

ELIZABETHTON CITY SCHOOLS BOARD OF EDUCATION

REGULAR SCHEDULED MEETING

Thursday, October 21, 2021, @ 5:30 PM

Board Members

Eddie Pless | Phil Isaacs | Danny O'Quinn | Mike Wilson | Jamie Schaff | Maggie Cole (Student Liaison)

The Elizabethton Board of Education will meet on Thursday, October 21, 2021, at 5:30 PM in the Mack Pierce Board Room, 804 South Watauga Ave , Elizabethton, TN 37643.

1. CALL TO ORDER
2. MOMENT OF SILENCE
3. PLEDGE TO THE FLAG
4. APPROVE CONSENT AGENDA AND REGULAR AGENDA
5. TIME FOR CITIZENS TO SPEAK
6. SPECIAL RECOGNITION
7. CONSENT AGENDA

- A. Minutes of Regular Meeting: September 16, 2021.
- B. Approve General Purpose Fund Financial Statement, September 30, 2021.
- C. Approve Federal Projects Fund Financial Statement, September 30, 2021.
- D. Approve School Nutrition Fund Financial Statement, September 30, 2021.
- E. Approve the issuance of credit accounts for each school for the purpose of making purchases due to many vendors not accepting Purchase Orders.
- F. Approve the 2021 Tennessee Department of Education Local Education Agency Compliance Report for the 2021-2022 School Year.
- G. Approve a Services Agreement between Elizabethton City Schools and Frontier Health for School Based Student Assistance Counseling at Elizabethton High School and T. A. Dugger Jr. High School.
- H. Approve a Services Agreement between Elizabethton City Schools and Frontier Health for School Based Student Assistance Counseling at East Side Elementary School, Harold McCormick Elementary School and West Side Elementary School.
- I. Approve an Educator Preparation Provider/Local Education Agency State-Recognized Partnership Agreement between Elizabethton City Schools and East Tennessee State University for the 2021-2022 School Year.
- J. Approve an Educator Preparation Provider/Local Education Agency State-Recognized Partnership Agreement between Elizabethton City Schools and Tusculum University College of Education for the 2021-2022 School Year.
- K. Approve an Educator Preparation Provider/Local Education Agency Primary Partnership Agreement between Elizabethton City Schools and Milligan University for the 2021-2022 School Year.
- L. Approve ESSER 1.0 Plan and Budget for the 2021-2022 school year.

The Elizabethton Board of Education provides for public participation during Board Business meetings under procedures established under ECS Policy 1.404. Board business meetings are no public forums; however, provision is made for public participation. To assure an orderly business meeting, the Board requires that an individual requesting to address Board members make that request giving the topic to the Superintendent or Board Chairman prior to the Board meeting. The Chairman shall determine if the request will be granted, the time allowed for the presentation, and (if there are numerous requests on the same subject), the Chairman may request a representative to speak on each side of the issue.

- M. Approve ESSER 2.0 Plan and Budget for the 2021-2022 school year.
- N. Approve a trash dumpster Rental Agreement with the City of Elizabethton at a cost of \$40.00 per month, per unit.
- O. Approve Janey Woo to conduct an impact evaluation of XQ high schools across the country, including Elizabethton High School to collect de-identified student records and conducting interviews and focus groups with EHS staff.
- P. Approve an Equipment Disposal Request from Jordan Carder, ESP Director for the disposal of BrainChild Equipment to be donated.
- Q. Approve an Equipment Disposal Request from Jordan Carder, ESP Director, for the disposal of a Dell Laptop computer to be recycled by the Technology Department.
- R. Approve an Equipment Disposal Request from Mr. VanHuss for the disposal of extra Board Room chairs.
- S. Approve an Equipment Disposal Request from Dr. Jon Minton, Principal at EHS, for the disposal of 16 student desks, 2 teacher desks, a television, VCR, black metal desk, plastic chairs, black rolling desk chair, orange metal chair and 126 library books to be thrown away.
- T. Approve an Equipment Disposal Request from Mr. Joey Trent, Technology Coordinator for the disposal of various laptops to be recycled.
- U. Approve an Equipment Disposal Request from Mr. Travis Hurley, Principal at East Side Elementary School for the disposal of Dell monitors from the Library, to be recycled by the Technology Department.

8. REPORT - DIRECTOR OF SCHOOLS/BOARD MEMBERS

New Position: X

New Hire: X

Resignation: X

Dismissal: X

Transfer: X

Leave of Absence: X

A. Personnel Report

a. **NEW:** Brandi Adams, Asst. to the Teacher at ESE, effective September 27, 2021; Denise Kind, Project On Track Tutor at HME, effective September 8, 2021; Taylor Bartlett, Swimming Instructor at EHS, effective September 13, 2021; Adrianna Smith, Educational Asst. to the Teacher at EHS, effective September 21, 2021; Brianna Coley, Swim Instructor at EHS, effective September 6, 2021; Kelly Julian, Educational Asst. to the Teacher at HME, effective September 23, 2021; Ashley Lyons, ESP Student Leader, System-wide, effective September 29, 2021; Bailey Tyree, ESP Student Leader, System-wide, effective October 5, 2021; Kelsie Winters, Asst. Girl's Basketball Coach at TAD, effective October 4, 2021; Willis Taylor, Custodian at ESE, effective October 8, 2021; Hannah Reece, Educational Asst. to the Teacher at HME, effective October 18, 2021.

RESIGNED: Hannah Derrick, ESP Student Leader System-wide, effective September 20, 2021; Rachel Darnell, Learning Leader at ESE, effective September 8, 2021; Cassidee Ray, ESP Student Leader, Systemwide, effective September 28, 2021; Brandi Adams, Educational Asst. to the Teacher

The Elizabethton Board of Education provides for public participation during Board Business meetings under procedures established under ECS Policy 1.404. Board business meetings are no public forums; however, provision is made for public participation. To assure an orderly business meeting, the Board requires that an individual requesting to address Board members make that request giving the topic to the Superintendent or Board Chairman prior to the Board meeting. The Chairman shall determine if the request will be granted, the time allowed for the presentation, and (if there are numerous requests on the same subject), the Chairman may request a representative to speak on each side of the issue.

at ESE, effective September 29, 2021; Summer Fleenor, Teacher at ESE, effective October 29, 2021.

TRANSFERS: Kayla Adams, from PT Educational Asst. at TAD to FT Instructional Asst. @ ESE, effective September 20, 2021.

LEAVE OF ABSENCE: Glinia Creasey, Cafeteria Manager at ESE, effective August 23, 2021, through September 17, 2021; Charles Dugger, Teacher at EHS, effective August 5, 2021, through September 1, 2021; Janith Johnson, Custodial Personnel at WSE, effective October 11, 2021 through October 22, 2021; Sarah Heatherly, Teacher at EHS, effective November 29, 2021 through May 25, 2022, Regina Isaacs, SNP Coordinator, effective September 24, 2021 through October 24, 2021.

B. Director's Update

C. Board Member Reports

D. City Council Liaison's Report

E. Student Liaison's Report

9. REGULAR AGENDA

A. Approve first reading of proposed Board Policy 5.3052 COVID-19 Leave.

B. Approve the American Relief Project (ARP) IDEA application which will fund the creation of six (6) full-time interim SPED assistant positions for the duration of the grant funding along with the purchase of fifteen (15) touchscreen Chromebooks for SPED classroom use.

C. Approve a contract with Thomas Weems, Architect, for design work on renovations to Harold McCormick Elementary School.

D. Approve a contract with Thomas Weems, Architect, for design work on additional parking at East Side Elementary School.

E. Approve a contract with Thomas Weems, Architect, for conceptual design and planning on various capital projects for Elizabethton City Schools.

F. Approve a part-time floating cook position to rotate between school cafeterias as needed.

G. Approve revised Board Policy 4.201 Class Size Ratios, with mark-ups.

H. Approve revised Board Policy 6.500, Special Education Students, with mark-ups.

I. Approve revised Board Policy 5.302, Sick Leave, with mark-ups.

J. Approve revised Board Policy 6.600 Student Records, with mark-ups.

K. Approve revised Board Policy 5.701 Substitute Teachers, with mark-ups.

L. Approve deletion of Board Policy 6.603 Student Records/Use of Records.

10. FOR YOUR INFORMATION

11. NEXT REGULARLY SCHEDULED BOARD MEETING

A. The next regularly scheduled Board Meeting will be held on Tuesday, November 16, 2021, at 5:30 p.m. in the Mack Pierce Board Room in the offices of the Elizabethton Board of Education, located at 804 S. Watauga Avenue, Elizabethton, Tennessee.

12. ADJOURN

The Elizabethton Board of Education provides for public participation during Board Business meetings under procedures established under ECS Policy 1.404. Board business meetings are no public forums; however, provision is made for public participation. To assure an orderly business meeting, the Board requires that an individual requesting to address Board members make that request giving the topic to the Superintendent or Board Chairman prior to the Board meeting. The Chairman shall determine if the request will be granted, the time allowed for the presentation, and (if there are numerous requests on the same subject), the Chairman may request a representative to speak on each side of the issue.

ELIZABETHTON CITY SCHOOLS BOARD OF EDUCATION
REGULAR SCHEDULED MEETING
Thursday, September 16, 2021 5:30 PM
Mack Pierce Board Room

The Elizabethton Board of Education met in a regular meeting on Thursday, September 16, 2021, at 5:30 PM, at Mack Pierce Board Room.

Attendance Taken at 5:31 PM.

Phil Isaacs:	Absent
Danny O'Quinn:	Present
Eddie Pless:	Present
Jamie Schaff:	Present
Mike Wilson:	Present

CALL TO ORDER

MOMENT OF SILENCE

PLEDGE TO THE FLAG

APPROVE CONSENT AGENDA AND REGULAR AGENDA

Motion was made by Jamie Schaff, second by Danny O'Quinn to approve the Consent and Regular Agendas. Motion carried.

Phil Isaacs:	Absent
Danny O'Quinn:	aye
Eddie Pless:	aye
Jamie Schaff:	aye
Mike Wilson:	aye

aye: 4, nay: 0, Absent: 1

TIME FOR CITIZENS TO SPEAK

SPECIAL RECOGNITION

Special Recognition of FBLA State and National Winners:

1st Place Multimedia & Website Development: Kayleigh Shoemake

3rd Place Community Service Project: Aubrey Sparks

3rd Place Elevator Speech: Princess Russell

National Winner:

10th Place Multimedia & Website Development: Kayleigh Shoemake

CONSENT AGENDA

Minutes of Regular Meeting: August 19, 2021.

Approve General Purpose Fund Financial Statement, August 31, 2021.

Approve Federal Projects Fund Financial Statement, August 31, 2021.

Approve School Nutrition Fund Financial Statement, August 31, 2021.

Approve an Equipment Disposal Request from Jon Minton, Principal at EHS, for the disposal of cardio equipment from ETSU surplus to be given away or trashed.

Approve an Equipment Disposal Request from Chris Berry, Principal at TAD, for the disposal of 29 obsolete iPads to be recycled or trashed by the Technology Dept.

Approve an Equipment Disposal Request from Brian Culbert, CTE Director at EHS, for the disposal of two teacher desks, a tv, and VCR to be trashed.

Approve an MOU between Elizabethton City Schools and Austin Peay State University highlighting recruitment, selection, and support for their instructional leadership candidates who are a part of the AAPN Grant Program.

Approve a Dual Credit Agreement between Elizabethton City Schools and Tusculum University for the 2021-2022 School Year.

Approve a Dual Credit Agreement between Elizabethton City Schools and Carson-Newman University for the 2021-2022 School Year.

Approve an Agreement between Elizabethton City Schools and Clemmer College of ETSU for Field Experience and Clinical Residency for the 2021-2022 school year.

Approve second reading of Board Policy 1.407 School District Records, as revised.

Approve second reading of Board Policy 1.8011 Emergency Closings, as revised.

Approve second reading of Board Policy 3.205 Security, as revised.

Approve second reading of Board Policy 3.211 New Project Planning, as revised.

Approve second reading of Board Policy 3.220 Access to Private Facilities, as revised.

Approve second reading of Board Policy 4.101 Instructional Standards, as revised.

Approve second reading of Board Policy 4.204 Summer Instructional Programs, as revised.

Approve second reading of Board Policy 4.205 Enrollment in Advanced Courses, as revised.

Approve second reading of Board Policy 4.213 Family Life Education, as revised.

Approve second reading of Board Policy 4.301 Interscholastic Athletics, as revised.

Approve second reading of Board Policy 4.605 Graduation Requirements, as revised.

Approve second reading of Board Policy 4.700 Testing Programs, as revised.

Approve second reading of Board Policy 5.106 Application and Employment, as revised.

Approve second reading of Board Policy 5.802 Qualifications and Duties of the Director of Schools, as revised.

Approve second reading of Board Policy 5.117 Teacher Tenure, as revised.

Approve second reading of Board Policy 5.200 Separation Practices for Tenured Teachers, as revised.

Approve second reading of Board Policy 5.201 Separation Practices for Non-Tenured Teachers, as revised.

Approve second reading of Board Policy 6.202 Home Schools, as revised.

Approve second reading of Board Policy 6.300 Code of Conduct, as revised.

Approve second reading of Board Policy 6.306 Interference-Disruption of School Activities, as revised.

Approve second reading of Board Policy 6.4081 Safe Relocation of Students, as revised.

Approve second reading of Board Policy 6.319 Alternative Education, as revised.

Approve second reading of Board Policy 6.402 Physical Examinations and Immunizations, as revised.

Approve second reading of Board Policy 4.206 Homebound Instruction, as revised.

Approve second reading of Board Policy 6.200 Attendance, as revised.

REPORT - DIRECTOR OF SCHOOLS/BOARD MEMBERS

Personnel Report

NEW: Charles Fisher, Educational Asst. to the Teacher at EHS, effective August 20, 2021; Jacey Fair, ESP Student Leader, effective August 19, 2021; JoAnne Stanley, Project On Track Tutor at HME, effective September 1, 2021; Ellie Dugger, ESP Student Leader, effective August 30, 2021; Carrie Matherly, Educational Asst. to the Teacher at WSE, effective August 31, 2021; Isavah Balaicuis, Educational Asst. to the Teacher at EHS, effective August 25, 2021; Madeline Holt, ESP Student Leader, Systemwide, effective September 1, 2021;

ADDITIONAL POSITION: Robyn Roszel, Asst. Swimming Coach at EHS, effective August 24, 2021.

TRANSFER: Cristy Kyte, Tn. All Corp Inst. Asst. at HME, effective August 24, 2021; Kelli Broussard, Head Swimming Coach at EHS, effective August 24, 2021; Charles Fisher, Educational Assistant at HME, effective August 25, 2021; Rachel Darnell, Implementation Coach at CO, effective September 1, 2021; Shannon Stacy, Interim Curriculum Coach at ESE, effective September 1, 2021; Megan Pennington from Tn. All Corp. Instructional Asst. at WSE, to Interim Teacher at ESE, effective September 7, 2021; Tanner Stiltner, from ESP Student Leader to SPED Asst. to the Teacher, effective September 1, 2021; Lakyn James from SPED Educational Asst. to Educational Asst. to the Teacher at HME, effective September 1, 2021; Carrie Matherly, from SPED Ed. Asst./Lunchroom Monitor to Educational Asst. at WSE, effective September 7, 2021 through October 15, 2021; Heather Hanson from Educational Asst. to the Teacher at WSE to Instructional Asst. (F/T), at WSE, effective September 7, 2021 through October 15, 2021; Elizabeth Greenwell, from Instructional Asst. at WSE to Tn. All Corp. Inst. Asst. at WSE, effective September 7, 2021 through October 15, 2021.

RESIGNATIONS: LEEANNE Houston, Tn. All Corp Instructional Asst. at HME, effective August 19, 2021; Marissa Honeycutt, Educational Asst. to the Teacher at EHS, effective August 19, 2021; Tim Valentine, Sub Bus Driver/Maintenance/Custodian Systemwide, effective August 13, 2021; Kayleigh

Muldoon, Custodian at ESE, effective August 27, 2021; Jane Malone, ESP Student Leader, Systemwide, effective September 1, 2021; Janice Valentine, Bus Driver/Asst. to the Teacher, Systemwide, effective September 7, 2021.

LEAVE OF ABSENCE: Tonia Smith, Teacher at TAD, effective August 4, 2021 through September 3, 2021; Dustin Duncan, Bartleby Community Partnership Coordinator at EHS effective September 16, 2021 through October 15, 2021; Travis Thompson, CO Supervisor, effective September 4, 2021 through October 7, 2021. REVISED: Michelle Berry, Educational Asst. at ESE, effective August 12, 2021 through September 13, 2021; REVISED Tonia Smith, Teacher at TAD effective August 4, 2021 through October 15, 2021, REVISED: Gene Fleenor, Educational Asst. to the Teacher at WELC, effective August 9, 2021 through September 12, 2021.

Director's Update

ESSER 3.0 Grant has been submitted. Waiting on feedback and approval. Modified budget for ESSER 1.0. Received approval late yesterday. Working on rebudgeting 2.0. Excited about programs, staffing added due to these funds.

Encourage everyone to support our students in their various activities.

Stem Lab Ribbon Cutting: Friday, Sept. 17th from 11:00-1:00. Space is incredible, very proud. Partnership with TCAT for material and equipment. Everyone is invited.

Grow your own grant: Partnership between Dept. of Education, Milligan and ECS. Available for three Teacher Assistants to further their education for free. Employees selected were Susan Frickle, Lisa Verran and Jay Scurry. Very excited for them and in the future for us. Hopeful for another round.

As of today 28 positive Covid cases. Down from a high of 67. Things are going well. Suggestion to Board is to consider maintaining current course. Everyone part of a group effort. Want to continue to see numbers go down.

Examples of people stepping up to keep doors open. Recently had several staff members out at ES Cafe. Several at CO went out to help. Jackie Guinn, Chelsie Isaacs, Regina Isaacs, Cindy Walker, Keri Howell, Angie Shingleton, Keli Whitney, Beth Wilson.

Custodial, teacher assistants, administrators, bus drivers, teachers. Everyone stepped into roles they don't normally do. Mr. Hurley, Emmy Morganstern, Sylvia Tolley, Becky Hilton have filled in gaps as well. Very appreciative.

School nurses: Increased work with well checks. Jackie Hitchew, Jodi Buckles, April Sutphin, Mandy Lewis, Alisha Jarrett, Teresa Robinson, Emily Brooks. Doing tremendous job.

Also, appreciative to custodians, teacher assistants, maintenance staff, administrators, teachers, bus drivers. Team effort to keep doors open.

Board Member Reports

Appreciate Jamie Schaff for Birthday bundt cake.

Mr. Pless attended Board of Distinction in Johnson County. It really was fascinating. Similar discussions, different community.

September 27th Fall District Meeting, virtual meeting at 6:00 p.m.

Mr. Isaacs out of town. Look forward to having him back next month.

City Council Liaison's Report

A lot coming up in the City. Covered Bridge Days 10 times more than ever before. Still need volunteers.

City building firing range in Sugar Hollow. If our ROTC cadets need that training,

firing range will be available.

Second Reading on FP Budget for School Nutrition. \$27,000,000.00 budget approved by the City.

Need PE Certified Engineers within the City. Need to start at grade school and middle school levels in engineering. Need to hire good folks. Want students to be able to stay here and not have to leave for employment.

Student Liaison's Report

Nothing to report.

REGULAR AGENDA

Approve the rescinding of Resolution #001 for a 3-year Lease Agreement with Formetco for a video board to be installed in Treadway Gymnasium at Elizabethton High School.

Motion was made by Danny O'Quinn, second by Jamie Schaff to approve the rescinding of Resolution #001 for a 3-year Lease Agreement with Formetco for a video board to be installed in Treadway Gymnasium at Elizabethton High School.

Motion carried.

Phil Isaacs: Absent

Danny O'Quinn: aye

Eddie Pless: aye

Jamie Schaff: aye

Mike Wilson: aye

aye: 4, nay: 0, Absent: 1

Lease Agreement was approved last month. Purchasing outright would reduce finance charges then Athletic Department will reimburse CO.

Approve the purchase of a video board from Formetco for \$51,737.00 to be installed in Treadway Gymnasium at Elizabethton High School, using cooperative purchasing pricing from The National Cooperative Purchasing Alliance (NCPA).

Motion was made by Danny O'Quinn, second by Mike Wilson to approve the purchase of a video board from Formetco for \$51,737.00 to be installed in Treadway

Gymnasium at Elizabethton High School, using cooperative purchasing pricing from The National Cooperative Purchasing Alliance (NCPA). Motion carried.

Phil Isaacs: Absent

Danny O'Quinn: aye

Eddie Pless: aye

Jamie Schaff: aye

Mike Wilson: aye

aye: 4, nay: 0, Absent: 1

Includes video board, equipment, on-site tech, installation, five year warranty, and shipping.

Approve Clinical Affiliation Agreement between the Tennessee College of Applied Technology at Elizabethton, Nursing Program and Elizabethton City Schools.

Motion was made by Mike Wilson, second by Jamie Schaff to approve Clinical Affiliation Agreement between the Tennessee College of Applied Technology at Elizabethton, Nursing Program and Elizabethton City Schools. Motion carried.

Phil Isaacs: Absent

Danny O'Quinn: aye

Eddie Pless: aye

Jamie Schaff: aye

Mike Wilson: aye

aye: 4, nay: 0, Absent: 1

Will allow nursing students to earn clinical hours and extra set of hands for nurses in our buildings.

Ratify the purchase of early literacy skills classroom kits from Amplify in the amount of \$77,513.76, using ESSER 1.0 funds.

Motion was made by Jamie Schaff, second by Danny O'Quinn to ratify the purchase of early literacy skills classroom kits from Amplify in the amount of \$77,513.76, using ESSER 1.0 funds. Motion carried.

Phil Isaacs: Absent

Danny O'Quinn: aye

Eddie Pless: aye

Jamie Schaff: aye

Mike Wilson: aye

aye: 4, nay: 0, Absent: 1

Additional support for early literacy.

Approve a Resolution of the Elizabethton City Schools Board of Education Requesting Amendment for Open Enrollment Period for LEA's.

Motion was made by Danny O'Quinn, second by Jamie Schaff to approve a Resolution of the Elizabethton City Schools Board of Education Requesting Amendment for Open Enrollment Period for LEA's. Motion carried.

Phil Isaacs: Absent

Danny O'Quinn: aye

Eddie Pless: aye

Jamie Schaff: aye

Mike Wilson: aye

aye: 4, nay: 0, Absent: 1

General Assembly approved Public Act 479 to allow in-zone district transfers. We have had a system in place for many years. The constraints by this public act make it more difficult. Problems getting an accurate count, especially in the Spring. Our process meets intent of this Public Act.

Discussion about how many request to move out of zone. No more than 20 requested to move. Not denying people the opportunity. More of a convenience for families.

Approve purchase of six (6) power unit replacements for main gymnasium bleachers at Elizabethton High School from FaciliServ, in the amount of \$17,283.00.

Motion was made by Jamie Schaff, second by Mike Wilson to approve purchase of six (6) existing power units for main gymnasium bleachers at Elizabethton High School from FaciliServ, in the amount of \$17,283.00. Motion carried.

Phil Isaacs: Absent

Danny O'Quinn: aye

Eddie Pless: aye

Jamie Schaff: aye

Mike Wilson: aye

aye: 4, nay: 0, Absent: 1

Home side bleacher system. Changed out rollers to allow bleachers to roll out. Put a dry system in and keep old motors for replacement parts. Not negligence on the FaciliServ company.

Discussion of COVID-19 Safety Protocols

Motion was made by Danny O'Quinn, second by Mike Wilson to approve leaving the current COVID-19 protocol in place until the Board deems it necessary to change the protocol. Motion carried.

Phil Isaacs: Absent

Danny O'Quinn: aye

Eddie Pless: aye

Jamie Schaff: aye

Mike Wilson: aye

aye: 4, nay: 0, Absent: 1

Keep doing what we're doing. Leave the item open on regular agenda? Mandate with an opt-out. Community spread. Tennessee number one state in the nation . We are providing masks for students who have not opted out.

Keeping this in effect each month until a decision is made otherwise.

FOR YOUR INFORMATION

The Board will be out of town at the TSBA Annual Convention on the Board Meeting date in November. We would like to move the meeting from Thursday, November 18th, at 5:30 p.m. to Tuesday, November 16th, at 5:30 p.m.

NEXT REGULARLY SCHEDULED BOARD MEETING

The next regularly scheduled Board Meeting will be held on Thursday, October 21, 2021, at 5:30 p.m. in the Mack Pierce Board Room in the offices of the Elizabethton Board of Education, located at 804 S. Watauga Avenue, Elizabethton, Tennessee.

ADJOURN

Motion was made by Danny O'Quinn, second by Jamie Schaff to adjourn meeting.

Motion carried.

Phil Isaacs: Absent

Danny O'Quinn: aye

Eddie Pless: aye

Jamie Schaff: aye

Mike Wilson: aye

aye: 4, nay: 0, Absent: 1

Chairman of the Board
Schools

Director of

			2021-22	2021-22	2021-22	2021-22	Unencumbered	September 2021-22
			Original Budget	Revised Budget	FYTD Activity	FYTD %	Balance - YTD Act	Monthly Activity
141 R 40110	000	CURRENT PROPERTY TAX	3,325,000.00	3,325,000.00	0.00	0.00	3,325,000.00	0.00
141 R 40120	000	TRUSTEE'S COLLECTIONS - PRIOR	83,000.00	83,000.00	45,581.47	54.92	37,418.53	7,930.46
141 R 40130	000	CIR CLK/CLK & MASTER COLLECTIO	18,500.00	18,500.00	4,200.20	22.70	14,299.80	863.18
141 R 40140	000	INTEREST AND PENALTY	24,000.00	24,000.00	4,270.23	17.79	19,729.77	903.17
141 R 40162	000	PAYMENTS IN LIEU OF TAXES-LOCA	62,500.00	62,500.00	0.00	0.00	62,500.00	0.00
141 R 40163	000	PAYMENTS IN LIEU OF TAXES - OT	4,000.00	4,000.00	0.00	0.00	4,000.00	0.00
141 R 40210	000	LOCAL OPTION SALES TAX	2,700,000.00	2,700,000.00	451,289.22	16.71	2,248,710.78	181,739.94
141 R 40275	000	MIXED DRINK TAX	18,000.00	18,000.00	1,726.13	9.59	16,273.87	123.56
141 R 40320	000	BANK EXCISE TAX	30,550.00	30,550.00	0.00	0.00	30,550.00	0.00
141 R 41110	000	MARRIAGE LICENSES	600.00	600.00	103.85	17.31	496.15	50.25
141 R 43511	000	TUITION - REGULAR DAY STUDENTS	300,000.00	300,000.00	31,014.88	10.34	268,985.12	31,400.00
141 R 43513	000	TUITION - SUMMER SCHOOL	750.00	750.00	0.00	0.00	750.00	0.00
141 R 43517	000	TUITION - OTHER	222,552.00	222,552.00	45,299.50	20.35	177,252.50	14,445.64
141 R 44110	000	INVESTMENT INCOME	10,000.00	10,000.00	965.04	9.65	9,034.96	719.51
141 R 44120	000	LEASE/RENTALS	1,000.00	1,000.00	0.00	0.00	1,000.00	0.00
141 R 44170	000	MISCELLANEOUS REFUNDS	0.00	0.00	-143,798.02	0.00	143,798.02	7.09
141 R 44990	000	OTHER LOCAL REVENUES	200.00	200.00	1,047.34	523.67	-847.34	1,012.78
141 R 46511	000	BASIC EDUCATION PROGRAM	15,199,000.00	15,199,000.00	3,046,400.00	20.04	12,152,600.00	1,523,200.00
141 R 46515	000	EARLY CHILDHOOD EDUCATION	404,779.00	404,779.00	63,509.92	15.69	341,269.08	63,509.92
141 R 46550	000	DRIVER EDUCATION	6,500.00	6,500.00	0.00	0.00	6,500.00	0.00
141 R 46590	000	OTHER STATE EDUCATION FUNDS	92,000.00	92,000.00	0.00	0.00	92,000.00	0.00
141 R 46610	000	CAREER LADDER PROGRAM	41,359.00	41,359.00	0.00	0.00	41,359.00	0.00
141 R 46980	000	OTHER STATE GRANTS	160,560.00	160,560.00	0.00	0.00	160,560.00	0.00
141 R 46990	000	OTHER STATE REVENUES	113,000.00	113,000.00	0.00	0.00	113,000.00	0.00
141 R 48610	000	DONATIONS	25,200.00	25,200.00	12.34	0.05	25,187.66	12.34
141 R 49800	000	OPERATING TRANSFERS	30,882.00	30,882.00	0.00	0.00	30,882.00	0.00
141 R 49810	000	CITY GENERAL FUND TRANSFER	2,400,000.00	2,400,000.00	600,000.00	25.00	1,800,000.00	200,000.00
Grand Revenue Totals			25,273,932.00	25,273,932.00	4,151,622.10	16.43	21,122,309.90	2,025,917.84

Number of Accounts: 34

***** End of report *****

		2021-22	2021-22	2021-22	2021-22	Unencumbered	September 2021-22
	Acct	Original Budget	Revised Budget	FYTD Activity	FYTD %	Balance - YTD Act	Monthly Activity
141 E 71100 --- --- --- ---	REGULAR INSTRUCTION PROGRAM	11,389,838.00	11,389,838.00	1,503,928.29	13.20	9,862,355.15	1,138,580.84
141 E 71200 --- --- --- ---	SPECIAL EDUCATION PROGRAM	2,065,538.00	2,065,538.00	192,138.31	9.30	1,869,360.08	183,572.24
141 E 71300 --- --- --- ---	VOCATIONAL EDUCATION PROGRAM	1,075,195.00	1,075,195.00	111,170.90	10.34	960,507.16	94,106.05
141 E 71400 --- --- --- ---	STUDENT BODY EDUCATION PROGRAM	363,460.00	363,460.00	92,697.01	25.50	270,762.99	27,599.46
141 E 72110 --- --- --- ---	ATTENDANCE	96,240.00	96,240.00	28,339.42	29.45	67,900.58	12,531.92
141 E 72120 --- --- --- ---	HEALTH SERVICES	378,352.00	378,352.00	37,863.23	10.01	339,371.61	31,112.79
141 E 72130 --- --- --- ---	OTHER STUDENT SUPPORT	1,109,378.00	1,109,378.00	133,099.70	12.00	973,878.30	71,886.50
141 E 72210 --- --- --- ---	REGULAR INSTRUCTION PROGRAM	980,138.00	980,138.00	240,715.54	24.56	735,674.97	88,299.70
141 E 72220 --- --- --- ---	SPECIAL EDUCATION PROGRAM	358,159.00	358,159.00	60,239.78	16.82	296,703.22	29,160.30
141 E 72230 --- --- --- ---	VOCATIONAL EDUCATION PROGRAM	152,998.00	152,998.00	33,212.43	21.71	119,785.57	12,194.82
141 E 72250 --- --- --- ---	TECHNOLOGY	619,790.00	619,790.00	103,260.64	16.66	422,410.23	44,248.31
141 E 72310 --- --- --- ---	BOARD OF EDUCATION	499,485.00	499,485.00	261,631.54	52.38	233,724.76	10,515.82
141 E 72320 --- --- --- ---	OFFICE OF THE SUPERINTENDENT	367,418.00	367,418.00	92,505.32	25.18	260,689.01	27,057.23
141 E 72410 --- --- --- ---	OFFICE OF THE PRINCIPAL	1,655,558.00	1,655,558.00	283,396.81	17.12	1,372,161.19	115,945.82
141 E 72510 --- --- --- ---	FISCAL SERVICES	366,770.00	366,770.00	106,328.58	28.99	255,414.12	26,175.71
141 E 72610 --- --- --- ---	OPERATION OF PLANT	1,574,160.00	1,574,160.00	450,410.55	28.61	1,113,994.01	118,549.82
141 E 72620 --- --- --- ---	MAINTENANCE OF PLANT	884,780.00	884,780.00	236,722.62	26.75	429,665.92	68,400.71
141 E 72710 --- --- --- ---	TRANSPORTATION	590,030.00	590,030.00	96,422.14	16.34	339,551.28	35,265.20
141 E 73100 --- --- --- ---	FOOD SERVICE	27,314.00	27,314.00	0.00	0.00	27,314.00	0.00
141 E 73300 --- --- --- ---	COMMUNITY SERVICES	221,552.00	221,552.00	58,072.57	26.21	160,448.46	9,609.17
141 E 73400 --- --- --- ---	EARLY CHILDHOOD EDUCATION	404,779.00	404,779.00	64,954.70	16.05	339,578.20	34,574.29
141 E 76100 --- --- --- ---	REGULAR CAPITAL OUTLAY	92,000.00	92,000.00	112,563.40	122.35	-37,846.40	109,634.00
141 E 99100 --- --- --- ---	OPERATING TRANSFERS	1,000.00	1,000.00	0.00	0.00	1,000.00	0.00
Grand Expense Totals		25,273,932.00	25,273,932.00	4,299,673.48	17.01	20,414,404.41	2,289,020.70

Number of Accounts: 514

***** End of report *****

			2021-22	2021-22	2021-22	2021-22	Unencumbered	September 2021-22
			Original Budget	Revised Budget	FYTD Activity	FYTD %	Balance - YTD Act	Monthly Activity
Acct								
142 R 47141	0CA	TITLE 1 GRANTS TO LOCAL EDUC A	135,456.00	135,456.00	26,203.72	19.34	109,252.28	26,203.72
142 R 47189	0CA	EISENHOWER PROF DEVELOPMENT ST	12,000.00	12,000.00	2,391.79	19.93	9,608.21	2,391.79
142 R 47131	0CP	VOCATIONAL EDUC - BASIC GRANTS	43,355.00	43,355.00	5,260.85	12.13	38,094.15	5,260.85
142 R 47143	0ID	SPECIAL EDUCATION - GRANTS TO	576,045.00	576,045.00	48,468.52	8.41	527,576.48	48,468.52
142 R 47145	0PS	SPECIAL EDUCATION PRESCHOOL GR	15,299.00	15,299.00	0.00	0.00	15,299.00	0.00
142 R 47141	0T1	TITLE 1 GRANTS TO LOCAL EDUC A	625,023.00	625,023.00	61,911.52	9.91	563,111.48	61,911.52
142 R 47590	0T1	OTHER FEDERAL THROUGH STATE	60,113.00	60,113.00	5,964.07	9.92	54,148.93	5,964.07
142 R 47189	0T2	EISENHOWER PROF DEVELOPMENT ST	89,668.00	89,668.00	7,117.68	7.94	82,550.32	7,117.68
142 R 47590	0VR	OTHER FEDERAL THROUGH STATE	43,390.00	43,390.00	6,368.71	14.68	37,021.29	2,791.40
142 R 47147	21C	SAFE AND DRUG-FREE SCHOOLS-ST	145,334.00	145,334.00	0.00	0.00	145,334.00	0.00
142 R 47143	890	SPECIAL EDUCATION - GRANTS TO	40,000.00	40,000.00	6,346.88	15.87	33,653.12	6,346.88
142 R 47307	932	ESSER 2.0	1,695,244.00	1,695,244.00	0.00	0.00	1,695,244.00	0.00
142 R 47401	933	ESSER 3.0	2,480,135.00	2,480,135.00	0.00	0.00	2,480,135.00	0.00
142 R 47301	CRS	ESSER-CARES ACT	0.00	0.00	23,663.86	0.00	-23,663.86	23,663.86
142 R 47141	T1N	TITLE 1 GRANTS TO LOCAL EDUC A	27,175.00	27,175.00	7,800.00	28.70	19,375.00	7,800.00
Grand Revenue Totals			5,988,237.00	5,988,237.00	201,497.60	3.36	5,786,739.40	197,920.29

Number of Accounts: 15

***** End of report *****

		2021-22	2021-22	2021-22	2021-22	Unencumbered	September 2021-22
	Acct	Original Budget	Revised Budget	FYTD Activity	FYTD %	Balance - YTD Act	Monthly Activity
142 E 71100 --- --- --- ---	REGULAR INSTRUCTION PROGRAM	1,429,294.00	1,429,294.00	74,693.25	5.23	1,229,250.93	74,693.25
142 E 71200 --- --- --- ---	SPECIAL EDUCATION PROGRAM	591,344.00	591,344.00	48,468.52	8.20	542,875.48	48,468.52
142 E 71300 --- --- --- ---	VOCATIONAL EDUCATION PROGRAM	26,157.00	26,157.00	12,149.27	46.45	9,983.73	7,648.27
142 E 72120 --- --- --- ---	HEALTH SERVICES	40,000.00	40,000.00	16,000.00	40.00	24,000.00	16,000.00
142 E 72130 --- --- --- ---	OTHER STUDENT SUPPORT	96,889.00	96,889.00	17,066.62	17.61	64,336.68	8,278.48
142 E 72210 --- --- --- ---	REGULAR INSTRUCTION PROGRAM	320,904.00	320,904.00	42,800.80	13.34	276,567.96	16,795.68
142 E 72220 --- --- --- ---	SPECIAL EDUCATION PROGRAM	40,000.00	40,000.00	6,346.88	15.87	33,653.12	5,723.88
142 E 72230 --- --- --- ---	VOCATIONAL EDUCATION PROGRAM	1,948.00	1,948.00	275.35	14.14	1,484.26	0.00
142 E 72250 --- --- --- ---	TECHNOLOGY	68,985.00	68,985.00	10,859.10	15.74	58,125.90	5,753.24
142 E 72410 --- --- --- ---	OFFICE OF THE PRINCIPAL	0.00	0.00	3,016.36	0.00	-3,016.36	1,498.53
142 E 73300 --- --- --- ---	COMMUNITY SERVICES	142,834.00	142,834.00	12,743.41	8.92	130,090.59	12,743.41
142 E 76100 --- --- --- ---	REGULAR CAPITAL OUTLAY	3,200,000.00	3,200,000.00	0.00	0.00	3,185,262.94	0.00
142 E 99100 --- --- --- ---	OPERATING TRANSFERS	29,882.00	29,882.00	0.00	0.00	29,882.00	0.00
Grand Expense Totals		5,988,237.00	5,988,237.00	244,419.56	4.08	5,582,497.23	197,603.26

Number of Accounts: 152

***** End of report *****

			2021-22	2021-22	2021-22	2021-22	Unencumbered	September 2021-22
			<u>Original Budget</u>	<u>Revised Budget</u>	<u>FYTD Activity</u>	<u>FYTD %</u>	<u>Balance - YTD Act</u>	<u>Monthly Activity</u>
	<u>Acct</u>							
143 R 43522	000	LUNCH PAYMENTS - ADULTS	21,825.00	21,825.00	1,981.70	9.08	19,843.30	1,133.95
143 R 43525	000	A LA CARTE SALES	30,750.00	30,750.00	6,148.13	19.99	24,601.87	2,443.45
143 R 43990	000	OTHER CHARGES FOR SERVICES	13,000.00	13,000.00	0.00	0.00	13,000.00	0.00
143 R 44110	000	INVESTMENT INCOME	2,000.00	2,000.00	169.30	8.47	1,830.70	105.19
143 R 46520	000	SCHOOL FOOD SERVICE	10,000.00	10,000.00	0.00	0.00	10,000.00	0.00
143 R 47111	000	USDA SCHOOL LUNCH PROGRAM	615,000.00	615,000.00	103,011.23	16.75	511,988.77	103,011.23
143 R 47112	000	USDA COMMODITIES	93,500.00	93,500.00	8,918.23	9.54	84,581.77	0.00
143 R 47113	000	USDA BREAKFAST	370,000.00	370,000.00	50,887.56	13.75	319,112.44	50,887.56
143 R 47114	000	USDA - ESP SNACK PROGRAM	18,000.00	18,000.00	53,677.14	298.21	-35,677.14	0.00
143 R 47115	000	USDA FOOD SERVICE EQUIPMENT GR	0.00	0.00	0.00	0.00	0.00	-8,942.00
Grand Revenue Totals			1,174,075.00	1,174,075.00	224,793.29	19.15	949,281.71	148,639.38

Number of Accounts: 35

***** End of report *****

		2021-22	2021-22	2021-22	2021-22	Unencumbered	September 2021-22
	Acct	Original Budget	Revised Budget	FYTD Activity	FYTD %	Balance - YTD Act	Monthly Activity
143 E 73100 --- --- ----- ---	FOOD SERVICE	1,174,075.00	1,174,075.00	283,815.21	24.17	890,259.79	135,983.71
Grand Expense Totals		1,174,075.00	1,174,075.00	283,815.21	24.17	890,259.79	135,983.71

Number of Accounts: 81

***** End of report *****



Richard VanHuss
Director of Schools

John Hutchins

Assistant Director of Schools- Operations

Dr. Myra Newman

Assistant Director of Schools - Academics

Please be advised that on October 21, 2021, the Elizabethton Board of Education authorized each individual school to obtain a credit account in the name of the individual school for the purpose of making purchases when certain vendors will not accept Purchase Orders. This account will be used for the school activity funds. It is the responsibility of the school principal to secure the credit account. The allowable credit limits and number of cards for each school are being established as follows:

<u>School</u>	<u>Credit Limit</u>	<u># of Cards</u>
East Side Elementary School	\$ 5,000.00	2
Harold McCormick Elementary School	\$ 5,000.00	2
West Side Elementary School	\$ 5,000.00	2
T. A. Dugger Junior High School	\$ 7,500.00	3
Elizabethton High School	\$10,000.00	5

Thank you for your assistance in this matter.

Sincerely,

Richard VanHuss
Director of Schools

804 S. Watauga Ave.
Elizabethton, TN 37643
P(423) 547-8000
F(423) 547-8929

2021 Local Education Agency Compliance Report

Local education agencies (LEAs) are required to comply with all federal and state education laws and State Board of Education (SBE) rules. This annual compliance report is one mechanism the department uses to ensure education laws and rules are faithfully executed. The commissioner of education is charged with taking corrective action when an LEA is noncompliant with those laws and rules or is not following a department-approved compliance plan.

Each LEA must submit this report and, if applicable, the corresponding corrective action plan, to the department by **November 30, 2021**. During completion, an LEA should carefully check the status of its compliance with all federal and state education laws and SBE rules. The department monitors and verifies LEA compliance via multiple data sources (e.g., Education Information System, internal program managers) and will consider those sources in making a final determination of an LEA's compliance. Beginning school year 2021-22, the department is formally reinstating LEA approval classifications as outlined in SBE Rule [0520-01-02-.01](#). Annual compliance report data may inform an LEA's approval classification.

- ☒ I certify that the LEA is in compliance with all federal and state education laws and SBE rules.
- ☐ I certify that, with the exception of areas indicated in the **attached corrective action plan**, the LEA is in compliance with all federal and state education laws and SBE rules.

LEA: Elizabethton City Schools

Director of Schools/Superintendent Name: Mr. Richard VanHuss

Director of Schools/Superintendent Signature:

School Board Chair Name: Mr. Eddie Pless

School Board Chair Signature:

Date of School Board Approval: 10/21/21

UPLOAD COMPLETED REPORT TO ePlan BY NOVEMBER 30, 2021

(including the corresponding corrective action plan if applicable).

Upload instructions are accessible [here](#).

**SERVICES AGREEMENT
BETWEEN ELIZABETHTON CITY SCHOOLS
AND FRONTIER HEALTH**

The purpose of this Agreement is to make certain our schools and community are under the provision, integration, and coordination of mental health services.

WHEREAS, the **Elizabethton City Schools** (ECS) desires to incorporate and encourage mental health throughout the district; and,

WHEREAS, **Frontier Health** (FH) has the required expertise and experience necessary to provide appropriate services within the scope of this effort;

NOW THEREFORE, ECS and FH mutually agree to the following terms of this Agreement beginning August 1, 2020.

I. ECS agrees to do the following:

- Assist in the identification and referral of students to Frontier Health in the event of a major school crisis, or behavioral health need of a student.
- Identify and offer onsite facilities for Frontier Health staff for the purpose of providing a School Based Student Assistance Counseling as deemed appropriate for any student, faculty member, or administrator with a behavioral health need, or for consultation and education of any behavioral and mental health situation.
- Promote parental information and involvement in collaboration with mental health services as necessary for the students effected by any behavioral health need.
- Recognize this collaboration as an essential effort toward school implementation of an integrated partnership with FH for the availability of recovery and behavioral health services for the students of City of Elizabethton.

II. FH agrees to do the following:

- FH will accept referrals from ECS for services when appropriate and dependent on admission criteria while utilizing referral procedures as agreed upon for any mental / behavioral health need including in the event of a major school crisis situation.
- FH will collaboratively work with ECS to help resolve crisis situations, student behavioral health problems, and provide a decision on eligibility for public mental health services. FH staff will assist in administrative consultation for the development of classroom based behavioral health plans in the support of social and emotional learning of students. For students who are not eligible for public mental health services and supports, FH will provide the eligibility decision and an opportunity for a second opinion. FH will provide referrals for appropriate community services. Exact timeframe of appointments is contingent on the urgency of the individual situation.
- FH will communicate with referring school personnel on behalf of the students as appropriate and authorized.

- FH staff will provide school-based behavioral health interventions and will monitor student progress based on those interventions in accordance with Tier II expectations in the Student Behavioral Support Structure model.
- FH will provide qualified and trained personnel as School Based Student Assistance Counselor(s) to work on campus four (4) days per week at the identified elementary school(s) as determined by ECS .
- School Based Student Assistance Counselor(s) will provide services as deemed appropriate for referred students with behavioral health needs and upon the request of authorized ECS staff.
- FH acknowledges that the provision of any services to students identified as having a disability, shall be in accordance with the student's individualized education program (IEP), any behavior intervention plan, Section 504 Plan, and any applicable Board policies.
- FH shall require all employees to immediately report to the school administrator instances where a student communicates a serious threat of harm to himself or others.

III. FH agrees to the following in order to ensure quality and continuity of care:

1. Provider Staff

FH shall assign only individuals who are properly licensed, certified and/or credentialed to provide services under this Agreement and shall ensure that the licensure and/or certification status of any individual providing services under this Agreement remains in good standing during the term of this Agreement. Frontier Health shall assume and retain responsibility for credentialing. Due to the direct interaction that FH will have with the District's students by providing Services under this Agreement, FH acknowledges that any employee assigned to deliver the Services will be removed and replaced upon request by the District's Administration or designee, provided however, that FH shall retain final decision-making authority over its hiring and other employment decisions regarding the employee(s).

2. Background Checks

FH represents and warrants that it will comply with Tennessee Code Annotated § 49-5-413 for all employees or agents who are assigned to work in the District's schools or have any direct contact with District's students. All background checks shall be performed by a Tennessee licensed background company at the expense of FH and must be completed before any such individual will be permitted to begin working in any of the District's schools. In addition, FH shall comply with the hiring standards set forth in Tennessee Code Annotated § 33-2-1202(c) with respect to checking past work and personal references prior to allowing any employee to work on school premises.

3. Liability Insurance

Frontier Health staff providing services under the terms of this Agreement will be covered by professional liability insurance through Frontier Health.

4. Continuity of Care/Services

Frontier Health staff will provide person-centered services that are in the best interests of mutual consumers and are in compliance with standards and guidelines set forth in federal

and state law related to mental health services. Frontier Health staff will also assure compliance by any entities providing third party reimbursement.

5. Parental Consent

Except for students who have reached the age legally required in the State of Tennessee to provide informed consent independently for mental health treatment (or are otherwise able to give their own consent under State law), FH agrees not to provide any services for or on behalf of any students, unless it has first obtained informed written consent from the parent(s) or legal guardian of the affected students using consent forms approved by FH and the District.

6. Non-Discrimination

FH hereby agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subject to discrimination in the performance of this Agreement or in the employment practices of FH on the grounds of disability, age, race, color, religion, sex, national origin, or any other classification protected by federal, Tennessee state constitutional, or statutory law. FH shall, upon request, provide proof of non-discrimination and shall post in conspicuous places, available to all employee and applicants, notices of nondiscrimination.

7. Legal Compliance

FH agrees to comply with all applicable federal, state, and local laws, statutes, ordinances, and regulations in the performance of its duties under the Agreement. These laws specifically include, but are not limited to, the Family Education Rights and Privacy Act of 1974 (20 U.S.C. 1232g) ("FERPA"), the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), the Alcohol and Drug Abuse Treatment Confidentiality Regulations (42 CFR Part 2) the Tennessee Data Accessibility, Transparency and Accountability Act (Tenn. Code Ann. 5 49-1-703), Tennessee's mandatory child abuse and child sexual abuse reporting laws (Tenn. Code Ann. SS 37-1-403; 37-1-605) and all administrative rules and regulations accompanying these laws. FH agrees to cooperate with the District as required by these laws in the performance of its duties under this Agreement.

8. Drug-Free Workplace

FH represents and warrants that it maintains a drug-free workplace and that none of its employees will be assigned to provide services under this Agreement unless they have cleared a pre-employment drug screening.

9. Confidentiality

FH agrees to take necessary physical, administrative and technical safeguards to protect the confidentiality of all personally identifiable Information and data related to ECS students and/or employees provided to or acquired by FH, whether maintained physically, electronically or otherwise. Such information will not be copied, used or disclosed by FH for any purpose except as reasonably required to provide services under the terms of this Agreement. FH agrees that it will immediately notify ECS of any breach of confidentiality or other violation of law and will reasonably cooperate with any remedial efforts taken by ECS. At the termination of this Agreement, FH shall return to ECS all personally identifiable or otherwise confidential information provided by ECS or its agents, and if not returnable, shall

identify such information to ECS and provide written assurance to ECS that the information is destroyed.

10. Place of Service

Services will be provided at ECS facilities if possible but may be provided off-site according to the desires and needs of the student.

IV. Both Parties agree to the following:

1. Billing Procedures

This Agreement allows for FH to bill ECS for the provision of staff in the role of Student Assistance Counselor on a monthly basis as agreed to by the school administration and based on the current budget of \$40,000.00 per year. ECS agrees to allow for FH staff to bill third party insurance when and as appropriate for medically necessary behavioral health services with consent of the parent/guardian/eligible student.

2. Governing Law

This Agreement, and all claims relating to or arising out of this Agreement, or the breach thereof, whether sounding in contract, tort or otherwise, shall be governed by and interpreted in accordance with the laws of the State of Tennessee, excluding its choice of law principles. Any claim of whatever character arising under this Agreement or under any statute or common law relating in any way, directly or indirectly, to the subject matter of this Agreement or to the dealings between the parties during the term of this Agreement shall be brought exclusively in a state court of competent jurisdiction in Carter County, Tennessee.

3. Term and Termination

This Agreement shall commence on August 1, 2020. Each party agrees to meet at least yearly to evaluate this Agreement and make any adjustments deemed necessary. The parties stipulate and agree that this Agreement shall terminate automatically and without the need for any action by the Parties upon receipt of notice by either party that FH's licensure status has been suspended or revoked. Any agreed upon early termination of this Agreement shall be provided to each party with a 30 day notice prior to termination of the Agreement.

4. Assignability

FH agrees that its obligations or duties arising out of or defined in this Agreement shall not be transferred or assigned by FH without prior written consent of ECS.

5. Entire Agreement

This Agreement constitutes the entire Agreement between the parties and supersedes all prior written and oral negotiations and understandings. Each and every modification and amendment of this Agreement must be in writing and signed by an authorized representative of each party. No waiver of the provisions of this Agreement shall be deemed, or shall constitute, a waiver of any other provision whether or not similar, nor shall any waiver constitute a continuing waiver.

6. Surviving Obligation

The obligations of confidentiality provided herein will survive the expiration or termination of

this Agreement, regardless of the reason for such termination.

7. Severability

If one or more of the provisions contained in this Agreement shall for any reason be invalid, illegal or unenforceable for any reason, such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement, which shall be construed as if such invalid, illegal, or unenforceable provision had never been contained.

8. Authorization

Each Party stipulates that the signor below is fully authorized to execute this Agreement on its behalf.

Richard VanHuss, Director of Schools
Elizabethton City Schools, (ECS)

Date

Kristie Hammonds, President & CEO
Frontier Health (FH)

Date

**SERVICES AGREEMENT
BETWEEN ELIZABETHTON CITY SCHOOLS
AND FRONTIER HEALTH**

The purpose of this Agreement is to make certain our schools and community are under the provision, integration, and coordination of mental health services.

WHEREAS, the **Elizabethton City Schools** (ECS) desires to incorporate and encourage mental health throughout the district; and,

WHEREAS, **Frontier Health** (FH) has the required expertise and experience necessary to provide appropriate services within the scope of this effort;

NOW THEREFORE, ECS and FH mutually agree to the following terms of this Agreement beginning August 1, 2020.

I. ECS agrees to do the following:

- Assist in the identification and referral of students to Frontier Health in the event of a major school crisis, or behavioral health need of a student.
- Identify and offer onsite facilities for Frontier Health staff for the purpose of providing a School Based Student Assistance Counseling as deemed appropriate for any student, faculty member, or administrator with a behavioral health need, or for consultation and education of any behavioral and mental health situation.
- Promote parental information and involvement in collaboration with mental health services as necessary for the students effected by any behavioral health need.
- Recognize this collaboration as an essential effort toward school implementation of an integrated partnership with FH for the availability of recovery and behavioral health services for the students of City of Elizabethton.

II. FH agrees to do the following:

- FH will accept referrals from ECS for services when appropriate and dependent on admission criteria while utilizing referral procedures as agreed upon for any mental / behavioral health need including in the event of a major school crisis situation.
- FH will collaboratively work with ECS to help resolve crisis situations, student behavioral health problems, and provide a decision on eligibility for public mental health services. FH staff will assist in administrative consultation for the development of classroom based behavioral health plans in the support of social and emotional learning of students. For students who are not eligible for public mental health services and supports, FH will provide the eligibility decision and an opportunity for a second opinion. FH will provide referrals for appropriate community services. Exact timeframe of appointments is contingent on the urgency of the individual situation.
- FH will communicate with referring school personnel on behalf of the students as appropriate and authorized.

- FH staff will provide school-based behavioral health interventions and will monitor student progress based on those interventions in accordance with Tier II expectations in the Student Behavioral Support Structure model.
- FH will provide qualified and trained personnel as School Based Student Assistance Counselor(s) to work on campus four (4) days per week at the identified elementary school(s) as determined by ECS .
- School Based Student Assistance Counselor(s) will provide services as deemed appropriate for referred students with behavioral health needs and upon the request of authorized ECS staff.
- FH acknowledges that the provision of any services to students identified as having a disability, shall be in accordance with the student's individualized education program (IEP), any behavior intervention plan, Section 504 Plan, and any applicable Board policies.
- FH shall require all employees to immediately report to the school administrator instances where a student communicates a serious threat of harm to himself or others.

III. FH agrees to the following in order to ensure quality and continuity of care:

1. Provider Staff

FH shall assign only individuals who are properly licensed, certified and/or credentialed to provide services under this Agreement and shall ensure that the licensure and/or certification status of any individual providing services under this Agreement remains in good standing during the term of this Agreement. Frontier Health shall assume and retain responsibility for credentialing. Due to the direct interaction that FH will have with the District's students by providing Services under this Agreement, FH acknowledges that any employee assigned to deliver the Services will be removed and replaced upon request by the District's Administration or designee, provided however, that FH shall retain final decision-making authority over its hiring and other employment decisions regarding the employee(s).

2. Background Checks

FH represents and warrants that it will comply with Tennessee Code Annotated § 49-5-413 for all employees or agents who are assigned to work in the District's schools or have any direct contact with District's students. All background checks shall be performed by a Tennessee licensed background company at the expense of FH and must be completed before any such individual will be permitted to begin working in any of the District's schools. In addition, FH shall comply with the hiring standards set forth in Tennessee Code Annotated § 33-2-1202(c) with respect to checking past work and personal references prior to allowing any employee to work on school premises.

3. Liability Insurance

Frontier Health staff providing services under the terms of this Agreement will be covered by professional liability insurance through Frontier Health.

4. Continuity of Care/Services

Frontier Health staff will provide person-centered services that are in the best interests of mutual consumers and are in compliance with standards and guidelines set forth in federal

and state law related to mental health services. Frontier Health staff will also assure compliance by any entities providing third party reimbursement.

5. Parental Consent

Except for students who have reached the age legally required in the State of Tennessee to provide informed consent independently for mental health treatment (or are otherwise able to give their own consent under State law), FH agrees not to provide any services for or on behalf of any students, unless it has first obtained informed written consent from the parent(s) or legal guardian of the affected students using consent forms approved by FH and the District.

6. Non-Discrimination

FH hereby agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subject to discrimination in the performance of this Agreement or in the employment practices of FH on the grounds of disability, age, race, color, religion, sex, national origin, or any other classification protected by federal, Tennessee state constitutional, or statutory law. FH shall, upon request, provide proof of non-discrimination and shall post in conspicuous places, available to all employee and applicants, notices of nondiscrimination.

7. Legal Compliance

FH agrees to comply with all applicable federal, state, and local laws, statutes, ordinances, and regulations in the performance of its duties under the Agreement. These laws specifically include, but are not limited to, the Family Education Rights and Privacy Act of 1974 (20 U.S.C. 1232g) ("FERPA"), the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), the Alcohol and Drug Abuse Treatment Confidentiality Regulations (42 CFR Part 2) the Tennessee Data Accessibility, Transparency and Accountability Act (Tenn. Code Ann. 5 49-1-703), Tennessee's mandatory child abuse and child sexual abuse reporting laws (Tenn. Code Ann. SS 37-1-403; 37-1-605) and all administrative rules and regulations accompanying these laws. FH agrees to cooperate with the District as required by these laws in the performance of its duties under this Agreement.

8. Drug-Free Workplace

FH represents and warrants that it maintains a drug-free workplace and that none of its employees will be assigned to provide services under this Agreement unless they have cleared a pre-employment drug screening.

9. Confidentiality

FH agrees to take necessary physical, administrative and technical safeguards to protect the confidentiality of all personally identifiable Information and data related to ECS students and/or employees provided to or acquired by FH, whether maintained physically, electronically or otherwise. Such information will not be copied, used or disclosed by FH for any purpose except as reasonably required to provide services under the terms of this Agreement. FH agrees that it will immediately notify ECS of any breach of confidentiality or other violation of law and will reasonably cooperate with any remedial efforts taken by ECS. At the termination of this Agreement, FH shall return to ECS all personally identifiable or otherwise confidential information provided by ECS or its agents, and if not returnable, shall

identify such information to ECS and provide written assurance to ECS that the information is destroyed.

10. Place of Service

Services will be provided at ECS facilities if possible but may be provided off-site according to the desires and needs of the student.

IV. Both Parties agree to the following:

1. Billing Procedures

This Agreement allows for FH to bill ECS for the provision of staff in the role of Student Assistance Counselor on a monthly basis as agreed to by the school administration and based on the current budget of \$40,000.00 per year. ECS agrees to allow for FH staff to bill third party insurance when and as appropriate for medically necessary behavioral health services with consent of the parent/guardian/eligible student.

2. Governing Law

This Agreement, and all claims relating to or arising out of this Agreement, or the breach thereof, whether sounding in contract, tort or otherwise, shall be governed by and interpreted in accordance with the laws of the State of Tennessee, excluding its choice of law principles. Any claim of whatever character arising under this Agreement or under any statute or common law relating in any way, directly or indirectly, to the subject matter of this Agreement or to the dealings between the parties during the term of this Agreement shall be brought exclusively in a state court of competent jurisdiction in Carter County, Tennessee.

3. Term and Termination

This Agreement shall commence on August 1, 2020. Each party agrees to meet at least yearly to evaluate this Agreement and make any adjustments deemed necessary. The parties stipulate and agree that this Agreement shall terminate automatically and without the need for any action by the Parties upon receipt of notice by either party that FH's licensure status has been suspended or revoked. Any agreed upon early termination of this Agreement shall be provided to each party with a 30 day notice prior to termination of the Agreement.

4. Assignability

FH agrees that its obligations or duties arising out of or defined in this Agreement shall not be transferred or assigned by FH without prior written consent of ECS.

5. Entire Agreement

This Agreement constitutes the entire Agreement between the parties and supersedes all prior written and oral negotiations and understandings. Each and every modification and amendment of this Agreement must be in writing and signed by an authorized representative of each party. No waiver of the provisions of this Agreement shall be deemed, or shall constitute, a waiver of any other provision whether or not similar, nor shall any waiver constitute a continuing waiver.

6. Surviving Obligation

The obligations of confidentiality provided herein will survive the expiration or termination of this Agreement, regardless of the reason for such termination.

7. Severability

If one or more of the provisions contained in this Agreement shall for any reason be invalid, illegal or unenforceable for any reason, such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement, which shall be construed as if such invalid, illegal, or unenforceable provision had never been contained.

8. Authorization

Each Party stipulates that the signor below is fully authorized to execute this Agreement on its behalf.

Richard VanHuss, Director of Schools
Elizabethton City Schools, (ECS)

Date



Kristie Hammonds, President & CEO
Frontier Health (FH)



Date

Educator Preparation Provider/ Local Education Agency State-Recognized Partnership Agreement

Educator Preparation Provider (EPP)	East Tennessee State University

Local Education Agency (LEA)	Elizabethton City Schools

Term of Agreement	2021-2022

EPP Contact/Designee	
Name: Laura Click	Title: Director of Field Experience and Residency
Email Address: clicklm@etsu.edu	Phone Number: 423-439-4200

LEA Contact/Designee	
Name: Dr. Myra Newman	Title: Assistant Director of Schools
Email Address: myra.newman@eschools.net	Phone Number: 423-547-8000

Other Key Staff	
Name: Dr. Cindy Chambers, Associate Dean of Educator Preparation	Name:
Title:	Title:
Name:	Name:
Title:	Title:

Certification (signatures verify partnership)	
EPP Head Administrator	Name: Janna L. Scarborough Date: October 1, 2021 Title: Dean of Clemmer College Signature: <i>Janna L. Scarborough</i>
LEA Director of Schools	Name: Date: Title: Signature:

Educator Preparation Provider/ Local Education Agency State-Recognized Partnership Agreement

Prompt 1: Identify the collaboratively-developed **recruitment and selection strategies and goals.**
(500 words)

ETSU EPP regularly communicates with LEAs to identify high need areas, develop joint recruitment processes, and identify goals to support completion of high-quality candidates from a broad range of backgrounds and diverse populations. ETSU also engages in a variety of recruitment activities (e.g., informational sessions with high school students, visits to community colleges and school districts with more diverse populations, etc.) While recruitment and retention strategies were already established at ETSU, a more formalized Recruitment and Retention Plan has been developed. (See additional document). EPP collaborates with LEAs TAP(Teaching as a Profession) classrooms to support students in hopes that a high percentage will return to their LEA to teach.

During state-recognized partnership meetings, LEAs expressed need for additional substitutes during the school year. The Office of Educator Preparation (OEP) collaborates with LEAs to create a process for students to complete substitute training and requirements. The OEP has also seen an increase in the number of job-embedded positions requested for high needs endorsement areas. The OEP and EPP faculty communicate with previous graduates and existing students to support district needs.

To support LEAs hard-to-fill areas, the OEP hosted the 2nd annual Virtual Career Fair in April 2021 where 15 LEAs and approximately 100 residency candidates participated in district led breakout sessions. LEA participation doubled from 2019-2020. Students heard about job opportunities, asked questions about school districts, and shared information about their licensure areas. Post event feedback was extremely positive and LEAs felt the virtual format provided more quality time with candidates compared to an in-person career fair.

OEP developed processes for monitoring candidate demographic data at the college and program level. Data are available as candidates enter a program and monitored as they progress and exit programs for certification. For high-need endorsement recruitment, OEP integrated grant programming (e.g., iSLICEE, CILNT and NOYCE) to recruit candidates into STEM and special education fields, as well as, a Praxis waiver policy which provides candidates additional time to pass the Praxis Subject Area assessments. The RITE (Rural Initiative for Talented Educators) program is being piloted to assist with hiring and retaining high-quality teachers in rural areas. The Office of Student Success developed the STRIVE (Students Teaching and Representing Inclusive Values and Excellence) program to ensure diverse candidates have more successful and positive experiences while completing their program.

ETSU continues to support students struggling at progress checkpoints. In line with state allowances, EPP superscores ACT scores for students who struggle with their composite. Programs offer test preparation materials, as well as, provide individual and group tutoring and financial support for study programs and exams. EdTPA supports include paying for the assessment and holding edTPA bootcamps and writing sessions.

Programs currently monitor disaggregated data to describe gender, ethnicity, academic ability, and/or candidate fit for high-need specialty areas. Data are gathered with the candidate's residency application, and once during their licensure program. Data are analyzed to evaluate progress toward recruitment and retention goals. These data should move ETSU toward targets and away from low-need employment areas.

Educator Preparation Provider/ Local Education Agency State-Recognized Partnership Agreement

Prompt 2: Identify how entities will collaborate to **select, prepare, evaluate, support, and retain high-quality clinical educators**, both provider and school-based, who demonstrate a positive impact on candidates' development and pre-K-12 learning and development. **(500 words)**

During summer 2021, the Office of Educator Preparation (OEP) collaborated with state-recognized LEAs to review policy 5.504, specifically criteria for clinical mentors. The following additional criteria was also mutually agreed upon: willingness to be an active mentor, providing constructive feedback to candidates and mentor teachers regarding performance and educator dispositions, participation in mentor training, and willingness to complete surveys to provide additional feedback about the EPP program.

To improve co-selection of clinical educators, the OEP also provided LEAs with residency candidates professional development needs, high-interest areas, and personal work style in order to better match students with compatible mentor teachers. OEP and LEA also created an electronic mentor teacher application to identify interested mentor teachers and their strengths. During partnership meetings, LEAs will provide information about mentor teachers from the application to match with the information provided by the EPP. This application process was to be piloted during the 2021-2022 school year, however, due to Covid19, this has been delayed until the 2022-2023 school year. Mentor teacher data collected from candidates and supervisor surveys is shared and reviewed for future placements.

During the 2021-2022 academic year, mentors were offered a virtual PD session that included an overview of the ETSU Residency Handbook, Observation and Evaluation Schedule, revised informal evaluation and rubrics, and lastly, a Key Roles document. This document was created based upon feedback from our LEA partners who expressed additional guidance needed for the residency year. Differentiated Mentor Teacher Training was offered to mentor teachers, so new mentors received additional support with co-teaching strategies and edTPA content. The OEP ensures timely communication through prompt email response, direct phone numbers, and monthly newsletters. Additionally, virtual office hours were implemented monthly for mentor teachers to provide support and guidance from OEP. In addition to support from the OEP, ETSU supervisors strengthen relationships with mentor teachers through frequent visits and communication. Mentor teachers complete an online survey to provide feedback about their candidate's program of study, university supervisor and the OEP.

Supervisor selection criteria is also a collaborative process. Primary partners assist with co-creation of interview questions, and review each online application and credentials in order to determine interviewees. Annually, the Director of Residency collaborates with a supervisor group to review and update existing documents and create new processes based upon survey results. The OEP also conducts monthly supervisor meetings to share information, listen to concerns and provide feedback for improvements. The EPP financially supports supervisors to attend local and regional edTPA conferences and obtain Google Certification. Supervisors are paid based on the number of students they supervise and receive mileage for travel. Supervisors complete an online survey to provide feedback about mentor teachers and the OEP. Survey results are shared with LEAs.

The OEP continues to update and maintain webpages for mentors and supervisors, which includes support documents and links to trainings and external support videos. OEP has also added an area to spotlight mentor teachers and residency candidates who are modeling exemplar strategies of co-teaching within the classroom.



Educator Preparation Provider/ Local Education Agency State-Recognized Partnership Agreement

Educator Preparation Provider (EPP)	Tusculum University College of Education

Local Education Agency (LEA)	

Term of Agreement	Three years, with automatic renewal for an additional 3-year term unless terminated in writing by either party.

EPP Contact/Designee	
Name: Michelle Miller DeFord	Title: Director of Clinical Experience
Email Address: mclupper@tusculum.edu	Phone Number: 865-693-1177 ext. 5024
LEA Contact/Designee	
Name:	Title:
Email Address:	Phone Number:
LEA Administrator for Field Placement	
Name:	Title:
Email Address:	Phone Number:

Certification (Signatures verify partnership)	
EPP Unit Head	Name: Dr. Miriam Stroder Title: Dean, College of Education Signature: Date: September 16, 2021
LEA Director of Schools	Name: Title: Signature: Date:

State-Recognized Partnership Agreement between

ELIZABETHTON CITY SCHOOLS

and



THIS AGREEMENT is entered into by and between Tusculum University (hereinafter known as the Educator Preparation Program or EPP) and **ELIZABETHTON CITY SCHOOLS** (hereinafter known as the Local Education Agency or LEA).

WITNESSETH

In consideration of the mutual promises contained herein, the parties have agreed and do hereby enter into this agreement according to the following provisions:

I. Purpose and Responsibility

The EPP is engaged in preparing candidates to be effective educators. In order to help ensure that a supply of qualified new teachers is available to be hired, the LEA wishes to participate in the clinical education of teacher education candidates. Candidates enrolled in clinical experience courses at the EPP will be considered by the LEA for participation in observational and classroom activities, including student teaching. Job embedded Candidates (a candidate who has been hired as a fulltime teacher by the LEA and whom the EPP has recommended for a Practitioner Teacher License) enrolled in content mentoring courses at the EPP will be assigned a content mentor by the LEA.

The purpose of this agreement is to define the responsibilities of the EPP and the LEA in providing these direct experiences for candidates in the EPP's Initial Teacher Licensure Programs. Because of their differing functions, the LEA and the EPP have unique responsibilities. Therefore, frequent and clear communication between the LEA's designated contact person and the EPP's Director of Clinical Experiences and/or the EPP's Director of edTPA is critical. Sharing of responsibility is needed if all parties are to derive maximum benefit from this program. It is agreed that continuous effort will be made by both the LEA and the EPP to accept this shared responsibility.

II. Scope and Sequence of Clinical Experiences

Clinical Experiences are defined as follows:

- a. Clinical I – Initial clinical experience of 60 classroom hours completed during instructional time while students are present. These 60 hours are split into 2 separate 30 hour placements. The first 30 hours will be in a Title I school and will be in either:
 1. primary or intermediate grade span for K-5 licensure;
 2. middle school or high school grade span for 6-12 licensure; or

3. elementary school, middle school or high school grade span for K-12 licensure
The candidate primarily observes and works with students one-on-one and in small groups during this placement. The second 30 hours will be in a different school and will be in the alternate grade span listed for each licensure area above. During the second 30 hours, the candidate is required to teach at least one small group lesson which will be observed and evaluated by the university clinical supervisor using a Modified TEAM Rubric. The Clinical I experience is designed to provide the candidate with opportunities to demonstrate his or her developing effectiveness and positive impact on students' learning and development in diverse learning environments that cover a significant breadth of the candidate's licensure area.
- b. Clinical II – Pre-student teaching experience of 80 classroom hours completed during instructional time while students are present. The candidate actively observes, works with students one-on-one and in small groups, and teaches at least three whole group lessons: the first evaluated by the cooperating teacher and the university clinical supervisor using the TEAM rubric, the second evaluated by the cooperating teacher using a Modified TEAM rubric, and the third evaluated by the university clinical supervisor using the TEAM rubric. The entire 80 hours of this experience are in a single placement. Ideally, the candidate remains in this placement for the student teaching semester. The Clinical II experience is designed to provide the candidate with opportunities to demonstrate his or her developing effectiveness and positive impact on students' learning and development in a consistent learning environment with diverse groups of learners.
- c. Student Teaching – Culminating experience of a minimum of 15 full-time weeks to provide the candidate with sufficient depth of experience for a significant duration of time. The candidate works as an apprentice teacher, engaged in all of the duties and responsibilities of a regular classroom teacher, and maintains the same schedule as the classroom teacher. The candidate spends a minimum of 13 weeks with the primary cooperating teacher and 2 weeks with an alternate teacher as approved by the principal. The candidate is required to teach a total of 5 formally-observed lessons, in addition to lessons required for edTPA. The first observed lesson will be evaluated by the cooperating teacher and the university clinical supervisor using the TEAM rubric, the second by the cooperating teacher using a Modified TEAM rubric, the third by the university clinical supervisor using the TEAM rubric, the fourth by the cooperating teacher using a Modified TEAM rubric, and the fifth by the cooperating teacher and the clinical supervisor using the TEAM rubric. Tusculum University strongly encourages one full week of solo-teaching time or at least two full weeks of co-teaching with the cooperating teacher. The student teaching experience is designed to provide the candidate with consistent opportunities to demonstrate his or her developing effectiveness and positive impact on students' learning and development in a learning environment with diverse groups of learners.

III. Scope and Sequence of Content Mentoring Program

The purpose of the content mentoring program is to provide job embedded candidates with purposeful, structured, and specific support by an assigned content mentor. The content mentor will be a resource throughout their first two semesters of full-time teaching.

Throughout this experience, candidates will meet with an assigned mentor to discuss how to apply content and pedagogical knowledge in P-12 settings that progressively develop and demonstrate the knowledge, skills, and dispositions necessary to demonstrate positive impact on all P-12 students' learning and development. Additionally, job embedded candidates will complete 10 hours of observation in the content mentor's classroom per semester.

- a. *Content Mentoring I-* As part of the "Intent to Hire" letter (appendix form JB.1), building or district administrators will assign the job embedded candidate with a content mentor who currently teaches in the same or similar content area, in the same school or school district as the candidate. Job embedded candidates will meet with weekly with their mentor throughout the semester. The content mentor will provide coaching of mentee in mentee's classroom. Job embedded candidates will complete 10 hours of observation in mentor's classroom. The Job embedded candidate will document the 10 hours of observation in LiveText. Content mentor will complete one formal observation of the candidate using the Modified TEAM template and complete one evaluation of the candidate's disposition and professional skills. Tusculum University Clinical Supervisor will complete one formal observation of the job-embedded candidate using the Modified TEAM template.
- b. *Content Mentoring II-* Job embedded candidates will meet with their mentor weekly throughout the semester. The content mentor will provide coaching of mentee in mentee's classroom. Job embedded candidates will complete 10 hours of observation in mentor's classroom. The Job embedded candidate will document the 10 hours of observation in LiveText. Content mentor will complete one formal observation of the candidate using the Modified TEAM template and complete one evaluation of the candidate's disposition and professional skills. Tusculum University Clinical Supervisor will complete one formal observation of the job-embedded candidate using the Modified TEAM template and complete one evaluation of the candidate's disposition and professional skills

IV. Recruitment and Selection Strategies and Goals

The EPP is committed to the recruitment of candidates from diverse backgrounds and those seeking the high-needs endorsement areas of its partnering districts. To achieve the goals of strengthening recruitment in these two areas, the EPP, in collaboration with the LEA will:

- a. At the request of guidance counselors, work with high school guidance counselors to target high school juniors and seniors who have shown an interest or aptitude in a helping profession, and provide any potential candidates with information about the teaching profession and the EPP

- b. At the request of guidance counselors and the potential candidates, be available to meet with students in urban areas who are considering majoring in education in order to provide specific counseling regarding high-needs endorsement areas

V. Responsibilities of the LEA

Responsibilities of the LEA related to Clinical Experience:

- a. The LEA may refuse to accept any teacher education candidate assigned to train in the School System for any non-discriminatory reason.
- b. The LEA will designate an administrator and/or principal(s) to serve as its contacts for field placements. These administrators will serve as liaisons between the School System and EPP's designated contact in managing all candidate visits in the School System. Any questions or problems arising which involve field placements will be brought to the attention of the EPP Director of Clinical Experience by the School System's Administrator for Field Placement or the building principal.
- c. Placement of teacher education candidates will be under the direction and control of the Director of Schools or an appointed designee from the LEA in collaboration with the Director of Clinical Experiences at Tusculum University. Placements will be made only with the consent of the principal and the cooperating teacher.
- d. Candidates will be placed according to their content area and grade span of emphasis.
- e. All teacher education candidates have a completed background check on file with the EPP and have met the criteria required by the Tennessee Department of Education (TCA 49-5-5610). If required by the LEA, a second background check through the appropriate vendor will be obtained by teacher candidates prior to clinical placement. The LEA will inform the Director of Clinical Experiences if the district requires an additional background check and/or drug testing.
- f. The LEA will endeavor to provide placements for EPP candidates with the greatest potential for providing maximum benefit for the candidate and for the School System. Cooperating teachers chosen to work with teacher education candidates must meet the following criteria:
 - i. Recommended by the school principal.
 - ii. Highly-effective in the classroom based on TEAM evaluations and TVAAS data, including an overall LOE score of 4 or 5.
 - iii. Minimum of 3 years classroom experience required; 4+ years of classroom experience preferred.
 - iv. Ability to engage diverse groups of learners.
 - v. Ability and willingness to provide authentic feedback to teacher candidates about their strengths and areas for improvement.
 - vi. Ability and willingness to communicate effectively with university clinical supervisors about candidate strengths and areas for improvement.
 - vii. Willingness to host and mentor a teacher candidate allowing him/her opportunity to gain consistent experience within the classroom.

