to the Owner occurring on the Reservation prior to installation; and (ii) one for the later installation (and labor associated therewith) of the Owner's materials on the Project located on the Reservation.

§ 5.3.2 Contractor as "Seller". It is the intent of the parties that Contractor/Subcontractor/Sub-subcontractor be "sellers" of materials as provided in 18 CCR § 1521(b)(2)(A)(2).

§ 5.3.3 **Ownership of Materials; FOB Destination.** All materials to be used for the Work shall be shipped "FOB Destination" and title to all such materials shall transfer to the Owner on the Reservation and prior to the time the materials are installed. All shipments, whether by common carrier or Contractor/Subcontractor/Sub-subcontractor's own fleet, all invoices, bills of lading, and other documents evidencing a sale to the Owner must specifically indicate that title to the item(s) shipped does not pass to the Owner until delivered to the Owner on the Reservation and prior to installation. For further explanation and informational purposes only, Owner has provided the Sales and Use Tax Exemption Procedures attached hereto as Exhibit ____.

ARTICLE 6 CHANGES IN THE WORK

§ 6.1 Adjustments to the Guaranteed Maximum Price on account of changes in the Work may be determined by any of the methods listed in Article 7 of AIA Document A201™-2017, General Conditions of the Contract for Construction.

§ 6.2 Adjustments to subcontracts awarded on the basis of a stipulated sum shall be determined in accordance with Article 7 of A201-2017, as they refer to "cost" and "fee," and not by Articles 5, 7 and 8 of this Agreement. Adjustments to subcontracts awarded with the Owner's prior written consent on the basis of cost plus a fee shall be calculated in accordance with the terms of those subcontracts.

§ 6.3 In calculating adjustments to the Guaranteed Maximum Price, the terms "cost" and "costs" as used in Article 7 of AIA Document A201-2017 shall mean the Cost of the Work as defined in Article 7 of this Agreement and the term "fee" shall mean the Contractor's Fee as defined in Section 5.1.1 of this Agreement.

§ 6.4 If no specific provision is made in Article 5 for adjustment of the Contractor's Fee in the case of changes in the Work, or if the extent of such changes is such, in the aggregate, that application of the adjustment provisions of Article 5 will cause substantial inequity to the Owner or Contractor, the Contractor's Fee shall be equitably adjusted on the same basis that was used to establish the Fee for the original Work, and the Guaranteed Maximum Price shall be adjusted accordingly.

ARTICLE 7 COSTS TO BE REIMBURSED

§ 7.1 Cost of the Work

§ 7.1.1 The term Cost of the Work shall mean costs necessarily incurred by the Contractor in the proper performance of the Work. The Cost of the Work shall include only the items set forth in this Article 7.

§ 7.1.2 Where, pursuant to the Contract Documents, any cost is subject to the Owner's prior approval, the Contractor shall obtain such approval in writing prior to incurring the cost.

§ 7.1.3 Costs shall be at rates not higher than the standard paid at the place of the Project, except with prior approval of the Owner.

§ 7.2 Labor Costs

§ 7.2.1 Wages or salaries of construction workers directly employed by the Contractor to perform the construction of the Work at the site or, with the Owner's prior written approval, at off-site workshops.

§ 7.2.2 Wages or salaries of the Contractor's supervisory and administrative personnel when stationed at the site and performing Work, with the Owner's prior written approval.

§ 7.2.2.1 Wages or salaries of the Contractor's supervisory and administrative personnel when performing Work and stationed at a location other than the site, but only for that portion of time required for the Work, and limited to the personnel and activities listed below:

(Identify the personnel, type of activity and, if applicable, any agreed upon percentage of time to be devoted to the Work.)

§ 7.2.3 Wages or salaries of the Contractor's supervisory or administrative personnel engaged at factories, workshops or while traveling, in expediting the production or transportation of materials or equipment required for the Work, but only for that portion of their time required for the Work.

§ 7.2.4 Costs paid or incurred by the Contractor, as required by law or collective bargaining agreements, for taxes, insurance, contributions, assessments, and benefits and, for personnel not covered by collective bargaining agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, provided such costs are based on wages and salaries included in the Cost of the Work under Sections 7.2.1 through 7.2.3.

§ 7.2.5 If agreed rates for labor costs, in lieu of actual costs, are provided in this Agreement, the rates shall remain unchanged throughout the duration of this Agreement, unless the parties execute a Modification.

§ 7.3 Subcontract Costs

Payments made by the Contractor to Subcontractors in accordance with the requirements of the subcontracts and this Agreement.

§ 7.4 Costs of Materials and Equipment Incorporated in the Completed Construction

§ 7.4.1 Costs, including transportation and storage at the site, of materials and equipment incorporated, or to be incorporated, in the completed construction.

§ 7.4.2 Costs of materials described in the preceding Section 7.4.1 in excess of those actually installed to allow for reasonable waste and spoilage. Unused excess materials, if any, shall become the Owner's property at the completion of the Work or, at the Owner's option, shall be sold by the Contractor. Any amounts realized from such sales shall be credited to the Owner as a deduction from the Cost of the Work.

§ 7.5 Costs of Other Materials and Equipment, Temporary Facilities and Related Items

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

§ 7.5.2 Rental charges for temporary facilities, machinery, equipment, and hand tools not customarily owned by construction workers that are provided by the Contractor at the site, and the costs of transportation, installation, dismantling, minor repairs, and removal of such temporary facilities, machinery, equipment, and hand tools. Rates and quantities of equipment owned by the Contractor, or a related party as defined in Section 7.8, shall be subject to the Owner's prior approval. The total rental cost of any such equipment may not exceed the purchase price of any comparable item.

§ 7.5.3 Costs of removal of debris from the site of the Work and its proper and legal disposal.

§ 7.5.4 Costs of the Contractor's site office, including general office equipment and supplies.

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

AIA Document A102 – 2017. Copyright © 1920, 1925, 1951, 1958, 1961, 1963, 1967, 1974, 1978, 1987, 1997, 2007 and 2017. All rights reserved. "The American Institute of Architects," "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are trademarks of The American Institute of Architects.

§ 7.6 Miscellaneous Costs

§ 7.6.1 Premiums for that portion of insurance and bonds required by the Contract Documents that can be directly attributed to this Contract.

§ 7.6.1.1 Costs for self-insurance, for either full or partial amounts of the coverages required by the Contract Documents, with the Owner's prior written approval.

§ 7.6.1.2 Costs for insurance through a captive insurer owned or controlled by the Contractor, with the Owner's prior written approval.

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

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

§ 7.6.4 Fees of laboratories for tests required by the Contract Documents, except those related to defective or nonconforming Work for which reimbursement is excluded under Article 13 of AIA Document A201-2017 or by other provisions of the Contract Documents, and which do not fall within the scope of Section 7.7.3.

§ 7.6.5 Royalties and license fees paid for the use of a particular design, process, or product, required by the Contract Documents.

§ 7.6.5.1 The cost of defending suits or claims for infringement of patent rights arising from requirements of the Contract Documents, payments made in accordance with legal judgments against the Contractor resulting from such suits or claims, and payments of settlements made with the Owner's consent, unless the Contractor had reason to believe that the required design, process or product was an infringement of a copyright or a patent, and the Contractor failed to promptly furnish such information to the Architect as required by Article 3 of AIA Document A201-2017. The costs of legal defenses, judgments, and settlements, shall not be included in the Cost of the Work used to calculate the Contractor's Fee or subject to the Guaranteed Maximum Price.

§ 7.6.6 Costs for communications services, electronic equipment, and software, directly related to the Work and located at the site, with the Owner's prior written approval.

§ 7.6.7 Costs of document reproductions and delivery charges.

§ 7.6.8 Deposits lost for causes other than the Contractor's negligence or failure to fulfill a specific responsibility in the Contract Documents.

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

§ 7.6.10 Expenses incurred in accordance with the Contractor's standard written personnel policy for relocation and temporary living allowances of the Contractor's personnel required for the Work, with the Owner's prior written approval.

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

§ 7.7 Other Costs and Emergencies

§ 7.7.1 Other costs incurred in the performance of the Work, with the Owner's prior written approval.

§ 7.7.2 Costs incurred in taking action to prevent threatened damage, injury, or loss, in case of an emergency affecting the safety of persons and property, as provided in Article 10 of AIA Document A201-2017.

AIA Document A102 – 2017. Copyright © 1920, 1925, 1951, 1958, 1961, 1963, 1967, 1974, 1978, 1987, 1997, 2007 and 2017. All rights reserved.
"The American Institute of Architects," "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are trademarks of The American Institute of Architects.

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

§ 7.8 Related Party Transactions

§ 7.8.1 For purposes of this Section 7.8, the term “related party” shall mean (1) a parent, subsidiary, affiliate, or other entity having common ownership of, or sharing common management with, the Contractor; (2) any entity in which any stockholder in, or management employee of, the Contractor holds an equity interest in excess of ten percent in the aggregate; (3) any entity which has the right to control the business or affairs of the Contractor; or (4) any person, or any member of the immediate family of any person, who has the right to control the business or affairs of the Contractor.

§ 7.8.2 If any of the costs to be reimbursed arise from a transaction between the Contractor and a related party, the Contractor shall notify the Owner in writing of the specific nature of the contemplated transaction, including the identity of the related party and the anticipated cost to be incurred, before any such transaction is consummated or cost incurred. If the Owner, after such notification, authorizes the proposed transaction in writing, then the cost incurred shall be included as a cost to be reimbursed, and the Contractor shall procure the Work, equipment, goods, or service, from the related party, as a Subcontractor, according to the terms of Article 10. If the Owner fails to authorize the transaction in writing, the Contractor shall procure the Work, equipment, goods, or service from some person or entity other than a related party according to the terms of Article 10.

ARTICLE 8 COSTS NOT TO BE REIMBURSED

§ 8.1 The Cost of the Work shall not include the items listed below:

1. Salaries and other compensation of the Contractor’s personnel stationed at the Contractor’s principal office or offices other than the site office, except as specifically provided in Section 7.2, or as may be provided in Article 15;
2. Bonuses, profit sharing, incentive compensation, and any other discretionary payments, paid to anyone hired by the Contractor or paid to any Subcontractor or vendor, unless the Owner has provided prior written approval;
3. Expenses of the Contractor’s principal office and offices other than the site office;
4. Overhead and general expenses, except as may be expressly included in Article 7;
5. The Contractor’s capital expenses, including interest on the Contractor’s capital employed for the Work;
6. Except as provided in Section 7.7.3 of this Agreement, costs due to the negligence or misconduct of, or failure to fulfill a specific responsibility of the Contractor by, the Contractor, Subcontractors, and suppliers, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable;
7. Any cost not specifically and expressly described in Article 7; and
8. Costs, other than costs included in Change Orders approved by the Owner in writing, that would cause the Guaranteed Maximum Price to be exceeded.