- g. Principals will provide orientation meetings at the school for the candidates at the beginning of their clinical experiences and will monitor the professional relationship between teachers and teacher education candidates.
- h. The Director of Clinical Experiences will provide Cooperating Teachers with appropriate guidelines and expectations.
- i. Cooperating teachers will be given the opportunity at the end of each placement to provide open-ended feedback of the candidate, university clinical supervisor, overall EPP program and its supports through a web-based system (LiveText). This data will be used by the EPP to make program improvements for subsequent semesters.
- j. The principals of participating schools have responsibility for determining the degree to which EPP candidates conform to school policies. Problems arising from any breach of policy of field placement candidates should be referred by the principal to LEA's Administrator for Field Placement. However, if the principal deems it necessary, he/she may remove the field placement candidate from the school until the situation can be resolved through collaboration with the EPP Director of Clinical Experience.
- k. The LEA agrees to share the LEA's Human Capital Report with the EPP.

Responsibilities of LEA related to Content Mentoring:

- a. The LEA will endeavor to provide a content mentor for each EPP job embedded candidate with the greatest potential for providing maximum benefit for the candidate, the school district, and the students. Content mentors chosen to work with job embedded candidates must meet the following criteria:
 - i. Hold an active Tennessee license with an endorsement in the area or a closely related area where they will be supervising the job-embedded candidate.
 - ii. Highly-effective in the classroom based on TEAM evaluations and TVAAS data, including an overall Level of Effectiveness of 4 (above expectations) or 5 (significantly above expectations) for the prior school year.
 - iii. Hold a Master's Degree in Education from an accredited college or university.
 - iv. Obtain recommendation of school administrator.
 - v. Possess knowledge of the use of formative assessment in instructional planning, pacing charts, benchmark testing, and the TEAM rubric.
 - vi. Demonstrate ability to communicate and model implementation of content standards, effective instructional approaches, incorporation of resources and technologies.
- b. The LEA agrees to the conditions associated with the duties and responsibilities that come with the position of content mentor. Content mentor responsibilities include the following:
 - i. The role will run for 2 consecutive semesters, unless the candidate is enrolled only in Content Mentoring II.
 - ii. The LEA will provide 3 half days of leave time, or the equivalent thereof, from mentor's classroom per semester to be spent in the mentee's

- classroom for onsite coaching and collaboration. Mentor will use one visit to complete a lesson observation using a Modified TEAM rubric. The times and dates of these visits will be recorded by the content mentor on the “Weekly Points of Contact” form.
- iii. Mentor will initiate weekly points of contact with mentee through email, phone call, video conference, and/or face to face meetings
 - iv. Job embedded candidates will complete 10 hours of observation in mentor’s classroom.
- c. The LEA will designate an administrator and/or principal(s) to serve as its contacts for content mentors. These administrators will serve as liaisons between the School System and EPP’s designated contact. Any questions or problems arising which involve content mentoring will be brought to the attention of the Director of edTPA at Tusculum University by the School System’s Administrator for Job-Embedded Teachers or the building principal.
 - d. Selection of content mentors will be under the direction and control of the Director of Schools or an appointed designee from the LEA.
 - e. The LEA agrees to share the LEA’s Human Capital Report with the EPP.

VI. Responsibilities of the EPP

- a. The EPP designee for Clinical Experience:
 - I. The EPP has designated the Office of Clinical Experience to assume the responsibility for coordinating all observations, clinical experiences, and student teaching placements in the LEA. Any questions arising which are related to the initial placement in clinical experiences should be brought to the attention of the EPP’s Office of Clinical Experience.
 The Director of the EPP’s Clinical Experience Program is:
 Michelle Miller DeFord
 Tusculum University
 60 Shiloh Road
 Greeneville, TN 37745
 Office Phone: 865-693-1177 ext. 5024
 Cell Phone: 865-230-3967
 Email Address: mclupper@tusculum.edu
 - II. The Director of Clinical Experience will provide the LEA with specific assignments for each field placement in order to ensure clear communication about the purposes and the expectations for the experience. The EPP will also provide an orientation for candidates involved in field placements to communicate the purposes and expectations of the experience. Where possible, the EPP will conduct staff development sessions with LEA personnel to provide opportunities for discussion and collaboration about field experiences.
- b. The EPP designee for Content Mentoring:

- i. The EPP has designated the Director of edTPA to assume the responsibility for coordinating all content mentors in the LEA. Any questions arising which are related to content mentoring should be brought to the attention of the Director of edTPA.

The Director of the EPP's Content Mentoring Program is:
Stephanie Kirby
Tusculum University
60 Shiloh Road
Greeneville, TN 37745
Office Phone: 865-693-1177 ext. 5026
Cell Phone: 865-776-9708
Email Address: skirby@tusculum.edu
- ii. The Director of edTPA will provide the LEA with specific requirements for each Content Mentoring course in order to ensure clear communication about the purposes and the expectations for the experience. The EPP will provide orientation and training information which will inform content mentors and job-embedded candidates of the purposes and expectations of the experience.
- c. University Clinical Supervisors employed to work with teacher education candidates must meet the following criteria:
 - Documented evidence of having been a highly-effective teacher
 - Minimum of 5 years classroom experience
 - Ability to provide candidates with strategies for engaging diverse learners in meaningful learning
 - Ability and willingness to provide constructive feedback to teacher candidates about their strengths and areas for improvement
 - Ability and willingness to communicate effectively with teacher candidates and cooperating teachers
 - Ability and willingness to foster positive relationships between and among school-based administrators, teachers, teacher candidates, and university faculty and staff
 - Current knowledge of and training on TEAM, Praxis exams, edTPA, and current trends in education to aid in the retention of mentors who demonstrate a positive impact on candidates' development and pre-K-12 student learning and development
 - Consistent demonstration of professionalism
- d. University clinical supervisors and teacher education candidates will be provided appropriate guidelines and expectations from the Tusculum Director of Clinical Experiences. Additionally, clinical supervisors will be provided on-going support through workshops and seminars.
- e. University clinical supervisors will be given the opportunity at the end of each placement to provide open-ended feedback of the candidate, cooperating teacher,

overall EPP program and its supports. This data will be used by the EPP to make program improvements for subsequent semesters.

- f. Teacher candidates will be given the opportunity at the end of Clinical I, Clinical II, and Student Teaching to provide open-ended feedback of the university supervisor, cooperating teacher, overall EPP program and its supports. Job embedded candidates will be given an opportunity at the end of Content Mentoring I and Content Mentoring II to provide open-ended feedback of the university supervisor, content mentor, the overall EPP program and its supports. This data will be used by the EPP to make program improvements for subsequent semesters.
- g. EPP will provide online training for cooperating teachers and content mentors on mentoring candidates and will provide access to any planned workshops for candidates to aid in the retention and training of teachers who demonstrate a positive impact on candidates' development and pre-K-12 student learning and development.
- h. Tusculum University will, in advance of the field experience, provide the LEA with a list of candidates who are eligible for field placements along with appropriate information about the candidates.
- i. All teacher education candidates have a completed background check on file with the EPP and have met the criteria required by the Tennessee Department of Education (TCA 49-5-5610). If required by the LEA, a second background check through the appropriate vendor will be obtained by teacher candidates prior to clinical placement. The LEA will inform the Director of Clinical Experiences if the district requires an additional background check and/or drug testing.
- j. The EPP will inform all candidates who will be completing field experiences in the LEA of their obligation to observe the policies of the School System, as well as the school in which the candidates are placed. Candidates are subject to the rules, regulations, and policies of the School System and EPP, including recognizing the confidential nature of information regarding students and their records, and performance during emergency situations.
- k. Teacher Candidates will be required to video record a learning segment in order to complete their teacher performance assessment for licensure (edTPA). Prior to recording these lessons, the teacher candidate will obtain a video authorization consent form from the parents of students in their respective classroom.
- l. Teacher education candidates who are student teaching are required to maintain membership in an approved professional teacher organization which provides liability insurance.
- m. The EPP will coordinate all field placements through the Director of Clinical Experience. No affiliates of the EPP will make independent agreements for field experiences with individual schools or staff members.
- n. The EPP Director of Clinical Experience is responsible for removing an EPP candidate from a field placement. Withdrawal may be the result of a request initiated within the School System or from a source within the EPP.

- o. The EPP will communicate in a timely manner with appropriate LEA administrators in the event that there is a significant issue or pattern of issues involving a cooperating teacher or a content mentor.
- p. Tusculum University agrees to the following exchange of yearly data: the EPP's Annual State Report.

VII. Additional Provisions

- a. The parties agree to comply with Titles VI and VII of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section of 504 of the Rehabilitation Act of 1973, Executive Order 11,246, ADA, and the related Regulations of each. Each party assures that it will not unlawfully discriminate against any individual because of race, religion, creed, color, gender identity, sexual orientation, age, mental or physical disability, or national origin.
- b. No provision of this agreement will act or be deemed to be a waiver by the LEA of any immunity or of any provision of the TENNESSEE GOVERNMENTAL TORT LIABILITY ACT. Tenn. Code Ann. 29-20-101 et seq. Any liability to the EPP or third parties for any claims, damages, losses, or costs arising out of, or related to acts performed by the LEA under this agreement will be governed and limited by the provisions of the Tennessee Governmental Tort Liability Act, Tenn. Code. Annotated, Section 29-20-101 et seq.
- c. EPP will be responsible for personal injury and/or damage resulting from the gross negligence of the University performing any responsibility specifically required under the terms of this agreement. Damages recoverable against the LEA will be expressly limited by the Tennessee Governmental Tort Liability Act, Tennessee Code Annotated, Section 29-20-101 et seq.
- d. Nothing in this Agreement will be construed or deemed to create any relationship between the LEA and EPP other than that of independent entities contracting with each hereunder, solely for the purpose of effecting the provisions of this Agreement. Neither of the parties nor any of their respective officers, directors, or employees will be construed to be the agent, employer, or representative of the other except as provided herein.
- e. The term of this Agreement will be for three years from the date set forth above and will renew for subsequent three-year terms from the date set forth above unless terminated in writing by either party. Any termination of this Agreement will be effective at the conclusion of the EPP's academic semester, except that candidates participating in student teaching will be entitled to complete student teaching at the school notwithstanding any prior termination.
- f. Candidates will not be deemed to be employees or agents of the LEA at any time. Candidates will not displace regular School System employees but will work under the supervision of existing staff. This agreement does not entitle candidates to a job in the LEA at the conclusion of the student teaching experience.

IN WITNESS WHEREOF, the parties have, by their duly authorized representative, set their signatures on the partnership agreement cover page.

Parameters Applied	
Generated By :	Placement Coordinator, Tusculum
Domain :	TN: Tusculum University
Term :	2020 Spring Term, 2021 Spring Term
Course Section :	All Course-Sections
Internship :	All Internships
Assessment Document :	Candidate Evaluation of Cooperating Teacher
Subject :	All Subjects
Grade :	All Grades
Intern/Student :	All Students
Assessor/Mentor :	All Mentors
Assessor/Intern :	All Interns
Assessor/Supervisor :	All Supervisors

Rubric : Candidate Evaluation of Cooperating Teacher (Aggregate Student Performance)

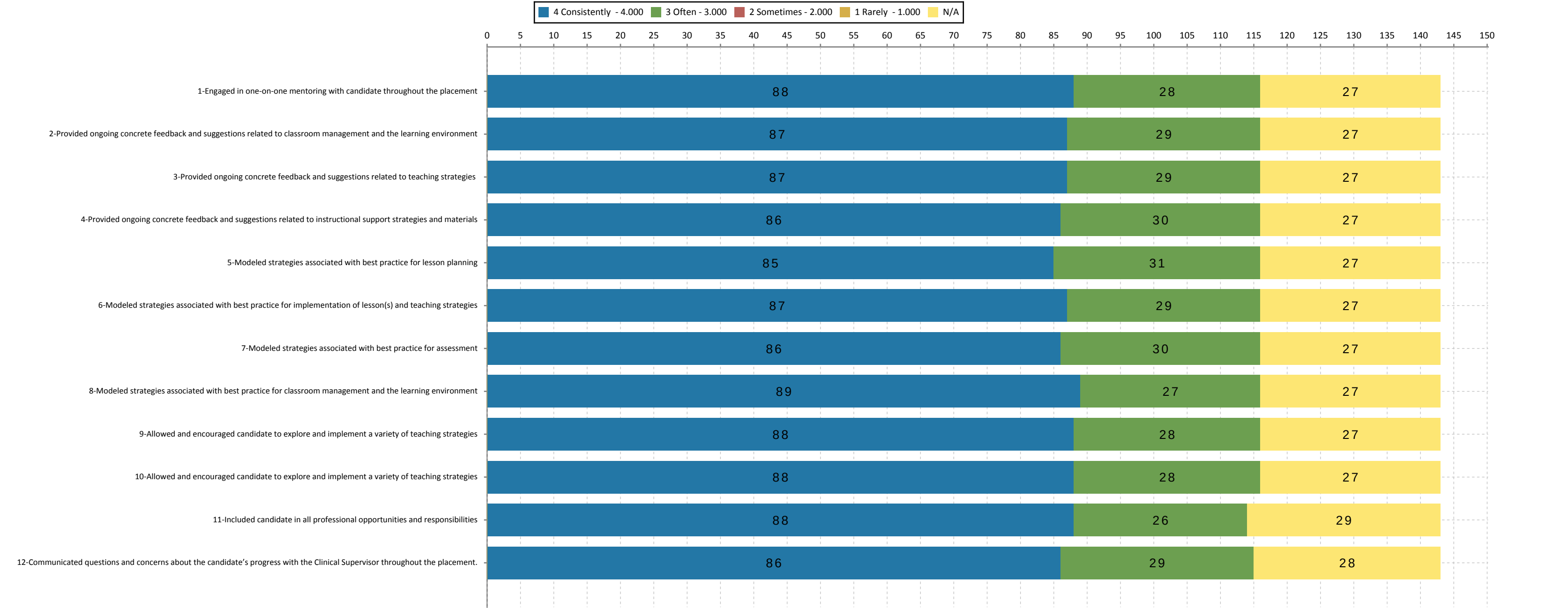
	4 Consistently	3 Often	2 Sometimes	1 Rarely	N/A	Mean	Standard Deviation	Mode
Engaged in one-on-one mentoring with candidate throughout the placement	132	5	4	2	1	3.87	0.51	4
Provided ongoing concrete feedback and suggestions related to classroom management and the learning enviro ...	119	17	5	2	1	3.77	0.58	4
Provided ongoing concrete feedback and suggestions related to teaching strategies	123	14	4	2	1	3.80	0.55	4
Provided ongoing concrete feedback and suggestions related to lesson planning	109	27	4	3	1	3.69	0.63	4
Provided ongoing concrete feedback and suggestions related to implementation of lesson(s)	123	15	3	2	1	3.81	0.53	4
Provided ongoing concrete feedback and suggestions related to assessment	112	22	5	3	2	3.71	0.63	4
Provided ongoing concrete feedback and suggestions related to instructional support strategies and m...	121	18	1	3	1	3.80	0.55	4
Encouraged candidate to explore and implement a variety of teaching strategies	119	17	2	4	2	3.77	0.61	4
Encouraged candidate to utilize all available instructional technologies	123	13	5	2	1	3.80	0.56	4
Encouraged candidate to participate in all professional opportunities and responsibilities	126	12	1	1	4	3.88	0.40	4



Parameters Applied	
Generated By :	Placement Coordinator, Tusculum
Domain :	TN: Tusculum University
Term :	2020 Spring Term, 2021 Spring Term
Course Section :	All Course-Sections
Internship :	All Internships
Assessment Document :	Clinical Supervisor Evaluation of Cooperating Teacher
Subject :	All Subjects
Grade :	All Grades
Intern/Student :	All Students
Assessor/Mentor :	All Mentors
Assessor/Intern :	All Interns
Assessor/Supervisor :	All Supervisors

Rubric : Clinical Supervisor Evaluation of Cooperating Teacher (Aggregate Student Performance)

	4 Consistently	3 Often	2 Sometimes	1 Rarely	N/A	Mean	Standard Deviation	Mode
Engaged in one-on-one mentoring with candidate throughout the placement	88	28	0	0	27	3.76	0.43	4
Provided ongoing concrete feedback and suggestions related to classroom management and the learning enviro...	87	29	0	0	27	3.75	0.43	4
Provided ongoing concrete feedback and suggestions related to teaching strategies	87	29	0	0	27	3.75	0.43	4
Provided ongoing concrete feedback and suggestions related to instructional support strategies and m...	86	30	0	0	27	3.74	0.44	4
Modeled strategies associated with best practice for lesson planning	85	31	0	0	27	3.73	0.44	4
Modeled strategies associated with best practice for implementation of lesson(s) and teaching strategies	87	29	0	0	27	3.75	0.43	4
Modeled strategies associated with best practice for assessment	86	30	0	0	27	3.74	0.44	4
Modeled strategies associated with best practice for classroom management and the learning enviro...	89	27	0	0	27	3.77	0.42	4
Allowed and encouraged candidate to explore and implement a variety of teaching strategies	88	28	0	0	27	3.76	0.43	4
Allowed and encouraged candidate to explore and implement a variety of teaching strategies	88	28	0	0	27	3.76	0.43	4
Included candidate in all professional opportunities and responsibilities	88	26	0	0	29	3.77	0.42	4
Communicated questions and concerns about the candidate's progress with the Clinical Supervisor throughout the...	86	29	0	0	28	3.75	0.43	4



Educator Preparation Provider/ Local Education Agency Primary Partnership Agreement

Educator Preparation Provider (EPP)	Milligan University

Local Education Agency (LEA)	Elizabethton City Schools

Term of Agreement	2021-2022

EPP Contact/Designee	
Name:	Angela Hilton-Prillhart
Title:	Associate Dean School of Social Sciences and Education
Email Address:	ANHilton-Prillhart@milligan.edu
Phone Number:	4234618769

LEA Contact/Designee	
Name:	Richard VanHuss
Title:	Director of Schools
Email Address:	richard.vanhuss@ecschoos.net
Phone Number:	(423)547-8000

Other Key Staff	
Name:	Mark Dula
Title:	Instructional Leader Program Director
Name:	Myra Newman
Title:	Deputy Director of Schools
Name:	
Title:	

Certification (signatures verify partnership)	
EPP Head Administrator	Name: Title: Signature: Date:
LEA Director of Schools	Name: Title: Signature: Date:

Educator Preparation Provider/ Local Education Agency Primary Partnership Agreement

Prompt 1: Identify the collaboratively-developed **recruitment and selection strategies and goals**.
(500 words)

Milligan University (MU) and Elizabethton City Schools (ECS) work collaboratively to develop recruitment selection strategies and goals. Most recently MU and ECS worked in partnership on a Grow Your Own (GYO) grant and jointly developed recruitment strategies and goals for grant participants. This grant resulted in three educational assistants receiving full tuition scholarships to complete teacher education licensure. Representatives from ECS serve on the admissions committee for Instructional Leader candidates. Additionally, representatives from ECS provide feedback on recruitment strategies and goals for initial licensure teacher candidates.

MU and ECS discuss recruitment needs in high demand areas such as special education, math, and Spanish. Special education continues to be a high-need area for ECS and, as a result, MU plans to submit a proposal for a special education endorsement program. Candidates who are pursuing secondary math and Spanish are placed for at least one clinical experience in ECS with the intention of building a pipeline of applicants in these areas for the district.

MU and ECS collaborate on the criteria for clinical placements each year as part of the Memorandum of Understanding (MOU) and Primary Partnership agreement. Recruitment of high-needs areas and underrepresented candidates is emphasized and feedback is used to improve recruitment efforts. MU and ECS have worked jointly to increase recruitment of candidates from underrepresented backgrounds and those who are interested in teaching in high-needs areas through partnership with the Diversity in Teaching grant and the more recent Grow Your Own grant.

ECS is also involved in the development of selection criteria for instructional leaders. A representative from ECS serves on the instructional leader admissions committee that develops admission criteria and makes selection criteria.

The following goals exist for the partnership:

- 1) 100% retention of admitted participants to the Grow Your Own scholarship program. Timeline: Summer 2022)
- 2) Continue to place candidates completing endorsements in high-need areas in at least one clinical placement in ECS. (Timeline: Spring 2022)
- 3) ECS will share projected areas of need with MU on an annual basis (Timeline: Spring 2022)
- 4) MU will share annual EPP performance data for initial licensure candidates and advance candidates (instructional leader and school counseling programs) with ECS. (Timeline: Spring 2022).
- 5) MU and ECS will participate in annual reviews of teacher candidate and instructional leader program requirements and admissions procedures. (Timeline: Spring/Summer 2022)
- 6) MU will submit a proposal for a new special education endorsement program to help address this shortage area in ECS. (Timeline: Summer 2022)

Educator Preparation Provider/ Local Education Agency Primary Partnership Agreement

Prompt 2: Identify how entities will collaborate to **select, prepare, evaluate, support, and retain high-quality clinical educators**, both provider and school-based, who demonstrate a positive impact on candidates' development and pre-K-12 learning and development. **(500 words)**

The designated LEA administrator and the MU Clinical Placement Coordinator co-select clinical mentors for initial teacher licensure and instructional leader candidates. Clinical mentors are co-selected according to mutually agreed-upon criteria: 1) Professional teaching license with three years full-time teaching experience and endorsement in the same content area or three years full-time instructional leader experience; 2) TVAAS/EOC scores and TEAM evaluations of "At Expectation" or higher; 3) Willingness to assume the roles expected of a mentor as defined in the Initial Licensure and Instructional Leader handbooks.

Criteria for clinical supervisors for teacher candidates and instructional leaders include the following: 1) Experience in the grade or content for which they are assigned; 2) Successful experience with past mentoring; 3) Successful completion of TEAM evaluation training; 4) Willingness to assume the responsibilities of a supervisor as defined in the initial licensure and instructional leadership handbooks. Additionally, school-based mentors and candidates are asked to provide information about the clinical supervisor each semester. This information is also used to inform future supervision assignments.

Clinical educators are prepared through an orientation before the clinical experience. All clinical educators receive a comprehensive initial licensure or instructional leader handbook, electronically available through the Clinical Educators Resources website. Primary components of the handbooks and key clinical assessments are reviewed at the orientation. Mentors are surveyed following the orientation for feedback. The clinical supervisor provides support to the mentor by conducting regular visits. During these visits, the clinical supervisor observes the mentor with teacher candidates, discusses concerns, and offers any needed support to the mentor. If the mentor has an issue or concern with the teacher candidate, the clinical supervisor takes appropriate action as outlined in the initial licensure and instructional leader handbooks. Clinical supervisors are supported by the Clinical Placement Coordinator.

If a mentor has difficulty meeting the roles, responsibilities, and expectations outlined in the initial licensure or instructional leader handbooks, additional support from the MU supervisor will be provided. If the clinical mentor continues to struggle after these additional supports are provided, the Clinical Placement Coordinator will become involved to provide support. If mentors fail to meet the roles, responsibilities, and expectations, the Clinical Placement Coordinator will assign a different mentor and will not approve the mentor for future experiences. Likewise, if the MU supervisor is not meeting the roles, responsibilities, and expectations, the Clinical Placement Coordinator will offer additional support. If the MU supervisor continues to struggle, the Area Chair will meet with the supervisor to provide additional support. If expectations are still unmet, The Area Chair will remove the supervisor from supervision.

Feedback about clinical mentors is provided by candidates and supervisors at the completion of each experience; feedback is also provided about MU supervisors by candidates and mentors at the completion of each experience. EPP administrators will closely monitor this feedback and retain clinical educators with positive ratings. The Clinical Placement Coordinator provides results of the mentor feedback to districts and results regarding supervisor feedback is shared with supervisors by the Area Chair.

Educator Preparation Provider/ Local Education Agency Primary Partnership Agreement

Prompt 3: Identify mutually-agreed upon **expectations for candidate preparation** that link theory and practice, maintain coherence across clinical and academic components of preparation, and establish shared accountability for candidate outcomes. **(500 words)**

MU and ECS collaboratively identify mutually-agreed upon expectations for candidate preparation in the initial licensure and advanced programs (instructional leadership and school counseling). To link theory to practice, representatives from ECS visit classes. Also, MU faculty participate as needed in ECS professional development. MU faculty have an opportunity to directly observe P-12 instruction through supervision of initial licensure and instructional leader candidates placed in a clinical experience with ECS. All MU education faculty have direct involvement on an annual basis in public schools through supervision or workshop attendance.

Theory and practice are linked by introducing TEAM evaluation rubrics early in coursework and then consistently providing feedback to candidates on their performance with TEAM indicators in their field experiences associated with coursework. Incorporation of the TEAM expectations maintains coherence across clinical and academic components of preparation. Candidates learn about the effective teaching methods assessed by TEAM in their coursework and then have the opportunity to apply those methods in their field and clinical experiences. These concepts and strategies are reinforced during field experiences associated with key courses within each pathway. Candidates demonstrate their knowledge of the link between theory and practice through clinical observations with feedback provided by both the MU supervisor and the mentor teacher.

Instructional leadership candidates progress from observing their clinical mentors to gradually adding responsibilities throughout the clinical experience. Instructional leadership candidates learn the cultural background of students in their assigned school or district as well as school and district learning strengths and needs. Candidates in the instructional leadership program at MU also receive instruction on the TEAM rubrics in their coursework and then have the opportunity to apply this information in their clinical experiences. Instructional leader candidates are expected to follow the TILS standards. Demonstration of the application of theory into practice occurs through a final presentation in the EDUC 770C course. Requirements of the portfolio project are reviewed annually with ECS representatives and adjustments are made based on feedback. Co-developed expectations regarding the TEAM assessment in courses and clinical experiences will be revisited each year and data regarding candidate and completer effectiveness on the TEAM model is shared annually.

Shared accountability occurs through communication and sharing of data for programmatic improvements on an annual basis. Specific areas addressed include decisions about priorities in preparation, performance measures (key assessments), responsibilities of MU and ECS in supporting teacher and instructional leader candidates, and suggestions for ensuring active engagement from both partners. Data is used to collaboratively determine where efforts in these areas can improved or refined.

Educator Preparation Provider/ Local Education Agency Primary Partnership Agreement

Prompt 4: Identify mutually-agreed upon **key assessments, transition points, and exit requirements.**
(500 words)

MU and ECS identify mutually-agreed upon key assessments. Key assessments include Praxis exams, GPA, TEAM Planning rubric, TEAM Environment rubric, TEAM Instructional rubric, Technology rubric, Dispositions rubric, and edTPA. Key assessments for the instructional leadership program includes Praxis exams, Google Level I and Level II training, TEAM Instructional Leader rubric, and GPA.

Several transition points exist for initial licensure candidates including: Stage 1: Pre-Admission Status, Stage 2: Teacher Education, Stage 3: Clinical. Candidates are considered fully admitted to the Teacher Education Program in Stage 2, but must continue to meet requirements at each transition point to progress toward licensure. Stage 1 involves Disposition scores that are "At Expectations," GPA of 3.0 or higher, and B- or better on required coursework. Stage 2 requires Disposition scores that are "At Expectations," GPA of 3.0 or higher, successful completion of specified Praxis exams, successful performance on TEAM (Planning, Instruction, and Environment), Technology rubric, passing ethics evaluation, and B- or better in required courses. Stage 3 requires Disposition scores that are "At Expectations," GPA of 3.0 or higher, successful completion of any remaining Praxis exams, successful performance on TEAM (Planning, Instruction, and Environment), Technology rubric, edTPA, and TEAM Professionalism rubric, and B- or better in required courses. Exit requirements include completion of all required licensure exams for the endorsement areas and transcript showing all coursework for the degree has been completed.

Transition points also exist for instructional leader candidates. Stage 1 involves the completion of the following requirements: Successful completion of Google Level I training, overall GPA of 3.0 or higher, grade of B- or better in select courses, successful completion of ethics training. Stage 2 involves the completion of the following requirements: Successful completion of the TEAM Administration rubric, successful completion of Google Level II training, positive disposition scores, and successful completion of the required Praxis exam. To successfully exit the program, instructional leader candidates at the Ed.D. level must successfully defend their dissertation and complete all required coursework requirements.

Educator Preparation Provider/ Local Education Agency Primary Partnership Agreement

Prompt 5: Identify mutually-agreed upon **design of clinical experiences of sufficient depth, breadth, diversity, coherence, and duration** to ensure that candidates demonstrate their developing effectiveness and positive impact on all students' learning and development. **(500 words)**

The design of the clinical experience allows candidates to demonstrate their developing effectiveness and positive impact on all students' learning and development through a series of structured experiences that follow state-approved guidelines for the duration of the clinical experience (student teaching = 15 weeks, internship and job-embedded - at least 100 days (most complete 180, instructional leader = 225 hours). In collaboration with our partners, multiple indicators and appropriate technology-based applications are used to establish, maintain, and refine criteria for continuous improvement (CAEP, St. 2). Initial licensure candidates and instructional leader (IL) candidates are evaluated through TEAM model. TEAM provides candidates a coherent and consistent assessment as it is one of the state approved models for educator evaluation.

Concepts and evidence-based strategies related to practice are introduced during coursework for initial licensure and IL candidates. These concepts and strategies are reinforced during field experiences associated with key courses within each pathway. Candidate progress is monitored throughout coursework and clinical experiences. Teacher candidates at this level are expected to move from observing and assisting during the first two weeks of the experience, to co-teaching, to gradually adding responsibility until they are assuming full classroom teaching responsibilities by the end of the experience. During the first two weeks in each placement, candidates learn the cultural backgrounds of students in their classroom as well as student learning strengths and needs. This knowledge of students assists candidates with implementing culturally relevant practices as they gradually assume responsibility for classroom instruction. Candidates are expected to independently analyze instructional materials, resources, and curriculum based on this information and plan for appropriate supports for a variety of cultural backgrounds and learning needs. Candidates work with mentor and supervisor support to move toward independence with analyzing materials and implementing these practices into each lesson.

IL candidates progress from observing their clinical mentors to gradually adding responsibilities throughout the clinical experience. IL candidates learn the cultural background of students in their school or district as well as school and district learning strengths and needs. IL candidates are expected to follow the TILS standards.

The candidates' clinical experience allows for sufficient depth and breadth through frequent observations, constructive feedback, student data, and professional seminar courses. Both the clinical supervisor and clinical mentor evaluate (or observe) candidates several times during each experience, and feedback is provided following each observation.

Teacher candidates are required to document their positive impact on student learning through their edTPA Assessment Portfolio submission (which requires candidates to describe, analyze, and identify patterns in their P12 students' learning) and/or through TEAM evaluation scores from their clinical experiences. Candidates have sufficient clinical experiences in diverse settings through careful selection of clinical placements based on demographic information. The MC Disposition rubric, which is aligned with The Interstate New Teacher Assessment and Support Consortium (INTASC), assesses candidates' abilities in the following areas: (a) collaboration and professionalism, (b) feedback, (c) communication, (d) diverse learners, (e) ethical and legal practice, and (f) technology.

History Log

Elizabethton (101) Public District - FY 2022 - Elementary and Secondary School Emergency Relief (ESSER) - Rev 0 - History Log

Attention Needed	Date	User	Status (S)/Comment (C)	S/C
	9/16/2021 4:41:24 AM	Debby Thompson	Status changed to 'TDOE Elementary and Secondary School Emergency Relief (ESSER) Director Approved'.	S
	9/16/2021 4:41:07 AM	Debby Thompson	Status changed to 'TDOE Elementary and Secondary School Emergency Relief (ESSER) Consultant Approved'.	S
☐	9/8/2021 2:08:30 PM	Richard Vanhuss	Agreed to "Upon submission of this funding application, I attest that the facts, figures, and representations made in this application, including exhibits, attachments, and assurances herein, are accurate to the best of my knowledge. The local School Board of Education has reviewed and approved this application and this action is recorded in the official minutes of the local educational agency's board meeting."	C
	9/8/2021 2:08:30 PM	Richard Vanhuss	Status changed to 'LEA Authorized Representative Approved'.	S
	9/8/2021 1:56:40 PM	Beth Wilson	Status changed to 'LEA Fiscal Representative Approved'.	S
	9/8/2021 1:54:28 PM	Richard Vanhuss	Status changed to 'Draft Completed'.	S

Attention Needed	Date	User	Status (S)/Comment (C)	S/C
	9/1/2021 2:45:25 PM	Richard Vanhuss	Status changed to 'Draft Started'.	S
	8/1/2021 11:10:50 AM	Maryanne Durski	Status changed to 'Not Started'.	S

Allocations			
Elizabethton (101) Public District - FY 2022 - Elementary and Secondary School Emergency Relief (ESSER) - Rev 0 - Allocations			
	(1)	ESSER	Total
Original		\$0.00	\$0.00
Incoming Carryover		\$186,094.48	\$186,094.48
Outgoing Carryover		\$0.00	\$0.00
Reallocated		\$0.00	\$0.00
Additional		\$0.00	\$0.00
Released		\$0.00	\$0.00
Consortium		\$0.00	\$0.00
Forfeited		\$0.00	\$0.00
FER Released		\$0.00	\$0.00
Total		\$186,094.48	\$186,094.48

Cover Page

Elizabethton (101) Public District - FY 2022 - Elementary and Secondary School Emergency Relief (ESSER) - Rev 0 - Elementary and Secondary School Emergency Relief (ESSER)

LEA ID#

101

LEA Name

Elizabethton City Schools

LEA Official Address

Street

804 S. Watauga Avenue

City

Elizabethton

Zip Code

37643

Phone

423-547-8000

LEA Website

ecschoools.net

Director of Schools

Name

Richard VanHuss

Email

richard.vanhuss@ecschoools.net

Phone

423-547-8000

ESSER Point of Contact

Name

John Hutchins

Email

john.hutchins@ecschoools.net

Phone

423-547-8000

The Coronavirus Aid, Relief and Economic Security (CARES) Act funds available through this grant are one-time grant funds made available through the U.S. Department of Education. All funds should be used for the unique needs identified by LEAs during the COVID-19 pandemic. CARES Act funds are intended to support the academic and non-academic needs of students and to help LEAs and schools prepare for re-entry and continuous learning for the upcoming 2020-21 school year.

Budget

**Elizabethton (101) Public District - FY 2022 - Elementary and Secondary School Emergency Relief (ESSER) - Rev
0 - Elementary and Secondary School Emergency Relief (ESSER)**

Indirect Cost	
Total Contributing to Indirect Cost	\$150,811.76
Indirect Cost Rate	13.73%
Maximum Allowed for Indirect Cost	\$18,650.80

Account Number	Total
71100 - Regular Instruction Program	\$162,415.62
71150 - Alternative Instruction Program	\$0.00
71200 - Special Education Program	\$0.00
71300 - Vocational Education Program	\$0.00
72110 - Attendance	\$0.00
72120 - Health Services	\$20,000.00
72130 - Other Student Support	\$0.00
72210 - Support Services/Regular Instruction Program	\$0.00
72215 - Support Services/Alternative Instruction Program	\$0.00
72220 - Support Services/Special Education Program	\$0.00
72230 - Support Services/Vocational Education Program	\$0.00
72250 - Education Technology	\$0.00
72320 - Office of the Superintendent	\$0.00

72410 - Office of the Principal		\$0.00
72510 - Fiscal Services		\$0.00
72610 - Operation of Plant		\$0.00
72620 - Maintenance of Plant		\$0.00
72710 - Transportation		\$0.00
73100 - Food Service		\$0.00
73300 - Community Services		\$0.00
73400 - Early Childhood Education		\$0.00
76100 - Regular Capital Outlay		\$0.00
99100 - Transfers Out		\$3,678.86
	Total	\$186,094.48
	Adjusted Allocation	\$186,094.48
	Remaining	\$0.00

Budget Detail		
Elizabethton (101) Public District - FY 2022 - Elementary and Secondary School Emergency Relief (ESSER) - Rev 0 - Elementary and Secondary School Emergency Relief (ESSER) 71100 - Regular Instruction Program - \$162,415.62 ▼		
Budget Detail		Narrative Description
Account Number:	71100 - Regular Instruction Program	Purchase CKLA Foundational Skills Materials for Grades K-2 \$77,513.76 These materials will assist our teachers in implementing our Early Literacy Program. These items include digital licenses and consumables to be used during literacy instruction with our early grades students. These materials will be key resources as we work toward our goal that all students will be reading on grade level by 3rd grade.
Line Item Number:	429 - Instructional Supplies & Materials	
Focus Area:	Unique Need of Special Populations	
School Type:	Traditional Public School	
Optional Program Code:		
Location Code:	Elizabethton (101)	
Quantity:	1.00	
Cost:	\$77,513.76	
Line Item Total:	\$77,513.76	
Account Number:	71100 - Regular Instruction Program	
Line Item	471 - Software	Purchase Canvas Learning Management System \$25,784.00 This learning management system would allow our students and teachers a well-established platform from which to conduct distance/remote learning. This would be purchased for our high

Number:		school students (approx. 900 students)
Focus Area:	Purchasing Education Technology	
School Type:	Traditional Public School	
Optional Program Code:		Purchase Benchmark Assessment Tool \$27,514.00 Our District will purchase a new online benchmark assessment tool to measure student achievement throughout the school year. We feel that having a quality formative assessment tool will be vital to identify student gaps, as well as having the capability to complete these assessments in a remote learning environment.
Location Code:	Elizabethton (101)	
Quantity:	1.00	
Cost:	\$53,298.00	
Line Item Total:	\$53,298.00	
Account Number:	71100 - Regular Instruction Program	Purchase 9 Laptops for TN All Corp Tutoring \$7,663.86 These laptops will be used by our TN All Corp teachers and assistants during their tutoring sessions with students. This technology will allow our staff to access various resources for instruction. Each staff member will receive a Dell Latitude 3520 computer. The cost per unit is \$851.54.
Line Item Number:	722 - Regular Instruction Equipment	
Focus Area:	Purchasing Education Technology	
School Type:	Traditional Public School	Purchase 42 Chromebook Carts \$23,940.00 These carts will provide safe and secure storage of Chromebooks as needed. Many of our schools were built in the 1960's and 1970's, so power outlets are limited in many classrooms. These carts will provide efficient charging stations for students should their device require additional power while at school. Each cart costs approximately \$570.00.
Optional Program Code:		
Location	Elizabethton (101)	

Code:		
Quantity:	1.00	
Cost:	\$31,603.86	
Line Item Total:	\$31,603.86	
Total for 71100 - Regular Instruction Program:		\$162,415.62
Total for all other Account Numbers:		\$23,678.86
Total for all Account Numbers:		\$186,094.48
Adjusted Allocation:		\$186,094.48
Remaining:		\$0.00

Budget Detail		
Elizabethton (101) Public District - FY 2022 - Elementary and Secondary School Emergency Relief (ESSER) - Rev 0 - Elementary and Secondary School Emergency Relief (ESSER) 72120 - Health Services - \$20,000.00 ▼		
Budget Detail		Narrative Description
Account Number:	72120 - Health Services	As a result of the COVID-19 Closures, the mental health and well-being of our students is more critical than ever. Our district will partner with Frontier Health to provide a counselor to assist students who have been negatively impacted by the COVID-19 pandemic. We anticipate that the hardships associated with the pandemic will create educational and behavioral challenges for students, as well as their families. This counselor will help students manage these stressors and assist with reintegration in the school environment.
Line Item Number:	312 - Contracts with Private Agencies	
Focus Area:	Mental Health Supports	
School Type:	Traditional Public School	
Optional Program Code:		
Location Code:	Elizabethton (101)	
Quantity:	1.00	
Cost:	\$20,000.00	
Line Item Total:	\$20,000.00	
Total for 72120 - Health Services:		\$20,000.00
Total for all other Account Numbers:		\$166,094.48

Total for all Account Numbers:		\$186,094.48
Adjusted Allocation:		\$186,094.48
Remaining:		\$0.00

Budget Detail

Elizabethton (101) Public District - FY 2022 - Elementary and Secondary School Emergency Relief (ESSER) - Rev 0 - Elementary and Secondary School Emergency Relief (ESSER)
 99100 - Transfers Out - \$3,678.86

Budget Detail		Narrative Description
Account Number:	99100 - Transfers Out	Indirect Cost
Line Item Number:	504 - Indirect Cost	
Focus Area:	Other Approved Activities	
School Type:	Traditional Public School	
Optional Program Code:		
Location Code:	Elizabethton (101)	
Quantity:	1.00	
Cost:	\$3,678.86	
Line Item Total:	\$3,678.86	
Total for 99100 - Transfers Out:		\$3,678.86
Total for all other Account Numbers:		\$182,415.62

Total for all Account Numbers:		\$186,094.48
Adjusted Allocation:		\$186,094.48
Remaining:		\$0.00

Budget Overview

Elizabethton (101) Public District - FY 2022 - Elementary and Secondary School Emergency Relief (ESSER) - Rev 0 - Elementary and Secondary School Emergency Relief (ESSER)

Indirect Cost	
Total Contributing to Indirect Cost	\$150,811.76
Indirect Cost Rate	13.73%
Maximum Allowed for Indirect Cost	\$18,650.80

Filter by Location: All - \$186,094.48 ▼

Account Number Line Item Number	71100 - Regular Instruction Program	72120 - Health Services	99100 - Transfers Out	Total
312 - Contracts with Private Agencies	0.00	20,000.00		20,000.00
429 - Instructional Supplies & Materials	77,513.76			77,513.76
471 - Software	53,298.00	0.00		53,298.00
504 - Indirect Cost			3,678.86	3,678.86
722 - Regular Instruction Equipment	31,603.86			31,603.86

Account Number	71100 - Regular Instruction Program	72120 - Health Services	99100 - Transfers Out	Total
Line Item Number				
Total	162,415.62	20,000.00	3,678.86	186,094.48
	Adjusted Allocation			186,094.48
	Remaining			0.00

Elizabethton (101) Public District - FY 2022 - Elementary and Secondary School Emergency Relief (ESSER) - Rev 0 - Elementary and Secondary School Emergency Relief (ESSER)

To better understand each LEA's use of CARES Act funds, provide data below by grade span and subject:

☐ ☐ N/A

Schoolwork K-2

Grades K-2	ELA	Math	Science	Social Studies	Physical Education	Art
Did your LEA distribute work to be completed?	* Optional	* Optional	* Optional	* Optional	* Optional	* Optional
If optional, required, or mixed, enter number of hours of work expected weekly:	* 1-5	* 1-5	* 1-5	* 1-5	* 1-5	* 1-5
Was work completion tracked for students?	* Yes	* Yes	* Yes	* Yes	* No	* No
What percentage of work was returned from students?	* 71-80	* 71-80	* 71-80	* 71-80	* 0	* 0
What method was used to share instructional materials with students during spring closures?	* Both	* Both	* Both	* Both	* Both	* Both

☐ N/A

Well Checks K-2

Grades K-2	All Students	Students with Disabilities	English Language Learners	Economically Disadvantaged Students
Estimate the percent of students who had at least one meaningful interaction with school personnel during school closures.	* 91-99 ▼	* 91-99 ▼	* 91-99 ▼	* 81-90 ▼
Estimate the percent of students who had regular meaningful interactions with school personnel during school closures.	* 81-90 ▼	* 81-90 ▼	* 81-90 ▼	* 81-90 ▼
In the above question, "regular" means:	* 2-4 times per week ▼	* 2-4 times per week ▼	* 2-4 times per week ▼	* 2-4 times per week ▼

☐ N/A

Schoolwork 3-5

Grades 3-5	ELA	Math	Science	Social Studies	Physical Education	Art
Did your LEA distribute work to be completed?	* Optional ▼	* Optional ▼	* Optional ▼	* Optional ▼	* Optional ▼	* Optional ▼
If optional, required, or mixed, enter number of hours of work expected weekly:	* 1-5 ▼	* 1-5 ▼	* 1-5 ▼	* 1-5 ▼	* 1-5 ▼	* 1-5 ▼
Was work completion tracked for students?	* Yes ▼	* Yes ▼	* Yes ▼	* Yes ▼	* No ▼	* No ▼
What percentage of work was returned from students?	* 71-80 ▼	* 71-80 ▼	* 71-80 ▼	* 71-80 ▼	* 0 ▼	* 0 ▼

What method was used to share instructional materials with students during spring closures?	* Both ▼	* Both ▼	* Both ▼	* Both ▼	* Both ▼

☐ N/A

Well Checks 3-5

Grades 3-5	All Students	Students with Disabilities	English Language Learners	Economically Disadvantaged Students
Estimate the percent of students who had at least one meaningful interaction with school personnel during school closures.	* 91-99 ▼	* 91-99 ▼	* 91-99 ▼	* 81-90 ▼
Estimate the percent of students who had regular meaningful interactions with school personnel during school closures.	* 81-90 ▼	* 91-99 ▼	* 81-90 ▼	* 71-80 ▼
In the above question, "regular" means:	* 2-4 times per week ▼	* 2-4 times per week ▼	* 2-4 times per week ▼	* 2-4 times per week ▼

☐ N/A

Schoolwork 6-8

Grades 6-8	ELA	Math	Science	Social Studies	Physical Education	Art
Did your LEA distribute work to be completed?	* Optional ▼	* Optional ▼	* Optional ▼	* Optional ▼	* Optional ▼	* Optional ▼
If optional, required, or mixed, enter number of hours of work expected weekly:	* 1-5 ▼	* 1-5 ▼	* 1-5 ▼	* 1-5 ▼	* 1-5 ▼	* 1-5 ▼

Was work completion tracked for students?	* Yes ▼	* Yes ▼	* Yes ▼	* No ▼	* No ▼
What percentage of work was returned from students?	* 71-80 ▼	* 71-80 ▼	* 71-80 ▼	* 0 ▼	* 0 ▼
What method was used to share instructional materials with students during spring closures?	* Both ▼	* Both ▼	* Both ▼	* Both ▼	* Both ▼

☐ N/A

Well Checks 6-8

Grades 6-8	All Students	Students with Disabilities	English Language Learners	Economically Disadvantaged Students
Estimate the percent of students who had at least one meaningful interaction with school personnel during school closures.	* 91-99 ▼	* 91-99 ▼	* 91-99 ▼	* 91-99 ▼
Estimate the percent of students who had regular meaningful interactions with school personnel during school closures.	* 81-90 ▼	* 91-99 ▼	* 81-90 ▼	* 81-90 ▼
In the above question, "regular" means:	* 2-4 times per week ▼	* 2-4 times per week ▼	* 2-4 times per week ▼	* 2-4 times per week ▼

☐ N/A

Schoolwork 9-12

Grades 9-12	ELA	Math	Science	Social Studies	Physical Education	Art

Did your LEA distribute work to be completed?	* Optional ▼	* Optional ▼	* Optional ▼	* Optional ▼	* Optional ▼
If optional, required, or mixed, enter number of hours of work expected weekly:	* 1-5 ▼	* 1-5 ▼	* 1-5 ▼	* 1-5 ▼	* 1-5 ▼
Was work completion tracked for students?	* Yes ▼	* Yes ▼	* Yes ▼	* Yes ▼	* Yes ▼
What percentage of work was returned from students?	* 71-80 ▼	* 71-80 ▼	* 71-80 ▼	* 71-80 ▼	* 41-50 ▼
What method was used to share instructional materials with students during spring closures?	* Both ▼	* Both ▼	* Both ▼	* Both ▼	* Both ▼

☐ N/A

Well Checks 9-12

Grades 9-12	All Students	Students with Disabilities	English Language Learners	Economically Disadvantaged Students
Estimate the percent of students who had at least one meaningful interaction with school personnel during school closures.	* 91-99 ▼	* 91-99 ▼	* 91-99 ▼	* 81-90 ▼

Estimate the percent of students who had regular meaningful interactions with school personnel during school closures.	* 81-90 ▼	* 81-90 ▼	* 81-90 ▼	* 81-90 ▼
In the above question, "regular" means:	* 2-4 times per week ▼	* 2-4 times per week ▼	* 2-4 times per week ▼	* 2-4 times per week ▼

Reflect on Data

* What are the LEA's plans for measuring student progress given the data provided above?

We plan to use a benchmark assessment tool (state or local) to determine gaps in students' mastery of standards in their grade level in 2019-20. We will administer a cumulative assessment of the previous grade in August upon return to school. The data from this gap analysis assessment will inform our instruction and determine what intervention is needed for each grade, standards and students. We will also utilize our Universal Screener data to inform our intervention needs and groups. Progress monitoring will be conducted throughout the intervention time with formative assessments.

* How does the LEA intend to address learning gaps resulting from the disruption of educational services? (CARES Act § 18003 (B))

We will utilize our data from our gap analysis assessment in August and our data from Universal Screener to inform our instruction, grouping, and differentiated instruction. We will support collaboration between grade levels to ensure grade level standards were gaps have been identified are addressed at the appropriate grade expectations. We will utilize our educational assistants and teachers to allow for small group instruction on identified standards gaps.

* Briefly describe how your district conducted checks on students (academically, non-academically/development/etc.). Include frequency of checks, number of students, and any other details.

Our teachers utilized several modes of communication tools to check on their students. Classroom instruction was either continued through Google Classroom, instructional packets, and Zoom meetings. Teachers personally connected with students either individually or in group settings weekly. Some of our teachers delivered instructional packets to the homes of our students who were unable to pick up packets at the school. Teachers were responsible for checking on their assigned classroom of students. Counselors and other related arts teachers who may not have been teachers of record provided lessons through multiple platforms.

Program Details	
Elizabethton (101) Public District - FY 2022 - Elementary and Secondary School Emergency Relief (ESSER) - Rev 0 - Elementary and Secondary School Emergency Relief (ESSER)	
Planning	* Reflect on the challenges that the LEA faced during the COVID-19 pandemic. What prioritized needs did the LEA identify during the pandemic, and how do these needs relate to the selected focus area(s)? As we closed school for COVID-19 we found that our system faced several challenges as we focused on continuing instruction. A few of the challenges we faced are bulleted below: ▪ Not enough devices to support one-to-one for online learning ▪ No consistent Learning Management System (LMS) ▪ Insufficient internet connections for all students at home ▪ Teachers and students were not trained or familiar with how to deliver and receive online courses ▪ social/emotional needs of students returning to school Our focus areas all revolve around these four challenges. Our plan addresses the need for additional devices (chromebooks for students and teacher laptops for remote/distance learning), reliable internet options for students (internet hot spots and outdoor wireless access points), and social/emotional needs of students (mental health counselor).
Timeline	* Provide a timeline for providing services to students and staff in public and non-public schools in the box below. (CARES Act § 18003 (B)) June '20 ▪ Conduct stakeholder surveys for feedback on reopening options and plans ▪ Conduct reopening planning meetings with various district staff members and stakeholders ▪ Complete purchasing of devices and securing partnership with Frontier Health for new personnel

Planning

* Reflect on the challenges that the LEA faced during the COVID-19 pandemic. What prioritized needs did the LEA identify during the pandemic, and how do these needs relate to the selected focus area(s)?

As we closed school for COVID-19 we found that our system faced several challenges as we focused on continuing instruction. A few of the challenges we faced are bulleted below:

- Not enough devices to support one-to-one for online learning
- No consistent Learning Management System (LMS)
- Insufficient internet connections for all students at home
- Teachers and students were not trained or familiar with how to deliver and receive online courses
- social/emotional needs of students returning to school

Our focus areas all revolve around these four challenges. Our plan addresses the need for additional devices (chromebooks for students and teacher laptops for remote/distance learning), reliable internet options for students (internet hot spots and outdoor wireless access points), and social/emotional needs of students (mental health counselor).

Timeline

* Provide a timeline for providing services to students and staff in public and non-public schools in the box below.
(CARES Act § 18003 (B))

June '20

- Conduct stakeholder surveys for feedback on reopening options and plans
- Conduct reopening planning meetings with various district staff members and stakeholders
- Complete purchasing of devices and securing partnership with Frontier Health for new personnel

July '20

- Finalize reopening options and communicate with stakeholders for feedback
- Complete teacher training as needed (i.e. device usage, distance learning PD, etc.)

August '20

- Reopen schools and distribute devices to students
- Provide students with training for device and distance learning
- Provide mental health counseling services to students as needed

August 2020 - May 2021

- Progress Monitoring of our plans and implementations throughout the year to ensure students are progressing toward mastery.

Budget & Spending Plan

The CARES funds are not intended to replace state/local funding but instead are intended to provide additional funding to address emergent needs resulting from COVID-19. With school closure decisions, districts likely had unanticipated budget surpluses (i.e. operations, transportation) that should be repurposed to support other expenditures arising from COVID-19 (i.e. food services, paper, postage, etc.). The expectation for CARES funding is that it should be utilized primarily for re-opening and learning acceleration to address gaps resulting from school closure.

* In what areas has the LEA experienced significant budget-to-actual differences in state/local funds?

We experienced significant budget -to-actual savings in state/local funds in the areas of Transportation in fuel cost (\$14,000), Custodial Supplies (\$5,000), Substitute Teachers (\$65,000) and Utility Cost such as Natural Gas, electricity and water (\$10,000). This totals \$94,000.

We experienced significant budget-to-actual deficits in state/local funds in the areas of deep sanitation/cleaning (\$20,000), food services (\$75,000), technology for home instruction delivery (\$10,000) and after school program

(\$20,000). This totals \$125,000.

* How have these differences been repurposed to address related needs (i.e. custodial savings to sanitization costs, utilities and gas for buses (etc.) to nutrition).

The areas of savings listed above where reallocated to support the deficits occurred in the areas of sanitation/cleansing, food services, technology for home instruction delivery and after school program. The accrued savings will not completely cover the deficits, therefore fund balance will be utilized to cover remaining costs.

* Detail the LEA's projections for non-covered costs for the remainder of this fiscal year related to COVID.

We foresee the a projection of non-covered costs for the remainder of this fiscal year related to COVID in the following areas:

- Extended School Program - \$20,000
- School Nutrition (end of school year and summer feeding program) - \$75,000

* Detail the LEA's budget projections for COVID-related needs for the next fiscal year (consider the potential need for remedial learning, change in program decisions/delivery, fall resurgence of illness).

In analyzing projected needs for next fiscal year that is related to COVID we have identified the following items to be necessary to support student learning:

- *Need for a consistent Learning Management System
- *Chromebooks for students - 1-to-1 devices
- *Laptops for teachers
- *On-going professional development to support on-line learning
- *Continued social/emotional support through mental health services
- *Benchmark assessment tool in order to identify gaps in instruction and learning
- *Internet capabilities for both teachers and students for remote learning
- *Software to support remote learning
- *Document cameras to support remote learning
- *Instructional materials for gap intervention

Spending Plan

After analyzing and repurposing other funding sources, develop the spending plan for the CARES funds aligned with the needs that emerged from the COVID-19 pandemic and your larger district plan.

* Provide a description of the reasonable and necessary administrative activities and personnel (supplies, and equipment used to administer the grant program included). This includes the FTE and amount deducted from the grant.

Our district did not deduct any amount for administrative costs. Our district put 3,678.86 in indirect cost, but this is not for costs that may be incurred during administration for the program. Most program administration will be completed by current personnel as part of their job duties. Depending on the numbers of students who request home schooling, our district may hire additional personnel to manage the online learning platform.

For each of the applicable focus areas below, indicate the amount in the space provided and include a narrative in the text box on how this focus area addresses the needs. NOTE: The combined amounts across the six areas should not exceed your LEA's allocation. A recommend allowable expenses document for the CARES Act may be accessed here.

1. Purchasing Education Technology (including hardware, software, and connectivity)

\$ 84,901.86 Amount

Describe the proposed activities and use of funds. Explain how the effectiveness of the activities will be assessed and how these proposed activities align with either the health/safety or academic priority.

Purchase Canvas Learning Management System \$25,784.00

This learning management system would allow our students and teachers a well-established platform from which to conduct distance/remote learning. This would be purchased for our high school students (approx. 900 students)

Purchase Benchmark Assessment Tool \$27,514.00

Our District will purchase a new online benchmark assessment tool to measure student achievement throughout the school year. We feel that having a quality formative assessment tool will be vital to identify student gaps, as well as having the capability to complete these assessments in a remote learning environment.

Purchase 9 Laptops for TN All Corp Tutoring \$7,663.86

These laptops will be used by our TN All Corp teachers and assistants during their tutoring sessions with students. This technology will allow our staff to access various resources for instruction. Each staff member will receive a Dell Latitude 3520 computer. The cost per unit is \$851.54.

Purchase 42 Chromebook Carts \$23,940.00

These carts will provide safe and secure storage of Chromebooks as needed. Many of our schools were built in the 1960's and 1970's, so power outlets are limited in many classrooms. These carts will provide efficient charging stations for students should their device require additional power while at school. Each cart costs approximately \$570.00.

2. Providing Summer Learning and Supplemental After School Programs (including online/distance learning)

\$ 0.00 Amount

Describe the proposed activities and use of funds. Explain how the effectiveness of the activities will be assessed and how these proposed activities align with either the health/safety or academic priority.

3. Planning for Long-Term Closures

\$ 0.00 Amount

Describe the proposed activities and use of funds. Explain how the effectiveness of the activities will be assessed and how these proposed activities align with either the health/safety or academic priority.

4. Addressing the Unique Needs of Special Populations

\$ 77,513.76 Amount

Describe the proposed activities and use of funds. Explain how the effectiveness of the activities will be assessed and how these proposed activities align with either the health/safety or academic priority.

Purchase CKLA Foundational Skills Materials for Grades K-2 \$77,513.76

These materials will assist our teachers in implementing our Early Literacy Program. These items include digital licenses and consumables to be used during literacy instruction with our early grades students. These materials will be key resources as we work toward our goal that all students will be reading on grade level by 3rd grade.

5. Providing Mental Health Supports

\$ 20,000.00 Amount

Describe the proposed activities and use of funds. Explain how the effectiveness of the activities will be assessed and how these proposed activities align with either the health/safety or academic priority.

Mental Health Counselor \$20,000.00 (Health/Safety)

As a result of the COVID-19 Closures, the mental health and well-being of our students is more critical than ever. Our district will partner with Frontier Health to provide a counselor to assist students who have been negatively impacted by the COVID-19 pandemic. We anticipate that the hardships associated with the pandemic will create educational and behavioral challenges for students, as well as their families. This counselor will help students manage these stressors and assist with reintegration in the school environment. The effectiveness of this activity will be assessed by analyzing student referral, student discipline, and school attendance data.

6. Conducting Other Necessary Activities to maintain the operation of services, employing existing staff, coordinating activities, or providing principal and school leaders necessary resources. Note: items in this category will require more extensive rationale/support.

\$ 3,678.86 Amount

Describe the proposed activities and use of funds. Explain how the effectiveness of the activities will be assessed and how these proposed activities align with either the health/safety or academic priority.

Indirect Cost

Equitable Services

Elizabethton (101) Public District - FY 2022 - Elementary and Secondary School Emergency Relief (ESSER) - Rev 0 - Elementary and Secondary School Emergency Relief (ESSER)

  N/A: The LEA certifies that no non-public schools are geographically located in the LEA or that the LEA has communicated with all non-public schools geographically located in the LEA and none wish to participate in equitable services for this grant.

Charter Schools

Elizabethton (101) Public District - FY 2022 - Elementary and Secondary School Emergency Relief (ESSER) - Rev 0 - Elementary and Secondary School Emergency Relief (ESSER)



☒ N/A: The LEA certifies that no public charter schools are geographically located in the district.

Related Documents

Elizabethton (101) Public District - FY 2022 - Elementary and Secondary School Emergency Relief (ESSER) - Rev 0 - Elementary and Secondary School Emergency Relief (ESSER)

Optional Documents		
Type	Document Template	Document/Link
Affirmation of Timely/Meaningful Consultation [Upload up to 5 document(s)]	 <u>Affirmation of Meaningful Private School Consultation</u>	
Intent to participate forms [Upload up to 5 document(s)]	N/A	
Equitable Services Calculation Worksheet – Total Enrollment [Upload up to 1 document(s)]	 <u>Equitable Services Calculation – Total Enrollment</u>	
Equitable Services Calculation Worksheet – Title I, Part A Formula [Upload up to 1 document(s)]	 <u>Equitable Services Calculation Worksheet – Title I, Part A Formula</u>	
ESSER Fund Non-Public School Agreement	 <u>ESSER Fund Non-Public School Agreement</u>	

Assurances	
Elizabethton (101) Public District - FY 2022 - Elementary and Secondary School Emergency Relief (ESSER) - Rev 00 - Elementary and Secondary School Emergency Relief (ESSER)	☒ * The local education agency (LEA) hereby assures the state education agency (SEA) that the LEA meets each of the following conditions: Assurances 1. The LEA shall to the greatest extent practicable, continue to pay its employees and contractors during the period of any disruptions or closures related to coronavirus. 2. All programs, services, and activities covered by this Grant Application will be operated in accordance with state and federal laws, regulations, as well as approved policies and rules as established by the Tennessee State Board of Education and the Tennessee Department of Education. The U.S. Office of Management and Budget's Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards are available here. 3. Expenditures will be in compliance with the standard accounting procedures and guidelines established by the Tennessee Department of Education, federal legislation, and F&A Accounts Policy 03. 4. Recognize that state approval of an application does not relieve the LEA of its responsibility to comply with all applicable program and fiscal requirements. 5. Grant funds will not be expended in any manner other than as outlined in the budgeted section of the approved grant application will only be made for allowable costs. Any changes to the original budget must be pre-approved by the State before line items are modified. District acknowledges that this program is subject to funds availability and that the State reserves the right to terminate program activities and expenditures for convenience at any time. 6. Use fiscal control and fund accounting procedures that ensure proper disbursement of and accounting for federal funds paid to that agency under each program as noted in CMIA 7211R rule. 7. Keep such records, and provide such information to the State, as may be reasonably required for fiscal audit, data reporting, and program evaluation. 8. Program activities, expenditures, and records shall be subject to monitoring by the State. Districts must maintain

documentation of all expenditures and should submit this documentation with the final report.

9. Activities should align with the intent and purpose of the CARES Act as outlined in the H.R. 748 legislation. Allowable services, activities, and expenditures funded with the CARES Act align with the ESEA, IDEA, and CTE, and other allowable programs shall be provided in compliance with established Federal and State Rules, Regulations, & Minimum Standards. (CARES Act § 18003 (B))

10. Special Education and Related Services will be provided in compliance with established Federal and State Rules, Regulations, & Minimum Standards.

11. Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000d et seq., which prohibits discrimination on the basis of race, color, or national origin in any program or activity receiving Federal financial assistance;

12. Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. 1681 et seq., which prohibits discrimination on the basis of sex in any education program or activity receiving federal financial assistance; and

13. All regulations, guidelines, and standards issued by the Tennessee Department of Education and U.S. Department of Education under any of these statutes.

Charter Assurances (if applicable)

1. The LEA will ensure that Charter Schools have an equal opportunity to participate to the full extent in CARES Act grant.

2. The LEA has a clear process for ensuring all applicable laws and regulations regarding ESEA, IDEA, and other programs and funding are followed in its authorized charter schools.

3. The charter school will comply with all requirements associated with the funding source as a condition for the State to receive any of the federal funds.

4. The charter school will maintain accurate and timely project records which document progress in implementing this project, and which demonstrate compliance with all state and federal fiscal and program requirements.

Non-Public Schools (if applicable)

1. The LEA has engaged in timely and meaningful consultation pertaining to the CARES Act and maintains all required documentation to support such consultation. (CARES Act § 18005 (B))

2. The LEA will ensure that all supported activities are approved and provided in a timely fashion and in accordance

with agreements made as a result of meaningful consultation with non-public/private school representatives.
(CARES Act § 18005 (B))

3. The LEA will obligate all non-public/private school funds during the fiscal year in which allocated and in support of activities agreed upon as a result of required consultation. (CARES Act § 18005 (B))

4. The LEA will engage in ongoing consultation with participating non-public/private school representatives as necessary to ensure continued communication, monitor agreed-upon activities, and to determine the effectiveness of provided activities. (CARES Act § 18005 (B))

Elementary and Secondary School Emergency Relief (ESSER) Checklist

Elizabethton (101) Public District - FY 2022 - Elementary and Secondary School Emergency Relief (ESSER) - Rev 0 - Elementary and Secondary School Emergency Relief (ESSER) Checklist

This checklist is a means of communication between the TDOE and LEAs regarding the allowability and allocability of the items submitted in the funding application. Please follow the steps below to ensure that the funding application contains items that are in compliance with program requirements.

- After the LEA submits the application, the TDOE will review the application and mark each section as OK, Not Applicable, or Attention Needed. If the application contains no items that are marked as Attention Needed, the application will be approved.
- If the application contains items that are marked as Needs Attention, the application will be returned to the LEA with a status of not approved. The LEA will review the checklist for items that are marked Attention Needed and make the necessary changes to those items. Only the checked items in the sections marked Attention Needed are to be corrected and/or explained. Each section marked Attention Needed also has a place where the TDOE may provide notes to explain items needing attention. The LEA should check for notes and additional comments.
- Once the LEA has made the necessary adjustments, the LEA will resubmit the application for approval. If the TDOE determines that the item has been corrected, Attention Needed will be changed to OK by the TDOE Reviewer. If the items needing attention still have not been corrected, the application will be returned again to the LEA with a status of Not Approved.
- Applications that contain no items that are marked Attention Needed will be approved.

General Checklist Comment			
No comments have been made at this time			
Checklist Description (Collapse All Expand All)			
☐	1. Allocations	OK	Debby Thompson 9/16/2021 4:40:49 AM
	1. Allocation		
☐	2. Cover Page/Contacts	OK	Debby Thompson 9/16/2021 4:40:49 AM
	1. Cover Page		
☐	3. Budget	OK	Debby Thompson 9/16/2021 4:40:49 AM
	1. Budget & Budget Narratives		
☐	4. Program Details	OK	Debby Thompson 9/16/2021 4:40:50 AM
	1. Program Details		
☐	5. Equitable Services	Not Applicable	Debby Thompson 9/16/2021 4:40:50 AM
	1. Program Details		
	2. Related Documents- Non-Public Districts Only: Affirmation of Timely/Meaningful Consultation (min 0 max 1) Intent to Participate Form (min 0 max 1) Equitable Services Set-Aside Spreadsheet (min 0 max 1)		
☐	6. Charter Schools	Not Applicable	Debby Thompson 9/16/2021 4:40:50 AM
	1. Charter Schools		
☐	7. Data Collection and Planning	OK	Debby Thompson 9/16/2021 4:40:50 AM
	1. Data Collection and Planning		
☐	8. Assurances	OK	Debby Thompson 9/16/2021

1. Assurances

History Log

Elizabethton (101) Public District - FY 2022 - Elementary and Secondary School Emergency Relief (ESSER) 2.0 - Rev 0 - History Log

Attention Needed	Date	User	Status (S)/Comment (C)	S/C
	10/6/2021 11:47:49 AM	Henry LaFollette	Status changed to 'TDOE Elementary and Secondary School Emergency Relief (ESSER) 2.0 Consultant Approved'.	S
☐	10/4/2021 1:53:12 PM	Richard Vanhuss	Agreed to "Upon submission of this funding application, I attest that the facts, figures, and representations made in this application, including exhibits, attachments, and assurances herein, are accurate to the best of my knowledge. The local School Board of Education will review and approve this application and this action will be recorded in the official minutes of the local educational agency's board meeting."	C
	10/4/2021 1:53:12 PM	Richard Vanhuss	Status changed to 'LEA Authorized Representative Approved'.	S
	10/4/2021 1:52:25 PM	Beth Wilson	Status changed to 'LEA Fiscal Representative Approved'.	S
	9/29/2021 10:30:48 AM	Richard Vanhuss	Status changed to 'Draft Completed'.	S
	9/29/2021 10:29:14 AM	Henry LaFollette	Status changed to 'TDOE Elementary and Secondary School Emergency Relief (ESSER) 2.0 Consultant Returned Not Approved'.	S

Attention Needed	Date	User	Status (S)/Comment (C)	S/C
☐	9/29/2021 10:25:50 AM	Richard Vanhuss	Agreed to "Upon submission of this funding application, I attest that the facts, figures, and representations made in this application, including exhibits, attachments, and assurances herein, are accurate to the best of my knowledge. The local School Board of Education has reviewed and approved this application and this action is recorded in the official minutes of the local educational agency's board meeting."	C
	9/29/2021 10:25:50 AM	Richard Vanhuss	Status changed to 'LEA Authorized Representative Approved'.	S
	9/29/2021 10:25:13 AM	Beth Wilson	Status changed to 'LEA Fiscal Representative Approved'.	S
	9/29/2021 10:16:03 AM	Richard Vanhuss	Status changed to 'Draft Completed'.	S
	9/29/2021 10:04:47 AM	Henry LaFollette	Status changed to 'TDOE Elementary and Secondary School Emergency Relief (ESSER) 2.0 Consultant Returned Not Approved'.	S
☐	9/23/2021 2:51:09 PM	Richard Vanhuss	Agreed to "Upon submission of this funding application, I attest that the facts, figures, and representations made in this application, including exhibits, attachments, and assurances herein, are accurate to the best of my knowledge. The local School Board of Education has reviewed and approved this application and this action is recorded in the official minutes of the local educational agency's board meeting."	C
	9/23/2021 2:51:09 PM	Richard Vanhuss	Status changed to 'LEA Authorized Representative Approved'.	S

Attention Needed	Date	User	Status (S)/Comment (C)	S/C
	9/23/2021 2:50:41 PM	Beth Wilson	Status changed to 'LEA Fiscal Representative Approved'.	S
	9/23/2021 2:50:29 PM	Richard Vanhuss	Status changed to 'Draft Completed'.	S
	9/1/2021 2:47:54 PM	Richard Vanhuss	Status changed to 'Draft Started'.	S
	8/1/2021 11:12:01 AM	Maryanne Durski	Status changed to 'Not Started'.	S

Allocations

Elizabethton (101) Public District - FY 2022 - Elementary and Secondary School Emergency Relief (ESSER) 2.0 - Rev 0 - Allocations

	(1)	ESSER 2.0	Total
Original		\$0.00	\$0.00
Incoming Carryover		\$2,482,728.20	\$2,482,728.20
Outgoing Carryover		\$0.00	\$0.00
Reallocated		\$0.00	\$0.00
Additional		\$0.00	\$0.00
Released		\$0.00	\$0.00
Consortium		\$0.00	\$0.00
Forfeited		\$0.00	\$0.00
FER Released		\$0.00	\$0.00
Total		\$2,482,728.20	\$2,482,728.20

Cover Page

Elizabethton (101) Public District - FY 2022 - Elementary and Secondary School Emergency Relief (ESSER) 2.0 - Rev 0 - Elementary and Secondary School Emergency Relief (ESSER) 2.0

LEA ID#

101

LEA Name

Elizabethton City Schools

LEA Official Address

Street

804 South Watauga Avenue

City

Elizabethton

Zip Code

37643

Phone

423-547-8000

LEA Website

www.ecschools.net

Director of Schools

Name

Richard VanHuss

Email

richard.vanhuss@ecschoools.net

Phone

423-547-8000

ESSER 2.0 Point of Contact

Name

John Hutchins

Email

john.hutchins@ecschoools.net

Phone

423-547-8000

The Coronavirus Aid, Relief and Economic Security (CARES) Act and Coronavirus Response and Relief Supplemental Appropriations (CRRSA) Act funds available through this grant are one-time grant funds made available through the U.S. Department of Education. All funds should be used for the unique needs identified by LEAs during the COVID-19 pandemic. CARES Act funds are intended to support the academic and non-academic needs of students and to help LEAs and schools prepare for re-entry and continuous learning for the upcoming 2021-22 school year.