ARTICLE 9 DISCOUNTS, REBATES AND REFUNDS

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

§ 9.2 Amounts that accrue to the Owner in accordance with the provisions of Section 9.1 shall be credited to the Owner as a deduction from the Cost of the Work.

ARTICLE 10 SUBCONTRACTS AND OTHER AGREEMENTS

§ 10.1 Those portions of the Work that the Contractor does not customarily perform with the Contractor’s own personnel shall be performed under subcontracts or other appropriate agreements with the Contractor. The Contractor shall obtain bids from Subcontractors, and from suppliers of materials or equipment fabricated especially for the Work, who are qualified to perform that portion of the Work in accordance with the requirements of the Contract Documents. The Contractor shall deliver such bids to the Architect and Owner with an indication as to which bids the Contractor intends to accept. The Owner then has the right to review the Contractor’s list of proposed subcontractors and suppliers in

AIA Document A102 – 2017. Copyright © 1920, 1925, 1951, 1958, 1961, 1963, 1967, 1974, 1978, 1987, 1997, 2007 and 2017. All rights reserved. “The American Institute of Architects,” “AIA,” the AIA Logo, and “AIA Contract Documents” are trademarks of The American Institute of Architects.

consultation with the Architect and reasonably and in good faith object to any subcontractor or supplier, which objection shall be final. Any advice of the Architect, or approval or objection by the Owner, shall not relieve the Contractor of its responsibility to perform the Work in accordance with the Contract Documents. The Contractor shall not be required to contract with anyone to whom the Contractor has reasonable and good faith objection. If the Guaranteed Maximum Price is affected by any objection or approval under this Article 10.1, Owner and Contractor agree that a Change Order shall be issued accordingly.

§ 10.2 Subcontracts or other agreements shall conform to the applicable payment provisions of this Agreement, and shall not be awarded ~~on the basis of~~ cost plus a fee without the Owner's prior written approval. If a subcontract is awarded on the basis of cost plus a fee, the Contractor shall provide in the subcontract for the Owner to receive the same audit rights with regard to the Subcontractor as the Owner receives with regard to the Contractor in Article 11.

ARTICLE 11 ACCOUNTING RECORDS

The Contractor shall keep full and detailed records and accounts related to the Cost of the Work, and exercise such controls, as may be necessary for proper financial management under this Contract and to substantiate all costs incurred. The accounting and control systems shall be satisfactory to the Owner. The Owner and the Owner's auditors shall, during regular business hours and upon reasonable notice, be afforded access to, and shall be permitted to audit and copy, the Contractor's records and accounts, including complete documentation supporting accounting entries, books, job cost reports, correspondence, instructions, drawings, receipts, subcontracts, Subcontractor's proposals, Subcontractor's invoices, purchase orders, vouchers, memoranda, and other data relating to this Contract. The Contractor shall preserve these records for a period of three years after final payment, or for such longer period as may be required by law.

ARTICLE 12 PAYMENTS

§ 12.1 Progress Payments

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

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

§ 12.1.3 Provided that an Application for Payment is received by the Architect or Owner, ~~as the case may be~~, not later than the day of a month, the Owner shall make payment of the amount certified to the Contractor within 45 days. If an Application for Payment is received by the Architect or Owner, as they case may be, after the application date fixed above, such late Application for Payment shall be included and processed in the following calendar month's Application for Payment.

(Federal, state or local laws may require payment within a certain period of time.)

§ 12.1.4 With each Application for Payment, the Contractor shall submit payrolls, petty cash accounts, receipted invoices or invoices with check vouchers attached, and any other evidence necessary to demonstrate that payments already made by the Contractor on account of the Cost of the Work equal or exceed progress payments already received by the Contractor plus payrolls for the period covered by the present Application for Payment, less that portion of the progress payments attributable to the Contractor's Fee.

§ 12.1.5 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 Guaranteed Maximum Price among: (1) the various portions of the Work; (2) any contingency for costs that are included in the Guaranteed Maximum Price but not otherwise allocated to another line item or included in a Change Order; and (3) the Contractor's Fee.

§ 12.1.5.1 The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Architect or Owner may require. The schedule of values shall be used as a basis for reviewing the Contractor's Applications for Payment.

§ 12.1.5.2 The allocation of the Guaranteed Maximum Price under this Section 12.1.5 shall not constitute a separate

AIA Document A102 – 2017. Copyright © 1920, 1925, 1951, 1958, 1961, 1963, 1967, 1974, 1978, 1987, 1997, 2007 and 2017. All rights reserved. "The American Institute of Architects," "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are trademarks of The American Institute of Architects.

guaranteed maximum price for the Cost of the Work of each individual line item in the schedule of values.

§ 12.1.5.3 If the Contractor requests costs from a contingency to be allocated to another line item in the schedule of values, the Contractor shall submit a Change Order to be approved by the Architect or Owner, as the case may be.

§ 12.1.6 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment. The percentage of completion shall be the lesser of (1) the percentage of that portion of the Work which has actually been completed; or (2) the percentage obtained by dividing (a) the expense that has actually been incurred by the Contractor on account of that portion of the Work and for which the Contractor has made payment or intends to make payment prior to the next Application for Payment, by (b) the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values.

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

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

- .1 That portion of the Guaranteed Maximum Price properly allocable to completed Work as determined by multiplying the percentage of completion of each portion of the Work by the share of the Guaranteed Maximum Price allocated to that portion of the Work in the most recent schedule of values;
- .2 That portion of the Guaranteed Maximum Price properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction or, if approved in writing in advance by the Owner, suitably stored off the site at a location agreed upon in writing;
- .3 That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified; and
- .4 The Contractor's Fee, computed upon the Cost of the Work described in the preceding Sections 12.1.7.1.1 and 12.1.7.1.2 at the rate stated in Section 5.1.1 or, if the Contractor's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum fee as the Cost of the Work included in Sections 12.1.7.1.1 and 12.1.7.1.2 bears to a reasonable estimate of the probable Cost of the Work upon its completion.

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

- .1 The aggregate of any amounts previously paid by the Owner;
- .2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A201–2017;
- .3 Any amount for which the Contractor does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Contractor intends to pay;
- .4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A201–2017;
- .5 The shortfall, if any, indicated by the Contractor in the documentation required by Section 12.1.4 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and
- .6 Retainage withheld pursuant to Section 12.1.8.

§ 12.1.8 Retainage

§ 12.1.8.1 For each progress payment made prior to Substantial Completion of the Work, the Owner may withhold the following amount, as retainage, from the payment otherwise due:

(Insert a percentage or amount to be withheld as retainage from each Application for Payment. The amount of retainage may be limited by governing law.)

§ 12.1.8.1.1 The following items are not subject to retainage:

(Insert any items not subject to the withholding of retainage, such as general conditions, insurance, etc.)

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

(If the retainage established in Section 12.1.8.1 is to be modified prior to Substantial Completion of the entire Work, insert provisions for such modification.)

§ 12.1.8.3 Except as set forth in this Section 12.1.8.3, upon Substantial Completion of the Work, the Contractor may submit an Application for Payment that includes the retainage withheld from prior Applications for Payment pursuant to this Section 12.1.8. The Application for Payment submitted at Substantial Completion shall not include retainage as follows:

(Insert any other conditions for release of retainage, such as upon completion of the Owner's audit and reconciliation, upon Substantial Completion.)

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

§ 12.1.10 Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and suitably stored at the site.

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

§ 12.1.12 In taking action on the Contractor's Applications for Payment the Architect or Owner, as the case may be, shall be entitled to rely on the accuracy and completeness of the information furnished by the Contractor, and such action shall not be deemed to be a representation that (1) the Architect or Owner has made a detailed examination, audit, or arithmetic verification, of the documentation submitted in accordance with Section 12.1.4 or other supporting data; (2) that the Architect or Owner has made exhaustive or continuous on-site inspections; or (3) that the Architect or Owner has made examinations to ascertain how or for what purposes the Contractor has used amounts previously paid on account of the Contract. Such examinations, audits, and verifications, if required by the Owner, will be performed by the Owner's auditors acting in the sole interest of the Owner.

§ 12.2 Final Payment

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

- 1 the Contractor has fully performed the Contract, except for the Contractor's responsibility to correct Work as provided in Article 12 of AIA Document A201-2017, and to satisfy other requirements, if any, which extend beyond final payment;
- 2 the Contractor has submitted a final accounting for the Cost of the Work and a final Application for Payment; and
- 3 a final Certificate for Payment has been issued by the Architect or Owner in accordance with Section 12.2.2.

§ 12.2.2 Within 45 days of the Owner's receipt of the Contractor's final accounting for the Cost of the Work, the Owner shall conduct an audit of the Cost of the Work or notify the Architect that it will not conduct an audit.

§ 12.2.2.1 If the Owner conducts an audit of the Cost of the Work, the Owner shall, within 15 days after completion of the audit, submit a written report based upon the auditors' findings to the Architect.

§ 12.2.2.2 Within seven days after receipt of the written report described in Section 12.2.2.1, or receipt of notice that the Owner will not conduct an audit, and provided that the other conditions of Section 12.2.1 have been met, the Architect will either issue to the Owner a final Certificate for Payment with a copy to the Contractor, or notify the Contractor and Owner in writing of the Architect's reasons for withholding a certificate as provided in Article 9 of AIA Document A201-2017. The time periods stated in this Section 12.2.2 supersede those stated in Article 9 of AIA Document A201-2017. The Architect is not responsible for verifying the accuracy of the Contractor's final accounting.

AIA Document A102-2017. Copyright © 1920, 1925, 1951, 1958, 1961, 1963, 1967, 1974, 1978, 1987, 1997, 2007 and 2017. All rights reserved.
"The American Institute of Architects," "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are trademarks of The American Institute of Architects.

§ 12.2.2.3 If the Owner's auditors' report concludes that the Cost of the Work, as substantiated by the Contractor's final accounting, is less than claimed by the Contractor, the Contractor shall be entitled to request mediation of the disputed amount pursuant to Article 15 of AIA Document A201-2017. A request for mediation shall be made by the Contractor within 30 days after the Contractor's receipt of a copy of the final Certificate for Payment. Failure to request mediation within this 30-day period shall result in the substantiated amount reported by the Owner's auditors becoming binding on the Contractor. Pending a final resolution of the disputed amount, the Owner shall pay the Contractor the amount certified in the final Certificate for Payment.

§ 12.2.3 The Owner's final payment to the Contractor shall be made no later than 45 days after the issuance of the final Certificate for Payment, or as follows:

§ 12.2.4 If, subsequent to final payment, and at the Owner's request, the Contractor incurs costs, described in Article 7 and not excluded by Article 8, to correct defective or nonconforming Work, the Owner shall reimburse the Contractor for such costs, and the Contractor's Fee applicable thereto, on the same basis as if such costs had been incurred prior to final payment, but not in excess of the Guaranteed Maximum Price. If adjustments to the Contract Sum are provided for in Section 5.1.7, the amount of those adjustments shall be recalculated, taking into account any reimbursements made pursuant to this Section 12.2.4 in determining the net amount to be paid by the Owner to the Contractor.

§ 12.3 Interest

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.)

%

ARTICLE 13 DISPUTE RESOLUTION

See Article 15 of AIA Document A201-2017.

ARTICLE 14 TERMINATION OR SUSPENSION

§ 14.1 Termination

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

§ 14.1.2 Termination by the Owner for Cause

§ 14.1.2.1 If the Owner terminates the Contract for cause as provided in Article 14 of AIA Document A201-2017, the amount, if any, to be paid to the Contractor under Article 14 of AIA Document A201-2017 shall not cause the Guaranteed Maximum Price to be exceeded, nor shall it exceed an amount calculated as follows:

1. Take the Cost of the Work incurred by the Contractor to the date of termination;
2. Add the Contractor's Fee, computed upon the Cost of the Work to the date of termination at the rate stated in Section 5.1.1 or, if the Contractor's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion;
3. Subtract the aggregate of previous payments made by the Owner; and
4. Subtract the costs and damages incurred, or to be incurred, by the Owner under Article 14 of AIA Document A201-2017.

§ 14.1.2.2 The Owner shall also pay the Contractor fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Contractor that the Owner elects to retain and that is not otherwise included in the Cost of the Work under Section 14.1.2.1.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Contractor shall, as a condition of receiving the payments referred to in this Article 14, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Contractor, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Contractor under such subcontracts or purchase orders.

§ 14.1.3 Termination by the Owner for Convenience

AIA Document A102 – 2017. Copyright © 1920, 1925, 1951, 1958, 1961, 1963, 1967, 1974, 1978, 1987, 1997, 2007 and 2017. All rights reserved. "The American Institute of Architects," "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are trademarks of The American Institute of Architects.

If the Owner terminates the Contract for convenience in accordance with Article 14 of AIA Document A201-2017, then the Owner shall pay the Contractor a termination fee as follows:

(Insert the amount of or method for determining the fee, if any, payable to the Contractor following a termination for the Owner's convenience.)

§ 14.2 Suspension

The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201-2017; in such case, the Guaranteed Maximum Price and Contract Time shall be increased as provided in Article 14 of AIA Document A201-2017, except that the term "profit" shall be understood to mean the Contractor's Fee as described in Article 5 and Section 6.4 of this Agreement.

ARTICLE 15 MISCELLANEOUS PROVISIONS

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

§ 15.2 The Owner's representative:

(Name, address, email address and other information)

§ 15.3 The Contractor's representative:

(Name, address, email address and other information)

§ 15.4 Neither the Owner's nor the Contractor's representative shall be changed without 10 days' prior written notice to the other party.

§ 15.5 Insurance and Bonds

§ 15.5.1 The Owner and the Contractor shall purchase and maintain insurance as set forth in AIA Document A102™-2017, Standard Form of Agreement Between Owner and Contractor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price, Exhibit A, Insurance and Bonds, and elsewhere in the Contract Documents.

§ 15.5.2 The Contractor shall provide bonds as set forth in AIA Document A102™-2017 Exhibit A, and elsewhere in the Contract Documents.

§ 15.6 Notice will be given as set forth in AIA Document 201-2017.

§ 15.7 Other provisions:

AIA Document A102 – 2017. Copyright © 1920, 1925, 1951, 1958, 1961, 1963, 1967, 1974, 1978, 1987, 1997, 2007 and 2017. All rights reserved. "The American Institute of Architects," "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are trademarks of The American Institute of Architects.

ARTICLE 16 ENUMERATION OF CONTRACT DOCUMENTS

§ 16.1 This Agreement is comprised of the following documents:

- .1 AIA Document A102™-2017, Standard Form of Agreement Between Owner and Contractor
- .2 AIA Document A102™-2017, Exhibit A, Insurance and Bonds
- .3 AIA Document A201™-2017, General Conditions of the Contract for Construction
- .4 Building information modeling exhibit, dated as indicated below:
(Insert the date of the building information modeling exhibit incorporated into this Agreement.)

- .5 Drawings

Number	Title	Date

- .6 Specifications

Section	Title	Date	Pages

- .7 Addenda, if any:

Number	Date	Pages

Portions of Addenda relating to bidding or proposal requirements are not part of the Contract Documents unless the bidding or proposal requirements are also enumerated in this Article 16.

- .8 Other Exhibits:
(Check all boxes that apply.)

[] AIA Document E204™-2017, Sustainable Projects Exhibit, dated as indicated below:
(Insert the date of the E204-2017 incorporated into this Agreement.)

[] The Sustainability Plan:

Title	Date	Pages

[] Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages

- .9 Other documents, if any, listed below:

(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201-2017 provides that the advertisement or invitation to bid, Instructions to Bidders, sample forms, the Contractor's bid or proposal, portions of Addenda relating to bidding or proposal requirements, and other information furnished by the Owner in anticipation of receiving bids or proposals, are not part of the Contract Documents unless enumerated in this Agreement. Any such documents should be listed here only if intended to be part of the Contract Documents.)

Exhibit _ – Contractor's Fees and Costs/Scope of Services

Exhibit _ – Project Schedule

AIA Document A102 – 2017. Copyright © 1920, 1925, 1951, 1958, 1961, 1963, 1967, 1974, 1978, 1987, 1997, 2007 and 2017. All rights reserved.
"The American Institute of Architects," "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are trademarks of The American Institute of Architects.

Exhibit _ – Sales and Use Tax Exemption Procedures

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

OWNER (Signature)

(Printed name and title)

CONTRACTOR (Signature)

(Printed name and title)

EXHIBIT J

Exhibit J – For Reference, AIA, A102-2017 Exhibit A Insurance and Bonds

AIA Document A102® – 2017 Exhibit A

Insurance and Bonds

This Insurance and Bonds Exhibit is part of the Agreement, between the Owner and the Contractor, dated the day of in the year
(In words, indicate day, month and year.)

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

THE OWNER:
(Name, legal status and address)

Morongo Band of Mission Indians, a federally recognized sovereign Indian Tribe
12700 Pumarra Road
Morongo Indian Reservation
Banning, California 92220

THE CONTRACTOR:
(Name, legal status and address)

TABLE OF ARTICLES

- A.1 GENERAL
- A.2 OWNER'S INSURANCE
- A.3 CONTRACTOR'S INSURANCE AND BONDS
- A.4 SPECIAL TERMS AND CONDITIONS

ARTICLE A.1 GENERAL

The Owner and Contractor shall purchase and maintain insurance, and provide bonds, as set forth in this Exhibit. As used in this Exhibit, the term General Conditions refers to AIA Document A201™–2017, General Conditions of the Contract for Construction.

ARTICLE A.2 OWNER'S INSURANCE

§ A.2.1 General

Prior to commencement of the Work, the Owner shall secure the insurance, and provide evidence of the coverage, required under this Article A.2 and, upon the Contractor's request, provide a copy of the property insurance policy or policies required by Section A.2.3. The copy of the policy or policies provided shall contain all applicable conditions, definitions, exclusions, and endorsements.

§ A.2.2 Liability Insurance

The Owner shall be responsible for purchasing and maintaining the Owner's usual

ADDITIONS AND DELETIONS:

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

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

This document is intended to be used in conjunction with AIA Document A201™–2017, General Conditions of the Contract for Construction. Article 11 of A201™–2017 contains additional insurance provisions.



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

general liability insurance.

§ A.2.3 Required Property Insurance

§ A.2.3.1 The Owner shall purchase and maintain, from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located, property insurance written on a builder's risk "all-risks" completed value or equivalent policy form and sufficient to cover the total value of the entire Project on a replacement cost basis. The parties acknowledge and agree that Owner maintains a blanket insurance policy for the property within the boundaries of the Morongo Indian Reservation, which includes general liability, course of construction and property insurance.

§ A.2.3.1.1 **Specific Required Coverages.** The insurance required by this Section A.2.3.1 shall provide coverage for loss or damage to falsework and other temporary structures, and to building systems from testing and startup. The insurance shall also cover debris removal, including demolition occasioned by enforcement of any applicable legal requirements, and reasonable compensation for the Architect's and Contractor's services and expenses required as a result of such insured loss, including claim preparation expenses. Sub-limits, if any, are as follows:

(Indicate below type of coverage and any applicable sub-limit for specific required coverages.)

Coverage	Sub-Limit
☐	

§ A.2.3.1.2 Unless the parties agree otherwise, upon Substantial Completion, the Owner shall continue the insurance required by Section A.2.3.1 or, if necessary, replace the insurance policy required under Section A.2.3.1 with property insurance written for the total value of the Project that shall remain in effect until expiration of the period for correction of the Work set forth in Section 12.2.2 of the General Conditions.

§ A.2.3.1.3 **Deductibles and Self-Insured Retentions.** If the insurance required by this Section A.2.3 is subject to deductibles or self-insured retentions, the Owner shall be responsible for all loss not covered because of such deductibles or retentions.

§ A.2.3.4 **Occupancy or Use Prior to Substantial Completion.** The Owner's occupancy or use of any completed or partially completed portion of the Work prior to Substantial Completion shall not commence until the insurance company or companies providing the insurance under Section A.2.3.1 have consented in writing to the continuance of coverage. The Owner and the Contractor shall take no action with respect to partial occupancy or use that would cause cancellation, lapse, or reduction of insurance, unless they agree otherwise in writing.

§ A.2.3.3 Insurance for Existing Structures

If the Work involves remodeling an existing structure or constructing an addition to an existing structure, the Owner shall purchase and maintain, until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, "all-risks" property insurance, on a replacement cost basis, protecting the existing structure against direct physical loss or damage from the causes of loss identified in Section A.2.3.1, notwithstanding the undertaking of the Work. The Owner shall be responsible for all co-insurance penalties.

§ A.2.4 Optional Extended Property Insurance.

The Owner shall purchase and maintain the insurance selected and described below.

(Select the types of insurance the Owner is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance. For each type of insurance selected, indicate applicable limits of coverage or other conditions in the fill point below the selected item.)