Budget

Elizabethton (101) Public District - FY 2022 - Elementary and Secondary School Emergency Relief (ESSER) 2.0 - Rev 0 - Elementary and Secondary School Emergency Relief (ESSER) 2.0

Indirect Cost	
Total Contributing to Indirect Cost	\$1,867,395.20
Indirect Cost Rate	13.73%
Maximum Allowed for Indirect Cost	\$237,392.12

Account Number	Total
71100 - Regular Instruction Program	\$920,942.15
71150 - Alternative Instruction Program	\$0.00
71200 - Special Education Program	\$0.00
71300 - Vocational Education Program	\$0.00
72110 - Attendance	\$0.00
72120 - Health Services	\$76,000.00
72130 - Other Student Support	\$0.00
72210 - Support Services/Regular Instruction Program	\$0.00
72215 - Support Services/Alternative Instruction Program	\$0.00
72220 - Support Services/Special Education Program	\$0.00
72230 - Support Services/Vocational Education Program	\$0.00
72250 - Education Technology	\$139,410.00
72260 - Support Services/Adult Education Program	\$0.00

72310 - Board of Education		\$0.00
72320 - Office of the Superintendent		\$0.00
72410 - Office of the Principal		\$0.00
72510 - Fiscal Services		\$0.00
72520 - Human Resources/Personnel		\$0.00
72610 - Operation of Plant		\$0.00
72620 - Maintenance of Plant		\$0.00
72710 - Transportation		\$0.00
73100 - Food Service		\$0.00
73300 - Community Services		\$0.00
73400 - Early Childhood Education		\$0.00
76100 - Regular Capital Outlay		\$1,247,376.05
99100 - Transfers Out		\$99,000.00
	Total	\$2,482,728.20
	Adjusted Allocation	\$2,482,728.20
	Remaining	\$0.00

Budget Detail		
Elizabethton (101) Public District - FY 2022 - Elementary and Secondary School Emergency Relief (ESSER) 2.0 - Rev 0 - Elementary and Secondary School Emergency Relief (ESSER) 2.0 71100 - Regular Instruction Program - \$920,942.15 ▼		
Budget Detail		Narrative Description
Account Number:	71100 - Regular Instruction Program	Teacher Stipends for After School Tutoring \$96,000 Teachers in grades K-12 will be given stipends to provide after school tutoring during the school year to address learning loss and remediation for identified students. This funding would cover 48 teachers at \$2,000 each, for at total of \$96,000.
Line Item Number:	116 - Teachers	
Focus Area:	Addressing Learning Loss: Coordinat...	
School Type:	Traditional Public School	
Optional Program Code:		
Location Code:	Elizabethton (101)	
Quantity:	1.00	
Cost:	\$96,000.00	
Line Item Total:	\$96,000.00	
Account Number:	71100 - Regular Instruction Program	
Line Item	201 - Social Security	Teachers Stipends for After School Tutoring Social Security \$5,952

Number:		Teacher Stipends for Literacy Foundations Training Social Security \$6,076	
Focus Area:	Addressing Learning Loss: Coordinat...		
School Type:	Traditional Public School		
Optional Program Code:			
Location Code:	Elizabethton (101)		
Quantity:	1.00		
Cost:	\$12,028.00		
Line Item Total:	\$12,028.00		
Account Number:	71100 - Regular Instruction Program	Teacher Stipends for After School Tutoring State Retirement \$9,820	
Line Item Number:	204 - State Retirement	Teacher Stipends for Literacy Foundations Training Retirement \$9,683.70	
Focus Area:	Addressing Learning Loss: Coordinat...		
School Type:	Traditional Public School		
Optional Program Code:			
Location	Elizabethton (101)		

Code:		
Quantity:	1.00	
Cost:	\$19,503.70	
Line Item Total:	\$19,503.70	
Account Number:	71100 - Regular Instruction Program	Teacher Stipends for After School Tutoring Employee Medicare \$1,392 Teacher Stipends for Literacy Foundations Training Medicare \$1,421
Line Item Number:	212 - Employer Medicare	
Focus Area:	Addressing Learning Loss: Coordinat...	
School Type:	Traditional Public School	
Optional Program Code:		
Location Code:	Elizabethton (101)	
Quantity:	1.00	
Cost:	\$2,813.00	
Line Item Total:	\$2,813.00	
Account Number:	71100 - Regular Instruction Program	Purchase Canvas Learning Management System \$71,722.45 This learning management system would allow our students and teachers a well-established platform from which to conduct distance/remote learning. This would be purchased for our high
Line Item	471 - Software	

Number:		school and junior high students (approx. 1500 students)
Focus Area:	Purchasing Education Technology	Purchase Student Seats from Odysseyware Online Learning System \$120,000.00
School Type:	Traditional Public School	As a result of learning losses we have seen from last year, we anticipate students may need more opportunities to stay on track to graduate. This program will be used in our credit recovery program to assist students in gaining credits they did not earn during the last year and a half of school. These funds will be used to open up more seats for our students to complete the required coursework.
Optional Program Code:		
Location Code:	Elizabethton (101)	
Quantity:	1.00	Purchase Benchmark Assessment Tool \$82,542.00
Cost:	\$274,264.45	Our District will purchase a new online benchmark assessment tool to measure student achievement throughout the next three school years. We feel that having a quality formative assessment tool will be vital to identify student gaps, as well as having the capability to complete these assessments in both remote and in-person learning environments.
Line Item Total:	\$274,264.45	
Account Number:	71100 - Regular Instruction Program	Purchase BoxLight Digital Boards for Classroom Instruction \$516,333.00
Line Item Number:	722 - Regular Instruction Equipment	Our district will purchase BoxLight digital boards for all schools. These devices will replace our smartboards across the district. This technology is far more interactive for our students and teachers than our current devices. Students can interface these boards from their chromebooks. There are also ways to incorporate distance learning students with asynchronous instruction using this technology. This includes 184 panels, 12 mobile carts, and installation.
Focus Area:	Purchasing Education Technology	
School Type:	Traditional Public School	
Optional Program Code:		

Location Code:	Elizabethton (101)	
Quantity:	1.00	
Cost:	\$516,333.00	
Line Item Total:	\$516,333.00	
Total for 71100 - Regular Instruction Program:		\$920,942.15
Total for all other Account Numbers:		\$1,561,786.05
Total for all Account Numbers:		\$2,482,728.20
Adjusted Allocation:		\$2,482,728.20
Remaining:		\$0.00

Budget Detail

Elizabethton (101) Public District - FY 2022 - Elementary and Secondary School Emergency Relief (ESSER) 2.0 - Rev 0 - Elementary and Secondary School Emergency Relief (ESSER) 2.0

72120 - Health Services - \$76,000.00 ▼

Budget Detail		Narrative Description
Account Number:	72120 - Health Services	As a result of the COVID-19 Closures, the mental health and well-being of our students is more critical than ever. Our district will partner with Frontier Health to provide a counselor to assist students who have been negatively impacted by the COVID-19 pandemic. We anticipate that the hardships associated with the pandemic will create educational and behavioral challenges for students, as well as their families. This counselor will help students manage these stressors and assist with re-integration in the school environment.
Line Item Number:	312 - Contracts with Private Agencies	
Focus Area:	Providing Mental Health Supports	
School Type:	Traditional Public School	
Optional Program Code:		
Location Code:	Elizabethton (101)	
Quantity:	1.00	
Cost:	\$76,000.00	
Line Item Total:	\$76,000.00	
Total for 72120 - Health Services:		\$76,000.00
Total for all other Account Numbers:		\$2,406,728.20

Total for all Account Numbers:	\$2,482,728.20
Adjusted Allocation:	\$2,482,728.20
Remaining:	\$0.00

Budget Detail		
Elizabethton (101) Public District - FY 2022 - Elementary and Secondary School Emergency Relief (ESSER) 2.0 - Rev 0 - Elementary and Secondary School Emergency Relief (ESSER) 2.0 72250 - Education Technology - \$139,410.00 ▼		
Budget Detail		Narrative Description
Account Number:	72250 - Education Technology	Personnel: Instructional Computer Personnel \$105,250 Prior to the pandemic, our district did not employ a person to support our teachers with instructional technology integration. With the move to blended learning and distance learning it has become evident that this teacher support is a significant need. Our needs survey indicated 72% of our teachers saw this type of support as a need. Our teachers were struggling with providing instruction in a blended environment while learning the tools necessary to make this successful. We added the position with our ESSER 1.0 funding earlier this year. This position of Instructional Computer Personnel will continue to support our teachers with our new Learning Management System and all the new programs that have been put in place to support distance learning and blended learning. This position would continue to provide professional development for our teachers through large group, small group, and job embedded activities. This position will continue to build the capacity of our Learning Leaders in each building to support colleagues on a daily basis. This position will be 1 FTE.
Line Item Number:	138 - Instructional Computer Personnel	
Focus Area:	Conducting Other Necessary Activiti...	
School Type:	Traditional Public School	
Optional Program Code:		
Location Code:	Elizabethton (101)	
Quantity:	1.00	
Cost:	\$105,250.00	
Line Item Total:	\$105,250.00	
Account Number:	72250 - Education Technology	Benefit for Instructional Computer Personnel \$6,525
Line Item	201 - Social Security	

Number:	
Focus Area:	Conducting Other Necessary Activiti...
School Type:	Traditional Public School
Optional Program Code:	
Location Code:	Elizabethton (101)
Quantity:	1.00
Cost:	\$6,525.00
Line Item Total:	\$6,525.00
Account Number:	72250 - Education Technology
Line Item Number:	204 - State Retirement
Focus Area:	Conducting Other Necessary Activiti...
School Type:	Traditional Public School
Optional Program Code:	
Location	Elizabethton (101)

Benefit for Instructional Computer Personnel \$7,370

Code:		
Quantity:	1.00	
Cost:	\$7,370.00	
Line Item Total:	\$7,370.00	
Account Number:	72250 - Education Technology	Benefit for Instructional Computer Personnel \$180
Line Item Number:	206 - Life Insurance	
Focus Area:	Conducting Other Necessary Activiti...	
School Type:	Traditional Public School	
Optional Program Code:		
Location Code:	Elizabethton (101)	
Quantity:	1.00	
Cost:	\$180.00	
Line Item Total:	\$180.00	
Account Number:	72250 - Education Technology	Benefit for Instructional Computer Personnel \$15,825
Line Item	207 - Medical Insurance	

Number:	
Focus Area:	Conducting Other Necessary Activiti...
School Type:	Traditional Public School
Optional Program Code:	
Location Code:	Elizabethton (101)
Quantity:	1.00
Cost:	\$15,825.00
Line Item Total:	\$15,825.00
Account Number:	72250 - Education Technology
Line Item Number:	208 - Dental Insurance
Focus Area:	Conducting Other Necessary Activiti...
School Type:	Traditional Public School
Optional Program Code:	
Location	Elizabethton (101)

Benefit for Instructional Computer Personnel \$630

Code:		
Quantity:	1.00	
Cost:	\$630.00	
Line Item Total:	\$630.00	
Account Number:	72250 - Education Technology	Benefit for Instructional Computer Personnel \$1,525
Line Item Number:	212 - Employer Medicare	
Focus Area:	Conducting Other Necessary Activiti...	
School Type:	Traditional Public School	
Optional Program Code:		
Location Code:	Elizabethton (101)	
Quantity:	1.00	
Cost:	\$1,525.00	
Line Item Total:	\$1,525.00	
Account Number:	72250 - Education Technology	
Line Item	217 - Retirement - Hybrid Stabilization	

Number:		
Focus Area:	Conducting Other Necessary Activiti...	
School Type:	Traditional Public School	
Optional Program Code:		
Location Code:	Elizabethton (101)	
Quantity:	1.00	
Cost:	\$2,105.00	
Line Item Total:	\$2,105.00	
Total for 72250 - Education Technology:		\$139,410.00
Total for all other Account Numbers:		\$2,343,318.20
Total for all Account Numbers:		\$2,482,728.20
Adjusted Allocation:		\$2,482,728.20
Remaining:		\$0.00

Budget Detail		
Elizabethton (101) Public District - FY 2022 - Elementary and Secondary School Emergency Relief (ESSER) 2.0 - Rev 0 - Elementary and Secondary School Emergency Relief (ESSER) 2.0 76100 - Regular Capital Outlay - \$1,247,376.05 ▼		
Budget Detail		Narrative Description
Account Number:	76100 - Regular Capital Outlay	HVAC Unit Replacements at schools across the district \$100,000 Several rooftop units on schools across the district have reached the end of their lifecycle and need to be replaced. We have spent money repairing as we could, but many are beyond repair. This will improve the learning environment by allowing more fresh air into the classrooms and will operate in a more efficient manner. Asbestos Removal, HVAC, Windows, Lighting, Electrical, Plumbing, and Floor Tile Upgrades at Harold McCormick Elementary School \$1,147,376.05 HME is in need of many upgrades, including energy-efficient windows and updated HVAC units. A major portion of the building is over 60 years old and needs some electrical, lighting and plumbing upgrades. This work has been delayed by the costly nature of removing encapsulated asbestos from the building. This has created a deferred maintenance issue in several systems throughout the school. This project would allow us to improve the energy efficiency of the building, improve the overall learning environment, and improve the indoor air quality of the facility.
Line Item Number:	707 - Building Improvements	
Focus Area:	Addressing Facility Needs and Defer...	
School Type:	Traditional Public School	
Optional Program Code:		
Location Code:	Elizabethton (101)	
Quantity:	1.00	
Cost:	\$1,247,376.05	
Line Item Total:	\$1,247,376.05	
Total for 76100 - Regular Capital Outlay:		\$1,247,376.05

Total for all other Account Numbers:	\$1,235,352.15
Total for all Account Numbers:	\$2,482,728.20
Adjusted Allocation:	\$2,482,728.20
Remaining:	\$0.00

Budget Detail

Elizabethton (101) Public District - FY 2022 - Elementary and Secondary School Emergency Relief (ESSER) 2.0 - Rev 0 - Elementary and Secondary School Emergency Relief (ESSER) 2.0

99100 - Transfers Out - \$99,000.00

Budget Detail		Narrative Description
Account Number:	99100 - Transfers Out	Indirect Cost Transfer
Line Item Number:	504 - Indirect Cost	
Focus Area:	Indirect Cost	
School Type:	Traditional Public School	
Optional Program Code:		
Location Code:	Elizabethton (101)	
Quantity:	1.00	
Cost:	\$99,000.00	
Line Item Total:	\$99,000.00	
Total for 99100 - Transfers Out:		\$99,000.00
Total for all other Account Numbers:		\$2,383,728.20

Total for all Account Numbers:		\$2,482,728.20
Adjusted Allocation:		\$2,482,728.20
Remaining:		\$0.00

Budget Overview

Elizabethton (101) Public District - FY 2022 - Elementary and Secondary School Emergency Relief (ESSER) 2.0 - Rev 0 - Elementary and Secondary School Emergency Relief (ESSER) 2.0

Indirect Cost	
Total Contributing to Indirect Cost	\$1,867,395.20
Indirect Cost Rate	13.73%
Maximum Allowed for Indirect Cost	\$237,392.12

Filter by Location: All - \$2,482,728.20 ▼

Account Number	71100 - Regular Instruction Program	72120 - Health Services	72250 - Education Technology	76100 - Regular Capital Outlay	99100 - Transfers Out	Total
Line Item Number						
116 - Teachers	96,000.00					96,000.00
138 - Instructional Computer Personnel			105,250.00			105,250.00
201 - Social Security	12,028.00	0.00	6,525.00			18,553.00

Line Item Number	Account Number	71100 - Regular Instruction Program	72120 - Health Services	72250 - Education Technology	76100 - Regular Capital Outlay	99100 - Transfers Out	Total
204 - State Retirement		19,503.70	0.00	7,370.00			26,873.70
206 - Life Insurance		0.00	0.00	180.00			180.00
207 - Medical Insurance		0.00	0.00	15,825.00			15,825.00
208 - Dental Insurance		0.00	0.00	630.00			630.00
212 - Employer Medicare		2,813.00	0.00	1,525.00			4,338.00
217 - Retirement - Hybrid Stabilization		0.00	0.00	2,105.00			2,105.00
312 - Contracts with Private Agencies		0.00	76,000.00				76,000.00
471 - Software		274,264.45	0.00	0.00			274,264.45
504 - Indirect Cost						99,000.00	99,000.00
707 - Building Improvements					1,247,376.05		1,247,376.05

Line Item Number	Account Number	71100 - Regular Instruction Program	72120 - Health Services	72250 - Education Technology	76100 - Regular Capital Outlay	99100 - Transfers Out	Total
722 - Regular Instruction Equipment		516,333.00					516,333.00
Total		920,942.15	76,000.00	139,410.00	1,247,376.05	99,000.00	2,482,728.20
Adjusted Allocation							2,482,728.20
Remaining							0.00

Spending Plan

Elizabethton (101) Public District - FY 2022 - Elementary and Secondary School Emergency Relief (ESSER) 2.0 - Rev 0 - Elementary and Secondary School Emergency Relief (ESSER) 2.0

After analyzing and repurposing other funding sources, justify the spending plan for the Coronavirus Response and Relief Supplemental Appropriations (CRRSA) Act funds aligned with the needs and the comprehensive LEA-level plan. For each of the applicable focus areas below, verify the amount, and explain how each focus area addresses the needs. The amounts should not exceed the LEA's allocation.

1. Addressing Learning Loss: Coordinators, Summer, Supplemental After School, and Tutoring

\$ 130,344.70 Amount

The amount box auto-populates based on inputs from the Budget Page.

Describe how the proposed activities/use of funds supports the focus area and how the effectiveness of the activities will be assessed.

Stipends will be provided for teachers to provide after school tutoring for students in grades K-12 across the district. This will provide extra academic support for struggling students as needed throughout the school year. Effectiveness of these activities can be measured by comparing student benchmark data collected at various times during the school year. We will also pay stipends to elementary teachers (outside grades K-2) to complete the two-week Early Literacy Foundational Training in the summer of 2021. We feel strongly that this training is important for all professional staff as we work to address learning loss and improve early literacy outcomes in our district. Effectiveness will be measured by staff surveys at the conclusion of the training, as well as student benchmark assessments administered throughout the school year.

2. Addressing Learning Acceleration: Summer, Supplemental After School, and Tutoring

\$ 0.00 Amount

The amount box auto-populates based on inputs from the Budget Page.

Describe how the proposed activities/use of funds supports the focus area and how the effectiveness of the activities

will be assessed.

3. Addressing Facility Needs and Deferred Maintenance/Infrastructure

\$ 1,247,376.05 Amount

The amount box auto-populates based on inputs from the Budget Page.

NOTE: Items in this category will require more extensive rationale/support.

Describe how the proposed activities/use of funds supports the focus area and how the effectiveness of the activities will be assessed.

All proposed activities directly benefit and support improvements in learning environment for students and staff members. All HVAC work will improve climate and humidity control in the school. Student and staff surveys can be administered to determine if this work has improved the overall learning environment. By upgrading utilities, removing asbestos, and replacing old windows, students and staff will have an improved learning environment, as well as a more energy efficient school. This can be measured by staff and student survey responses as well.

4. Purchasing Education Technology (including hardware, software, and connectivity)

\$ 790,597.45 Amount

The amount box auto-populates based on inputs from the Budget Page.

Describe how the proposed activities/use of funds supports the focus area and how the effectiveness of the activities will be assessed.

We propose to replace all our old smartboard technology with BoxLight boards. This technology far surpasses our current boards. It allows the teacher to interact with students from their devices in real time in the classroom. There is also the ability to interact with students who are participating online as well. The Canvas Learning Management System provides a seamless and user-friendly interface for both the student and teacher. It provides an easy way for teachers to make assignments and for students to submit their work. It also allows the teachers to provide additional learning and support materials right at the student's fingertips. As a result of the pandemic, many students have discovered that online learning is a positive and productive model for them. Many students have excelled and thrived in the online environment. It is imperative that we take what we've learned during online instruction and integrate those opportunities into our daily instructional model. Utilizing the Odysseyware online

curriculum, we can offer some students the ability to complete courses outside the traditional classroom. This online curriculum will provide us with the flexibility to meet the individual learning needs of all our students. We understand that the educational system will never be the same again, and we must take what we've learned and enhance student options and opportunities. Student surveys and failure rates could be used to measure the effectiveness of these pieces of educational technology.

5. Addressing the Unique Needs of Special Populations

\$ 0.00 Amount

The amount box auto-populates based on inputs from the Budget Page.

Describe how the proposed activities/use of funds supports the focus area and how the effectiveness of the activities will be assessed.

6. Planning for Long-Term Closures

\$ 0.00 Amount

The amount box auto-populates based on inputs from the Budget Page.

Describe how the proposed activities/use of funds supports the focus area and how the effectiveness of the activities will be assessed.

7. Providing Mental Health Supports

\$ 76,000.00 Amount

The amount box auto-populates based on inputs from the Budget Page.

Describe how the proposed activities/use of funds supports the focus area and how the effectiveness of the activities will be assessed.

We have seen an increase in the number of students who need support from a mental health counselor. Many students are struggling with increased periods of isolation away from school and social activities. We will contract with Frontier Health to provide a mental health counselor to focus on student needs in grades PreK-5. This

counselor will provide services and supports as needed, such as one-on-one counseling or referrals for other, more intensive services. Teachers and staff have all received ACES training, so they can refer students when necessary. This will continue to be a need as we move past the pandemic and into the new norm of public education. Many students will struggle with anxiety and the pressures to address their learning loss, so having a trained professional will be invaluable to our students. Effectiveness of the activity can be assessed by student and staff surveys periodically throughout the year.

8. Conducting Other Necessary Activities

\$ 139,410.00 Amount

The amount box auto-populates based on inputs from the Budget Page.

NOTE: Items in this category will require more extensive rationale/support.

Describe how the proposed activities/use of funds supports the focus area and how the effectiveness of the activities will be assessed.

This activity will fund our Instructional Technology Coach position. Teachers will continue to need support as we move into more digital and online resources and modes of instruction. Integrating all technology into instruction can be overwhelming, so this position will help bridge the gap and provide support and resources for teachers and staff as needed. This position will provide small group and individualized professional development activities, depending on the need and situation. This support will help to build capacity in teachers to effectively integrate technology with their instruction.

9. Indirect Cost

\$ 99,000.00 Amount

The amount box auto-populates based on inputs from the Budget Page.

10. Administrative Cost (5% limit)

\$ 0.00 Amount

The amount box auto-populates based on inputs from the Budget Page.

Program Details

Elizabethton (101) Public District - FY 2022 - Elementary and Secondary School Emergency Relief (ESSER) 2.0 - Rev 0 - Elementary and Secondary School Emergency Relief (ESSER) 2.0

Administration Cost

Program Administration: The reasonable and necessary costs to manage the federal grant in a compliant and effective manner.

☒ The LEA is not utilizing grant funds to administer the ESSER 2.0. Provide a summary of how the grant program will be administered, including the title of the staff responsible for the grant administration, the FTE(s), and the other funding sources that will contribute to administrative staff salaries/benefits.
The Assistant Director of Schools for Operations (0.05 FTE from GP) and the Assistant Director of Schools for Academics (0.05 FTE from GP) will be responsible for administering the ESSER 2.0 grant. The salaries and benefits of these staff members will be paid for using General Purpose Funds.

☐ The LEA is utilizing grant funds to administer the ESSER 2.0.

Systemwide Administration for ESSER 2.0 Grant Administration - Staff in this table are those who work in the central office on the direct administration of the grant.

Systemwide Administration for LEAs Using ESSER 2.0 Funds for Direct Administration: Staff in this table are those who work in the central office on the direct administration of the grant. If the LEA is not using ESSER 2.0 funds for grant administration, do not enter staff in this table.

	Headcount	FTE
Administration		
Resource Specialist		

Program/Project Director			
Other (specify)			
Total			

Provide a brief description of the reasonable and necessary administrative activities and personnel. This includes the FTE and amount deducted from the grant.

Planning

Reflect on the challenges that the LEA faced during the COVID-19 pandemic. What prioritized needs did the LEA identify during the pandemic?

As we closed school for COVID-19 we found that our system faced several challenges as we focused on continuing instruction. A few of the challenges we faced are bulleted below:

- Not enough devices to support one-to-one for online learning
- No consistent Learning Management System (LMS)
- Insufficient internet connections for all students at home
- Teachers and students were not trained or familiar with how to deliver and receive online courses
- Teachers were not trained on how to address social/emotional needs of students returning to school
- Social/emotional needs of students

With our initial ESSER 1.0 funding, we were able to address our student device and connectivity issues. We are currently completing a pilot with Canvas, a learning management system, which was also supported with 1.0 funding. We were also able to secure an Instructional Technology Coach and a Mental Health Counselor as well. We plan on using 2.0 funding to purchase a three-year agreement with Canvas for our high school and a two year agreement for our middle school. This will provide platform continuity across the 6-12 grade levels. We would also continue to fund the Instructional Technology Coach and the Mental Health Counselor for an additional two years. Their services will be critical for our students and staff as we move into our post-pandemic recovery educational support activities. The opportunity to complete some deferred maintenance on some of our infrastructure will also be critical in creating improved learning environments that promote student and staff safety, health, and well-being.

Learning Loss

Provide information on how your LEA is measuring and addressing learning loss and how ESSER 2.0 funds will support these measures.

Elizabethton City Schools have been addressing learning loss throughout the 2020-2021 school year. Our district administered previous year's SchoolNet assessments to measures for standards students had not mastered from the previous school year. The data from SchoolNet was analyzed and missing standards were embedded into TIER I instruction. ECS has also utilized enCASE Cyclone Checkpoints to measure students' proficiency predictability for 2021 TCAP and EOC assessments. The data from Cyclone Checkpoints have been and will be analyzed and action plans will be developed to remediate standards in which students are not mastering. Teachers are creating standards aligned assessments with our new enCASE benchmark program that monitors students' progress toward identified standards mastery. We are also utilizing our AIMSweb data to identify students who show a learning loss in reading and math skills. This data helps us to identify students who are in need of intervention in TIER I, II and III. Progress monitoring data through AIMSweb is also monitored on a 4.5 week basis to ensure students are progressing with these skills that may have been lost during the pandemic. The ESSER 2.0 funds will be utilized to purchase the enCASE benchmark program to help us continue to identify learning loss in our students and the progress toward master of grade level standards. The teacher stipends funds will also be utilized to support after school teachers and teacher created resources to address standards that are identified as delayed due to the pandemic and school closure/schedule changes.

Personnel Details Systemwide

Elizabethton (101) Public District - FY 2022 - Elementary and Secondary School Emergency Relief (ESSER) 2.0 - Rev 0 - Elementary and Secondary School Emergency Relief (ESSER) 2.0

Systemwide Instruction & Support - Staff in this table are those who are supported with one-time funds and work across multiple school sites as needed.

	Headcount	FTE
Coaches / Consulting Teachers	1.00	1.00
Instructional Paraprofessionals		
Non-Instructional Paraprofessionals		
Interventionists		
Parent and Family Engagement		
Other (specify)		
Total	1.00	1.00

Elizabethton (101) Public District - FY 2022 - Elementary and Secondary School Emergency Relief (ESSER) 2.0 - Rev 0 - Elementary and Secondary School Emergency Relief (ESSER) 2.0

Regular School-Year Staff Funded with One-Time Funds

Teachers	Paraprofessionals		Interventionists		School Counselors		Parent and Family Engagement		Other 1 - Specify		Other 2 - Specify		Other 3 - Specify		Other 4 - Specify		Total	
	Headcount	FTE	Headcount	FTE	Headcount	FTE	Headcount	FTE	Headcount	FTE	Headcount	FTE	Headcount	FTE	Headcount	FTE	Headcount	FTE
	0	0.00		0		0.00		0		0.00		0		0.00		0		0.00

Personnel Details (Summer School - K-12 School-Level)

Elizabethton (101) Public District - FY 2022 - Elementary and Secondary School Emergency Relief (ESSER) 2.0 - Rev 0 - Elementary and Secondary School Emergency Relief (ESSER) 2.0



N/A

Charter School Program Details

Elizabethton (101) Public District - FY 2022 - Elementary and Secondary School Emergency Relief (ESSER) 2.0 - Rev 0 - Elementary and Secondary School Emergency Relief (ESSER) 2.0



N/A: The LEA certifies that no public charter schools are geographically located in the LEA.

Related Documents

Elizabethton (101) Public District - FY 2022 - Elementary and Secondary School Emergency Relief (ESSER) 2.0 - Rev 0 - Elementary and Secondary School Emergency Relief (ESSER) 2.0

Optional Documents		
Type	Document Template	Document/Link
ESSER 2.0 Plan	N/A	
ESSER 2.0 Needs Assessment Charter Schools [Upload up to 1 document(s)]	 <u>ESSER 2.0 Needs Assessment Charter Schools_FillableWordDocument.docx</u>	

Assurances
Elizabethton (101) Public District - FY 2022 - Elementary and Secondary School Emergency Relief (ESSER) 2.0 - Rev 0 - Elementary and Secondary School Emergency Relief (ESSER) 2.0
☒ * The local educational agency (LEA) hereby assures the state education agency (SEA) that the LEA meets each of the following conditions:
Assurances
1. The LEA shall to the greatest extent practicable, continue to pay its employees and contractors during the period of any disruptions or closures related to coronavirus.
2. The LEA shall report spending progress and reimbursement request on a monthly basis to the Tennessee Department of Education, along with any other required documentation.
3. The LEA must track in their standard accounting program ESSER 2.0 funds separately from ESSER 1.0 funds.
4. All programs, services, and activities covered by this Grant Application will be operated in accordance with state and federal laws, regulations, as well as approved policies and rules as established by the Tennessee State Board of Education and the Tennessee Department of Education. The U.S. Office of Management and Budget's Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards are available <u>here</u>.
5. Expenditures will be in compliance with the standard accounting procedures and guidelines established by the Tennessee Department of Education, federal legislation, and <u>F&A Accounts Policy 03</u>.
6. Recognize that state approval of an application does not relieve the LEA of its responsibility to comply with all applicable program and fiscal requirements.
7. Grant funds will not be expended in any manner other than as outlined in the budgeted section of the approved grant application. Funds will only be expended for allowable costs. Any changes to the original budget must be pre-approved by the department before line items are modified. The LEA acknowledges that this program is subject to funds availability and that the department reserves the right to terminate program activities and expenditures for convenience at any time.
8. Use fiscal control and fund accounting procedures that ensure proper disbursement of and accounting for federal

funds paid to that agency under each program as noted in Cash Management Improvement Act (CMIA) 7211R rule.

9. Keep such records, and provide such information to the department, as may be reasonably required for fiscal audit, data reporting, and program evaluation.

10. Program activities, expenditures, and records shall be subject to monitoring by the department. LEAs must maintain documentation of all expenditures and should submit this documentation with the final report.

11. Activities should align with the intent and purpose of the CRRSA and CARES Acts as outlined in the H.R. 748 legislation. Allowable services, activities, and expenditures funded with the CARES Act align with the ESEA, IDEA, and Perkins, and other allowable programs shall be provided in compliance with established Federal and State Rules, Regulations, & Minimum Standards.

12. Special Education and Related Services will be provided in compliance with established Federal and State Rules, Regulations, & Minimum Standards.

13. Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000d et seq., which prohibits discrimination on the basis of race, color, or national origin in any program or activity receiving Federal financial assistance;

14. Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. 1681 et seq., which prohibits discrimination on the basis of sex in any education program or activity receiving federal financial assistance; and

15. All regulations, guidelines, and standards issued by the Tennessee Department of Education and U.S. Department of Education under any of these statutes.

Charter Assurances (if applicable)

The LEA will ensure that Charter Schools have an equal opportunity to participate to the full extent in CARES Act grant and will allocate per pupil funds accordingly.

1. The LEA has a clear process for ensuring all applicable laws and regulations regarding ESEA, IDEA, and other programs and funding are followed in its authorized charter schools.

2. The charter school will comply with all requirements associated with the funding source as a condition for the state to receive any of the federal funds.

3. The charter school will maintain accurate and timely project records which document progress in implementing this project, and which demonstrate compliance with all state and federal fiscal and program requirements.

4. Charter schools will receive reimbursements within three business days of the LEA receiving the reimbursement request allocation from the Tennessee Department of Education.
5. Charter plans submitted to the LEA must be approved within five business days and any non-approved plan must be sent Tennessee Department of Education, Division of Federal Programs and Oversight for a third-party review.

Elizabethton (101) Public District - FY 2022 - Elementary and Secondary School Emergency Relief (ESSER) 2.0 - Rev 0 - Elementary and Secondary School Emergency Relief (ESSER) 2.0 Checklist

Checklist cannot be viewed while the application is under review.

Project Overview

XQ Institute was founded in 2015 with the goal of “re-thinking the high school experience” so that all students get the preparation they need for college and careers and grow to the fullest as civic participants, critical readers, proactive problem solvers, original thinkers, generous collaborators, and learners for life.

XQ funds the design and implementation of innovative new schools, high school redesign, and work with school districts and state departments of education to support widescale high school transformation. All XQ schools embody XQ's six design principles: strong mission and culture; meaningful, engaged learning; caring, trusting relationships; youth voice and choice; smart use of time, space, and tech; and community partnerships. To date, XQ has funded 57 schools with grants ranging from \$20,000 to \$10 million. In total, XQ school grants reach 32,239 students.

MDRC, in partnership with the Annenberg Institute for School Reform, is leading three main studies for XQ schools: (1) an impact evaluation of XQ high schools across the country; (2) a qualitative study of new school start-up and redesign in New York City and Rhode Island, with a specific focus on learning about the design teams and how they operate; and (3) administration and analysis of a student survey focused on students' socio-emotional well-being designed by XQ, the CREDO Institute at Stanford, and MDRC.

Funders

[XQ Institute](#)

Partners

[Annenberg Institute](#)

MDRC Staff



Rebecca Unterman

Project Director

Senior Associate, K-12 Education

Unterman joined MDRC in 2006 and is a research associate in the K-12 Education Policy Area.

ELIZABETHTON CITY SCHOOLS**REQUEST FOR PROPERTY / EQUIPMENT
SALE / DISPOSAL**

The following items are hereby declared surplus property/equipment of no value or valued at less than \$250.00. Since these items are no longer useful to the Elizabethton City School System, they may be sold at a fair price to any person interested in purchasing them, given away or disposal may be made in an appropriate manner.

ITEM:

Brainchild equipment ESP

▷ 5690, 5694, 5674, 5676, 5666,
5675, 5667, 5670, 5671, 5664, 5681,
5678, 5669, 5682, 5665, 5683, 5672, 5679,
5668, 5677, 5673, 5680, 5689, 5691,

INVENTORY
TAG NUMBER:5684, 5693, 5686, 5685, 5692, 5688, 5687METHOD OF
SALE/DISPOSAL:donatedSALE/DISPOSAL
AUTHORIZED BY:Jim Cunn
PrincipalDATE: 10/6/21

AUTHORIZED BY:

Rick Voss
Director of SchoolsDATE: 10/6/21

AUTHORIZED BY:

Board Chairman

DATE: _____

ELIZABETHTON CITY SCHOOLS**REQUEST FOR PROPERTY / EQUIPMENT
SALE / DISPOSAL**

The following items are hereby declared surplus property/equipment of no value or valued at less than \$250.00. Since these items are no longer useful to the Elizabethton City School System, they may be sold at a fair price to any person interested in purchasing them, given away or disposal may be made in an appropriate manner.

ITEM:

ESP Laptop 5592 Dell

INVENTORY
TAG NUMBER:

5592

METHOD OF
SALE/DISPOSAL:

given to tech

SALE/DISPOSAL
AUTHORIZED BY:

Principal

DATE: 10/06/21

AUTHORIZED BY:

Director of Schools

DATE: 10/6/21

AUTHORIZED BY:

Board Chairman

DATE:

ELIZABETHTON CITY SCHOOLS**REQUEST FOR PROPERTY / EQUIPMENT
SALE / DISPOSAL**

The following items are hereby declared surplus property/equipment of no value or valued at less than \$250.00. Since these items are no longer useful to the Elizabethton City School System, they may be sold at a fair price to any person interested in purchasing them, given away or disposal may be made in an appropriate manner.

ITEM:

NO. 11605
0258
11604
11603
Extra board room chairs

INVENTORY
TAG NUMBER:METHOD OF
SALE/DISPOSAL:

Trash

SALE/DISPOSAL

AUTHORIZED BY:

Principal

DATE: 9-15-21

AUTHORIZED BY:

Director of Schools

DATE: 10/6/21

AUTHORIZED BY:

Board Chairman

DATE:

ELIZABETHTON CITY SCHOOLS**REQUEST FOR PROPERTY / EQUIPMENT
SALE / DISPOSAL**

The following items are hereby declared surplus property/equipment of no value or valued at less than \$250.00. Since these items are no longer useful to the Elizabethton City School System, they may be sold at a fair price to any person interested in purchasing them, given away or disposal may be made in an appropriate manner.

ITEM:

* 16 Student Desks* 1 Teacher Desk* 1 Teacher Desk w/overhead shelf* 1 Television* 1 VCR (serial number 06125)INVENTORY
TAG NUMBER:06125METHOD OF
SALE/DISPOSAL:TrashSCHOOL/BUILDING
WHERE ITEM IS
HOUSEDEHSSALE/DISPOSAL
AUTHORIZED BY:[Signature]
PrincipalDATE: 9/15/21

AUTHORIZED BY:

[Signature]
Director of SchoolsDATE: 10/6/21

AUTHORIZED BY:

Board Chairman

DATE: _____

ELIZABETHTON CITY SCHOOLS**REQUEST FOR PROPERTY / EQUIPMENT
SALE / DISPOSAL**

The following items are hereby declared surplus property/equipment of no value or valued at less than \$250.00. Since these items are no longer useful to the Elizabethton City School System, they may be sold at a fair price to any person interested in purchasing them, given away or disposal may be made in an appropriate manner.

ITEM: * Black Metal Desk w/two drawers
* 4 Red plastic chairs
* 1 Black Rolling desk chair
* 1 Orange Metal chair
* 126 Library Books (PDF sent via email)

INVENTORY
TAG NUMBER: 05324

METHOD OF
SALE/DISPOSAL: Maintenance Trash

SCHOOL/BUILDING
WHERE ITEM IS
HOUSED

EHS

SALE/DISPOSAL
AUTHORIZED BY:

[Signature]
Principal

DATE: 9/15/21

AUTHORIZED BY:

[Signature]
Director of Schools

DATE: 10/6/21

AUTHORIZED BY:

Board Chairman

DATE: _____

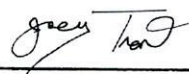
ELIZABETHTON CITY SCHOOLS**REQUEST FOR PROPERTY / EQUIPMENT
SALE / DISPOSAL**

The following items are hereby declared surplus property/equipment of no value or valued at less than \$250.00. Since these items are no longer useful to the Elizabethton City School System, they may be sold at a fair price to any person interested in purchasing them, given away or disposal may be made in an appropriate manner.

ITEM: Qty. HP 1700-24 switch SN# CN 923 ZG 0PS, CN 923 ZH 0WL
APL-UPS - Inv # 12168
Inv # - SN# HDMR 68 NE 3 DFHW
HP 2610-24 SN# CN 8432T 7QB
HP 2636-24 SN# TW 6035E 1K0

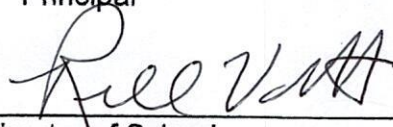
INVENTORY
TAG NUMBER: L: 6/1

METHOD OF
SALE/DISPOSAL: Recycle

SALE/DISPOSAL
AUTHORIZED BY: 

Principal

DATE: 09/20/2021

AUTHORIZED BY: 

Director of Schools

DATE: 10/6/21

AUTHORIZED BY: _____

Board Chairman

DATE: _____

ELIZABETHTON CITY SCHOOLS**REQUEST FOR PROPERTY / EQUIPMENT
SALE / DISPOSAL**

The following items are hereby declared surplus property/equipment of no value or valued at less than \$250.00. Since these items are no longer useful to the Elizabethton City School System, they may be sold at a fair price to any person interested in purchasing them, given away or disposal may be made in an appropriate manner.

ITEM:

DELL MONITORS FROM LIBRARY

INVENTORY

TAG NUMBER:

ESE 3652, 4490, 4254, 3641, WELC 4995, 4912

METHOD OF

SALE/DISPOSAL:

Trash, NOT USEABLE

SCHOOL/BUILDING

WHERE ITEM IS

HOUSED

ESE

SALE/DISPOSAL

AUTHORIZED BY:

James L. Hurling
PrincipalDATE: 9/21/21

AUTHORIZED BY:

Rebecca
Director of Schools

DATE:

10/6/21

AUTHORIZED BY:

Board Chairman

DATE:

Elizabethton City Board of Education

Monitoring: Review: Annually, in January	Descriptor Term: COVID-19 Leave	Descriptor Code: 5.3052	Issued Date: DRAFT
		Rescinds:	Issued:

1 Employees are entitled to up to 8 days of paid COVID sick leave if they are unable to work because
2 the employee is subject to a Federal, State, or local isolation order related to COVID-19. This leave
3 may be taken retroactively back to July 1, 2021.

4
5 To demonstrate eligibility for the leave, the employee shall be required to provide proof of a positive
6 COVID-19 test or other suitable documentation for the circumstances. Employees should seek
7 clarification from the human resources/insurance administrative assistant (ext. 8207) if they have
8 questions regarding the total amount of leave available to them.

9 This paid leave is in addition to any paid leave that an employee may already be entitled to (e.g.,
10 existing sick leave). Employees are not required to exhaust any other paid leave benefit to utilize this
11 new category of paid sick leave.

12 Employees will only be permitted up to 8 days of their regular pay per school year for any leave taken
13 under this policy.

14 This policy will be in effect until June 30, 2022 unless the Board takes action to extend it. If the state
15 or federal government issues a mandate for COVID-19 related leave after adoption of this local
16 COVID-19 leave policy, such mandated leave will replace this policy entirely and this policy
17 simultaneously will expire.

History Log

Elizabethton (101) Public District - FY 2022 - ARP IDEA - Rev 0 - History Log

Attention Needed	Date	User	Status (S)/Comment (C)	S/C
	10/1/2021 11:40:05 AM	Tracey Hawk	Status changed to 'TDOE ARP IDEA Director Approved'.	S
	10/1/2021 10:56:09 AM	Melanie Lamberson	Status changed to 'TDOE ARP IDEA Consultant Approved'.	S
☐	10/1/2021 10:50:22 AM	Richard Vanhuss	Agreed to "Upon submission of this funding application, I attest that the facts, figures, and representations made in this application, including exhibits, attachments, and assurances herein, are accurate to the best of my knowledge. The local School Board of Education will review and approve this application and this action will be recorded in the official minutes of the local educational agency's board meeting."	C
	10/1/2021 10:50:22 AM	Richard Vanhuss	Status changed to 'LEA Authorized Representative Approved'.	S
	10/1/2021 10:17:08 AM	Beth Wilson	Status changed to 'LEA Fiscal Representative Approved'.	S
	10/1/2021 9:29:27 AM	Joshua Boatman	Status changed to 'Draft Completed'.	S

Attention Needed	Date	User	Status (S)/Comment (C)	S/C
	10/1/2021 7:18:50 AM	Melanie Lamberson	Status changed to 'TDOE ARP IDEA Consultant Returned Not Approved'.	S
☐	9/30/2021 2:41:45 PM	Richard Vanhuss	Agreed to "Upon submission of this funding application, I attest that the facts, figures, and representations made in this application, including exhibits, attachments, and assurances herein, are accurate to the best of my knowledge. The local School Board of Education will review and approve this application and this action will be recorded in the official minutes of the local educational agency's board meeting."	C
	9/30/2021 2:41:44 PM	Richard Vanhuss	Status changed to 'LEA Authorized Representative Approved'.	S
	9/30/2021 2:40:30 PM	Beth Wilson	Status changed to 'LEA Fiscal Representative Approved'.	S
	9/30/2021 2:09:09 PM	Joshua Boatman	Status changed to 'Draft Completed'.	S
	9/24/2021 7:14:28 AM	Jamie Eldridge	Status changed to 'TDOE ARP IDEA Consultant Returned Not Approved'.	S
☐	9/23/2021 11:37:40 AM	Richard Vanhuss	Agreed to "Upon submission of this funding application, I attest that the facts, figures, and representations made in this application, including exhibits, attachments, and assurances herein, are accurate to the best of my knowledge. The local School Board of Education has reviewed and approved this application and this action is recorded in the official minutes of the local educational agency's board meeting."	C

Attention Needed	Date	User	Status (S)/Comment (C)	S/C
	9/23/2021 11:37:40 AM	Richard Vanhuss	Status changed to 'LEA Authorized Representative Approved'.	S
	9/23/2021 11:35:59 AM	Beth Wilson	Status changed to 'LEA Fiscal Representative Approved'.	S
	9/23/2021 11:28:19 AM	Joshua Boatman	Status changed to 'Draft Completed'.	S
	9/1/2021 12:50:37 PM	Melanie Lamberson	Status changed to 'TDOE ARP IDEA Consultant Returned Not Approved'.	S
☐	8/27/2021 5:13:58 PM	Richard Vanhuss	Agreed to "By submitting this automated application, the local education agency representatives assure that the application will be authorized by the board of education of the local education agency, and the undersigned representatives have been duly authorized by formal action of the board to file this application for, and on behalf of, the local education agency, and otherwise to act as the authorized representatives of the local education agency in connection with this application. By submitting this automated application, the local education agency is acknowledging that it understands and agrees to abide by the applicable assurances attached to this application."	C
	8/27/2021 5:13:58 PM	Richard Vanhuss	Status changed to 'LEA Authorized Representative Approved'.	S
	8/27/2021 4:36:42 PM	Beth Wilson	Status changed to 'LEA Fiscal Representative Approved'.	S

Attention Needed	Date	User	Status (S)/Comment (C)	S/C
	8/27/2021 3:24:44 PM	Joshua Boatman	Status changed to 'Draft Completed'.	S
	8/12/2021 10:53:43 AM	Joshua Boatman	Status changed to 'Draft Started'.	S
	7/22/2021 4:04:05 PM	Spencer Yonce	Status changed to 'Not Started'.	S

Allocations

Elizabethton (101) Public District - FY 2022 - ARP IDEA - Rev 0 - Allocations

	(1) ARP IDEA Part B Funds	(2) ARP IDEA Preschool Funds	Total
Original	\$141,634.30	\$9,442.87	\$151,077.17
Incoming Carryover	\$0.00	\$0.00	\$0.00
Outgoing Carryover	\$0.00	\$0.00	\$0.00
Reallocated	\$0.00	\$0.00	\$0.00
Additional	\$0.00	\$0.00	\$0.00
Released	\$0.00	\$0.00	\$0.00
Consortium	\$0.00	\$0.00	\$0.00
Forfeited	\$0.00	\$0.00	\$0.00
FER Released	\$0.00	\$0.00	\$0.00
Total	\$141,634.30	\$9,442.87	\$151,077.17

Cover Page

Elizabethton (101) Public District - FY 2022 - ARP IDEA - Rev 0 - ARP IDEA Requirements

LEA ID#

101

LEA Name

Elizabethton City Schools

LEA Official Address

Street

804 S Watauga Avenue

City

Elizabethton

Zip Code

37643

Phone

423-547-8000

LEA Website

www.ecschools.net

Director of Schools

Name

Richard VanHuss

Email

richard.vanhuss@ecschoools.net

Phone

423-547-8000 ext. 8203

ARP IDEA Point of Contact

Name

Josh Boatman

Email

josh.boatman@ecschoools.net

Phone

423-547-8000 ext. 8223

Part B and Part C of the Individuals with Disabilities Education Act (IDEA) authorize assistance to State Education Agencies (SEAs) to support the provision of special education and related services to children with disabilities and the provision and coordination of early intervention services for infants and toddlers with disabilities and their families, respectively. Section 2014(a) of the American Rescue Plan (ARP) Act of 2021 provided more than \$3 billion in supplemental funding for state Fiscal Year 2022 for the two IDEA formula grant programs.

ARP IDEA Personnel Details - Systemwide Admin / Instruction & Support

Elizabethton (101) Public District - FY 2022 - ARP IDEA - Rev 0 - ARP IDEA Requirements

Please add a row for each unique "Other" position.

Systemwide Administration - (Usually personnel working in the central office)

	ARP IDEA, Part B Funds (611)		ARP IDEA Preschool Funds (619)	
	Head Count	FTE	Head Count	FTE
Special Education Supervisor				
Bookkeeper				
Secretary				
Coordinator				
Other (please specify)				
Total	0	0.00	0	0.00

Systemwide Instruction & Support - (Central Office or Assigned to more than one school site and on an irregular schedule)

	ARP IDEA, Part B Funds (611)		ARP IDEA Preschool Funds (619)	
	Head Count	FTE	Head Count	FTE

Bus Drivers					
Bus Attendants					
Psychologists					
Speech Pathologists					
Other (please specify)					
Total	0	0.00	0	0.00	0.00

Resources

[Click here to open the Technical Application Guide.](#)

[Click here to open the FAQ document.](#)

Elizabethton (101) Public District - FY 2022 - ARP IDEA - Rev 0 - ARP IDEA Requirements

School Name	Teachers		Education Assistants	
	ARP IDEA Part B (611)		ARP IDEA Part B (611)	
	Head Count	FTE	Head Count	FTE
East Side Elementary			2	1.55
Elizabethton High School			1	1.00
Harold McCormick Elementary			1	1.00
T A Dugger Junior High School			1	1.00
West Side Elementary			1	1.00
Total	0	0.00	6	5.55

Resources

[Click here to open the Technical Application Guide.](#)

[Click here to open the FAQ document.](#)

Elizabethton (101) Public District - FY 2022 - ARP IDEA - Rev 0 - ARP IDEA Requirements

School Name	Speech Pathologists		Psychologists		Nurses		Other - Specify		Other 2		Other 3		Other 4	
	ARP IDEA Part B (611)	Head Count	FTE	Head Count	FTE	Head Count	ARP IDEA Part B (611)	Head Count	FTE	Head Count	ARP IDEA Part B (611)	Head Count	FTE	Head Count
East Side Elementary														
Elizabethton High School														
Harold McCormick Elementary														
T A Dugger Junior High School														
West Side Elementary														
Total	0	0.00		0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0.00

Resources

[Click here to open the Technical Application Guide.](#)

[Click here to open the FAQ document.](#)

Elizabethton (101) Public District - FY 2022 - ARP IDEA - Rev 0 - ARP IDEA Requirements

School Name	Teachers			Education Assistants		
	ARP IDEA Part B (611)		ARP IDEA Preschool (619)	ARP IDEA Part B (611)		ARP IDEA Preschool (619)
	Head Count	FTE	Head Count	Head Count	FTE	FTE
East Side Elementary						0.45
Elizabethton High School						
Harold McCormick Elementary						
T A Dugger Junior High School						
West Side Elementary						
Total	0	0.00	0	0	0.00	0.45

Resources

[Click here to open the Technical Application Guide.](#)

[Click here to open the FAQ document.](#)

Elizabethton (101) Public District - FY 2022 - ARP IDEA - Rev 0 - ARP IDEA Requirements

School Name	Speech Pathologists			Psychologists			Nurses			Other - Specify			Other 2			Other 3			Other 4		
	ARP IDEA Part B (611)	Head Count	ARP IDEA Preschool (619)	ARP IDEA Part B (611)	Head Count	ARP IDEA Preschool (619)	ARP IDEA Part B (611)	Head Count	ARP IDEA Preschool (619)	ARP IDEA Part B (611)	Head Count	ARP IDEA Preschool (619)	ARP IDEA Part B (611)	Head Count	ARP IDEA Preschool (619)	ARP IDEA Part B (611)	Head Count	ARP IDEA Preschool (619)	ARP IDEA Part B (611)	Head Count	ARP IDEA Preschool (619)
East Side Elementary																					
Elizabethton High School																					
Harold McCormick Elementary																					
T A Dugger Junior High School																					
West Side Elementary																					
Total	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0.00

Resources

[Click here to open the Technical Application Guide.](#)

[Click here to open the FAQ document.](#)

ARP IDEA Private School Details

Elizabethton (101) Public District - FY 2022 - ARP IDEA - Rev 0 - ARP IDEA Requirements

1. Is the LEA required to reserve a portion of their IDEA funds to provide services to parentally placed private school students from:

* IDEA 611 funds (6-21)

☒ Yes

☐ No

* IDEA 619 funds (3-5)

☐ Yes

☒ No

2. If so, where has the reserved amount been budgeted within each appropriate budget (give account number(s) with line item(s) for each budget separately):

IDEA 611

A total of \$355.87 has been set aside in 71200-399 for contracted services for parentally placed private school students.

IDEA 619

3. Will any private school proportionate share funds from the prior year be carried over to be expended in the current year?

IDEA 611 funds (6-21)

☐ Yes

☒ No

\$ If yes, estimated amount to be carried over:

IDEA 619 funds (3-5)	\$ If yes, estimated amount to be carried over:
☐ Yes ☒ No	
Resources	
Click here to open the Technical Application Guide.	
Click here to open the FAQ document.	

Assurances	
Elizabethton (101) Public District - FY 2022 - ARP IDEA - Rev 0 - ARP IDEA Requirements	
 The local education agency (LEA) hereby ensures the state education agency (SEA) that the LEA meets each of the following conditions: 1. All programs, services, and activities covered by this Grant Application will be operated in accordance with state and federal laws, regulations, as well as approved policies and rules as established by the Tennessee State Board of Education and the Tennessee Department of Education. The U.S. Office of Management and Budget's Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards are available here. 2. Expenditures will be in compliance with the standard accounting procedures and guidelines established by the Tennessee Department of Education, federal legislation, and F&A Accounts Policy 03. 3. Recognize that state approval of an application does not relieve the LEA of its responsibility to comply with all applicable program and fiscal requirements. 4. Grant funds will not be expended in any manner other than as outlined in the budgeted section of the approved grant application will only be made for allowable costs. Any changes to the original budget must be pre-approved by the State before line items are modified. District acknowledges that this program is subject to funds availability and that the State reserves the right to terminate program activities and expenditures for convenience at any time. 5. Use fiscal control and fund accounting procedures that ensure proper disbursement of and accounting for federal funds paid to that agency under each program as noted in CMIA 7211R rule. 6. Keep such records, and provide such information to the State, as may be reasonably required for fiscal audit, data reporting, and program evaluation. 7. Program activities, expenditures, and records shall be subject to monitoring by the State. LEAs must maintain documentation of all expenditures and submit this documentation with the final report. 8. Activities must align with the intent and purpose of the ARP IDEA as outlined in Section 2014(a) of the American Rescue Plan (ARP) Act of 2021. Allowable services, activities, and expenditures funded with the IDEA shall be provided in compliance with established Federal and State Rules, Regulations, & Minimum Standards.	

9. Special Education and Related Services will be provided in compliance with established Federal and State Rules, Regulations, & Minimum Standards.
10. Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000d et seq., which prohibits discrimination on the basis of race, color, or national origin in any program or activity receiving Federal financial assistance;
11. Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. 1681 et seq., which prohibits discrimination on the basis of sex in any education program or activity receiving federal financial assistance; and
12. All regulations, guidelines, and standards issued by the Tennessee Department of Education and U.S. Department of Education under any of these statutes.

The applicant hereby certifies to the Commissioner of Education that the representation made in this application properly reflects the projected pupils, personnel, and expenditures to be incurred in the operation of the special education program for pupils with disabilities conducted within the LEA, that the expenditures for services and goods will be made exclusively for the benefit of pupils which meet the eligibility criteria established by the U.S. Department of Education, and that personnel assignments and other documentation of expenses will be readily available for audit. All records necessary to ensure the correctness of the information provided by the agency will be kept five years beyond the final reporting date and access to such records will be provided to the SEA.

 *** The local education agency (LEA) hereby assures the state education agency (SEA) that the LEA meets each of the following conditions:**

1.	Special Education and Related Services will be provided in compliance with established Federal and State Rules, Regulations, & Minimum Standards.
2.	The LEA, in providing for the education of children with disabilities within its jurisdiction, has in effect policies, procedures, and programs that are consistent with the State policies and procedures established under §612.
	a. A free appropriate public education (FAPE) is available to all children with disabilities, as defined under §602(3) who have a current individualized education program (IEP), residing in the state between the ages of 3 through 21, inclusive, including children with disabilities who have been suspended or expelled from school. 612(a) (1)

b.	The LEA has established a goal of providing full educational opportunity to all children with disabilities and a detailed timetable for accomplishing that goal. 612(a) (2)
c.	All children with disabilities residing in the LEA, including those who are experiencing homelessness, in foster care, or attending private schools within the LEA's jurisdiction, regardless of the severity of their disabilities, and in need of special education and related services, are identified, located, and evaluated, and a practical method is developed and implemented to determine which children with disabilities are currently receiving needed special education and related services. 612(a) (3)
d.	An individualized education program (IEP), or an individualized family service plan (IFSP), that meets the requirements of section 636(d), is developed, reviewed and revised for each child with a disability in accordance with section 614(d). 612(a) (4)
e.	To the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are not disabled. Special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only when the nature or severity of the disability of a child is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily. 612(a) (5) (A)
f.	Children with disabilities and their parents are afforded the procedural safeguards required by §615. 612(a) (6)
g.	Children with disabilities are evaluated in accordance with subsections (a) through (c) of § 614. 612(a) (7)
h.	LEAs will comply with §617(c) relating to the confidentiality of records and information. 612(a) (8)
i.	Children participating in early intervention programs assisted under Part C and who will participate in preschool programs will experience a smooth and effective transition consistent with §637(a) (9). LEAs will participate in transition planning conferences arranged by the Lead Agency under §635(a) (10) and an IEP or, if consistent with sections 614(d) (2) (B) and 636(d), and IFSP will be developed and implemented by the third birthday. 612(a) (9)
j.	Ensure that all requirements under §612(a) (10) regarding children in private schools are being carried out in a manner consistent with the statute.

k.	Ensure that all requirements under T.C.A. §49-10-107, regarding Contracts for Special Education Services are being carried out in a manner consistent with the statute.
l.	The LEA shall ensure that all personnel necessary to carry out this part are appropriately and adequately prepared, subject to the requirements of Sec. 9214 (d)(2) of the Elementary and Secondary Education Act of 1965 as amended by the Every Student Succeeds Act.
m.	This LEA will either choose to coordinate with the National Instructional Materials Access Center when purchasing print instructional materials in accordance with section 612(a)(23) or will provide instructional materials to blind persons or other persons with print disabilities in a timely manner. 613(a)(6)
n.	The LEA ensures that timely and meaningful consultation has occurred with private schools and the parents of home-schooled special education students.
3.	The LEA shall provide the SEA with information necessary to enable the SEA to carry out its duties under this part, including, with respect to Sections 612(a) (15) and 612 (a) (16), information relating to the performance of children with disabilities participating in programs carried out under this part. 613(a) (7)
4.	The LEA shall make available to parents of children with disabilities and to the general public all documents relating to the eligibility of such agency under this part. 613(a)
5.	The LEA shall cooperate under section 1308 of the Elementary and Secondary Education Act of 1965 to ensure the linkage of records pertaining to migratory children with disabilities for the purpose of electronically exchanging, among the States, health and educational information regarding such children.
6.	Subject to section 613(b) (3), the LEA application submitted to the SEA shall remain in effect until the LEA submits to the SEA such modifications as the LEA determines necessary. 613(b) (2)
7.	Ensure that all requirements under §613(a) (5) regarding treatment of Charter Schools and their students are being carried out in a manner consistent with the statute.
8.	Children with disabilities served with IDEA funds shall be counted in the same manner as children without disabilities to supplement the academic program funds earned and paid from the Basic Education Program.

9.	Funds provided under IDEA will be used to pay the excess cost of providing special education and related services to children with disabilities; shall be used to supplement the State, Local and other Federal funds and not to supplant such funds; and shall not be used, except as provided in §613(a) (2) (B)-(C) to reduce the level of expenditures. §613(a) (2) (A) and 0520-01-09-.09(2)(f)
10.	Sec. 300.502 (a) (1) The parents of a child with a disability have the right under this part to obtain an independent educational evaluation of the child, subject to paragraphs (b) through (e) of this section. (2) Each public agency must provide to parents, upon request for an independent educational evaluation, information about where an independent educational evaluation may be obtained, and the agency criteria applicable for independent educational evaluations as set forth in paragraph (e) of this section. (3) For the purposes of this subpart- (i) Independent educational evaluation means an evaluation conducted by a qualified examiner who is not employed by the public agency responsible for the education of the child in question; and (ii) Public expense means that the public agency either pays for the full cost of the evaluation or ensures that the evaluation is otherwise provided at no cost to the parent, consistent with §300.103.
11.	As noted in TCA 49-1-104 (a) & (b) Maximum class size, LEA case load and class size standards have been submitted and approved by the SEA. There have been no changes since the original submission. (The State will review LEA caseload and class size standards for compliance.) Any future LEA updates or revisions will be submitted to the Special Populations division at the SEA for approval and for reference purposes.
12.	Children with disabilities served with IDEA funds have at least the same average amount spent on them, from sources other than Part B, as do the children in the school system taken as a whole. 0520-01-09-.09(2)(c)
13.	Eligibility as a child with a disability pursuant to the IDEA and state disability eligibility standards will be established prior to expenditure of IDEA Part B funds for implementation of school nurse or school health services pursuant to 34 C.F.R. §300.34(c)(13).
14.	Children with healthcare needs or medical conditions of a short duration, temporary nature, or medical conditions that require infrequent school nurse or school health services, and whose educational performance is not adversely affected by such healthcare needs or medical conditions, will not be certified as eligible pursuant to IDEA and state disability eligibility standards for the purpose of accessing IDEA Part B funds to provide school nurse or school health services for such children.

15.	Prior to including school nurse or school health services in an Individualized Education Program (IEP), an IEP Team will determine that the child needs school nurse or school health services to benefit from his or her education and thereby receive FAPE. In making this determination, the IEP Team will consider the child's educational progress.
16.	School nurse or school health services will not be included as related services in instances where an IDEA eligible child's healthcare needs or medical condition do not affect his or her educational performance or the receipt of FAPE.
17.	The LEA has spent the minimum amount of State and local funds for the education of children with disabilities in elementary and secondary schools prior to using IDEA Part B funds.

Budget

Elizabethton (101) Public District - FY 2022 - ARP IDEA - Rev 0 - ARP IDEA Part B Funds

Indirect Cost	
Total Contributing to Indirect Cost	\$134,884.30
Indirect Cost Rate	1.94%
Maximum Allowed for Indirect Cost	\$2,566.95

Account Number	Total
71150 - Alternative Instruction Program	\$0.00
71200 - Special Education Program	\$141,634.30
72120 - Health Services	\$0.00
72130 - Other Student Support	\$0.00
72215 - Support Services/Alternative Instruction Program	\$0.00
72220 - Support Services/Special Education Program	\$0.00
72410 - Office of the Principal	\$0.00
72710 - Transportation	\$0.00
99100 - Transfers Out	\$0.00
Total	\$141,634.30
Adjusted Allocation	\$141,634.30
Remaining	\$0.00

Budget Detail

Elizabethton (101) Public District - FY 2022 - ARP IDEA - Rev 0 - ARP IDEA Part B Funds

71200 - Special Education Program - \$141,634.30 ▼

Budget Detail		Narrative Description
Account Number:	71200 - Special Education Program	These funds will provide for a full-time assistant at each of the five schools in our district (5.55 FTE). The additional 0.55 of a position will be partnered funds from PreK to provide a full-time assistant who splits time between PreK and 6-21.
Line Item Number:	163 - Educational Assistants	
Focus Area:	Providing SWDs with Direct Services...	
Optional Program Code:		
Location Code:	Elizabethton (101)	
Quantity:	1.00	
Cost:	\$81,150.99	
Line Item Total:	\$81,150.99	Funds to be allocated for compensatory and homebound services required due to time out of school for pandemic-related issues.
Account Number:	71200 - Special Education Program	
Line Item Number:	189 - Other Salaries & Wages	
Focus Area:	Providing SWDs with Direct Services...	

Optional Program Code:				
Location Code:	Elizabethton (101)			
Quantity:	1.00			
Cost:	\$5,000.00			
Line Item Total:	\$5,000.00			
Account Number:	71200 - Special Education Program			
Line Item Number:	201 - Social Security			
Focus Area:	Providing SWDs with Direct Services...			
Optional Program Code:				
Location Code:	Elizabethton (101)			
Quantity:	1.00			
Cost:	\$5,032.02			
Line Item Total:	\$5,032.02			
Account Number:	71200 - Special Education Program			

Social Security for the 5.55 full-time assistant positions.

State retirement for the 5.55 assistant positions.

Line Item Number:	204 - State Retirement		
Focus Area:	Providing SWDs with Direct Services...		
Optional Program Code:			
Location Code:	Elizabethton (101)		
Quantity:	1.00		
Cost:	\$7,716.00		
Line Item Total:	\$7,716.00		
Account Number:	71200 - Special Education Program		
Line Item Number:	206 - Life Insurance		
Focus Area:	Providing SWDs with Direct Services...		
Optional Program Code:			
Location Code:	Elizabethton (101)		
Quantity:	1.00		
Cost:	\$216.01		

Life insurance benefits for the 5.55 assistant positions.

Line Item Total:	\$216.01	
Account Number:	71200 - Special Education Program	Medical insurance benefits for the 5.55 assistant positions.
Line Item Number:	207 - Medical Insurance	
Focus Area:	Providing SWDs with Direct Services...	
Optional Program Code:		
Location Code:	Elizabethton (101)	
Quantity:	1.00	
Cost:	\$28,301.00	
Line Item Total:	\$28,301.00	
Account Number:	71200 - Special Education Program	Dental insurance benefits for the 5.55 assistant positions.
Line Item Number:	208 - Dental Insurance	
Focus Area:	Providing SWDs with Direct Services...	
Optional Program Code:		

Location Code:	Elizabethton (101)	
Quantity:	1.00	
Cost:	\$1,229.99	
Line Item Total:	\$1,229.99	
Account Number:	71200 - Special Education Program	Employer Medicare benefits for the 5.55 assistant positions.
Line Item Number:	212 - Employer Medicare	
Focus Area:	Providing SWDs with Direct Services...	
Optional Program Code:		
Location Code:	Elizabethton (101)	
Quantity:	1.00	
Cost:	\$1,174.99	
Line Item Total:	\$1,174.99	
Account Number:	71200 - Special Education Program	This line includes PSPS for contracted services.
Line Item Number:	399 - Other Contracted Services	

Focus Area:	Providing SWDs with Direct Services...	
Optional Program Code:		
Location Code:	Elizabethton (101)	
Quantity:	1.00	
Cost:	\$355.84	
Line Item Total:	\$355.84	
Account Number:	71200 - Special Education Program	Purchasing licenses for online academic subscriptions for supplemental instruction with SPED students.
Line Item Number:	429 - Instructional Supplies & Materials	
Focus Area:	Providing SWDs with Direct Services...	
Optional Program Code:		
Location Code:	Elizabethton (101)	
Quantity:	1.00	
Cost:	\$4,707.46	
Line Item Total:	\$4,707.46	

Account Number:	71200 - Special Education Program	Purchase 15 touchscreen Chromebooks for placement in self-contained classrooms for student accessibility.
Line Item Number:	725 - Special Education Equipment	
Focus Area:	Ensuring Technology Accessibility f...	
Optional Program Code:		
Location Code:	Elizabethton (101)	
Quantity:	1.00	
Cost:	\$6,750.00	
Line Item Total:	\$6,750.00	
Total for 71200 - Special Education Program:		\$141,634.30
Total for all other Account Numbers:		\$0.00
Total for all Account Numbers:		\$141,634.30
Adjusted Allocation:		\$141,634.30
Remaining:		\$0.00

Budget Overview

Elizabethton (101) Public District - FY 2022 - ARP IDEA - Rev 0 - ARP IDEA Part B Funds

Indirect Cost	
Total Contributing to Indirect Cost	\$134,884.30
Indirect Cost Rate	1.94%
Maximum Allowed for Indirect Cost	\$2,566.95

Filter by Location: All - \$141,634.30 ▼

Line Item Number	Account Number	71200 - Special Education Program	Total
163 - Educational Assistants		81,150.99	81,150.99
189 - Other Salaries & Wages		5,000.00	5,000.00
201 - Social Security		5,032.02	5,032.02
204 - State Retirement		7,716.00	7,716.00
206 - Life Insurance		216.01	216.01
207 - Medical Insurance		28,301.00	28,301.00
208 - Dental Insurance		1,229.99	1,229.99
212 - Employer Medicare		1,174.99	1,174.99

Account Number		71200 - Special Education Program	Total
Line Item Number			
399 - Other Contracted Services		355.84	355.84
429 - Instructional Supplies & Materials		4,707.46	4,707.46
725 - Special Education Equipment		6,750.00	6,750.00
Total		141,634.30	141,634.30
		Adjusted Allocation	141,634.30
		Remaining	0.00

Spending Plan

Elizabethton (101) Public District - FY 2022 - ARP IDEA - Rev 0 - ARP IDEA Part B Funds

After analyzing and repurposing other funding sources, develop the spending plan for the American Rescue Plan Act of 2021 (ARP) funds aligned with the needs and your larger district plan. For each of the applicable focus areas below, provide an amount and provide a narrative on how this focus area addresses the needs. The amounts should not exceed your LEA's allocation.

1. Providing Direct Services and Supports for SWDs

\$ Amount

The amount box auto-populates based on inputs from the Budget Page.

Describe how the proposed activities/use of funds supports the focus area and how the effectiveness of the activities will be assessed.

The proposed funds will allow ECS to assign a new full-time, SPED dedicated, assistant to each of the five schools in our district for the 2021-2022 school year. In light of the impacts of the COVID-19 pandemic, these positions would be utilized to provide more intensive support, instructional services, and intervention to students who have been negatively impacted by the altered school schedules of the last 18 months. Additionally, these positions would help offset the impact of staff absences due to possible quarantine and isolation periods that occur as we are still in the midst of the pandemic. Additionally, funds will be allocated for the provision of compensatory and homebound services resulting from time out of school due to the pandemic. Funds will also be allocated for the purchase of online licenses for supplemental instructional materials to be utilized by SPED teachers and students. The proposed use of funds will be assessed through student growth through progress monitoring, classroom performance, and performance on state testing.

2. Implementing Child Find

\$ Amount

The amount box auto-populates based on inputs from the Budget Page.

Describe how the proposed activities/use of funds supports the focus area and how the effectiveness of the activities will be assessed.

3. Ensuring Technology Accessibility for SWDs

\$ 6,750.00 Amount

The amount box auto-populates based on inputs from the Budget Page.

Describe how the proposed activities/use of funds supports the focus area and how the effectiveness of the activities will be assessed.

These funds will be spent on assistive technology for items such as touch screen Chromebooks for placement in our self-contained classrooms. These students are not always able to utilize standard Chromebooks to access online curriculum. With many local and state level curriculum and assessments moving to digital formats, the assessment of the use of these funds will be through student performance and academic growth when interacting with these digital platforms. Examples of this include the use of Google classroom, progress monitoring through AimswebPlus, and online instructional and intervention materials.

4. Improving Transition Services for SWDs

\$ 0.00 Amount

The amount box auto-populates based on inputs from the Budget Page.

Describe how the proposed activities/use of funds supports the focus area and how the effectiveness of the activities will be assessed.

5. Providing for High Cost Students

\$ 0.00 Amount

The amount box auto-populates based on inputs from the Budget Page.

Describe how the proposed activities/use of funds supports the focus area and how the effectiveness of the activities will be assessed.

6. Additional Programming Placement Needs

\$ Amount

The amount box auto-populates based on inputs from the Budget Page.

Describe how the proposed activities/use of funds supports the focus area and how the effectiveness of the activities will be assessed.

Resources

[Click here to open the Technical Application Guide.](#)

[Click here to open the FAQ document.](#)

Program Details			
Elizabethton (101) Public District - FY 2022 - ARP IDEA - Rev 0 - ARP IDEA Part B Funds			
Administration Cost			
Program Administration: The reasonable and necessary costs to manage the federal grant in a compliant and effective manner.			
☒ The district is not utilizing grant funds to administer the American Rescue Plan (ARP) Act of 2021. Provide a summary of how the grant program will be administered, including the title of the staff responsible for the grant administration, the FTE(s), and the other funding sources that will contribute to administrative staff salaries/benefits.			
Grant administration, including oversight of the 6 FTE positions created, will be the responsibility of the Director of Special Education (.85 FTE) who is funded from general-purpose funds (141-72220-105).			
☐ The district is utilizing grant funds to administer the American Rescue Plan (ARP) Act of 2021.			
Systemwide Administration for Grant Administration - Staff in this table are those who work in the central office on the direct administration of the grant.			
Systemwide Administration for LEAs Using ARP IDEA Funds for Direct Administration: Staff in this table are those who work in the central office on the direct administration of the grant. If the LEA is not using ARP IDEA for grant administration, do not enter staff in this table.			
		Headcount	FTE
Administration			
Resource Specialist			
Program/Project Director			

Elizabethton (101) Public District - FY 2022 - ARP IDEA - Rev 0 - ARP IDEA Part B Funds

Administration Cost

Program Administration: The reasonable and necessary costs to manage the federal grant in a compliant and effective manner.

☒The district is not utilizing grant funds to administer the American Rescue Plan (ARP) Act of 2021. Provide a summary of how the grant program will be administered, including the title of the staff responsible for the grant administration, the FTE(s), and the other funding sources that will contribute to administrative staff salaries/benefits.

Grant administration, including oversight of the 6 FTE positions created, will be the responsibility of the Director of Special Education (.85 FTE) who is funded from general-purpose funds (141-72220-105).

☐The district is utilizing grant funds to administer the American Rescue Plan (ARP) Act of 2021.

Systemwide Administration for Grant Administration - Staff in this table are those who work in the central office on the direct administration of the grant.

Systemwide Administration for LEAs Using ARP IDEA Funds for Direct Administration: Staff in this table are those who work in the central office on the direct administration of the grant. If the LEA is not using ARP IDEA for grant administration, do not enter staff in this table.

	Headcount	FTE
Administration		
Resource Specialist		
Program/Project Director		

Administration Cost			
Program Administration: The reasonable and necessary costs to manage the federal grant in a compliant and effective manner.			
☒ The district is not utilizing grant funds to administer the American Rescue Plan (ARP) Act of 2021. Provide a summary of how the grant program will be administered, including the title of the staff responsible for the grant administration, the FTE(s), and the other funding sources that will contribute to administrative staff salaries/benefits. Grant administration, including oversight of the 6 FTE positions created, will be the responsibility of the Director of Special Education (.85 FTE) who is funded from general-purpose funds (141-72220-105).			
☐ The district is utilizing grant funds to administer the American Rescue Plan (ARP) Act of 2021.			
Systemwide Administration for Grant Administration - Staff in this table are those who work in the central office on the direct administration of the grant.			
Systemwide Administration for LEAs Using ARP IDEA Funds for Direct Administration: Staff in this table are those who work in the central office on the direct administration of the grant. If the LEA is not using ARP IDEA for grant administration, do not enter staff in this table.			
	Headcount	FTE	
Administration			
Resource Specialist			
Program/Project Director			

Program Administration: The reasonable and necessary costs to manage the federal grant in a compliant and effective manner.

☒ **The district is not utilizing grant funds to administer the American Rescue Plan (ARP) Act of 2021.** Provide a summary of how the grant program will be administered, including the title of the staff responsible for the grant administration, the FTE(s), and the other funding sources that will contribute to administrative staff salaries/benefits.
Grant administration, including oversight of the 6 FTE positions created, will be the responsibility of the Director of Special Education (.85 FTE) who is funded from general-purpose funds (141-72220-105).

☐ **The district is utilizing grant funds to administer the American Rescue Plan (ARP) Act of 2021.**

Systemwide Administration for Grant Administration - Staff in this table are those who work in the central office on the direct administration of the grant.

Systemwide Administration for LEAs Using **ARP IDEA Funds** for Direct Administration: Staff in this table are those who work in the central office on the direct administration of the grant. If the LEA is not using ARP IDEA for grant administration, do not enter staff in this table.

	Headcount	FTE
Administration		
Resource Specialist		
Program/Project Director		

☒
The district is not utilizing grant funds to administer the American Rescue Plan (ARP) Act of 2021. Provide a summary of how the grant program will be administered, including the title of the staff responsible for the grant administration, the FTE(s), and the other funding sources that will contribute to administrative staff salaries/benefits.

☐
The district is utilizing grant funds to administer the American Rescue Plan (ARP) Act of 2021.

Systemwide Administration for Grant Administration - Staff in this table are those who work in the central office on the direct administration of the grant.

Systemwide Administration for LEAs Using **ARP IDEA Funds** for Direct Administration: Staff in this table are those who work in the central office on the direct administration of the grant. If the LEA is not using ARP IDEA for grant administration, do not enter staff in this table.

	Headcount	FTE
Administration		
Resource Specialist		
Program/Project Director		

☐
The district is utilizing grant funds to administer the American Rescue Plan (ARP) Act of 2021.

Systemwide Administration for Grant Administration - Staff in this table are those who work in the central office on the direct administration of the grant.

Systemwide Administration for LEAs Using **ARP IDEA Funds** for Direct Administration: Staff in this table are those who work in the central office on the direct administration of the grant. If the LEA is not using ARP IDEA for grant administration, do not enter staff in this table.

	Headcount	FTE
Administration		
Resource Specialist		
Program/Project Director		

	Headcount	FTE
Administration		
Resource Specialist		
Program/Project Director		

	Headcount	FTE
Administration		
Resource Specialist		
Program/Project Director		

	Headcount	FTE
Administration		
Resource Specialist		
Program/Project Director		

Other (specify)				
Total		0		0.00

Provide a brief description of the reasonable and necessary administrative activities and personnel. This includes the FTE and amount deducted from the grant.

Planning

Reflect on the challenges that the LEA faced during the COVID-19 pandemic. What prioritized needs did the LEA identify during the pandemic for Students with Disabilities?

The greatest challenge faced by the LEA during the COVID-19 pandemic was accessibility, in both interpersonal and electronic means. The LEA was not a 1-1 device district prior to the pandemic and did not have an officially adopted LMS in place. Additionally, the altered school schedule and vast number of students and teachers who missed and continue to miss time in the school building because of isolation and quarantine requirements severely challenges high-level student instruction. Needs that were prioritized during the pandemic for SWDs included devices for distance learning, technological licenses and training for teachers to maintain services for students in virtual settings and increased staffing in areas to help offset the need for additional service hours, progress monitoring, and instruction.

Learning Loss

Provide information on how your LEA is measuring and addressing learning loss. How will ARP IDEA funds support these measures for Students with Disabilities?

Learning loss is being measured in multiple ways. First, the performance of students on state testing in comparison to prior year performance is a primary indicator. Additionally, the results of universal screening, multi-tiered systems of supports through the RTI process, and classroom performance all help the LEA monitor and measure learning loss. The ARP IDEA funds will greatly support the effort to recoup learning loss by providing additional support in the form of staffing to offer compensatory services, increased small-group intervention, and progress monitoring for the SWD population of the LEA

Resources

[Click here to open the Technical Application Guide.](#)

[Click here to open the FAQ document.](#)

Equipment Purchases Requiring Prior Approval

Elizabethton (101) Public District - FY 2022 - ARP IDEA - Rev 0 - ARP IDEA Part B Funds



N/A

Resources

[Click here to open the Technical Application Guide.](#)

[Click here to open the FAQ document.](#)

Permissive Use of Funds

Elizabethton (101) Public District - FY 2022 - ARP IDEA - Rev 0 - ARP IDEA Part B Funds

Please respond to Questions A - C below. For questions marked with a "yes" response, please provide responses to the questions on the following corresponding pages. For questions marked with a "no" response, please check "N/A" at the top of the following corresponding pages.

*** A. Adjustment to Local Effort in Certain Fiscal Years.**

- ☐ Yes
☒ No

IDEA(2004) allows an LEA to reduce state and local maintenance of effort by an amount that equals up to 50% of the increase in IDEA funds from the previous year if those funds are used to provide activities authorized under ESEA.

There are limitations to this adjustment. Any LEA identified as not meeting requirements in the State's APR, is prohibited by law from reducing its maintenance of effort figures.

*** B. Permissive Use of ARP IDEA funds for Schoolwide Program.**

- ☐ Yes
☒ No

IDEA allows an LEA to use funds to carry out a schoolwide program under Section 1114 of ESEA. If an applicant utilizes these funds, you will report the designated amount for each school and ensure that excess cost and service requirements are met.

*** C. Permissive Use of ARP IDEA funds for Coordinated Early Intervening Services. (voluntary)**

☐ Yes

☒ No

*** C. Permissive Use of ARP IDEA funds for Comprehensive Coordinated Early Intervening Services. (mandatory)**

☐ Yes

☒ No

ARP IDEA allows an LEA to use up to 15% of funds, in combination with other amounts (other than education funds), to develop and implement Coordinated Early Intervening Services, which may include interagency financing structures, for students in kindergarten through grade 12 (with particular emphasis on students in kindergarten through grade 3) who have not been identified as needing special education or related services but who need additional academic and behavioral support to succeed in a general education environment.

NOTE: If an LEA is determined to have significant disproportionality based on race and ethnicity utilizing state criteria, the LEA must utilize Comprehensive Coordinated Early Intervening Services (IDEA §618(d)(2)(B)).

The amount expended by an LEA under Coordinated Early Intervening Services shall count toward the maximum amount of expenditures such LEAs may reduce in Item "A" Adjustment to Local Effort (above).

If an applicant utilizes these funds, the calculations must be shown on the corresponding pages.

Resources

[Click here to open the Technical Application Guide.](#)

[Click here to open the FAQ document.](#)

A. Adjustment to Local Effort

Elizabethton (101) Public District - FY 2022 - ARP IDEA - Rev 0 - ARP IDEA Part B Funds



N/A

Resources

[Click here to open the Technical Application Guide.](#)

[Click here to open the FAQ document.](#)

B. Schoolwide Program

Elizabethton (101) Public District - FY 2022 - ARP IDEA - Rev 0 - ARP IDEA Part B Funds



N/A

Resources

[Click here to open the Technical Application Guide.](#)

[Click here to open the FAQ document.](#)

Elizabethton (101) Public District - FY 2022 - ARP IDEA - Rev 0 - ARP IDEA Part B Funds

  **N/A**

Resources

[Click here to open the Technical Application Guide.](#)

[Click here to open the FAQ document.](#)

Elizabethton (101) Public District - FY 2022 - ARP IDEA - Rev 0 - ARP IDEA Part B Funds

  **N/A**

Resources

[Click here to open the Technical Application Guide.](#)

[Click here to open the FAQ document.](#)

Budget

Elizabethton (101) Public District - FY 2022 - ARP IDEA - Rev 0 - ARP IDEA Preschool Funds

Indirect Cost	
Total Contributing to Indirect Cost	\$9,442.87
Indirect Cost Rate	1.94%
Maximum Allowed for Indirect Cost	\$179.70

Account Number	Total
71200 - Special Education Program	\$9,442.87
72120 - Health Services	\$0.00
72130 - Other Student Support	\$0.00
72220 - Support Services/Special Education Program	\$0.00
72410 - Office of the Principal	\$0.00
72710 - Transportation	\$0.00
99100 - Transfers Out	\$0.00
Total	\$9,442.87
Adjusted Allocation	\$9,442.87
Remaining	\$0.00

Budget Detail		
Elizabethton (101) Public District - FY 2022 - ARP IDEA - Rev 0 - ARP IDEA Preschool Funds 71200 - Special Education Program - \$9,442.87 ▼		
Budget Detail		Narrative Description
Account Number:	71200 - Special Education Program	Funding for 0.45 of a full-time assistant in PreK.
Line Item Number:	163 - Educational Assistants	
Focus Area:	Providing SWDs with Direct Services...	
Optional Program Code:		
Location Code:	Elizabethton (101)	
Quantity:	1.00	
Cost:	\$6,317.00	
Line Item Total:	\$6,317.00	
Account Number:	71200 - Special Education Program	Social Security benefits for the 0.45 PreK assistant position.
Line Item Number:	201 - Social Security	
Focus Area:	Providing SWDs with Direct Services...	

Optional Program Code:			
Location Code:	Elizabethton (101)		
Quantity:	1.00		
Cost:	\$392.00		
Line Item Total:	\$392.00		
Account Number:	71200 - Special Education Program		
Line Item Number:	204 - State Retirement		
Focus Area:	Providing SWDs with Direct Services...		
Optional Program Code:			
Location Code:	Elizabethton (101)		
Quantity:	1.00		
Cost:	\$601.00		
Line Item Total:	\$601.00		
Account Number:	71200 - Special Education Program		

State retirement benefits for the 0.45 PreK assistant position.

Life insurance benefits for the 0.45 PreK assistant position.

Line Item Number:	206 - Life Insurance		
Focus Area:	Providing SWDs with Direct Services...		
Optional Program Code:			
Location Code:	Elizabethton (101)		
Quantity:	1.00		
Cost:	\$16.00		
Line Item Total:	\$16.00		
Account Number:	71200 - Special Education Program		
Line Item Number:	207 - Medical Insurance		
Focus Area:	Providing SWDs with Direct Services...		
Optional Program Code:			
Location Code:	Elizabethton (101)		
Quantity:	1.00		
Cost:	\$1,932.87		

Medical insurance benefits for the 0.45 PreK assistant position.

Line Item Total:	\$1,932.87	
Account Number:	71200 - Special Education Program	Dental insurance benefits for the 0.45 PreK assistant position.
Line Item Number:	208 - Dental Insurance	
Focus Area:	Providing SWDs with Direct Services...	
Optional Program Code:		
Location Code:	Elizabethton (101)	
Quantity:	1.00	
Cost:	\$92.00	
Line Item Total:	\$92.00	
Account Number:	71200 - Special Education Program	
Line Item Number:	212 - Employer Medicare	
Focus Area:	Providing SWDs with Direct Services...	Employer Medicare benefits for the 0.45 PreK assistant position.
Optional Program Code:		

Location Code:		Elizabethton (101)	
Quantity:		1.00	
Cost:		\$92.00	
Line Item Total:		\$92.00	
Total for 71200 - Special Education Program:			\$9,442.87
Total for all other Account Numbers:			\$0.00
Total for all Account Numbers:			\$9,442.87
Adjusted Allocation:			\$9,442.87
Remaining:			\$0.00

Budget Overview

Elizabethton (101) Public District - FY 2022 - ARP IDEA - Rev 0 - ARP IDEA Preschool Funds

Indirect Cost	
Total Contributing to Indirect Cost	\$9,442.87
Indirect Cost Rate	1.94%
Maximum Allowed for Indirect Cost	\$179.70

Filter by Location: All - \$9,442.87



Line Item Number	Account Number	71200 - Special Education Program	Total
163 - Educational Assistants		6,317.00	6,317.00
201 - Social Security		392.00	392.00
204 - State Retirement		601.00	601.00
206 - Life Insurance		16.00	16.00
207 - Medical Insurance		1,932.87	1,932.87
208 - Dental Insurance		92.00	92.00
212 - Employer Medicare		92.00	92.00
Total		9,442.87	9,442.87

Account Number		71200 - Special Education Program	Total
Line Item Number			
		Adjusted Allocation	9,442.87
		Remaining	0.00

Spending Plan

Elizabethton (101) Public District - FY 2022 - ARP IDEA - Rev 0 - ARP IDEA Preschool Funds

After analyzing and repurposing other funding sources, develop the spending plan for the American Rescue Plan Act of 2021 (ARP) funds aligned with the needs and your larger district plan. For each of the applicable focus areas below, provide an amount and provide a narrative on how this focus area addresses the needs. The amounts should not exceed your LEA's allocation.

1. Providing Direct Services and Supports for SWDs

\$ 9,442.87 Amount

The amount box auto-populates based on inputs from the Budget Page.

Describe how the proposed activities/use of funds supports the focus area and how the effectiveness of the activities will be assessed.

The proposed funds will allow ECS to assign a new full-time, SPED dedicated, assistant to the SPED PreK program in our district for the 2021-2022 school year for a portion of each instructional day. In light of the impacts of the COVID-19 pandemic, these positions would be utilized to provide more intensive support, instructional services, and intervention to students who have been negatively impacted by the altered school schedules of the last 18 months. The proposed use of funds will be assessed through student growth through progress monitoring, classroom performance, and growth toward stated IEP goals.

2. Implementing Child Find

\$ 0.00 Amount

The amount box auto-populates based on inputs from the Budget Page.

Describe how the proposed activities/use of funds supports the focus area and how the effectiveness of the activities will be assessed.

3. Ensuring Technology Accessibility for SWDs

\$ Amount

The amount box auto-populates based on inputs from the Budget Page.

Describe how the proposed activities/use of funds supports the focus area and how the effectiveness of the activities will be assessed.

4. Improving Transition Services for SWDs

\$ Amount

The amount box auto-populates based on inputs from the Budget Page.

Describe how the proposed activities/use of funds supports the focus area and how the effectiveness of the activities will be assessed.

5. Providing for High Cost Students

\$ Amount

The amount box auto-populates based on inputs from the Budget Page.

Describe how the proposed activities/use of funds supports the focus area and how the effectiveness of the activities will be assessed.

6. Additional Programming Placement Needs

\$ Amount

The amount box auto-populates based on inputs from the Budget Page.

Describe how the proposed activities/use of funds supports the focus area and how the effectiveness of the activities will be assessed.

Resources

[Click here to open the Technical Application Guide.](#)

[Click here to open the FAQ document.](#)

Program Details	Elizabethton (101) Public District - FY 2022 - ARP IDEA - Rev 0 - ARP IDEA Preschool Funds		
Administration Cost			
Program Administration: The reasonable and necessary costs to manage the federal grant in a compliant and effective manner.			
☒ The district is not utilizing grant funds to administer the American Rescue Plan (ARP) Act of 2021. Provide a summary of how the grant program will be administered, including the title of the staff responsible for the grant administration, the FTE(s), and the other funding sources that will contribute to administrative staff salaries/benefits. Grant administration, including oversight of the 6 FTE positions created, will be the responsibility of the Director of Special Education (.85 FTE) who is funded from general-purpose funds (141-72220-105).			
☐ The district is utilizing grant funds to administer the American Rescue Plan (ARP) Act of 2021.			
Systemwide Administration for Grant Administration - Staff in this table are those who work in the central office on the direct administration of the grant.			
Systemwide Administration for LEAs Using ARP IDEA Funds for Direct Administration: Staff in this table are those who work in the central office on the direct administration of the grant. If the LEA is not using ARP IDEA for grant administration, do not enter staff in this table.			
		Headcount	FTE
Administration			
Resource Specialist			
Program/Project Director			

Elizabethton (101) Public District - FY 2022 - ARP IDEA - Rev 0 - ARP IDEA Preschool Funds

Administration Cost

Program Administration: The reasonable and necessary costs to manage the federal grant in a compliant and effective manner.

- ☒ **The district is not utilizing grant funds to administer the American Rescue Plan (ARP) Act of 2021.** Provide a summary of how the grant program will be administered, including the title of the staff responsible for the grant administration, the FTE(s), and the other funding sources that will contribute to administrative staff salaries/benefits.
 Grant administration, including oversight of the 6 FTE positions created, will be the responsibility of the Director of Special Education (.85 FTE) who is funded from general-purpose funds (141-72220-105).
- ☐ **The district is utilizing grant funds to administer the American Rescue Plan (ARP) Act of 2021.**

Systemwide Administration for Grant Administration - Staff in this table are those who work in the central office on the direct administration of the grant.

Systemwide Administration for LEAs Using **ARP IDEA Funds** for Direct Administration: Staff in this table are those who work in the central office on the direct administration of the grant. If the LEA is not using ARP IDEA for grant administration, do not enter staff in this table.

	Headcount	FTE
Administration		
Resource Specialist		
Program/Project Director		

Administration Cost			
Program Administration: The reasonable and necessary costs to manage the federal grant in a compliant and effective manner.			
☒ The district is not utilizing grant funds to administer the American Rescue Plan (ARP) Act of 2021. Provide a summary of how the grant program will be administered, including the title of the staff responsible for the grant administration, the FTE(s), and the other funding sources that will contribute to administrative staff salaries/benefits. Grant administration, including oversight of the 6 FTE positions created, will be the responsibility of the Director of Special Education (.85 FTE) who is funded from general-purpose funds (141-72220-105).			
☐ The district is utilizing grant funds to administer the American Rescue Plan (ARP) Act of 2021.			
Systemwide Administration for Grant Administration - Staff in this table are those who work in the central office on the direct administration of the grant.			
Systemwide Administration for LEAs Using ARP IDEA Funds for Direct Administration: Staff in this table are those who work in the central office on the direct administration of the grant. If the LEA is not using ARP IDEA for grant administration, do not enter staff in this table.			
	Headcount	FTE	
Administration			
Resource Specialist			
Program/Project Director			

Program Administration: The reasonable and necessary costs to manage the federal grant in a compliant and effective manner.

☒ **The district is not utilizing grant funds to administer the American Rescue Plan (ARP) Act of 2021.** Provide a summary of how the grant program will be administered, including the title of the staff responsible for the grant administration, the FTE(s), and the other funding sources that will contribute to administrative staff salaries/benefits.
Grant administration, including oversight of the 6 FTE positions created, will be the responsibility of the Director of Special Education (.85 FTE) who is funded from general-purpose funds (141-72220-105).

☐ **The district is utilizing grant funds to administer the American Rescue Plan (ARP) Act of 2021.**

Systemwide Administration for Grant Administration - Staff in this table are those who work in the central office on the direct administration of the grant.

Systemwide Administration for LEAs Using **ARP IDEA Funds** for Direct Administration: Staff in this table are those who work in the central office on the direct administration of the grant. If the LEA is not using ARP IDEA for grant administration, do not enter staff in this table.

	Headcount	FTE
Administration		
Resource Specialist		
Program/Project Director		

☒ **The district is not utilizing grant funds to administer the American Rescue Plan (ARP) Act of 2021.** Provide a summary of how the grant program will be administered, including the title of the staff responsible for the grant administration, the FTE(s), and the other funding sources that will contribute to administrative staff salaries/benefits.

☐ **The district is utilizing grant funds to administer the American Rescue Plan (ARP) Act of 2021.**

Systemwide Administration for Grant Administration - Staff in this table are those who work in the central office on the direct administration of the grant.

Systemwide Administration for LEAs Using **ARP IDEA Funds** for Direct Administration: Staff in this table are those who work in the central office on the direct administration of the grant. If the LEA is not using ARP IDEA for grant administration, do not enter staff in this table.

	Headcount	FTE
Administration		
Resource Specialist		
Program/Project Director		

☐
The district is utilizing grant funds to administer the American Rescue Plan (ARP) Act of 2021.

Systemwide Administration for Grant Administration - Staff in this table are those who work in the central office on the direct administration of the grant.

Systemwide Administration for LEAs Using **ARP IDEA Funds** for Direct Administration: Staff in this table are those who work in the central office on the direct administration of the grant. If the LEA is not using ARP IDEA for grant administration, do not enter staff in this table.

	Headcount	FTE
Administration		
Resource Specialist		
Program/Project Director		

	Headcount	FTE
Administration		
Resource Specialist		
Program/Project Director		

	Headcount	FTE
Administration		
Resource Specialist		
Program/Project Director		

	Headcount	FTE
Administration		
Resource Specialist		
Program/Project Director		

Other (specify)			
Total		0	0.00

Provide a brief description of the reasonable and necessary administrative activities and personnel. This includes the FTE and amount deducted from the grant.

Planning

Reflect on the challenges that the LEA faced during the COVID-19 pandemic. What prioritized needs did the LEA identify during the pandemic for Students with Disabilities?

The greatest challenge faced by the LEA during the COVID-19 pandemic was accessibility, in both interpersonal and electronic means. The LEA was not a 1-1 device district prior to the pandemic and did not have an officially adopted LMS in place. Additionally, the altered school schedule and vast number of students and teachers who missed and continue to miss time in the school building because of isolation and quarantine requirements severely challenges high-level student instruction. Needs that were prioritized during the pandemic for SWDs included devices for distance learning, technological licenses and training for teachers to maintain services for students in virtual settings and increased staffing in areas to help offset the need for additional service hours, progress monitoring, and instruction.

Learning Loss

Provide information on how your LEA is measuring and addressing learning loss. How will ARP IDEA funds support these measures for Students with Disabilities?

Learning loss is being measured in multiple ways. First, the performance of students on state testing in comparison to prior year performance is a primary indicator. Additionally, the results of universal screening, multi-tiered systems of supports through the RTI process, and classroom performance all help the LEA monitor and measure learning loss. The ARP IDEA funds will greatly support the effort to recoup learning loss by providing additional support in the

form of staffing to offer compensatory services, increased small-group intervention, and progress monitoring for the SWD population of the LEA.

Resources

[Click here to open the Technical Application Guide.](#)

[Click here to open the FAQ document.](#)

Equipment Purchases Requiring Prior Approval

Elizabethton (101) Public District - FY 2022 - ARP IDEA - Rev 0 - ARP IDEA Preschool Funds



N/A

Resources

[Click here to open the Technical Application Guide.](#)

[Click here to open the FAQ document.](#)

Permissive Use of Funds

Elizabethton (101) Public District - FY 2022 - ARP IDEA - Rev 0 - ARP IDEA Preschool Funds

Please respond to Questions A - C below. For questions marked with a "yes" response, please provide responses to the questions on the following corresponding pages. For questions marked with a "no" response, please check "N/A" at the top of the following corresponding pages.

*** A. Adjustment to Local Effort in Certain Fiscal Years.**

- ☐ Yes
☒ No

IDEA 04 allows an LEA to reduce state and local maintenance of effort by an amount that equals up to 50% of the increase in IDEA funds from the previous year if those funds are used to provide activities authorized under ESEA.

There are limitations to this adjustment. Any LEA identified as not meeting requirements in the State's APR, is prohibited by law from reducing its maintenance of effort figures.

*** B. Permissive Use of IDEA funds for Schoolwide Program.**

- ☐ Yes
☒ No

IDEA allows an LEA to use funds to carry out a schoolwide program under Section 1114 of ESEA. If an applicant utilizes these funds, you will report the designated amount for each school and ensure that excess cost and service requirements are met.

*** C. Permissive Use of IDEA funds for Coordinated Early Intervening Services.**

- ☐ Yes

☒ No

IDEA allows an LEA to use up to 15% of funds, in combination with other amounts (other than education funds), to develop and implement Coordinated Early Intervening Services, which may include interagency financing structures, for students in kindergarten through grade 12 (with particular emphasis on students in kindergarten through grade 3) who have not been identified as needing special education or related services but who need additional academic and behavioral support to succeed in a general education environment.

NOTE: If an LEA is determined to have significant disproportionality based on race and ethnicity utilizing state criteria, the LEA must utilize Coordinated Early Intervening Services (Section 618 (d) (2) (B)). The amount expended by an LEA under Coordinated Early Intervening Services shall count toward the maximum amount of expenditures such LEAs may reduce in Item "A" Adjustment to Local Effort (above).

If an applicant utilizes these funds, the calculations must be shown on the corresponding pages.

Resources

[Click here to open the Technical Application Guide.](#)

[Click here to open the FAQ document.](#)

A. Adjustment to Local Effort

Elizabethton (101) Public District - FY 2022 - ARP IDEA - Rev 0 - ARP IDEA Preschool Funds



N/A

Resources

[Click here to open the Technical Application Guide.](#)

[Click here to open the FAQ document.](#)

B. Schoolwide Program

Elizabethton (101) Public District - FY 2022 - ARP IDEA - Rev 0 - ARP IDEA Preschool Funds



N/A

Resources

[Click here to open the Technical Application Guide.](#)

[Click here to open the FAQ document.](#)

C. Coordinated Early Intervening Services (CEIS)

Elizabethton (101) Public District - FY 2022 - ARP IDEA - Rev 0 - ARP IDEA Preschool Funds



N/A

Resources

[Click here to open the Technical Application Guide.](#)

[Click here to open the FAQ document.](#)

ARP IDEA Checklist

Elizabethton (101) Public District - FY 2022 - ARP IDEA - Rev 0 - ARP IDEA Checklist

This checklist is a means of communication between the TDOE and LEAs regarding the allowability and allocability of the items submitted in the funding application. Please follow the steps below to ensure that the funding application contains items that are in compliance with program requirements.

- After the LEA submits the application, the TDOE will review the application and mark each section as OK, Not Applicable, or Attention Needed. If the application contains no items that are marked as Attention Needed, the application will be approved.
- If the application contains items that are marked as Needs Attention, the application will be returned to the LEA with a status of not approved. The LEA will review the checklist for items that are marked Attention Needed and make the necessary changes to those items. Only the checked items in the sections marked Attention Needed are to be corrected and/or explained. Each section marked Attention Needed also has a place where the TDOE may provide notes to explain items needing attention. The LEA should check for notes and additional comments.
- Once the LEA has made the necessary adjustments, the LEA will resubmit the application for approval. If the TDOE determines that the item has been corrected, Attention Needed will be changed to OK by the TDOE Reviewer. If the items needing attention still have not been corrected, the application will be returned again to the LEA with a status of Not Approved.
- Applications that contain no items that are marked Attention Needed will be approved.

General Checklist Comment

No comments have been made at this time

Checklist Description [\(Collapse All\)](#) [\(Expand All\)](#)

	1. Allocations	OK ▼	Tracey Hawk	10/1/2021 11:39:32 AM
	1. ARP IDEA Allocations (Part B and Preschool)			
	2. Cover Page and Contacts	OK ▼	Tracey Hawk	10/1/2021 11:39:32 AM
	1. Cover Page			
	3. IDEA Requirements	OK ▼	Tracey Hawk	10/1/2021 11:39:32 AM
	1. Personnel Details (6-21)			
	2. Personnel Details (3-5)			
	3. Shared Program Details			
	4. Shared Related Documents			
	5. Private School Details (IDEA)			
	4. IDEA Part B	OK ▼	Tracey Hawk	10/1/2021 11:39:32 AM
	1. Budget & Budget Narratives			
	2. Spending Plan			
	3. Program Details			
	4. Equipment Purchases			
	5. Permissive Use of Funds			
	6. Adjustment to Local Effort			
	7. School-wide Program			
	8. Coordinated Early Intervention Services			
	9. Comprehensive Coordinated Early Intervening Services - Mandatory			
	5. IDEA Preschool	OK ▼	Tracey Hawk	10/1/2021 11:39:32 AM
	1. Budget & Budget Narratives			

2. Spending Plan	
3. Program Details	
4. Equipment Purchases	
5. Permissive Use of Funds	
6. Adjustment to Local Effort	
7. School-wide Program	
8. Coordinated Early Intervention Services	



AIA[®] Document B104[™] – 2017

Standard Abbreviated Form of Agreement Between Owner and Architect

AGREEMENT made as of the First day of October in the year Two Thousand Twenty One
(In words, indicate day, month and year.)

BETWEEN the Architect's client identified as the Owner:
(Name, legal status, address and other information)

Elizabethton City Schools
804 South Watauga Avenue
Elizabethton, Tennessee 37643
Telephone: 423-547-8000

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

Thomas Weems Architect
3203 Hanover Road
Johnson City, Tennessee 37604
Telephone: 423-952-2700

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

Alterations to Existing Building
Harold McCormick Elementary School
226 South Cedar Avenue
Elizabethton, Tennessee 37643
Telephone: 423-547-8020
TWA Project 021-002

The Owner and Architect agree as follows.

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

TABLE OF ARTICLES

1	INITIAL INFORMATION
2	ARCHITECT'S RESPONSIBILITIES
3	SCOPE OF ARCHITECT'S BASIC SERVICES
4	SUPPLEMENTAL AND ADDITIONAL SERVICES
5	OWNER'S RESPONSIBILITIES
6	COST OF THE WORK
7	COPYRIGHTS AND LICENSES
8	CLAIMS AND DISPUTES
9	TERMINATION OR SUSPENSION
10	MISCELLANEOUS PROVISIONS
11	COMPENSATION
12	SPECIAL TERMS AND CONDITIONS
13	SCOPE OF THE AGREEMENT

ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth below:

(State below details of the Project's site and program, Owner's contractors and consultants, Architect's consultants, Owner's budget for the Cost of the Work, and other information relevant to the Project.)

School Site: 226 South Cedar Avenue, Elizabethton, Tennessee 37643.

Owner's Program:

2021 – 2022 Capital Projects Information, Project Description for Harold McCormick Elementary School
Miscellaneous Renovations.

Owner's Budget for the Cost of the Work: \$4,100,000.00.

Owner's Schedule: To be determined.

Owner's Consultant(s):

McCurry Environmental Consulting, 112 East Myrtle Avenue, Johnson City, Tennessee 37601

Architect's Consultant(s):

Structural Engineering: Spoden and Wilson Consulting Engineers, 430 Clay Street, Kingsport, Tennessee 37660

Mechanical Engineering: Mechanical Design Services, P O Box 10025, Knoxville, Tennessee 37919

Electrical Engineering: Vreeland Engineers, Inc., 3107 Sutherland Avenue, Knoxville, Tennessee 37919

§ 1.2 The Owner and Architect may rely on the Initial Information. Both parties, however, recognize that such information may materially change and, in that event, the Owner and the Architect shall appropriately adjust the schedule, the Architect's services and the Architect's compensation. The Owner shall ~~adjust~~ consider adjusting the Owner's budget for the Cost of the Work and the Owner's anticipated design and construction milestones, as necessary, to accommodate material changes in the Initial Information.

§ 1.3 The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties will use AIA Document E203™ 2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 1.3.1 Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™ 2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™ 2013, Project Building Information Modeling Protocol Form, 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 ARCHITECT'S RESPONSIBILITIES

§ 2.1 The Architect shall provide the professional services set forth in this Agreement consistent with the professional skill and care ordinarily provided by architects practicing in the same or similar locality under the same or similar circumstances. The Architect shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project.

§ 2.2 The Architect shall maintain the following insurance until termination of this Agreement. If any of the requirements set forth below are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect as set forth in Section 11.8:

(Identify types and limits of insurance coverage, and other insurance requirements applicable to the Agreement, if any.)

.1 General Liability

Commercial General Liability with policy limits of not less than One Million Dollars and Zero Cents (\$ 1,000,000.00) for each occurrence and One Million Dollars and Zero Cents (\$ 1,000,000.00) in the aggregate for bodily injury and property damage.

.2 Automobile Liability

Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Architect with policy limits of not less than Two Hundred Fifty Thousand Dollars and Zero Cents (\$ 250,000.00) 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.

.3 Workers' Compensation

Employers' Liability with policy limits not less than One Hundred Thousand Dollars and Zero Cents (\$ 100,000.00) each accident, One Hundred Thousand Dollars and Zero Cents (\$ 100,000.00) each employee, and One Hundred Thousand Dollars and Zero Cents (\$ 100,000.00) policy limit.

.4 Professional Liability

Professional Liability covering negligent acts, errors and omissions in the performance of professional services with policy limits of not less than One Million Dollars and Zero Cents (\$ 1,000,000.00) per claim and One Million Dollars and Zero Cents (\$ 1,000,000.00) in the aggregate.

ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES

§ 3.1 The Architect's Basic Services consist of those described in this Article 3 and include usual and customary structural, mechanical, and electrical engineering services. Services not set forth in this Article 3 are Supplemental or Additional Services.

§ 3.1.1 The Architect shall coordinate its services with those services provided by the Owner and the Owner's consultants. The Architect shall be entitled to rely on (1) the accuracy and completeness of the services and information furnished by the Owner and (2) the Owner's approvals. The Architect shall provide prompt written notice to the Owner if the Architect becomes aware of any error, omission, or inconsistency in such services or information.

§ 3.1.2 As soon as practicable after the date of this Agreement, the Architect shall submit for the Owner's approval a schedule for the performance of the Architect's services. Once approved by the Owner, time limits established by the schedule shall not, except for reasonable cause, be exceeded by the Architect or Owner. With the Owner's approval, the Architect shall adjust the schedule, if necessary, as the Project proceeds until the commencement of construction.

§ 3.1.3 ~~The Architect shall assist the Owner in connection with the Owner's responsibility for filing~~ Subject to approval in advance by the Owner, the Architect shall file documents required for the approval of governmental authorities having jurisdiction over the Project.

§ 3.2 Design Phase Services

§ 3.2.1 The Architect shall review the program and other information furnished by the Owner, and shall review laws, codes, and regulations applicable to the Architect's services.

§ 3.2.2 The Architect shall discuss with the Owner the Owner's program, schedule, budget for the Cost of the Work, Project site, and alternative approaches to design and construction of the Project. The Architect shall reach an understanding with the Owner regarding the Project requirements.

§ 3.2.3 The Architect shall consider the relative value of alternative materials, building systems and equipment, together with other considerations based on program, aesthetics, and any sustainable objectives, in developing a design for the Project that is consistent with the Owner's schedule and budget for the Cost of the ~~Work~~ Work, ~~provided, however, that the Architect shall inform the Owner of the specific alternative materials, building systems or equipment that are included in any design documents.~~

§ 3.2.4 Based on the Project requirements, the Architect shall prepare Design Documents for the Owner's approval consisting of drawings and other documents appropriate for the Project and the Architect shall prepare and submit to the Owner an estimate of the Cost of the Work prepared in accordance with Section 6.3.

§ 3.2.5 The Architect shall submit the Design Documents to the Owner, and request the Owner's approval.

§ 3.3 Construction Documents Phase Services

§ 3.3.1 Based on the Owner's approval of the Design Documents, the Architect shall prepare for the Owner's approval Construction Documents consisting of Drawings and Specifications setting forth in detail the requirements for the construction of the Work. The Owner and Architect acknowledge that in order to construct the Work the Contractor will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Architect shall review in accordance with Section 3.4.4.

§ 3.3.2 The Architect shall incorporate the design requirements of governmental authorities having jurisdiction over the Project into the Construction Documents.

§ 3.3.3 The Architect shall submit the Construction Documents to the Owner, update the estimate for the Cost of the Work and advise the Owner of any adjustments to the estimate of the Cost of the Work, take any action required under Section 6.5, and request the Owner's approval.

§ 3.3.4 The Architect, following the Owner's approval of the Construction Documents and of the latest estimate of the Cost of the Work, shall assist the Owner in obtaining bids or proposals and awarding and preparing contracts for construction.

§ 3.4 Construction Phase Services

§ 3.4.1 General

§ 3.4.1.1 The Architect shall provide administration of the Contract between the Owner and the Contractor as set forth below and in AIA Document A104™-2017, ~~Standard Abbreviated-A 101 - 2017, Standard Form of Agreement Between Owner and Contractor. If the Owner and Contractor modify AIA Document A104-2017, those modifications shall not affect A 101 -2017, the Architect's services under this Agreement unless the Owner and the Architect amend this Agreement shall be modified accordingly.~~

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

§ 3.4.1.3 Subject to Section 4.2, the Architect's responsibility to provide Construction Phase Services commences with the award of the Contract for Construction and terminates on the date the Architect issues the final Certificate for Payment.

§ 3.4.2 Evaluations of the Work

§ 3.4.2.1 The Architect shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 4.2.2, 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 shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and 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.

§ 3.4.2.2 The Architect has the authority to reject Work that does not conform to the Contract Documents and has the authority to require inspection or testing of the Work.

§ 3.4.2.3 The Architect shall 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 shall be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

§ 3.4.2.4 When making such interpretations and decisions, the Architect shall endeavor to secure faithful performance by both Owner and Contractor, shall not show partiality to either, and shall not be liable for results of interpretations or decisions rendered in good faith.

§ 3.4.2.5 The Architect shall render initial decisions on Claims between the Owner and Contractor as provided in the Contract Documents.

§ 3.4.3 Certificates for Payment to Contractor

§ 3.4.3.1 The Architect shall review and certify the amounts due the Contractor and shall issue certificates in such amounts. The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's evaluation of the Work as provided in Section 3.4.2 and on the data comprising the Contractor's 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.

§ 3.4.3.2 The issuance of a Certificate for Payment shall 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) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 3.4.4 Submittals

§ 3.4.4.1 The Architect shall review and approve, or take other appropriate action, upon the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the Contractor's responsibility. The Architect's review shall not constitute approval of safety precautions or any construction means, methods, techniques, sequences or procedures.

§ 3.4.4.2 If the Contract Documents specifically require the Contractor to provide professional design services or certifications by a design professional related to systems, materials or equipment, the Architect shall specify the appropriate performance and design criteria that such services must satisfy. The Architect shall review and take appropriate action on Shop Drawings and other submittals related to the Work designed or certified by the Contractor's design professional, provided the submittals bear such professional's seal and signature when submitted to the Architect. The review shall be for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect shall be entitled to rely upon, and shall not be responsible for, the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals.

§ 3.4.4.3 The Architect shall review and respond to written requests for information about the Contract Documents. The Architect's response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness.

§ 3.4.5 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. Subject to Section 4.2.3, the Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents.

§ 3.4.6 Project Completion

The Architect shall conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion; forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract Documents and received from the Contractor; and issue a final Certificate for Payment based upon a final inspection indicating that, to the best of the Architect's knowledge, information, and belief, the Work complies with the requirements of the Contract Documents.

ARTICLE 4 SUPPLEMENTAL AND ADDITIONAL SERVICES

§ 4.1 Supplemental Services are not included in Basic Services but may be required for the Project. The Architect shall provide the Supplemental Services indicated below, and the Owner shall compensate the Architect as provided in Section 11.2. Supplemental Services may include programming, site evaluation and planning, environmental studies, civil engineering, landscape design, telecommunications/data, security, measured drawings of existing conditions, coordination of separate contractors or independent consultants, detailed cost estimates, on-site project representation beyond requirements of Section 4.2.2, value analysis, interior architectural design, tenant related services, preparation of record drawings, commissioning, sustainable project services, and any other services not otherwise included in this Agreement. (Identify below the Supplemental Services that the Architect is required to provide and insert a description of each Supplemental Service, if not further described in an exhibit attached to this document.)

Interior Architectural Design: Included with Basic Service..

Coordination of Owner's Consultants: Additional Service.

§ 4.2 The Architect may provide Additional Services after execution of this Agreement without invalidating the Agreement. Upon recognizing the need to perform Additional Services, the Architect shall notify the Owner. The Architect shall not provide the Additional Services until the Architect receives the Owner's written authorization. Except for services required due to the fault of the Architect, any Additional Services provided in accordance with this Section 4.2 shall entitle the Architect to compensation pursuant to Section 11.3.

§ 4.2.1 The Architect shall provide services necessitated by a change in the Initial Information, changes in previous instructions or approvals given by the Owner, or a material change in the Project including size; quality; complexity; the Owner's schedule or budget for Cost of the Work; or procurement or delivery method as an Additional Service.

§ 4.2.2 The Architect has included in Basic Services ~~(—) visits to the site by the Architect during construction. Two (2) visits to the site EACH MONTH by the Architect during construction shall not exceed a total of Twenty (20) visits.~~ The Architect shall conduct site visits in excess of that amount as an Additional Service.

§ 4.2.3 The Architect shall, as an Additional Service, provide services made necessary by a Contractor's proposed change in the Work. The Architect shall prepare revisions to the Architect's Instruments of Service necessitated by Change Orders and Construction Change Directives as an Additional Service.

§ 4.2.4 If the services covered by this Agreement have not been completed within Twenty Four (24) months of the date of this Agreement, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as Additional Services.

ARTICLE 5 OWNER'S RESPONSIBILITIES

§ 5.1 Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner regarding requirements for and limitations on the Project, including a written program which shall set forth the Owner's objectives, schedule, constraints and criteria, including space requirements and relationships, flexibility, expandability, special equipment, systems and site requirements.

§ 5.2 The Owner shall establish the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1; (2) the Owner's other costs; and, (3) reasonable contingencies related to all of these costs. The Owner shall update the Owner's budget for the Project as necessary throughout the duration of the Project until final completion. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Architect. The Owner and the Architect shall thereafter agree to a corresponding change in the Project's scope and quality.

§ 5.3 The Owner shall furnish surveys to describe physical characteristics, legal limitations and utility locations for the site of the Project; a written legal description of the site; and services of geotechnical engineers or other consultants, when the Architect requests such services and demonstrates that they are reasonably required by the scope of the Project.

§ 5.4 The Owner shall coordinate the services of its own consultants with those services provided by the Architect. Upon the Architect's request, the Owner shall furnish copies of the scope of services in the contracts between the Owner and the Owner's consultants. The Owner shall require that its consultants and contractors maintain insurance, including professional liability insurance, as appropriate to the services or work provided.

§ 5.5 The Owner shall furnish tests, inspections and reports required by law or the Contract Documents, such as structural, mechanical, and chemical tests; tests for air and water pollution; and tests for hazardous materials.

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

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

§ 5.8 The Owner shall endeavor to communicate with the Contractor through the Architect about matters arising out of or relating to the Contract Documents.

§ 5.9 The Owner shall provide the Architect access to the Project site prior to commencement of the Work and shall obligate the Contractor to provide the Architect access to the Work wherever it is in preparation or progress.

§ 5.10 Within 15 days after receipt of a written request from the Architect, the Owner shall furnish the requested information as necessary and relevant for the Architect to evaluate, give notice of, or enforce lien rights.

ARTICLE 6 COST OF THE WORK

§ 6.1 For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect and shall include contractors' general conditions costs, overhead and profit. The Cost of the Work also includes the reasonable value of labor, materials, and equipment, donated to, or otherwise furnished by, the Owner. The Cost of the Work does not include the compensation of the Architect; the costs of the land, rights-of-way, financing, or contingencies for changes in the Work; or other costs that are the responsibility of the Owner.

§ 6.2 The Owner's budget for the Cost of the Work is provided in Initial Information, and shall be adjusted throughout the Project as required under Sections 5.2, 6.4 and 6.5. Evaluations of the Owner's budget for the Cost of the Work, and the preliminary estimate of the Cost of the Work and updated estimates of the Cost of the Work prepared by the Architect, represent the Architect's judgment as a design professional. It is recognized, however, that neither the Architect nor the Owner has control over the cost of labor, materials or equipment; the Contractor's methods of determining bid prices; or competitive bidding, market or negotiating conditions. Accordingly, the Architect cannot and does not warrant or represent that bids or negotiated prices will not vary from the Owner's budget for the Cost of the Work, or from any estimate of the Cost of the Work, or evaluation, prepared or agreed to by the Architect.

§ 6.3 In preparing estimates of the Cost of Work, the Architect shall be permitted to include contingencies for design, bidding and price escalation; to determine what materials, equipment, component systems and types of construction are to be included in the Contract Documents; to recommend reasonable adjustments in the program and scope of the Project; and to include design alternates as may be necessary to adjust the estimated Cost of the Work to meet the Owner's budget. budget provided, however, that the Architect shall inform the Owner of the specific contingencies, materials, equipment, component systems, types of construction, reasonable adjustments or design alternates that are included in any estimates of the Cost of The Work. The Architect's estimate of the Cost of the Work shall be based on current area, volume or similar conceptual estimating techniques. If the Owner requires a detailed estimate of the Cost of the Work, the Architect shall provide such an estimate, if identified as the Architect's responsibility in Section 4.1, as a Supplemental Service.

§ 6.4 If, through no fault of the Architect, construction procurement activities have not commenced within 90 days after the Architect submits the Construction Documents to the Owner the Owner's budget for the Cost of the Work shall be adjusted to reflect changes in the general level of prices in the applicable construction market.

§ 6.5 If at any time the Architect's estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, the Architect shall make appropriate recommendations to the Owner to adjust the Project's size, quality or budget for the Cost of the Work, and the Owner shall cooperate with the Architect in making such adjustments.

§ 6.6 If the Owner's current budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services is exceeded by the lowest bona fide bid or negotiated proposal, the Owner shall

- .1 give written approval of an increase in the budget for the Cost of the Work;
- .2 authorize rebidding or renegotiating of the Project within a reasonable time;
- .3 terminate in accordance with Section 9.5;
- .4 in consultation with the Architect, revise the Project program, scope, or quality as required to reduce the Cost of the Work; or
- .5 implement any other mutually acceptable alternative.

§ 6.7 If the Owner chooses to proceed under Section 6.6.4, the Architect shall modify the Construction Documents as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services, or the budget as adjusted under Section 6.6.1. If the Owner requires the Architect to modify

the Construction Documents because the lowest bona fide bid or negotiated proposal exceeds the Owner's budget for the Cost of the Work due to market conditions the Architect could not reasonably anticipate, the Owner shall compensate the Architect for the modifications as an Additional Service pursuant to Section 11.3; otherwise the Architect's services shall be without additional compensation. In any event, the Architect's modification of the Construction Documents shall be the limit of the Architect's responsibility under this Article 6.

ARTICLE 7 COPYRIGHTS AND LICENSES

§ 7.1 The Architect and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project.

§ 7.2 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 shall retain all common law, statutory and other reserved rights, including copyrights. Submission or distribution of Instruments of Service to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the reserved rights of the Architect and the Architect's consultants.

§ 7.3 The Architect grants to the Owner a nonexclusive license to use the Architect's Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner substantially performs its obligations under this Agreement, including prompt payment of all sums when due pursuant to Article 9 and Article 11. The Architect shall obtain similar nonexclusive licenses from the Architect's consultants consistent with this Agreement. The license granted under this section permits the Owner to authorize the Contractor, Subcontractors, Sub-subcontractors, and suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service, subject to any protocols established pursuant to Section 1.3, solely and exclusively for use in performing services or construction for the Project. If the Architect rightfully terminates this Agreement for cause as provided in Section 9.4, the license granted in this Section 7.3 shall terminate.

§ 7.3.1 In the event the Owner uses the Instruments of Service without retaining the authors of the Instruments of Service, the Owner releases the Architect and Architect's consultant(s) from all claims and causes of action arising from such uses. The Owner, to the extent permitted by law, further agrees to indemnify and hold harmless the Architect and its consultants from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's use of the Instruments of Service under this Section 7.3.1. The terms of this Section 7.3.1 shall not apply if the Owner rightfully terminates this Agreement for cause under Section 9.4.

§ 7.4 Except for the licenses granted in this Article 7, no other license or right shall be deemed granted or implied under this Agreement. The Owner shall not assign, delegate, sublicense, pledge or otherwise transfer any license granted herein to another party without the prior written agreement of the Architect. Any unauthorized use of the Instruments of Service shall be at the Owner's sole risk and without liability to the Architect and the Architect's consultants.

§ 7.5 Except as otherwise stated in Section 7.3, the provisions of this Article 7 shall survive the termination of this Agreement.

ARTICLE 8 CLAIMS AND DISPUTES

§ 8.1 General

§ 8.1.1 The Owner and Architect shall commence all claims and causes of action against the other and arising out of or related to this Agreement, whether in contract, tort, or otherwise, in accordance with the requirements of the binding dispute resolution method selected in this 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 Architect waive all claims and causes of action not commenced in accordance with this Section 8.1.1.

§ 8.1.2 To the extent damages are covered by property insurance, the Owner and Architect waive all rights against each other and against the contractors, consultants, agents, and employees of the other, for damages, except such rights as they may have to the proceeds of such insurance as set forth in AIA Document A104-2017, Standard Abbreviated

A 101–2017, Standard Form of Agreement Between Owner and Contractor. The Owner or the Architect, as appropriate, shall require of the contractors, consultants, agents, and employees of any of them, similar waivers in favor of the other parties enumerated herein.

§ 8.1.3 The Architect and Owner waive consequential damages for claims, disputes or other matters in question, arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination of this Agreement, except as specifically provided in Section 9.6.

§ 8.2 Mediation

~~§ 8.2.1 Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to binding dispute resolution. If such matter relates to or is the subject of a lien arising out of the Architect's services, the Architect may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation or by binding dispute resolution.~~

§ 8.2.2 Mediation, 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 this Agreement. 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.

§ 8.2.3 If the parties do not resolve a dispute through mediation pursuant to this Section 8.2, the method of binding dispute resolution shall be the following:

(Check the appropriate box.)

☐ Arbitration pursuant to Section 8.3 of this Agreement

☐ Litigation in a court of competent jurisdiction

☒ Other: (Specify)

Court of competent jurisdiction in either Carter County, Tennessee or Federal District Court in
Greenville, Tennessee.

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

§ 8.3 Arbitration

~~§ 8.3.1 If the parties have selected arbitration as the method for binding dispute resolution in this Agreement, any claim, dispute or other matter in question arising out of or related to this Agreement subject to, but not resolved by, mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of the Agreement.~~

~~§ 8.3.1.1 A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the claim, dispute or other matter in question would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the claim, dispute or other matter in question.~~

§ 8.3.2 The foregoing agreement to arbitrate, and other agreements to arbitrate with an additional person or entity duly consented to by parties to this Agreement, shall be specifically enforceable in accordance with applicable law in any court having jurisdiction thereof.

§ 8.3.3 The award rendered by the arbitrator(s) shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

§ 8.3.4 Consolidation or Joinder

§ 8.3.4.1 Either party, at its sole discretion, may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation; (2) the arbitrations to be consolidated substantially involve common questions of law or fact; and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

§ 8.3.4.2 Either party, at its sole discretion, may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.

§ 8.3.4.3 The Owner and Architect grant to any person or entity made a party to an arbitration conducted under this Section 8.3, whether by joinder or consolidation, the same rights of joinder and consolidation as the Owner and Architect under this Agreement.

§ 8.4 The provisions of this Article 8 shall survive the termination of this Agreement.

ARTICLE 9 TERMINATION OR SUSPENSION

§ 9.1 If the Owner fails to make payments to the Architect in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect's option, cause for suspension of performance of services under this Agreement. If the Architect elects to suspend services, the Architect shall give seven days' written notice to the Owner before suspending services. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Owner shall pay the Architect all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.2 If the Owner suspends the Project, the Architect shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Architect shall be compensated for expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

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

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

§ 9.5 The Owner may terminate this Agreement upon not less than seven days' written notice to the Architect for the Owner's convenience and without cause.

§ 9.6 In the event of termination not the fault of the Architect, the Architect shall be compensated for services performed prior to termination, Reimbursable Expenses incurred, and all costs attributable to termination, including the costs attributable to the Architect's termination of consultant agreements.

§ 9.7 In addition to any amounts paid under Section 9.6, if the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Architect terminates this Agreement pursuant to Section 9.3, the Owner shall pay to the Architect the following fees:

(Set forth below the amount of any termination or licensing fee, or the method for determining any termination or licensing fee.)

~~.1 — Termination Fee:~~

~~.2 — Licensing Fee if the Owner intends to continue using the Architect's Instruments of Service:~~

§ 9.8 Except as otherwise expressly provided herein, this Agreement shall terminate one year from the date of Substantial Completion.

ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 This Agreement shall be governed by the law of the place where the Project is located excluding that jurisdiction's choice of law rules. ~~If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 8.3.~~

§ 10.2 Terms in this Agreement shall have the same meaning as those in AIA Document A104-2017, ~~Standard~~ Abbreviated A 101-2017, Standard Form of Agreement Between Owner and Contractor.

§ 10.3 The Owner and Architect, respectively, bind themselves, their agents, successors, assigns and legal representatives to this Agreement. Neither the Owner nor the Architect shall assign this Agreement without the written consent of the other, except that the Owner may assign this Agreement to a lender providing financing for the Project if the lender agrees to assume the Owner's rights and obligations under this Agreement, including any payments due to the Architect by the Owner prior to the assignment.

§ 10.4 If the Owner requests the Architect to execute certificates or consents, the proposed language of such certificates or consents shall be submitted to the Architect for review at least 14 days prior to the requested dates of execution. The Architect shall not be required to execute certificates or consents that would require knowledge, services or responsibilities beyond the scope of this Agreement.

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

§ 10.6 The Architect shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site.

§ 10.7 The Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials. However, the Architect's materials shall not include information the Owner has identified in writing as confidential or proprietary. The Owner shall provide professional credit for the Architect in the Owner's promotional materials for the Project. This Section 10.7 shall survive the termination of this Agreement unless the Owner terminates this Agreement for cause pursuant to Section 9.4.

§ 10.8 The invalidity of any provision of the Agreement shall not invalidate the Agreement or its remaining provisions. If it is determined that any provision of the Agreement 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 Agreement shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Agreement.

ARTICLE 11 COMPENSATION

§ 11.1 For the Architect's Basic Services described under Article 3, the Owner shall compensate the Architect as follows:

~~.1 — Stipulated Sum~~
~~— (Insert amount)~~

~~.2~~ 2 Percentage Basis
(Insert percentage value)

~~— (Seven and One Half (7.5) % of the Owner's budget for the Cost of the Work, as calculated in accordance with Section 11.6.~~

~~.3~~ 3 Other
(Describe the method of compensation)

§ 11.2 For Supplemental Services identified in Section 4.1, the Owner shall compensate the Architect as follows:
(Insert amount of, or basis for, compensation. If necessary, list specific services to which particular methods of compensation apply.)

Interior Architectural Design: Included with Basic Services.

Coordination of Owner's Consultants: TWA Hourly Fee Rate Schedule dated October 1, 2021.

Fees for Additional Services to be submitted and approved by the Elizabethton City Schools prior to the Architect proceeding with any required Additional Services.

§ 11.3 For Additional Services that may arise during the course of the Project, including those under Section 4.2, the Owner shall compensate the Architect as follows:
(Insert amount of, or basis for, compensation.)

TWA Hourly Fee Rate Schedule dated October 1, 2021.

Fees for Additional Services to be submitted and approved by the Elizabethton City Schools prior to the Architect proceeding with any required Additional Services.

§ 11.4 Compensation for Supplemental and Additional Services of the Architect's consultants, provided use of such consultants is agreed in advance by the Architect and Owner when not included in Section 11.2 or 11.3, shall be the amount invoiced to the Architect plus Ten percent (%), 10%, or as follows:

N / A

§ 11.5 Where compensation for Basic Services is based on a stipulated sum or percentage of the Cost of the Work, the compensation for each phase of services shall be as follows:

Schematic Design Phase	<u>Fifteen</u>	percent (	<u>15</u>	%)
Design Development Phase	<u>Twenty</u>	percent (	<u>20</u>	%)
Construction Documents Phase	<u>Fifty</u>	percent (	<u>50</u>	%)
Procurement Phase	<u>Five</u>	percent (	<u>5</u>	%)
Construction Phase	<u>Ten</u>	percent (	<u>10</u>	%)
Total Basic Compensation	~~one hundred One~~ <u>Hundred</u>	percent (	100	%)

§ 11.6 When compensation identified in Section 11.1 is on a percentage basis, progress payments for each phase of Basic Services shall be calculated by multiplying the percentages identified in this Article by the Owner's most recent budget for the Cost of the Work. Compensation paid in previous progress payments shall not be adjusted based on subsequent updates to the Owner's budget for the Cost of the Work.

§ 11.6.1 When compensation is on a percentage basis and any portions of the Project are deleted or otherwise not constructed, compensation for those portions of the Project shall be payable to the extent services are performed on those portions. The Architect shall be entitled to compensation in accordance with this Agreement for all services performed whether or not the Construction Phase is commenced.

§ 11.7 The hourly billing rates for services of the Architect and the Architect's consultants, if any, are set forth below. ~~The rates shall be adjusted in accordance with the Architect's and Architect's consultants' normal review practices.~~ Such rates may be advised by agreement of the Owner and Architect if completion of the Project exceeds twelve months from the effective date of this Agreement.
(If applicable, attach an exhibit of hourly billing rates or insert them below.)

TWA Hourly Fee Rate Schedule dated October 1, 2021.

Employee or Category
N / A.

Rate
N / A

§ 11.8 Compensation for Reimbursable Expenses

§ 11.8.1 Reimbursable Expenses are in addition to compensation for Basic, Supplemental, and Additional Services and include expenses incurred by the Architect and the Architect's consultants directly related to the Project, as follows:

- .1 Transportation and authorized out-of-town travel and subsistence;
- .2 Long distance services, dedicated data and communication services, teleconferences, Project web sites, and extranets;
- .3 Permitting and other fees required by authorities having jurisdiction over the Project;
- .4 Printing, reproductions, plots, and standard form documents;
- .5 Postage, handling, and delivery;
- .6 Expense of overtime work requiring higher than regular rates if authorized in advance by the Owner;
- .7 Renderings, physical models, mock-ups, professional photography, and presentation materials requested by the Owner or required for the Project;
- ~~.8 Expense of professional liability insurance dedicated exclusively to this Project or the expense of additional insurance coverage or limits requested by the Owner in excess of that normally maintained by the Architect and the Architect's consultants;~~
- .9 All taxes levied on professional services and on reimbursable expenses;
- ~~.10 Site office expenses; and~~
- .11 Other similar Project-related expenditures.

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus Ten percent (10 %) of the expenses incurred.

§ 11.9 Payments to the Architect

§ 11.9.1 Initial Payment

An initial payment of Zero Dollars and Zero Cents (\$ 0.00) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

§ 11.9.2 Progress Payments

§ 11.9.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. Amounts unpaid Thirty (30) days after the invoice date shall bear interest ~~at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect.~~

(Insert rate of monthly or annual interest agreed upon.)

%

§ 11.9.2.2 The Owner shall not withhold amounts from the Architect's compensation to impose a penalty or liquidated damages on the Architect, or to offset sums requested by or paid to contractors for the cost of changes in the Work unless the Architect agrees or has been found liable for the amounts in a binding dispute resolution proceeding.

§ 11.9.2.3 Records of Reimbursable Expenses, expenses pertaining to Additional Services, and services performed on the basis of hourly rates shall be available to the Owner at mutually convenient times.

ARTICLE 12 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Agreement are as follows:

(Include other terms and conditions applicable to this Agreement.)

§ 12.1 In recognition of the relative risks and benefits of the project to both the Owner and the Architect, the risks have been allocated such that the Owner agrees, to the fullest extent permitted by law, to limit the liability of the Architect to Owner for any and all claims, losses, costs, damages of any nature whatsoever or claims expenses from any cause or causes, including Attorney's fees and costs of expert witness fees and costs, so that the total aggregate liability of the Architect to the Owner shall not exceed One Million Dollars and Zero Cents (\$1,000,000.00). It is intended that this limitation apply to any and all liability or cause however alleged or arising, unless otherwise prohibited by law. The limitation of liability would not apply to acts of gross negligence by the Architect.

ARTICLE 13 SCOPE OF THE AGREEMENT

§ 13.1 This Agreement represents the entire and integrated agreement between the Owner and the Architect and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both the Owner and Architect.

§ 13.2 This Agreement is comprised of the following documents identified below:

- .1 AIA Document B104™-2017, Standard Abbreviated Form of Agreement Between Owner and Architect
- .2 ~~AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:~~
~~(Insert the date of the E203-2013 incorporated into this agreement.)~~
AIA Document A201-2013, General Conditions for the Contract for Construction, provided that where inconsistent with this AIA Document B104-2017, the terms of AIA Document B104-2017 shall prevail.
- .3 Exhibits:
(Clearly identify any other exhibits incorporated into this Agreement, including any exhibits identified in Section 4.1.)

Exhibit 'A': 2021 – 2022 Capital Projects Information, Project Description for Harold McCormick Elementary School Miscellaneous Renovations.

Exhibit 'B': TWA Hourly Fee Rate Schedule dated October 1, 2021.
- .4 Other documents:
(List other documents, if any, including additional scopes of service forming part of the Agreement.)
Professional Liability Insurance Certificate.

General Liability and Workmen Compensation Insurance Certificate.

Davis Bacon Act – Prevailing Wage Rate Requirement.

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

OWNER (Signature)

Mr. Richard Van Huss Director
Elizabethton City Schools

(Printed name and title)

ARCHITECT (Signature)

Thomas Weems AIA
Thomas Weems Architect

(Printed name, title, and license number, if required)

Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, Thomas Weems, AIA, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with this certification at 07:42:59 ET on 10/21/2021 under Order No. 7805369175 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document B104™ – 2017, Standard Abbreviated Form of Agreement Between Owner and Architect, as published by the AIA in its software, other than changes shown in the attached final document by underscoring added text and striking over deleted text.

(Signed)

(Title)

(Dated)



AIA® Document A201® – 2007

General Conditions of the Contract for Construction

for the following PROJECT:

(Name and location or address) Alterations to Existing Building
 Harold McCormick Elementary School
 226 South Cedar Avenue
 Elizabethton, Tennessee 37643
 Telephone: 423-547-8020
 TWA Project 021-002

THE OWNER:

(Name, legal status and address)

Elizabethton City Schools
 804 South Watauga Avenue
 Elizabethton, Tennessee 37643
 Telephone: 423-547-8000

THE ARCHITECT:

(Name, legal status and address)

Thomas Weems Architect
 3203 Hanover Road
 Johnson City, Tennessee 37604
 Telephone: 423-952-2700

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

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

Init.

AIA Document A201® – 2007. Copyright © 1911, 1915, 1918, 1925, 1937, 1951, 1958, 1961, 1963, 1966, 1970, 1976, 1987, 1997 and 2007 by The American Institute of Architects. All rights reserved. The "American Institute of Architects," "AIA," the AIA Logo, "A201," and "AIA Contract Documents" are registered trademarks and may not be used without permission. This document was produced by AIA software at 07:27:34 ET on 10/21/2021 under Order No.7805369175 which expires on 04/03/2022, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents® Terms of Service. To report copyright violations, e-mail copyright@aia.org.

User Notes:

(1799517047)

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



Init.

/

INDEX

(Topics and numbers in bold are section headings.)

Acceptance of Nonconforming Work

9.6.6, 9.9.3, **12.3**

Acceptance of Work

9.6.6, 9.8.2, 9.9.3, 9.10.1, 9.10.3, **12.3**

Access to Work

3.16, 6.2.1, **12.1**

Accident Prevention

10

Acts and Omissions

3.2, 3.3.2, 3.12.8, 3.18, 4.2.3, 8.3.1, 9.5.1, 10.2.5,
10.2.8, 13.4.2, 13.7, 14.1, 15.2

Addenda

1.1.1, 3.11

Additional Costs, Claims for

3.7.4, 3.7.5, 6.1.1, 7.3.7.5, 10.3, 15.1.4

Additional Inspections and Testing

9.4.2, 9.8.3, 12.2.1, **13.5**

Additional Insured

11.1.4

Additional Time, Claims for

3.2.4, 3.7.4, 3.7.5, 3.10.2, 8.3.2, **15.1.5**

Administration of the Contract

3.1.3, **4.2**, 9.4, 9.5

Advertisement or Invitation to Bid

1.1.1

Aesthetic Effect

4.2.13

Allowances

3.8, 7.3.8

All-risk Insurance

11.3.1, 11.3.1.1

Applications for Payment

4.2.5, 7.3.9, 9.2, **9.3**, 9.4, 9.5.1, 9.6.3, 9.7, 9.10, 11.1.3

Approvals

2.1.1, 2.2.2, 2.4, 3.1.3, 3.10.2, 3.12.8, 3.12.9, 3.12.10,
4.2.7, 9.3.2, 13.5.1

Arbitration

8.3.1, 11.3.10, 13.1, 15.3.2, **15.4**

ARCHITECT

4

Architect, Definition of

4.1.1

Architect, Extent of Authority

2.4, 3.12.7, 4.1, 4.2, 5.2, 6.3, 7.1.2, 7.3.7, 7.4, 9.2,
9.3.1, 9.4, 9.5, 9.6.3, 9.8, 9.10.1, 9.10.3, 12.1, 12.2.1,
13.5.1, 13.5.2, 14.2.2, 14.2.4, 15.1.3, 15.2.1

Architect, Limitations of Authority and Responsibility

2.1.1, 3.12.4, 3.12.8, 3.12.10, 4.1.2, 4.2.1, 4.2.2, 4.2.3,
4.2.6, 4.2.7, 4.2.10, 4.2.12, 4.2.13, 5.2.1, 7.4, 9.4.2,
9.5.3, 9.6.4, 15.1.3, 15.2

Architect's Additional Services and Expenses

2.4, 11.3.1.1, 12.2.1, 13.5.2, 13.5.3, 14.2.4

Architect's Administration of the Contract

3.1.3, 4.2, 3.7.4, 15.2, 9.4.1, 9.5

Architect's Approvals

2.4, 3.1.3, 3.5, 3.10.2, 4.2.7

Architect's Authority to Reject Work

3.5, 4.2.6, 12.1.2, 12.2.1

Architect's Copyright

1.1.7, 1.5

Architect's Decisions

3.7.4, 4.2.6, 4.2.7, 4.2.11, 4.2.12, 4.2.13, 4.2.14, 6.3,
7.3.7, 7.3.9, 8.1.3, 8.3.1, 9.2, 9.4.1, 9.5, 9.8.4, 9.9.1,
13.5.2, 15.2, 15.3

Architect's Inspections

3.7.4, 4.2.2, 4.2.9, 9.4.2, 9.8.3, 9.9.2, 9.10.1, 13.5

Architect's Instructions

3.2.4, 3.3.1, 4.2.6, 4.2.7, 13.5.2

Architect's Interpretations

4.2.11, 4.2.12

Architect's Project Representative

4.2.10

Architect's Relationship with Contractor

1.1.2, 1.5, 3.1.3, 3.2.2, 3.2.3, 3.2.4, 3.3.1, 3.4.2, 3.5,
3.7.4, 3.7.5, 3.9.2, 3.9.3, 3.10, 3.11, 3.12, 3.16, 3.18,
4.1.2, 4.1.3, 4.2, 5.2, 6.2.2, 7, 8.3.1, 9.2, 9.3, 9.4, 9.5,
9.7, 9.8, 9.9, 10.2.6, 10.3, 11.3.7, 12, 13.4.2, 13.5, 15.2

Architect's Relationship with Subcontractors

1.1.2, 4.2.3, 4.2.4, 4.2.6, 9.6.3, 9.6.4, 11.3.7

Architect's Representations

9.4.2, 9.5.1, 9.10.1

Architect's Site Visits

3.7.4, 4.2.2, 4.2.9, 9.4.2, 9.5.1, 9.9.2, 9.10.1, 13.5

Asbestos

10.3.1

Attorneys' Fees

3.18.1, 9.10.2, 10.3.3

Award of Separate Contracts

6.1.1, 6.1.2

Award of Subcontracts and Other Contracts for Portions of the Work

5.2

Basic Definitions

1.1

Bidding Requirements

1.1.1, 5.2.1, 11.4.1

Binding Dispute Resolution

9.7, 11.3.9, 11.3.10, 13.1, 15.2.5, 15.2.6.1, 15.3.1,
15.3.2, 15.4.1

Boiler and Machinery Insurance

11.3.2

Bonds, Lien

7.3.7.4, 9.10.2, 9.10.3

Bonds, Performance, and Payment

7.3.7.4, 9.6.7, 9.10.3, 11.3.9, **11.4**

Building Permit

3.7.1

Capitalization

1.3

Certificate of Substantial Completion

9.8.3, 9.8.4, 9.8.5

Certificates for Payment

4.2.1, 4.2.5, 4.2.9, 9.3.3, **9.4**, 9.5, 9.6.1, 9.6.6, 9.7,

9.10.1, 9.10.3, 14.1.1.3, 14.2.4, 15.1.3

Certificates of Inspection, Testing or Approval
13.5.4

Certificates of Insurance

9.10.2, 11.1.3

Change Orders

1.1.1, 2.4, 3.4.2, 3.7.4, 3.8.2.3, 3.11, 3.12.8, 4.2.8,
5.2.3, 7.1.2, 7.1.3, **7.2**, 7.3.2, 7.3.6, 7.3.9, 7.3.10, 8.3.1,
9.3.1.1, 9.10.3, 10.3.2, 11.3.1.2, 11.3.4, 11.3.9, 12.1.2,
15.1.3

Change Orders, Definition of

7.2.1

CHANGES IN THE WORK

2.2.1, 3.11, 4.2.8, **7**, 7.2.1, 7.3.1, 7.4, 8.3.1, 9.3.1.1,
11.3.9

Claims, Definition of

15.1.1

CLAIMS AND DISPUTES

3.2.4, 6.1.1, 6.3, 7.3.9, 9.3.3, 9.10.4, 10.3.3, **15**, 15.4

Claims and Timely Assertion of Claims
15.4.1

Claims for Additional Cost

3.2.4, 3.7.4, 6.1.1, 7.3.9, 10.3.2, **15.1.4**

Claims for Additional Time

3.2.4, 3.7.4, 6.1.1, 8.3.2, 10.3.2, **15.1.5**

Concealed or Unknown Conditions, Claims for
3.7.4

Claims for Damages

3.2.4, 3.18, 6.1.1, 8.3.3, 9.5.1, 9.6.7, 10.3.3, 11.1.1,
11.3.5, 11.3.7, 14.1.3, 14.2.4, 15.1.6

Claims Subject to Arbitration

15.3.1, 15.4.1

Cleaning Up

3.15, 6.3

Commencement of the Work, Conditions Relating to
2.2.1, 3.2.2, 3.4.1, 3.7.1, 3.10.1, 3.12.6, 5.2.1, 5.2.3,
6.2.2, 8.1.2, 8.2.2, 8.3.1, 11.1, 11.3.1, 11.3.6, 11.4.1,
15.1.4

Commencement of the Work, Definition of

8.1.2

Communications Facilitating Contract
Administration

3.9.1, **4.2.4**

Completion, Conditions Relating to

3.4.1, 3.11, 3.15, 4.2.2, 4.2.9, 8.2, 9.4.2, 9.8, 9.9.1,
9.10, 12.2, 13.7, 14.1.2

COMPLETION, PAYMENTS AND

9

Completion, Substantial

4.2.9, 8.1.1, 8.1.3, 8.2.3, 9.4.2, 9.8, 9.9.1, 9.10.3, 12.2,
13.7

Compliance with Laws

1.6, 3.2.3, 3.6, 3.7, 3.12.10, 3.13, 4.1.1, 9.6.4, 10.2.2,
11.1, 11.3, 13.1, 13.4, 13.5.1, 13.5.2, 13.6, 14.1.1,
14.2.1.3, 15.2.8, 15.4.2, 15.4.3

Concealed or Unknown Conditions

3.7.4, 4.2.8, 8.3.1, 10.3

Conditions of the Contract

1.1.1, 6.1.1, 6.1.4

Consent, Written

3.4.2, 3.7.4, 3.12.8, 3.14.2, 4.1.2, 9.3.2, 9.8.5, 9.9.1,
9.10.2, 9.10.3, 11.3.1, 13.2, 13.4.2, 15.4.4.2

Consolidation or Joinder

15.4.4

CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

1.1.4, **6**

Construction Change Directive, Definition of
7.3.1

Construction Change Directives

1.1.1, 3.4.2, 3.12.8, 4.2.8, 7.1.1, 7.1.2, 7.1.3, **7.3**,
9.3.1.1

Construction Schedules, Contractor's

3.10, 3.12.1, 3.12.2, 6.1.3, 15.1.5.2

Contingent Assignment of Subcontracts

5.4, 14.2.2.2

Continuing Contract Performance

15.1.3

Contract, Definition of

1.1.2

CONTRACT, TERMINATION OR SUSPENSION OF THE

5.4.1.1, 11.3.9, **14**

Contract Administration

3.1.3, 4, 9.4, 9.5

Contract Award and Execution, Conditions Relating
to

3.7.1, 3.10, 5.2, 6.1, 11.1.3, 11.3.6, 11.4.1

Contract Documents, Copies Furnished and Use of
1.5.2, 2.2.5, 5.3

Contract Documents, Definition of

1.1.1

Contract Sum

3.7.4, 3.8, 5.2.3, 7.2, 7.3, 7.4, **9.1**, 9.4.2, 9.5.1.4, 9.6.7,
9.7, 10.3.2, 11.3.1, 14.2.4, 14.3.2, 15.1.4, 15.2.5

Contract Sum, Definition of

9.1

Contract Time

3.7.4, 3.7.5, 3.10.2, 5.2.3, 7.2.1.3, 7.3.1, 7.3.5, 7.4,
8.1.1, 8.2.1, 8.3.1, 9.5.1, 9.7, 10.3.2, 12.1.1, 14.3.2,

15.1.5.1, 15.2.5

Contract Time, Definition of

8.1.1

CONTRACTOR

3

Contractor, Definition of

3.1, **6.1.2**

Contractor's Construction Schedules

3.10, 3.12.1, 3.12.2, 6.1.3, 15.1.5.2

Contractor's Employees

3.3.2, 3.4.3, 3.8.1, 3.9, 3.18.2, 4.2.3, 4.2.6, 10.2, 10.3, 11.1.1, 11.3.7, 14.1, 14.2.1.1

Contractor's Liability Insurance

11.1

Contractor's Relationship with Separate Contractors and Owner's Forces

3.12.5, 3.14.2, 4.2.4, 6, 11.3.7, 12.1.2, 12.2.4

Contractor's Relationship with Subcontractors

1.2.2, 3.3.2, 3.18.1, 3.18.2, 5, 9.6.2, 9.6.7, 9.10.2, 11.3.1.2, 11.3.7, 11.3.8

Contractor's Relationship with the Architect

1.1.2, 1.5, 3.1.3, 3.2.2, 3.2.3, 3.2.4, 3.3.1, 3.4.2, 3.5, 3.7.4, 3.10, 3.11, 3.12, 3.16, 3.18, 4.1.3, 4.2, 5.2, 6.2.2, 7, 8.3.1, 9.2, 9.3, 9.4, 9.5, 9.7, 9.8, 9.9, 10.2.6, 10.3, 11.3.7, 12, 13.5, 15.1.2, 15.2.1

Contractor's Representations

3.2.1, 3.2.2, 3.5, 3.12.6, 6.2.2, 8.2.1, 9.3.3, 9.8.2

Contractor's Responsibility for Those Performing the Work

3.3.2, 3.18, 5.3, 6.1.3, 6.2, 9.5.1, 10.2.8

Contractor's Review of Contract Documents
3.2

Contractor's Right to Stop the Work
9.7

Contractor's Right to Terminate the Contract
14.1, 15.1.6

Contractor's Submittals

3.10, 3.11, 3.12.4, 4.2.7, 5.2.1, 5.2.3, 9.2, 9.3, 9.8.2, 9.8.3, 9.9.1, 9.10.2, 9.10.3, 11.1.3, 11.4.2

Contractor's Superintendent

3.9, 10.2.6

Contractor's Supervision and Construction Procedures

1.2.2, 3.3, 3.4, 3.12.10, 4.2.2, 4.2.7, 6.1.3, 6.2.4, 7.1.3, 7.3.5, 7.3.7, 8.2, 10, 12, 14, 15.1.3

Contractual Liability Insurance

11.1.1.8, 11.2

Coordination and Correlation

1.2, 3.2.1, 3.3.1, 3.10, 3.12.6, 6.1.3, 6.2.1

Copies Furnished of Drawings and Specifications

1.5, 2.2.5, 3.11

Copyrights

1.5, **3.17**

Correction of Work

2.3, 2.4, 3.7.3, 9.4.2, 9.8.2, 9.8.3, 9.9.1, 12.1.2, **12.2**

Correlation and Intent of the Contract Documents 1.2

Cost, Definition of

7.3.7

Costs

2.4, 3.2.4, 3.7.3, 3.8.2, 3.15.2, 5.4.2, 6.1.1, 6.2.3, 7.3.3.3, 7.3.7, 7.3.8, 7.3.9, 9.10.2, 10.3.2, 10.3.6, 11.3, 12.1.2, 12.2.1, 12.2.4, 13.5, 14

Cutting and Patching

3.14, 6.2.5

Damage to Construction of Owner or Separate Contractors

3.14.2, 6.2.4, 10.2.1.2, 10.2.5, 10.4, 11.1.1, 11.3, 12.2.4

Damage to the Work

3.14.2, 9.9.1, 10.2.1.2, 10.2.5, 10.4, 11.3.1, 12.2.4

Damages, Claims for

3.2.4, 3.18, 6.1.1, 8.3.3, 9.5.1, 9.6.7, 10.3.3, 11.1.1, 11.3.5, 11.3.7, 14.1.3, 14.2.4, 15.1.6

Damages for Delay

6.1.1, 8.3.3, 9.5.1.6, 9.7, 10.3.2

Date of Commencement of the Work, Definition of
8.1.2

Date of Substantial Completion, Definition of
8.1.3

Day, Definition of

8.1.4

Decisions of the Architect

3.7.4, 4.2.6, 4.2.7, 4.2.11, 4.2.12, 4.2.13, 15.2, 6.3, 7.3.7, 7.3.9, 8.1.3, 8.3.1, 9.2, 9.4, 9.5.1, 9.8.4, 9.9.1, 13.5.2, 14.2.2, 14.2.4, 15.1, 15.2

Decisions to Withhold Certification

9.4.1, **9.5**, 9.7, 14.1.1.3

Defective or Nonconforming Work, Acceptance, Rejection and Correction of

2.3, 2.4, 3.5, 4.2.6, 6.2.5, 9.5.1, 9.5.2, 9.6.6, 9.8.2, 9.9.3, 9.10.4, 12.2.1

Definitions

1.1, 2.1.1, 3.1.1, 3.5, 3.12.1, 3.12.2, 3.12.3, 4.1.1, 15.1.1, 5.1, 6.1.2, 7.2.1, 7.3.1, 8.1, 9.1, 9.8.1

Delays and Extensions of Time

3.2, 3.7.4, 5.2.3, 7.2.1, 7.3.1, 7.4, **8.3**, 9.5.1, 9.7, 10.3.2, 10.4, 14.3.2, 15.1.5, 15.2.5

Disputes

6.3, 7.3.9, 15.1, 15.2

Documents and Samples at the Site

3.11

Drawings, Definition of

1.1.5

Drawings and Specifications, Use and Ownership of
3.11

Effective Date of Insurance

8.2.2, 11.1.2

Emergencies

10.4, 14.1.1.2, 15.1.4

Employees, Contractor's

3.3.2, 3.4.3, 3.8.1, 3.9, 3.18.2, 4.2.3, 4.2.6, 10.2, 10.3.3, 11.1.1, 11.3.7, 14.1, 14.2.1.1