☐ § A.2.4.1 **Loss of Use, Business Interruption, and Delay in Completion Insurance,** to reimburse the Owner for loss of use of the Owner's property, or the inability to conduct normal operations due to a covered cause of loss.

☐ § A.2.4.2 **Ordinance or Law Insurance,** for the reasonable and necessary costs to satisfy the minimum requirements of the enforcement of any law or ordinance regulating the demolition, construction, repair, replacement or use of the Project.

- ☐ § A.2.4.3 Expediting Cost Insurance, for the reasonable and necessary costs for the temporary repair of damage to insured property, and to expedite the permanent repair or replacement of the damaged property.

- ☐ § A.2.4.4 Extra Expense Insurance, to provide reimbursement of the reasonable and necessary excess costs incurred during the period of restoration or repair of the damaged property that are over and above the total costs that would normally have been incurred during the same period of time had no loss or damage occurred.

- ☐ § A.2.4.5 Civil Authority Insurance, for losses or costs arising from an order of a civil authority prohibiting access to the Project, provided such order is the direct result of physical damage covered under the required property insurance.

- ☐ § A.2.4.6 Ingress/Egress Insurance, for loss due to the necessary interruption of the insured's business due to physical prevention of ingress to, or egress from, the Project as a direct result of physical damage.

- ☐ § A.2.4.7 Soft Costs Insurance, to reimburse the Owner for costs due to the delay of completion of the Work, arising out of physical loss or damage covered by the required property insurance: including construction loan fees; leasing and marketing expenses; additional fees, including those of architects, engineers, consultants, attorneys and accountants, needed for the completion of the construction, repairs, or reconstruction; and carrying costs such as property taxes, building permits, additional interest on loans, realty taxes, and insurance premiums over and above normal expenses.

§ A.2.5 Other Optional Insurance.

The Owner shall purchase and maintain the insurance selected below.

(Select the types of insurance the Owner is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance.)

- ☐ § A.2.5.1 Cyber Security Insurance for loss to the Owner due to data security and privacy breach, including costs of investigating a potential or actual breach of confidential or private information.
(Indicate applicable limits of coverage or other conditions in the fill point below.)

- ☐ § A.2.5.2 Other Insurance
(List below any other insurance coverage to be provided by the Owner and any applicable limits.)

Coverage	Limits

ARTICLE A.3 CONTRACTOR'S INSURANCE AND BONDS

§ A.3.1 General

§ A.3.1.1 Certificates of Insurance. The Contractor shall provide certificates of insurance acceptable to the Owner evidencing compliance with the requirements in this Article A.3 at the following times: (1) prior to commencement of

the Work; (2) upon renewal or replacement of each required policy of insurance; and (3) upon the Owner's written request. An additional certificate evidencing continuation of commercial liability coverage, including coverage for completed operations, shall be submitted with the final Application for Payment and thereafter upon renewal or replacement of such coverage until the expiration of the periods required by Section A.3.2.1 and Section A.3.3.1. The certificates will show the Owner as an additional insured on the Contractor's Commercial General Liability and excess or umbrella liability policy or policies.

§ A.3.1.2 Deductibles and Self-Insured Retentions. The Contractor shall disclose to the Owner any deductible or self-insured retentions applicable to any insurance required to be provided by the Contractor.

§ A.3.1.3 Additional Insured Obligations. To the fullest extent permitted by law, the Contractor shall cause the commercial general liability coverage 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 for which loss occurs during completed operations. The additional insured coverage shall be primary and non-contributory to any of the Owner's general liability insurance policies and shall apply to both ongoing and completed operations. To the extent commercially available, the additional insured coverage shall be no less than that provided by Insurance Services Office, Inc. (ISO) forms CG 20 10 07 04, CG 20 37 07 04, and, with respect to the Architect and the Architect's consultants, CG 20 32 07 04.

§ A.3.2 Contractor's Required Insurance Coverage

§ A.3.2.1 The Contractor shall purchase and maintain the following types and limits of insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Contractor shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, unless a different duration is stated below:

(If the Contractor is required to maintain insurance for a duration other than the expiration of the period for correction of Work, state the duration.)

§ A.3.2.2 Commercial General Liability

§ A.3.2.2.1 Commercial General Liability insurance for the Project written on an occurrence form with policy limits of not less than two million dollars (\$2,000,000) each occurrence, four million dollars (\$4,000,000) general aggregate, and four million dollars (\$4,000,000) aggregate for products-completed operations hazard, providing coverage for claims including

1. damages because of bodily injury, sickness or disease, including occupational sickness or disease, and death of any person;
2. personal injury and advertising injury;
3. damages because of physical damage to or destruction of tangible property, including the loss of use of such property;
4. bodily injury or property damage arising out of completed operations; and
5. the Contractor's indemnity obligations under Section 3.18 of the General Conditions.

§ A.3.2.2.2 The Contractor's Commercial General Liability policy under this Section A.3.2.2 shall not contain an exclusion or restriction of coverage for the following:

1. Claims by one insured against another insured, if the exclusion or restriction is based solely on the fact that the claimant is an insured, and there would otherwise be coverage for the claim.
2. Claims for property damage to the Contractor's Work arising out of the products-completed operations hazard where the damaged Work or the Work out of which the damage arises was performed by a Subcontractor.
3. Claims for bodily injury other than to employees of the insured.
4. Claims for indemnity under Section 3.18 of the General Conditions arising out of injury to employees of the insured.
5. Claims or loss excluded under a prior work endorsement or other similar exclusionary language.
6. Claims or loss due to physical damage under a prior injury endorsement or similar exclusionary language.
7. [Reserved]
8. Claims related to roofing, if the Work involves roofing.
9. [Reserved]

- .10 Claims related to earth subsidence or movement, where the Work involves such hazards.
- .11 Claims related to explosion, collapse and underground hazards, where the Work involves such hazards.

§ A.3.2.3 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Contractor, with policy limits of not less than one million dollars (\$1,000,000) per accident, for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles along with any other statutorily required automobile coverage.

§ A.3.2.4 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 such primary and excess or umbrella insurance policies result in the same or greater coverage as the coverages required under Section A.3.2.2 and A.3.2.3, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers.

§ A.3.2.5 Workers' Compensation at statutory limits.

§ A.3.2.6 Employers' Liability with policy limits not less than one million dollars (\$1,000,000) each accident, one million dollars (\$1,000,000) each employee, and one million dollars (\$1,000,000) policy limit.

§ A.3.2.7 Jones Act, and the Longshore & Harbor Workers' Compensation Act (not required because the Work does not involve hazards arising from work on or near navigable waterways including vessels and docks).

§ A.3.2.8 If the Contractor is required to furnish professional services as part of the Work, the Contractor shall procure Professional Liability insurance covering performance of the professional services, with policy limits of not less than (\$) per claim and (\$) in the aggregate or otherwise covered under Section A.3.2.10.

§ A.3.2.9 If the Work involves the transport, dissemination, use, or release of pollutants, the Contractor shall procure Pollution Liability insurance, with policy limits of not less than (\$) per claim and (\$) in the aggregate or otherwise covered under Section A.3.2.10.

§ A.3.2.10 Coverage under Sections A.3.2.8 and A.3.2.9 may be procured through a Combined Professional Liability and Pollution Liability insurance policy, with combined policy limits of not less than two million dollars (\$2,000,000) per claim and four million dollars (\$4,000,000) in the aggregate.

§ A.3.2.11 Insurance for maritime liability risks associated with the operation of a vessel, if the Work requires such activities, with policy limits of not less than (\$) per claim and (\$) in the aggregate.

§ A.3.2.12 Insurance for the use or operation of manned or unmanned aircraft, if the Work requires such activities, with policy limits of not less than (\$) per claim and (\$) in the aggregate.

§ A.3.3 Contractor's Other Insurance Coverage

§ A.3.3.1 Insurance selected and described in this Section A.3.3 shall be purchased from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Contractor shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, unless a different duration is stated below:

(If the Contractor is required to maintain any of the types of insurance selected below for a duration other than the expiration of the period for correction of Work, state the duration.)

§ A.3.3.2 The Contractor shall purchase and maintain the following types and limits of insurance in accordance with Section A.3.3.1.

(Select the types of insurance the Contractor is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance. Where policy limits are provided, include the policy limit in the appropriate fill point.)

[] § A.3.3.2.1 Property insurance of the same type and scope satisfying the requirements identified in Section A.2.3, which, if selected in this section A.3.3.2.1, relieves the Owner of the responsibility to purchase and maintain such insurance except insurance required by Section A.2.3.1.3 and Section A.2.3.3. The Contractor shall comply with all obligations of the Owner under Section A.2.3 except to the extent provided below. The Contractor shall disclose to the Owner the amount of any deductible, and the Owner shall be responsible for losses within the deductible. Upon request, the Contractor shall provide the Owner with a copy of the property insurance policy or policies required. The Owner shall adjust and settle the loss with the insurer and be the trustee of the proceeds of the property insurance in accordance with Article 11 of the General Conditions unless otherwise set forth below:
(Where the Contractor's obligation to provide property insurance differs from the Owner's obligations as described under Section A.2.3, indicate such differences in the space below. Additionally, if a party other than the Owner will be responsible for adjusting and settling a loss with the insurer and acting as the trustee of the proceeds of property insurance in accordance with Article 11 of the General Conditions, indicate the responsible party below.)

[] § A.3.3.2.2 Railroad Protective Liability Insurance, with policy limits of not less than (\$) per claim and (\$) in the aggregate, for Work within fifty (50) feet of railroad property.

[] § A.3.3.2.3 Asbestos Abatement Liability Insurance, with policy limits of not less than (\$) per claim and (\$) in the aggregate, for liability arising from the encapsulation, removal, handling, storage, transportation, and disposal of asbestos-containing materials.

[] § A.3.3.2.4 Insurance for physical damage to property while it is in storage and in transit to the construction site on an "all-risks" completed value form.

[] § A.3.3.2.5 Property insurance on an "all-risks" completed value form, covering property owned by the Contractor and used on the Project, including scaffolding and other equipment.

[] § A.3.3.2.6 Other Insurance
(List below any other insurance coverage to be provided by the Contractor and any applicable limits.)

Coverage

Limits

§ A.3.4 Performance Bond and Payment Bond

The Contractor shall provide surety bonds, from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located, as follows:
(Specify type and penal sum of bonds.)

Type

Penal Sum (\$0.00)

Payment Bond

Performance Bond

Payment and Performance Bonds shall be AIA Document A312™, Payment Bond and Performance Bond, or contain provisions identical to AIA Document A312™, current as of the date of this Agreement.

ARTICLE A.4 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Insurance and Bonds Exhibit, if any, are as follows:

EXHIBIT K

Exhibit K – For Reference, AIA, A201-2017 General Conditions

AIA® Document A201® – 2017

General Conditions of the Contract for Construction

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

THE OWNER:
(Name, legal status and address)

Morongo Band of Mission Indians, a federally recognized sovereign Indian Tribe
12700 Pummarra Road
Morongo Indian Reservation
Banning, California 92220

THE ARCHITECT:
(Name, legal status and address)

TABLE OF ARTICLES

- 1 GENERAL PROVISIONS
- 2 OWNER
- 3 CONTRACTOR
- 4 ARCHITECT
- 5 SUBCONTRACTORS
- 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS
- 7 CHANGES IN THE WORK
- 8 TIME
- 9 PAYMENTS AND COMPLETION
- 10 PROTECTION OF PERSONS AND PROPERTY
- 11 INSURANCE AND BONDS
- 12 UNCOVERING AND CORRECTION OF WORK
- 13 MISCELLANEOUS PROVISIONS

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

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

For guidance in modifying this document to include supplementary conditions, see AIA Document A503™–2017, Guide for Supplementary Conditions.

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

AIA Document A201 – 2017. Copyright © 1911, 1915, 1918, 1925, 1937, 1961, 1968, 1981, 1983, 1988, 1970, 1976, 1987, 1997, 2007 and 2017. All rights reserved. "The American Institute of Architects," "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are trademarks of The American Institute of Architects.

14 TERMINATION OR SUSPENSION OF THE CONTRACT

15 CLAIMS AND DISPUTES



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 or proposal requirements.

§ 1.1.2 The Contract

The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Contractor and the 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.

§ 1.2 Correlation and Intent of the Contract Documents

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

§ 1.2.1.1 The invalidity of any provision of the Contract Documents shall not invalidate the Contract or its remaining provisions. If it is determined that any provision of the Contract Documents violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Contract Documents shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Contract.

§ 1.2.2 Organization of the Specifications into divisions, sections and articles, and arrangement of Drawings shall not control

AIA Document A201 – 2017. Copyright © 1911, 1915, 1918, 1925, 1937, 1951, 1958, 1961, 1963, 1968, 1970, 1976, 1987, 1997, 2007 and 2017. All rights reserved. "The American Institute of Architects," "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are trademarks of The American Institute of Architects.

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

Intentionally omitted.

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

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

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

§ 1.6 Notice

§ 1.6.1 Except as otherwise provided in Section 1.6.2, where the Contract Documents require one party to notify or give notice to the other party, such notice shall be provided in writing to the designated representative of the party to whom the notice is addressed and shall be deemed to have been duly served if delivered in person, by mail, by courier, or by electronic transmission if a method for electronic transmission is set forth in the Agreement.

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

§ 1.7 Digital Data Use and Transmission

The parties recognize that Instruments of Service and other documentation may be transmitted or stored in digital form. Unless and until the parties enter into a written protocol governing the transmission, use, and storage of such digital data, the parties shall use their best efforts to establish safe, effective, and accurate digital communication.

§ 1.8 Building Information Models Use and Reliance

Any use of, or reliance on, all or a portion of a building information model without agreement to written protocols governing the use of, and reliance on, the information contained in the model shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

ARTICLE 2 OWNER

§ 2.1 General

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.

§ 2.2 Evidence of the Owner's Financial Arrangements

Contractor acknowledges and agrees that the Owner has made financial arrangements to fulfill the Owner's obligations under

AIA Document A201 – 2017. Copyright © 1911, 1915, 1918, 1925, 1937, 1951, 1958, 1961, 1963, 1968, 1970, 1976, 1987, 1997, 2007 and 2017. All rights reserved. "The American Institute of Architects," "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are trademarks of The American Institute of Architects. To report copyright violations, e-mail docinfo@aiacontracts.com.

the Contract.

§ 2.3 Information and Services Required of the Owner

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

§ 2.3.2 The Owner shall retain 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.

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

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

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

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

§ 2.4 Owner's Right to Stop the Work

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

§ 2.5 Owner's Right to Carry Out the Work

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

ARTICLE 3 CONTRACTOR

§ 3.1 General

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

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

§ 3.1.3 The Contractor shall not be relieved of its obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the 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 2.3.4, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating coordination and construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, the Contractor shall promptly report to the Architect any errors, inconsistencies or omissions discovered by or made known to the Contractor as a request for information in such form as the Architect may require. 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 Architect any nonconformity discovered by or made known to the Contractor as a request for information in such form as the Architect may require.

§ 3.2.4 If the Contractor believes that additional cost or time is involved because of clarifications or instructions the Architect issues in response to the Contractor's notices or requests for information pursuant to Sections 3.2.2 or 3.2.3, the Contractor shall submit Claims as provided in Article 15. If the Contractor fails to perform the obligations of Sections 3.2.2 or 3.2.3, the Contractor shall pay such costs and damages to the Owner, subject to Section 15.1.7, as would have been avoided if the Contractor had performed such obligations. If the Contractor performs those obligations, the Contractor shall not be liable to the Owner or 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.

§ 3.3 Supervision and Construction Procedures

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

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

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

§ 3.4 Labor and Materials

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

§ 3.4.2 Except in the case of minor changes in the Work approved by the Architect in accordance with Section 3.12.8 or ordered by the Architect in accordance with Section 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

§ 3.5.1 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 Architect, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

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

§ 3.6 Taxes

The Contractor shall pay 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 written 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 that an equitable adjustment be made 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, stating the reasons. If either party disputes the Architect's determination or recommendation, that party may submit a Claim as provided in Article 15.

§ 3.7.5 Contractor will comply with all applicable federal and Morongo Band of Mission Indians requirements regarding archaeological, historic, and cultural resources. Contractor acknowledges and agrees that in the course of the Work involving ground disturbing activities, a Morongo Band of Mission Indians monitor will continually monitor the construction site. If historic properties, archaeological resources, human remains, or other cultural items not previously reported are encountered during the course of any activity associated with this Project, all activity in the immediate vicinity of the properties, resources, remains, or items will immediately cease and Contractor will immediately contact the Owner to determine the appropriate disposition and how to proceed. Upon notification of archaeological excavation, mitigation, analysis, and curation efforts shall be borne by the Owner. Requests for adjustments in the Contract Sum and Contract Time arising from the existence of such properties, resources, remains or items may be made as provided in Article 15.

§ 3.8 Allowances

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

§ 3.8.2 Unless otherwise provided in the Contract Documents,

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

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

§ 3.9 Superintendent

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

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

§ 3.9.3 The Contractor shall not employ a proposed superintendent to whom the Owner or 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.

§ 3.10 Contractor's Construction and Submittal Schedules

§ 3.10.1 The Contractor has provided a schedule for the Work which is attached to the Contract as Exhibit ____.

§ 3.10.2 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 make available, at the Project site, the Contract Documents, including Change Orders, Construction Change Directives, and other Modifications, in good order and marked currently to indicate field changes and selections made during construction, and the approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be in electronic form or paper copy, available to the Architect and Owner, and 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 how the Contractor proposes to conform to the information given and the design concept expressed in the

Contract Documents for those portions of the Work for which the Contract Documents require submittals. Review by the 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.

§ 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 the requirements of the Contract Documents by the Architect's approval of Shop Drawings, Product Data, Samples, or similar submittals, unless the Contractor has specifically notified the Architect 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 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.

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

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

§ 3.13 Use of Site

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

AIA Document A201 – 2017. Copyright © 1911, 1915, 1918, 1925, 1937, 1951, 1958, 1961, 1963, 1966, 1970, 1976, 1987, 1997, 2007 and 2017. All rights reserved. "The American Institute of Architects," "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are trademarks of The American Institute of Architects. To report copyright violations, e-mail docinfo@aiacontracts.com.

§ 3.14 Cutting and Patching

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

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

§ 3.15 Cleaning Up

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

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

§ 3.16 Access to Work

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

§ 3.17 Royalties, Patents and Copyrights

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

ARTICLE 4 ARCHITECT**§ 4.1 General**

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

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

§ 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 promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work. The 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

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

§ 4.2.5 Based on the 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 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 13.4.2 and 13.4.3, whether or not the 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, 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 or of any construction means, methods, techniques, sequences, or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 4.2.8 The Architect will prepare Change Orders and Construction Change Directives and may order 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

AIA Document A201 – 2017. Copyright © 1911, 1915, 1918, 1925, 1937, 1951, 1958, 1961, 1963, 1966, 1970, 1976, 1987, 1997, 2007 and 2017. All rights reserved. "The American Institute of Architects," "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are trademarks of The American Institute of Architects. To report copyright violations, e-mail docinfo@aiacontracts.com.

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 Owner shall notify the Contractor of any change in the duties, responsibilities and limitations of authority of the Project representatives.

§ 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.

§ 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 the subcontractors of a Separate Contractor.

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

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

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

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

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

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

§ 5.3 Subcontractual Relations

By appropriate written agreement, the Contractor shall require each Subcontractor, to the extent of the Work to be performed

AIA Document A201 – 2017. Copyright © 1911, 1915, 1918, 1925, 1937, 1951, 1958, 1961, 1963, 1966, 1970, 1976, 1987, 1997, 2007 and 2017. All rights reserved. "The American Institute of Architects," "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are trademarks of The American Institute of Architects. To report copyright violations, e-mail docinfo@aiacopyright.com.

by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work that the Contractor, by these Contract Documents, assumes toward the Owner and 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, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies, and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Contract Documents. Subcontractors will similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

§ 5.4 Contingent Assignment of Subcontracts

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

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

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

§ 5.4.3 Upon assignment to the Owner under this Section 5.4, the Owner may further assign the subcontract to a successor contractor or other entity. If the Owner assigns the subcontract to a successor contractor or other entity, the Owner shall nevertheless remain legally responsible for all of the successor contractor's obligations under the subcontract.

ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

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

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

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

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

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

§ 6.2 Mutual Responsibility

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

§ 6.2.2 If part of the Contractor's Work depends for proper execution or results upon construction or operations by the Owner

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

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

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

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

§ 6.3 Owner's Right to Clean Up

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

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

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

AIA Document A201 – 2017. Copyright © 1911, 1915, 1918, 1925, 1937, 1951, 1958, 1961, 1963, 1966, 1970, 1976, 1987, 1997, 2007 and 2017. All rights reserved. "The American Institute of Architects," "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are trademarks of The American Institute of Architects. To report copyright violations, e-mail docinfo@aiacontracts.com.

- .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 7.3.4.