Equipment, Labor, Materials or

1.1.3, 1.1.6, 3.4, 3.5, 3.8.2, 3.8.3, 3.12, 3.13, 3.15.1, 4.2.6, 4.2.7, 5.2.1, 6.2.1, 7.3.7, 9.3.2, 9.3.3, 9.5.1.3, 9.10.2, 10.2.1, 10.2.4, 14.2.1.1, 14.2.1.2

Execution and Progress of the Work
1.1.3, 1.2.1, 1.2.2, 2.2.3, 2.2.5, 3.1, 3.3.1, 3.4.1, 3.5,
3.7.1, 3.10.1, 3.12, 3.14, 4.2, 6.2.2, 7.1.3, 7.3.5, 8.2,
9.5.1, 9.9.1, 10.2, 10.3, 12.2, 14.2, 14.3.1, 15.1.3
Extensions of Time
3.2.4, 3.7.4, 5.2.3, 7.2.1, 7.3, 7.4, 9.5.1, 9.7, 10.3.2,
10.4, 14.3, 15.1.5, 15.2.5
Failure of Payment
9.5.1.3, **9.7**, 9.10.2, 13.6, 14.1.1.3, 14.2.1.2
Faulty Work
(See Defective or Nonconforming Work)
Final Completion and Final Payment
4.2.1, 4.2.9, 9.8.2, **9.10**, 11.1.2, 11.1.3, 11.3.1, 11.3.5,
12.3, 14.2.4, 14.4.3
Financial Arrangements, Owner's
2.2.1, 13.2.2, 14.1.1.4
Fire and Extended Coverage Insurance
11.3.1.1
GENERAL PROVISIONS
1
Governing Law
13.1
Guarantees (See Warranty)
Hazardous Materials
10.2.4, **10.3**
Identification of Subcontractors and Suppliers
5.2.1
Indemnification
3.17, **3.18**, 9.10.2, 10.3.3, 10.3.5, 10.3.6, 11.3.1.2,
11.3.7
Information and Services Required of the Owner
2.1.2, **2.2**, 3.2.2, 3.12.4, 3.12.10, 6.1.3, 6.1.4, 6.2.5,
9.6.1, 9.6.4, 9.9.2, 9.10.3, 10.3.3, 11.2, 11.4, 13.5.1,
13.5.2, 14.1.1.4, 14.1.4, 15.1.3
Initial Decision
15.2
Initial Decision Maker, Definition of
1.1.8
Initial Decision Maker, Decisions
14.2.2, 14.2.4, 15.2.1, 15.2.2, 15.2.3, 15.2.4, 15.2.5
Initial Decision Maker, Extent of Authority
14.2.2, 14.2.4, 15.1.3, 15.2.1, 15.2.2, 15.2.3, 15.2.4,
15.2.5
Injury or Damage to Person or Property
10.2.8, 10.4
Inspections
3.1.3, 3.3.3, 3.7.1, 4.2.2, 4.2.6, 4.2.9, 9.4.2, 9.8.3,
9.9.2, 9.10.1, 12.2.1, 13.5
Instructions to Bidders
1.1.1
Instructions to the Contractor
3.2.4, 3.3.1, 3.8.1, 5.2.1, 7, 8.2.2, 12, 13.5.2
Instruments of Service, Definition of
1.1.7
Insurance
3.18.1, 6.1.1, 7.3.7, 9.3.2, 9.8.4, 9.9.1, 9.10.2, **11**

Insurance, Boiler and Machinery
11.3.2
Insurance, Contractor's Liability
11.1
Insurance, Effective Date of
8.2.2, 11.1.2
Insurance, Loss of Use
11.3.3
Insurance, Owner's Liability
11.2
Insurance, Property
10.2.5, **11.3**
Insurance, Stored Materials
9.3.2
INSURANCE AND BONDS
11
Insurance Companies, Consent to Partial Occupancy
9.9.1
Intent of the Contract Documents
1.2.1, 4.2.7, 4.2.12, 4.2.13, 7.4
Interest
13.6
Interpretation
1.2.3, **1.4**, 4.1.1, 5.1, 6.1.2, 15.1.1
Interpretations, Written
4.2.11, 4.2.12, 15.1.4
Judgment on Final Award
15.4.2
Labor and Materials, Equipment
1.1.3, 1.1.6, **3.4**, 3.5, 3.8.2, 3.8.3, 3.12, 3.13, 3.15.1,
4.2.6, 4.2.7, 5.2.1, 6.2.1, 7.3.7, 9.3.2, 9.3.3, 9.5.1.3,
9.10.2, 10.2.1, 10.2.4, 14.2.1.1, 14.2.1.2
Labor Disputes
8.3.1
Laws and Regulations
1.5, 3.2.3, 3.6, 3.7, 3.12.10, 3.13, 4.1.1, 9.6.4, 9.9.1,
10.2.2, 11.1.1, 11.3, 13.1, 13.4, 13.5.1, 13.5.2, 13.6,
14, 15.2.8, 15.4
Liens
2.1.2, 9.3.3, 9.10.2, 9.10.4, 15.2.8
Limitations, Statutes of
12.2.5, 13.7, 15.4.1.1
Limitations of Liability
2.3, 3.2.2, 3.5, 3.12.10, 3.17, 3.18.1, 4.2.6, 4.2.7,
4.2.12, 6.2.2, 9.4.2, 9.6.4, 9.6.7, 10.2.5, 10.3.3, 11.1.2,
11.2, 11.3.7, 12.2.5, 13.4.2
Limitations of Time
2.1.2, 2.2, 2.4, 3.2.2, 3.10, 3.11, 3.12.5, 3.15.1, 4.2.7,
5.2, 5.3, 5.4.1, 6.2.4, 7.3, 7.4, 8.2, 9.2, 9.3.1, 9.3.3,
9.4.1, 9.5, 9.6, 9.7, 9.8, 9.9, 9.10, 11.1.3, 11.3.1.5,
11.3.6, 11.3.10, 12.2, 13.5, 13.7, 14, 15
Loss of Use Insurance
11.3.3
Material Suppliers
1.5, 3.12.1, 4.2.4, 4.2.6, 5.2.1, 9.3, 9.4.2, 9.6, 9.10.5
Materials, Hazardous
10.2.4, **10.3**

Materials, Labor, Equipment and
1.1.3, 1.1.6, 1.5.1, 3.4.1, 3.5, 3.8.2, 3.8.3, 3.12, 3.13,
3.15.1, 4.2.6, 4.2.7, 5.2.1, 6.2.1, 7.3.7, 9.3.2, 9.3.3,
9.5.1.3, 9.10.2, 10.2.1.2, 10.2.4, 14.2.1.1, 14.2.1.2
Means, Methods, Techniques, Sequences and
Procedures of Construction
3.3.1, 3.12.10, 4.2.2, 4.2.7, 9.4.2
Mechanic's Lien
2.1.2, 15.2.8
Mediation
8.3.1, 10.3.5, 10.3.6, 15.2.1, 15.2.5, 15.2.6, **15.3**,
15.4.1
Minor Changes in the Work
1.1.1, 3.12.8, 4.2.8, 7.1, **7.4**
MISCELLANEOUS PROVISIONS
13
Modifications, Definition of
1.1.1
Modifications to the Contract
1.1.1, 1.1.2, 3.11, 4.1.2, 4.2.1, 5.2.3, 7, 8.3.1, 9.7,
10.3.2, 11.3.1
Mutual Responsibility
6.2
Nonconforming Work, Acceptance of
9.6.6, 9.9.3, **12.3**
Nonconforming Work, Rejection and Correction of
2.3, 2.4, 3.5, 4.2.6, 6.2.4, 9.5.1, 9.8.2, 9.9.3, 9.10.4,
12.2.1
Notice
2.2.1, 2.3, 2.4, 3.2.4, 3.3.1, 3.7.2, 3.12.9, 5.2.1, 9.7,
9.10, 10.2.2, 11.1.3, 12.2.2.1, 13.3, 13.5.1, 13.5.2,
14.1, 14.2, 15.2.8, 15.4.1
Notice, Written
2.3, 2.4, 3.3.1, 3.9.2, 3.12.9, 3.12.10, 5.2.1, 9.7, 9.10,
10.2.2, 10.3, 11.1.3, 11.3.6, 12.2.2.1, **13.3**, 14, 15.2.8,
15.4.1
Notice of Claims
3.7.4, 10.2.8, **15.1.2**, 15.4
Notice of Testing and Inspections
13.5.1, 13.5.2
Observations, Contractor's
3.2, 3.7.4
Occupancy
2.2.2, 9.6.6, 9.8, 11.3.1.5
Orders, Written
1.1.1, 2.3, 3.9.2, 7, 8.2.2, 11.3.9, 12.1, 12.2.2.1, 13.5.2,
14.3.1
OWNER
2
Owner, Definition of
2.1.1
Owner, Information and Services Required of the
2.1.2, **2.2**, 3.2.2, 3.12.10, 6.1.3, 6.1.4, 6.2.5, 9.3.2,
9.6.1, 9.6.4, 9.9.2, 9.10.3, 10.3.3, 11.2, 11.3, 13.5.1,
13.5.2, 14.1.1.4, 14.1.4, 15.1.3

Owner's Authority
1.5, 2.1.1, 2.3, 2.4, 3.4.2, 3.8.1, 3.12.10, 3.14.2, 4.1.2,
4.1.3, 4.2.4, 4.2.9, 5.2.1, 5.2.4, 5.4.1, 6.1, 6.3, 7.2.1,
7.3.1, 8.2.2, 8.3.1, 9.3.1, 9.3.2, 9.5.1, 9.6.4, 9.9.1,
9.10.2, 10.3.2, 11.1.3, 11.3.3, 11.3.10, 12.2.2, 12.3,
13.2.2, 14.3, 14.4, 15.2.7
Owner's Financial Capability
2.2.1, 13.2.2, 14.1.1.4
Owner's Liability Insurance
11.2
Owner's Relationship with Subcontractors
1.1.2, 5.2, 5.3, 5.4, 9.6.4, 9.10.2, 14.2.2
Owner's Right to Carry Out the Work
2.4, 14.2.2
Owner's Right to Clean Up
6.3
Owner's Right to Perform Construction and to
Award Separate Contracts
6.1
Owner's Right to Stop the Work
2.3
Owner's Right to Suspend the Work
14.3
Owner's Right to Terminate the Contract
14.2
Ownership and Use of Drawings, Specifications
and Other Instruments of Service
1.1.1, 1.1.6, 1.1.7, **1.5**, 2.2.5, 3.2.2, 3.11, 3.17, 4.2.12,
5.3
Partial Occupancy or Use
9.6.6, **9.9**, 11.3.1.5
Patching, Cutting and
3.14, 6.2.5
Patents
3.17
Payment, Applications for
4.2.5, 7.3.9, 9.2, **9.3**, 9.4, 9.5, 9.6.3, 9.7, 9.8.5, 9.10.1,
14.2.3, 14.2.4, 14.4.3
Payment, Certificates for
4.2.5, 4.2.9, 9.3.3, **9.4**, 9.5, 9.6.1, 9.6.6, 9.7, 9.10.1,
9.10.3, 13.7, 14.1.1.3, 14.2.4
Payment, Failure of
9.5.1.3, **9.7**, 9.10.2, 13.6, 14.1.1.3, 14.2.1.2
Payment, Final
4.2.1, 4.2.9, 9.8.2, 9.10, 11.1.2, 11.1.3, 11.4.1, 12.3,
13.7, 14.2.4, 14.4.3
Payment Bond, Performance Bond and
7.3.7.4, 9.6.7, 9.10.3, **11.4**
Payments, Progress
9.3, **9.6**, 9.8.5, 9.10.3, 13.6, 14.2.3, 15.1.3
PAYMENTS AND COMPLETION
9
Payments to Subcontractors
5.4.2, 9.5.1.3, 9.6.2, 9.6.3, 9.6.4, 9.6.7, 14.2.1.2
PCB
10.3.1

Performance Bond and Payment Bond

7.3.7.4, 9.6.7, 9.10.3, 11.4

Permits, Fees, Notices and Compliance with Laws

2.2.2, 3.7, 3.13, 7.3.7.4, 10.2.2

PERSONS AND PROPERTY, PROTECTION OF

10

Polychlorinated Biphenyl

10.3.1

Product Data, Definition of

3.12.2

Product Data and Samples, Shop Drawings

3.11, 3.12, 4.2.7

Progress and Completion

4.2.2, 8.2, 9.8, 9.9.1, 14.1.4, 15.1.3

Progress Payments

9.3, 9.6, 9.8.5, 9.10.3, 13.6, 14.2.3, 15.1.3

Project, Definition of

1.1.4

Project Representatives

4.2.10

Property Insurance

10.2.5, 11.3

PROTECTION OF PERSONS AND PROPERTY

10

Regulations and Laws

1.5, 3.2.3, 3.6, 3.7, 3.12.10, 3.13, 4.1.1, 9.6.4, 9.9.1, 10.2.2, 11.1, 11.4, 13.1, 13.4, 13.5.1, 13.5.2, 13.6, 14, 15.2.8, 15.4

Rejection of Work

3.5, 4.2.6, 12.2.1

Releases and Waivers of Liens

9.10.2

Representations

3.2.1, 3.5, 3.12.6, 6.2.2, 8.2.1, 9.3.3, 9.4.2, 9.5.1, 9.8.2, 9.10.1

Representatives

2.1.1, 3.1.1, 3.9, 4.1.1, 4.2.1, 4.2.2, 4.2.10, 5.1.1, 5.1.2, 13.2.1

Responsibility for Those Performing the Work

3.3.2, 3.18, 4.2.3, 5.3, 6.1.3, 6.2, 6.3, 9.5.1, 10

Retainage

9.3.1, 9.6.2, 9.8.5, 9.9.1, 9.10.2, 9.10.3

Review of Contract Documents and Field

Conditions by Contractor

3.2, 3.12.7, 6.1.3

Review of Contractor's Submittals by Owner and Architect

3.10.1, 3.10.2, 3.11, 3.12, 4.2, 5.2, 6.1.3, 9.2, 9.8.2

Review of Shop Drawings, Product Data and Samples by Contractor

3.12

Rights and Remedies

1.1.2, 2.3, 2.4, 3.5, 3.7.4, 3.15.2, 4.2.6, 5.3, 5.4, 6.1, 6.3, 7.3.1, 8.3, 9.5.1, 9.7, 10.2.5, 10.3, 12.2.2, 12.2.4, 13.4, 14, 15.4

Royalties, Patents and Copyrights

3.17

Rules and Notices for Arbitration

15.4.1

Safety of Persons and Property

10.2, 10.4

Safety Precautions and Programs

3.3.1, 4.2.2, 4.2.7, 5.3, 10.1, 10.2, 10.4

Samples, Definition of

3.12.3

Samples, Shop Drawings, Product Data and

3.11, 3.12, 4.2.7

Samples at the Site, Documents and

3.11

Schedule of Values

9.2, 9.3.1

Schedules, Construction

3.10, 3.12.1, 3.12.2, 6.1.3, 15.1.5.2

Separate Contracts and Contractors

1.1.4, 3.12.5, 3.14.2, 4.2.4, 4.2.7, 6, 8.3.1, 12.1.2

Shop Drawings, Definition of

3.12.1

Shop Drawings, Product Data and Samples

3.11, 3.12, 4.2.7

Site, Use of

3.13, 6.1.1, 6.2.1

Site Inspections

3.2.2, 3.3.3, 3.7.1, 3.7.4, 4.2, 9.4.2, 9.10.1, 13.5

Site Visits, Architect's

3.7.4, 4.2.2, 4.2.9, 9.4.2, 9.5.1, 9.9.2, 9.10.1, 13.5

Special Inspections and Testing

4.2.6, 12.2.1, 13.5

Specifications, Definition of

1.1.6

Specifications

1.1.1, 1.1.6, 1.2.2, 1.5, 3.11, 3.12.10, 3.17, 4.2.14

Statute of Limitations

13.7, 15.4.1.1

Stopping the Work

2.3, 9.7, 10.3, 14.1

Stored Materials

6.2.1, 9.3.2, 10.2.1.2, 10.2.4

Subcontractor, Definition of

5.1.1

SUBCONTRACTORS

5

Subcontractors, Work by

1.2.2, 3.3.2, 3.12.1, 4.2.3, 5.2.3, 5.3, 5.4, 9.3.1.2, 9.6.7

Subcontractual Relations

5.3, 5.4, 9.3.1.2, 9.6, 9.10, 10.2.1, 14.1, 14.2.1

Submittals

3.10, 3.11, 3.12, 4.2.7, 5.2.1, 5.2.3, 7.3.7, 9.2, 9.3, 9.8, 9.9.1, 9.10.2, 9.10.3, 11.1.3

Submittal Schedule

3.10.2, 3.12.5, 4.2.7

Subrogation, Waivers of

6.1.1, 11.3.7

Substantial Completion

4.2.9, 8.1.1, 8.1.3, 8.2.3, 9.4.2, **9.8**, 9.9.1, 9.10.3, 12.2, 13.7

Substantial Completion, Definition of 9.8.1

Substitution of Subcontractors

5.2.3, 5.2.4

Substitution of Architect

4.1.3

Substitutions of Materials

3.4.2, 3.5, 7.3.8

Sub-subcontractor, Definition of 5.1.2

Subsurface Conditions

3.7.4

Successors and Assigns

13.2

Superintendent

3.9, 10.2.6

Supervision and Construction Procedures

1.2.2, **3.3**, 3.4, 3.12.10, 4.2.2, 4.2.7, 6.1.3, 6.2.4, 7.1.3, 7.3.7, 8.2, 8.3.1, 9.4.2, 10, 12, 14, 15.1.3

Surety

5.4.1.2, 9.8.5, 9.10.2, 9.10.3, 14.2.2, 15.2.7

Surety, Consent of

9.10.2, 9.10.3

Surveys

2.2.3

Suspension by the Owner for Convenience 14.3

Suspension of the Work

5.4.2, 14.3

Suspension or Termination of the Contract

5.4.1.1, 14

Taxes

3.6, 3.8.2.1, 7.3.7.4

Termination by the Contractor

14.1, 15.1.6

Termination by the Owner for Cause

5.4.1.1, **14.2**, 15.1.6

Termination by the Owner for Convenience 14.4

Termination of the Architect

4.1.3

Termination of the Contractor

14.2.2

TERMINATION OR SUSPENSION OF THE CONTRACT

14

Tests and Inspections

3.1.3, 3.3.3, 4.2.2, 4.2.6, 4.2.9, 9.4.2, 9.8.3, 9.9.2, 9.10.1, 10.3.2, 11.4.1, 12.2.1, **13.5**

TIME

8

Time, Delays and Extensions of

3.2.4, 3.7.4, 5.2.3, 7.2.1, 7.3.1, 7.4, **8.3**, 9.5.1, 9.7, 10.3.2, 10.4, 14.3.2, 15.1.5, 15.2.5

Time Limits

2.1.2, 2.2, 2.4, 3.2.2, 3.10, 3.11, 3.12.5, 3.15.1, 4.2, 5.2, 5.3, 5.4, 6.2.4, 7.3, 7.4, 8.2, 9.2, 9.3.1, 9.3.3, 9.4.1, 9.5, 9.6, 9.7, 9.8, 9.9, 9.10, 11.1.3, 12.2, 13.5, 13.7, 14, 15.1.2, 15.4

Time Limits on Claims

3.7.4, 10.2.8, **13.7**, 15.1.2

Title to Work

9.3.2, 9.3.3

Transmission of Data in Digital Form

1.6

UNCOVERING AND CORRECTION OF WORK 12

Uncovering of Work

12.1

Unforeseen Conditions, Concealed or Unknown

3.7.4, 8.3.1, 10.3

Unit Prices

7.3.3.2, 7.3.4

Use of Documents

1.1.1, 1.5, 2.2.5, 3.12.6, 5.3

Use of Site

3.13, 6.1.1, 6.2.1

Values, Schedule of

9.2, 9.3.1

Waiver of Claims by the Architect

13.4.2

Waiver of Claims by the Contractor

9.10.5, 13.4.2, 15.1.6

Waiver of Claims by the Owner

9.9.3, 9.10.3, 9.10.4, 12.2.2.1, 13.4.2, 14.2.4, 15.1.6

Waiver of Consequential Damages

14.2.4, 15.1.6

Waiver of Liens

9.10.2, 9.10.4

Waivers of Subrogation

6.1.1, **11.3.7**

Warranty

3.5, 4.2.9, 9.3.3, 9.8.4, 9.9.1, 9.10.4, 12.2.2, 13.7

Weather Delays

15.1.5.2

Work, Definition of

1.1.3

Written Consent

1.5.2, 3.4.2, 3.7.4, 3.12.8, 3.14.2, 4.1.2, 9.3.2, 9.8.5, 9.9.1, 9.10.2, 9.10.3, 11.4.1, 13.2, 13.4.2, 15.4.4.2

Written Interpretations

4.2.11, 4.2.12

Written Notice

2.3, 2.4, 3.3.1, 3.9, 3.12.9, 3.12.10, 5.2.1, 8.2.2, 9.7, 9.10, 10.2.2, 10.3, 11.1.3, 12.2.2, 12.2.4, **13.3**, 14, 15.4.1

Written Orders

1.1.1, 2.3, 3.9, 7, 8.2.2, 12.1, 12.2, 13.5.2, 14.3.1, 15.1.2

ARTICLE 1 GENERAL PROVISIONS

§ 1.1 BASIC DEFINITIONS

§ 1.1.1 THE CONTRACT DOCUMENTS

The Contract Documents are enumerated in the Agreement between the Owner and Contractor (hereinafter the Agreement) and consist of the Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of the Contract, other documents listed in the Agreement and Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive or (4) a written order for a minor change in the Work issued by the Architect. Unless specifically enumerated in the Agreement, the Contract Documents do not include the advertisement or invitation to bid, Instructions to Bidders, sample forms, other information furnished by the Owner in anticipation of receiving bids or proposals, the Contractor's bid or proposal, or portions of Addenda relating to bidding requirements.

§ 1.1.2 THE CONTRACT

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

§ 1.1.3 THE WORK

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

§ 1.1.4 THE PROJECT

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

§ 1.1.5 THE DRAWINGS

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

§ 1.1.6 THE SPECIFICATIONS

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

§ 1.1.7 INSTRUMENTS OF SERVICE

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

§ 1.1.8 INITIAL DECISION MAKER

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

§ 1.2 CORRELATION AND INTENT OF THE CONTRACT DOCUMENTS

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

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

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

§ 1.3 CAPITALIZATION

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

§ 1.4 INTERPRETATION

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

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

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

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

§ 1.6 TRANSMISSION OF DATA IN DIGITAL FORM

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

ARTICLE 2 OWNER

§ 2.1 GENERAL

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

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

§ 2.2 INFORMATION AND SERVICES REQUIRED OF THE OWNER

§ 2.2.1 Prior to commencement of the Work, the Contractor may request in writing that the Owner provide reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. Thereafter, the Contractor may only request such evidence if (1) the Owner fails to make payments to the Contractor as the Contract Documents require; (2) a change in the Work materially changes the Contract Sum; or (3) the Contractor identifies in writing a reasonable concern regarding the Owner's ability to make payment when due. The Owner shall furnish such evidence as a condition precedent to commencement or continuation of the Work or the

portion of the Work affected by a material change. After the Owner furnishes the evidence, the Owner shall not materially vary such financial arrangements without prior notice to the Contractor.

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

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

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

§ 2.2.5 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.

§ 2.3 OWNER'S RIGHT TO STOP THE WORK

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

§ 2.4 OWNER'S RIGHT TO CARRY OUT THE WORK

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a ten-day period after receipt of written notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such deficiencies. In such case an appropriate Change Order shall be issued deducting from payments then or thereafter due the Contractor the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Architect's additional services made necessary by such default, neglect or failure. Such action by the Owner and amounts charged to the Contractor are both subject to prior approval of the Architect. If payments then or thereafter due the Contractor are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner.

ARTICLE 3 CONTRACTOR

§ 3.1 GENERAL

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

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

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

§ 3.2 REVIEW OF CONTRACT DOCUMENTS AND FIELD CONDITIONS BY CONTRACTOR

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

§ 3.2.2 Because the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 2.2.3, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating coordination and construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, the Contractor shall promptly report to the 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 make Claims as provided in Article 15. If the Contractor fails to perform the obligations of Sections 3.2.2 or 3.2.3, the Contractor shall pay such costs and damages to the Owner as would have been avoided if the Contractor had performed such obligations. If the Contractor performs those obligations, the Contractor shall not be liable to the Owner or Architect for damages resulting from errors, inconsistencies or omissions in the Contract Documents, for differences between field measurements or conditions and the Contract Documents, or for nonconformities of the Contract Documents to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities.

§ 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, unless the Contract Documents give other specific instructions concerning these matters. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences or procedures, the Contractor shall evaluate the jobsite safety thereof and, except as stated below, shall be fully and 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 not proceed with that portion of the Work without further written instructions from the Architect. If the Contractor is then instructed to proceed with the required means, methods, techniques, sequences or procedures without acceptance of changes proposed by the Contractor, the Owner shall be solely responsible for any loss or damage arising solely from those Owner-required 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 authorized by the Architect in accordance with Sections 3.12.8 or 7.4, the Contractor may make substitutions only with the consent of the Owner, after evaluation by the Architect and in accordance with a Change Order or Construction Change Directive.

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

§ 3.5 WARRANTY

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

§ 3.6 TAXES

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

§ 3.7 PERMITS, FEES, NOTICES AND COMPLIANCE WITH LAWS

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

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

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

§ 3.7.4 **Concealed or Unknown Conditions.** If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature, that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner and the Architect before conditions are disturbed and in no event later than 21 days after first observance of the conditions. The Architect will promptly investigate such conditions and, if the Architect determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend an equitable adjustment in the Contract Sum or Contract Time, or both. If the Architect determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall promptly notify the Owner and Contractor in writing, stating the reasons. If either party disputes the Architect's determination or recommendation, that party may proceed as provided in Article 15.

§ 3.7.5 If, in the course of the Work, the Contractor encounters human remains or recognizes the existence of burial markers, archaeological sites or wetlands not indicated in the Contract Documents, the Contractor shall immediately suspend any operations that would affect them and shall notify the Owner and Architect. Upon receipt of such notice, the Owner shall promptly take any action necessary to obtain governmental authorization required to resume the operations. The Contractor shall continue to suspend such operations until otherwise instructed by the Owner but shall

continue with all other operations that do not affect those remains or features. Requests for adjustments in the Contract Sum and Contract Time arising from the existence of such remains or features may be made as provided in Article 15.

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

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

§ 3.10 CONTRACTOR'S CONSTRUCTION SCHEDULES

§ 3.10.1 The Contractor, promptly after being awarded the Contract, shall prepare and submit for the Owner's and Architect's information a Contractor's construction schedule for the Work. The schedule shall not exceed time limits current under the Contract Documents, shall be revised at appropriate intervals as required by the conditions of the Work and Project, shall be related to the entire Project to the extent required by the Contract Documents, and shall provide for expeditious and practicable execution of the Work.

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

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

§ 3.11 DOCUMENTS AND SAMPLES AT THE SITE

The Contractor shall maintain at the site for the Owner one copy of the Drawings, Specifications, Addenda, Change Orders and other Modifications, in good order and marked currently to indicate field changes and selections made during construction, and one copy of approved Shop Drawings, Product Data, Samples and similar required

submittals. These shall be available to the Architect and shall be delivered to the Architect for submittal to the Owner upon completion of the Work as a record of the Work as constructed.

§ 3.12 SHOP DRAWINGS, PRODUCT DATA AND SAMPLES

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

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

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

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

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

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

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

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

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

§ 3.12.10 The Contractor shall not be required to provide professional services that constitute the practice of architecture or engineering unless such services are specifically required by the Contract Documents for a portion of the Work or unless the Contractor needs to provide such services in order to carry out the Contractor's responsibilities for construction means, methods, techniques, sequences and procedures. The Contractor shall not be required to provide professional services in violation of applicable law. If professional design services or certifications by a design professional related to systems, materials or equipment are specifically required of the Contractor by the Contract Documents, the Owner and the Architect will specify all performance and design criteria that such services must satisfy. The Contractor shall cause such services or certifications to be provided by a properly licensed design professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop

Drawings and other submittals prepared by such professional. Shop Drawings and other submittals related to the Work designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to the Architect. The Owner and the Architect shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications and approvals performed or provided by such design professionals, provided the Owner and Architect have specified to the Contractor all performance and design criteria that such services must satisfy. Pursuant to this Section 3.12.10, the Architect will review, approve or take other appropriate action on submittals only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Contractor shall not be responsible for the adequacy of the performance and design criteria specified in the Contract Documents.

§ 3.13 USE OF SITE

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

§ 3.14 CUTTING AND PATCHING

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

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

§ 3.15 CLEANING UP

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

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

§ 3.16 ACCESS TO WORK

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

§ 3.17 ROYALTIES, PATENTS AND COPYRIGHTS

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

§ 3.18 INDEMNIFICATION

§ 3.18.1 To the fullest extent permitted by law the Contractor shall indemnify and hold harmless the Owner, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, 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 Owner shall retain an architect lawfully licensed to practice architecture or an entity lawfully practicing architecture in the jurisdiction where the Project is located. That person or entity is identified as the Architect in the Agreement and is referred to throughout the Contract Documents as if singular in number.

§ 4.1.2 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.

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

§ 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, except as provided in Section 3.3.1.

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

§ 4.2.4 COMMUNICATIONS FACILITATING CONTRACT ADMINISTRATION

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

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

§ 4.2.6 The Architect has authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect will have authority to require inspection or testing of the Work in accordance with Sections 13.5.2 and 13.5.3, whether or not such Work is fabricated, installed or completed.

However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, material and equipment suppliers, their agents or employees, or other persons or entities performing portions of the Work.

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

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

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

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

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

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

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

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

ARTICLE 5 SUBCONTRACTORS

§ 5.1 DEFINITIONS

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

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

§ 5.2 AWARD OF SUBCONTRACTS AND OTHER CONTRACTS FOR PORTIONS OF THE WORK

§ 5.2.1 Unless otherwise stated in the Contract Documents or the bidding requirements, the Contractor, as soon as practicable after award of the Contract, shall furnish in writing to the Owner through the Architect the names of persons or entities (including those who are to furnish materials or equipment fabricated to a special design) proposed for each principal portion of the Work. The Architect may reply within 14 days to the Contractor in writing stating (1) whether the Owner or the Architect has reasonable objection to any such proposed person or entity or (2) that the Architect requires additional time for review. Failure of the Owner or Architect to reply 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 previously selected if the Owner or Architect makes reasonable objection to such substitution.

§ 5.3 SUBCONTRACTUAL RELATIONS

By appropriate agreement, written where legally required for validity, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work, which the Contractor, by these Documents, assumes toward the Owner and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, 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 in writing; and
- .2 assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

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

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

§ 5.4.3 Upon such assignment to the Owner under this Section 5.4, the Owner may further assign the subcontract to a successor contractor or other entity. 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 Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and to award separate contracts in connection with other portions of the Project or other construction or operations on the site under Conditions of the Contract identical or substantially similar to these including those portions related to insurance and waiver of subrogation. If the Contractor claims that delay or additional cost is involved because of such action by the Owner, the Contractor shall make such Claim as provided in Article 15.

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

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

§ 6.1.4 Unless otherwise provided in the Contract Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces, the Owner shall be deemed to be subject to the same obligations and to have the same rights that apply to the Contractor under the 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 report to the Architect apparent discrepancies or defects in such other construction that would render it unsuitable for such proper execution and results. Failure of the Contractor so to report shall constitute an acknowledgment that the Owner's or separate contractor's completed or partially completed construction is fit and proper to receive the Contractor's Work, except as to defects not then reasonably discoverable.

§ 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 the Contractor wrongfully causes to completed or partially completed construction or to property of the Owner or separate contractors as provided in Section 10.2.5.

§ 6.2.5 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, and the Contractor shall proceed promptly, unless otherwise provided in the Change Order, Construction Change Directive or order for a minor change in the Work.

§ 7.2 CHANGE ORDERS

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

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

§ 7.3 CONSTRUCTION CHANGE DIRECTIVES

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

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

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

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

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

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

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

§ 7.3.7 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Architect shall determine the method and the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount. In such case, and also under Section 7.3.3.3, the Contractor shall keep and present, in such form as the Architect may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Section 7.3.7 shall be limited to the following:

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

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

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

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

§ 7.4 MINOR CHANGES IN THE WORK

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

ARTICLE 8 TIME

§ 8.1 DEFINITIONS

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

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

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

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

§ 8.2 PROGRESS AND COMPLETION

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

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

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

§ 8.3 DELAYS AND EXTENSIONS OF TIME

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

§ 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

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

§ 9.2 SCHEDULE OF VALUES

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

§ 9.3 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. Such application shall be notarized, if required, and supported by such data substantiating the Contractor's right to payment as the Owner or Architect may require, such as copies of requisitions from Subcontractors and material suppliers, and shall reflect retainage if provided for in the Contract Documents.

§ 9.3.1.1 As provided in Section 7.3.9, such applications may include requests for payment on account of changes in the Work that have been properly authorized by Construction Change Directives, 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 material supplier, unless such Work has been performed by others whom the Contractor intends to pay.

§ 9.3.2 Unless otherwise provided in the Contract Documents, payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed upon in writing. Payment for materials and equipment stored on or off the site shall be conditioned upon

compliance by the Contractor with procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest, and shall include the costs of applicable insurance, storage and transportation to the site for such materials and equipment stored off the site.

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

§ 9.4 CERTIFICATES FOR PAYMENT

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

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

§ 9.5 DECISIONS TO WITHHOLD CERTIFICATION

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

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

§ 9.5.3 If the Architect withholds certification for payment under Section 9.5.1.3, the Owner may, at its sole option, issue joint checks to the Contractor and to any Subcontractor or material or equipment suppliers to whom the

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

§ 9.6 PROGRESS PAYMENTS

§ 9.6.1 After the Architect has issued a Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the Contract Documents, and shall so notify the Architect.

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

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

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

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

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

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

§ 9.7 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 binding dispute resolution, then the Contractor may, upon seven additional days' written notice to the Owner and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shut-down, delay and start-up, plus interest as provided for in the 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, shall establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance, and shall fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

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

§ 9.9 PARTIAL OCCUPANCY OR USE

§ 9.9.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Contractor, provided such occupancy or use is consented to by the insurer as required under Section 11.3.1.5 and authorized by public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When the Contractor considers a portion substantially complete, the Contractor shall prepare and submit a list to the Architect as provided under Section 9.8.2. Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Contractor or, if no agreement is reached, by decision of the Architect.

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

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

§ 9.10 FINAL COMPLETION AND FINAL PAYMENT

§ 9.10.1 Upon receipt of the Contractor's written notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Architect will promptly make such inspection and, when the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Architect will promptly issue a final Certificate for Payment stating that to the best of the Architect's knowledge, information and belief, and on the basis of the Architect's on-site visits and inspections, the Work has been completed in accordance with terms and conditions of the Contract Documents and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Architect's final Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect and will not be canceled or allowed to expire until at least 30 days' prior written notice has been given to the Owner, (3) a written statement that the Contractor knows of no substantial reason that the insurance will not be renewable to cover the period required by the Contract

Documents, (4) consent of surety, if any, to final payment and (5), if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts, releases and waivers of liens, claims, security interests or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien. If such lien remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging such lien, including all costs and reasonable attorneys' fees.

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

§ 9.10.4 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; or
- .3 terms of special warranties required by the Contract Documents.

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

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

§ 10.1 SAFETY PRECAUTIONS AND PROGRAMS

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

§ 10.2 SAFETY OF PERSONS AND PROPERTY

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

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

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

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

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

§ 10.2.5 The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Sections 10.2.1.2 and 10.2.1.3 caused in

whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Sections 10.2.1.2 and 10.2.1.3, except damage or loss attributable to acts or omissions of the Owner or Architect or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Section 3.18.

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

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

§ 10.2.8 INJURY OR DAMAGE TO PERSON OR PROPERTY

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

§ 10.3 HAZARDOUS MATERIALS

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

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

§ 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, 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.

§ 10.3.4 The Owner shall not be responsible under this Section 10.3 for 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 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 indemnify the Owner for the cost and expense the Owner incurs (1) for remediation of a material or substance the Contractor brings to the site and negligently handles, or (2) where the Contractor fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence.

§ 10.3.6 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 indemnify 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 LIABILITY INSURANCE

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

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

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

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

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

insured for claims caused in whole or in part by the Contractor's negligent acts or omissions during the Contractor's completed operations.

§ 11.2 OWNER'S LIABILITY INSURANCE

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

§ 11.3 PROPERTY INSURANCE

§ 11.3.1 Unless otherwise provided, the Owner shall purchase and maintain, in a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located, property insurance written on a builder's risk "all-risk" or equivalent policy form in the amount of the initial Contract Sum, plus value of subsequent Contract Modifications and cost of materials supplied or installed by others, comprising total value for the entire Project at the site on a replacement cost basis without optional deductibles. Such property insurance shall be maintained, unless otherwise provided in the Contract Documents or otherwise agreed in writing by all persons and entities who are beneficiaries of such insurance, until final payment has been made as provided in Section 9.10 or until no person or entity other than the Owner has an insurable interest in the property required by this Section 11.3 to be covered, whichever is later. This insurance shall include interests of the Owner, the Contractor, Subcontractors and Sub-subcontractors in the Project.

§ 11.3.1.1 Property insurance shall be on an "all-risk" or equivalent policy form and shall include, without limitation, insurance against the perils of fire (with extended coverage) and physical loss or damage including, without duplication of coverage, theft, vandalism, malicious mischief, collapse, earthquake, flood, windstorm, falsework, testing and startup, temporary buildings and debris removal including demolition occasioned by enforcement of any applicable legal requirements, and shall cover reasonable compensation for Architect's and Contractor's services and expenses required as a result of such insured loss.

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

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

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

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

§ 11.3.2 BOILER AND MACHINERY INSURANCE

The Owner shall purchase and maintain boiler and machinery insurance required by the Contract Documents or by law, which shall specifically cover such insured objects during installation and until final acceptance by the Owner; this insurance shall include interests of the Owner, Contractor, Subcontractors and Sub-subcontractors in the Work, and the Owner and Contractor shall be named insureds.

§ 11.3.3 LOSS OF USE INSURANCE

The Owner, at the Owner's option, may purchase and maintain such insurance as will insure the Owner against loss of use of the Owner's property due to fire or other hazards, however caused. The Owner waives all rights of action against the Contractor for loss of use of the Owner's property, including consequential losses due to fire or other hazards however caused.

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

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

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

§ 11.3.7 WAIVERS OF SUBROGATION

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

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

§ 11.3.9 If required in writing by a party in interest, the Owner as fiduciary shall, upon occurrence of an insured loss, give bond for proper performance of the Owner's duties. The cost of required bonds shall be charged against proceeds received as fiduciary. The Owner shall deposit in a separate account proceeds so received, which the Owner shall distribute in accordance with such agreement as the parties in interest may reach, or as determined in accordance with the method of binding dispute resolution selected in the Agreement between the Owner and Contractor. If after such loss no other special agreement is made and unless the Owner terminates the Contract for convenience, replacement of damaged property shall be performed by the Contractor after notification of a Change in the Work in accordance with Article 7.

§ 11.3.10 The Owner as fiduciary shall have power to adjust and settle a loss with insurers unless one of the parties in interest shall object in writing within five days after occurrence of loss to the Owner's exercise of this power; if such objection is made, the dispute shall be resolved in the manner selected by the Owner and Contractor as the method of binding dispute resolution in the Agreement. If the Owner and Contractor have selected arbitration as the method of binding dispute resolution, the Owner as fiduciary shall make settlement with insurers or, in the case of a dispute over distribution of insurance proceeds, in accordance with the directions of the arbitrators.

§ 11.4 PERFORMANCE BOND AND PAYMENT BOND

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

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

ARTICLE 12 UNCOVERING AND CORRECTION OF WORK

§ 12.1 UNCOVERING OF WORK

§ 12.1.1 If a portion of the Work is covered contrary to the Architect's 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, costs of uncovering and replacement shall, by appropriate Change Order, be at the Owner's expense. If such Work is not in accordance with the Contract Documents, such costs and the cost of correction shall be at the Contractor's expense unless the condition was caused by the Owner or a separate contractor in which event the Owner shall be responsible for payment of such costs.

§ 12.2 CORRECTION OF WORK

§ 12.2.1 BEFORE OR AFTER SUBSTANTIAL COMPLETION

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

§ 12.2.2 AFTER SUBSTANTIAL COMPLETION

§ 12.2.2.1 In addition to the Contractor's obligations under Section 3.5, if, within one year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.9.1, or by terms of an applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of written notice from the Owner to do so unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. 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 2.4.

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

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

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

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

§ 12.2.5 Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be

sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

§ 12.3 ACCEPTANCE OF NONCONFORMING WORK

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

ARTICLE 13 MISCELLANEOUS PROVISIONS

§ 13.1 GOVERNING LAW

The Contract shall be governed by the law of the place where the Project is located except that, if the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 15.4.

§ 13.2 SUCCESSORS AND ASSIGNS

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

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

§ 13.3 WRITTEN NOTICE

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

§ 13.4 RIGHTS AND REMEDIES

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

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

§ 13.5 TESTS AND INSPECTIONS

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

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

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

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

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

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

§ 13.6 INTEREST

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

§ 13.7 TIME LIMITS ON CLAIMS

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

ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT

§ 14.1 TERMINATION BY THE CONTRACTOR

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

- .1 Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;
- .2 An act of government, such as a declaration of national emergency that requires all Work to be stopped;
- .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
- .4 The Owner has failed to furnish to the Contractor promptly, upon the Contractor's request, reasonable evidence as required by Section 2.2.1.

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

§ 14.1.3 If one of the reasons described in Section 14.1.1 or 14.1.2 exists, the Contractor may, upon seven days' written notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work executed, including reasonable overhead and profit, costs incurred by reason of such termination, and damages.

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

§ 14.2 TERMINATION BY THE OWNER FOR CAUSE

§ 14.2.1 The Owner may terminate the Contract if the Contractor

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

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

- .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. The amount to be paid to the Contractor or Owner, as the case may be, shall be certified by the Initial Decision Maker, upon application, and this obligation for payment shall survive termination of the Contract.

§ 14.3 SUSPENSION BY THE OWNER FOR CONVENIENCE

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

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

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

§ 14.4 TERMINATION BY THE OWNER FOR CONVENIENCE

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

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

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

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

ARTICLE 15 CLAIMS AND DISPUTES

§ 15.1 CLAIMS

§ 15.1.1 DEFINITION

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

§ 15.1.2 NOTICE OF CLAIMS

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

§ 15.1.3 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. The Architect will prepare Change Orders and issue Certificates for Payment in accordance with the decisions of the Initial Decision Maker.

§ 15.1.4 CLAIMS FOR ADDITIONAL COST

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

§ 15.1.5 CLAIMS FOR ADDITIONAL TIME

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

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

§ 15.1.6 CLAIMS FOR CONSEQUENTIAL DAMAGES

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

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

This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 14. Nothing contained in this Section 15.1.6 shall be deemed to preclude an award of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.

§ 15.2 INITIAL DECISION

§ 15.2.1 Claims, excluding those arising under Sections 10.3, 10.4, 11.3.9, and 11.3.10, shall be referred to the Initial Decision Maker for initial decision. The Architect will serve as the Initial Decision Maker, unless otherwise indicated in the Agreement. Except for those Claims excluded by this Section 15.2.1, an initial decision shall be required as a condition precedent to mediation of any Claim arising prior to the date final payment is due, unless 30 days have passed after the Claim has been referred to the Initial Decision Maker with no decision having been rendered. Unless the Initial Decision Maker and all affected parties agree, the Initial Decision Maker will not decide disputes between the Contractor and persons or entities other than the Owner.

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

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

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

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

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

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

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

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

§ 15.3 MEDIATION

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

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

§ 15.3.3 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

§ 15.4 ARBITRATION

§ 15.4.1 If the parties have selected arbitration as the method for binding dispute resolution in the Agreement, any Claim subject to, but not resolved by, mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of the Agreement. A demand for arbitration shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the arbitration. The party filing a notice of demand for arbitration must assert in the demand all Claims then known to that party on which arbitration is permitted to be demanded.

§ 15.4.1.1 A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the Claim would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the Claim.

§ 15.4.2 The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

§ 15.4.3 The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by parties to the Agreement shall be specifically enforceable under applicable law in any court having jurisdiction thereof.

§ 15.4.4 CONSOLIDATION OR JOINDER

§ 15.4.4.1 Either party, at its sole discretion, may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation, (2) the arbitrations to be consolidated substantially involve common questions of law or fact, and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

§ 15.4.4.2 Either party, at its sole discretion, may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.

§ 15.4.4.3 The Owner and Contractor grant to any person or entity made a party to an arbitration conducted under this Section 15.4, whether by joinder or consolidation, the same rights of joinder and consolidation as the Owner and Contractor under this Agreement.

Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, Thomas Weems, AIA, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with this certification at 07:27:34 ET on 10/21/2021 under Order No. 7805369175 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A201™ – 2007, General Conditions of the Contract for Construction, as published by the AIA in its software, other than changes shown in the attached final document by underscoring added text and striking over deleted text.

(Signed)

(Title)

(Dated)



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
10/08/2021

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Chris Hansen State Farm Insurance 4473 N. Roan St Ste 1 	CONTACT NAME: Amy C. Bryan	
	PHONE (A/C, No, Ext): 423-915-1113	FAX (A/C, No): 423-915-1115
	E-MAIL ADDRESS: amy.c.bryan@ifv8@statefarm.com	
	INSURER(S) AFFORDING COVERAGE	NAIC #
	INSURER A: State Farm Fire and Casualty Company	25143
	INSURER B: State Farm Mutual Automobile Insurance Company	25178
	INSURER C:	
	INSURER D:	
	INSURER E:	
	INSURER F:	

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	GENERAL LIABILITY	Y	Y	92-GE-2836-3	10/29/2020	10/29/2021	EACH OCCURRENCE \$ 1,000,000
X	COMMERCIAL GENERAL LIABILITY			92-GE-2863-3	10/29/2021	10/29/2022	DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000
	CLAIMS-MADE X OCCUR						MED EXP (Any one person) \$ 5,000
							PERSONAL & ADV INJURY \$ 1,000,000
							GENERAL AGGREGATE \$ 2,000,000
							PRODUCTS - COMP/OP AGG \$ 2,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						
X	POLICY						\$
	PRO-JECT						
	LOC						
	AUTOMOBILE LIABILITY			281 8173-D27-42	10/27/2020	10/27/2021	COMBINED SINGLE LIMIT (Ea accident) \$
	ANY AUTO			281 8173-D27-42	10/27/2021	10/27/2022	BODILY INJURY (Per person) \$ 250,000
	ALL OWNED AUTOS	X					BODILY INJURY (Per accident) \$ 500,000
	HIRED AUTOS						PROPERTY DAMAGE (Per accident) \$ 100,000
							\$
	UMBRELLA LIAB						EACH OCCURRENCE \$
	EXCESS LIAB						AGGREGATE \$
	DED						\$
	RETENTION \$						
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	Y/N		92-CG-R993-1	12/08/2020	12/08/2021	X WC STATUTORY LIMITS OTH-ER
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICE/MEMBER EXCLUDED? (Mandatory In NH)	N	N/A	92-CG-R993-1	12/08/2021	12/08/2022	E.L. EACH ACCIDENT \$ 100,000
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE \$ 100,000
							E.L. DISEASE - POLICY LIMIT \$ 500,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

Harold McCormick Elementary School TWA Project 021-002

CERTIFICATE HOLDER

CANCELLATION

Elizabethton City Schools
804 South Watauga Avenue
Elizabethton, TN 37643

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

© 1988-2010 ACORD CORPORATION. All rights reserved.

2021-2022 Capital Projects Information

Priority	Project Description	Preliminary Cost	Funding Source
1	<u>Harold McCormick Elementary School – Miscellaneous Renovations</u> Abate asbestos and hazardous materials – entire School Building. Upgrade electrical power and communication service and infrastructure. Upgrade HVAC with new RTU's for each classroom. Original School Building: Renovate 11 existing classrooms with new flooring, base, painting, ceiling, casework, exterior windows, electrical and HVAC. Renovate existing corridor with new flooring, base, painting, ceiling, electrical and HVAC. 1967 Addition: Renovate 7 existing classrooms with new flooring, base, painting, ceiling, casework, exterior windows, electrical and HVAC. Renovate existing corridor with new flooring, base, painting, ceiling, electrical and HVAC. The sequence of the work at Harold McCormick is still not clear. Questions: What about existing cafeteria / kitchen? What about existing cafeteria? What about Administration area? What about Library? The scope of work will probably exceed your ability to fund in one project and will have to be completed in phases over time. Consider how to package into separate phases.	\$4,100,000.00	ESSER 3.0
2	<u>East Side Elementary School – Parking Lot Expansion</u> Add new parking and drive at front entrance – Option #1; 62 parking spaces.	\$200,000.00	1/2 Cent Sales Tax
3	<u>T A Dugger – Secure Vestibule and Main Entrance Improvements</u> Provide covered portico at main entrance. Add new secure vestibule at main entrance. Provide ADA accessible entrance.		
3	<u>T A Dugger – Media Center Covered Walkway and Entrance Improvements.</u> Provide covered canopy walkway between Media Center and School Building. Renovate space on west side of gymnasium for corridor access. Provide ADA accessible entrance at new corridor extension.		
3	<u>T A Dugger – Music Building Covered Walkway and Entrance Improvements</u> Provide covered canopy walkway between Music Building and School Building. Provide ADA accessible entrance at Auditorium vestibule.		
3	<u>T A Dugger – Maintenance / Band Building Covered Walkway and Entrance Improvements</u> Provide covered canopy walkway between Band and Maintenance Building and School Building. Modify fencing to provide new gate. Provide cross walk with painted markings at bus drive. Provide ADA accessible entrance into north side of Crows Nest.		
4	<u>Baseball Hitting Facility</u> To be constructed beside Joe O'Brien Field	\$300,000.00	GP Reserves
4	<u>EHS Softball Field Improvements</u> Either new fencing/lighting/ or turf infield	\$200,000.00	

2021-2022 Capital Projects Information

Priority	Project Description	Preliminary Cost	Funding Source
5	<u>Elizabethton High School – Field House</u> Add pre-engineered metal building for new field house. Accommodate weight training, toilet rooms, storage and team areas. Include open area for limited indoor practice?	\$600,000.00	
5	<u>Elizabethton High School – Visitor Team Dressing Rooms</u> Renovate space beneath bleachers on north side of gym into boys and girls dressing rooms for visiting teams.		
5	<u>Elizabethton High School – Parking Lot Improvements</u> Expand parking and pave access drive on west end of school building extending to football stadium. Include site planning to accommodate new field house described above.		
6	<u>Elizabethton High School – New Sports Field Lighting</u> Add new sports field lighting for softball field, band practice field and track.		
6	<u>T A Dugger – New Sports Field Lighting</u> Add new sports field lighting for two baseball fields.		
7	<u>Elizabethton High School – Football Stadium</u> Add new bleacher seating for home side stands. Include vomitory tunnel for home and visitor team access. Include 'sky boxes' at top of bleacher seating? Add new bleacher seating for visitor side stands. Add new bleacher seating for students. Two options – east end of field in concourse adjacent to bank seating or west end of field on berm. Expand concourse area for 'Club Area' with seating and big screen TV's.		
8	<u>Elizabethton High School – Pool Area Exterior Concrete Terrace</u> Replace / repair existing concrete terrace at north side of school building between pool area and football stadium.		
9	<u>West Side Elementary School – New Classrooms</u> We briefly talked about adding classrooms to. Is this work to be included on the list? What is the scope of work?		
10	<u>Harold McCormick Elementary School – Pre-School Classrooms</u> Add pre-school classrooms to north end of building. Two story addition. Two classrooms each floor. Add elevator for ADA accessibility.		
11	<u>Elizabethton High School – Toilet Rooms</u> Renovate Boys and Girls restrooms adjacent to the Commons Areas into single user toilet rooms. Include handicapped accessible toilet rooms to either side of a bank of uni-sex single compartment toilet rooms. Toilets only in the single user rooms. Group sinks outside the single user toilet rooms. Arrange toilet rooms for privacy and direct supervision by teachers from the Commons Area. Design ideas similar to new toilet rooms at TAD.		

(NOTE - Paragraphs, i.e., 3.4.4 and 3.4.5, are numbered for the AIA A201-2007 and Contractor not for other documents!!)

3.4.4 PREVAILING WAGE REQUIREMENT.

(1) *Minimum wages.*

- (i) All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (a)(1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in § 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: *Provided*, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph (a)(1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

(ii)

- (A) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

- (1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and
 - (2) The classification is utilized in the area by the construction industry; and
 - (3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.
- (B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.
- (C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.
- (D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii) (B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.
- (iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.
- (iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, *Provided*, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

(2) *Withholding.* The Elizabethton City Schools shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract, the (U S Department of Education) may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(3) *Payrolls and basic records.*

(i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii)

(A) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the (U S Department of Education) if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant, sponsor, or owner, as the case may be, for transmission to the

(U S Department of Education). The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the (U S Department of Education) if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit them to the applicant, sponsor, or owner, as the case may be, for transmission to the (U S Department of Education), the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the sponsoring government agency (or the applicant, sponsor, or owner).

- (B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:
 - (1) That the payroll for the payroll period contains the information required to be provided under § 5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under § 5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;
 - (2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;
 - (3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.
- (C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (a)(3)(ii)(B) of this section.
- (D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the (U S Department of Education) or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(4) *Apprentices and trainees -*

(i) *Apprentices.* Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the

contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

- (ii) *Trainees.* Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.
- (iii) *Equal employment opportunity.* The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.
- (5) *Compliance with Copeland Act requirements.* The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.
- (6) *Subcontracts.* The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the (U S Department of Education) may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.
- (7) *Contract termination: debarment.* A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

- (8) *Compliance with Davis-Bacon and Related Act requirements.* All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.
- (9) *Disputes concerning labor standards.* Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.
- (10) *Certification of eligibility.*
- (i) By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).
- (ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).
- (iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

3.4.5 WORK HOURS AND OVERTIME REQUIREMENT.

- (1) *Overtime requirements.* No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics

shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

- (2) *Violation; liability for unpaid wages; liquidated damages.* In the event of any violation of the clause set forth in paragraph (b)(1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (b)(1) of this section, in the sum of \$27 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (b)(1) of this section.
- (3) *Withholding for unpaid wages and liquidated damages.* The Elizabethton City Schools shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b)(2) of this section.
- (4) *Subcontracts.* The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (b)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (b)(1) through (4) of this section.



HOURLY FEE RATE SCHEDULE

OCTOBER 1, 2021

**ALTERATIONS TO EXISTING BUILDING
HAROLD McCORMICK ELEMENTARY SCHOOL
226 SOUTH CEDAR AVENUE
ELIZABETHTON, TENNESSEE 37643
TWA PROJECT #021-002**

A. JOB CLASSIFICATION HOURLY BILLING RATES:

Thomas Weems Architect (Architectural)

Principal Architect	\$175.00 / Hour
Staff Architect.....	\$125.00 / Hour
Interior Designer / CAD Operator.....	\$100.00 / Hour
Architectural Designer / CAD Operator.....	\$100.00 / Hour
Clerical.....	\$ 50.00 / Hour

Tysinger, Hampton & Partners, Inc. (Civil)

Expert Witness – All Fields	\$255.00 / Hour
Principals	\$185.00 / Hour
Director of Civil.....	\$140.00 / Hour
Senior Project Leader – Civil	\$110.00 / Hour
Project Leader – Civil.....	\$ 90.00 / Hour
Project Manager – Civil.....	\$ 80.00 / Hour
Senior Designer – Civil	\$ 75.00 / Hour
Stormwater Reporting	\$ 70.00 / Hour
Designer – Civil.....	\$ 65.00 / Hour
CAD Operator 1	\$ 60.00 / Hour
CAD Operator 2	\$ 55.00 / Hour
CAD Operator 3	\$ 50.00 / Hour
Technician – Civil.....	\$ 50.00 / Hour
CEI – Engineering Field Representative.....	\$ 60.00 / Hour

Spoden and Wilson Consulting Engineers (Structural)

Principal Engineer.....	\$150.00 / Hour
Staff Engineer	\$100.00 / Hour
Structural Draftsman – CAD Operator	\$ 75.00 / Hour
Clerical.....	\$ 50.00 / Hour

Mechanical Design Services (HVAC, Plumbing and Fire Protection)

Principal Engineer.....	\$175.00 / Hour
Staff Engineer	\$145.00 / Hour
Engineering Intern - II/PM.....	\$110.00 / Hour
Graduate Engineer	\$ 90.00 / Hour
Senior Designer – II	\$ 95.00 / Hour
Senior Designer – I	\$ 75.00 / Hour
Mechanical Designer	\$ 65.00 / Hour
Clerical.....	\$ 50.00 / Hour

Vreeland Engineers, Inc. (Electrical)

Principal Engineer.....	\$150.00 / Hour
Staff Engineer	\$125.00 / Hour



Staff Designer	\$ 90.00 / Hour
Electrical Draftsman – CAD Operator	\$ 75.00 / Hour
Electrical Field Inspector.....	\$ 75.00 / Hour
Clerical.....	\$ 50.00 / Hour



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

10/08/2021

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an **ADDITIONAL INSURED**, the policy(ies) must have **ADDITIONAL INSURED** provisions or be endorsed. If **SUBROGATION IS WAIVED**, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER RSC Insurance Brokerage, Inc. 104 Woodmont Blvd. Suite 400 Nashville TN 37205	CONTACT NAME: Canessa Jones PHONE (A/C, No, Ext): FAX (A/C, No): E-MAIL ADDRESS: cjones@risk-strategies.com INSURER(S) AFFORDING COVERAGE INSURER A: Travelers Cas & Surety co AM NAIC # 31194
INSURED Thomas Weems, Architect 3203 Hanover Road Johnson City TN 37604	INSURER B: INSURER C: INSURER D: INSURER E: INSURER F:

COVERAGES**CERTIFICATE NUMBER:****REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☐ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☐ PRO-JECT ☐ LOC OTHER:						EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$
	AUTOMOBILE LIABILITY ☐ ANY AUTO ☐ OWNED AUTOS ONLY ☐ SCHEDULED AUTOS ☐ HIRED AUTOS ONLY ☐ NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	UMBRELLA LIAB ☐ OCCUR EXCESS LIAB ☐ CLAIMS-MADE DED ☐ RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) ☐ Y / N If yes, describe under DESCRIPTION OF OPERATIONS below		N / A				PER STATUTE ☐ OTH-ER ☐ E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
A	Professional Liability			105364625	11/01/2020	11/01/2021	Each Claim \$1,000,000 Aggregate \$1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Re: TWA Project #021-002, Alterations to Existing Building, Harold McCormick Elementary School, 226 South Cedar Avenue, Elizabethton, Tennessee 37643.

CERTIFICATE HOLDER**CANCELLATION**

Elizabethton City Schools 804 South Watauga Avenue Elizabethton TN 37643	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE

© 1988-2015 ACORD CORPORATION. All rights reserved.

2021-2022 Capital Projects Information

Priority	Project Description	Preliminary Cost	Funding Source
1	<u>Harold McCormick Elementary School – Miscellaneous Renovations</u> Abate asbestos and hazardous materials – entire School Building. Upgrade electrical power and communication service and infrastructure. Upgrade HVAC with new RTU's for each classroom. Original School Building: Renovate 11 existing classrooms with new flooring, base, painting, ceiling, casework, exterior windows, electrical and HVAC. Renovate existing corridor with new flooring, base, painting, ceiling, electrical and HVAC. 1967 Addition: Renovate 7 existing classrooms with new flooring, base, painting, ceiling, casework, exterior windows, electrical and HVAC. Renovate existing corridor with new flooring, base, painting, ceiling, electrical and HVAC. The sequence of the work at Harold McCormick is still not clear. Questions: What about existing cafeteria / kitchen? What about existing cafeteria? What about Administration area? What about Library? The scope of work will probably exceed your ability to fund in one project and will have to be completed in phases over time. Consider how to package into separate phases.	\$4,100,000.00	ESSER 3.0
2	<u>East Side Elementary School – Parking Lot Expansion</u> Add new parking and drive at front entrance – Option #1; 62 parking spaces.	\$200,000.00	1/2 Cent Sales Tax
3	<u>T A Dugger – Secure Vestibule and Main Entrance Improvements</u> Provide covered portico at main entrance. Add new secure vestibule at main entrance. Provide ADA accessible entrance.		
3	<u>T A Dugger – Media Center Covered Walkway and Entrance Improvements.</u> Provide covered canopy walkway between Media Center and School Building. Renovate space on west side of gymnasium for corridor access. Provide ADA accessible entrance at new corridor extension.		
3	<u>T A Dugger – Music Building Covered Walkway and Entrance Improvements</u> Provide covered canopy walkway between Music Building and School Building. Provide ADA accessible entrance at Auditorium vestibule.		
3	<u>T A Dugger – Maintenance / Band Building Covered Walkway and Entrance Improvements</u> Provide covered canopy walkway between Band and Maintenance Building and School Building. Modify fencing to provide new gate. Provide cross walk with painted markings at bus drive. Provide ADA accessible entrance into north side of Crows Nest.		
4	<u>Baseball Hitting Facility</u> To be constructed beside Joe O'Brien Field	\$300,000.00	GP Reserves
4	<u>EHS Softball Field Improvements</u> Either new fencing/lighting/ or turf infield	\$200,000.00	

2021-2022 Capital Projects Information

Priority	Project Description	Preliminary Cost	Funding Source
5	<u>Elizabethton High School – Field House</u> Add pre-engineered metal building for new field house. Accommodate weight training, toilet rooms, storage and team areas. Include open area for limited indoor practice?	\$600,000.00	
5	<u>Elizabethton High School – Visitor Team Dressing Rooms</u> Renovate space beneath bleachers on north side of gym into boys and girls dressing rooms for visiting teams.		
5	<u>Elizabethton High School – Parking Lot Improvements</u> Expand parking and pave access drive on west end of school building extending to football stadium. Include site planning to accommodate new field house described above.		
6	<u>Elizabethton High School – New Sports Field Lighting</u> Add new sports field lighting for softball field, band practice field and track.		
6	<u>T A Dugger – New Sports Field Lighting</u> Add new sports field lighting for two baseball fields.		
7	<u>Elizabethton High School – Football Stadium</u> Add new bleacher seating for home side stands. Include vomitory tunnel for home and visitor team access. Include 'sky boxes' at top of bleacher seating? Add new bleacher seating for visitor side stands. Add new bleacher seating for students. Two options – east end of field in concourse adjacent to bank seating or west end of field on berm. Expand concourse area for 'Club Area' with seating and big screen TV's.		
8	<u>Elizabethton High School – Pool Area Exterior Concrete Terrace</u> Replace / repair existing concrete terrace at north side of school building between pool area and football stadium.		
9	<u>West Side Elementary School – New Classrooms</u> We briefly talked about adding classrooms to. Is this work to be included on the list? What is the scope of work?		
10	<u>Harold McCormick Elementary School – Pre-School Classrooms</u> Add pre-school classrooms to north end of building. Two story addition. Two classrooms each floor. Add elevator for ADA accessibility.		
11	<u>Elizabethton High School – Toilet Rooms</u> Renovate Boys and Girls restrooms adjacent to the Commons Areas into single user toilet rooms. Include handicapped accessible toilet rooms to either side of a bank of uni-sex single compartment toilet rooms. Toilets only in the single user rooms. Group sinks outside the single user toilet rooms. Arrange toilet rooms for privacy and direct supervision by teachers from the Commons Area. Design ideas similar to new toilet rooms at TAD.		



AIA® Document A201® – 2007

General Conditions of the Contract for Construction

for the following PROJECT:

(Name and location or address) Parking Lot Expansion For
East Side Elementary School
800 Siam Road
Elizabethton, Tennessee 37643
Telephone: 423-547-8010
TWA Project 021-022

THE OWNER:

(Name, legal status and address)

Elizabethton City Schools
804 South Watauga Avenue
Elizabethton, Tennessee 37643
Telephone: 423-547-8000

THE ARCHITECT:

(Name, legal status and address)

Thomas Weems Architect
3203 Hanover Road
Johnson City, Tennessee 37604
Telephone: 423-952-2700

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

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

Init.

AIA Document A201® – 2007. Copyright © 1911, 1915, 1918, 1925, 1937, 1951, 1958, 1961, 1963, 1966, 1970, 1976, 1987, 1997 and 2007 by The American Institute of Architects. All rights reserved. The "American Institute of Architects," "AIA," the AIA Logo, "A201," and "AIA Contract Documents" are registered trademarks and may not be used without permission. This document was produced by AIA software at 07:31:56 ET on 10/21/2021 under Order No.7805369175 which expires on 04/03/2022, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents® Terms of Service. To report copyright violations, e-mail copyright@aia.org.

User Notes:

(929377113)

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



Init.

/

INDEX

(Topics and numbers in bold are section headings.)