§ 7.3.4 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Architect shall determine 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 7.3.4 shall be limited to the following:

- .1 Costs of labor, including applicable payroll taxes, fringe benefits required by agreement or custom, workers' compensation insurance, and other employee costs approved by the Architect;
- .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, directly related to the change; and
- .5 Costs of supervision and field office personnel directly attributable to the change.

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

§ 7.3.6 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.

§ 7.3.7 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.

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

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, commence the Work prior to the effective date of insurance required to be furnished by the Contractor and Owner.

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

§ 8.3 Delays and Extensions of Time

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

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

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

ARTICLE 9 PAYMENTS AND COMPLETION**§ 9.1 Contract Sum**

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

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

§ 9.2 Schedule of Values

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

§ 9.3 Applications for Payment

§ 9.3.1 At least ten days before the date established for each progress payment, the Contractor shall submit to the Architect an itemized Application for Payment prepared in accordance with the schedule of values, if required under Section 9.2, for completed portions of the Work. The application shall be notarized, if required, and supported by all data substantiating the

Contractor's right to payment that the Owner or Architect require, such as copies of requisitions, and releases and waivers of liens from Subcontractors and suppliers, and shall reflect retainage if provided for in the Contract Documents.

§ 9.3.1.1 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, or by interim determinations of the Architect, 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 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, suppliers, or other persons or entities that provided labor, materials, and equipment relating to the Work.

§ 9.4 Certificates for Payment

§ 9.4.1 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; or (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 of the Architect's reasons for withholding certification in part as provided in Section 9.5.1; or (3) withhold certification of the entire Application for Payment, and notify the Contractor and Owner of the Architect's reason for withholding certification in whole 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 in the Application for Payment, that, to the best of the Architect's knowledge, information, and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion, and to specific qualifications expressed by the Architect. 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 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 in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Architect's opinion the representations to the Owner required by Section 9.4.2 cannot be made. If the Architect is unable to certify payment in the amount of the Application, the Architect will notify the Contractor and Owner as provided in Section 9.4.1. If the Contractor and Architect cannot agree on a revised amount, the Architect will promptly issue a Certificate for Payment for the amount for which the Architect is able to make such representations to the Owner. The Architect may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued, to such extent as may be necessary in the Architect's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from acts and omissions described in Section 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

AIA Document A201 – 2017. Copyright © 1911, 1915, 1918, 1925, 1937, 1951, 1958, 1961, 1963, 1966, 1970, 1976, 1987, 1997, 2007 and 2017. All rights reserved. "The American Institute of Architects," "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are trademarks of The American Institute of Architects. To report copyright violations, e-mail docinfo@aiacontracts.com.

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

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

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

§ 9.5.4 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 supplier to whom the Contractor failed to make payment for Work properly performed or material or equipment suitably delivered. If the Owner makes payments by joint check, the Owner shall notify the Architect and the Contractor shall reflect such payment on its next Application for Payment.

§ 9.6 Progress Payments

§ 9.6.1 After the Architect has issued a Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the 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 suppliers amounts paid by the Owner to the Contractor for subcontracted Work. If the Contractor fails to furnish such evidence within seven days, the Owner shall have the right to contact Subcontractors and suppliers to ascertain whether they have been properly paid. Neither the Owner nor Architect shall have an obligation to pay, or to see to the payment of money to, a Subcontractor or supplier, except as may otherwise be required by law.

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

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

§ 9.6.8 Provided the Owner has fulfilled its undisputed payment obligations under the Contract Documents, the Contractor shall defend and indemnify the Owner from all loss, liability, damage or expense, including reasonable attorney's fees and litigation expenses, arising out of any lien claim or other claim for payment by any Subcontractor or supplier of any tier. Upon receipt of notice of a lien claim or other claim for payment, the Owner shall notify the Contractor. If approved by the applicable court, when required, the Contractor may substitute a surety bond for the property against which the lien or other

claim for payment has been asserted.

§ 9.7 Failure of Payment

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

§ 9.8 Substantial Completion

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

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

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

§ 9.9 Partial Occupancy or Use

§ 9.9.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Contractor, provided such occupancy or use is consented to by the insurer and authorized by public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When the Contractor considers a portion substantially complete, the Contractor shall prepare and submit a list to the 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. 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 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, (3) a written statement that the Contractor knows of no reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment, (5) documentation of any special warranties, such as manufacturers' warranties or specific Subcontractor warranties, and (6) if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts and releases and waivers of liens, claims, security interests, or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien, claim, security interest, or encumbrance. If a lien, claim, security interest, or encumbrance remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging the lien, claim, security interest, or encumbrance, including all costs and reasonable attorneys' fees.

§ 9.10.3 If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Contractor or by issuance of Change Orders affecting final completion, and the 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, corrected, and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of the surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the 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 The making of final payment shall constitute a waiver of Claims by the Owner except those arising from

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

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

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY**§ 10.1 Safety Precautions and Programs**

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

§ 10.2 Safety of Persons and Property

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

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

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

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

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

§ 10.2.5 The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Sections 10.2.1.2 and 10.2.1.3 caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Sections 10.2.1.2 and 10.2.1.3. The Contractor may make a Claim for the cost to remedy the damage or loss to the extent such damage or loss is attributable to acts or omissions of the Owner or 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, notice of the injury or damage, whether or not insured, shall be given to the other party in writing within a reasonable time not exceeding 21 days after discovery. The notice shall provide sufficient detail to enable the other party to investigate the matter.

§ 10.3 Hazardous Materials and Substances

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

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

§ 10.3.3 To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Subcontractors, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses actually incurred, including but not limited to attorneys' fees, arising out of or resulting from performance of the

Work in the affected area if in fact the material or substance presents the risk of bodily injury or death as described in Section 10.3.1 and has not been rendered harmless, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), except to the extent that such damage, loss, or expense is due to the fault or negligence of the party seeking indemnity. The aggregate liability shall not exceed the limits of available insurance.

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

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

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

§ 10.4 Emergencies

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

ARTICLE 11 INSURANCE AND BONDS

§ 11.1 Contractor's Insurance and Bonds

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

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

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

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

§ 11.2 Owner's Insurance

§ 11.2.1 The Owner shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Owner shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located.

§ 11.2.2 Failure to Purchase Required Property Insurance. If the Owner fails to purchase and maintain the required property insurance, with all of the coverages and in the amounts described in the Agreement or elsewhere in the Contract Documents, the Owner shall inform the Contractor in writing prior to commencement of the Work. Upon receipt of notice from the Owner,

the Contractor may delay commencement of the Work and may obtain insurance that will protect the interests of the Contractor, Subcontractors, and Sub-Subcontractors in the Work. When the failure to provide coverage has been cured or resolved, the Contract Sum and Contract Time shall be equitably adjusted. In the event the Owner fails to procure coverage, the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent the loss to the Owner would have been covered by the insurance to have been procured by the Owner. The cost of the insurance shall be charged to the Owner by a Change Order. If the Owner does not provide written notice, and the Contractor is damaged by the failure or neglect of the Owner to purchase or maintain the required insurance, the Owner shall reimburse the Contractor for all reasonable costs and damages attributable thereto.

§ 11.2.3 Notice of Cancellation or Expiration of Owner's Required Property Insurance. Within three (3) business days of the date the Owner becomes aware of an impending or actual cancellation or expiration of any property insurance required by the Contract Documents, the Owner shall provide notice to the Contractor of such impending or actual cancellation or expiration. Unless the lapse in coverage arises from an act or omission of the Contractor: (1) the Contractor, upon receipt of notice from the Owner, shall have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by either the Owner or the Contractor; (2) the Contract Time and Contract Sum shall be equitably adjusted; and (3) the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent any loss to the Owner would have been covered by the insurance had it not expired or been cancelled. If the Contractor purchases replacement coverage, the cost of the insurance shall be charged to the Owner by an appropriate Change Order. The furnishing of notice by the Owner shall not relieve the Owner of any contractual obligation to provide required insurance.

§ 11.3 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; (2) the Architect and Architect's consultants; and (3) Separate Contractors, 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 those losses are covered by property insurance required by the Agreement or other property insurance applicable to the Project, except such rights as they have to proceeds of such insurance. The Owner or Contractor, as appropriate, shall require similar written waivers in favor of the individuals and entities identified above from the Architect, Architect's consultants, Separate Contractors, subcontractors, and sub-subcontractors. The policies of insurance purchased and maintained by each person or entity agreeing to waive claims pursuant to this section 11.3.1 shall not prohibit this waiver of subrogation. This waiver of subrogation shall be effective as to a person or entity (1) even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, (2) even though that person or entity did not pay the insurance premium directly or indirectly, or (3) whether or not the person or entity had an insurable interest in the damaged property.

§ 11.4 Loss of Use, Business Interruption, and Delay in Completion Insurance

The Owner, at the Owner's option, may purchase and maintain insurance that will protect the Owner against loss of use of the Owner's property, or the inability to conduct normal operations, due to fire or other causes of loss. If the Owner elects not to purchase and maintain insurance for purposes of this Section 11.4, subject to indemnification rights set forth in this Contract, the Agreement and the Construction Documents, the Owner waives all rights of action against the Contractor and Architect for loss of use of the Owner's property due to fire or other hazards however caused.

§ 11.5 Adjustment and Settlement of Insured Loss

§ 11.5.1 A loss insured under the property insurance required by the Agreement shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear. The Owner shall pay the Architect and Contractor their just shares of insurance proceeds received by the Owner, and by appropriate agreements the Architect and Contractor shall make payments to their consultants and Subcontractors in similar manner.

§ 11.5.2 Prior to settlement of an insured loss, the Owner shall notify the Contractor of the terms of the proposed settlement as well as the proposed allocation of the insurance proceeds. The Contractor shall have 14 days from receipt of notice to object to the proposed settlement or allocation of the proceeds. If the Contractor does not object, the Owner shall settle the loss and the Contractor shall be bound by the settlement and allocation. Upon receipt, the Owner shall deposit the insurance proceeds in a separate account and make the appropriate distributions. Thereafter, if no other agreement is made or the Owner does not terminate the Contract for convenience, the Owner and Contractor shall execute a Change Order for reconstruction of the damaged or destroyed Work in the amount allocated for that purpose. If the Contractor timely objects to either the terms of the proposed settlement or the allocation of the proceeds, the Owner may proceed to settle the insured loss, and any dispute between the Owner and Contractor arising out of the settlement or allocation of the proceeds shall be resolved pursuant to Article 15. Pending resolution of any dispute, the Owner may issue a Construction Change Directive for the reconstruction of the damaged or destroyed Work.

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

§ 12.2 Correction of Work**§ 12.2.1 Before Substantial Completion**

The Contractor shall promptly correct Work rejected by the Architect or failing to conform to the requirements of the Contract Documents, discovered before Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the 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 two year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.9.1, or by terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of notice from the Owner to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the one-year period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor and to make a claim for breach of warranty. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner or Architect, the Owner may correct it in accordance with Section 2.5.

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

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

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

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

§ 12.3 Acceptance of Nonconforming Work

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

ARTICLE 13 MISCELLANEOUS PROVISIONS**§ 13.1 Governing Law**

The Contract shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules.

§ 13.2 Successors and Assigns

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

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

§ 13.3 Rights and Remedies

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

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

§ 13.4 Tests and Inspections

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

§ 13.4.2 If the Architect, Owner, or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection, or approval not included under Section 13.4.1, the 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 13.4.3, shall be at the Owner's expense.

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

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

§ 13.4.5 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.

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

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 90 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, for any of the following reasons:

- .1 Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;
- .2 An act of government, such as a declaration of national emergency, that requires all Work to be stopped;
- .3 Because the 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; or

§ 14.1.2 The Contractor may terminate the Contract if, through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, repeated suspensions, delays, or interruptions of the entire Work by the Owner as described in Section 14.3, constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 180 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 and costs incurred by reason of such termination.

§ 14.1.4 If the Work is stopped for a period of 90 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, or their agents or employees or any other persons or entities performing portions of the Work because the Owner has repeatedly failed to fulfill the Owner's obligations under the Contract Documents with respect to matters important to the progress of the Work, the Contractor may, upon seven additional days' 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 or suppliers in accordance with the respective agreements between the Contractor and the Subcontractors or suppliers;
- .3 repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or
- .4 otherwise is guilty of substantial breach of a provision of the Contract Documents.

§ 14.2.2 When any of the reasons described in Section 14.2.1 exist, and upon certification by the Architect that sufficient cause exists to justify such action, the Owner may, without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' 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. Upon written request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.

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

§ 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.

§ 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.

AIA Document A201 – 2017. Copyright © 1911, 1915, 1918, 1925, 1937, 1951, 1958, 1961, 1963, 1966, 1970, 1976, 1987, 1997, 2007 and 2017. All rights reserved. "The American Institute of Architects," "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are trademarks of The American Institute of Architects. To report copyright violations, e-mail docinfo@aiacopyright.com.

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

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

§ 14.4 Termination by the Owner for Convenience

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

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

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

§ 14.4.3 In case of such termination for the Owner's convenience, the Owner shall pay the Contractor for Work properly executed; costs incurred by reason of the termination, including costs attributable to termination of Subcontracts; and the termination fee, if any, set forth in the Agreement.

ARTICLE 15 CLAIMS AND DISPUTES

§ 15.1 Claims

§ 15.1.1 Definition

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

§ 15.1.2 Time Limits on Claims

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

§ 15.1.3 Notice of Claims

§ 15.1.3.1 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered prior to expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by written notice to the other party. Claims by either party under this Section 15.1.3.1 shall be initiated within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later.

§ 15.1.3.2 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party pursuant to Section 15.1.3.1.

§ 15.1.4 Continuing Contract Performance

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

§ 15.1.5 Claims for Additional Cost

If the Contractor wishes to make a Claim for an increase in the Contract Sum, notice as provided in Section 15.1.3 shall be

given before proceeding to execute the portion of the Work that is the subject of the Claim. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4.

§ 15.1.6 Claims for Additional Time

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

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

§ 15.1.7 Waiver of Claims for Consequential Damages

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

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

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

§ 15.2 Mediation

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

§ 15.2.2 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 formal dispute resolution proceedings but, in such event, mediation shall proceed in advance of formal 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 15.2.2, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§ 15.2.3 Either party may, within 30 days from the date that mediation has been concluded without resolution of the dispute or 60 days after mediation has been demanded without resolution of the dispute, demand in writing that the other party file for formal dispute resolution. If such a demand is made and the party receiving the demand fails to file for formal dispute resolution within 60 days after receipt thereof, then both parties waive their rights to further dispute resolution proceedings.

§ 15.2.4 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.

EXHIBIT L

Exhibit L – For Reference, AIA, G702 Application and Certificate for Payment and AIA, G703 Continuation Sheet.

AIA® Document G702™ – 1992

Application and Certificate for Payment

TO OWNER:	PROJECT: Sample	APPLICATION NO: 001	Distribution to:
FROM CONTRACTOR:	VIA ARCHITECT:	PERIOD TO: General Construction	☐ OWNER
		CONTRACT FOR:	☐ ARCHITECT
		CONTRACT DATE:	☐ CONTRACTOR
		PROJECT NOS: / /	☐ FIELD

CONTRACTOR'S APPLICATION FOR PAYMENT

Application is made for payment, as shown below, in connection with the Contract Continuation Sheet, AIA Document G703, is attached.

1. ORIGINAL CONTRACT SUM \$0.00
2. NET CHANGE BY CHANGE ORDERS \$0.00
3. CONTRACT SUM TO DATE (Line 1 + 2) \$0.00
4. TOTAL COMPLETED & STORED TO DATE (Column G on G703) \$0.00
5. RETAINAGE:
 - a. 0 % of Completed Work (Column D + E on G703): \$0.00 = \$0.00
 - b. 0 % of Stored Material (Column F on G703): \$0.00 = \$0.00
6. TOTAL EARNED LESS RETAINAGE \$0.00
(Line 4 Less Line 5 Total)
7. LESS PREVIOUS CERTIFICATES FOR PAYMENT \$0.00
(Line 6 from prior Certificate)
8. CURRENT PAYMENT DUE \$0.00
9. BALANCE TO FINISH, INCLUDING RETAINAGE \$0.00
(Line 3 less Line 6)

Total Retainage (Lines 5a + 5b or Total in Column I of G703) \$0.00

ARCHITECT'S CERTIFICATE FOR PAYMENT

In accordance with the Contract Documents, based on on-site observations and the data comprising this application, the Architect certifies to the Owner that to the best of the Architect's knowledge, information and belief the Work has progressed as indicated, the quality of the Work is in accordance with the Contract Documents, and the Contractor is entitled to payment of the AMOUNT CERTIFIED.

AMOUNT CERTIFIED \$0.00

(Attach explanation if amount certified differs from the amount applied. Initial all figures on this Application and on the Continuation Sheet that are changed to conform with the amount certified.)

ARCHITECT: _____

By: _____ **Date:** _____

This Certificate is not negotiable. The AMOUNT CERTIFIED is payable only to the Contractor named herein. Issuance, payment and acceptance of payment are without prejudice to any rights of the Owner or Contractor under this Contract.

CHANGE ORDER SUMMARY	ADDITIONS	DEDUCTIONS
Total changes approved in previous months by Owner	\$0.00	\$0.00
Total approved this Month	\$0.00	\$0.00
TOTALS	\$0.00	\$0.00
NET CHANGES by Change Order		\$0.00

AIA Document G702™ – 1992. Copyright © 1992, 1983, 1981, 1977, 1971, 1963 and 1962 by The American Institute of Architects. All rights reserved. WARNING: This AIA® Document is protected by U.S. Copyright Law and International Treaties. Unauthorized reproduction or distribution of this AIA® Document, or any portion of it, may result in severe civil and criminal penalties, and will be prosecuted to the maximum extent possible under the law. This draft was produced by AIA software at 03/18/99 on 02/20/2014 under license No. 7127024540_1. 03/18/99. Revised 06/07/2014, and 06/08/2014.

AIA Document G703-1992. Copyright © 1992, 1993, 1994, 1995, 1996, 1997, 1998, 1999, 2000, 2001, 2002 and 2003 by The American Institute of Architects. All rights reserved. WARNING: This AIA® Document is protected by U.S. Copyright law and International Treaties. Unauthorized reproduction or distribution of this AIA® Document, or any portion of it, may result in severe civil and criminal penalties, and will be prosecuted to the maximum extent possible under the law. This draft was produced by AIA software at 02/01/13 on 10/30/2014 under Order No. 3728624540, which expires on 01/22/2015, and is not for resale. User Name: _____

(1845428250)

EXHIBIT M

Exhibit M – For Reference, AIA, G701 Change Order

DRAFT AIA Document G701™ – 2001

Change Order

PROJECT (Name and address):
Sample

CHANGE ORDER NUMBER: 001

DATE:

TO CONTRACTOR (Name and address):

ARCHITECT'S PROJECT NUMBER:

CONTRACT DATE:

CONTRACT FOR: General Construction

OWNER: ☐

ARCHITECT: ☐

CONTRACTOR: ☐

FIELD: ☐

OTHER: ☐

THE CONTRACT IS CHANGED AS FOLLOWS:
(Include, where applicable, any undisputed amount attributable to previously executed Construction Change Directives)

The original Contract Sum was \$ 0.00

The net change by previously authorized Change Orders \$ 0.00

The Contract Sum prior to this Change Order was \$ 0.00

The Contract Sum will be increased by this Change Order in the amount of \$ 0.00

The new Contract Sum including this Change Order will be \$ 0.00

The Contract Time will be increased by Zero (0) days.

The date of Substantial Completion as of the date of this Change Order therefore is

NOTE: This Change Order does not include changes in the Contract Sum, Contract Time or Guaranteed Maximum Price which have been authorized by Construction Change Directive until the cost and time have been agreed upon by both the Owner and Contractor, in which case a Change Order is executed to supersede the Construction Change Directive.

NOT VALID UNTIL SIGNED BY THE ARCHITECT, CONTRACTOR AND OWNER.

ARCHITECT (Firm name) CONTRACTOR (Firm name) OWNER (Firm name)

ADDRESS ADDRESS ADDRESS

BY (Signature) BY (Signature) BY (Signature)

(Typed name) (Typed name) (Typed name)

DATE DATE DATE

AIA Document G701™ – 2001. Copyright © 1979, 1997, 2000 and 2001 by the American Institute of Architects. All rights reserved. 09/09/2001
This AIA® Document is protected by U.S. Copyright Law and International Treaties. Unauthorized reproduction or distribution of this AIA® Document, or any portion of it, may result in severe civil and criminal penalties, and will be prosecuted to the maximum extent possible under the law. This draft was produced by AIA software at 15:38:10 on 02/20/2014 under Order no.3728224540_1 which expires on 01/21/2015, and is not for resale.
Dear Notes: (509482443)

1

Exhibit N:

Federal Energy Tax Credit Compliance

EXHIBIT N

FEDERAL ENERGY TAX CREDIT COMPLIANCE

This Exhibit N is incorporated into and made part of the Agreement. Contractor acknowledges that Owner intends to claim the federal Investment Tax Credit (ITC) for the Project pursuant to Section 48 of the Internal Revenue Code, including, as applicable, the prevailing wage and apprenticeship requirements under Sections 48(a)(10) and 48(a)(11), the domestic content requirements under Section 48(a)(12) and Section 45(b)(9), and all related regulations, notices, guidance, and interpretations issued by the United States Department of the Treasury and the Internal Revenue Service.