Acceptance of Nonconforming Work

9.6.6, 9.9.3, **12.3**

Acceptance of Work

9.6.6, 9.8.2, 9.9.3, 9.10.1, 9.10.3, **12.3**

Access to Work

3.16, 6.2.1, **12.1**

Accident Prevention

10

Acts and Omissions

3.2, 3.3.2, 3.12.8, 3.18, 4.2.3, 8.3.1, 9.5.1, 10.2.5,
10.2.8, 13.4.2, 13.7, 14.1, 15.2

Addenda

1.1.1, 3.11

Additional Costs, Claims for

3.7.4, 3.7.5, 6.1.1, 7.3.7.5, 10.3, 15.1.4

Additional Inspections and Testing

9.4.2, 9.8.3, 12.2.1, **13.5**

Additional Insured

11.1.4

Additional Time, Claims for

3.2.4, 3.7.4, 3.7.5, 3.10.2, 8.3.2, **15.1.5**

Administration of the Contract

3.1.3, **4.2**, 9.4, 9.5

Advertisement or Invitation to Bid

1.1.1

Aesthetic Effect

4.2.13

Allowances

3.8, 7.3.8

All-risk Insurance

11.3.1, 11.3.1.1

Applications for Payment

4.2.5, 7.3.9, 9.2, **9.3**, 9.4, 9.5.1, 9.6.3, 9.7, 9.10, 11.1.3

Approvals

2.1.1, 2.2.2, 2.4, 3.1.3, 3.10.2, 3.12.8, 3.12.9, 3.12.10,
4.2.7, 9.3.2, 13.5.1

Arbitration

8.3.1, 11.3.10, 13.1, 15.3.2, **15.4**

ARCHITECT

4

Architect, Definition of

4.1.1

Architect, Extent of Authority

2.4, 3.12.7, 4.1, 4.2, 5.2, 6.3, 7.1.2, 7.3.7, 7.4, 9.2,
9.3.1, 9.4, 9.5, 9.6.3, 9.8, 9.10.1, 9.10.3, 12.1, 12.2.1,
13.5.1, 13.5.2, 14.2.2, 14.2.4, 15.1.3, 15.2.1

Architect, Limitations of Authority and Responsibility

2.1.1, 3.12.4, 3.12.8, 3.12.10, 4.1.2, 4.2.1, 4.2.2, 4.2.3,
4.2.6, 4.2.7, 4.2.10, 4.2.12, 4.2.13, 5.2.1, 7.4, 9.4.2,
9.5.3, 9.6.4, 15.1.3, 15.2

Architect's Additional Services and Expenses

2.4, 11.3.1.1, 12.2.1, 13.5.2, 13.5.3, 14.2.4

Architect's Administration of the Contract

3.1.3, 4.2, 3.7.4, 15.2, 9.4.1, 9.5

Architect's Approvals

2.4, 3.1.3, 3.5, 3.10.2, 4.2.7

Architect's Authority to Reject Work

3.5, 4.2.6, 12.1.2, 12.2.1

Architect's Copyright

1.1.7, 1.5

Architect's Decisions

3.7.4, 4.2.6, 4.2.7, 4.2.11, 4.2.12, 4.2.13, 4.2.14, 6.3,
7.3.7, 7.3.9, 8.1.3, 8.3.1, 9.2, 9.4.1, 9.5, 9.8.4, 9.9.1,
13.5.2, 15.2, 15.3

Architect's Inspections

3.7.4, 4.2.2, 4.2.9, 9.4.2, 9.8.3, 9.9.2, 9.10.1, 13.5

Architect's Instructions

3.2.4, 3.3.1, 4.2.6, 4.2.7, 13.5.2

Architect's Interpretations

4.2.11, 4.2.12

Architect's Project Representative

4.2.10

Architect's Relationship with Contractor

1.1.2, 1.5, 3.1.3, 3.2.2, 3.2.3, 3.2.4, 3.3.1, 3.4.2, 3.5,
3.7.4, 3.7.5, 3.9.2, 3.9.3, 3.10, 3.11, 3.12, 3.16, 3.18,
4.1.2, 4.1.3, 4.2, 5.2, 6.2.2, 7, 8.3.1, 9.2, 9.3, 9.4, 9.5,
9.7, 9.8, 9.9, 10.2.6, 10.3, 11.3.7, 12, 13.4.2, 13.5, 15.2

Architect's Relationship with Subcontractors

1.1.2, 4.2.3, 4.2.4, 4.2.6, 9.6.3, 9.6.4, 11.3.7

Architect's Representations

9.4.2, 9.5.1, 9.10.1

Architect's Site Visits

3.7.4, 4.2.2, 4.2.9, 9.4.2, 9.5.1, 9.9.2, 9.10.1, 13.5

Asbestos

10.3.1

Attorneys' Fees

3.18.1, 9.10.2, 10.3.3

Award of Separate Contracts

6.1.1, 6.1.2

Award of Subcontracts and Other Contracts for Portions of the Work

5.2

Basic Definitions

1.1

Bidding Requirements

1.1.1, 5.2.1, 11.4.1

Binding Dispute Resolution

9.7, 11.3.9, 11.3.10, 13.1, 15.2.5, 15.2.6.1, 15.3.1,
15.3.2, 15.4.1

Boiler and Machinery Insurance

11.3.2

Bonds, Lien

7.3.7.4, 9.10.2, 9.10.3

Bonds, Performance, and Payment

7.3.7.4, 9.6.7, 9.10.3, 11.3.9, **11.4**

Building Permit

3.7.1

Capitalization

1.3

Certificate of Substantial Completion

9.8.3, 9.8.4, 9.8.5

Certificates for Payment

4.2.1, 4.2.5, 4.2.9, 9.3.3, **9.4**, 9.5, 9.6.1, 9.6.6, 9.7,

9.10.1, 9.10.3, 14.1.1.3, 14.2.4, 15.1.3

Certificates of Inspection, Testing or Approval
13.5.4

Certificates of Insurance

9.10.2, 11.1.3

Change Orders

1.1.1, 2.4, 3.4.2, 3.7.4, 3.8.2.3, 3.11, 3.12.8, 4.2.8,
5.2.3, 7.1.2, 7.1.3, **7.2**, 7.3.2, 7.3.6, 7.3.9, 7.3.10, 8.3.1,
9.3.1.1, 9.10.3, 10.3.2, 11.3.1.2, 11.3.4, 11.3.9, 12.1.2,
15.1.3

Change Orders, Definition of

7.2.1

CHANGES IN THE WORK

2.2.1, 3.11, 4.2.8, **7**, 7.2.1, 7.3.1, 7.4, 8.3.1, 9.3.1.1,
11.3.9

Claims, Definition of

15.1.1

CLAIMS AND DISPUTES

3.2.4, 6.1.1, 6.3, 7.3.9, 9.3.3, 9.10.4, 10.3.3, **15**, 15.4

Claims and Timely Assertion of Claims
15.4.1

Claims for Additional Cost

3.2.4, 3.7.4, 6.1.1, 7.3.9, 10.3.2, **15.1.4**

Claims for Additional Time

3.2.4, 3.7.4, 6.1.1, 8.3.2, 10.3.2, **15.1.5**

Concealed or Unknown Conditions, Claims for
3.7.4

Claims for Damages

3.2.4, 3.18, 6.1.1, 8.3.3, 9.5.1, 9.6.7, 10.3.3, 11.1.1,
11.3.5, 11.3.7, 14.1.3, 14.2.4, 15.1.6

Claims Subject to Arbitration

15.3.1, 15.4.1

Cleaning Up

3.15, 6.3

Commencement of the Work, Conditions Relating to
2.2.1, 3.2.2, 3.4.1, 3.7.1, 3.10.1, 3.12.6, 5.2.1, 5.2.3,
6.2.2, 8.1.2, 8.2.2, 8.3.1, 11.1, 11.3.1, 11.3.6, 11.4.1,
15.1.4

Commencement of the Work, Definition of
8.1.2

Communications Facilitating Contract
Administration

3.9.1, **4.2.4**

Completion, Conditions Relating to

3.4.1, 3.11, 3.15, 4.2.2, 4.2.9, 8.2, 9.4.2, 9.8, 9.9.1,
9.10, 12.2, 13.7, 14.1.2

COMPLETION, PAYMENTS AND

9

Completion, Substantial

4.2.9, 8.1.1, 8.1.3, 8.2.3, 9.4.2, 9.8, 9.9.1, 9.10.3, 12.2,
13.7

Compliance with Laws

1.6, 3.2.3, 3.6, 3.7, 3.12.10, 3.13, 4.1.1, 9.6.4, 10.2.2,
11.1, 11.3, 13.1, 13.4, 13.5.1, 13.5.2, 13.6, 14.1.1,
14.2.1.3, 15.2.8, 15.4.2, 15.4.3

Concealed or Unknown Conditions

3.7.4, 4.2.8, 8.3.1, 10.3

Conditions of the Contract

1.1.1, 6.1.1, 6.1.4

Consent, Written

3.4.2, 3.7.4, 3.12.8, 3.14.2, 4.1.2, 9.3.2, 9.8.5, 9.9.1,
9.10.2, 9.10.3, 11.3.1, 13.2, 13.4.2, 15.4.4.2

Consolidation or Joinder

15.4.4

CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

1.1.4, **6**

Construction Change Directive, Definition of
7.3.1

Construction Change Directives

1.1.1, 3.4.2, 3.12.8, 4.2.8, 7.1.1, 7.1.2, 7.1.3, **7.3**,
9.3.1.1

Construction Schedules, Contractor's

3.10, 3.12.1, 3.12.2, 6.1.3, 15.1.5.2

Contingent Assignment of Subcontracts

5.4, 14.2.2.2

Continuing Contract Performance

15.1.3

Contract, Definition of

1.1.2

CONTRACT, TERMINATION OR SUSPENSION OF THE

5.4.1.1, 11.3.9, **14**

Contract Administration

3.1.3, 4, 9.4, 9.5

Contract Award and Execution, Conditions Relating
to

3.7.1, 3.10, 5.2, 6.1, 11.1.3, 11.3.6, 11.4.1

Contract Documents, Copies Furnished and Use of
1.5.2, 2.2.5, 5.3

Contract Documents, Definition of

1.1.1

Contract Sum

3.7.4, 3.8, 5.2.3, 7.2, 7.3, 7.4, **9.1**, 9.4.2, 9.5.1.4, 9.6.7,
9.7, 10.3.2, 11.3.1, 14.2.4, 14.3.2, 15.1.4, 15.2.5

Contract Sum, Definition of

9.1

Contract Time

3.7.4, 3.7.5, 3.10.2, 5.2.3, 7.2.1.3, 7.3.1, 7.3.5, 7.4,
8.1.1, 8.2.1, 8.3.1, 9.5.1, 9.7, 10.3.2, 12.1.1, 14.3.2,
15.1.5.1, 15.2.5

Contract Time, Definition of

8.1.1

CONTRACTOR

3

Contractor, Definition of

3.1, **6.1.2**

Contractor's Construction Schedules

3.10, 3.12.1, 3.12.2, 6.1.3, 15.1.5.2

Contractor's Employees

3.3.2, 3.4.3, 3.8.1, 3.9, 3.18.2, 4.2.3, 4.2.6, 10.2, 10.3, 11.1.1, 11.3.7, 14.1, 14.2.1.1

Contractor's Liability Insurance

11.1

Contractor's Relationship with Separate Contractors and Owner's Forces

3.12.5, 3.14.2, 4.2.4, 6, 11.3.7, 12.1.2, 12.2.4

Contractor's Relationship with Subcontractors

1.2.2, 3.3.2, 3.18.1, 3.18.2, 5, 9.6.2, 9.6.7, 9.10.2, 11.3.1.2, 11.3.7, 11.3.8

Contractor's Relationship with the Architect

1.1.2, 1.5, 3.1.3, 3.2.2, 3.2.3, 3.2.4, 3.3.1, 3.4.2, 3.5, 3.7.4, 3.10, 3.11, 3.12, 3.16, 3.18, 4.1.3, 4.2, 5.2, 6.2.2, 7, 8.3.1, 9.2, 9.3, 9.4, 9.5, 9.7, 9.8, 9.9, 10.2.6, 10.3, 11.3.7, 12, 13.5, 15.1.2, 15.2.1

Contractor's Representations

3.2.1, 3.2.2, 3.5, 3.12.6, 6.2.2, 8.2.1, 9.3.3, 9.8.2

Contractor's Responsibility for Those Performing the Work

3.3.2, 3.18, 5.3, 6.1.3, 6.2, 9.5.1, 10.2.8

Contractor's Review of Contract Documents
3.2

Contractor's Right to Stop the Work
9.7

Contractor's Right to Terminate the Contract
14.1, 15.1.6

Contractor's Submittals

3.10, 3.11, 3.12.4, 4.2.7, 5.2.1, 5.2.3, 9.2, 9.3, 9.8.2, 9.8.3, 9.9.1, 9.10.2, 9.10.3, 11.1.3, 11.4.2

Contractor's Superintendent

3.9, 10.2.6

Contractor's Supervision and Construction Procedures

1.2.2, 3.3, 3.4, 3.12.10, 4.2.2, 4.2.7, 6.1.3, 6.2.4, 7.1.3, 7.3.5, 7.3.7, 8.2, 10, 12, 14, 15.1.3

Contractual Liability Insurance

11.1.1.8, 11.2

Coordination and Correlation

1.2, 3.2.1, 3.3.1, 3.10, 3.12.6, 6.1.3, 6.2.1

Copies Furnished of Drawings and Specifications

1.5, 2.2.5, 3.11

Copyrights

1.5, **3.17**

Correction of Work

2.3, 2.4, 3.7.3, 9.4.2, 9.8.2, 9.8.3, 9.9.1, 12.1.2, **12.2**

Correlation and Intent of the Contract Documents 1.2

Cost, Definition of

7.3.7

Costs

2.4, 3.2.4, 3.7.3, 3.8.2, 3.15.2, 5.4.2, 6.1.1, 6.2.3, 7.3.3.3, 7.3.7, 7.3.8, 7.3.9, 9.10.2, 10.3.2, 10.3.6, 11.3, 12.1.2, 12.2.1, 12.2.4, 13.5, 14

Cutting and Patching

3.14, 6.2.5

Damage to Construction of Owner or Separate Contractors

3.14.2, 6.2.4, 10.2.1.2, 10.2.5, 10.4, 11.1.1, 11.3, 12.2.4

Damage to the Work

3.14.2, 9.9.1, 10.2.1.2, 10.2.5, 10.4, 11.3.1, 12.2.4

Damages, Claims for

3.2.4, 3.18, 6.1.1, 8.3.3, 9.5.1, 9.6.7, 10.3.3, 11.1.1, 11.3.5, 11.3.7, 14.1.3, 14.2.4, 15.1.6

Damages for Delay

6.1.1, 8.3.3, 9.5.1.6, 9.7, 10.3.2

Date of Commencement of the Work, Definition of **8.1.2**

Date of Substantial Completion, Definition of **8.1.3**

Day, Definition of

8.1.4

Decisions of the Architect

3.7.4, 4.2.6, 4.2.7, 4.2.11, 4.2.12, 4.2.13, 15.2, 6.3, 7.3.7, 7.3.9, 8.1.3, 8.3.1, 9.2, 9.4, 9.5.1, 9.8.4, 9.9.1, 13.5.2, 14.2.2, 14.2.4, 15.1, 15.2

Decisions to Withhold Certification

9.4.1, **9.5**, 9.7, 14.1.1.3

Defective or Nonconforming Work, Acceptance, Rejection and Correction of

2.3, 2.4, 3.5, 4.2.6, 6.2.5, 9.5.1, 9.5.2, 9.6.6, 9.8.2, 9.9.3, 9.10.4, 12.2.1

Definitions

1.1, 2.1.1, 3.1.1, 3.5, 3.12.1, 3.12.2, 3.12.3, 4.1.1, 15.1.1, 5.1, 6.1.2, 7.2.1, 7.3.1, 8.1, 9.1, 9.8.1

Delays and Extensions of Time

3.2, 3.7.4, 5.2.3, 7.2.1, 7.3.1, 7.4, **8.3**, 9.5.1, 9.7, 10.3.2, 10.4, 14.3.2, 15.1.5, 15.2.5

Disputes

6.3, 7.3.9, 15.1, 15.2

Documents and Samples at the Site

3.11

Drawings, Definition of

1.1.5

Drawings and Specifications, Use and Ownership of
3.11

Effective Date of Insurance

8.2.2, 11.1.2

Emergencies

10.4, 14.1.1.2, 15.1.4

Employees, Contractor's

3.3.2, 3.4.3, 3.8.1, 3.9, 3.18.2, 4.2.3, 4.2.6, 10.2, 10.3.3, 11.1.1, 11.3.7, 14.1, 14.2.1.1

Equipment, Labor, Materials or

1.1.3, 1.1.6, 3.4, 3.5, 3.8.2, 3.8.3, 3.12, 3.13, 3.15.1, 4.2.6, 4.2.7, 5.2.1, 6.2.1, 7.3.7, 9.3.2, 9.3.3, 9.5.1.3, 9.10.2, 10.2.1, 10.2.4, 14.2.1.1, 14.2.1.2

Execution and Progress of the Work
 1.1.3, 1.2.1, 1.2.2, 2.2.3, 2.2.5, 3.1, 3.3.1, 3.4.1, 3.5, 3.7.1, 3.10.1, 3.12, 3.14, 4.2, 6.2.2, 7.1.3, 7.3.5, 8.2, 9.5.1, 9.9.1, 10.2, 10.3, 12.2, 14.2, 14.3.1, 15.1.3
 Extensions of Time
 3.2.4, 3.7.4, 5.2.3, 7.2.1, 7.3, 7.4, 9.5.1, 9.7, 10.3.2, 10.4, 14.3, 15.1.5, 15.2.5
Failure of Payment
 9.5.1.3, **9.7**, 9.10.2, 13.6, 14.1.1.3, 14.2.1.2
 Faulty Work
 (See Defective or Nonconforming Work)
Final Completion and Final Payment
 4.2.1, 4.2.9, 9.8.2, **9.10**, 11.1.2, 11.1.3, 11.3.1, 11.3.5, 12.3, 14.2.4, 14.4.3
 Financial Arrangements, Owner's
 2.2.1, 13.2.2, 14.1.1.4
 Fire and Extended Coverage Insurance
 11.3.1.1
GENERAL PROVISIONS
1
Governing Law
13.1
 Guarantees (See Warranty)
Hazardous Materials
 10.2.4, **10.3**
 Identification of Subcontractors and Suppliers
 5.2.1
Indemnification
 3.17, **3.18**, 9.10.2, 10.3.3, 10.3.5, 10.3.6, 11.3.1.2, 11.3.7
Information and Services Required of the Owner
 2.1.2, **2.2**, 3.2.2, 3.12.4, 3.12.10, 6.1.3, 6.1.4, 6.2.5, 9.6.1, 9.6.4, 9.9.2, 9.10.3, 10.3.3, 11.2, 11.4, 13.5.1, 13.5.2, 14.1.1.4, 14.1.4, 15.1.3
Initial Decision
15.2
Initial Decision Maker, Definition of
 1.1.8
 Initial Decision Maker, Decisions
 14.2.2, 14.2.4, 15.2.1, 15.2.2, 15.2.3, 15.2.4, 15.2.5
 Initial Decision Maker, Extent of Authority
 14.2.2, 14.2.4, 15.1.3, 15.2.1, 15.2.2, 15.2.3, 15.2.4, 15.2.5
Injury or Damage to Person or Property
10.2.8, 10.4
 Inspections
 3.1.3, 3.3.3, 3.7.1, 4.2.2, 4.2.6, 4.2.9, 9.4.2, 9.8.3, 9.9.2, 9.10.1, 12.2.1, 13.5
 Instructions to Bidders
 1.1.1
 Instructions to the Contractor
 3.2.4, 3.3.1, 3.8.1, 5.2.1, 7, 8.2.2, 12, 13.5.2
Instruments of Service, Definition of
1.1.7
 Insurance
 3.18.1, 6.1.1, 7.3.7, 9.3.2, 9.8.4, 9.9.1, 9.10.2, **11**

Insurance, Boiler and Machinery
11.3.2
Insurance, Contractor's Liability
11.1
 Insurance, Effective Date of
 8.2.2, 11.1.2
Insurance, Loss of Use
11.3.3
Insurance, Owner's Liability
11.2
Insurance, Property
 10.2.5, **11.3**
 Insurance, Stored Materials
 9.3.2
INSURANCE AND BONDS
11
 Insurance Companies, Consent to Partial Occupancy
 9.9.1
 Intent of the Contract Documents
 1.2.1, 4.2.7, 4.2.12, 4.2.13, 7.4
Interest
13.6
Interpretation
 1.2.3, **1.4**, 4.1.1, 5.1, 6.1.2, 15.1.1
 Interpretations, Written
 4.2.11, 4.2.12, 15.1.4
 Judgment on Final Award
 15.4.2
Labor and Materials, Equipment
 1.1.3, 1.1.6, **3.4**, 3.5, 3.8.2, 3.8.3, 3.12, 3.13, 3.15.1, 4.2.6, 4.2.7, 5.2.1, 6.2.1, 7.3.7, 9.3.2, 9.3.3, 9.5.1.3, 9.10.2, 10.2.1, 10.2.4, 14.2.1.1, 14.2.1.2
 Labor Disputes
 8.3.1
 Laws and Regulations
 1.5, 3.2.3, 3.6, 3.7, 3.12.10, 3.13, 4.1.1, 9.6.4, 9.9.1, 10.2.2, 11.1.1, 11.3, 13.1, 13.4, 13.5.1, 13.5.2, 13.6, 14, 15.2.8, 15.4
 Liens
 2.1.2, 9.3.3, 9.10.2, 9.10.4, 15.2.8
 Limitations, Statutes of
 12.2.5, 13.7, 15.4.1.1
 Limitations of Liability
 2.3, 3.2.2, 3.5, 3.12.10, 3.17, 3.18.1, 4.2.6, 4.2.7, 4.2.12, 6.2.2, 9.4.2, 9.6.4, 9.6.7, 10.2.5, 10.3.3, 11.1.2, 11.2, 11.3.7, 12.2.5, 13.4.2
 Limitations of Time
 2.1.2, 2.2, 2.4, 3.2.2, 3.10, 3.11, 3.12.5, 3.15.1, 4.2.7, 5.2, 5.3, 5.4.1, 6.2.4, 7.3, 7.4, 8.2, 9.2, 9.3.1, 9.3.3, 9.4.1, 9.5, 9.6, 9.7, 9.8, 9.9, 9.10, 11.1.3, 11.3.1.5, 11.3.6, 11.3.10, 12.2, 13.5, 13.7, 14, 15
Loss of Use Insurance
11.3.3
 Material Suppliers
 1.5, 3.12.1, 4.2.4, 4.2.6, 5.2.1, 9.3, 9.4.2, 9.6, 9.10.5
Materials, Hazardous
 10.2.4, **10.3**

Materials, Labor, Equipment and
1.1.3, 1.1.6, 1.5.1, 3.4.1, 3.5, 3.8.2, 3.8.3, 3.12, 3.13,
3.15.1, 4.2.6, 4.2.7, 5.2.1, 6.2.1, 7.3.7, 9.3.2, 9.3.3,
9.5.1.3, 9.10.2, 10.2.1.2, 10.2.4, 14.2.1.1, 14.2.1.2
Means, Methods, Techniques, Sequences and
Procedures of Construction
3.3.1, 3.12.10, 4.2.2, 4.2.7, 9.4.2
Mechanic's Lien
2.1.2, 15.2.8
Mediation
8.3.1, 10.3.5, 10.3.6, 15.2.1, 15.2.5, 15.2.6, **15.3**,
15.4.1
Minor Changes in the Work
1.1.1, 3.12.8, 4.2.8, 7.1, **7.4**
MISCELLANEOUS PROVISIONS
13
Modifications, Definition of
1.1.1
Modifications to the Contract
1.1.1, 1.1.2, 3.11, 4.1.2, 4.2.1, 5.2.3, 7, 8.3.1, 9.7,
10.3.2, 11.3.1
Mutual Responsibility
6.2
Nonconforming Work, Acceptance of
9.6.6, 9.9.3, **12.3**
Nonconforming Work, Rejection and Correction of
2.3, 2.4, 3.5, 4.2.6, 6.2.4, 9.5.1, 9.8.2, 9.9.3, 9.10.4,
12.2.1
Notice
2.2.1, 2.3, 2.4, 3.2.4, 3.3.1, 3.7.2, 3.12.9, 5.2.1, 9.7,
9.10, 10.2.2, 11.1.3, 12.2.2.1, 13.3, 13.5.1, 13.5.2,
14.1, 14.2, 15.2.8, 15.4.1
Notice, Written
2.3, 2.4, 3.3.1, 3.9.2, 3.12.9, 3.12.10, 5.2.1, 9.7, 9.10,
10.2.2, 10.3, 11.1.3, 11.3.6, 12.2.2.1, **13.3**, 14, 15.2.8,
15.4.1
Notice of Claims
3.7.4, 10.2.8, **15.1.2**, 15.4
Notice of Testing and Inspections
13.5.1, 13.5.2
Observations, Contractor's
3.2, 3.7.4
Occupancy
2.2.2, 9.6.6, 9.8, 11.3.1.5
Orders, Written
1.1.1, 2.3, 3.9.2, 7, 8.2.2, 11.3.9, 12.1, 12.2.2.1, 13.5.2,
14.3.1
OWNER
2
Owner, Definition of
2.1.1
Owner, Information and Services Required of the
2.1.2, **2.2**, 3.2.2, 3.12.10, 6.1.3, 6.1.4, 6.2.5, 9.3.2,
9.6.1, 9.6.4, 9.9.2, 9.10.3, 10.3.3, 11.2, 11.3, 13.5.1,
13.5.2, 14.1.1.4, 14.1.4, 15.1.3

Owner's Authority
1.5, 2.1.1, 2.3, 2.4, 3.4.2, 3.8.1, 3.12.10, 3.14.2, 4.1.2,
4.1.3, 4.2.4, 4.2.9, 5.2.1, 5.2.4, 5.4.1, 6.1, 6.3, 7.2.1,
7.3.1, 8.2.2, 8.3.1, 9.3.1, 9.3.2, 9.5.1, 9.6.4, 9.9.1,
9.10.2, 10.3.2, 11.1.3, 11.3.3, 11.3.10, 12.2.2, 12.3,
13.2.2, 14.3, 14.4, 15.2.7
Owner's Financial Capability
2.2.1, 13.2.2, 14.1.1.4
Owner's Liability Insurance
11.2
Owner's Relationship with Subcontractors
1.1.2, 5.2, 5.3, 5.4, 9.6.4, 9.10.2, 14.2.2
Owner's Right to Carry Out the Work
2.4, 14.2.2
Owner's Right to Clean Up
6.3
Owner's Right to Perform Construction and to
Award Separate Contracts
6.1
Owner's Right to Stop the Work
2.3
Owner's Right to Suspend the Work
14.3
Owner's Right to Terminate the Contract
14.2
Ownership and Use of Drawings, Specifications
and Other Instruments of Service
1.1.1, 1.1.6, 1.1.7, **1.5**, 2.2.5, 3.2.2, 3.11, 3.17, 4.2.12,
5.3
Partial Occupancy or Use
9.6.6, **9.9**, 11.3.1.5
Patching, Cutting and
3.14, 6.2.5
Patents
3.17
Payment, Applications for
4.2.5, 7.3.9, 9.2, **9.3**, 9.4, 9.5, 9.6.3, 9.7, 9.8.5, 9.10.1,
14.2.3, 14.2.4, 14.4.3
Payment, Certificates for
4.2.5, 4.2.9, 9.3.3, **9.4**, 9.5, 9.6.1, 9.6.6, 9.7, 9.10.1,
9.10.3, 13.7, 14.1.1.3, 14.2.4
Payment, Failure of
9.5.1.3, **9.7**, 9.10.2, 13.6, 14.1.1.3, 14.2.1.2
Payment, Final
4.2.1, 4.2.9, 9.8.2, 9.10, 11.1.2, 11.1.3, 11.4.1, 12.3,
13.7, 14.2.4, 14.4.3
Payment Bond, Performance Bond and
7.3.7.4, 9.6.7, 9.10.3, **11.4**
Payments, Progress
9.3, **9.6**, 9.8.5, 9.10.3, 13.6, 14.2.3, 15.1.3
PAYMENTS AND COMPLETION
9
Payments to Subcontractors
5.4.2, 9.5.1.3, 9.6.2, 9.6.3, 9.6.4, 9.6.7, 14.2.1.2
PCB
10.3.1

Performance Bond and Payment Bond

7.3.7.4, 9.6.7, 9.10.3, 11.4

Permits, Fees, Notices and Compliance with Laws

2.2.2, 3.7, 3.13, 7.3.7.4, 10.2.2

PERSONS AND PROPERTY, PROTECTION OF

10

Polychlorinated Biphenyl

10.3.1

Product Data, Definition of

3.12.2

Product Data and Samples, Shop Drawings

3.11, 3.12, 4.2.7

Progress and Completion

4.2.2, 8.2, 9.8, 9.9.1, 14.1.4, 15.1.3

Progress Payments

9.3, 9.6, 9.8.5, 9.10.3, 13.6, 14.2.3, 15.1.3

Project, Definition of

1.1.4

Project Representatives

4.2.10

Property Insurance

10.2.5, 11.3

PROTECTION OF PERSONS AND PROPERTY

10

Regulations and Laws

1.5, 3.2.3, 3.6, 3.7, 3.12.10, 3.13, 4.1.1, 9.6.4, 9.9.1, 10.2.2, 11.1, 11.4, 13.1, 13.4, 13.5.1, 13.5.2, 13.6, 14, 15.2.8, 15.4

Rejection of Work

3.5, 4.2.6, 12.2.1

Releases and Waivers of Liens

9.10.2

Representations

3.2.1, 3.5, 3.12.6, 6.2.2, 8.2.1, 9.3.3, 9.4.2, 9.5.1, 9.8.2, 9.10.1

Representatives

2.1.1, 3.1.1, 3.9, 4.1.1, 4.2.1, 4.2.2, 4.2.10, 5.1.1, 5.1.2, 13.2.1

Responsibility for Those Performing the Work

3.3.2, 3.18, 4.2.3, 5.3, 6.1.3, 6.2, 6.3, 9.5.1, 10

Retainage

9.3.1, 9.6.2, 9.8.5, 9.9.1, 9.10.2, 9.10.3

Review of Contract Documents and Field

Conditions by Contractor

3.2, 3.12.7, 6.1.3

Review of Contractor's Submittals by Owner and Architect

3.10.1, 3.10.2, 3.11, 3.12, 4.2, 5.2, 6.1.3, 9.2, 9.8.2

Review of Shop Drawings, Product Data and Samples by Contractor

3.12

Rights and Remedies

1.1.2, 2.3, 2.4, 3.5, 3.7.4, 3.15.2, 4.2.6, 5.3, 5.4, 6.1, 6.3, 7.3.1, 8.3, 9.5.1, 9.7, 10.2.5, 10.3, 12.2.2, 12.2.4, 13.4, 14, 15.4

Royalties, Patents and Copyrights

3.17

Rules and Notices for Arbitration

15.4.1

Safety of Persons and Property

10.2, 10.4

Safety Precautions and Programs

3.3.1, 4.2.2, 4.2.7, 5.3, 10.1, 10.2, 10.4

Samples, Definition of

3.12.3

Samples, Shop Drawings, Product Data and

3.11, 3.12, 4.2.7

Samples at the Site, Documents and

3.11

Schedule of Values

9.2, 9.3.1

Schedules, Construction

3.10, 3.12.1, 3.12.2, 6.1.3, 15.1.5.2

Separate Contracts and Contractors

1.1.4, 3.12.5, 3.14.2, 4.2.4, 4.2.7, 6, 8.3.1, 12.1.2

Shop Drawings, Definition of

3.12.1

Shop Drawings, Product Data and Samples

3.11, 3.12, 4.2.7

Site, Use of

3.13, 6.1.1, 6.2.1

Site Inspections

3.2.2, 3.3.3, 3.7.1, 3.7.4, 4.2, 9.4.2, 9.10.1, 13.5

Site Visits, Architect's

3.7.4, 4.2.2, 4.2.9, 9.4.2, 9.5.1, 9.9.2, 9.10.1, 13.5

Special Inspections and Testing

4.2.6, 12.2.1, 13.5

Specifications, Definition of

1.1.6

Specifications

1.1.1, 1.1.6, 1.2.2, 1.5, 3.11, 3.12.10, 3.17, 4.2.14

Statute of Limitations

13.7, 15.4.1.1

Stopping the Work

2.3, 9.7, 10.3, 14.1

Stored Materials

6.2.1, 9.3.2, 10.2.1.2, 10.2.4

Subcontractor, Definition of

5.1.1

SUBCONTRACTORS

5

Subcontractors, Work by

1.2.2, 3.3.2, 3.12.1, 4.2.3, 5.2.3, 5.3, 5.4, 9.3.1.2, 9.6.7

Subcontractual Relations

5.3, 5.4, 9.3.1.2, 9.6, 9.10, 10.2.1, 14.1, 14.2.1

Submittals

3.10, 3.11, 3.12, 4.2.7, 5.2.1, 5.2.3, 7.3.7, 9.2, 9.3, 9.8, 9.9.1, 9.10.2, 9.10.3, 11.1.3

Submittal Schedule

3.10.2, 3.12.5, 4.2.7

Subrogation, Waivers of

6.1.1, 11.3.7

Substantial Completion

4.2.9, 8.1.1, 8.1.3, 8.2.3, 9.4.2, **9.8**, 9.9.1, 9.10.3, 12.2, 13.7

Substantial Completion, Definition of 9.8.1

Substitution of Subcontractors

5.2.3, 5.2.4

Substitution of Architect

4.1.3

Substitutions of Materials

3.4.2, 3.5, 7.3.8

Sub-subcontractor, Definition of

5.1.2

Subsurface Conditions

3.7.4

Successors and Assigns

13.2

Superintendent

3.9, 10.2.6

Supervision and Construction Procedures

1.2.2, **3.3**, 3.4, 3.12.10, 4.2.2, 4.2.7, 6.1.3, 6.2.4, 7.1.3, 7.3.7, 8.2, 8.3.1, 9.4.2, 10, 12, 14, 15.1.3

Surety

5.4.1.2, 9.8.5, 9.10.2, 9.10.3, 14.2.2, 15.2.7

Surety, Consent of

9.10.2, 9.10.3

Surveys

2.2.3

Suspension by the Owner for Convenience

14.3

Suspension of the Work

5.4.2, 14.3

Suspension or Termination of the Contract

5.4.1.1, 14

Taxes

3.6, 3.8.2.1, 7.3.7.4

Termination by the Contractor

14.1, 15.1.6

Termination by the Owner for Cause

5.4.1.1, **14.2**, 15.1.6

Termination by the Owner for Convenience

14.4

Termination of the Architect

4.1.3

Termination of the Contractor

14.2.2

TERMINATION OR SUSPENSION OF THE CONTRACT

14

Tests and Inspections

3.1.3, 3.3.3, 4.2.2, 4.2.6, 4.2.9, 9.4.2, 9.8.3, 9.9.2, 9.10.1, 10.3.2, 11.4.1, 12.2.1, **13.5**

TIME

8

Time, Delays and Extensions of

3.2.4, 3.7.4, 5.2.3, 7.2.1, 7.3.1, 7.4, **8.3**, 9.5.1, 9.7, 10.3.2, 10.4, 14.3.2, 15.1.5, 15.2.5

Time Limits

2.1.2, 2.2, 2.4, 3.2.2, 3.10, 3.11, 3.12.5, 3.15.1, 4.2, 5.2, 5.3, 5.4, 6.2.4, 7.3, 7.4, 8.2, 9.2, 9.3.1, 9.3.3, 9.4.1, 9.5, 9.6, 9.7, 9.8, 9.9, 9.10, 11.1.3, 12.2, 13.5, 13.7, 14, 15.1.2, 15.4

Time Limits on Claims

3.7.4, 10.2.8, **13.7**, 15.1.2

Title to Work

9.3.2, 9.3.3

Transmission of Data in Digital Form

1.6

UNCOVERING AND CORRECTION OF WORK

12

Uncovering of Work

12.1

Unforeseen Conditions, Concealed or Unknown

3.7.4, 8.3.1, 10.3

Unit Prices

7.3.3.2, 7.3.4

Use of Documents

1.1.1, 1.5, 2.2.5, 3.12.6, 5.3

Use of Site

3.13, 6.1.1, 6.2.1

Values, Schedule of

9.2, 9.3.1

Waiver of Claims by the Architect

13.4.2

Waiver of Claims by the Contractor

9.10.5, 13.4.2, 15.1.6

Waiver of Claims by the Owner

9.9.3, 9.10.3, 9.10.4, 12.2.2.1, 13.4.2, 14.2.4, 15.1.6

Waiver of Consequential Damages

14.2.4, 15.1.6

Waiver of Liens

9.10.2, 9.10.4

Waivers of Subrogation

6.1.1, **11.3.7**

Warranty

3.5, 4.2.9, 9.3.3, 9.8.4, 9.9.1, 9.10.4, 12.2.2, 13.7

Weather Delays

15.1.5.2

Work, Definition of

1.1.3

Written Consent

1.5.2, 3.4.2, 3.7.4, 3.12.8, 3.14.2, 4.1.2, 9.3.2, 9.8.5, 9.9.1, 9.10.2, 9.10.3, 11.4.1, 13.2, 13.4.2, 15.4.4.2

Written Interpretations

4.2.11, 4.2.12

Written Notice

2.3, 2.4, 3.3.1, 3.9, 3.12.9, 3.12.10, 5.2.1, 8.2.2, 9.7, 9.10, 10.2.2, 10.3, 11.1.3, 12.2.2, 12.2.4, **13.3**, 14, 15.4.1

Written Orders

1.1.1, 2.3, 3.9, 7, 8.2.2, 12.1, 12.2, 13.5.2, 14.3.1, 15.1.2

ARTICLE 1 GENERAL PROVISIONS

§ 1.1 BASIC DEFINITIONS

§ 1.1.1 THE CONTRACT DOCUMENTS

The Contract Documents are enumerated in the Agreement between the Owner and Contractor (hereinafter the Agreement) and consist of the Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of the Contract, other documents listed in the Agreement and Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive or (4) a written order for a minor change in the Work issued by the Architect. Unless specifically enumerated in the Agreement, the Contract Documents do not include the advertisement or invitation to bid, Instructions to Bidders, sample forms, other information furnished by the Owner in anticipation of receiving bids or proposals, the Contractor's bid or proposal, or portions of Addenda relating to bidding requirements.

§ 1.1.2 THE CONTRACT

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

§ 1.1.3 THE WORK

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

§ 1.1.4 THE PROJECT

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

§ 1.1.5 THE DRAWINGS

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

§ 1.1.6 THE SPECIFICATIONS

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

§ 1.1.7 INSTRUMENTS OF SERVICE

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

§ 1.1.8 INITIAL DECISION MAKER

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

§ 1.2 CORRELATION AND INTENT OF THE CONTRACT DOCUMENTS

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

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

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

§ 1.3 CAPITALIZATION

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

§ 1.4 INTERPRETATION

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

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

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

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

§ 1.6 TRANSMISSION OF DATA IN DIGITAL FORM

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

ARTICLE 2 OWNER

§ 2.1 GENERAL

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

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

§ 2.2 INFORMATION AND SERVICES REQUIRED OF THE OWNER

§ 2.2.1 Prior to commencement of the Work, the Contractor may request in writing that the Owner provide reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. Thereafter, the Contractor may only request such evidence if (1) the Owner fails to make payments to the Contractor as the Contract Documents require; (2) a change in the Work materially changes the Contract Sum; or (3) the Contractor identifies in writing a reasonable concern regarding the Owner's ability to make payment when due. The Owner shall furnish such evidence as a condition precedent to commencement or continuation of the Work or the

portion of the Work affected by a material change. After the Owner furnishes the evidence, the Owner shall not materially vary such financial arrangements without prior notice to the Contractor.

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

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

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

§ 2.2.5 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.

§ 2.3 OWNER'S RIGHT TO STOP THE WORK

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

§ 2.4 OWNER'S RIGHT TO CARRY OUT THE WORK

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a ten-day period after receipt of written notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such deficiencies. In such case an appropriate Change Order shall be issued deducting from payments then or thereafter due the Contractor the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Architect's additional services made necessary by such default, neglect or failure. Such action by the Owner and amounts charged to the Contractor are both subject to prior approval of the Architect. If payments then or thereafter due the Contractor are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner.

ARTICLE 3 CONTRACTOR

§ 3.1 GENERAL

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

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

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

§ 3.2 REVIEW OF CONTRACT DOCUMENTS AND FIELD CONDITIONS BY CONTRACTOR

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

§ 3.2.2 Because the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 2.2.3, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating coordination and construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, the Contractor shall promptly report to the 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 make Claims as provided in Article 15. If the Contractor fails to perform the obligations of Sections 3.2.2 or 3.2.3, the Contractor shall pay such costs and damages to the Owner as would have been avoided if the Contractor had performed such obligations. If the Contractor performs those obligations, the Contractor shall not be liable to the Owner or Architect for damages resulting from errors, inconsistencies or omissions in the Contract Documents, for differences between field measurements or conditions and the Contract Documents, or for nonconformities of the Contract Documents to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities.

§ 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, unless the Contract Documents give other specific instructions concerning these matters. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences or procedures, the Contractor shall evaluate the jobsite safety thereof and, except as stated below, shall be fully and 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 not proceed with that portion of the Work without further written instructions from the Architect. If the Contractor is then instructed to proceed with the required means, methods, techniques, sequences or procedures without acceptance of changes proposed by the Contractor, the Owner shall be solely responsible for any loss or damage arising solely from those Owner-required 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 authorized by the Architect in accordance with Sections 3.12.8 or 7.4, the Contractor may make substitutions only with the consent of the Owner, after evaluation by the Architect and in accordance with a Change Order or Construction Change Directive.

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

§ 3.5 WARRANTY

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

§ 3.6 TAXES

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

§ 3.7 PERMITS, FEES, NOTICES AND COMPLIANCE WITH LAWS

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

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

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

§ 3.7.4 **Concealed or Unknown Conditions.** If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature, that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner and the Architect before conditions are disturbed and in no event later than 21 days after first observance of the conditions. The Architect will promptly investigate such conditions and, if the Architect determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend an equitable adjustment in the Contract Sum or Contract Time, or both. If the Architect determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall promptly notify the Owner and Contractor in writing, stating the reasons. If either party disputes the Architect's determination or recommendation, that party may proceed as provided in Article 15.

§ 3.7.5 If, in the course of the Work, the Contractor encounters human remains or recognizes the existence of burial markers, archaeological sites or wetlands not indicated in the Contract Documents, the Contractor shall immediately suspend any operations that would affect them and shall notify the Owner and Architect. Upon receipt of such notice, the Owner shall promptly take any action necessary to obtain governmental authorization required to resume the operations. The Contractor shall continue to suspend such operations until otherwise instructed by the Owner but shall

continue with all other operations that do not affect those remains or features. Requests for adjustments in the Contract Sum and Contract Time arising from the existence of such remains or features may be made as provided in Article 15.

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

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

§ 3.10 CONTRACTOR'S CONSTRUCTION SCHEDULES

§ 3.10.1 The Contractor, promptly after being awarded the Contract, shall prepare and submit for the Owner's and Architect's information a Contractor's construction schedule for the Work. The schedule shall not exceed time limits current under the Contract Documents, shall be revised at appropriate intervals as required by the conditions of the Work and Project, shall be related to the entire Project to the extent required by the Contract Documents, and shall provide for expeditious and practicable execution of the Work.

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

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

§ 3.11 DOCUMENTS AND SAMPLES AT THE SITE

The Contractor shall maintain at the site for the Owner one copy of the Drawings, Specifications, Addenda, Change Orders and other Modifications, in good order and marked currently to indicate field changes and selections made during construction, and one copy of approved Shop Drawings, Product Data, Samples and similar required

submittals. These shall be available to the Architect and shall be delivered to the Architect for submittal to the Owner upon completion of the Work as a record of the Work as constructed.

§ 3.12 SHOP DRAWINGS, PRODUCT DATA AND SAMPLES

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

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

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

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

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

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

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

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

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

§ 3.12.10 The Contractor shall not be required to provide professional services that constitute the practice of architecture or engineering unless such services are specifically required by the Contract Documents for a portion of the Work or unless the Contractor needs to provide such services in order to carry out the Contractor's responsibilities for construction means, methods, techniques, sequences and procedures. The Contractor shall not be required to provide professional services in violation of applicable law. If professional design services or certifications by a design professional related to systems, materials or equipment are specifically required of the Contractor by the Contract Documents, the Owner and the Architect will specify all performance and design criteria that such services must satisfy. The Contractor shall cause such services or certifications to be provided by a properly licensed design professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop

Drawings and other submittals prepared by such professional. Shop Drawings and other submittals related to the Work designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to the Architect. The Owner and the Architect shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications and approvals performed or provided by such design professionals, provided the Owner and Architect have specified to the Contractor all performance and design criteria that such services must satisfy. Pursuant to this Section 3.12.10, the Architect will review, approve or take other appropriate action on submittals only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Contractor shall not be responsible for the adequacy of the performance and design criteria specified in the Contract Documents.

§ 3.13 USE OF SITE

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

§ 3.14 CUTTING AND PATCHING

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

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

§ 3.15 CLEANING UP

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

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

§ 3.16 ACCESS TO WORK

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

§ 3.17 ROYALTIES, PATENTS AND COPYRIGHTS

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

§ 3.18 INDEMNIFICATION

§ 3.18.1 To the fullest extent permitted by law the Contractor shall indemnify and hold harmless the Owner, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, 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 Owner shall retain an architect lawfully licensed to practice architecture or an entity lawfully practicing architecture in the jurisdiction where the Project is located. That person or entity is identified as the Architect in the Agreement and is referred to throughout the Contract Documents as if singular in number.

§ 4.1.2 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.

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

§ 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, except as provided in Section 3.3.1.

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

§ 4.2.4 COMMUNICATIONS FACILITATING CONTRACT ADMINISTRATION

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

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

§ 4.2.6 The Architect has authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect will have authority to require inspection or testing of the Work in accordance with Sections 13.5.2 and 13.5.3, whether or not such Work is fabricated, installed or completed.

However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, material and equipment suppliers, their agents or employees, or other persons or entities performing portions of the Work.

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

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

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

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

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

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

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

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

ARTICLE 5 SUBCONTRACTORS

§ 5.1 DEFINITIONS

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

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

§ 5.2 AWARD OF SUBCONTRACTS AND OTHER CONTRACTS FOR PORTIONS OF THE WORK

§ 5.2.1 Unless otherwise stated in the Contract Documents or the bidding requirements, the Contractor, as soon as practicable after award of the Contract, shall furnish in writing to the Owner through the Architect the names of persons or entities (including those who are to furnish materials or equipment fabricated to a special design) proposed for each principal portion of the Work. The Architect may reply within 14 days to the Contractor in writing stating (1) whether the Owner or the Architect has reasonable objection to any such proposed person or entity or (2) that the Architect requires additional time for review. Failure of the Owner or Architect to reply 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 previously selected if the Owner or Architect makes reasonable objection to such substitution.

§ 5.3 SUBCONTRACTUAL RELATIONS

By appropriate agreement, written where legally required for validity, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work, which the Contractor, by these Documents, assumes toward the Owner and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, 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 in writing; and
- .2 assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

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

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

§ 5.4.3 Upon such assignment to the Owner under this Section 5.4, the Owner may further assign the subcontract to a successor contractor or other entity. 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 Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and to award separate contracts in connection with other portions of the Project or other construction or operations on the site under Conditions of the Contract identical or substantially similar to these including those portions related to insurance and waiver of subrogation. If the Contractor claims that delay or additional cost is involved because of such action by the Owner, the Contractor shall make such Claim as provided in Article 15.

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

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

§ 6.1.4 Unless otherwise provided in the Contract Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces, the Owner shall be deemed to be subject to the same obligations and to have the same rights that apply to the Contractor under the 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 report to the Architect apparent discrepancies or defects in such other construction that would render it unsuitable for such proper execution and results. Failure of the Contractor so to report shall constitute an acknowledgment that the Owner's or separate contractor's completed or partially completed construction is fit and proper to receive the Contractor's Work, except as to defects not then reasonably discoverable.

§ 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 the Contractor wrongfully causes to completed or partially completed construction or to property of the Owner or separate contractors as provided in Section 10.2.5.

§ 6.2.5 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, and the Contractor shall proceed promptly, unless otherwise provided in the Change Order, Construction Change Directive or order for a minor change in the Work.

§ 7.2 CHANGE ORDERS

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

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

§ 7.3 CONSTRUCTION CHANGE DIRECTIVES

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

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

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

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

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

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

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

§ 7.3.7 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Architect shall determine the method and the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount. In such case, and also under Section 7.3.3.3, the Contractor shall keep and present, in such form as the Architect may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Section 7.3.7 shall be limited to the following:

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

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

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

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

§ 7.4 MINOR CHANGES IN THE WORK

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

ARTICLE 8 TIME

§ 8.1 DEFINITIONS

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

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

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

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

§ 8.2 PROGRESS AND COMPLETION

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

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

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

§ 8.3 DELAYS AND EXTENSIONS OF TIME

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

§ 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

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

§ 9.2 SCHEDULE OF VALUES

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

§ 9.3 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. Such application shall be notarized, if required, and supported by such data substantiating the Contractor's right to payment as the Owner or Architect may require, such as copies of requisitions from Subcontractors and material suppliers, and shall reflect retainage if provided for in the Contract Documents.

§ 9.3.1.1 As provided in Section 7.3.9, such applications may include requests for payment on account of changes in the Work that have been properly authorized by Construction Change Directives, 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 material supplier, unless such Work has been performed by others whom the Contractor intends to pay.

§ 9.3.2 Unless otherwise provided in the Contract Documents, payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed upon in writing. Payment for materials and equipment stored on or off the site shall be conditioned upon

compliance by the Contractor with procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest, and shall include the costs of applicable insurance, storage and transportation to the site for such materials and equipment stored off the site.

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

§ 9.4 CERTIFICATES FOR PAYMENT

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

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

§ 9.5 DECISIONS TO WITHHOLD CERTIFICATION

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

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

§ 9.5.3 If the Architect withholds certification for payment under Section 9.5.1.3, the Owner may, at its sole option, issue joint checks to the Contractor and to any Subcontractor or material or equipment suppliers to whom the

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

§ 9.6 PROGRESS PAYMENTS

§ 9.6.1 After the Architect has issued a Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the Contract Documents, and shall so notify the Architect.

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

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

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

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

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

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

§ 9.7 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 binding dispute resolution, then the Contractor may, upon seven additional days' written notice to the Owner and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shut-down, delay and start-up, plus interest as provided for in the 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, shall establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance, and shall fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

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

§ 9.9 PARTIAL OCCUPANCY OR USE

§ 9.9.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Contractor, provided such occupancy or use is consented to by the insurer as required under Section 11.3.1.5 and authorized by public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When the Contractor considers a portion substantially complete, the Contractor shall prepare and submit a list to the Architect as provided under Section 9.8.2. Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Contractor or, if no agreement is reached, by decision of the Architect.

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

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

§ 9.10 FINAL COMPLETION AND FINAL PAYMENT

§ 9.10.1 Upon receipt of the Contractor's written notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Architect will promptly make such inspection and, when the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Architect will promptly issue a final Certificate for Payment stating that to the best of the Architect's knowledge, information and belief, and on the basis of the Architect's on-site visits and inspections, the Work has been completed in accordance with terms and conditions of the Contract Documents and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Architect's final Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect and will not be canceled or allowed to expire until at least 30 days' prior written notice has been given to the Owner, (3) a written statement that the Contractor knows of no substantial reason that the insurance will not be renewable to cover the period required by the Contract

Documents, (4) consent of surety, if any, to final payment and (5), if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts, releases and waivers of liens, claims, security interests or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien. If such lien remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging such lien, including all costs and reasonable attorneys' fees.

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

§ 9.10.4 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; or
- .3 terms of special warranties required by the Contract Documents.

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

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

§ 10.1 SAFETY PRECAUTIONS AND PROGRAMS

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

§ 10.2 SAFETY OF PERSONS AND PROPERTY

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

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

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

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

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

§ 10.2.5 The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Sections 10.2.1.2 and 10.2.1.3 caused in

whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Sections 10.2.1.2 and 10.2.1.3, except damage or loss attributable to acts or omissions of the Owner or Architect or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Section 3.18.

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

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

§ 10.2.8 INJURY OR DAMAGE TO PERSON OR PROPERTY

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

§ 10.3 HAZARDOUS MATERIALS

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

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

§ 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, 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.

§ 10.3.4 The Owner shall not be responsible under this Section 10.3 for 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 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 indemnify the Owner for the cost and expense the Owner incurs (1) for remediation of a material or substance the Contractor brings to the site and negligently handles, or (2) where the Contractor fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence.

§ 10.3.6 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 indemnify 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 LIABILITY INSURANCE

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

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

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

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

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

insured for claims caused in whole or in part by the Contractor's negligent acts or omissions during the Contractor's completed operations.

§ 11.2 OWNER'S LIABILITY INSURANCE

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

§ 11.3 PROPERTY INSURANCE

§ 11.3.1 Unless otherwise provided, the Owner shall purchase and maintain, in a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located, property insurance written on a builder's risk "all-risk" or equivalent policy form in the amount of the initial Contract Sum, plus value of subsequent Contract Modifications and cost of materials supplied or installed by others, comprising total value for the entire Project at the site on a replacement cost basis without optional deductibles. Such property insurance shall be maintained, unless otherwise provided in the Contract Documents or otherwise agreed in writing by all persons and entities who are beneficiaries of such insurance, until final payment has been made as provided in Section 9.10 or until no person or entity other than the Owner has an insurable interest in the property required by this Section 11.3 to be covered, whichever is later. This insurance shall include interests of the Owner, the Contractor, Subcontractors and Sub-subcontractors in the Project.

§ 11.3.1.1 Property insurance shall be on an "all-risk" or equivalent policy form and shall include, without limitation, insurance against the perils of fire (with extended coverage) and physical loss or damage including, without duplication of coverage, theft, vandalism, malicious mischief, collapse, earthquake, flood, windstorm, falsework, testing and startup, temporary buildings and debris removal including demolition occasioned by enforcement of any applicable legal requirements, and shall cover reasonable compensation for Architect's and Contractor's services and expenses required as a result of such insured loss.

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

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

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

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

§ 11.3.2 BOILER AND MACHINERY INSURANCE

The Owner shall purchase and maintain boiler and machinery insurance required by the Contract Documents or by law, which shall specifically cover such insured objects during installation and until final acceptance by the Owner; this insurance shall include interests of the Owner, Contractor, Subcontractors and Sub-subcontractors in the Work, and the Owner and Contractor shall be named insureds.

§ 11.3.3 LOSS OF USE INSURANCE

The Owner, at the Owner's option, may purchase and maintain such insurance as will insure the Owner against loss of use of the Owner's property due to fire or other hazards, however caused. The Owner waives all rights of action against the Contractor for loss of use of the Owner's property, including consequential losses due to fire or other hazards however caused.

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

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

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

§ 11.3.7 WAIVERS OF SUBROGATION

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

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

§ 11.3.9 If required in writing by a party in interest, the Owner as fiduciary shall, upon occurrence of an insured loss, give bond for proper performance of the Owner's duties. The cost of required bonds shall be charged against proceeds received as fiduciary. The Owner shall deposit in a separate account proceeds so received, which the Owner shall distribute in accordance with such agreement as the parties in interest may reach, or as determined in accordance with the method of binding dispute resolution selected in the Agreement between the Owner and Contractor. If after such loss no other special agreement is made and unless the Owner terminates the Contract for convenience, replacement of damaged property shall be performed by the Contractor after notification of a Change in the Work in accordance with Article 7.

§ 11.3.10 The Owner as fiduciary shall have power to adjust and settle a loss with insurers unless one of the parties in interest shall object in writing within five days after occurrence of loss to the Owner's exercise of this power; if such objection is made, the dispute shall be resolved in the manner selected by the Owner and Contractor as the method of binding dispute resolution in the Agreement. If the Owner and Contractor have selected arbitration as the method of binding dispute resolution, the Owner as fiduciary shall make settlement with insurers or, in the case of a dispute over distribution of insurance proceeds, in accordance with the directions of the arbitrators.

§ 11.4 PERFORMANCE BOND AND PAYMENT BOND

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

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

ARTICLE 12 UNCOVERING AND CORRECTION OF WORK

§ 12.1 UNCOVERING OF WORK

§ 12.1.1 If a portion of the Work is covered contrary to the Architect's 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, costs of uncovering and replacement shall, by appropriate Change Order, be at the Owner's expense. If such Work is not in accordance with the Contract Documents, such costs and the cost of correction shall be at the Contractor's expense unless the condition was caused by the Owner or a separate contractor in which event the Owner shall be responsible for payment of such costs.

§ 12.2 CORRECTION OF WORK

§ 12.2.1 BEFORE OR AFTER SUBSTANTIAL COMPLETION

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

§ 12.2.2 AFTER SUBSTANTIAL COMPLETION

§ 12.2.2.1 In addition to the Contractor's obligations under Section 3.5, if, within one year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.9.1, or by terms of an applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of written notice from the Owner to do so unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. 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 2.4.

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

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

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

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

§ 12.2.5 Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be

sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

§ 12.3 ACCEPTANCE OF NONCONFORMING WORK

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

ARTICLE 13 MISCELLANEOUS PROVISIONS

§ 13.1 GOVERNING LAW

The Contract shall be governed by the law of the place where the Project is located except that, if the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 15.4.

§ 13.2 SUCCESSORS AND ASSIGNS

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

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

§ 13.3 WRITTEN NOTICE

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

§ 13.4 RIGHTS AND REMEDIES

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

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

§ 13.5 TESTS AND INSPECTIONS

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

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

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

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

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

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

§ 13.6 INTEREST

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

§ 13.7 TIME LIMITS ON CLAIMS

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

ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT

§ 14.1 TERMINATION BY THE CONTRACTOR

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

- .1 Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;
- .2 An act of government, such as a declaration of national emergency that requires all Work to be stopped;
- .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
- .4 The Owner has failed to furnish to the Contractor promptly, upon the Contractor's request, reasonable evidence as required by Section 2.2.1.

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

§ 14.1.3 If one of the reasons described in Section 14.1.1 or 14.1.2 exists, the Contractor may, upon seven days' written notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work executed, including reasonable overhead and profit, costs incurred by reason of such termination, and damages.

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

§ 14.2 TERMINATION BY THE OWNER FOR CAUSE

§ 14.2.1 The Owner may terminate the Contract if the Contractor

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

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

- .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. The amount to be paid to the Contractor or Owner, as the case may be, shall be certified by the Initial Decision Maker, upon application, and this obligation for payment shall survive termination of the Contract.

§ 14.3 SUSPENSION BY THE OWNER FOR CONVENIENCE

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

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

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

§ 14.4 TERMINATION BY THE OWNER FOR CONVENIENCE

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

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

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

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

ARTICLE 15 CLAIMS AND DISPUTES

§ 15.1 CLAIMS

§ 15.1.1 DEFINITION

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

§ 15.1.2 NOTICE OF CLAIMS

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

§ 15.1.3 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. The Architect will prepare Change Orders and issue Certificates for Payment in accordance with the decisions of the Initial Decision Maker.

§ 15.1.4 CLAIMS FOR ADDITIONAL COST

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

§ 15.1.5 CLAIMS FOR ADDITIONAL TIME

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

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

§ 15.1.6 CLAIMS FOR CONSEQUENTIAL DAMAGES

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

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

This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 14. Nothing contained in this Section 15.1.6 shall be deemed to preclude an award of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.

§ 15.2 INITIAL DECISION

§ 15.2.1 Claims, excluding those arising under Sections 10.3, 10.4, 11.3.9, and 11.3.10, shall be referred to the Initial Decision Maker for initial decision. The Architect will serve as the Initial Decision Maker, unless otherwise indicated in the Agreement. Except for those Claims excluded by this Section 15.2.1, an initial decision shall be required as a condition precedent to mediation of any Claim arising prior to the date final payment is due, unless 30 days have passed after the Claim has been referred to the Initial Decision Maker with no decision having been rendered. Unless the Initial Decision Maker and all affected parties agree, the Initial Decision Maker will not decide disputes between the Contractor and persons or entities other than the Owner.

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

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

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

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

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

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

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

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

§ 15.3 MEDIATION

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

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

§ 15.3.3 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

§ 15.4 ARBITRATION

§ 15.4.1 If the parties have selected arbitration as the method for binding dispute resolution in the Agreement, any Claim subject to, but not resolved by, mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of the Agreement. A demand for arbitration shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the arbitration. The party filing a notice of demand for arbitration must assert in the demand all Claims then known to that party on which arbitration is permitted to be demanded.

§ 15.4.1.1 A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the Claim would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the Claim.

§ 15.4.2 The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

§ 15.4.3 The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by parties to the Agreement shall be specifically enforceable under applicable law in any court having jurisdiction thereof.

§ 15.4.4 CONSOLIDATION OR JOINDER

§ 15.4.4.1 Either party, at its sole discretion, may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation, (2) the arbitrations to be consolidated substantially involve common questions of law or fact, and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

§ 15.4.4.2 Either party, at its sole discretion, may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.

§ 15.4.4.3 The Owner and Contractor grant to any person or entity made a party to an arbitration conducted under this Section 15.4, whether by joinder or consolidation, the same rights of joinder and consolidation as the Owner and Contractor under this Agreement.

Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, Thomas Weems, AIA, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with this certification at 07:31:56 ET on 10/21/2021 under Order No. 7805369175 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A201™ – 2007, General Conditions of the Contract for Construction, as published by the AIA in its software, other than changes shown in the attached final document by underscoring added text and striking over deleted text.

(Signed)

(Title)

(Dated)



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
10/08/2021

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Chris Hansen State Farm Insurance 4473 N. Roan St Ste 1 	CONTACT NAME: Amy C. Bryan	
	PHONE (A/C, No, Ext): 423-915-1113 FAX (A/C, No): 423-915-1115 E-MAIL ADDRESS: amy.c.bryan@ifw8@statefarm.com	
INSURED Thomas Weems Architect 3203 Hanover Rd Johnson City, TN 37604	INSURER(S) AFFORDING COVERAGE	NAIC #
	INSURER A: State Farm Fire and Casualty Company	25143
	INSURER B: State Farm Mutual Automobile Insurance Company	25178
	INSURER C:	
	INSURER D:	
	INSURER E:	
	INSURER F:	

COVERAGES**CERTIFICATE NUMBER:****REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

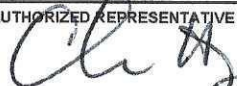
INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	GENERAL LIABILITY	☒	☒	92-GE-2836-3	10/29/2020	10/29/2021	EACH OCCURRENCE \$ 1,000,000
☒	COMMERCIAL GENERAL LIABILITY			92-GE-2863-3	10/29/2021	10/29/2022	DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000
	CLAIMS-MADE ☒ OCCUR						MED EXP (Any one person) \$ 5,000
							PERSONAL & ADV INJURY \$ 1,000,000
							GENERAL AGGREGATE \$ 2,000,000
							PRODUCTS - COMP/OP AGG \$ 2,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						
☒	POLICY	☐	☐				\$
	AUTOMOBILE LIABILITY			281 8173-D27-42	10/27/2020	10/27/2021	COMBINED SINGLE LIMIT (Ea accident) \$
	☐ ANY AUTO			281 8173-D27-42	10/27/2021	10/27/2022	BODILY INJURY (Per person) \$ 250,000
	☐ ALL OWNED AUTOS	☒					BODILY INJURY (Per accident) \$ 500,000
	☐ HIRED AUTOS						PROPERTY DAMAGE (Per accident) \$ 100,000
							\$
	UMBRELLA LIAB	☐	☐				EACH OCCURRENCE \$
	EXCESS LIAB	☐	☐				AGGREGATE \$
	DED RETENTION \$						\$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	☐	☐	92-CG-R993-1	12/08/2020	12/08/2021	☒ WC STATUTORY LIMITS ☐ OTHER
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICE/MEMBER EXCLUDED? (Mandatory in NH)	☐	☐	92-CG-R993-1	12/08/2021	12/08/2022	E.L. EACH ACCIDENT \$ 100,000
	If yes, describe under DESCRIPTION OF OPERATIONS below	☐	☐				E.L. DISEASE - EA EMPLOYEE \$ 100,000
							E.L. DISEASE - POLICY LIMIT \$ 500,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

East Side Elementary TWA Project 021-022 - Parking Lot Expansion

CERTIFICATE HOLDER**CANCELLATION**Elizabethton City Schools
804 South Watauga Avenue
Elizabethton, TN 37643

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE


© 1988-2010 ACORD CORPORATION. All rights reserved.



HOURLY FEE RATE SCHEDULE

OCTOBER 1, 2021

**PARKING LOT EXPANSION
EAST SIDE ELEMENTARY ELEMENTARY SCHOOL
800 SIAM ROAD
ELIZABETHTON, TENNESSEE 37643
TWA PROJECT #021-022**

A. JOB CLASSIFICATION HOURLY BILLING RATES:

Thomas Weems Architect (Architectural)

Principal Architect	\$175.00 / Hour
Staff Architect.....	\$125.00 / Hour
Interior Designer / CAD Operator.....	\$100.00 / Hour
Architectural Designer / CAD Operator.....	\$100.00 / Hour
Clerical.....	\$ 50.00 / Hour

Tysinger, Hampton & Partners, Inc. (Civil)

Expert Witness – All Fields	\$255.00 / Hour
Principals	\$185.00 / Hour
Director of Civil.....	\$140.00 / Hour
Senior Project Leader – Civil	\$110.00 / Hour
Project Leader – Civil.....	\$ 90.00 / Hour
Project Manager – Civil.....	\$ 80.00 / Hour
Senior Designer – Civil	\$ 75.00 / Hour
Stormwater Reporting	\$ 70.00 / Hour
Designer – Civil.....	\$ 65.00 / Hour
CAD Operator 1	\$ 60.00 / Hour
CAD Operator 2	\$ 55.00 / Hour
CAD Operator 3	\$ 50.00 / Hour
Technician – Civil.....	\$ 50.00 / Hour
CEI – Engineering Field Representative.....	\$ 60.00 / Hour

Spoden and Wilson Consulting Engineers (Structural)

Principal Engineer.....	\$150.00 / Hour
Staff Engineer	\$100.00 / Hour
Structural Draftsman – CAD Operator	\$ 75.00 / Hour
Clerical.....	\$ 50.00 / Hour

Mechanical Design Services (HVAC, Plumbing and Fire Protection)

Principal Engineer.....	\$175.00 / Hour
Staff Engineer	\$145.00 / Hour
Engineering Intern - II/PM.....	\$110.00 / Hour
Graduate Engineer	\$ 90.00 / Hour
Senior Designer – II	\$ 95.00 / Hour
Senior Designer – I	\$ 75.00 / Hour
Mechanical Designer	\$ 65.00 / Hour
Clerical.....	\$ 50.00 / Hour

Vreeland Engineers, Inc. (Electrical)

Principal Engineer.....	\$150.00 / Hour
Staff Engineer	\$125.00 / Hour



Staff Designer	\$ 90.00 / Hour
Electrical Draftsman – CAD Operator	\$ 75.00 / Hour
Electrical Field Inspector.....	\$ 75.00 / Hour
Clerical.....	\$ 50.00 / Hour



AIA[®] Document B104[™] – 2017

Standard Abbreviated Form of Agreement Between Owner and Architect

AGREEMENT made as of the First day of October in the year Two Thousand Twenty One
(In words, indicate day, month and year.)

BETWEEN the Architect's client identified as the Owner:
(Name, legal status, address and other information)

Elizabethton City Schools
804 South Watauga Avenue
Elizabethton, Tennessee 37643
Telephone: 423-547-8000

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

Thomas Weems Architect
3203 Hanover Road
Johnson City, Tennessee 37604
Telephone: 423-952-2700

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

Parking Lot Expansion For
East Side Elementary School
800 Siam Road
Elizabethton, Tennessee 37643
Telephone: 423-547-8010
TWA Project 021-022

The Owner and Architect agree as follows.

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

TABLE OF ARTICLES

1	INITIAL INFORMATION
2	ARCHITECT'S RESPONSIBILITIES
3	SCOPE OF ARCHITECT'S BASIC SERVICES
4	SUPPLEMENTAL AND ADDITIONAL SERVICES
5	OWNER'S RESPONSIBILITIES
6	COST OF THE WORK
7	COPYRIGHTS AND LICENSES
8	CLAIMS AND DISPUTES
9	TERMINATION OR SUSPENSION
10	MISCELLANEOUS PROVISIONS
11	COMPENSATION
12	SPECIAL TERMS AND CONDITIONS
13	SCOPE OF THE AGREEMENT

ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth below:

(State below details of the Project's site and program, Owner's contractors and consultants, Architect's consultants, Owner's budget for the Cost of the Work, and other information relevant to the Project.)

School Site: 800 Siam Road, Elizabethton, Tennessee 37643.

Owner's Program:

2021 – 2022 Capital Projects Information, Project Description for East Side Elementary School Parking Lot Expansion.

Owner's Budget for the Cost of the Work: \$200,000.00.

Owner's Schedule: To be determined.

Owner's Consultant(s):

Land Surveyor – To be determined.

Geotechnical – To be determined.

Architect's Consultant(s): Civil Engineering: Tysinger Hampton & Partners, Inc., 7 Worth Circle, Johnson City, Tennessee 37601

§ 1.2 The Owner and Architect may rely on the Initial Information. Both parties, however, recognize that such information may materially change and, in that event, the Owner and the Architect shall appropriately adjust the schedule, the Architect's services and the Architect's compensation. The Owner shall ~~adjust~~ consider adjusting the Owner's budget for the Cost of the Work and the Owner's anticipated design and construction milestones, as necessary, to accommodate material changes in the Initial Information.

§ 1.3 The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties will use AIA Document E203™ 2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 1.3.1 Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™ 2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™ 2013, Project Building Information Modeling Protocol Form, 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 ARCHITECT'S RESPONSIBILITIES

§ 2.1 The Architect shall provide the professional services set forth in this Agreement consistent with the professional skill and care ordinarily provided by architects practicing in the same or similar locality under the same or similar circumstances. The Architect shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project.

§ 2.2 The Architect shall maintain the following insurance until termination of this Agreement. If any of the requirements set forth below are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect as set forth in Section 11.8:

(Identify types and limits of insurance coverage, and other insurance requirements applicable to the Agreement, if any.)

.1 General Liability

Commercial General Liability with policy limits of not less than One Million Dollars and Zero Cents (\$ 1,000,000.00) for each occurrence and One Million Dollars and Zero Cents (\$ 1,000,000.00) in the aggregate for bodily injury and property damage.

.2 Automobile Liability

Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Architect with policy limits of not less than Two Hundred Fifty Thousand Dollars and Zero Cents (\$ 250,000.00) 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.

.3 Workers' Compensation

Employers' Liability with policy limits not less than One Hundred Thousand Dollars and Zero Cents (\$ 100,000.00) each accident, One Hundred Thousand Dollars and Zero Cents (\$ 100,000.00) each employee, and One Hundred Thousand Dollars and Zero Cents (\$ 100,000.00) policy limit.

.4 Professional Liability

Professional Liability covering negligent acts, errors and omissions in the performance of professional services with policy limits of not less than One Million Dollars and Zero Cents (\$ 1,000,000.00) per claim and One Million Dollars and Zero Cents (\$ 1,000,000.00) in the aggregate.

ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES

§ 3.1 The Architect's Basic Services consist of those described in this Article 3 and include usual and customary structural, mechanical, and electrical engineering services. Services not set forth in this Article 3 are Supplemental or Additional Services.

§ 3.1.1 The Architect shall coordinate its services with those services provided by the Owner and the Owner's consultants. The Architect shall be entitled to rely on (1) the accuracy and completeness of the services and information furnished by the Owner and (2) the Owner's approvals. The Architect shall provide prompt written notice to the Owner if the Architect becomes aware of any error, omission, or inconsistency in such services or information.

§ 3.1.2 As soon as practicable after the date of this Agreement, the Architect shall submit for the Owner's approval a schedule for the performance of the Architect's services. Once approved by the Owner, time limits established by the schedule shall not, except for reasonable cause, be exceeded by the Architect or Owner. With the Owner's approval, the Architect shall adjust the schedule, if necessary, as the Project proceeds until the commencement of construction.

§ 3.1.3 ~~The Architect shall assist the Owner in connection with the Owner's responsibility for filing~~ Subject to approval in advance by the Owner, the Architect shall file documents required for the approval of governmental authorities having jurisdiction over the Project.

§ 3.2 Design Phase Services

§ 3.2.1 The Architect shall review the program and other information furnished by the Owner, and shall review laws, codes, and regulations applicable to the Architect's services.

§ 3.2.2 The Architect shall discuss with the Owner the Owner's program, schedule, budget for the Cost of the Work, Project site, and alternative approaches to design and construction of the Project. The Architect shall reach an understanding with the Owner regarding the Project requirements.

§ 3.2.3 The Architect shall consider the relative value of alternative materials, building systems and equipment, together with other considerations based on program, aesthetics, and any sustainable objectives, in developing a design for the Project that is consistent with the Owner's schedule and budget for the Cost of the ~~Work.~~ Work, provided, however, that the Architect shall inform the Owner of the specific alternative materials, building systems or equipment that are included in any design documents.

§ 3.2.4 Based on the Project requirements, the Architect shall prepare Design Documents for the Owner's approval consisting of drawings and other documents appropriate for the Project and the Architect shall prepare and submit to the Owner an estimate of the Cost of the Work prepared in accordance with Section 6.3.

§ 3.2.5 The Architect shall submit the Design Documents to the Owner, and request the Owner's approval.

§ 3.3 Construction Documents Phase Services

§ 3.3.1 Based on the Owner's approval of the Design Documents, the Architect shall prepare for the Owner's approval Construction Documents consisting of Drawings and Specifications setting forth in detail the requirements for the construction of the Work. The Owner and Architect acknowledge that in order to construct the Work the Contractor will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Architect shall review in accordance with Section 3.4.4.

§ 3.3.2 The Architect shall incorporate the design requirements of governmental authorities having jurisdiction over the Project into the Construction Documents.

§ 3.3.3 The Architect shall submit the Construction Documents to the Owner, update the estimate for the Cost of the Work and advise the Owner of any adjustments to the estimate of the Cost of the Work, take any action required under Section 6.5, and request the Owner's approval.

§ 3.3.4 The Architect, following the Owner's approval of the Construction Documents and of the latest estimate of the Cost of the Work, shall assist the Owner in obtaining bids or proposals and awarding and preparing contracts for construction.

§ 3.4 Construction Phase Services

§ 3.4.1 General

§ 3.4.1.1 The Architect shall provide administration of the Contract between the Owner and the Contractor as set forth below and in AIA Document ~~A104™ - 2017, Standard Abbreviated~~ A 101 - 2017, Standard Form of Agreement

Between Owner and Contractor. If the Owner and Contractor modify AIA Document A104–2017, those modifications shall not affect A 101 –2017, the Architect’s services under this Agreement ~~unless the Owner and the Architect amend this Agreement shall be modified accordingly.~~

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

§ 3.4.1.3 Subject to Section 4.2, the Architect’s responsibility to provide Construction Phase Services commences with the award of the Contract for Construction and terminates on the date the Architect issues the final Certificate for Payment.

§ 3.4.2 Evaluations of the Work

§ 3.4.2.1 The Architect shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 4.2.2, 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 shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and 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.

§ 3.4.2.2 The Architect has the authority to reject Work that does not conform to the Contract Documents and has the authority to require inspection or testing of the Work.

§ 3.4.2.3 The Architect shall 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 shall be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

§ 3.4.2.4 When making such interpretations and decisions, the Architect shall endeavor to secure faithful performance by both Owner and Contractor, shall not show partiality to either, and shall not be liable for results of interpretations or decisions rendered in good faith.

§ 3.4.2.5 The Architect shall render initial decisions on Claims between the Owner and Contractor as provided in the Contract Documents.

§ 3.4.3 Certificates for Payment to Contractor

§ 3.4.3.1 The Architect shall review and certify the amounts due the Contractor and shall issue certificates in such amounts. The Architect’s certification for payment shall constitute a representation to the Owner, based on the Architect’s evaluation of the Work as provided in Section 3.4.2 and on the data comprising the Contractor’s 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.

§ 3.4.3.2 The issuance of a Certificate for Payment shall 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) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 3.4.4 Submittals

§ 3.4.4.1 The Architect shall review and approve, or take other appropriate action, upon the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the Contractor's responsibility. The Architect's review shall not constitute approval of safety precautions or any construction means, methods, techniques, sequences or procedures.

§ 3.4.4.2 If the Contract Documents specifically require the Contractor to provide professional design services or certifications by a design professional related to systems, materials or equipment, the Architect shall specify the appropriate performance and design criteria that such services must satisfy. The Architect shall review and take appropriate action on Shop Drawings and other submittals related to the Work designed or certified by the Contractor's design professional, provided the submittals bear such professional's seal and signature when submitted to the Architect. The review shall be for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect shall be entitled to rely upon, and shall not be responsible for, the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals.

§ 3.4.4.3 The Architect shall review and respond to written requests for information about the Contract Documents. The Architect's response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness.

§ 3.4.5 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. Subject to Section 4.2.3, the Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents.

§ 3.4.6 Project Completion

The Architect shall conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion; forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract Documents and received from the Contractor; and issue a final Certificate for Payment based upon a final inspection indicating that, to the best of the Architect's knowledge, information, and belief, the Work complies with the requirements of the Contract Documents.

ARTICLE 4 SUPPLEMENTAL AND ADDITIONAL SERVICES

§ 4.1 Supplemental Services are not included in Basic Services but may be required for the Project. The Architect shall provide the Supplemental Services indicated below, and the Owner shall compensate the Architect as provided in Section 11.2. Supplemental Services may include programming, site evaluation and planning, environmental studies, civil engineering, landscape design, telecommunications/data, security, measured drawings of existing conditions, coordination of separate contractors or independent consultants, detailed cost estimates, on-site project representation beyond requirements of Section 4.2.2, value analysis, interior architectural design, tenant related services, preparation of record drawings, commissioning, sustainable project services, and any other services not otherwise included in this Agreement. (Identify below the Supplemental Services that the Architect is required to provide and insert a description of each Supplemental Service, if not further described in an exhibit attached to this document.)

Stormwater Design: Additional Service.

Coordination of Owner's Consultants: Additional Service.

§ 4.2 The Architect may provide Additional Services after execution of this Agreement without invalidating the Agreement. Upon recognizing the need to perform Additional Services, the Architect shall notify the Owner. The Architect shall not provide the Additional Services until the Architect receives the Owner's written authorization. Except for services required due to the fault of the Architect, any Additional Services provided in accordance with this Section 4.2 shall entitle the Architect to compensation pursuant to Section 11.3.

§ 4.2.1 The Architect shall provide services necessitated by a change in the Initial Information, changes in previous instructions or approvals given by the Owner, or a material change in the Project including size; quality; complexity; the Owner's schedule or budget for Cost of the Work; or procurement or delivery method as an Additional Service.

§ 4.2.2 The Architect has included in Basic Services ~~(—) visits to the site by the Architect during construction. Two (2) visits to the site EACH MONTH by the Architect during construction shall not exceed a total of Ten (10) visits.~~
The Architect shall conduct site visits in excess of that amount as an Additional Service.

§ 4.2.3 The Architect shall, as an Additional Service, provide services made necessary by a Contractor's proposed change in the Work. The Architect shall prepare revisions to the Architect's Instruments of Service necessitated by Change Orders and Construction Change Directives as an Additional Service.

§ 4.2.4 If the services covered by this Agreement have not been completed within Twenty Four (24) months of the date of this Agreement, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as Additional Services.

ARTICLE 5 OWNER'S RESPONSIBILITIES

§ 5.1 Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner regarding requirements for and limitations on the Project, including a written program which shall set forth the Owner's objectives, schedule, constraints and criteria, including space requirements and relationships, flexibility, expandability, special equipment, systems and site requirements.

§ 5.2 The Owner shall establish the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1; (2) the Owner's other costs; and, (3) reasonable contingencies related to all of these costs. The Owner shall update the Owner's budget for the Project as necessary throughout the duration of the Project until final completion. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Architect. The Owner and the Architect shall thereafter agree to a corresponding change in the Project's scope and quality.

§ 5.3 The Owner shall furnish surveys to describe physical characteristics, legal limitations and utility locations for the site of the Project; a written legal description of the site; and services of geotechnical engineers or other consultants, when the Architect requests such services and demonstrates that they are reasonably required by the scope of the Project.

§ 5.4 The Owner shall coordinate the services of its own consultants with those services provided by the Architect. Upon the Architect's request, the Owner shall furnish copies of the scope of services in the contracts between the Owner and the Owner's consultants. The Owner shall require that its consultants and contractors maintain insurance, including professional liability insurance, as appropriate to the services or work provided.

§ 5.5 The Owner shall furnish tests, inspections and reports required by law or the Contract Documents, such as structural, mechanical, and chemical tests; tests for air and water pollution; and tests for hazardous materials.

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

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

§ 5.8 The Owner shall endeavor to communicate with the Contractor through the Architect about matters arising out of or relating to the Contract Documents.

§ 5.9 The Owner shall provide the Architect access to the Project site prior to commencement of the Work and shall obligate the Contractor to provide the Architect access to the Work wherever it is in preparation or progress.

§ 5.10 Within 15 days after receipt of a written request from the Architect, the Owner shall furnish the requested information as necessary and relevant for the Architect to evaluate, give notice of, or enforce lien rights.

ARTICLE 6 COST OF THE WORK

§ 6.1 For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect and shall include contractors' general conditions costs, overhead and profit. The Cost of the Work also includes the reasonable value of labor, materials, and equipment, donated to, or otherwise furnished by, the Owner. The Cost of the Work does not include the compensation of the Architect; the costs of the land, rights-of-way, financing, or contingencies for changes in the Work; or other costs that are the responsibility of the Owner.

§ 6.2 The Owner's budget for the Cost of the Work is provided in Initial Information, and shall be adjusted throughout the Project as required under Sections 5.2, 6.4 and 6.5. Evaluations of the Owner's budget for the Cost of the Work, and the preliminary estimate of the Cost of the Work and updated estimates of the Cost of the Work prepared by the Architect, represent the Architect's judgment as a design professional. It is recognized, however, that neither the Architect nor the Owner has control over the cost of labor, materials or equipment; the Contractor's methods of determining bid prices; or competitive bidding, market or negotiating conditions. Accordingly, the Architect cannot and does not warrant or represent that bids or negotiated prices will not vary from the Owner's budget for the Cost of the Work, or from any estimate of the Cost of the Work, or evaluation, prepared or agreed to by the Architect.

§ 6.3 In preparing estimates of the Cost of Work, the Architect shall be permitted to include contingencies for design, bidding and price escalation; to determine what materials, equipment, component systems and types of construction are to be included in the Contract Documents; to recommend reasonable adjustments in the program and scope of the Project; and to include design alternates as may be necessary to adjust the estimated Cost of the Work to meet the Owner's budget. budget provided, however, that the Architect shall inform the Owner of the specific contingencies, materials, equipment, component systems, types of construction, reasonable adjustments or design alternates that are included in any estimates of the Cost of The Work. The Architect's estimate of the Cost of the Work shall be based on current area, volume or similar conceptual estimating techniques. If the Owner requires a detailed estimate of the Cost of the Work, the Architect shall provide such an estimate, if identified as the Architect's responsibility in Section 4.1, as a Supplemental Service.

§ 6.4 If, through no fault of the Architect, construction procurement activities have not commenced within 90 days after the Architect submits the Construction Documents to the Owner the Owner's budget for the Cost of the Work shall be adjusted to reflect changes in the general level of prices in the applicable construction market.

§ 6.5 If at any time the Architect's estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, the Architect shall make appropriate recommendations to the Owner to adjust the Project's size, quality or budget for the Cost of the Work, and the Owner shall cooperate with the Architect in making such adjustments.

§ 6.6 If the Owner's current budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services is exceeded by the lowest bona fide bid or negotiated proposal, the Owner shall

- .1 give written approval of an increase in the budget for the Cost of the Work;
- .2 authorize rebidding or renegotiating of the Project within a reasonable time;
- .3 terminate in accordance with Section 9.5;
- .4 in consultation with the Architect, revise the Project program, scope, or quality as required to reduce the Cost of the Work; or
- .5 implement any other mutually acceptable alternative.

§ 6.7 If the Owner chooses to proceed under Section 6.6.4, the Architect shall modify the Construction Documents as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services, or the budget as adjusted under Section 6.6.1. If the Owner requires the Architect to modify the Construction Documents because the lowest bona fide bid or negotiated proposal exceeds the Owner's budget for the Cost of the Work due to market conditions the Architect could not reasonably anticipate, the Owner shall compensate the Architect for the modifications as an Additional Service pursuant to Section 11.3; otherwise the Architect's services shall

be without additional compensation. In any event, the Architect's modification of the Construction Documents shall be the limit of the Architect's responsibility under this Article 6.

ARTICLE 7 COPYRIGHTS AND LICENSES

§ 7.1 The Architect and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project.

§ 7.2 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 shall retain all common law, statutory and other reserved rights, including copyrights. Submission or distribution of Instruments of Service to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the reserved rights of the Architect and the Architect's consultants.

§ 7.3 The Architect grants to the Owner a nonexclusive license to use the Architect's Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner substantially performs its obligations under this Agreement, including prompt payment of all sums when due pursuant to Article 9 and Article 11. The Architect shall obtain similar nonexclusive licenses from the Architect's consultants consistent with this Agreement. The license granted under this section permits the Owner to authorize the Contractor, Subcontractors, Sub-subcontractors, and suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service, subject to any protocols established pursuant to Section 1.3, solely and exclusively for use in performing services or construction for the Project. If the Architect rightfully terminates this Agreement for cause as provided in Section 9.4, the license granted in this Section 7.3 shall terminate.