Contractor shall perform the Work in a manner reasonably designed to support Owner's intended tax credit position and shall comply with all applicable requirements associated with Contractor's scope of Work. Contractor shall maintain complete and accurate records and shall provide all certifications, affidavits, payroll records, apprenticeship records, material sourcing documentation, domestic content documentation, and other supporting information reasonably requested by Owner to demonstrate compliance with applicable Investment Tax Credit requirements and related federal guidance.

Contractor acknowledges that Owner may rely upon documentation and certifications provided by Contractor in connection with claiming the Investment Tax Credit and any associated bonus credits. Contractor shall cooperate with Owner and Owner's representatives in responding to requests for information, audits, reviews, or compliance verification related to the Project's eligibility for such tax benefits.

1. Prevailing Wage and Apprenticeship Requirements.

A. General Requirements

Contractor acknowledges that Owner intends to claim the increased Investment Tax Credit available under Sections 48(a)(10) and 48(a)(11) of the Internal Revenue Code and related guidance issued by the United States Department of the Treasury and the Internal Revenue Service, including Internal Revenue Service Notice 2022-61 and any successor, supplemental, or modifying guidance.

Contractor shall, and shall cause all subcontractors and sub-subcontractors of every tier to, comply with all prevailing wage and apprenticeship requirements applicable to Contractor's scope of Work. Contractor shall be responsible for ensuring compliance by all lower-tier subcontractors and shall incorporate requirements substantially similar to those contained in this Exhibit into all subcontracts.

B. Prevailing Wage Requirements

Contractor shall ensure that all laborers and mechanics, as defined in Section 48(a)(10)(A) of the Internal Revenue Code, the Davis-Bacon Act, and applicable federal guidance, employed by Contractor or any subcontractor in the construction, alteration, or repair of the Project are paid wages at rates not less than the prevailing wage rates determined by the United States Department of Labor for the applicable classification of work, including all required fringe benefits.

Contractor shall:

Obtain and maintain all applicable wage determinations published by the United States Department of Labor through SAM.gov or any successor source.

Request additional, supplemental, or modified wage determinations when required by applicable law or guidance.

Post applicable wage determinations at the Project site in a location readily accessible to workers.

Ensure that no laborer or mechanic is induced, directly or indirectly, to give up any part of the compensation to which such worker is entitled.

Maintain records sufficient to demonstrate compliance with prevailing wage requirements for Contractor and all subcontractors of every tier.

If Contractor discovers or is notified of any underpayment of prevailing wages or fringe benefits, Contractor shall promptly make corrective payments to affected workers and shall pay any interest, penalties, or other amounts necessary to satisfy applicable correction requirements under the Internal Revenue Code, Treasury Regulations, Internal Revenue Service guidance, or Department of Labor requirements. Contractor shall provide documentation evidencing such corrective action upon Owner's request.

C. Apprenticeship Requirements

Contractor shall comply with all apprenticeship requirements necessary to support Owner's eligibility for the increased credit available under Section 48(a)(11) of the Internal Revenue Code and related federal guidance.

Contractor shall employ qualified apprentices, as defined by applicable federal law, regulations, and guidance, and shall ensure compliance with all applicable apprenticeship labor-hour requirements, apprentice-to-journeyworker ratios, supervision requirements, and participation requirements.

Contractor shall monitor and maintain records documenting:

Apprenticeship labor-hour percentages.

Apprentice-to-journeyworker ratios.

Compliance with supervision requirements.

Participation by qualified apprentices and registered apprenticeship programs.

Hours worked by apprentices in excess of permitted ratios, which shall not be counted toward satisfaction of apprenticeship labor-hour requirements unless otherwise permitted by applicable guidance.

Contractor shall separately identify apprentice hours, apprentice classifications, journeyworker classifications, and associated wage rates within its payroll records and shall require the same of all subcontractors.

To the extent permitted under applicable law and guidance, Contractor shall make and document good-faith efforts to satisfy apprenticeship requirements when qualified apprentices are unavailable. Contractor shall retain all requests, responses, denials, correspondence, waivers, exceptions, and other documentation necessary to substantiate any claimed good-faith effort exception.

D. Certified Payroll and Compliance Documentation

Contractor shall maintain complete and accurate certified payroll records for itself and all subcontractors and sub-subcontractors of every tier performing Work on the Project.

Such records shall be maintained throughout the Project and for any additional period required by law and shall be furnished to Owner upon request.

Certified payroll and supporting documentation shall include, at a minimum:

Worker name or unique identifier.

Worker classification and trade.

Apprentice or journeyworker status.

Hours worked.

Work dates and work location.

Hourly wage rates.

Fringe benefit amounts.

Gross compensation paid.

Apprenticeship program information, where applicable.

Applicable prevailing wage determinations.

Any other information reasonably requested by Owner to demonstrate compliance with Sections 48(a)(10), 48(a)(11), related Treasury Regulations, Internal Revenue Service guidance, Department of Labor requirements, or any successor authority.

Contractor shall cooperate fully with Owner in responding to audits, reviews, compliance inquiries, tax examinations, or other requests related to prevailing wage and apprenticeship compliance and shall promptly provide any documentation reasonably requested by Owner in connection with the Project's eligibility for federal tax credits or incentives.

2. Domestic Content Requirements.

A. General Requirements

Contractor shall, and shall cause all subcontractors, sub-subcontractors, and suppliers of every tier within Contractor's scope of Work to, comply with all applicable domestic content requirements relating to the Project, including those under Sections 48(a)(12) and 45(b)(9) of the Internal Revenue Code, and all related Treasury Regulations, Internal Revenue Service notices, rulings, and other applicable federal guidance (collectively, "Domestic Content Requirements").

Contractor acknowledges that Owner intends to rely on compliance with Domestic Content Requirements in connection with qualification for federal tax credits and incentives. Contractor shall perform the Work in a manner reasonably intended to support such compliance.

B. Definitions and Standards

For purposes of this Exhibit, "Domestic Content" shall have the meaning set forth in Section 48(a)(12), Section 45(b)(9), and applicable Treasury Regulations and IRS guidance, as may be amended from time to time.

Domestic Content Requirements generally include, without limitation, requirements relating to:

Iron and steel products manufactured in the United States.

Manufactured products and components that meet applicable U.S. manufacturing and domestic content percentage requirements based on cost or other prescribed methodology.

Applicable definitions of "manufactured product," "steel," "iron," "U.S. manufactured components," and any related terms as defined in applicable federal guidance.

Contractor shall be responsible for understanding and applying the applicable domestic content percentage thresholds and calculation methodologies required for the Project.

C. Sourcing Obligations and Compliance Documentation

Contractor shall use commercially reasonable efforts to ensure that all iron, steel, manufactured products,

and other materials incorporated into the Work comply with applicable Domestic Content Requirements.

Contractor shall obtain, review, and maintain complete and accurate documentation sufficient to substantiate compliance, including but not limited to manufacturer certifications, mill test reports, bills of material, component breakdowns, country of origin documentation, and documentation identifying the U.S. manufacturing location and the origin of major components.

Contractor shall require the same documentation from all subcontractors and suppliers of every tier and shall maintain a complete record of all domestic content compliance documentation for the Project.

Contractor shall not substitute any product, material, equipment, or system that could reasonably be expected to affect Domestic Content compliance without the Owner's prior written approval.

D. Non-Compliant Materials and Notice Obligations

Contractor shall promptly notify Owner in writing upon discovery that any material, equipment, or system used or proposed for use in the Project does not, or may not, satisfy applicable Domestic Content Requirements, whether such noncompliance is known or reasonably should have been known by Contractor.

Upon such notice, Contractor shall cooperate with Owner to determine appropriate corrective action.

If directed by Owner, Contractor shall, at its sole cost and expense, remove and replace any non-compliant materials, equipment, or systems and shall be responsible for all associated costs, delays, impacts, and corrective work necessary to achieve compliance with Domestic Content Requirements.

E. Substantiation and Audit Support

Contractor shall maintain all records necessary to demonstrate compliance with Domestic Content Requirements and shall make such records available to Owner upon request. Contractor shall fully cooperate with Owner in any audit, review, or verification process related to Domestic Content compliance, including any review associated with federal tax credit eligibility or incentive qualification.

3. Records, Certifications, and Notice.

Contractor shall maintain complete and accurate records sufficient to substantiate compliance with this Exhibit, including payroll records, worker classifications, hours worked, wage rates, fringe benefits, apprentice registrations and agreements, outreach or good-faith-effort documentation if applicable, and all domestic content certifications and supporting documents applicable to Contractor's scope of Work.

Contractor shall retain all such records for a period of not less than six (6) years after Final Completion of the Project, or such longer period as may be required under applicable federal, state, Tribal, or regulatory requirements, including any requirements associated with Internal Revenue Service review, audit, or tax credit substantiation.

Contractor shall furnish such records, certifications, and supporting information to Owner upon request and in the format reasonably required by Owner or any applicable regulatory or taxing authority.

Contractor shall promptly notify Owner in writing of any actual or suspected event, omission, substitution, inaccuracy, or noncompliance that could adversely affect Owner's intended tax credit position, including but not limited to compliance with prevailing wage, apprenticeship, domestic content, or any other requirements under this Exhibit.

Such notice shall be provided as soon as practicable, but in no event later than five (5) business days after Contractor becomes aware, or reasonably should have become aware, of such event, omission, substitution, inaccuracy, or noncompliance.

4. Flow-Down and Cooperation.

Contractor shall include this Exhibit, or substantially equivalent terms, in all subcontracts, purchase orders, and other lower-tier agreements for any portion of the Work. Contractor shall cooperate, and shall require its lower tiers to cooperate, with Owner and Owner's advisors in connection with any review, audit, verification, filing, or examination relating to the matters covered by this Exhibit.

5. Remedies.

Without limiting any other rights or remedies under the Agreement, Owner may withhold payment to the extent reasonably necessary to protect against noncompliance with this Exhibit until such noncompliance is cured and adequate supporting documentation is provided. Contractor shall be responsible for losses, corrective payments, penalties, interest, and reasonable out-of-pocket professional costs to the extent caused by Contractor's or its lower tiers' failure to comply with this Exhibit.

6. Survival.

Contractor's obligations under this Exhibit shall survive Final Completion and final payment for so long as reasonably necessary to support, defend, or resolve any tax credit filing, review, audit, examination, recapture issue, or related proceeding.