§ 7.3.1 In the event the Owner uses the Instruments of Service without retaining the authors of the Instruments of Service, the Owner releases the Architect and Architect's consultant(s) from all claims and causes of action arising from such uses. The Owner, to the extent permitted by law, further agrees to indemnify and hold harmless the Architect and its consultants from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's use of the Instruments of Service under this Section 7.3.1. The terms of this Section 7.3.1 shall not apply if the Owner rightfully terminates this Agreement for cause under Section 9.4.

§ 7.4 Except for the licenses granted in this Article 7, no other license or right shall be deemed granted or implied under this Agreement. The Owner shall not assign, delegate, sublicense, pledge or otherwise transfer any license granted herein to another party without the prior written agreement of the Architect. Any unauthorized use of the Instruments of Service shall be at the Owner's sole risk and without liability to the Architect and the Architect's consultants.

§ 7.5 Except as otherwise stated in Section 7.3, the provisions of this Article 7 shall survive the termination of this Agreement.

ARTICLE 8 CLAIMS AND DISPUTES

§ 8.1 General

§ 8.1.1 The Owner and Architect shall commence all claims and causes of action against the other and arising out of or related to this Agreement, whether in contract, tort, or otherwise, in accordance with the requirements of the binding dispute resolution method selected in this 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 Architect waive all claims and causes of action not commenced in accordance with this Section 8.1.1.

§ 8.1.2 To the extent damages are covered by property insurance, the Owner and Architect waive all rights against each other and against the contractors, consultants, agents, and employees of the other, for damages, except such rights as they may have to the proceeds of such insurance as set forth in AIA Document A104-2017, Standard Abbreviated A 101-2017, Standard Form of Agreement Between Owner and Contractor. The Owner or the Architect, as appropriate, shall require of the contractors, consultants, agents, and employees of any of them, similar waivers in favor of the other parties enumerated herein.

§ 8.1.3 The Architect and Owner waive consequential damages for claims, disputes or other matters in question, arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination of this Agreement, except as specifically provided in Section 9.6.

§ 8.2 Mediation

§ 8.2.1 Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to binding dispute resolution. If such matter relates to or is the subject of a lien arising out of the Architect's services, the Architect may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation or by binding dispute resolution.

§ 8.2.2 Mediation, 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 this Agreement. 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.

§ 8.2.3 If the parties do not resolve a dispute through mediation pursuant to this Section 8.2, the method of binding dispute resolution shall be the following:

(Check the appropriate box.)

☐ Arbitration pursuant to Section 8.3 of this Agreement

☐ Litigation in a court of competent jurisdiction

☒ Other: (Specify)

Court of competent jurisdiction in either Carter County, Tennessee or Federal District Court in
Greenville, Tennessee.

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

§ 8.3 Arbitration

§ 8.3.1 If the parties have selected arbitration as the method for binding dispute resolution in this Agreement, any claim, dispute or other matter in question arising out of or related to this Agreement subject to, but not resolved by, mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of the Agreement.

§ 8.3.1.1 A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the claim, dispute or other matter in question would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the claim, dispute or other matter in question.

§ 8.3.2 The foregoing agreement to arbitrate, and other agreements to arbitrate with an additional person or entity duly consented to by parties to this Agreement, shall be specifically enforceable in accordance with applicable law in any court having jurisdiction thereof.

§ 8.3.3 The award rendered by the arbitrator(s) shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

§ 8.3.4 Consolidation or Joinder

§ 8.3.4.1 Either party, at its sole discretion, may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation; (2) the arbitrations to be consolidated substantially involve common questions of law or fact; and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

§ 8.3.4.2 Either party, at its sole discretion, may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.

§ 8.3.4.3 The Owner and Architect grant to any person or entity made a party to an arbitration conducted under this Section 8.3, whether by joinder or consolidation, the same rights of joinder and consolidation as the Owner and Architect under this Agreement.

§ 8.4 The provisions of this Article 8 shall survive the termination of this Agreement.

ARTICLE 9 TERMINATION OR SUSPENSION

§ 9.1 If the Owner fails to make payments to the Architect in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect's option, cause for suspension of performance of services under this Agreement. If the Architect elects to suspend services, the Architect shall give seven days' written notice to the Owner before suspending services. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Owner shall pay the Architect all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.2 If the Owner suspends the Project, the Architect shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Architect shall be compensated for expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

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

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

§ 9.5 The Owner may terminate this Agreement upon not less than seven days' written notice to the Architect for the Owner's convenience and without cause.

§ 9.6 In the event of termination not the fault of the Architect, the Architect shall be compensated for services performed prior to termination, Reimbursable Expenses incurred, and all costs attributable to termination, including the costs attributable to the Architect's termination of consultant agreements.

§ 9.7 In addition to any amounts paid under Section 9.6, if the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Architect terminates this Agreement pursuant to Section 9.3, the Owner shall pay to the Architect the following fees:

(Set forth below the amount of any termination or licensing fee, or the method for determining any termination or licensing fee.)

.1 — Termination Fee:

~~.2~~ — Licensing Fee if the Owner intends to continue using the Architect's Instruments of Service:

§ 9.8 Except as otherwise expressly provided herein, this Agreement shall terminate one year from the date of Substantial Completion.

ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 This Agreement shall be governed by the law of the place where the Project is located excluding that jurisdiction's choice of law rules. ~~If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 8.3.~~

§ 10.2 Terms in this Agreement shall have the same meaning as those in AIA Document A104-2017, Standard Abbreviated A 101-2017, Standard Form of Agreement Between Owner and Contractor.

§ 10.3 The Owner and Architect, respectively, bind themselves, their agents, successors, assigns and legal representatives to this Agreement. Neither the Owner nor the Architect shall assign this Agreement without the written consent of the other, except that the Owner may assign this Agreement to a lender providing financing for the Project if the lender agrees to assume the Owner's rights and obligations under this Agreement, including any payments due to the Architect by the Owner prior to the assignment.

§ 10.4 If the Owner requests the Architect to execute certificates or consents, the proposed language of such certificates or consents shall be submitted to the Architect for review at least 14 days prior to the requested dates of execution. The Architect shall not be required to execute certificates or consents that would require knowledge, services or responsibilities beyond the scope of this Agreement.

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

§ 10.6 The Architect shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site.

§ 10.7 The Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials. However, the Architect's materials shall not include information the Owner has identified in writing as confidential or proprietary. The Owner shall provide professional credit for the Architect in the Owner's promotional materials for the Project. This Section 10.7 shall survive the termination of this Agreement unless the Owner terminates this Agreement for cause pursuant to Section 9.4.

§ 10.8 The invalidity of any provision of the Agreement shall not invalidate the Agreement or its remaining provisions. If it is determined that any provision of the Agreement 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 Agreement shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Agreement.

ARTICLE 11 COMPENSATION

§ 11.1 For the Architect's Basic Services described under Article 3, the Owner shall compensate the Architect as follows:

~~.1~~ — Stipulated Sum
— (Insert amount)

~~.2~~ — 2 Percentage Basis

Init.

(Insert percentage value)

— (~~Seven and One Half (7.5)~~) % of the Owner's budget for the Cost of the Work, as calculated in accordance with Section 11.6.

~~3~~ — Other

— (Describe the method of compensation)

§ 11.2 For Supplemental Services identified in Section 4.1, the Owner shall compensate the Architect as follows:
(Insert amount of, or basis for, compensation. If necessary, list specific services to which particular methods of compensation apply.)

Stormwater Design: The amount invoiced to the Architect plus Ten percent (10%).

Coordination of Owner's Consultants: TWA Hourly Fee Rate Schedule dated October 1, 2021.

Fees for Additional Services to be submitted and approved by the Elizabethton City Schools prior to the Architect proceeding with any required Additional Services.

§ 11.3 For Additional Services that may arise during the course of the Project, including those under Section 4.2, the Owner shall compensate the Architect as follows:
(Insert amount of, or basis for, compensation.)

TWA Hourly Fee Rate Schedule dated October 1, 2021.

Fees for Additional Services to be submitted and approved by the Elizabethton City Schools prior to the Architect proceeding with any required Additional Services.

§ 11.4 Compensation for Supplemental and Additional Services of the Architect's consultants, provided use of such consultants is agreed in advance by the Architect and Owner when not included in Section 11.2 or 11.3, shall be the amount invoiced to the Architect plus Ten percent (~~%~~, 10%), or as follows:

N / A

§ 11.5 Where compensation for Basic Services is based on a stipulated sum or percentage of the Cost of the Work, the compensation for each phase of services shall be as follows:

<u>Schematic Design Phase</u>	<u>Fifteen</u>	<u>percent (</u>	<u>15</u>	<u>%)</u>
<u>Design Development Phase</u>	<u>Twenty</u>	<u>percent (</u>	<u>20</u>	<u>%)</u>
<u>Construction Documents Phase</u>	<u>Fifty</u>	<u>percent (</u>	<u>50</u>	<u>%)</u>
<u>Procurement Phase</u>	<u>Five</u>	<u>percent (</u>	<u>5</u>	<u>%)</u>
<u>Construction Phase</u>	<u>Ten</u>	<u>percent (</u>	<u>10</u>	<u>%)</u>
<u>Total Basic Compensation</u>	<u>one hundred One</u>	<u>percent (</u>	<u>100</u>	<u>%)</u>
	<u>Hundred</u>			

§ 11.6 When compensation identified in Section 11.1 is on a percentage basis, progress payments for each phase of Basic Services shall be calculated by multiplying the percentages identified in this Article by the Owner's most recent budget for the Cost of the Work. Compensation paid in previous progress payments shall not be adjusted based on subsequent updates to the Owner's budget for the Cost of the Work.

§ 11.6.1 When compensation is on a percentage basis and any portions of the Project are deleted or otherwise not constructed, compensation for those portions of the Project shall be payable to the extent services are performed on those portions. The Architect shall be entitled to compensation in accordance with this Agreement for all services performed whether or not the Construction Phase is commenced.

Init.

§ 11.7 The hourly billing rates for services of the Architect and the Architect's consultants, if any, are set forth below. ~~The rates shall be adjusted in accordance with the Architect's and Architect's consultants' normal review practices.~~ Such rates may be advised by agreement of the Owner and Architect if completion of the Project exceeds twelve months from the effective date of this Agreement.

(If applicable, attach an exhibit of hourly billing rates or insert them below.)

TWA Hourly Fee Rate Schedule dated October 1, 2021.

Employee or Category

Rate

N / A.

N / A

§ 11.8 Compensation for Reimbursable Expenses

§ 11.8.1 Reimbursable Expenses are in addition to compensation for Basic, Supplemental, and Additional Services and include expenses incurred by the Architect and the Architect's consultants directly related to the Project, as follows:

- .1 Transportation and authorized out-of-town travel and subsistence;
- .2 Long distance services, dedicated data and communication services, teleconferences, Project web sites, and extranets;
- .3 Permitting and other fees required by authorities having jurisdiction over the Project;
- .4 Printing, reproductions, plots, and standard form documents;
- .5 Postage, handling, and delivery;
- .6 Expense of overtime work requiring higher than regular rates if authorized in advance by the Owner;
- .7 Renderings, physical models, mock-ups, professional photography, and presentation materials requested by the Owner or required for the Project;
- .8 ~~Expense of professional liability insurance dedicated exclusively to this Project or the expense of additional insurance coverage or limits requested by the Owner in excess of that normally maintained by the Architect and the Architect's consultants;~~
- .9 All taxes levied on professional services and on reimbursable expenses;
- .10 ~~Site office expenses; and~~
- .11 Other similar Project-related expenditures.

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus Ten percent (10 %) of the expenses incurred.

§ 11.9 Payments to the Architect

§ 11.9.1 Initial Payment

An initial payment of Zero Dollars and Zero Cents (\$ 0.00) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

§ 11.9.2 Progress Payments

§ 11.9.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. Amounts unpaid Thirty (30) days after the invoice date shall bear interest ~~at the rate entered below, or in the absence thereof at the legal rate prevailing from~~ time to time at the principal place of business of the Architect.

(Insert rate of monthly or annual interest agreed upon.)

%

§ 11.9.2.2 The Owner shall not withhold amounts from the Architect's compensation to impose a penalty or liquidated damages on the Architect, or to offset sums requested by or paid to contractors for the cost of changes in the Work unless the Architect agrees or has been found liable for the amounts in a binding dispute resolution proceeding.

§ 11.9.2.3 Records of Reimbursable Expenses, expenses pertaining to Additional Services, and services performed on the basis of hourly rates shall be available to the Owner at mutually convenient times.

ARTICLE 12 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Agreement are as follows:

AIA Document B104™ – 2017. Copyright © 1974, 1978, 1987, 1997, 2007 and 2017 by The American Institute of Architects. All rights reserved. The "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are registered trademarks and may not be used without permission. This document was produced by AIA software at 07:31:16 ET on 10/21/2021 under Order No.7805369175 which expires on 04/03/2022, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents® Terms of Service. To report copyright violations, e-mail copyright@aia.org.

User Notes:

(1902735994)

(Include other terms and conditions applicable to this Agreement.)

§ 12.1 In recognition of the relative risks and benefits of the project to both the Owner and the Architect, the risks have been allocated such that the Owner agrees, to the fullest extent permitted by law, to limit the liability of the Architect to Owner for any and all claims, losses, costs, damages of any nature whatsoever or claims expenses from any cause or causes, including Attorney's fees and costs of expert witness fees and costs, so that the total aggregate liability of the Architect to the Owner shall not exceed One Million Dollars and Zero Cents (\$1,000,000.00). It is intended that this limitation apply to any and all liability or cause however alleged or arising, unless otherwise prohibited by law. The limitation of liability would not apply to acts of gross negligence by the Architect.

ARTICLE 13 SCOPE OF THE AGREEMENT

§ 13.1 This Agreement represents the entire and integrated agreement between the Owner and the Architect and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both the Owner and Architect.

§ 13.2 This Agreement is comprised of the following documents identified below:

- .1 AIA Document B104™-2017, Standard Abbreviated Form of Agreement Between Owner and Architect
- .2 AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:
(Insert the date of the E203-2013 incorporated into this agreement.)
AIA Document A201-2013, General Conditions for the Contract for Construction, provided that where inconsistent with this AIA Document B104-2017, the terms of AIA Document B104-2017 shall prevail.
- .3 Exhibits:
(Clearly identify any other exhibits incorporated into this Agreement, including any exhibits identified in Section 4.1.)

Exhibit 'A': 2021 – 2022 Capital Projects Information, Project Description for East Side Elementary School Parking Lot Expansion.

Exhibit 'B': TWA Hourly Fee Rate Schedule dated October 1, 2021.

.4 Other documents:
(List other documents, if any, including additional scopes of service forming part of the Agreement.) Professional Liability Insurance Certificate.

General Liability and Workmen Compensation Insurance Certificate.

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

OWNER (Signature)

Mr. Richard Van Huss Director
Elizabethton City Schools
(Printed name and title)

ARCHITECT (Signature)

Thomas Weems AIA
Thomas Weems Architect
(Printed name, title, and license number, if required)

Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, Thomas Weems, AIA, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with this certification at 07:31:16 ET on 10/21/2021 under Order No. 7805369175 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document B104™ – 2017, Standard Abbreviated Form of Agreement Between Owner and Architect, as published by the AIA in its software, other than changes shown in the attached final document by underscoring added text and striking over deleted text.

(Signed)

(Title)

(Dated)



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

10/08/2021

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER RSC Insurance Brokerage, Inc. 104 Woodmont Blvd. Suite 400 Nashville TN 37205	CONTACT NAME: Canessa Jones PHONE (A/C, No, Ext): FAX (A/C, No): E-MAIL ADDRESS: cjones@risk-strategies.com INSURER(S) AFFORDING COVERAGE INSURER A: Travelers Cas & Surety co AM INSURER B: INSURER C: INSURER D: INSURER E: INSURER F: NAIC # 31194
INSURED Thomas Weems, Architect 3203 Hanover Road Johnson City TN 37604	

COVERAGES**CERTIFICATE NUMBER:****REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☐ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☐ PRO-JECT ☐ LOC OTHER:						EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG
	AUTOMOBILE LIABILITY ☐ ANY AUTO ☐ OWNED AUTOS ONLY ☐ HIRED AUTOS ONLY ☐ SCHEDULED AUTOS ☐ NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)
	UMBRELLA LIAB EXCESS LIAB DED ☐ RETENTION \$ ☐						EACH OCCURRENCE AGGREGATE
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below Y / N ☐ N / A						PER STATUTE ☐ OTH-ER ☐ E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT
A	Professional Liability			105364625	11/01/2020	11/01/2021	Each Claim Aggregate \$1,000,000 \$1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Re: TWA Project #021-022, Parking Lot Expansion For East Side Elementary School, 800 Siam Road, Elizabethton, Tennessee 37643.

CERTIFICATE HOLDER**CANCELLATION**

Elizabethton City Schools 804 South Watauga Avenue Elizabethton TN 37643	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE

© 1988-2015 ACORD CORPORATION. All rights reserved.



HOURLY FEE RATE SCHEDULE

OCTOBER 1, 2021

**MASTER PLANNING FOR
ELIZABETHTON HIGH SCHOOL
907 JASON WITTEN WAY
ELIZABETHTON, TENNESSEE 37643
And
T A DUGGER JUNIOR HIGH SCHOOL
305 WEST 'E' STREET
ELIZABETHTON, TENNESSEE 37643
TWA PROJECT #021-023**

A. JOB CLASSIFICATION HOURLY BILLING RATES:

Thomas Weems Architect (Architectural)

Principal Architect	\$175.00 / Hour
Staff Architect	\$125.00 / Hour
Interior Designer / CAD Operator	\$100.00 / Hour
Architectural Designer / CAD Operator	\$100.00 / Hour
Clerical	\$ 50.00 / Hour

Tysinger, Hampton & Partners, Inc. (Civil)

Expert Witness – All Fields	\$255.00 / Hour
Principals	\$185.00 / Hour
Director of Civil	\$140.00 / Hour
Senior Project Leader – Civil	\$110.00 / Hour
Project Leader – Civil	\$ 90.00 / Hour
Project Manager – Civil	\$ 80.00 / Hour
Senior Designer – Civil	\$ 75.00 / Hour
Stormwater Reporting	\$ 70.00 / Hour
Designer – Civil	\$ 65.00 / Hour
CAD Operator 1	\$ 60.00 / Hour
CAD Operator 2	\$ 55.00 / Hour
CAD Operator 3	\$ 50.00 / Hour
Technician – Civil	\$ 50.00 / Hour
CEI – Engineering Field Representative	\$ 60.00 / Hour

Spoden and Wilson Consulting Engineers (Structural)

Principal Engineer	\$150.00 / Hour
Staff Engineer	\$100.00 / Hour
Structural Draftsman – CAD Operator	\$ 75.00 / Hour
Clerical	\$ 50.00 / Hour

Mechanical Design Services (HVAC, Plumbing and Fire Protection)

Principal Engineer	\$175.00 / Hour
Staff Engineer	\$145.00 / Hour
Engineering Intern - II/PM	\$110.00 / Hour
Graduate Engineer	\$ 90.00 / Hour
Senior Designer – II	\$ 95.00 / Hour
Senior Designer – I	\$ 75.00 / Hour
Mechanical Designer	\$ 65.00 / Hour
Clerical	\$ 50.00 / Hour



Vreeland Engineers, Inc. (Electrical)

Principal Engineer	\$150.00 / Hour
Staff Engineer	\$125.00 / Hour
Staff Designer	\$ 90.00 / Hour
Electrical Draftsman – CAD Operator	\$ 75.00 / Hour
Electrical Field Inspector	\$ 75.00 / Hour
Clerical	\$ 50.00 / Hour



AIA[®] Document B104[™] – 2017

Standard Abbreviated Form of Agreement Between Owner and Architect

AGREEMENT made as of the First day of October in the year Two Thousand Twenty One
(In words, indicate day, month and year.)

BETWEEN the Architect's client identified as the Owner:
(Name, legal status, address and other information)

Elizabethton City Schools
804 South Watauga Avenue
Elizabethton, Tennessee 37643
Telephone: 423-547-8000

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

Thomas Weems Architect
3203 Hanover Road
Johnson City, Tennessee 37604
Telephone: 423-952-2700

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

Master Planning For
Elizabethton High School
907 Jason Witten Way
Elizabethton, Tennessee 37643
and
T A Dugger Junior High School
305 West 'E' Street
Elizabethton, Tennessee 37643
TWA Project 021-023

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

The Owner and Architect agree as follows.

TABLE OF ARTICLES

1	INITIAL INFORMATION
2	ARCHITECT'S RESPONSIBILITIES
3	SCOPE OF ARCHITECT'S BASIC SERVICES
4	SUPPLEMENTAL AND ADDITIONAL SERVICES
5	OWNER'S RESPONSIBILITIES
6	COST OF THE WORK
7	COPYRIGHTS AND LICENSES
8	CLAIMS AND DISPUTES
9	TERMINATION OR SUSPENSION
10	MISCELLANEOUS PROVISIONS
11	COMPENSATION
12	SPECIAL TERMS AND CONDITIONS
13	SCOPE OF THE AGREEMENT

ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth below:

(State below details of the Project's site and program, Owner's contractors and consultants, Architect's consultants, Owner's budget for the Cost of the Work, and other information relevant to the Project.)

School Sites:

Elizabethton High School, 907 Jason Witten Way, Elizabethton, Tennessee 37643

T A Dugger Junior High School, 305 West 'E' Street, Elizabethton, Tennessee 37643

Owner's Program:

2021 – 2022 Capital Projects Information, Project Description for Elizabethton High School Field House, Visitor Team Dressing Rooms, Parking Lot Improvements, Sports Field Lighting, Football Stadium Bleacher Expansion, Sky Boxes, Booster Club Concourse, Pool Area Exterior Terrace and Toilet Rooms.

2021 – 2022 Capital Projects Information, Project Description for T A Dugger Junior High School Secure Vestibule and Main Entrance Improvements, Media Center Covered Walkway and Entrance Improvements, Music Building Covered Walkway and Entrance Improvements, Maintenance / Band Building Covered Walkway and Entrance Improvements and Sports Field Lighting

Owner's Budget for the Cost of the Work: to be determined.

Owner's Schedule: To be determined.

Owner's Consultant(s): To be determined

Architect's Consultant(s): To be determined

§ 1.2 The Owner and Architect may rely on the Initial Information. Both parties, however, recognize that such information may materially change and, in that event, the Owner and the Architect shall appropriately adjust the schedule, the Architect's services and the Architect's compensation. The Owner shall adjust-consider adjusting the Owner's budget for the Cost of the Work and the Owner's anticipated design and construction milestones, as necessary, to accommodate material changes in the Initial Information.

§ 1.3 The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties will use AIA Document E203™ 2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 1.3.1 Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™ 2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™ 2013, Project Building Information Modeling Protocol Form, 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 ARCHITECT'S RESPONSIBILITIES

§ 2.1 The Architect shall provide the professional services set forth in this Agreement consistent with the professional skill and care ordinarily provided by architects practicing in the same or similar locality under the same or similar circumstances. The Architect shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project.

§ 2.2 The Architect shall maintain the following insurance until termination of this Agreement. If any of the requirements set forth below are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect as set forth in Section 11.8:

(Identify types and limits of insurance coverage, and other insurance requirements applicable to the Agreement, if any.)

.1 General Liability

Commercial General Liability with policy limits of not less than One Million Dollars and Zero Cents (\$ 1,000,000.00) for each occurrence and One Million Dollars and Zero Cents (\$ 1,000,000.00) in the aggregate for bodily injury and property damage.

.2 Automobile Liability

Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Architect with policy limits of not less than Two Hundred Fifty Thousand Dollars and Zero Cents (\$ 250,000.00) 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.

.3 Workers' Compensation

Employers' Liability with policy limits not less than One Hundred Thousand Dollars and Zero Cents (\$ 100,000.00) each accident, One Hundred Thousand Dollars and Zero Cents (\$ 100,000.00) each employee, and One Hundred Thousand Dollars and Zero Cents (\$ 100,000.00) policy limit.

.4 Professional Liability

Professional Liability covering negligent acts, errors and omissions in the performance of professional services with policy limits of not less than One Million Dollars and Zero Cents (\$ 1,000,000.00) per claim and One Million Dollars and Zero Cents (\$ 1,000,000.00) in the aggregate.

Init.

ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES

§ 3.1 The Architect's Basic Services consist of those described in this Article 3 and include usual and customary structural, mechanical, and electrical engineering services. Services not set forth in this Article 3 are Supplemental or Additional Services.

§ 3.1.1 The Architect shall coordinate its services with those services provided by the Owner and the Owner's consultants. The Architect shall be entitled to rely on (1) the accuracy and completeness of the services and information furnished by the Owner and (2) the Owner's approvals. The Architect shall provide prompt written notice to the Owner if the Architect becomes aware of any error, omission, or inconsistency in such services or information.

§ 3.1.2 As soon as practicable after the date of this Agreement, the Architect shall submit for the Owner's approval a schedule for the performance of the Architect's services. Once approved by the Owner, time limits established by the schedule shall not, except for reasonable cause, be exceeded by the Architect or Owner. With the Owner's approval, the Architect shall adjust the schedule, if necessary, as the Project proceeds until the commencement of construction.

§ 3.1.3 ~~The Architect shall assist the Owner in connection with the Owner's responsibility for filing Subject to approval in advance by the Owner, the Architect shall~~ file documents required for the approval of governmental authorities having jurisdiction over the Project.

§ 3.2 Design Phase Services

§ 3.2.1 The Architect shall review the program and other information furnished by the Owner, and shall review laws, codes, and regulations applicable to the Architect's services.

§ 3.2.2 The Architect shall discuss with the Owner the Owner's program, schedule, budget for the Cost of the Work, Project site, and alternative approaches to design and construction of the Project. The Architect shall reach an understanding with the Owner regarding the Project requirements.

§ 3.2.3 The Architect shall consider the relative value of alternative materials, building systems and equipment, together with other considerations based on program, aesthetics, and any sustainable objectives, in developing a design for the Project that is consistent with the Owner's schedule and budget for the Cost of the ~~Work~~Work, provided, however, that the Architect shall inform the Owner of the specific alternative materials, building systems or equipment that are included in any design documents.

§ 3.2.4 Based on the Project requirements, the Architect shall prepare Design Documents for the Owner's approval consisting of drawings and other documents appropriate for the Project and the Architect shall prepare and submit to the Owner an estimate of the Cost of the Work prepared in accordance with Section 6.3.

§ 3.2.5 The Architect shall submit the Design Documents to the Owner, and request the Owner's approval.

§ 3.3 Construction Documents Phase Services

§ 3.3.1 ~~Based on the Owner's approval of the Design Documents, the Architect shall prepare for the Owner's approval Construction Documents consisting of Drawings and Specifications setting forth in detail the requirements for the construction of the Work. The Owner and Architect acknowledge that in order to construct the Work the Contractor will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Architect shall review in accordance with Section 3.4.4.~~

§ 3.3.2 ~~The Architect shall incorporate the design requirements of governmental authorities having jurisdiction over the Project into the Construction Documents.~~

§ 3.3.3 ~~The Architect shall submit the Construction Documents to the Owner, update the estimate for the Cost of the Work and advise the Owner of any adjustments to the estimate of the Cost of the Work, take any action required under Section 6.5, and request the Owner's approval.~~

§ 3.3.4 The Architect, following the Owner's approval of the Construction Documents and of the latest estimate of the Cost of the Work, shall assist the Owner in obtaining bids or proposals and awarding and preparing contracts for construction.

§ 3.4 Construction Phase Services

§ 3.4.1 General

§ 3.4.1.1 The Architect shall provide administration of the Contract between the Owner and the Contractor as set forth below and in AIA Document A104™-2017, Standard Abbreviated Form of Agreement Between Owner and Contractor. If the Owner and Contractor modify AIA Document A104-2017, those modifications shall not affect the Architect's services under this Agreement unless the Owner and the Architect amend this Agreement.

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

§ 3.4.1.3 Subject to Section 4.2, the Architect's responsibility to provide Construction Phase Services commences with the award of the Contract for Construction and terminates on the date the Architect issues the final Certificate for Payment.

§ 3.4.2 Evaluations of the Work

§ 3.4.2.1 The Architect shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 4.2.2, 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 shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and 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.

§ 3.4.2.2 The Architect has the authority to reject Work that does not conform to the Contract Documents and has the authority to require inspection or testing of the Work.

§ 3.4.2.3 The Architect shall 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 shall be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

§ 3.4.2.4 When making such interpretations and decisions, the Architect shall endeavor to secure faithful performance by both Owner and Contractor, shall not show partiality to either, and shall not be liable for results of interpretations or decisions rendered in good faith.

§ 3.4.2.5 The Architect shall render initial decisions on Claims between the Owner and Contractor as provided in the Contract Documents.

§ 3.4.3 Certificates for Payment to Contractor

§ 3.4.3.1 The Architect shall review and certify the amounts due the Contractor and shall issue certificates in such amounts. The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's evaluation of the Work as provided in Section 3.4.2 and on the data comprising the Contractor's 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.

§ 3.4.3.2 The issuance of a Certificate for Payment shall 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) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 3.4.4 Submittals

§ 3.4.4.1 The Architect shall review and approve, or take other appropriate action, upon the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the Contractor's responsibility. The Architect's review shall not constitute approval of safety precautions or any construction means, methods, techniques, sequences or procedures.

§ 3.4.4.2 If the Contract Documents specifically require the Contractor to provide professional design services or certifications by a design professional related to systems, materials or equipment, the Architect shall specify the appropriate performance and design criteria that such services must satisfy. The Architect shall review and take appropriate action on Shop Drawings and other submittals related to the Work designed or certified by the Contractor's design professional, provided the submittals bear such professional's seal and signature when submitted to the Architect. The review shall be for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect shall be entitled to rely upon, and shall not be responsible for, the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals.

§ 3.4.4.3 The Architect shall review and respond to written requests for information about the Contract Documents. The Architect's response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness.

§ 3.4.5 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. Subject to Section 4.2.3, the Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents.

§ 3.4.6 Project Completion

The Architect shall conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion; forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract Documents and received from the Contractor; and issue a final Certificate for Payment based upon a final inspection indicating that, to the best of the Architect's knowledge, information, and belief, the Work complies with the requirements of the Contract Documents.

ARTICLE 4 SUPPLEMENTAL AND ADDITIONAL SERVICES

§ 4.1 Supplemental Services are not included in Basic Services but may be required for the Project. The Architect shall provide the Supplemental Services indicated below, and the Owner shall compensate the Architect as provided in Section 11.2. Supplemental Services may include programming, site evaluation and planning, environmental studies, civil engineering, landscape design, telecommunications/data, security, measured drawings of existing conditions, coordination of separate contractors or independent consultants, detailed cost estimates, on-site project representation beyond requirements of Section 4.2.2, value analysis, interior architectural design, tenant related services, preparation of record drawings, commissioning, sustainable project services, and any other services not otherwise included in this Agreement. (Identify below the Supplemental Services that the Architect is required to provide and insert a description of each Supplemental Service, if not further described in an exhibit attached to this document.)

Coordination of Owner's Consultants: Additional Service.

Init.

§ 4.2 The Architect may provide Additional Services after execution of this Agreement without invalidating the Agreement. Upon recognizing the need to perform Additional Services, the Architect shall notify the Owner. The Architect shall not provide the Additional Services until the Architect receives the Owner's written authorization. Except for services required due to the fault of the Architect, any Additional Services provided in accordance with this Section 4.2 shall entitle the Architect to compensation pursuant to Section 11.3.

§ 4.2.1 The Architect shall provide services necessitated by a change in the Initial Information, changes in previous instructions or approvals given by the Owner, or a material change in the Project including size; quality; complexity; the Owner's schedule or budget for Cost of the Work; or procurement or delivery method as an Additional Service.

~~§ 4.2.2 The Architect has included in Basic Services — () visits to the site by the Architect during construction. The Architect shall conduct site visits in excess of that amount as an Additional Service.~~

~~§ 4.2.3 The Architect shall, as an Additional Service, provide services made necessary by a Contractor's proposed change in the Work. The Architect shall prepare revisions to the Architect's Instruments of Service necessitated by Change Orders and Construction Change Directives as an Additional Service.~~

§ 4.2.4 If the services covered by this Agreement have not been completed within Twenty Four (24) months of the date of this Agreement, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as Additional Services.

ARTICLE 5 OWNER'S RESPONSIBILITIES

§ 5.1 Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner regarding requirements for and limitations on the Project, including a written program which shall set forth the Owner's objectives, schedule, constraints and criteria, including space requirements and relationships, flexibility, expandability, special equipment, systems and site requirements.

§ 5.2 The Owner shall establish the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1; (2) the Owner's other costs; and, (3) reasonable contingencies related to all of these costs. The Owner shall update the Owner's budget for the Project as necessary throughout the duration of the Project until final completion. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Architect. The Owner and the Architect shall thereafter agree to a corresponding change in the Project's scope and quality.

§ 5.3 The Owner shall furnish surveys to describe physical characteristics, legal limitations and utility locations for the site of the Project; a written legal description of the site; and services of geotechnical engineers or other consultants, when the Architect requests such services and demonstrates that they are reasonably required by the scope of the Project.

§ 5.4 The Owner shall coordinate the services of its own consultants with those services provided by the Architect. Upon the Architect's request, the Owner shall furnish copies of the scope of services in the contracts between the Owner and the Owner's consultants. The Owner shall require that its consultants and contractors maintain insurance, including professional liability insurance, as appropriate to the services or work provided.

§ 5.5 The Owner shall furnish tests, inspections and reports required by law or the Contract Documents, such as structural, mechanical, and chemical tests; tests for air and water pollution; and tests for hazardous materials.

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

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

§ 5.8 The Owner shall endeavor to communicate with the Contractor through the Architect about matters arising out of or relating to the Contract Documents.

§ 5.9 The Owner shall provide the Architect access to the Project site prior to commencement of the Work and shall obligate the Contractor to provide the Architect access to the Work wherever it is in preparation or progress.

~~§ 5.10 Within 15 days after receipt of a written request from the Architect, the Owner shall furnish the requested information as necessary and relevant for the Architect to evaluate, give notice of, or enforce lien rights.~~

ARTICLE 6 COST OF THE WORK

§ 6.1 For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect and shall include contractors' general conditions costs, overhead and profit. The Cost of the Work also includes the reasonable value of labor, materials, and equipment, donated to, or otherwise furnished by, the Owner. The Cost of the Work does not include the compensation of the Architect; the costs of the land, rights-of-way, financing, or contingencies for changes in the Work; or other costs that are the responsibility of the Owner.

§ 6.2 The Owner's budget for the Cost of the Work is provided in Initial Information, and shall be adjusted throughout the Project as required under Sections 5.2, 6.4 and 6.5. Evaluations of the Owner's budget for the Cost of the Work, and the preliminary estimate of the Cost of the Work and updated estimates of the Cost of the Work prepared by the Architect, represent the Architect's judgment as a design professional. It is recognized, however, that neither the Architect nor the Owner has control over the cost of labor, materials or equipment; the Contractor's methods of determining bid prices; or competitive bidding, market or negotiating conditions. Accordingly, the Architect cannot and does not warrant or represent that bids or negotiated prices will not vary from the Owner's budget for the Cost of the Work, or from any estimate of the Cost of the Work, or evaluation, prepared or agreed to by the Architect.

§ 6.3 In preparing estimates of the Cost of Work, the Architect shall be permitted to include contingencies for design, bidding and price escalation; to determine what materials, equipment, component systems and types of construction are to be included in the Contract Documents; to recommend reasonable adjustments in the program and scope of the Project; and to include design alternates as may be necessary to adjust the estimated Cost of the Work to meet the Owner's budget. budget provided, however, that the Architect shall inform the Owner of the specific contingencies, materials, equipment, component systems, types of construction, reasonable adjustments or design alternates that are included in any estimates of the Cost of The Work. The Architect's estimate of the Cost of the Work shall be based on current area, volume or similar conceptual estimating techniques. If the Owner requires a detailed estimate of the Cost of the Work, the Architect shall provide such an estimate, if identified as the Architect's responsibility in Section 4.1, as a Supplemental Service.

§ 6.4 If, through no fault of the Architect, construction procurement activities have not commenced within 90 days after the Architect submits the Construction Documents to the Owner the Owner's budget for the Cost of the Work shall be adjusted to reflect changes in the general level of prices in the applicable construction market.

§ 6.5 If at any time the Architect's estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, the Architect shall make appropriate recommendations to the Owner to adjust the Project's size, quality or budget for the Cost of the Work, and the Owner shall cooperate with the Architect in making such adjustments.

§ 6.6 If the Owner's current budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services is exceeded by the lowest bona fide bid or negotiated proposal, the Owner shall

- .1 give written approval of an increase in the budget for the Cost of the Work;
- .2 authorize rebidding or renegotiating of the Project within a reasonable time;
- .3 terminate in accordance with Section 9.5;
- .4 in consultation with the Architect, revise the Project program, scope, or quality as required to reduce the Cost of the Work; or
- .5 implement any other mutually acceptable alternative.

§ 6.7 If the Owner chooses to proceed under Section 6.6.4, the Architect shall modify the Construction Documents as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services, or the budget as adjusted under Section 6.6.1. If the Owner requires the Architect to modify the Construction Documents because the lowest bona fide bid or negotiated proposal exceeds the Owner's budget for the Cost of the Work due to market conditions the Architect could not reasonably anticipate, the Owner shall compensate the Architect for the modifications as an Additional Service pursuant to Section 11.3; otherwise the Architect's services shall be without additional compensation. In any event, the Architect's modification of the Construction Documents shall be the limit of the Architect's responsibility under this Article 6.

ARTICLE 7 COPYRIGHTS AND LICENSES

§ 7.1 The Architect and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project.

§ 7.2 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 shall retain all common law, statutory and other reserved rights, including copyrights. Submission or distribution of Instruments of Service to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the reserved rights of the Architect and the Architect's consultants.

§ 7.3 The Architect grants to the Owner a nonexclusive license to use the Architect's Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner substantially performs its obligations under this Agreement, including prompt payment of all sums when due pursuant to Article 9 and Article 11. The Architect shall obtain similar nonexclusive licenses from the Architect's consultants consistent with this Agreement. The license granted under this section permits the Owner to authorize the Contractor, Subcontractors, Sub-subcontractors, and suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service, subject to any protocols established pursuant to Section 1.3, solely and exclusively for use in performing services or construction for the Project. If the Architect rightfully terminates this Agreement for cause as provided in Section 9.4, the license granted in this Section 7.3 shall terminate.

§ 7.3.1 In the event the Owner uses the Instruments of Service without retaining the authors of the Instruments of Service, the Owner releases the Architect and Architect's consultant(s) from all claims and causes of action arising from such uses. The Owner, to the extent permitted by law, further agrees to indemnify and hold harmless the Architect and its consultants from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's use of the Instruments of Service under this Section 7.3.1. The terms of this Section 7.3.1 shall not apply if the Owner rightfully terminates this Agreement for cause under Section 9.4.

§ 7.4 Except for the licenses granted in this Article 7, no other license or right shall be deemed granted or implied under this Agreement. The Owner shall not assign, delegate, sublicense, pledge or otherwise transfer any license granted herein to another party without the prior written agreement of the Architect. Any unauthorized use of the Instruments of Service shall be at the Owner's sole risk and without liability to the Architect and the Architect's consultants.

§ 7.5 Except as otherwise stated in Section 7.3, the provisions of this Article 7 shall survive the termination of this Agreement.

ARTICLE 8 CLAIMS AND DISPUTES

§ 8.1 General

§ 8.1.1 The Owner and Architect shall commence all claims and causes of action against the other and arising out of or related to this Agreement, whether in contract, tort, or otherwise, in accordance with the requirements of the binding dispute resolution method selected in this 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 Architect waive all claims and causes of action not commenced in accordance with this Section 8.1.1.

§ 8.1.2 To the extent damages are covered by property insurance, the Owner and Architect waive all rights against each other and against the contractors, consultants, agents, and employees of the other, for damages, except such rights as they may have to the proceeds of such insurance as set forth in AIA Document A104–2017, Standard Abbreviated A 101–2017, Standard Form of Agreement Between Owner and Contractor. The Owner or the Architect, as appropriate, shall require of the contractors, consultants, agents, and employees of any of them, similar waivers in favor of the other parties enumerated herein.

§ 8.1.3 The Architect and Owner waive consequential damages for claims, disputes or other matters in question, arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination of this Agreement, except as specifically provided in Section 9.6.

§ 8.2 Mediation

§ 8.2.1 Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to binding dispute resolution. If such matter relates to or is the subject of a lien arising out of the Architect's services, the Architect may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation or by binding dispute resolution.

§ 8.2.2 Mediation, 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 this Agreement. 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.

§ 8.2.3 If the parties do not resolve a dispute through mediation pursuant to this Section 8.2, the method of binding dispute resolution shall be the following:

(Check the appropriate box.)

☐ Arbitration pursuant to Section 8.3 of this Agreement

☐ Litigation in a court of competent jurisdiction

☒ Other: *(Specify)*

Court of competent jurisdiction in either Carter County, Tennessee or Federal District Court in Greenville, Tennessee.

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

§ 8.3 Arbitration

§ 8.3.1 If the parties have selected arbitration as the method for binding dispute resolution in this Agreement, any claim, dispute or other matter in question arising out of or related to this Agreement subject to, but not resolved by, mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of the Agreement.

§ 8.3.1.1 A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the claim, dispute or other matter in question would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the claim, dispute or other matter in question.

§ 8.3.2 The foregoing agreement to arbitrate, and other agreements to arbitrate with an additional person or entity duly consented to by parties to this Agreement, shall be specifically enforceable in accordance with applicable law in any court having jurisdiction thereof.

§ 8.3.3 The award rendered by the arbitrator(s) shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

§ 8.3.4 Consolidation or Joinder

§ 8.3.4.1 Either party, at its sole discretion, may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation; (2) the arbitrations to be consolidated substantially involve common questions of law or fact; and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

§ 8.3.4.2 Either party, at its sole discretion, may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.

§ 8.3.4.3 The Owner and Architect grant to any person or entity made a party to an arbitration conducted under this Section 8.3, whether by joinder or consolidation, the same rights of joinder and consolidation as the Owner and Architect under this Agreement.

§ 8.4 The provisions of this Article 8 shall survive the termination of this Agreement.

ARTICLE 9 TERMINATION OR SUSPENSION

§ 9.1 If the Owner fails to make payments to the Architect in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect's option, cause for suspension of performance of services under this Agreement. If the Architect elects to suspend services, the Architect shall give seven days' written notice to the Owner before suspending services. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Owner shall pay the Architect all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.2 If the Owner suspends the Project, the Architect shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Architect shall be compensated for expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

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

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

§ 9.5 The Owner may terminate this Agreement upon not less than seven days' written notice to the Architect for the Owner's convenience and without cause.

§ 9.6 In the event of termination not the fault of the Architect, the Architect shall be compensated for services performed prior to termination, Reimbursable Expenses incurred, and all costs attributable to termination, including the costs attributable to the Architect's termination of consultant agreements.

§ 9.7 In addition to any amounts paid under Section 9.6, if the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Architect terminates this Agreement pursuant to Section 9.3, the Owner shall pay to the Architect the following fees:

(Set forth below the amount of any termination or licensing fee, or the method for determining any termination or licensing fee.)

.1 — Termination Fee:

.2 — Licensing Fee if the Owner intends to continue using the Architect's Instruments of Service:

§ 9.8 Except as otherwise expressly provided herein, this Agreement shall terminate one year from the date of Substantial Completion.

ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 This Agreement shall be governed by the law of the place where the Project is located excluding that jurisdiction's choice of law rules. ~~If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 8.3.~~

§ 10.2 Terms in this Agreement shall have the same meaning as those in AIA Document A104-2017, Standard ~~Abbreviated A 101-2017, Standard~~ Form of Agreement Between Owner and Contractor.

§ 10.3 The Owner and Architect, respectively, bind themselves, their agents, successors, assigns and legal representatives to this Agreement. Neither the Owner nor the Architect shall assign this Agreement without the written consent of the other, except that the Owner may assign this Agreement to a lender providing financing for the Project if the lender agrees to assume the Owner's rights and obligations under this Agreement, including any payments due to the Architect by the Owner prior to the assignment.

§ 10.4 If the Owner requests the Architect to execute certificates or consents, the proposed language of such certificates or consents shall be submitted to the Architect for review at least 14 days prior to the requested dates of execution. The Architect shall not be required to execute certificates or consents that would require knowledge, services or responsibilities beyond the scope of this Agreement.

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

§ 10.6 The Architect shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site.

§ 10.7 The Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials. However, the Architect's materials shall not include information the Owner has identified in writing as confidential or proprietary. The Owner shall provide professional credit for the Architect in the Owner's promotional materials for the Project. This Section 10.7 shall survive the termination of this Agreement unless the Owner terminates this Agreement for cause pursuant to Section 9.4.

§ 10.8 The invalidity of any provision of the Agreement shall not invalidate the Agreement or its remaining provisions. If it is determined that any provision of the Agreement 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 Agreement shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Agreement.

ARTICLE 11 COMPENSATION

§ 11.1 For the Architect's Basic Services described under Article 3, the Owner shall compensate the Architect as follows:

~~.1 Stipulated Sum~~

~~— (Insert amount)~~

~~.2 Percentage Basis~~

~~— (Insert percentage value)~~

~~— () % of the Owner's budget for the Cost of the Work, as calculated in accordance with Section 11.6.~~

.3 Other

(Describe the method of compensation)

TWA Hourly Fee Rate Schedule dated October 1, 2021. Not to exceed \$25,000.00.

§ 11.2 For Supplemental Services identified in Section 4.1, the Owner shall compensate the Architect as follows:
(Insert amount of, or basis for, compensation. If necessary, list specific services to which particular methods of compensation apply.)

Coordination of Owner's Consultants: TWA Hourly Fee Rate Schedule dated October 1, 2021.

Fees for Additional Services to be submitted and approved by the Elizabethton City Schools prior to the Architect proceeding with any required Additional Services.

§ 11.3 For Additional Services that may arise during the course of the Project, including those under Section 4.2, the Owner shall compensate the Architect as follows:
(Insert amount of, or basis for, compensation.)

TWA Hourly Fee Rate Schedule dated October 1, 2021.

Fees for Additional Services to be submitted and approved by the Elizabethton City Schools prior to the Architect proceeding with any required Additional Services.

§ 11.4 Compensation for Supplemental and Additional Services of the Architect's consultants, provided use of such consultants is agreed in advance by the Architect and Owner when not included in Section 11.2 or 11.3, shall be the amount invoiced to the Architect plus Ten percent (%), 10%, or as follows:

N / A

§ 11.5 Where compensation for Basic Services is based on a stipulated sum or percentage of the Cost of the Work, the compensation for each phase of services shall be as follows:

<u>Schematic Design Phase</u>	<u>Fifteen</u>	<u>percent (</u>	<u>15</u>	<u>%)</u>
<u>Design Development Phase</u>	<u>Twenty</u>	<u>percent (</u>	<u>20</u>	<u>%)</u>
<u>Construction Documents Phase</u>	<u>Fifty</u>	<u>percent (</u>	<u>50</u>	<u>%)</u>
<u>Procurement Phase</u>	<u>Five</u>	<u>percent (</u>	<u>5</u>	<u>%)</u>
<u>Construction Phase</u>	<u>Ten</u>	<u>percent (</u>	<u>10</u>	<u>%)</u>
<u>Total Basic Compensation</u>	<u>one hundred One</u>	<u>percent (</u>	<u>100</u>	<u>%)</u>
	<u>Hundred</u>			

§ 11.6 When compensation identified in Section 11.1 is on a percentage basis, progress payments for each phase of Basic Services shall be calculated by multiplying the percentages identified in this Article by the Owner's most recent

budget for the Cost of the Work. Compensation paid in previous progress payments shall not be adjusted based on subsequent updates to the Owner's budget for the Cost of the Work.

§ 11.6.1 When compensation is on a percentage basis and any portions of the Project are deleted or otherwise not constructed, compensation for those portions of the Project shall be payable to the extent services are performed on those portions. The Architect shall be entitled to compensation in accordance with this Agreement for all services performed whether or not the Construction Phase is commenced.

§ 11.7 The hourly billing rates for services of the Architect and the Architect's consultants, if any, are set forth below. ~~The rates shall be adjusted in accordance with the Architect's and Architect's consultants' normal review practices.~~ Such rates may be advised by agreement of the Owner and Architect if completion of the Project exceeds twelve months from the effective date of this Agreement.

(If applicable, attach an exhibit of hourly billing rates or insert them below.)

TWA Hourly Fee Rate Schedule dated October 1, 2021.

Employee or Category

Rate

N / A.

N / A

§ 11.8 Compensation for Reimbursable Expenses

§ 11.8.1 Reimbursable Expenses are in addition to compensation for Basic, Supplemental, and Additional Services and include expenses incurred by the Architect and the Architect's consultants directly related to the Project, as follows:

- .1 Transportation and authorized out-of-town travel and subsistence;
- .2 Long distance services, dedicated data and communication services, teleconferences, Project web sites, and extranets;
- .3 Permitting and other fees required by authorities having jurisdiction over the Project;
- .4 Printing, reproductions, plots, and standard form documents;
- .5 Postage, handling, and delivery;
- .6 Expense of overtime work requiring higher than regular rates if authorized in advance by the Owner;
- .7 Renderings, physical models, mock-ups, professional photography, and presentation materials requested by the Owner or required for the Project;
- ~~.8 Expense of professional liability insurance dedicated exclusively to this Project or the expense of additional insurance coverage or limits requested by the Owner in excess of that normally maintained by the Architect and the Architect's consultants;~~
- .9 All taxes levied on professional services and on reimbursable expenses;
- ~~.10 Site office expenses; and~~
- .11 Other similar Project-related expenditures.

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus Ten percent (10 %) of the expenses incurred.

§ 11.9 Payments to the Architect

§ 11.9.1 Initial Payment

An initial payment of Zero Dollars and Zero Cents (\$ 0.00.) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

§ 11.9.2 Progress Payments

§ 11.9.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. Amounts unpaid Thirty (30) days after the invoice date shall bear interest ~~at the rate entered below, or in the absence thereof~~ at the legal rate prevailing from time to time at the principal place of business of the Architect.

(Insert rate of monthly or annual interest agreed upon.)

%

§ 11.9.2.2 The Owner shall not withhold amounts from the Architect's compensation to impose a penalty or liquidated damages on the Architect, or to offset sums requested by or paid to contractors for the cost of changes in the Work unless the Architect agrees or has been found liable for the amounts in a binding dispute resolution proceeding.

§ 11.9.2.3 Records of Reimbursable Expenses, expenses pertaining to Additional Services, and services performed on the basis of hourly rates shall be available to the Owner at mutually convenient times.

ARTICLE 12 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Agreement are as follows:

(Include other terms and conditions applicable to this Agreement.)

§ 12.1 In recognition of the relative risks and benefits of the project to both the Owner and the Architect, the risks have been allocated such that the Owner agrees, to the fullest extent permitted by law, to limit the liability of the Architect to Owner for any and all claims, losses, costs, damages of any nature whatsoever or claims expenses from any cause or causes, including Attorney's fees and costs of expert witness fees and costs, so that the total aggregate liability of the Architect to the Owner shall not exceed One Million Dollars and Zero Cents (\$1,000,000.00). It is intended that this limitation apply to any and all liability or cause however alleged or arising, unless otherwise prohibited by law. The limitation of liability would not apply to acts of gross negligence by the Architect.

ARTICLE 13 SCOPE OF THE AGREEMENT

§ 13.1 This Agreement represents the entire and integrated agreement between the Owner and the Architect and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both the Owner and Architect.

§ 13.2 This Agreement is comprised of the following documents identified below:

- .1 AIA Document B104™-2017, Standard Abbreviated Form of Agreement Between Owner and Architect

- .2 ~~AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:
(Insert the date of the E203-2013 incorporated into this agreement.)~~

- .3 AIA Document A201-2013, General Conditions for the Contract for Construction, provided that where inconsistent with this AIA Document B104-2017, the terms of AIA Document B104-2017 shall prevail.
Exhibits:
(Clearly identify any other exhibits incorporated into this Agreement, including any exhibits identified in Section 4.1.)

Exhibit 'A': 2021 – 2022 Capital Projects Information, Project Description for Elizabethton High School Field House, Visitor Team Dressing Rooms, Parking Lot Improvements, Sports Field Lighting, Football Stadium Bleacher Expansion, Sky Boxes and Booster Club Concourse, Pool Area Exterior Terrace and Toilet Rooms.

Exhibit 'A': 2021 – 2022 Capital Projects Information, Project Description for T A Dugger Junior High School Secure Vestibule and Main Entrance Improvements, Media Center Covered Walkway and Entrance Improvements, Music Building Covered Walkway and Entrance Improvements, Maintenance / Band Building Covered Walkway and Entrance Improvements, and Sports Field Lighting.

Exhibit 'B': TWA Hourly Fee Rate Schedule dated October 1, 2021.

- .4 Other documents:
(List other documents, if any, including additional scopes of service forming part of the Agreement.)Professional Liability Insurance Certificate.

General Liability and Workmen Compensation Insurance Certificate.

Init.

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

OWNER *(Signature)*

Mr. Richard Van Huss Director
Elizabethton City Schools

(Printed name and title)

ARCHITECT *(Signature)*

Thomas Weems AIA
Thomas Weems Architect

(Printed name, title, and license number, if required)

Init.

/

Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, Thomas Weems, AIA, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with this certification at 07:35:23 ET on 10/21/2021 under Order No. 7805369175 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document B104™ – 2017, Standard Abbreviated Form of Agreement Between Owner and Architect, as published by the AIA in its software, other than changes shown in the attached final document by underscoring added text and striking over deleted text.

(Signed)

(Title)

(Dated)



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

10/08/2021

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER RSC Insurance Brokerage, Inc. 104 Woodmont Blvd. Suite 400 Nashville TN 37205	CONTACT NAME: Canessa Jones PHONE (A/C, No, Ext): FAX (A/C, No): E-MAIL ADDRESS: cjones@risk-strategies.com INSURER(S) AFFORDING COVERAGE INSURER A: Travelers Cas & Surety co AM INSURER B: INSURER C: INSURER D: INSURER E: INSURER F: NAIC # 31194
INSURED Thomas Weems, Architect 3203 Hanover Road Johnson City TN 37604	

COVERAGES**CERTIFICATE NUMBER:****REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☐ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☐ PRO-JECT ☐ LOC OTHER:						EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG
	AUTOMOBILE LIABILITY ☐ ANY AUTO ☐ OWNED AUTOS ONLY ☐ HIRED AUTOS ONLY ☐ SCHEDULED AUTOS ☐ NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)
	UMBRELLA LIAB EXCESS LIAB DED ☐ RETENTION \$ ☐						EACH OCCURRENCE AGGREGATE
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	☐ Y ☐ N	N/A				PER STATUTE OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT
A	Professional Liability			105364625	11/01/2020	11/01/2021	Each Claim Aggregate \$1,000,000 \$1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Re: TWA Project #021-023, Master Planning For: Elizabethton High School, 907 Jason Witten Way, Elizabethton, Tennessee 37643 and T A Dugger Junior High School, 305 West 'E' Street, Elizabethton, Tennessee 37643.

CERTIFICATE HOLDER**CANCELLATION**

Elizabethton City Schools 804 South Watauga Avenue Elizabethton TN 37643	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE

© 1988-2015 ACORD CORPORATION. All rights reserved.



AIA® Document A201® – 2007

General Conditions of the Contract for Construction

for the following PROJECT:

(Name and location or address) Master Planning For

Elizabethton High School

907 Jason Witten Way

Elizabethton, Tennessee 37643

and

T A Dugger Junior High School

305 West 'E' Street

Elizabethton, Tennessee 37643

TWA Project 021-023

THE OWNER:

(Name, legal status and address)

Elizabethton City Schools

804 South Watauga Avenue

Elizabethton, Tennessee 37643

Telephone: 423-547-8000

THE ARCHITECT:

(Name, legal status and address)

Thomas Weems Architect

3203 Hanover Road

Johnson City, Tennessee 37604

Telephone: 423-952-2700

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

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

Init.

AIA Document A201® – 2007. Copyright © 1911, 1915, 1918, 1925, 1937, 1951, 1958, 1961, 1963, 1966, 1970, 1976, 1987, 1997 and 2007 by The American Institute of Architects. All rights reserved. The "American Institute of Architects," "AIA," the AIA Logo, "A201," and "AIA Contract Documents" are registered trademarks and may not be used without permission. This document was produced by AIA software at 07:34:48 ET on 10/21/2021 under Order No.7805369175 which expires on 04/03/2022, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents® Terms of Service. To report copyright violations, e-mail copyright@aia.org.

User Notes:

(1764969830)

12	UNCOVERING AND CORRECTION OF WORK
13	MISCELLANEOUS PROVISIONS
14	TERMINATION OR SUSPENSION OF THE CONTRACT
15	CLAIMS AND DISPUTES



INDEX

(Topics and numbers in bold are section headings.)

Acceptance of Nonconforming Work

9.6.6, 9.9.3, **12.3**

Acceptance of Work

9.6.6, 9.8.2, 9.9.3, 9.10.1, 9.10.3, **12.3**

Access to Work

3.16, 6.2.1, **12.1**

Accident Prevention

10

Acts and Omissions

3.2, 3.3.2, 3.12.8, 3.18, 4.2.3, 8.3.1, 9.5.1, 10.2.5,
10.2.8, 13.4.2, 13.7, 14.1, 15.2

Addenda

1.1.1, 3.11

Additional Costs, Claims for

3.7.4, 3.7.5, 6.1.1, 7.3.7.5, 10.3, 15.1.4

Additional Inspections and Testing

9.4.2, 9.8.3, 12.2.1, **13.5**

Additional Insured

11.1.4

Additional Time, Claims for

3.2.4, 3.7.4, 3.7.5, 3.10.2, 8.3.2, **15.1.5**

Administration of the Contract

3.1.3, **4.2**, 9.4, 9.5

Advertisement or Invitation to Bid

1.1.1

Aesthetic Effect

4.2.13

Allowances

3.8, 7.3.8

All-risk Insurance

11.3.1, 11.3.1.1

Applications for Payment

4.2.5, 7.3.9, 9.2, **9.3**, 9.4, 9.5.1, 9.6.3, 9.7, 9.10, 11.1.3

Approvals

2.1.1, 2.2.2, 2.4, 3.1.3, 3.10.2, 3.12.8, 3.12.9, 3.12.10,
4.2.7, 9.3.2, 13.5.1

Arbitration

8.3.1, 11.3.10, 13.1, 15.3.2, **15.4**

ARCHITECT

4

Architect, Definition of

4.1.1

Architect, Extent of Authority

2.4, 3.12.7, 4.1, 4.2, 5.2, 6.3, 7.1.2, 7.3.7, 7.4, 9.2,
9.3.1, 9.4, 9.5, 9.6.3, 9.8, 9.10.1, 9.10.3, 12.1, 12.2.1,
13.5.1, 13.5.2, 14.2.2, 14.2.4, 15.1.3, 15.2.1

Architect, Limitations of Authority and Responsibility

2.1.1, 3.12.4, 3.12.8, 3.12.10, 4.1.2, 4.2.1, 4.2.2, 4.2.3,
4.2.6, 4.2.7, 4.2.10, 4.2.12, 4.2.13, 5.2.1, 7.4, 9.4.2,
9.5.3, 9.6.4, 15.1.3, 15.2

Architect's Additional Services and Expenses

2.4, 11.3.1.1, 12.2.1, 13.5.2, 13.5.3, 14.2.4

Architect's Administration of the Contract

3.1.3, 4.2, 3.7.4, 15.2, 9.4.1, 9.5

Architect's Approvals

2.4, 3.1.3, 3.5, 3.10.2, 4.2.7

Architect's Authority to Reject Work

3.5, 4.2.6, 12.1.2, 12.2.1

Architect's Copyright

1.1.7, 1.5

Architect's Decisions

3.7.4, 4.2.6, 4.2.7, 4.2.11, 4.2.12, 4.2.13, 4.2.14, 6.3,
7.3.7, 7.3.9, 8.1.3, 8.3.1, 9.2, 9.4.1, 9.5, 9.8.4, 9.9.1,
13.5.2, 15.2, 15.3

Architect's Inspections

3.7.4, 4.2.2, 4.2.9, 9.4.2, 9.8.3, 9.9.2, 9.10.1, 13.5

Architect's Instructions

3.2.4, 3.3.1, 4.2.6, 4.2.7, 13.5.2

Architect's Interpretations

4.2.11, 4.2.12

Architect's Project Representative

4.2.10

Architect's Relationship with Contractor

1.1.2, 1.5, 3.1.3, 3.2.2, 3.2.3, 3.2.4, 3.3.1, 3.4.2, 3.5,
3.7.4, 3.7.5, 3.9.2, 3.9.3, 3.10, 3.11, 3.12, 3.16, 3.18,
4.1.2, 4.1.3, 4.2, 5.2, 6.2.2, 7, 8.3.1, 9.2, 9.3, 9.4, 9.5,
9.7, 9.8, 9.9, 10.2.6, 10.3, 11.3.7, 12, 13.4.2, 13.5, 15.2

Architect's Relationship with Subcontractors

1.1.2, 4.2.3, 4.2.4, 4.2.6, 9.6.3, 9.6.4, 11.3.7

Architect's Representations

9.4.2, 9.5.1, 9.10.1

Architect's Site Visits

3.7.4, 4.2.2, 4.2.9, 9.4.2, 9.5.1, 9.9.2, 9.10.1, 13.5

Asbestos

10.3.1

Attorneys' Fees

3.18.1, 9.10.2, 10.3.3

Award of Separate Contracts

6.1.1, 6.1.2

Award of Subcontracts and Other Contracts for Portions of the Work

5.2

Basic Definitions

1.1

Bidding Requirements

1.1.1, 5.2.1, 11.4.1

Binding Dispute Resolution

9.7, 11.3.9, 11.3.10, 13.1, 15.2.5, 15.2.6.1, 15.3.1,
15.3.2, 15.4.1

Boiler and Machinery Insurance

11.3.2

Bonds, Lien

7.3.7.4, 9.10.2, 9.10.3

Bonds, Performance, and Payment

7.3.7.4, 9.6.7, 9.10.3, 11.3.9, **11.4**

Building Permit

3.7.1

Capitalization

1.3

Certificate of Substantial Completion

9.8.3, 9.8.4, 9.8.5

Certificates for Payment

4.2.1, 4.2.5, 4.2.9, 9.3.3, **9.4**, 9.5, 9.6.1, 9.6.6, 9.7,

9.10.1, 9.10.3, 14.1.1.3, 14.2.4, 15.1.3

Certificates of Inspection, Testing or Approval
13.5.4

Certificates of Insurance

9.10.2, 11.1.3

Change Orders

1.1.1, 2.4, 3.4.2, 3.7.4, 3.8.2.3, 3.11, 3.12.8, 4.2.8,
5.2.3, 7.1.2, 7.1.3, **7.2**, 7.3.2, 7.3.6, 7.3.9, 7.3.10, 8.3.1,
9.3.1.1, 9.10.3, 10.3.2, 11.3.1.2, 11.3.4, 11.3.9, 12.1.2,
15.1.3

Change Orders, Definition of

7.2.1

CHANGES IN THE WORK

2.2.1, 3.11, 4.2.8, **7**, 7.2.1, 7.3.1, 7.4, 8.3.1, 9.3.1.1,
11.3.9

Claims, Definition of

15.1.1

CLAIMS AND DISPUTES

3.2.4, 6.1.1, 6.3, 7.3.9, 9.3.3, 9.10.4, 10.3.3, **15**, 15.4

Claims and Timely Assertion of Claims
15.4.1

Claims for Additional Cost

3.2.4, 3.7.4, 6.1.1, 7.3.9, 10.3.2, **15.1.4**

Claims for Additional Time

3.2.4, 3.7.4, 6.1.1, 8.3.2, 10.3.2, **15.1.5**

Concealed or Unknown Conditions, Claims for
3.7.4

Claims for Damages

3.2.4, 3.18, 6.1.1, 8.3.3, 9.5.1, 9.6.7, 10.3.3, 11.1.1,
11.3.5, 11.3.7, 14.1.3, 14.2.4, 15.1.6

Claims Subject to Arbitration

15.3.1, 15.4.1

Cleaning Up

3.15, 6.3

Commencement of the Work, Conditions Relating to
2.2.1, 3.2.2, 3.4.1, 3.7.1, 3.10.1, 3.12.6, 5.2.1, 5.2.3,
6.2.2, 8.1.2, 8.2.2, 8.3.1, 11.1, 11.3.1, 11.3.6, 11.4.1,
15.1.4

Commencement of the Work, Definition of
8.1.2

Communications Facilitating Contract
Administration

3.9.1, **4.2.4**

Completion, Conditions Relating to

3.4.1, 3.11, 3.15, 4.2.2, 4.2.9, 8.2, 9.4.2, 9.8, 9.9.1,
9.10, 12.2, 13.7, 14.1.2

COMPLETION, PAYMENTS AND

9

Completion, Substantial

4.2.9, 8.1.1, 8.1.3, 8.2.3, 9.4.2, 9.8, 9.9.1, 9.10.3, 12.2,
13.7

Compliance with Laws

1.6, 3.2.3, 3.6, 3.7, 3.12.10, 3.13, 4.1.1, 9.6.4, 10.2.2,
11.1, 11.3, 13.1, 13.4, 13.5.1, 13.5.2, 13.6, 14.1.1,
14.2.1.3, 15.2.8, 15.4.2, 15.4.3

Concealed or Unknown Conditions

3.7.4, 4.2.8, 8.3.1, 10.3

Conditions of the Contract

1.1.1, 6.1.1, 6.1.4

Consent, Written

3.4.2, 3.7.4, 3.12.8, 3.14.2, 4.1.2, 9.3.2, 9.8.5, 9.9.1,
9.10.2, 9.10.3, 11.3.1, 13.2, 13.4.2, 15.4.4.2

Consolidation or Joinder

15.4.4

CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

1.1.4, **6**

Construction Change Directive, Definition of
7.3.1

Construction Change Directives

1.1.1, 3.4.2, 3.12.8, 4.2.8, 7.1.1, 7.1.2, 7.1.3, **7.3**,
9.3.1.1

Construction Schedules, Contractor's

3.10, 3.12.1, 3.12.2, 6.1.3, 15.1.5.2

Contingent Assignment of Subcontracts

5.4, 14.2.2.2

Continuing Contract Performance

15.1.3

Contract, Definition of

1.1.2

CONTRACT, TERMINATION OR SUSPENSION OF THE

5.4.1.1, 11.3.9, **14**

Contract Administration

3.1.3, 4, 9.4, 9.5

Contract Award and Execution, Conditions Relating
to

3.7.1, 3.10, 5.2, 6.1, 11.1.3, 11.3.6, 11.4.1

Contract Documents, Copies Furnished and Use of
1.5.2, 2.2.5, 5.3

Contract Documents, Definition of

1.1.1

Contract Sum

3.7.4, 3.8, 5.2.3, 7.2, 7.3, 7.4, **9.1**, 9.4.2, 9.5.1.4, 9.6.7,
9.7, 10.3.2, 11.3.1, 14.2.4, 14.3.2, 15.1.4, 15.2.5

Contract Sum, Definition of

9.1

Contract Time

3.7.4, 3.7.5, 3.10.2, 5.2.3, 7.2.1.3, 7.3.1, 7.3.5, 7.4,
8.1.1, 8.2.1, 8.3.1, 9.5.1, 9.7, 10.3.2, 12.1.1, 14.3.2,
15.1.5.1, 15.2.5

Contract Time, Definition of

8.1.1

CONTRACTOR

3

Contractor, Definition of

3.1, **6.1.2**

Contractor's Construction Schedules

3.10, 3.12.1, 3.12.2, 6.1.3, 15.1.5.2

Contractor's Employees

3.3.2, 3.4.3, 3.8.1, 3.9, 3.18.2, 4.2.3, 4.2.6, 10.2, 10.3, 11.1.1, 11.3.7, 14.1, 14.2.1.1

Contractor's Liability Insurance

11.1

Contractor's Relationship with Separate Contractors and Owner's Forces

3.12.5, 3.14.2, 4.2.4, 6, 11.3.7, 12.1.2, 12.2.4

Contractor's Relationship with Subcontractors

1.2.2, 3.3.2, 3.18.1, 3.18.2, 5, 9.6.2, 9.6.7, 9.10.2, 11.3.1.2, 11.3.7, 11.3.8

Contractor's Relationship with the Architect

1.1.2, 1.5, 3.1.3, 3.2.2, 3.2.3, 3.2.4, 3.3.1, 3.4.2, 3.5, 3.7.4, 3.10, 3.11, 3.12, 3.16, 3.18, 4.1.3, 4.2, 5.2, 6.2.2, 7, 8.3.1, 9.2, 9.3, 9.4, 9.5, 9.7, 9.8, 9.9, 10.2.6, 10.3, 11.3.7, 12, 13.5, 15.1.2, 15.2.1

Contractor's Representations

3.2.1, 3.2.2, 3.5, 3.12.6, 6.2.2, 8.2.1, 9.3.3, 9.8.2

Contractor's Responsibility for Those Performing the Work

3.3.2, 3.18, 5.3, 6.1.3, 6.2, 9.5.1, 10.2.8

Contractor's Review of Contract Documents
3.2

Contractor's Right to Stop the Work
9.7

Contractor's Right to Terminate the Contract
14.1, 15.1.6

Contractor's Submittals

3.10, 3.11, 3.12.4, 4.2.7, 5.2.1, 5.2.3, 9.2, 9.3, 9.8.2, 9.8.3, 9.9.1, 9.10.2, 9.10.3, 11.1.3, 11.4.2

Contractor's Superintendent

3.9, 10.2.6

Contractor's Supervision and Construction Procedures

1.2.2, 3.3, 3.4, 3.12.10, 4.2.2, 4.2.7, 6.1.3, 6.2.4, 7.1.3, 7.3.5, 7.3.7, 8.2, 10, 12, 14, 15.1.3

Contractual Liability Insurance

11.1.1.8, 11.2

Coordination and Correlation

1.2, 3.2.1, 3.3.1, 3.10, 3.12.6, 6.1.3, 6.2.1

Copies Furnished of Drawings and Specifications

1.5, 2.2.5, 3.11

Copyrights

1.5, **3.17**

Correction of Work

2.3, 2.4, 3.7.3, 9.4.2, 9.8.2, 9.8.3, 9.9.1, 12.1.2, **12.2**

Correlation and Intent of the Contract Documents 1.2

Cost, Definition of

7.3.7

Costs

2.4, 3.2.4, 3.7.3, 3.8.2, 3.15.2, 5.4.2, 6.1.1, 6.2.3, 7.3.3.3, 7.3.7, 7.3.8, 7.3.9, 9.10.2, 10.3.2, 10.3.6, 11.3, 12.1.2, 12.2.1, 12.2.4, 13.5, 14

Cutting and Patching

3.14, 6.2.5

Damage to Construction of Owner or Separate Contractors

3.14.2, 6.2.4, 10.2.1.2, 10.2.5, 10.4, 11.1.1, 11.3, 12.2.4

Damage to the Work

3.14.2, 9.9.1, 10.2.1.2, 10.2.5, 10.4, 11.3.1, 12.2.4

Damages, Claims for

3.2.4, 3.18, 6.1.1, 8.3.3, 9.5.1, 9.6.7, 10.3.3, 11.1.1, 11.3.5, 11.3.7, 14.1.3, 14.2.4, 15.1.6

Damages for Delay

6.1.1, 8.3.3, 9.5.1.6, 9.7, 10.3.2

Date of Commencement of the Work, Definition of **8.1.2**

Date of Substantial Completion, Definition of **8.1.3**

Day, Definition of

8.1.4

Decisions of the Architect

3.7.4, 4.2.6, 4.2.7, 4.2.11, 4.2.12, 4.2.13, 15.2, 6.3, 7.3.7, 7.3.9, 8.1.3, 8.3.1, 9.2, 9.4, 9.5.1, 9.8.4, 9.9.1, 13.5.2, 14.2.2, 14.2.4, 15.1, 15.2

Decisions to Withhold Certification

9.4.1, **9.5**, 9.7, 14.1.1.3

Defective or Nonconforming Work, Acceptance, Rejection and Correction of

2.3, 2.4, 3.5, 4.2.6, 6.2.5, 9.5.1, 9.5.2, 9.6.6, 9.8.2, 9.9.3, 9.10.4, 12.2.1

Definitions

1.1, 2.1.1, 3.1.1, 3.5, 3.12.1, 3.12.2, 3.12.3, 4.1.1, 15.1.1, 5.1, 6.1.2, 7.2.1, 7.3.1, 8.1, 9.1, 9.8.1

Delays and Extensions of Time

3.2, 3.7.4, 5.2.3, 7.2.1, 7.3.1, 7.4, **8.3**, 9.5.1, 9.7, 10.3.2, 10.4, 14.3.2, 15.1.5, 15.2.5

Disputes

6.3, 7.3.9, 15.1, 15.2

Documents and Samples at the Site

3.11

Drawings, Definition of

1.1.5

Drawings and Specifications, Use and Ownership of
3.11

Effective Date of Insurance

8.2.2, 11.1.2

Emergencies

10.4, 14.1.1.2, 15.1.4

Employees, Contractor's

3.3.2, 3.4.3, 3.8.1, 3.9, 3.18.2, 4.2.3, 4.2.6, 10.2, 10.3.3, 11.1.1, 11.3.7, 14.1, 14.2.1.1

Equipment, Labor, Materials or

1.1.3, 1.1.6, 3.4, 3.5, 3.8.2, 3.8.3, 3.12, 3.13, 3.15.1, 4.2.6, 4.2.7, 5.2.1, 6.2.1, 7.3.7, 9.3.2, 9.3.3, 9.5.1.3, 9.10.2, 10.2.1, 10.2.4, 14.2.1.1, 14.2.1.2

Execution and Progress of the Work
 1.1.3, 1.2.1, 1.2.2, 2.2.3, 2.2.5, 3.1, 3.3.1, 3.4.1, 3.5, 3.7.1, 3.10.1, 3.12, 3.14, 4.2, 6.2.2, 7.1.3, 7.3.5, 8.2, 9.5.1, 9.9.1, 10.2, 10.3, 12.2, 14.2, 14.3.1, 15.1.3
 Extensions of Time
 3.2.4, 3.7.4, 5.2.3, 7.2.1, 7.3, 7.4, 9.5.1, 9.7, 10.3.2, 10.4, 14.3, 15.1.5, 15.2.5
Failure of Payment
 9.5.1.3, **9.7**, 9.10.2, 13.6, 14.1.1.3, 14.2.1.2
 Faulty Work
 (See Defective or Nonconforming Work)
Final Completion and Final Payment
 4.2.1, 4.2.9, 9.8.2, **9.10**, 11.1.2, 11.1.3, 11.3.1, 11.3.5, 12.3, 14.2.4, 14.4.3
 Financial Arrangements, Owner's
 2.2.1, 13.2.2, 14.1.1.4
 Fire and Extended Coverage Insurance
 11.3.1.1
GENERAL PROVISIONS
1
Governing Law
13.1
 Guarantees (See Warranty)
Hazardous Materials
 10.2.4, **10.3**
 Identification of Subcontractors and Suppliers
 5.2.1
Indemnification
 3.17, **3.18**, 9.10.2, 10.3.3, 10.3.5, 10.3.6, 11.3.1.2, 11.3.7
Information and Services Required of the Owner
 2.1.2, **2.2**, 3.2.2, 3.12.4, 3.12.10, 6.1.3, 6.1.4, 6.2.5, 9.6.1, 9.6.4, 9.9.2, 9.10.3, 10.3.3, 11.2, 11.4, 13.5.1, 13.5.2, 14.1.1.4, 14.1.4, 15.1.3
Initial Decision
15.2
Initial Decision Maker, Definition of
 1.1.8
 Initial Decision Maker, Decisions
 14.2.2, 14.2.4, 15.2.1, 15.2.2, 15.2.3, 15.2.4, 15.2.5
 Initial Decision Maker, Extent of Authority
 14.2.2, 14.2.4, 15.1.3, 15.2.1, 15.2.2, 15.2.3, 15.2.4, 15.2.5
Injury or Damage to Person or Property
10.2.8, 10.4
 Inspections
 3.1.3, 3.3.3, 3.7.1, 4.2.2, 4.2.6, 4.2.9, 9.4.2, 9.8.3, 9.9.2, 9.10.1, 12.2.1, 13.5
 Instructions to Bidders
 1.1.1
 Instructions to the Contractor
 3.2.4, 3.3.1, 3.8.1, 5.2.1, 7, 8.2.2, 12, 13.5.2
Instruments of Service, Definition of
1.1.7
 Insurance
 3.18.1, 6.1.1, 7.3.7, 9.3.2, 9.8.4, 9.9.1, 9.10.2, **11**

Insurance, Boiler and Machinery
11.3.2
Insurance, Contractor's Liability
11.1
 Insurance, Effective Date of
 8.2.2, 11.1.2
Insurance, Loss of Use
11.3.3
Insurance, Owner's Liability
11.2
Insurance, Property
 10.2.5, **11.3**
 Insurance, Stored Materials
 9.3.2
INSURANCE AND BONDS
11
 Insurance Companies, Consent to Partial Occupancy
 9.9.1
 Intent of the Contract Documents
 1.2.1, 4.2.7, 4.2.12, 4.2.13, 7.4
Interest
13.6
Interpretation
 1.2.3, **1.4**, 4.1.1, 5.1, 6.1.2, 15.1.1
 Interpretations, Written
 4.2.11, 4.2.12, 15.1.4
 Judgment on Final Award
 15.4.2
Labor and Materials, Equipment
 1.1.3, 1.1.6, **3.4**, 3.5, 3.8.2, 3.8.3, 3.12, 3.13, 3.15.1, 4.2.6, 4.2.7, 5.2.1, 6.2.1, 7.3.7, 9.3.2, 9.3.3, 9.5.1.3, 9.10.2, 10.2.1, 10.2.4, 14.2.1.1, 14.2.1.2
 Labor Disputes
 8.3.1
 Laws and Regulations
 1.5, 3.2.3, 3.6, 3.7, 3.12.10, 3.13, 4.1.1, 9.6.4, 9.9.1, 10.2.2, 11.1.1, 11.3, 13.1, 13.4, 13.5.1, 13.5.2, 13.6, 14, 15.2.8, 15.4
 Liens
 2.1.2, 9.3.3, 9.10.2, 9.10.4, 15.2.8
 Limitations, Statutes of
 12.2.5, 13.7, 15.4.1.1
 Limitations of Liability
 2.3, 3.2.2, 3.5, 3.12.10, 3.17, 3.18.1, 4.2.6, 4.2.7, 4.2.12, 6.2.2, 9.4.2, 9.6.4, 9.6.7, 10.2.5, 10.3.3, 11.1.2, 11.2, 11.3.7, 12.2.5, 13.4.2
 Limitations of Time
 2.1.2, 2.2, 2.4, 3.2.2, 3.10, 3.11, 3.12.5, 3.15.1, 4.2.7, 5.2, 5.3, 5.4.1, 6.2.4, 7.3, 7.4, 8.2, 9.2, 9.3.1, 9.3.3, 9.4.1, 9.5, 9.6, 9.7, 9.8, 9.9, 9.10, 11.1.3, 11.3.1.5, 11.3.6, 11.3.10, 12.2, 13.5, 13.7, 14, 15
Loss of Use Insurance
11.3.3
 Material Suppliers
 1.5, 3.12.1, 4.2.4, 4.2.6, 5.2.1, 9.3, 9.4.2, 9.6, 9.10.5
Materials, Hazardous
 10.2.4, **10.3**

Materials, Labor, Equipment and
1.1.3, 1.1.6, 1.5.1, 3.4.1, 3.5, 3.8.2, 3.8.3, 3.12, 3.13,
3.15.1, 4.2.6, 4.2.7, 5.2.1, 6.2.1, 7.3.7, 9.3.2, 9.3.3,
9.5.1.3, 9.10.2, 10.2.1.2, 10.2.4, 14.2.1.1, 14.2.1.2
Means, Methods, Techniques, Sequences and
Procedures of Construction
3.3.1, 3.12.10, 4.2.2, 4.2.7, 9.4.2
Mechanic's Lien
2.1.2, 15.2.8
Mediation
8.3.1, 10.3.5, 10.3.6, 15.2.1, 15.2.5, 15.2.6, **15.3**,
15.4.1
Minor Changes in the Work
1.1.1, 3.12.8, 4.2.8, 7.1, **7.4**
MISCELLANEOUS PROVISIONS
13
Modifications, Definition of
1.1.1
Modifications to the Contract
1.1.1, 1.1.2, 3.11, 4.1.2, 4.2.1, 5.2.3, 7, 8.3.1, 9.7,
10.3.2, 11.3.1
Mutual Responsibility
6.2
Nonconforming Work, Acceptance of
9.6.6, 9.9.3, **12.3**
Nonconforming Work, Rejection and Correction of
2.3, 2.4, 3.5, 4.2.6, 6.2.4, 9.5.1, 9.8.2, 9.9.3, 9.10.4,
12.2.1
Notice
2.2.1, 2.3, 2.4, 3.2.4, 3.3.1, 3.7.2, 3.12.9, 5.2.1, 9.7,
9.10, 10.2.2, 11.1.3, 12.2.2.1, 13.3, 13.5.1, 13.5.2,
14.1, 14.2, 15.2.8, 15.4.1
Notice, Written
2.3, 2.4, 3.3.1, 3.9.2, 3.12.9, 3.12.10, 5.2.1, 9.7, 9.10,
10.2.2, 10.3, 11.1.3, 11.3.6, 12.2.2.1, **13.3**, 14, 15.2.8,
15.4.1
Notice of Claims
3.7.4, 10.2.8, **15.1.2**, 15.4
Notice of Testing and Inspections
13.5.1, 13.5.2
Observations, Contractor's
3.2, 3.7.4
Occupancy
2.2.2, 9.6.6, 9.8, 11.3.1.5
Orders, Written
1.1.1, 2.3, 3.9.2, 7, 8.2.2, 11.3.9, 12.1, 12.2.2.1, 13.5.2,
14.3.1
OWNER
2
Owner, Definition of
2.1.1
Owner, Information and Services Required of the
2.1.2, **2.2**, 3.2.2, 3.12.10, 6.1.3, 6.1.4, 6.2.5, 9.3.2,
9.6.1, 9.6.4, 9.9.2, 9.10.3, 10.3.3, 11.2, 11.3, 13.5.1,
13.5.2, 14.1.1.4, 14.1.4, 15.1.3

Owner's Authority
1.5, 2.1.1, 2.3, 2.4, 3.4.2, 3.8.1, 3.12.10, 3.14.2, 4.1.2,
4.1.3, 4.2.4, 4.2.9, 5.2.1, 5.2.4, 5.4.1, 6.1, 6.3, 7.2.1,
7.3.1, 8.2.2, 8.3.1, 9.3.1, 9.3.2, 9.5.1, 9.6.4, 9.9.1,
9.10.2, 10.3.2, 11.1.3, 11.3.3, 11.3.10, 12.2.2, 12.3,
13.2.2, 14.3, 14.4, 15.2.7
Owner's Financial Capability
2.2.1, 13.2.2, 14.1.1.4
Owner's Liability Insurance
11.2
Owner's Relationship with Subcontractors
1.1.2, 5.2, 5.3, 5.4, 9.6.4, 9.10.2, 14.2.2
Owner's Right to Carry Out the Work
2.4, 14.2.2
Owner's Right to Clean Up
6.3
Owner's Right to Perform Construction and to
Award Separate Contracts
6.1
Owner's Right to Stop the Work
2.3
Owner's Right to Suspend the Work
14.3
Owner's Right to Terminate the Contract
14.2
Ownership and Use of Drawings, Specifications
and Other Instruments of Service
1.1.1, 1.1.6, 1.1.7, **1.5**, 2.2.5, 3.2.2, 3.11, 3.17, 4.2.12,
5.3
Partial Occupancy or Use
9.6.6, **9.9**, 11.3.1.5
Patching, Cutting and
3.14, 6.2.5
Patents
3.17
Payment, Applications for
4.2.5, 7.3.9, 9.2, **9.3**, 9.4, 9.5, 9.6.3, 9.7, 9.8.5, 9.10.1,
14.2.3, 14.2.4, 14.4.3
Payment, Certificates for
4.2.5, 4.2.9, 9.3.3, **9.4**, 9.5, 9.6.1, 9.6.6, 9.7, 9.10.1,
9.10.3, 13.7, 14.1.1.3, 14.2.4
Payment, Failure of
9.5.1.3, **9.7**, 9.10.2, 13.6, 14.1.1.3, 14.2.1.2
Payment, Final
4.2.1, 4.2.9, 9.8.2, 9.10, 11.1.2, 11.1.3, 11.4.1, 12.3,
13.7, 14.2.4, 14.4.3
Payment Bond, Performance Bond and
7.3.7.4, 9.6.7, 9.10.3, **11.4**
Payments, Progress
9.3, **9.6**, 9.8.5, 9.10.3, 13.6, 14.2.3, 15.1.3
PAYMENTS AND COMPLETION
9
Payments to Subcontractors
5.4.2, 9.5.1.3, 9.6.2, 9.6.3, 9.6.4, 9.6.7, 14.2.1.2
PCB
10.3.1

Performance Bond and Payment Bond

7.3.7.4, 9.6.7, 9.10.3, 11.4

Permits, Fees, Notices and Compliance with Laws

2.2.2, 3.7, 3.13, 7.3.7.4, 10.2.2

PERSONS AND PROPERTY, PROTECTION OF

10

Polychlorinated Biphenyl

10.3.1

Product Data, Definition of

3.12.2

Product Data and Samples, Shop Drawings

3.11, 3.12, 4.2.7

Progress and Completion

4.2.2, 8.2, 9.8, 9.9.1, 14.1.4, 15.1.3

Progress Payments

9.3, 9.6, 9.8.5, 9.10.3, 13.6, 14.2.3, 15.1.3

Project, Definition of

1.1.4

Project Representatives

4.2.10

Property Insurance

10.2.5, 11.3

PROTECTION OF PERSONS AND PROPERTY

10

Regulations and Laws

1.5, 3.2.3, 3.6, 3.7, 3.12.10, 3.13, 4.1.1, 9.6.4, 9.9.1, 10.2.2, 11.1, 11.4, 13.1, 13.4, 13.5.1, 13.5.2, 13.6, 14, 15.2.8, 15.4

Rejection of Work

3.5, 4.2.6, 12.2.1

Releases and Waivers of Liens

9.10.2

Representations

3.2.1, 3.5, 3.12.6, 6.2.2, 8.2.1, 9.3.3, 9.4.2, 9.5.1, 9.8.2, 9.10.1

Representatives

2.1.1, 3.1.1, 3.9, 4.1.1, 4.2.1, 4.2.2, 4.2.10, 5.1.1, 5.1.2, 13.2.1

Responsibility for Those Performing the Work

3.3.2, 3.18, 4.2.3, 5.3, 6.1.3, 6.2, 6.3, 9.5.1, 10

Retainage

9.3.1, 9.6.2, 9.8.5, 9.9.1, 9.10.2, 9.10.3

Review of Contract Documents and Field

Conditions by Contractor

3.2, 3.12.7, 6.1.3

Review of Contractor's Submittals by Owner and Architect

3.10.1, 3.10.2, 3.11, 3.12, 4.2, 5.2, 6.1.3, 9.2, 9.8.2

Review of Shop Drawings, Product Data and Samples by Contractor

3.12

Rights and Remedies

1.1.2, 2.3, 2.4, 3.5, 3.7.4, 3.15.2, 4.2.6, 5.3, 5.4, 6.1, 6.3, 7.3.1, 8.3, 9.5.1, 9.7, 10.2.5, 10.3, 12.2.2, 12.2.4, 13.4, 14, 15.4

Royalties, Patents and Copyrights

3.17

Rules and Notices for Arbitration

15.4.1

Safety of Persons and Property

10.2, 10.4

Safety Precautions and Programs

3.3.1, 4.2.2, 4.2.7, 5.3, 10.1, 10.2, 10.4

Samples, Definition of

3.12.3

Samples, Shop Drawings, Product Data and

3.11, 3.12, 4.2.7

Samples at the Site, Documents and

3.11

Schedule of Values

9.2, 9.3.1

Schedules, Construction

3.10, 3.12.1, 3.12.2, 6.1.3, 15.1.5.2

Separate Contracts and Contractors

1.1.4, 3.12.5, 3.14.2, 4.2.4, 4.2.7, 6, 8.3.1, 12.1.2

Shop Drawings, Definition of

3.12.1

Shop Drawings, Product Data and Samples

3.11, 3.12, 4.2.7

Site, Use of

3.13, 6.1.1, 6.2.1

Site Inspections

3.2.2, 3.3.3, 3.7.1, 3.7.4, 4.2, 9.4.2, 9.10.1, 13.5

Site Visits, Architect's

3.7.4, 4.2.2, 4.2.9, 9.4.2, 9.5.1, 9.9.2, 9.10.1, 13.5

Special Inspections and Testing

4.2.6, 12.2.1, 13.5

Specifications, Definition of

1.1.6

Specifications

1.1.1, 1.1.6, 1.2.2, 1.5, 3.11, 3.12.10, 3.17, 4.2.14

Statute of Limitations

13.7, 15.4.1.1

Stopping the Work

2.3, 9.7, 10.3, 14.1

Stored Materials

6.2.1, 9.3.2, 10.2.1.2, 10.2.4

Subcontractor, Definition of

5.1.1

SUBCONTRACTORS

5

Subcontractors, Work by

1.2.2, 3.3.2, 3.12.1, 4.2.3, 5.2.3, 5.3, 5.4, 9.3.1.2, 9.6.7

Subcontractual Relations

5.3, 5.4, 9.3.1.2, 9.6, 9.10, 10.2.1, 14.1, 14.2.1

Submittals

3.10, 3.11, 3.12, 4.2.7, 5.2.1, 5.2.3, 7.3.7, 9.2, 9.3, 9.8, 9.9.1, 9.10.2, 9.10.3, 11.1.3

Submittal Schedule

3.10.2, 3.12.5, 4.2.7

Subrogation, Waivers of

6.1.1, 11.3.7

Substantial Completion

4.2.9, 8.1.1, 8.1.3, 8.2.3, 9.4.2, **9.8**, 9.9.1, 9.10.3, 12.2, 13.7

Substantial Completion, Definition of 9.8.1

Substitution of Subcontractors

5.2.3, 5.2.4

Substitution of Architect

4.1.3

Substitutions of Materials

3.4.2, 3.5, 7.3.8

Sub-subcontractor, Definition of

5.1.2

Subsurface Conditions

3.7.4

Successors and Assigns

13.2

Superintendent

3.9, 10.2.6

Supervision and Construction Procedures

1.2.2, **3.3**, 3.4, 3.12.10, 4.2.2, 4.2.7, 6.1.3, 6.2.4, 7.1.3, 7.3.7, 8.2, 8.3.1, 9.4.2, 10, 12, 14, 15.1.3

Surety

5.4.1.2, 9.8.5, 9.10.2, 9.10.3, 14.2.2, 15.2.7

Surety, Consent of

9.10.2, 9.10.3

Surveys

2.2.3

Suspension by the Owner for Convenience

14.3

Suspension of the Work

5.4.2, 14.3

Suspension or Termination of the Contract

5.4.1.1, 14

Taxes

3.6, 3.8.2.1, 7.3.7.4

Termination by the Contractor

14.1, 15.1.6

Termination by the Owner for Cause

5.4.1.1, **14.2**, 15.1.6

Termination by the Owner for Convenience

14.4

Termination of the Architect

4.1.3

Termination of the Contractor

14.2.2

TERMINATION OR SUSPENSION OF THE CONTRACT

14

Tests and Inspections

3.1.3, 3.3.3, 4.2.2, 4.2.6, 4.2.9, 9.4.2, 9.8.3, 9.9.2, 9.10.1, 10.3.2, 11.4.1, 12.2.1, **13.5**

TIME

8

Time, Delays and Extensions of

3.2.4, 3.7.4, 5.2.3, 7.2.1, 7.3.1, 7.4, **8.3**, 9.5.1, 9.7, 10.3.2, 10.4, 14.3.2, 15.1.5, 15.2.5

Time Limits

2.1.2, 2.2, 2.4, 3.2.2, 3.10, 3.11, 3.12.5, 3.15.1, 4.2, 5.2, 5.3, 5.4, 6.2.4, 7.3, 7.4, 8.2, 9.2, 9.3.1, 9.3.3, 9.4.1, 9.5, 9.6, 9.7, 9.8, 9.9, 9.10, 11.1.3, 12.2, 13.5, 13.7, 14, 15.1.2, 15.4

Time Limits on Claims

3.7.4, 10.2.8, **13.7**, 15.1.2

Title to Work

9.3.2, 9.3.3

Transmission of Data in Digital Form

1.6

UNCOVERING AND CORRECTION OF WORK

12

Uncovering of Work

12.1

Unforeseen Conditions, Concealed or Unknown

3.7.4, 8.3.1, 10.3

Unit Prices

7.3.3.2, 7.3.4

Use of Documents

1.1.1, 1.5, 2.2.5, 3.12.6, 5.3

Use of Site

3.13, 6.1.1, 6.2.1

Values, Schedule of

9.2, 9.3.1

Waiver of Claims by the Architect

13.4.2

Waiver of Claims by the Contractor

9.10.5, 13.4.2, 15.1.6

Waiver of Claims by the Owner

9.9.3, 9.10.3, 9.10.4, 12.2.2.1, 13.4.2, 14.2.4, 15.1.6

Waiver of Consequential Damages

14.2.4, 15.1.6

Waiver of Liens

9.10.2, 9.10.4

Waivers of Subrogation

6.1.1, **11.3.7**

Warranty

3.5, 4.2.9, 9.3.3, 9.8.4, 9.9.1, 9.10.4, 12.2.2, 13.7

Weather Delays

15.1.5.2

Work, Definition of

1.1.3

Written Consent

1.5.2, 3.4.2, 3.7.4, 3.12.8, 3.14.2, 4.1.2, 9.3.2, 9.8.5, 9.9.1, 9.10.2, 9.10.3, 11.4.1, 13.2, 13.4.2, 15.4.4.2

Written Interpretations

4.2.11, 4.2.12

Written Notice

2.3, 2.4, 3.3.1, 3.9, 3.12.9, 3.12.10, 5.2.1, 8.2.2, 9.7, 9.10, 10.2.2, 10.3, 11.1.3, 12.2.2, 12.2.4, **13.3**, 14, 15.4.1

Written Orders

1.1.1, 2.3, 3.9, 7, 8.2.2, 12.1, 12.2, 13.5.2, 14.3.1, 15.1.2

ARTICLE 1 GENERAL PROVISIONS

§ 1.1 BASIC DEFINITIONS

§ 1.1.1 THE CONTRACT DOCUMENTS

The Contract Documents are enumerated in the Agreement between the Owner and Contractor (hereinafter the Agreement) and consist of the Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of the Contract, other documents listed in the Agreement and Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive or (4) a written order for a minor change in the Work issued by the Architect. Unless specifically enumerated in the Agreement, the Contract Documents do not include the advertisement or invitation to bid, Instructions to Bidders, sample forms, other information furnished by the Owner in anticipation of receiving bids or proposals, the Contractor's bid or proposal, or portions of Addenda relating to bidding requirements.

§ 1.1.2 THE CONTRACT

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

§ 1.1.3 THE WORK

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

§ 1.1.4 THE PROJECT

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

§ 1.1.5 THE DRAWINGS

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

§ 1.1.6 THE SPECIFICATIONS

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

§ 1.1.7 INSTRUMENTS OF SERVICE

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

§ 1.1.8 INITIAL DECISION MAKER

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

§ 1.2 CORRELATION AND INTENT OF THE CONTRACT DOCUMENTS

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

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

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

§ 1.3 CAPITALIZATION

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

§ 1.4 INTERPRETATION

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

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

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

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

§ 1.6 TRANSMISSION OF DATA IN DIGITAL FORM

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

ARTICLE 2 OWNER

§ 2.1 GENERAL

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

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

§ 2.2 INFORMATION AND SERVICES REQUIRED OF THE OWNER

§ 2.2.1 Prior to commencement of the Work, the Contractor may request in writing that the Owner provide reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. Thereafter, the Contractor may only request such evidence if (1) the Owner fails to make payments to the Contractor as the Contract Documents require; (2) a change in the Work materially changes the Contract Sum; or (3) the Contractor identifies in writing a reasonable concern regarding the Owner's ability to make payment when due. The Owner shall furnish such evidence as a condition precedent to commencement or continuation of the Work or the

portion of the Work affected by a material change. After the Owner furnishes the evidence, the Owner shall not materially vary such financial arrangements without prior notice to the Contractor.

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

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

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

§ 2.2.5 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.

§ 2.3 OWNER'S RIGHT TO STOP THE WORK

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

§ 2.4 OWNER'S RIGHT TO CARRY OUT THE WORK

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a ten-day period after receipt of written notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such deficiencies. In such case an appropriate Change Order shall be issued deducting from payments then or thereafter due the Contractor the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Architect's additional services made necessary by such default, neglect or failure. Such action by the Owner and amounts charged to the Contractor are both subject to prior approval of the Architect. If payments then or thereafter due the Contractor are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner.

ARTICLE 3 CONTRACTOR

§ 3.1 GENERAL

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

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

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

§ 3.2 REVIEW OF CONTRACT DOCUMENTS AND FIELD CONDITIONS BY CONTRACTOR

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

§ 3.2.2 Because the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 2.2.3, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating coordination and construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, the Contractor shall promptly report to the 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 make Claims as provided in Article 15. If the Contractor fails to perform the obligations of Sections 3.2.2 or 3.2.3, the Contractor shall pay such costs and damages to the Owner as would have been avoided if the Contractor had performed such obligations. If the Contractor performs those obligations, the Contractor shall not be liable to the Owner or Architect for damages resulting from errors, inconsistencies or omissions in the Contract Documents, for differences between field measurements or conditions and the Contract Documents, or for nonconformities of the Contract Documents to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities.

§ 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, unless the Contract Documents give other specific instructions concerning these matters. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences or procedures, the Contractor shall evaluate the jobsite safety thereof and, except as stated below, shall be fully and 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 not proceed with that portion of the Work without further written instructions from the Architect. If the Contractor is then instructed to proceed with the required means, methods, techniques, sequences or procedures without acceptance of changes proposed by the Contractor, the Owner shall be solely responsible for any loss or damage arising solely from those Owner-required 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 authorized by the Architect in accordance with Sections 3.12.8 or 7.4, the Contractor may make substitutions only with the consent of the Owner, after evaluation by the Architect and in accordance with a Change Order or Construction Change Directive.

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

§ 3.5 WARRANTY

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

§ 3.6 TAXES

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

§ 3.7 PERMITS, FEES, NOTICES AND COMPLIANCE WITH LAWS

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

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

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

§ 3.7.4 **Concealed or Unknown Conditions.** If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature, that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner and the Architect before conditions are disturbed and in no event later than 21 days after first observance of the conditions. The Architect will promptly investigate such conditions and, if the Architect determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend an equitable adjustment in the Contract Sum or Contract Time, or both. If the Architect determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall promptly notify the Owner and Contractor in writing, stating the reasons. If either party disputes the Architect's determination or recommendation, that party may proceed as provided in Article 15.

§ 3.7.5 If, in the course of the Work, the Contractor encounters human remains or recognizes the existence of burial markers, archaeological sites or wetlands not indicated in the Contract Documents, the Contractor shall immediately suspend any operations that would affect them and shall notify the Owner and Architect. Upon receipt of such notice, the Owner shall promptly take any action necessary to obtain governmental authorization required to resume the operations. The Contractor shall continue to suspend such operations until otherwise instructed by the Owner but shall

continue with all other operations that do not affect those remains or features. Requests for adjustments in the Contract Sum and Contract Time arising from the existence of such remains or features may be made as provided in Article 15.

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

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

§ 3.10 CONTRACTOR'S CONSTRUCTION SCHEDULES

§ 3.10.1 The Contractor, promptly after being awarded the Contract, shall prepare and submit for the Owner's and Architect's information a Contractor's construction schedule for the Work. The schedule shall not exceed time limits current under the Contract Documents, shall be revised at appropriate intervals as required by the conditions of the Work and Project, shall be related to the entire Project to the extent required by the Contract Documents, and shall provide for expeditious and practicable execution of the Work.

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

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

§ 3.11 DOCUMENTS AND SAMPLES AT THE SITE

The Contractor shall maintain at the site for the Owner one copy of the Drawings, Specifications, Addenda, Change Orders and other Modifications, in good order and marked currently to indicate field changes and selections made during construction, and one copy of approved Shop Drawings, Product Data, Samples and similar required

submittals. These shall be available to the Architect and shall be delivered to the Architect for submittal to the Owner upon completion of the Work as a record of the Work as constructed.

§ 3.12 SHOP DRAWINGS, PRODUCT DATA AND SAMPLES

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

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

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

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

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

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

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

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

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

§ 3.12.10 The Contractor shall not be required to provide professional services that constitute the practice of architecture or engineering unless such services are specifically required by the Contract Documents for a portion of the Work or unless the Contractor needs to provide such services in order to carry out the Contractor's responsibilities for construction means, methods, techniques, sequences and procedures. The Contractor shall not be required to provide professional services in violation of applicable law. If professional design services or certifications by a design professional related to systems, materials or equipment are specifically required of the Contractor by the Contract Documents, the Owner and the Architect will specify all performance and design criteria that such services must satisfy. The Contractor shall cause such services or certifications to be provided by a properly licensed design professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop

Drawings and other submittals prepared by such professional. Shop Drawings and other submittals related to the Work designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to the Architect. The Owner and the Architect shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications and approvals performed or provided by such design professionals, provided the Owner and Architect have specified to the Contractor all performance and design criteria that such services must satisfy. Pursuant to this Section 3.12.10, the Architect will review, approve or take other appropriate action on submittals only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Contractor shall not be responsible for the adequacy of the performance and design criteria specified in the Contract Documents.

§ 3.13 USE OF SITE

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

§ 3.14 CUTTING AND PATCHING

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

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

§ 3.15 CLEANING UP

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

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

§ 3.16 ACCESS TO WORK

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

§ 3.17 ROYALTIES, PATENTS AND COPYRIGHTS

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

§ 3.18 INDEMNIFICATION

§ 3.18.1 To the fullest extent permitted by law the Contractor shall indemnify and hold harmless the Owner, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, 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 Owner shall retain an architect lawfully licensed to practice architecture or an entity lawfully practicing architecture in the jurisdiction where the Project is located. That person or entity is identified as the Architect in the Agreement and is referred to throughout the Contract Documents as if singular in number.

§ 4.1.2 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.

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

§ 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, except as provided in Section 3.3.1.

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

§ 4.2.4 COMMUNICATIONS FACILITATING CONTRACT ADMINISTRATION

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

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

§ 4.2.6 The Architect has authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect will have authority to require inspection or testing of the Work in accordance with Sections 13.5.2 and 13.5.3, whether or not such Work is fabricated, installed or completed.

However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, material and equipment suppliers, their agents or employees, or other persons or entities performing portions of the Work.

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

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

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

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

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

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

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

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

ARTICLE 5 SUBCONTRACTORS

§ 5.1 DEFINITIONS

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

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

§ 5.2 AWARD OF SUBCONTRACTS AND OTHER CONTRACTS FOR PORTIONS OF THE WORK

§ 5.2.1 Unless otherwise stated in the Contract Documents or the bidding requirements, the Contractor, as soon as practicable after award of the Contract, shall furnish in writing to the Owner through the Architect the names of persons or entities (including those who are to furnish materials or equipment fabricated to a special design) proposed for each principal portion of the Work. The Architect may reply within 14 days to the Contractor in writing stating (1) whether the Owner or the Architect has reasonable objection to any such proposed person or entity or (2) that the Architect requires additional time for review. Failure of the Owner or Architect to reply 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 previously selected if the Owner or Architect makes reasonable objection to such substitution.

§ 5.3 SUBCONTRACTUAL RELATIONS

By appropriate agreement, written where legally required for validity, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work, which the Contractor, by these Documents, assumes toward the Owner and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, 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 in writing; and
- .2 assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

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

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

§ 5.4.3 Upon such assignment to the Owner under this Section 5.4, the Owner may further assign the subcontract to a successor contractor or other entity. 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 Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and to award separate contracts in connection with other portions of the Project or other construction or operations on the site under Conditions of the Contract identical or substantially similar to these including those portions related to insurance and waiver of subrogation. If the Contractor claims that delay or additional cost is involved because of such action by the Owner, the Contractor shall make such Claim as provided in Article 15.

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

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

§ 6.1.4 Unless otherwise provided in the Contract Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces, the Owner shall be deemed to be subject to the same obligations and to have the same rights that apply to the Contractor under the 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 report to the Architect apparent discrepancies or defects in such other construction that would render it unsuitable for such proper execution and results. Failure of the Contractor so to report shall constitute an acknowledgment that the Owner's or separate contractor's completed or partially completed construction is fit and proper to receive the Contractor's Work, except as to defects not then reasonably discoverable.

§ 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 the Contractor wrongfully causes to completed or partially completed construction or to property of the Owner or separate contractors as provided in Section 10.2.5.

§ 6.2.5 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, and the Contractor shall proceed promptly, unless otherwise provided in the Change Order, Construction Change Directive or order for a minor change in the Work.

§ 7.2 CHANGE ORDERS

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

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

§ 7.3 CONSTRUCTION CHANGE DIRECTIVES

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

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

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

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

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

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

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

§ 7.3.7 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Architect shall determine the method and the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount. In such case, and also under Section 7.3.3.3, the Contractor shall keep and present, in such form as the Architect may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Section 7.3.7 shall be limited to the following:

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

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

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

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

§ 7.4 MINOR CHANGES IN THE WORK

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

ARTICLE 8 TIME

§ 8.1 DEFINITIONS

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

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

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

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

§ 8.2 PROGRESS AND COMPLETION

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

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

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

§ 8.3 DELAYS AND EXTENSIONS OF TIME

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

§ 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

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

§ 9.2 SCHEDULE OF VALUES

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

§ 9.3 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. Such application shall be notarized, if required, and supported by such data substantiating the Contractor's right to payment as the Owner or Architect may require, such as copies of requisitions from Subcontractors and material suppliers, and shall reflect retainage if provided for in the Contract Documents.

§ 9.3.1.1 As provided in Section 7.3.9, such applications may include requests for payment on account of changes in the Work that have been properly authorized by Construction Change Directives, 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 material supplier, unless such Work has been performed by others whom the Contractor intends to pay.

§ 9.3.2 Unless otherwise provided in the Contract Documents, payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed upon in writing. Payment for materials and equipment stored on or off the site shall be conditioned upon

compliance by the Contractor with procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest, and shall include the costs of applicable insurance, storage and transportation to the site for such materials and equipment stored off the site.

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

§ 9.4 CERTIFICATES FOR PAYMENT

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

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

§ 9.5 DECISIONS TO WITHHOLD CERTIFICATION

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

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

§ 9.5.3 If the Architect withholds certification for payment under Section 9.5.1.3, the Owner may, at its sole option, issue joint checks to the Contractor and to any Subcontractor or material or equipment suppliers to whom the

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

§ 9.6 PROGRESS PAYMENTS

§ 9.6.1 After the Architect has issued a Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the Contract Documents, and shall so notify the Architect.

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

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

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

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

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

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

§ 9.7 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 binding dispute resolution, then the Contractor may, upon seven additional days' written notice to the Owner and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shut-down, delay and start-up, plus interest as provided for in the 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, shall establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance, and shall fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

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

§ 9.9 PARTIAL OCCUPANCY OR USE

§ 9.9.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Contractor, provided such occupancy or use is consented to by the insurer as required under Section 11.3.1.5 and authorized by public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When the Contractor considers a portion substantially complete, the Contractor shall prepare and submit a list to the Architect as provided under Section 9.8.2. Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Contractor or, if no agreement is reached, by decision of the Architect.

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

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

§ 9.10 FINAL COMPLETION AND FINAL PAYMENT

§ 9.10.1 Upon receipt of the Contractor's written notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Architect will promptly make such inspection and, when the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Architect will promptly issue a final Certificate for Payment stating that to the best of the Architect's knowledge, information and belief, and on the basis of the Architect's on-site visits and inspections, the Work has been completed in accordance with terms and conditions of the Contract Documents and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Architect's final Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect and will not be canceled or allowed to expire until at least 30 days' prior written notice has been given to the Owner, (3) a written statement that the Contractor knows of no substantial reason that the insurance will not be renewable to cover the period required by the Contract

Documents, (4) consent of surety, if any, to final payment and (5), if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts, releases and waivers of liens, claims, security interests or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien. If such lien remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging such lien, including all costs and reasonable attorneys' fees.

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

§ 9.10.4 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; or
- .3 terms of special warranties required by the Contract Documents.

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

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

§ 10.1 SAFETY PRECAUTIONS AND PROGRAMS

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

§ 10.2 SAFETY OF PERSONS AND PROPERTY

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

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

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

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

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

§ 10.2.5 The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Sections 10.2.1.2 and 10.2.1.3 caused in

whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Sections 10.2.1.2 and 10.2.1.3, except damage or loss attributable to acts or omissions of the Owner or Architect or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Section 3.18.

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

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

§ 10.2.8 INJURY OR DAMAGE TO PERSON OR PROPERTY

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

§ 10.3 HAZARDOUS MATERIALS

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

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

§ 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, 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.

§ 10.3.4 The Owner shall not be responsible under this Section 10.3 for 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 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 indemnify the Owner for the cost and expense the Owner incurs (1) for remediation of a material or substance the Contractor brings to the site and negligently handles, or (2) where the Contractor fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence.

§ 10.3.6 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 indemnify 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 LIABILITY INSURANCE

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

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

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

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

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

insured for claims caused in whole or in part by the Contractor's negligent acts or omissions during the Contractor's completed operations.

§ 11.2 OWNER'S LIABILITY INSURANCE

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

§ 11.3 PROPERTY INSURANCE

§ 11.3.1 Unless otherwise provided, the Owner shall purchase and maintain, in a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located, property insurance written on a builder's risk "all-risk" or equivalent policy form in the amount of the initial Contract Sum, plus value of subsequent Contract Modifications and cost of materials supplied or installed by others, comprising total value for the entire Project at the site on a replacement cost basis without optional deductibles. Such property insurance shall be maintained, unless otherwise provided in the Contract Documents or otherwise agreed in writing by all persons and entities who are beneficiaries of such insurance, until final payment has been made as provided in Section 9.10 or until no person or entity other than the Owner has an insurable interest in the property required by this Section 11.3 to be covered, whichever is later. This insurance shall include interests of the Owner, the Contractor, Subcontractors and Sub-subcontractors in the Project.

§ 11.3.1.1 Property insurance shall be on an "all-risk" or equivalent policy form and shall include, without limitation, insurance against the perils of fire (with extended coverage) and physical loss or damage including, without duplication of coverage, theft, vandalism, malicious mischief, collapse, earthquake, flood, windstorm, falsework, testing and startup, temporary buildings and debris removal including demolition occasioned by enforcement of any applicable legal requirements, and shall cover reasonable compensation for Architect's and Contractor's services and expenses required as a result of such insured loss.

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

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

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

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

§ 11.3.2 BOILER AND MACHINERY INSURANCE

The Owner shall purchase and maintain boiler and machinery insurance required by the Contract Documents or by law, which shall specifically cover such insured objects during installation and until final acceptance by the Owner; this insurance shall include interests of the Owner, Contractor, Subcontractors and Sub-subcontractors in the Work, and the Owner and Contractor shall be named insureds.

§ 11.3.3 LOSS OF USE INSURANCE

The Owner, at the Owner's option, may purchase and maintain such insurance as will insure the Owner against loss of use of the Owner's property due to fire or other hazards, however caused. The Owner waives all rights of action against the Contractor for loss of use of the Owner's property, including consequential losses due to fire or other hazards however caused.

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

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

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

§ 11.3.7 WAIVERS OF SUBROGATION

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

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

§ 11.3.9 If required in writing by a party in interest, the Owner as fiduciary shall, upon occurrence of an insured loss, give bond for proper performance of the Owner's duties. The cost of required bonds shall be charged against proceeds received as fiduciary. The Owner shall deposit in a separate account proceeds so received, which the Owner shall distribute in accordance with such agreement as the parties in interest may reach, or as determined in accordance with the method of binding dispute resolution selected in the Agreement between the Owner and Contractor. If after such loss no other special agreement is made and unless the Owner terminates the Contract for convenience, replacement of damaged property shall be performed by the Contractor after notification of a Change in the Work in accordance with Article 7.

§ 11.3.10 The Owner as fiduciary shall have power to adjust and settle a loss with insurers unless one of the parties in interest shall object in writing within five days after occurrence of loss to the Owner's exercise of this power; if such objection is made, the dispute shall be resolved in the manner selected by the Owner and Contractor as the method of binding dispute resolution in the Agreement. If the Owner and Contractor have selected arbitration as the method of binding dispute resolution, the Owner as fiduciary shall make settlement with insurers or, in the case of a dispute over distribution of insurance proceeds, in accordance with the directions of the arbitrators.

§ 11.4 PERFORMANCE BOND AND PAYMENT BOND

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

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

ARTICLE 12 UNCOVERING AND CORRECTION OF WORK

§ 12.1 UNCOVERING OF WORK

§ 12.1.1 If a portion of the Work is covered contrary to the Architect's 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, costs of uncovering and replacement shall, by appropriate Change Order, be at the Owner's expense. If such Work is not in accordance with the Contract Documents, such costs and the cost of correction shall be at the Contractor's expense unless the condition was caused by the Owner or a separate contractor in which event the Owner shall be responsible for payment of such costs.

§ 12.2 CORRECTION OF WORK

§ 12.2.1 BEFORE OR AFTER SUBSTANTIAL COMPLETION

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

§ 12.2.2 AFTER SUBSTANTIAL COMPLETION

§ 12.2.2.1 In addition to the Contractor's obligations under Section 3.5, if, within one year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.9.1, or by terms of an applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of written notice from the Owner to do so unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. 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 2.4.

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

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

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

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

§ 12.2.5 Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be

sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

§ 12.3 ACCEPTANCE OF NONCONFORMING WORK

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

ARTICLE 13 MISCELLANEOUS PROVISIONS

§ 13.1 GOVERNING LAW

The Contract shall be governed by the law of the place where the Project is located except that, if the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 15.4.

§ 13.2 SUCCESSORS AND ASSIGNS

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

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

§ 13.3 WRITTEN NOTICE

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

§ 13.4 RIGHTS AND REMEDIES

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

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

§ 13.5 TESTS AND INSPECTIONS

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

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

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

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

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

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

§ 13.6 INTEREST

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

§ 13.7 TIME LIMITS ON CLAIMS

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

ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT

§ 14.1 TERMINATION BY THE CONTRACTOR

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

- .1 Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;
- .2 An act of government, such as a declaration of national emergency that requires all Work to be stopped;
- .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
- .4 The Owner has failed to furnish to the Contractor promptly, upon the Contractor's request, reasonable evidence as required by Section 2.2.1.

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

§ 14.1.3 If one of the reasons described in Section 14.1.1 or 14.1.2 exists, the Contractor may, upon seven days' written notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work executed, including reasonable overhead and profit, costs incurred by reason of such termination, and damages.

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

§ 14.2 TERMINATION BY THE OWNER FOR CAUSE

§ 14.2.1 The Owner may terminate the Contract if the Contractor

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

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

- .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. The amount to be paid to the Contractor or Owner, as the case may be, shall be certified by the Initial Decision Maker, upon application, and this obligation for payment shall survive termination of the Contract.

§ 14.3 SUSPENSION BY THE OWNER FOR CONVENIENCE

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

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

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

§ 14.4 TERMINATION BY THE OWNER FOR CONVENIENCE

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

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

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

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

ARTICLE 15 CLAIMS AND DISPUTES

§ 15.1 CLAIMS

§ 15.1.1 DEFINITION

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

§ 15.1.2 NOTICE OF CLAIMS

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

§ 15.1.3 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. The Architect will prepare Change Orders and issue Certificates for Payment in accordance with the decisions of the Initial Decision Maker.

§ 15.1.4 CLAIMS FOR ADDITIONAL COST

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

§ 15.1.5 CLAIMS FOR ADDITIONAL TIME

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

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

§ 15.1.6 CLAIMS FOR CONSEQUENTIAL DAMAGES

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

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

This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 14. Nothing contained in this Section 15.1.6 shall be deemed to preclude an award of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.

§ 15.2 INITIAL DECISION

§ 15.2.1 Claims, excluding those arising under Sections 10.3, 10.4, 11.3.9, and 11.3.10, shall be referred to the Initial Decision Maker for initial decision. The Architect will serve as the Initial Decision Maker, unless otherwise indicated in the Agreement. Except for those Claims excluded by this Section 15.2.1, an initial decision shall be required as a condition precedent to mediation of any Claim arising prior to the date final payment is due, unless 30 days have passed after the Claim has been referred to the Initial Decision Maker with no decision having been rendered. Unless the Initial Decision Maker and all affected parties agree, the Initial Decision Maker will not decide disputes between the Contractor and persons or entities other than the Owner.

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

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

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

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

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

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

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

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

§ 15.3 MEDIATION

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

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

§ 15.3.3 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

§ 15.4 ARBITRATION

§ 15.4.1 If the parties have selected arbitration as the method for binding dispute resolution in the Agreement, any Claim subject to, but not resolved by, mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of the Agreement. A demand for arbitration shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the arbitration. The party filing a notice of demand for arbitration must assert in the demand all Claims then known to that party on which arbitration is permitted to be demanded.

§ 15.4.1.1 A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the Claim would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the Claim.

§ 15.4.2 The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

§ 15.4.3 The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by parties to the Agreement shall be specifically enforceable under applicable law in any court having jurisdiction thereof.

§ 15.4.4 CONSOLIDATION OR JOINDER

§ 15.4.4.1 Either party, at its sole discretion, may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation, (2) the arbitrations to be consolidated substantially involve common questions of law or fact, and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

§ 15.4.4.2 Either party, at its sole discretion, may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.

§ 15.4.4.3 The Owner and Contractor grant to any person or entity made a party to an arbitration conducted under this Section 15.4, whether by joinder or consolidation, the same rights of joinder and consolidation as the Owner and Contractor under this Agreement.

Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, Thomas Weems, AIA, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with this certification at 07:34:48 ET on 10/21/2021 under Order No. 7805369175 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A201™ – 2007, General Conditions of the Contract for Construction, as published by the AIA in its software, other than changes shown in the attached final document by underscoring added text and striking over deleted text.

(Signed)

(Title)

(Dated)



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
10/08/2021

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Chris Hansen State Farm Insurance 4473 N. Roan St Ste 1 	CONTACT NAME: Amy C. Bryan		
	PHONE (A/C, No, Ext): 423-915-1113	FAX (A/C, No): 423-915-1115	
	E-MAIL ADDRESS: amy.c.bryan@ifw8@statefarm.com		
INSURED Thomas Weems Architect 3203 Hanover Rd Johnson City, TN 37604	INSURER(S) AFFORDING COVERAGE		NAIC #
	INSURER A: State Farm Fire and Casualty Company		25143
	INSURER B: State Farm Mutual Automobile Insurance Company		25178
	INSURER C:		
	INSURER D:		
	INSURER E:		
	INSURER F:		

COVERAGES**CERTIFICATE NUMBER:****REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

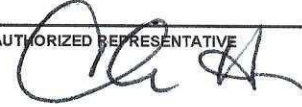
INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
☒	GENERAL LIABILITY	☒	☒	92-GE-2836-3	10/29/2020	10/29/2021	EACH OCCURRENCE \$ 1,000,000
	☒ COMMERCIAL GENERAL LIABILITY			92-GE-2863-3	10/29/2021	10/29/2022	DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000
	☐ CLAIMS-MADE ☒ OCCUR						MED EXP (Any one person) \$ 5,000
							PERSONAL & ADV INJURY \$ 1,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE \$ 2,000,000
	☒ POLICY ☐ PRO-JECT ☐ LOC						PRODUCTS - COMP/OP AGG \$ 2,000,000
	AUTOMOBILE LIABILITY			281 8173-D27-42	10/27/2020	10/27/2021	COMBINED SINGLE LIMIT (Ea accident) \$
	☐ ANY AUTO			281 8173-D27-42	10/27/2021	10/27/2022	BODILY INJURY (Per person) \$ 250,000
	☐ ALL OWNED AUTOS	☒					BODILY INJURY (Per accident) \$ 500,000
	☐ HIRED AUTOS	☐					PROPERTY DAMAGE (Per accident) \$ 100,000
	UMBRELLA LIAB						EACH OCCURRENCE \$
	EXCESS LIAB						AGGREGATE \$
	DED						\$
	RETENTION \$						
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY			92-CG-R993-1	12/08/2020	12/08/2021	☒ WC STATUTORY LIMITS ☐ OTH-ER
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICE/MEMBER EXCLUDED? (Mandatory in NH)	☒		92-CG-R993-1	12/08/2021	12/08/2022	E.L. EACH ACCIDENT \$ 100,000
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE \$ 100,000
							E.L. DISEASE - POLICY LIMIT \$ 500,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

Elizabethton High School and TA Dugger Junior High School TWA Project 021-023

CERTIFICATE HOLDER**CANCELLATION**Elizabethton City Schools
804 South Watauga Avenue
Elizabethton, TN 37643

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE


2021-2022 Capital Projects Information

Priority	Project Description	Preliminary Cost	Funding Source
1	<u>Harold McCormick Elementary School – Miscellaneous Renovations</u> Abate asbestos and hazardous materials – entire School Building. Upgrade electrical power and communication service and infrastructure. Upgrade HVAC with new RTU's for each classroom. Original School Building: Renovate 11 existing classrooms with new flooring, base, painting, ceiling, casework, exterior windows, electrical and HVAC. Renovate existing corridor with new flooring, base, painting, ceiling, electrical and HVAC. 1967 Addition: Renovate 7 existing classrooms with new flooring, base, painting, ceiling, casework, exterior windows, electrical and HVAC. Renovate existing corridor with new flooring, base, painting, ceiling, electrical and HVAC. The sequence of the work at Harold McCormick is still not clear. Questions: What about existing cafeteria / kitchen? What about existing cafeteria? What about Administration area? What about Library? The scope of work will probably exceed your ability to fund in one project and will have to be completed in phases over time. Consider how to package into separate phases.	\$4,100,000.00	ESSER 3.0
2	<u>East Side Elementary School – Parking Lot Expansion</u> Add new parking and drive at front entrance – Option #1; 62 parking spaces.	\$200,000.00	1/2 Cent Sales Tax
3	<u>T A Dugger – Secure Vestibule and Main Entrance Improvements</u> Provide covered portico at main entrance. Add new secure vestibule at main entrance. Provide ADA accessible entrance.		
3	<u>T A Dugger – Media Center Covered Walkway and Entrance Improvements.</u> Provide covered canopy walkway between Media Center and School Building. Renovate space on west side of gymnasium for corridor access. Provide ADA accessible entrance at new corridor extension.		
3	<u>T A Dugger – Music Building Covered Walkway and Entrance Improvements</u> Provide covered canopy walkway between Music Building and School Building. Provide ADA accessible entrance at Auditorium vestibule.		
3	<u>T A Dugger – Maintenance / Band Building Covered Walkway and Entrance Improvements</u> Provide covered canopy walkway between Band and Maintenance Building and School Building. Modify fencing to provide new gate. Provide cross walk with painted markings at bus drive. Provide ADA accessible entrance into north side of Crows Nest.		
4	<u>Baseball Hitting Facility</u> To be constructed beside Joe O'Brien Field	\$300,000.00	GP Reserves
4	<u>EHS Softball Field Improvements</u> Either new fencing/lighting/ or turf infield	\$200,000.00	

2021-2022 Capital Projects Information

Priority	Project Description	Preliminary Cost	Funding Source
5	<u>Elizabethton High School – Field House</u> Add pre-engineered metal building for new field house. Accommodate weight training, toilet rooms, storage and team areas. Include open area for limited indoor practice?	\$600,000.00	
5	<u>Elizabethton High School – Visitor Team Dressing Rooms</u> Renovate space beneath bleachers on north side of gym into boys and girls dressing rooms for visiting teams.		
5	<u>Elizabethton High School – Parking Lot Improvements</u> Expand parking and pave access drive on west end of school building extending to football stadium. Include site planning to accommodate new field house described above.		
6	<u>Elizabethton High School – New Sports Field Lighting</u> Add new sports field lighting for softball field, band practice field and track.		
6	<u>T A Dugger – New Sports Field Lighting</u> Add new sports field lighting for two baseball fields.		
7	<u>Elizabethton High School – Football Stadium</u> Add new bleacher seating for home side stands. Include vomitory tunnel for home and visitor team access. Include 'sky boxes' at top of bleacher seating? Add new bleacher seating for visitor side stands. Add new bleacher seating for students. Two options – east end of field in concourse adjacent to bank seating or west end of field on berm. Expand concourse area for 'Club Area' with seating and big screen TV's.		
8	<u>Elizabethton High School – Pool Area Exterior Concrete Terrace</u> Replace / repair existing concrete terrace at north side of school building between pool area and football stadium.		
9	<u>West Side Elementary School – New Classrooms</u> We briefly talked about adding classrooms to. Is this work to be included on the list? What is the scope of work?		
10	<u>Harold McCormick Elementary School – Pre-School Classrooms</u> Add pre-school classrooms to north end of building. Two story addition. Two classrooms each floor. Add elevator for ADA accessibility.		
11	<u>Elizabethton High School – Toilet Rooms</u> Renovate Boys and Girls restrooms adjacent to the Commons Areas into single user toilet rooms. Include handicapped accessible toilet rooms to either side of a bank of uni-sex single compartment toilet rooms. Toilets only in the single user rooms. Group sinks outside the single user toilet rooms. Arrange toilet rooms for privacy and direct supervision by teachers from the Commons Area. Design ideas similar to new toilet rooms at TAD.		

Elizabethton City Board of Education

Monitoring: Review: Annually, in November	Descriptor Term: Basic Program Class Size Ratios	Descriptor Code: 4.201	Issued Date: 10/16/08
		Rescinds: 4.201	Issued: 06/14/01

Commented [MN1]: New name for policy

~~The Board shall not discriminate on the basis of sex, race, national origin, creed, age, or marital status in its educational programs or activities.~~

~~Curriculum material utilized shall reflect the cultural and racial diversity present in the United States and the variety of careers, roles and life-styles open to women as well as men in our society. One of the objectives of the total curriculum and teaching strategies is to reduce stereotyping and to eliminate bias on the basis of sex, race, ethnicity, religion and disability. The curriculum shall foster respect and appreciation of the cultural diversity found in our country and an awareness of the rights, duties and responsibilities of each individual as a member of a pluralistic society.¹~~

~~The course of study in the schools shall include those subjects required by the Legislature and Tennessee State Board of Education as follows: reading, writing, spelling, arithmetic, English, geography, hygiene, sanitation, music, drawing, black history and culture, physical education, character education, family life education and free enterprise. Specific topics required in the schools include: nature of alcoholic drinks, narcotics and smoking of cigarettes and their effect upon the human system; history of Tennessee and its Constitution; history of the United States and its Constitution; displaying of the American flag; highway safety; and defensive driving.²~~

~~The Board reserves the right to add additional courses and to amend the content of prescribed courses as experience and the process of curriculum development indicate the desirability of such change~~

General¹

Pupil-teacher ratios shall not exceed the averages outlined in state law. Further, class sizes shall not exceed the maximum allowed by state law.

WAIVERS

The Director of Schools/designee may seek a waiver from the Commissioner of Education to extend the career and technical education (CTE) classes in grades nine through twelve (9-12) as long as these class sizes do not exceed the maximum.

Commented [MN2]: From TSBA: Policy 4.201 – Boards are required to have a policy that states that class sizes should not exceed the averages allowed by state law. Our model policy 4.201 aligns with this requirement. The Board could choose to adopt this policy outright with the new title change. In the alternative, the Board could choose to include the basic information regarding class sizes (lines 2-3 of the model policy, “Pupil-teacher ratios shall not exceed the averages outlined in state law. Further, class sizes shall not exceed the maximum allowed by state law.”) in its current policy to comply with requirements found in state law.

- 1 If a natural disaster results in the enrollment of displaced students, the Commissioner of Education
2 may grant a waiver from the maximum class sizes.
- 3 The Director of Schools shall apply for additional waivers as needed in compliance with state law.
4

Legal References:

1. 42 U.S.C. 12101; 34 CFR § 106.34
2. TCA 49-6-1001 through 49-6-1205; TCA 49-6-1301

Legal References

1. TCA 49-1-104; TRR/MS 0520-01-02-31(4)

Cross References:

- Student Goals 6.100
Complaints and Grievances 6.305

Cross References

- Graduation Requirements 4.605
Waivers of Statute, Rules, and Regulations 4.607
Religious Content of Courses 4.804
Student Goals 6.100
Student Concerns 6.305

Elizabethton City Board of Education

Monitoring:

Review: Annually, in
May

Descriptor Term:

Special Education Students

Descriptor Code:

6.500

Issued Date:

05/26/10

Rescinds:

6.500

Issued:

07/12/90

~~All-disabled~~ Special education students between the ages of three (3) and twenty-one (21), inclusive, shall receive the benefit of a free appropriate public education. ~~.This provides the assurance that these students will be educated with non-disabled students~~ These students shall be educated with the general student population to the maximum extent appropriate, and should be placed in separate or special classes only when the severity of the disabled is such that education in regular classes, even with the use of supplementary aids and services, cannot be achieved satisfactorily.¹

Eligibility standards and options of service for special education services will be based upon the criteria for ~~disabling conditions specified in Rules, Regulations, and Minimum Standards, Tennessee State Board of Education, Part II.~~² specified in state regulations.²

Students receiving special education services shall not be restrained, except as permitted by law,³ and regulations.^{3,4} The Director of Schools shall develop administrative procedures to govern the following:

1. Personnel authorized to use isolation and restraint;

2. Training requirements for personnel working with special education students; and

3. Incident reporting procedures.⁴

Legal References:

1. TCA 49-10-102; TCA 49-10-103

2. ~~TRR/MS 0520-1-9-.06 & .07~~

3. TCA 49-10-1301, *et seq.*, TRR/MS 0520-1-9-.23

Legal References

1. TCA 49-10-103(c)

2. TRR/MS 0520-01-09-.01

3. TCA 49-10-1301 *et seq.*

4. TRR/MS 0520-01-09-.23

Cross References

Special Education 4.202

Compulsory Attendance Ages 6.201

Alternative Education 6.319

Safe Relocation of Students 6.4081

Elizabethton City Board of Education

Monitoring: Review: Annually, in February	Descriptor Term: Sick Leave	Descriptor Code: 5.302	Issued Date: 04/15/21
		Rescinds: 5.302	Issued: 08/20/15

1 PROFESSIONAL PERSONNEL

2 The time allowed for sick leave for professional personnel shall be one (1) day for each month employed
3 during the school year and shall accumulate for an unlimited number of days.¹

4 Sick leave shall be defined as: illness of a teacher from natural causes or accident, quarantine, or illness
5 or death of a member of the immediate family of a teacher, including the teacher's wife or husband,
6 parents, grandparents, children, grandchildren, brothers, sisters, mother-in-law, father-in-law, daughter-
7 in-law, son-in-law, brother-in-law, and sister-in-law.²

8 A signed statement listing the cause of absence shall be provided by the employee on forms furnished
9 by the director of schools and shall promptly be given to the immediate supervisor in support of all
10 claims for sick leave pay. A falsified statement shall be grounds for dismissal.

11 Medical certification may be required in support of any claim for sick leave and may be required in
12 support of any claim for sick leave pay for absences of five (5) or more consecutive days. Such medical
13 certification may be provided by a physician, physician's assistant or nurse practitioner.

14 The principal shall notify the director of schools' office at once if an employee is sick beyond the limit
15 of his sick leave accumulation. The substitute teacher, beyond this point, must have a certificate or
16 permit and must be paid according to the state salary scale.

17 Permanent, cumulative sick leave records for each active professional employee shall be kept in the
18 director of schools' office.

19 A teacher, upon employment, may transfer his accumulated sick leave from another Tennessee school
20 system provided that the director of schools of the system in which the accumulated leave was held
21 provides notarized verification.¹

22 ~~Sick leave for maternity purposes may be taken during the period of physical disability only. A teacher~~
23 ~~may use up to thirty (30) days of accumulated sick leave for the adoption of a child. If both adoptive~~
24 ~~parents are teachers only one parent may request leave. Written verification from the adoption agency~~
25 ~~or other entity handling the adoption shall be required before the leave is granted.~~

26 SUPPORT PERSONNEL

27 Persons employed in support positions shall accrue sick leave at the rate of one (1) day per month. No
28 sick leave is allowed for bus drivers.

Commented [MN1]: From TSBA: Policy 5.302 – Page 1, line 22, states that sick leave for maternity purposes may be taken during the period of physical disability only. However, this is no longer the case due to a change in state law – teachers can use sick leave for maternity leave purposes if pregnancy is verified by a physician and are no longer limited to taking this leave only during the period of physical disability. To be in compliance with state law as well as reduce redundancy throughout board policy, we recommend removing this paragraph from this board policy. Information regarding maternity leave can be found in board policy 5.305.

- 1 The immediate supervisor may require medical certification stating the reason for the absence for any
- 2 absence within the sick leave regulation. Frequent and misuse of sick leave by an individual are
- 3 sufficient grounds for requiring medical certification. Such medial certification may be provided by a
- 4 physician, physician's assistant or nurse practitioner.

5 FAMILY MEDICAL LEAVE ACT

- 6 Employees are required to substitute sick leave for FMLA leave so that the leaves run concurrently.

Legal References

1. TCA 49-5-710
2. TRR/MS 0520-01-02-.04(2)

Legal References

3. TCA 49-5-710(a)(1)
4. TRR/MS 0520-01-02-.04(2)
5. TCA 49-5-710(a)(5)
6. TCA 49-5-811
7. TCA 49-5-803
8. TCA 49-5-804; TCA 49-5-805
9. TCA 49-5-807
10. TCA 49-5-806
11. TCA 49-5-801 *et seq.*

Cross References

- Family and Medical Leave 5.305
Physical Assault Leave 5.307

Cross References

- Workers' Compensation 3.602
Orientation and Probation 5.107
Short Term Leaves of Absence 5.300
Family and Medical Leave 5.305
Physical Assault Leave 5.307

Elizabethton City Board of Education

Monitoring: Review: Annually, in May	Descriptor Term: Student Records	Descriptor Code: 6.600	Issued Date: 09/18/14
		Rescinds: 6.600	Issued: 07/12/90

1 A cumulative record shall be kept for each student enrolled in school. The folder shall contain a health
2 record, attendance record, and scholarship record; shall be kept current; and shall accompany the student
3 through his/her school career.¹

4 The name used on the record of the student entering the school system must be the same as that shown
5 on the birth certificate, unless evidence is presented that such name has been legally changed. If the
6 parent/guardian does not have, or cannot obtain a birth certificate, then the name used on the records of
7 such student will be as shown on documents which are acceptable to the system as proof of date of birth.

8 The name used on the records of a student entering the system school district from another school must
9 shall be the same as that shown on records from the school previously attended unless evidence is
10 presented that such name has been legally changed as prescribed by law.

11 When a student transfers to another school within the system school district or to a school outside the
12 school district, copies of the student's records, including the student's disciplinary records, shall be sent
13 to the transfer school.³

14 When a student transfers to a school outside the system, copies of the student's records, including the
15 student's disciplinary records, shall be sent to the transfer school.³

16 All records shall be remitted in accordance with the Family Education Rights and Privacy Act (FERPA).³

17 Attendance records kept on each student become permanent property of the school system.

18 The combined school report shall be made by the principal and is due in the director of schools' office
19 no later than the fifth (5th) day following the end of the reporting period. Complete data relative to all
20 withdrawals shall be included in this report.

21 The principal's annual report is due in the director of schools' office no later than five (5) days following
22 the last day of the school year.

23 Student records shall be confidential. Only authorized school officials may have access to student
24 information for legitimate educational purposes without the consent of the student or parent/guardian.

ACCESS TO STUDENT RECORDS

26 Student records shall be confidential. Authorized school officials shall have access to and permit access
27 to student education records for legitimate educational purposes.⁴ A legitimate educational interest is the
28 official's need to know information in order to:

Commented [MN1]: From TSBA: Policy 6.600 – We have updated our model policy to include a more comprehensive list of the use of student records that aligns with state law. Additionally, we recommend deletion of policy 6.603 for clarity as model policy 6.600 covers the use of student records.

1. Perform required administrative tasks;
2. Perform a supervisory or instructional task directly related to the student's education; and
3. Perform a service or benefit for the student or the student's family such as health care, counseling, student job placement, or student financial aid.

Authorized school officials may release information from or permit access to a student's education record without the parent(s)/guardian(s) or eligible student's* prior written consent in the following instances:

1. To comply with a judicial order or lawfully issued subpoena. The school district will make a reasonable effort to notify the student's parent(s)/guardian(s) or the eligible student before making a disclosure;⁵
2. If the disclosure is an item of directory information;⁶
3. To comply with the requirements of child abuse reports to the extent known by the school officials including the name, address, and age of the student; the name and address of the person responsible for the care of the student; and the facts requiring the report;⁷
4. When certain federal and state officials need information in order to audit or enforce legal conditions related to federal- or state-supported education programs in the school district;⁸
5. When the school district has entered into a contract for an organization to conduct scientific research on the school district's behalf to develop tests or improve instruction, provided that the studies are conducted in a manner which will not permit the disclosure of personal identification of students and their parent(s)/guardian(s) by individuals other than to representatives of the organization, and that the information will be destroyed when no longer needed for the purpose for which the study was conducted;⁹
6. To appropriate officials if the parent(s)/guardian(s) claim the student as a dependent as defined by the Internal Revenue Code;¹⁰
7. To accrediting organizations to carry out their accrediting functions;¹¹
8. To officials of another school, school system, or postsecondary institution when a student seeks or intends to enroll in another school district or a postsecondary institution. Parent(s)/guardian(s) of the student shall be notified of the transfer and shall have the right to obtain copies of the record transferred as well as an opportunity to challenge the content of the record;¹²
9. To financial institutions or government agencies that provide or may provide financial aid to a student in order to establish eligibility, to determine the amount of financial aid, to establish conditions for the receipt of financial aid, and to enforce financial aid agreements;¹³

10. To the appropriate officials in connection with a health or safety emergency if knowledge of the information is necessary to protect the health or safety of the student or others;¹⁴

11. To the Attorney General/designee for official purposes related to the investigation or prosecution of an act of domestic or international terrorism. An educational agency that, in good faith, produces education records in accordance with an order shall not be liable to any person for that production;¹⁵

12. To any agency caseworker or other representative of a state or local child welfare agency or tribal organization authorized to access the student's educational records when such agencies or organizations are legally responsible for the care and protection of the student;¹⁶

13. To the Secretary of Agriculture/designee for purposes of conducting program monitoring, evaluations, and performance measurements, provided that the data collected will be protected in a manner which will not permit the disclosure of personal identification of students and their parent(s)/guardian(s) by individuals other than to representatives of the organization, and that the information will be destroyed when no longer needed for the purpose for which it was conducted;¹⁷ and

14. To state and local authorities to whom information is specifically allowed to be reported or disclosed by state law that concerns the juvenile justice system and the system's ability to effectively serve, prior to adjudication, the student whose records were released.¹⁸

Consent to Disclose Records¹⁹

Authorized school officials may release information from a student's education record if the student's parent(s)/guardian(s) or the eligible student gives written consent for the disclosure. The written consent shall include:

1. Specification of the records to be released;
2. Reasons for the disclosure;
3. Person, organization, or class of persons or organizations to whom the disclosure is to be made;
4. Signature of the parent(s)/guardian(s) or eligible student; and
5. Date of the consent, and if appropriate, a date when the consent is to be terminated.

The student's parent(s)/guardian(s) or the eligible student may obtain a copy of any records disclosed under this provision.

RECORDKEEPING

The school district will maintain an accurate record of all requests to disclose information from or to permit access to a student's education records. The school district will maintain an accurate record of

information it discloses and access it permits. The district will maintain this record as long as it maintains the student's education record.²⁰

The record will include at least:²⁰

1. Name of the person or agency that makes the request;
2. Interest the person or agency has in the information;
3. Date the person or agency makes the request; and
4. Whether the request is granted, and if it is, the date access is permitted, or the disclosure is made.

** The student becomes an "eligible student" when he/she reaches age eighteen (18) or enrolls in a post-secondary school, at which time all of the above rights become the student's right.²¹*

Legal References

1. TRR/MS 0520-1-3-.03(12)(a)
2. TCA 10-7-504(a)(4); 20 USC 1232g
3. TCA 49-6-3001(e)(1)

Legal References

4. 20 USCA § 1232g; TRR/MS 0520-01-02-.31(2)
5. TCA 49-6-3001(c)(1)
6. TCA 49-1-701 *et seq.*; 20 USCA § 1232g
7. TCA 10-7-504(a)(4); 20 USCA § 1232g
8. 20 USCA § 1232g(b)(2)(B); 20 USCA § 1232g(b)(1)(J)
9. 20 USCA § 1232g(b)(2); TCA 10-7-504(a)(4)(A)
10. TCA 37-1-403
11. 20 USCA § 1232g(b)(3), (5); 20 USCA § 1232g(b)(1)(C)
12. 20 USCA § 1232g(b)(1)(F)
13. 20 USCA § 1232g(b)(1)(H)
14. 20 USCA § 1232g(b)(1)(G)
15. 20 USCA § 1232g(b)(1)(B)
16. 20 USCA § 1232g(b)(1)(D)
17. 20 USCA § 1232g(b)(1)(I)
18. 20 USCA § 1232g(j); USA Patriot Act of 2001 § 507
19. 20 USCA § 1232g(b)(1)(L)
20. 20 USCA § 1232g(b)(1)(K)
21. 20 USCA § 1232g(b)(1)(E)
22. 34 CFR § 99.30; 20 USCA § 1232g(b)(2)(A)
23. 34 CFR § 99.32(a)
24. 34 CFR §§ 99.3, 99.5; TCA 49-1-704

Cross-References

School Board Records 1.407
 Promotion and Retention 4.603
 Attendance 6.200
 Child Custody/Parental Access 6.209
 Disciplinary Hearing Authority 6.317
 AIDS 6.404

Cross References

School District Records 1.407
 Promotion and Retention 4.603
 Testing Programs 4.700
 Attendance 6.200
 Withdrawals 6.207
 Child Custody/Parental Access 6.209
 Bus Safety and Conduct 6.308
 Corporal Punishment 6.314
 Disciplinary Hearing Authority 6.317
 Admission of Suspended/Expelled Students 6.318
 Acquired Immune Deficiency Syndrome 6.404
 Reporting Child Abuse 6.409
 Media Access to Students 6.604

Elizabethton City Board of Education

Monitoring: Review: Annually, in February	Descriptor Term: Substitute Teachers	Descriptor Code: 5.701	Issued Date: 07/18/17
		Rescinds: 5.701	Issued: 12/11/12

Substitute teachers are those teachers used to replace teachers on leave or to fill temporary vacancies.^{1,2} Substitute teachers may be employed and paid directly by the board of education or by a third party public or private employer through an agreement between such third party employer and the board of education.

Substitute teachers employed by third party entities shall be subject to the same unemployment benefit eligibility conditions as substitute teachers employed directly by the board of education.²

APPLICATION/QUALIFICATIONS

Criminal history record checks and fingerprinting of applicants for substitute teaching are required.³

Applicants with revoked licenses or certificates according to the Department of Education shall not be hired.⁴

Qualifications for substitute teachers shall be determined by the director of schools in compliance with state laws and regulations.

A list of substitute teacher(s) will be prepared by the Director of Schools who will maintain file(s) which may include transcripts, credentials, recommendations, and other pertinent information.

COMPENSATION

If employed directly by the board of education, the compensation of substitute teachers shall be determined annually by the board.

Retired teachers serving as substitutes who do not have an active teaching license shall be paid the same as a retired substitute teacher with an active teaching license. This only applies to teachers who retired after July 1, 2011 through July 1, 2016.⁵

CERTIFICATION

When substituting for a regular teacher who has been absent for twenty (20) consecutive days, a substitute teacher must possess a teaching certificate with endorsement in the discipline(s) to be taught.⁶ When substituting for a teacher without sick leave, the substitute shall be certified and paid according to the state salary schedule.¹

Retired teachers may substitute one-hundred twenty (120) days per year without loss of retirement benefits¹ and may substitute for additional days if the director of schools certifies in writing to the State

Commented [MN1]: From TSBA: Policy 5.701 – Recommend updating language on pg. 1, lines 27-28 regarding certification for retired teachers. Current policy language states that the “State Board of Education” certifies, however, this is now the “Division of Retirement.” Recommend updating this for clarity.

Board of Education **Division of Retirement** that no other qualified personnel are available to substitute teach.⁷

EMERGENCY NEEDS

All teacher aides, secretaries, and clerks are approved substitute teachers for use in emergency situations. Emergency use shall be defined as less than a full day due to the regular or substitute teacher being unable to arrive on time or remain for the full day.

Said substitutes shall receive the proportionate equivalent salary regular substitute teachers would receive under similar circumstances or their regular salary, if higher; however, they shall not receive pay for both positions at the same time.

TRAINING AND ORIENTATION

The director of schools shall be responsible for ensuring that there are appropriate training and development programs for substitute teachers.

RESPONSIBILITIES

Substitute teachers shall assume the same responsibilities as the regular teacher, including, but not limited to, bus duty and playground supervision.

RE-EMPLOYMENT/TERMINATION

On an annual basis, the director of schools, with input from the principals, shall determine which substitute teachers performed at an acceptable level. Substitute teachers who performed below an acceptable level shall not be re-employed.

All substitutes shall be responsible for providing correct addresses and phone numbers and for notifying the principal and/or third party employer if they wish to terminate their service as substitutes.

Legal References

1. FRR/MS-0520-1-2-.04(6)
2. TCA-49-5-709
3. TCA-49-5-413(a)(2)
4. TCA-49-2-203(a)(15)
5. Public Acts of 2017, Chapter No. 387
6. TCA-49-3-312; FRR/MS-0520-01-02-.04(6)(b)
7. Public Acts of 2017, Chapter No. 287

Legal References

Cross References

8. TRR/MS 0520-01-02-.04(5)
 9. TCA 49-5-709
 10. TCA 49-5-413(a)(2)
 11. TCA 49-2-203(a)(15)
 12. TCA 49-3-312(b)
 13. TCA 49-3-312(a); TRR/MS 0520-01-02-.04(5)(b)
 14. TCA 8-36-805
- Background Investigations 5.118

Elizabethton City Board of Education

Monitoring: Review: Annually, in May	Descriptor Term: Student Records Use of Records	Descriptor Code: 6.603	Issued Date: 12/15/05
		Rescinds:	Issued:

Authorized school officials will have access to and permit access to student education records for legitimate educational purposes.¹ A “legitimate educational interest” is the official’s need to know information in order to:

1. Perform required administrative tasks;
2. Perform a supervisory or instructional task directly related to the student’s education;
3. Perform a service or benefit for the student or the student’s family such as health care, counseling, student job placement, or student financial aid.

Authorized school officials may release information from or permit access to a student’s education record without the parent(s) or eligible student’s (as defined by policy 6.601) prior written consent in the following instances:

1. To comply with a judicial order or lawfully issued subpoena. The school system will make a reasonable effort to notify the student’s parent(s) or the eligible student before making a disclosure;
2. If the disclosure is an item of directory information;
3. To comply with the requirements of child abuse reports to the extent known by the school officials including the name, address and age of the child, the name and address of the person responsible for the care of the child, and the facts requiring the report;²
4. When certain federal and state officials need information in order to audit or enforce legal conditions related to federally-supported education programs in the school system;
5. When the school system has entered into a contract or written agreement for an organization to conduct scientific research on the system’s behalf to develop tests or improve instruction, provided that the studies are conducted in a manner which will not permit the personal

Commented [MN1]: From TSBA: Policy 6.600 – We have updated our model policy to include a more comprehensive list of the use of student records that aligns with state law. Additionally, we recommend deletion of policy 6.603 for clarity as model policy 6.600 covers the use of student records.

identification of students and their parents by individuals other than representatives of the organization and the information will be destroyed when no longer needed for the purpose for which the study was conducted;³

6. To appropriate officials if the parent(s) claim the student as a dependent as defined by the Internal Revenue Code of 1954;⁴

7. To accrediting organizations to carry out their accrediting functions;

8. When a student seeks or intends to enroll in another school district or a post-secondary school. Parent(s) of students or eligible students have a right to obtain copies of records transferred under this provision;⁵

9. To financial institutions or government agencies that provide or may provide financial aid to a student in order to establish eligibility, to determine the amount of financial aid, to establish conditions for the receipt of financial aid and to enforce financial aid agreements.

10. To make the needed disclosure in a health or safety emergency when warranted by the seriousness, of the threat to the student of other persons, when the information is necessary and needed to meet the emergency, when time is an important and limiting factor and when the persons to whom the information is to be disclosed are qualified and in a position to deal with the emergency.

11. To the Attorney General or his designee for official purposes related to the investigation or prosecution of an act of domestic or international terrorism. An educational agency that, in good faith, produces education records in accordance with an order issued under this Act shall not be liable to any person for that production.⁶

Authorized school officials may release information from a student's education record if the student's parent(s) or the eligible student gives written consent for the disclosure. The written consent must include:

1. A specification of the records to be released;
2. The reasons for the disclosure;
3. The person, organization, or class of persons or organizations to whom the disclosure is to be made;
4. The signature of the parent(s) or eligible student;
5. The date of the consent and, if appropriate, a date when the consent is to be terminated. The student's parent(s) or the eligible student may obtain a copy of any records disclosed under this provision.

- 1 The school system will maintain an accurate record of all requests to disclose information from or to
- 2 permit access to a student's education records. The system will maintain an accurate record of
- 3 information it discloses and access it permits. The system will maintain this record as long as it maintains
- 4 the student's education record.
- 5 The record will include at least:
 - 6 1. The name of the person or agency that makes the request;
 - 7 2. The interest the person or agency has in the information;
 - 8 3. The date the person or agency makes the request; and
 - 9 4. Whether the request is granted and, if it is, the date access is permitted or the disclosure is made.

Legal References:

1. USCA 20-1232g; TCA 10-7-503; TCA 10-7-504
2. TCA 37-1-403
3. TRR/MS 0520-1-3-.09(5)(e)(7)
4. 1979 Internal Revenue Code (1954 Amendment), Sections 151 and 170
5. TRR/MS 0520-1-3-.03(11)(e)
6. USA Patriot Act of 2001 § 507